



Copyright © 2019, United Nations Office for Drugs and Crime (UNODC), Regional Office for Southeast Asia and the Pacific, Bangkok, Thailand.

UNODC gratefully acknowledges the financial contribution of Global Affairs Canada that enabled the research for and the production of this publication.

Lead researcher: Dr Andreas Schloenhardt, Professor of Criminal Law, The University of Queensland School of Law, Brisbane, Australia and Professorial Research Fellow, Department of Criminal Law & Criminology, University of Vienna, Austria

The research was supervised by UNODC Regional Office for Southeast Asia and the Pacific.

Disclaimers:

This report has not been formally edited.

The contents of this publication do not necessarily reflect the views or policies of UNODC, Member States, or contributory organizations, and neither do they imply any endorsement.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of UNODC or the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Table of contents

ABBREVIATIONS.....	I
I. INTRODUCTION	1
I.1 CONTEXT AND BACKGROUND	1
I.1.1 Smuggling of migrants in Asia	1
I.1.2 Protocol against the Smuggling of Migrants by Land, Sea and Air	1
I.1.3 The role of UNODC and this study.....	2
I.2. PURPOSE AND SCOPE OF THIS STUDY.....	2
I.3 STRUCTURE	3
I.4 METHODOLOGY AND LIMITATIONS	3
II. CONCEPTS AND TYPOLOGIES	5
II.1 DEFINITIONS AND INTERNATIONAL FRAMEWORKS.....	5
II.1.1 Smuggling of migrants.....	5
II.1.2 Protocol against the Smuggling of Migrants by Land, Sea and Air	5
II.2 FRAUDULENT DOCUMENTS AND SMUGGLING OF MIGRANTS.....	6
II.2.1 Significance and role	6
II.2.2 Terminology.....	7
II.2.3 Types of documents	8
II.3 FINANCING AND FINANCES OF SMUGGLING OF MIGRANTS	10
II.3.1 Significance and role	10
II.3.2 Terminology and legal framework	11
II.3.3 Types of conduct	12
II.4 CORRUPTION AND THE SMUGGLING OF MIGRANTS.....	16
II.4.1 Terminology and frameworks	17
II.4.2 Actors	18
II.4.3 Types of conduct	19
II.4.4 Types of smuggling of migrants and related corruption	21
III. FRAUDULENT TRAVEL OR IDENTITY DOCUMENTS.....	25
III.1 PRODUCTION AND SUPPLY TO SMUGGLERS.....	25
III.1.1 Production of forgeries	25
III.1.2 Supply of genuine documents.....	30
III.2 ACQUISITION, PROCUREMENT, AND SUPPLY OF FRAUDULENT DOCUMENTS BY SMUGGLERS	30
III.2.1 Acquisition and procurement of fraudulent documents	31
III.2.2 Supply of fraudulent documents to smuggled migrants.....	31
III.3 USE AND POSSESSION OF FRAUDULENT DOCUMENTS.....	32
III.3.1 Use and possession of fraudulent documents to enter a country	33
III.3.2 Use and possession of fraudulent documents to exit a country.....	35
III.3.3 Use and possession of fraudulent documents to remain in a country	36
IV. FINANCING OF SMUGGLING OF MIGRANTS AND LAUNDERING OF PROCEEDS OF SMUGGLING OF MIGRANTS.....	37
IV.1 PROVIDING FINANCIAL AND MATERIAL RESOURCES.....	37
IV.1.1 Investing in the smuggling of migrants	37
IV.1.2 Providing material assistance	37
IV.2 PAYING MIGRANT SMUGGLERS	38
IV.2.1 Payments made by migrants themselves	38
IV.2.2 Payments by family/relatives and friends.....	39
IV.2.3 Loans by smugglers or other third parties (excl. family).....	39
IV.3 TRANSFERRING FUNDS AND LAUNDERING THE PROCEEDS OF SMUGGLING OF MIGRANTS.....	40

IV.3.1	Banking sector	40
IV.3.2	Other financial services sector	41
V.	CORRUPTION	43
V.1	PUBLIC SECTOR INVOLVEMENT.....	43
V.1.1	Active and passive bribery of government officials relating to illegal entry of migrants	43
V.1.2	Active and passive bribery of government officials relating to illegal stay of migrants	44
V.1.3	Active and passive bribery of government officials relating to producing, issuing, supplying and obtaining fraudulent documents.....	46
V.1.4	Corruption and obstruction of justice	47
V.2	PRIVATE SECTOR INVOLVEMENT	47
V.3	ORGANISED CRIME INVOLVEMENT	48
VI.	CONCLUSION	51
	BIBLIOGRAPHY.....	53

Abbreviations

ASEAN	Association of Southeast Asian Nations
AUD	Australian Dollars
AUSTRAC	Australian Transaction Reports and Analysis Centre
EU	European Union
FATF	Financial Action Taskforce
ICMPD	International Centre for Migration Policy Development (Vienna)
ILO	International Labour Organization
IOM	International Organization for Migration
Lao PDR	Lao People's Democratic Republic
MYR	Malaysian Ringgit
NGO	non-governmental organisation
s.n.	sine nomine [published without name of the author(s)]
SAR	Special Administrative Region of China
THB	Thai Baht
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
USD	United States Dollar

I. Introduction

I.1 Context and background

I.1.1 Smuggling of migrants in Asia

The smuggling of migrants is a major concern throughout Southeast Asia. The countries of Southeast Asia are source, transit, or destination countries for migrants seeking protection or prosperity abroad. Many countries play more than one role in the complex web of irregular migration that flows through and connects Southeast Asia. Although most smuggling in the region takes place within Southeast Asia, migrants are also smuggled to destinations in other parts of Asia, the Pacific, the Middle East, Europe, and North America.

Earlier research conducted by the United Nations Office on Drugs and Crime (UNODC), scholars, and international and non-governmental organisations provides some insight into the magnitude and patterns of smuggling of migrants. In 2018, UNODC's Regional Office for Southeast Asia and the Pacific published a multi-volume report entitled *Migrant Smuggling in Asia and the Pacific: Current Trends and Challenges: Volume II* which represents the most extensive study of this phenomenon in the region.¹ It builds on work carried out in 2015, which included a dedicated volume containing country profiles of Southeast Asian nations, illustrating the levels and characteristics of smuggling of migrants in each country.² The *Migrant Smuggling in Asia and the Pacific* report is part of a series of 'knowledge products' considering acute and far-reaching issues confronting governments and communities in Southeast Asia.

Much of the available literature on smuggling of migrants in Southeast Asia focuses on the act of transporting irregular migrants across international borders. Similarly, most investigations, prosecutions, media reports, and public debates are centred quite narrowly on the smugglers and smuggling networks who physically guide or transport migrants from one country to another, or on the organisers and organisations that plan and oversee smuggling ventures across multiple countries.

Less attention has been devoted to other factors and actors that facilitate irregular migration and the smuggling of migrants. This includes three particular issues:

- (1) the use of fraudulent travel or identity documents to enable illegal entry and smuggling of migrants;
- (2) the financing (and finances) of smuggling operations, the associated costs and profits, and the laundering of proceeds of smuggling of migrants; and
- (3) the role of corruption in the context of smuggling of migrants.

It is the purpose of this report to examine the significance of these issues in the context of smuggling of migrants and to uncover and analyse the available evidence from Southeast Asia.

I.1.2 Protocol against the Smuggling of Migrants by Land, Sea and Air

Under the aegis of the United Nations, the international community adopted the *Protocol against the Smuggling of Migrant by Land, Sea and Air*.³ The Protocol, which supplements the *Convention against Transnational Organized Crime*,⁴ adopts an aspirational, yet pragmatic and multifaceted

¹ In April 2015, the UNODC Regional Office for Southeast Asia and the Pacific released the report *Migrant Smuggling in Asia* (Volume I), the result of an intensive effort to collect and share data and information on migrant smuggling spanning 28 States and territories in the Asia region. *Migrant Smuggling in Asia and the Pacific* (Volume II) builds on that work.

² UNODC, *Migrant Smuggling in Asia, Country Profiles: Southeast Asia* (2015).

³ Opened for signature 15 December 2000, 2241 UNTS 507 [hereinafter *Smuggling of Migrants Protocol*].

⁴ Opened for signature 15 December 2000, 2225 UNTS 209.

approach to fulfilling its express purpose ‘to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants’.⁵ These objectives reflect the inherent complexity in establishing an appropriate international legal modality that takes account of the host of complex criminal justice and human rights considerations embroiled in this issue.

Upon signing the *Smuggling of Migrants Protocol*, States Parties agree to criminalise the smuggling of migrants including participatory and ancillary conduct.⁶ This obligation extends to situations in which fraudulent travel or identity documents are produced, supplied, acquired, or used to facilitate the smuggling of migrants.⁷ Criminalisation of money laundering and corruption in the context of smuggling of migrants are mandated by Articles 6 and 8 of the *Convention against Transnational Organized Crime*.

The *Smuggling of Migrants Protocol* further contains specific provisions for the prevention and suppression of smuggling of migrants by sea.⁸ The Protocol also requires adoption of general prevention measures targeted at improving border control capabilities, information gathering, and law enforcement.⁹ States Parties must further adopt appropriate measures to preserve and protect the rights of smuggled migrants.¹⁰ Finally, the Protocol provides a framework for the repatriation of smuggled migrants.¹¹

I.1.3 The role of UNODC and this study

As the guardian of the *Smuggling of Migrants Protocol* and the *Convention against Transnational Organized Crime*, UNODC’s mandate is to promote global adherence to these instruments and assist States in their efforts to effectively implement them. A crucial prerequisite in responding to these challenges is fostering evidence-based knowledge on these topics to raise awareness and inform adequate policy development.

Against this backdrop, UNODC commissioned this report documenting the available evidence on the facilitators of smuggling of migrants in the ten Member States of the Association of Southeast Asian Nations (ASEAN).

I.2. Purpose and scope of this study

The purpose of this study is to examine the significance of specific facilitators that enable and foster the smuggling of migrants in Southeast Asia. These include:

- the production, procurement, providing, and possession (use) of fraudulent travel or identity documents for the purpose of enabling the smuggling migrants;
- the financing of smuggling of migrants and the laundering of proceeds of smuggling of migrants;
- corruption in the context of smuggling of migrants, in particular active and passive bribery to enable the smuggling of migrants, misuse of office, collusion with migrant smugglers, and other corruption-related conduct that facilitates the smuggling of migrants.

⁵ Article 2 *Smuggling of Migrants Protocol*.

⁶ Article 6 *Smuggling of Migrants Protocol*.

⁷ Article 6(1)(b) *Smuggling of Migrants Protocol*.

⁸ Articles 7–9 *Smuggling of Migrants Protocol*.

⁹ Articles 10–14 *Smuggling of Migrants Protocol*.

¹⁰ Articles 5, 16, 19 *Smuggling of Migrants Protocol*.

¹¹ Article 18 *Smuggling of Migrants Protocol*.

This report serves to conceptualise these issues and their significance in the context of smuggling of migrants and to document and analyse the available evidence from Southeast Asia. The main focus of this report is on the ten ASEAN Member States, including Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic (PDR), Malaysia, the Union of Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

The overall goals of this report are to document the extent and manifestations of these facilitators, thus enhancing knowledge and understanding of these important aspects of smuggling of migrants in Southeast Asia. The report seeks to shed light into subject matters that are of imminent concern to those working to prevent and combat the smuggling of migrants, thereby assisting national governments in their efforts to develop evidence-based policies, laws, and other counter-measures.

I.3 Structure

This report is divided into six chapters (I–VI). Following this introduction (Chapter I), Chapter II develops and outlines the concepts and typologies of the facilitators of smuggling of migrants examined in this report. This includes relevant definitions, international frameworks, and types of conduct pertaining to fraudulent documents, financing, money laundering, and corruption. The significance of these facilitators in the migrant smuggling context is also explored in Chapter II.

The concepts and typologies presented in Chapter II provide the framework for the analysis in Chapters III to V, which document the available open-source information from Southeast Asia. Chapter III concerns the use of fraudulent travel or identity documents to enable the smuggling of migrants in Southeast Asia. This includes, on the one hand, the production and supply of such documents (by smugglers and other criminal elements) and, on the other, the acquisition and use of such documents (by smugglers or smuggled migrants). The financing of smuggling of migrants in Southeast Asia and the laundering of proceeds of smuggling of migrants are the subject of Chapter IV. Next, Chapter V explores the nexus between corruption and the smuggling of migrants in Southeast Asia, including public sector involvement, private sector involvement, and the role of organised crime in this context. Chapter VI outlines the conclusions based on the findings of the report.

I.4 Methodology and limitations

The research for this report was carried out between April and July 2018. It involved the systematic collection and analysis of open-source material, including primary sources such as reported cases and official data collections and reports, as well as secondary sources prepared by international organisations, academic scholars and other experts, non-governmental organisations (NGOs), and media reports from major international and Southeast Asian English language news outlets.

Despite the scale and spread of smuggling of migrants in Southeast Asia, the phenomenon remains poorly documented and not well researched. Many facets of smuggling of migrants remain shrouded in mystery and reliable data on its scale and characteristics are almost non-existent. This is especially true for the facilitators of smuggling of migrants, who remain overlooked and undocumented in many countries. Thus, one of the main purposes and outcomes of this report is to collate and analyse the available evidence, but also to identify information and knowledge gaps and encourage further investigations and research into these gaps.

II. Concepts and typologies

II.1 Definitions and international frameworks

II.1.1 Smuggling of migrants

The smuggling of migrants involves the facilitation of another person's illegal entry into a country for profit. With the *Smuggling of Migrants Protocol*, the international community agreed on the first international, legally binding definition of smuggling of migrants. Article 3(a) of the Protocol defines the term 'smuggling of migrants' to mean

the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.¹²

The relevant conduct element, referred to as 'procuring', is cast widely to capture a great range of acts—and, perhaps, omissions—that enable another person to illegally enter another country of which that person is not a citizen (national) or permanent resident.

Article 3(b) of the *Smuggling of Migrants Protocol* further defines 'illegal entry' as the crossing of borders without complying with the necessary requirements for legal entry into the receiving State. 'Illegal' thus only refers to non-citizens; the Protocol does not cover entry requirements placed on nationals and permanent residents of the receiving State.

A central feature of smuggling of migrants is the purpose element of 'obtaining, directly or indirectly, a financial or other material benefit'. The *Interpretative notes for the official record (travaux préparatoires) of the negotiations for the United Nations Convention against Transnational Organized Crime and the Protocols thereto* state that the reference to 'a financial or other material benefit' was

included in order to emphasise that the intention was to include the activities of organised criminal groups acting for profit, but to exclude the activities of those who provided support to migrants for humanitarian reasons or on the basis of close family ties. It was not the intention of the Protocol to criminalise the activities of family members or support groups such as religious or non-governmental organisations.¹³

Furthermore, the reference to 'other material benefit' is relevant to the criminalisation of migrant smugglers who request sexual favours or other benefits rather than financial payment for the provision of smuggling services.

The definition of smuggling of migrants in Article 3(a) forms the basis of the offences set out in Article 6 of the *Smuggling of Migrants Protocol*.

II.1.2 Protocol against the Smuggling of Migrants by Land, Sea and Air

In international law, the *Smuggling of Migrants Protocol* is the first and only global treaty aiming to prevent and combat the smuggling of migrants, protect the rights of smuggled migrants, and promote cooperation between states. The Protocol supplements the *Convention against Transnational Organized Crime*.¹⁴

The core feature of international law in this field—and a central element of any national criminal justice response—is the criminalisation of the smuggling of migrants. Article 6 of the *Smuggling of*

¹² The terms 'smuggling of migrants' and 'migrant smuggling' are used interchangeably

¹³ UN General Assembly, *Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions; Addendum: Interpretative notes for the official record (travaux préparatoires) of the negotiations for the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, UN Doc A/55/383/Add.1 (3 Nov 2000) [hereinafter *Interpretative Notes*] [88].

¹⁴ Article 1(1) *Smuggling of Migrants Protocol*.

Migrants Protocol sets out a comprehensive list of obligations that must be satisfied in order to appropriately criminalise the smuggling of migrants. Article 6(1) identifies three categories of offences that must be established in domestic law, including:

- the offence of smuggling of migrants: Article 6(1)(a);
- offences involving fraudulent documents: Article 6(1)(b); and
- the offence of enabling of illegal residence (or harbouring): Article 6(1)(c).

The *Convention against Transnational Organized Crime* sets out further criminalisation requirements that are relevant in the context of smuggling of migrants, especially when criminal networks are involved whose activities transcend international borders. The Convention contains four offences:

- participation in an organised criminal group, Article 5;
- laundering of the proceeds of crime, Article 6;
- corruption, Article 8;
- obstruction of justice, Article 23.

The criminal offences set out in the Protocol and the Convention thus address the principal criminal activities of smuggling of migrants and participation in an organised criminal group, but further extend to associated, ‘facilitating’ conduct that is the subject of this report:

- the use of fraudulent documents for the purpose of smuggling of migrants;
- financing smuggling of migrants and the laundering of proceeds of smuggling of migrants; and
- corruption to enable or facilitate the smuggling of migrants.

These types of conduct, especially insofar as they occur in Southeast Asia, are the focus of this report.

II.2 Fraudulent documents and smuggling of migrants

II.2.1 Significance and role

The use of fraudulent travel or identity documents frequently facilitates the smuggling of migrants, especially if smugglers produce, procure, or provide fraudulent travel or identity documents to smuggled migrants in order that they be used to apply for passports, visas, or be presented at border controls. Accordingly, the role of fraudulent documents to facilitate the smuggling of migrants in Southeast Asia is the first ‘facilitator’ of smuggling explored in this report.

The use of travel and identity documents can either be in the form of forged documents (where documents have been produced illegally or fraudulently altered), fraudulently obtained documents (for instance, passports issued on the basis of false birth certificates), or in the misuse of valid documents (for instance, where documents are used by a person who is not the owner of the documents). Forged and fraudulently obtained documents can be re-used several times after being returned to the country of origin. The same visa, for instance, can be used repeatedly within its date of validity. There are also situations where the same passport will be used several times to smuggle several people. Incidents of document swapping, whereby flight tickets, passports, and boarding passes will simply be swapped in airport transit zones, are also frequently reported.¹⁵

¹⁵ UNODC, *Migrant Smuggling by Air* (2010) 8–9.

II.2.2 Terminology

Article 6(1)(b) of the *Smuggling of Migrants Protocol* provides that ‘producing a fraudulent travel or identity document’¹⁶ and ‘procuring, providing or possessing such a document’¹⁷ should be criminalised when intentionally committed for the purpose of the smuggling of migrants. The reference to ‘smuggling of migrants’ in this context means that the document offences must specifically relate to the procurement of illegal entry into a country where that person is not a national or a permanent resident.¹⁸ There is also the requirement that the smuggling of migrants, and thus the offences involving fraudulent documents, is committed for a ‘financial or other material benefit’.¹⁹

The *Interpretative Notes* remark that Article 6(1)(b)

was adopted on the understanding that subparagraph (ii) would only apply when the possession in question was for the purpose of smuggling migrants as set forth in subparagraph (a). Thus, a migrant who possessed a fraudulent document to enable his or her own smuggling would not be included.²⁰

According to Article 3(c) of the *Smuggling of Migrants Protocol* the term

‘travel document’ includes any type of document required for entering or leaving a State under its domestic law and the term “identity document” includes any document commonly used to establish the identity of a person in a State under the laws or procedures of that State.²¹

According to Article 3(c) a travel or identity document is fraudulent if it

- (i) has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a State; or
- (ii) has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
- (iii) is being used by a person other than the rightful holder.

‘Producing a false travel or identity document’ means making or creating the fraudulent document, or causing it to be created. For example, a smuggler could obtain an authentic or genuine passport, remove the photograph on the passport, and substitute a picture of the migrant. Or, the smuggler could be running a criminal enterprise such as a fraudulent passport factory. ‘Procuring’ means obtaining or causing a result by effort. For example, the smuggler could obtain the document for someone else. ‘Providing’ means giving. For example, the smuggler could give the document to the migrant or to another smuggler in a smuggling network.²²

The *Interpretative Notes* provide that:

The words ‘falsely made or altered’ should be interpreted as including not only the creation of false documents, but also the alteration of legitimate documents and the filling in of stolen blank documents. Furthermore, the intention [of the drafters of the Protocol] was to include both documents that had been forged and genuine documents that had been validly issued but were being used by a person other than the lawful holder.²³

¹⁶ Article 6(1)(b)(i) *Smuggling of Migrants Protocol*.

¹⁷ Article 6(1)(b)(ii) *Smuggling of Migrants Protocol*.

¹⁸ Article 3(a) *Smuggling of Migrants Protocol*.

¹⁹ Article 3(a) *Smuggling of Migrants Protocol*.

²⁰ *Interpretative Notes*, [93].

²¹ Article 3(c) *Smuggling of Migrants Protocol*; *Interpretative Notes*, [89], [104], [106].

²² UNODC, *In-depth Training Manual on Investigating and Prosecuting Smuggling of Migrants* (2011) Module 1, 8.

²³ *Interpretative Notes*, [90], [106].

The *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* further note that:

(c) Whether a document is ‘falsely made’ or ‘improperly issued’ will depend in some cases on how national law treats cases where an official acts illegally or without authorisation. If a consular official issues a travel document beyond his or her powers, systems that would treat this as non-issuance would consider the document as having been made by someone not authorised to do so, falling under [Article 6(1)(b)] subparagraph (i). Systems that considered the basic issuance to have occurred would see the same document as having been ‘improperly issued’ under subparagraph (ii). What is important is that drafters of national legislation consider the approach taken by national law and ensure that all of the possible scenarios result in documents that are treated as ‘fraudulent’ and that there are no gaps;

(d) Documents that have been altered must have been changed in some way that is material to the other offences established in accordance with the Protocol, such as changing the identity or photograph of the holder or the dates for which it was valid. If the document is “altered”, this must have been by someone not authorised to do so;

(e) ‘Fraudulent’ documents also include documents that are genuine, but improperly issued through misrepresentation, corruption or duress. Here also the approach of drafters will depend to some degree on how domestic law treats cases where an official acts illegally or without authority;

(f) Finally, ‘fraudulent’ documents include papers that are formally valid and have been validly issued, but are being used by someone other than the person to or for whom they were issued, whether the document in question has been altered (e.g. by changing a photograph) or not.

The purpose of these complex explanations is to ensure that countries comprehensively proscribe and criminalise any form of travel and identity document fraud, ranging from creating new documents, altering existing documents, to using another person’s document, and obtaining documents fraudulently, corruptly, or coercively.

Article 12 of the *Smuggling of Migrants Protocol* requires States Parties to ensure that their travel and identity documents are of a quality that they cannot easily be falsified or misused and prevent their unlawful creating, issuance, and use. This includes such measures as technical elements to make documents more difficult to falsify, forge or alter, and administrative and security elements to protect the production and issuance process against corruption, theft, or other means of diverting documents.²⁴ Article 13 obliges States Parties to verify within a reasonable time frame the legitimacy and validity of travel and identity documents as requested by other States Parties.

II.2.3 Types of documents

Passports

Migrant smugglers may employ several different forms of document abuse pertaining to passports to facilitate the smuggling of migrants by air. These include passports which have been forged, falsified, fraudulently obtained, stolen for use by ‘look-a-likes’, or counterfeited, as well as ‘fantasy’ passports (where a passport is created for a country that does not exist).

The use of genuine passports is often aided by passport theft or, in some cases, passport bearers themselves (for instance, travellers or members of the migrant’s family and/or community) who sell their own passport and then report it lost or stolen. Genuine passports can be used in a variety of ways. Substituting a passport photo for that of the migrant is increasingly rare given that there is a high rate of detection. Rather, smugglers generally replace the bio-data page, sometimes with the involvement of corrupt officials using official techniques. Passports with counterfeit biodata pages are a very expensive form of falsified document used by migrant smugglers, often costing

²⁴ UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2004) [hereinafter *Legislative Guides*] 374.

several thousand dollars. Passports from countries with visa-free entry are the most sought after and therefore the most expensive, particularly where they come from a country with a large community of people with the same ethnicity as people wanting to be smuggled.²⁵

The introduction of electronic passports in some countries has resulted in an increase of impersonation through their use by 'look-a-likes'. The use of look-a-likes is a common means of smuggling migrants. In this method, the smuggled migrant will travel with a passport or other document belonging to a person who looks very similar to them. In some very sophisticated, albeit rare attempts to make a would-be migrant look like the person whose documents they are travelling on, migrants have undergone plastic surgery or altered their fingerprints where fingerprint technology is used. The 'look-a-like' technique may be used to obtain a genuine passport; for instance, whereby an imposter will apply for a renewal or replacement of a document with their photograph.²⁶

Passport or other document factories are prevalent in some parts of the world and are often professionally run. Forgers usually work as contractors, not necessarily working as a fixed part of a smuggling group but independently for anyone paying for forged documents. In some cases, the forged documents are not purchased by smugglers outright but rather a deposit is paid for their use and the documents are returned to be used again. The quality of a particular forgery depends on its intended use by the migrant paying for smuggling services; for instance, where the intent is to claim asylum, the quality of the document does not need to be as high given that the passport may be destroyed once a plane has been successfully boarded. However, if the document is intended to be used to remain in the destination country, it will need to be of high enough quality to evade detection by immigration officers. Poor quality of a given document or documents as a barrier to smuggling can be overcome where corruption is employed.²⁷

Visas

A common modus operandi for migrant smugglers is 'visa smuggling', understood to be the obtaining of regular visas (of various categories including travel, student and business visas) through fraudulent means. Visa smuggling is often planned well-ahead of the actual travel and combines a variety of methods for different stages of the journey. Such methods can include, for instance, the creation of fictitious companies to obtain executive visas to a particular destination country, for the purpose of working in a phantom branch of that company with the help of a lawyer or other actor in the destination country. Visa applications can also be supported by other counterfeited documents including flight tickets, boarding passes, resident permits, and other documents to show that the identity of the visa applicant is the same as that in their passport.²⁸

Visa smuggling may also involve visa fraud in the country of origin. In this method, a facilitator will provide fraudulent supporting documents to the visa issuing authority. Such documents can include birth certificates and sponsorship letters, which may be used to support a fraudulent visa application submitted to a consular authority. The extent to which this occurs is said to be so significant that some consular authorities are no longer able to give any credence to supporting documents in considering visa application requests.²⁹

Another type of visa smuggling is by proxy. The visa can be delivered by mail or to a person other than the requester of the visa him/herself. For example, a travel agency may apply for a visa on behalf of the applicant and complete the entire process to obtain a fraudulent visa in the migrant's passport. The consular authorities can then only rely on the information provided in the application

²⁵ UNODC, *Migrant Smuggling by Air* (2010) 9.

²⁶ UNODC, *Migrant Smuggling by Air* (2010) 9.

²⁷ UNODC, *Migrant Smuggling by Air* (2010) 9.

²⁸ UNODC, *Migrant Smuggling by Air* (2010) 9–10.

²⁹ UNODC, *Migrant Smuggling by Air* (2010) 10.

form to deliver the visa, with no interview conducted to cross-check the information at the embassy/consulate, hence making it difficult to detect fraudulent applications.³⁰

Other documents

Abuse of approved destination status processes can result in successful irregular entry of another person. With this method, travel agencies in origin countries have been approved by destination countries to issue visas. After such visas have been used for legal entry, the passports are returned to the country of origin with exit stamps, while the person to whom the visa was issued remains in the destination country. This can be more easily done where there is no exit control.³¹

There have also been cases of counterfeit residency cards being issued to smuggled migrants, who will enter the destination country as if they are residents returning. Often, smuggled migrants are coached by smugglers before their travel on aspects of the destination country and their fictitious lives there, so that they may evade detection upon being questioned by law enforcement and border officials. In other cases, the true resident, usually of the same nationality as the migrant, either lends or provides his or her documents to a migrant in order for them to enter the country of destination as a look-a-like.³²

II.3 Financing and finances of smuggling of migrants

II.3.1 Significance and role

By definition, the smuggling of migrants is a profit-driven crime in which perpetrators engage for the purpose of obtaining, directly or indirectly, for themselves or for others, a financial or other material benefit. Smugglers seek to make money from persons willing or forced to migrate by facilitating their illegal entry into a country of which the migrants are neither nationals nor permanent residents. From a 'business' perspective, migrant smugglers supply a service to clients who cannot access regular migration channels, or who seek to avoid these channels, and who usually have no alternative but to rely on migrant smugglers.³³

The smuggling of migrants, including the transportation and accommodation of irregular migrants, the production and procuring of fraudulent documents, and the human resources involved in such activities, can create considerable expenses, which need to be recouped from the smuggled migrants or, if this is not possible, from their families or friends. Many, if not most smugglers, are motivated by the desire to obtain a financial or material benefit from their operations which means that in some cases smugglers charge excessive or exorbitant fees for their services and potentially generate great profits.³⁴

Profits made by smugglers and fees paid by smuggled migrants are inherently difficult to estimate due to the many variables that determine costs and prices. These include the origin, transit, and destination points of the smuggling journey, the background and ethnicity of the smuggled migrants, the number of migrants to be smuggled simultaneously, the mode of transportation to be employed, the ancillary services provided (accommodation, food, et cetera), competition with

³⁰ UNODC, *Migrant Smuggling by Air* (2010) 10.

³¹ UNODC, *Migrant Smuggling by Air* (2010) 10.

³² UNODC, *Migrant Smuggling by Air* (2010) 10.

³³ Andreas Schloenhardt & Thomas Cottrell, 'Financing the Smuggling of Migrants in Australia' (2014) 38 *Criminal Law Journal* 265, 267; Andreas Schloenhardt, *Organised Crime and Migrant Smuggling: Australia and the Asia-Pacific*, Research and Public Policy Series No 44, Australian Institute of Criminology (2002) 15; Khalid Koser, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3, 5; UNODC, *Toolkit to Combat Smuggling of Migrants* (2010) Tool 1: Understanding the smuggling of migrants, 29.

³⁴ Andreas Schloenhardt & Thomas Cottrell, 'Financing the Smuggling of Migrants in Australia' (2014) 38 *Criminal Law Journal* 265, 267; Cat Barker, *The People Smugglers' Business Model*, Research Paper No 2, Parliamentary Library, Parliament of Australia (2013) 6; UNODC, *A Short Introduction to Migrant Smuggling* (2010) 23.

other smugglers, and the risks and liabilities to which the smugglers may be exposed.³⁵ There is some indication that fees for families or groups who travel together may be proportionally lower than fees charged for individuals who undertake a similar passage.³⁶ Because payments are not always made in a single transaction, it is often difficult to identify an overall fee charged for journeys involving multiple legs.³⁷

II.3.2 Terminology and legal framework

The *Smuggling of Migrants Protocol* makes express mention of the ‘financial or other material benefit’ that drives migrant smugglers, but contains no further reference to the finances and financing of smuggling of migrants.³⁸

Financial or other material benefit

The main reference to the financial element of smuggling of migrants can be found in the definition of the term ‘smuggling of migrants’ in Article 3(a) of the Protocol, which refers to a ‘financial or other material benefit’ as the purpose of smuggling of migrants. This purpose element reflects the profit motive of smugglers who organise or facilitate the smuggling of other persons for personal gain.

The reference to ‘other material benefit’ is relevant to the criminalisation of migrant smugglers who request advantages and favours other than financial payment for the provision of their smuggling services. The *Interpretative Notes* indicate that the term ‘benefit’ ‘should be understood broadly to include, for example, crimes in which the predominant motivation may be sexual gratification, such as the receipt or trade of materials by members of child pornography rings, the trading of children by members of paedophile rings or cost-sharing among ring members’.³⁹ The *Model Law against the Smuggling of Migrants* further notes that the term ‘benefit’ should be conceived as broadly and inclusively as possible to include ‘non-financial inducements, such as a free train or airplane ticket, or property, such as a car’.⁴⁰

The phrase ‘financial or other material benefit’ eliminates those types of migrant smuggling activities from the scope of the Protocol that serve no financial or other material purpose. The *Interpretative Notes* along with other international guidelines state that the ‘financial or other material benefit’ requirement was

included in order to emphasise that the intention was to include the activities of organised criminal groups acting for profit, but to exclude the activities of those who provided support to migrants for humanitarian reasons or on the basis of close family ties. It was not the intention of the Protocol to criminalise the activities of family members or support groups such as religious or non-governmental organizations.⁴¹

The *Smuggling of Migrants Protocol* thus conceives the smuggling of migrants as an economic activity, engaged in by smugglers who seek to maximise profits often without regard for the

³⁵ Andreas Schloenhardt & Thomas Cottrell, ‘Financing the Smuggling of Migrants in Australia’ (2014) 38 *Criminal Law Journal* 265, 267–268; Khalid Koser, ‘Why Migrant Smuggling Pays’ (2008) 46(2) *International Migration* 3, 4; UNODC, *A Short Introduction to Migrant Smuggling* (United Nations, 2010) 25; Melanie Petros, *The Costs of Human Smuggling and Trafficking* Global Migration Perspectives No 31, Global Commission on International Migration (2005) 12.

³⁶ Melanie Petros, *The Costs of Human Smuggling and Trafficking* Global Migration Perspectives No 31, Global Commission on International Migration (2005) 15.

³⁷ Andreas Schloenhardt, *Organised Crime and Migrant Smuggling: Australia and the Asia-Pacific*, Research and Public Policy Series No 44, Australian Institute of Criminology (2002) 71; UNODC, *A Short Introduction to Migrant Smuggling* (2010) 33–34.

³⁸ See further, Andreas Schloenhardt & Thomas Cottrell, ‘Financing the Smuggling of Migrants in Australia’ (2014) 38 *Criminal Law Journal* 265, 273–274.

³⁹ *Interpretative Notes*, 2 [3].

⁴⁰ UNODC, *Model Law against Smuggling of Migrants* (2010) 13.

⁴¹ *Interpretative Notes*, [88]–[90]. See also UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2004) 364; UNODC, *Model Law against the Smuggling of Migrants* (2010) 13–14.

vulnerabilities and desperation that drive their clientele to use the smugglers' services. The financial or other material benefit element also emphasises the nexus between smuggling of migrants and organised crime—and thus the relationship between the *Smuggling of Migrants Protocol* and its parent, the *Convention against Transnational Organised Crime*.

Money laundering

The nexus between smuggling of migrants and the laundering of proceeds of this crime is established by Articles 6 and 7 of the *Convention against Transnational Organised Crime*.

Article 6 of the Convention requires States Parties to establish four offences relating to money-laundering:⁴²

- Article 6(1)(a)(i) makes it an offence to convert or transfer property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action.
- Article 6(1)(a)(ii) criminalises the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.
- Article 6(1)(b)(i) criminalises the 'acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime'.
- The offence in Article 6(1)(b)(ii) involves the 'participation in, association with or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article'.

Article 7 of the *Convention against Transnational Organized Crime* sets out a number of measures—some mandatory, some based on best efforts, and some optional—that are intended to ensure that States Parties have in place a comprehensive legal and administrative regime to deter and detect money-laundering. The overall objective is to provide a comprehensive regime that facilitates the identification of money-laundering and promotes information exchange between a range of relevant authorities.⁴³

II.3.3 Types of conduct

Providing financial and material resources

Financing the smuggling of migrants may involve providing the necessary financial or material resources to undertake smuggling ventures, to pay the transporters, recruiters, guides, and others involved in the smuggling network, to buy or charter vessels, acquire fraudulent documents, bribe officials et cetera. Seen this way, financing refers to providing the necessary outlay for smuggling operations, and to the financiers who invest in the smuggling of migrants, usually with the intention of gaining high returns.

More broadly, financing also includes providing material assistance to smugglers or smuggled migrants to enable or facilitate smuggling activities. This may include, for instance, selling assets such as boats, trucks, cars, or fraudulent documents that are then used to smuggle migrants. It

⁴² See further, UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2nd ed, 2016) [127]–[141].

⁴³ See further, UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2nd ed, UNODC, 2016) [153]–[169].

may further include the sale or offer of other supplies, equipment, or accommodation for the specific purpose of smuggling of migrants.

Paying migrant smugglers

Smuggled migrants require substantial financial resources to engage the services of a smuggler. As a result, would-be migrants often may have to sell their property and other assets in order to raise the required capital to pay the smuggling fees.⁴⁴ In many cases, the fees will exceed the income, assets, and savings of the smuggled migrants, and they will require additional support from their family and friends. This may also include the support of friends and relatives located in the country of origin who may 'sponsor' the migrant. Families often support migrants in the hope of receiving remittances once the migrant reaches the destination.⁴⁵ Alternatively—or additionally—this may also require support from the overseas diaspora the smuggled migrant seeks to join.⁴⁶ Would-be migrants may save up remittances sent by members of the overseas diaspora in order to pay smuggling fees.⁴⁷

UNODC has identified three main modes that are used to pay migrant smugglers for the services they provide.⁴⁸ Firstly, payments may be made by migrants to the smugglers or to others involved 'stage-by-stage' as progress is made through transit countries to the destination. Unless the smuggled migrant intends to physically carry large quantities of cash to pay for each stage of the journey, funds are sent to the smuggled migrant when necessary from a third party in the country of origin or elsewhere. Secondly, money may be made available to the smuggled migrant on credit by a smuggler or another third party. This credit is usually payable upon arrival in the destination country. The third method involves full payment made up front prior to departure.⁴⁹

Some smugglers do not utilise third party part-payment arrangements and instead demand full payment in advance.⁵⁰ Smuggled migrants who pay under this type of arrangement are exposed to greater financial risk than those who are able to pay some part in advance and the rest on arrival as there is no recourse for the migrant in the event of a failed smuggling attempt.⁵¹ Despite this, a smuggler operating under this model has a business incentive to honour the terms of the agreement so as to maintain a favourable reputation among future would-be migrants.⁵²

In some instances, smugglers or their associates may provide loans to migrants or offer to transport them or otherwise facilitate their journey under the condition that fees are paid at a later stage, for instance once the smuggled migrants reach their destination. This is relevant for migrants who do not have the resources to pay for smuggling up front or in instalments and who do not have relatives or friends who can pay the smugglers, or lend them money. Loans offered by smugglers may look like an attractive offer but this can often turn into a debt trap. In some instances, this leads to situations of debt bondage where migrants are required to pay back the smugglers for long periods after they were smuggled, where smugglers later demand excessive fees, or force or coerce

⁴⁴ UNODC, *Smuggling of Migrants by Sea*, Issue Paper (2011) 34; Khalid Koser, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3, 12-13; UNODC, *Crime Facilitating Migration from Pakistan and Afghanistan* (2009) 45; Matthias Neske, *Comparative Research on Financial Flows within Migrant Smuggling from Asia to Europe* (2013) 46.

⁴⁵ UNODC, *Smuggling of Migrants by Sea* (2011) 34.

⁴⁶ UNODC, *Smuggling of Migrants by Sea* (2011) 34.

⁴⁷ Andreas Schloenhardt & Thomas Cottrell, 'Financing the smuggling of migrants in Australia' (2014) 38 *Criminal Law Journal* 265, 268-269; Matthias Neske, *Comparative Research on Financial Flows within Migrant Smuggling from Asia to Europe* (2013) 35, 52.

⁴⁸ See also, Andreas Schloenhardt & Thomas Cottrell, 'Financing the smuggling of migrants in Australia' (2014) 38 *Criminal Law Journal* 265, 269.

⁴⁹ UNODC, *A Short Introduction to Migrant Smuggling* (2010) 23, 35; Khalid Koser, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3, 13.

⁵⁰ UNODC, *Crime Facilitating Migration from Pakistan and Afghanistan* (2009) 66; Khalid Koser, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3, 13.

⁵¹ UNODC, *Crime Facilitating Migration from Pakistan and Afghanistan* (2009) 66; Khalid Koser, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3, 19.

⁵² UNODC, *Smuggling of Migrants by Sea* (2011) 35.

them into making payments above the fees that were originally agreed upon. Such situations can easily escalate to exploitation and, in some cases, to trafficking in persons.

Money laundering

In order to enjoy the financial or other material benefits of migrant smuggling, perpetrators must hide the illicit origin of their gains. Money laundering involves the concealment or disguise of the illegal origin of proceeds of crime. This is done by placing the proceeds into the financial system, engaging in various transactions intended to obfuscate the origin of and path taken by the money (known as layering), and then integrating the money into the legitimate economy through apparently legitimate transactions.⁵³

Criminal elements take advantage of the ease of capital movement, advances in technology, and increases in the mobility of people and commodities, as well as the significant inconsistencies between legal provisions in various jurisdictions. As a result, assets can be transferred very quickly from place to place and, through exploitation of the existing legal and regulatory discrepancies, ultimately appear as legitimate assets that are then available to criminal elements in any part of the world. These assets can be used to finance criminal operations, to reward past crimes, and to constitute an incentive for future crimes.⁵⁴

Transferring funds

The terms and conditions of fee payment vary between smugglers, locations, smuggling methods, and routes. While shorter smuggling journeys from one country into another usually only require a single transaction that is paid upon departure from the place of origin, fees for longer and more complex smuggling ventures are sometimes paid for in stages, with transactions for each leg of the journey. Along some routes and among some migrant groups it appears common practice to withhold payments to smugglers until it is confirmed that the smuggled migrant has successfully arrived in the transit or destination country.

These diverse and often complex financial arrangements also explain the various methods that are used to transfer funds to the smugglers or between them. Shorter, less expensive smuggling journeys tend to be paid in cash directly to the smugglers or to one of their agents. Transfers of larger funds are often done through the formal banking sector, through alternative remittance systems, or, in some cases, through complex underground banking systems designed to disguise the origin and purpose of the payment.

Alternative remittance systems

A common method to transfer funds between migrant communities involves the use of alternative remittance services outside the conventional financial services industry. This is particularly common between countries in which the official banking sector is not well developed, is inaccessible, or simply too costly for large parts of the community.⁵⁵

Put simply, a remittance service is a financial service that accepts 'cash, cheques, other monetary instruments or other stores of value' at one location in order to pay a corresponding value to a beneficiary located elsewhere.⁵⁶ The defining characteristic of a remittance transfer is that value can be transferred between locations without actually moving currency or the store of value—whether physical or electronic—as funds are paid into and out of the remittance dealer's own

⁵³ UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2nd ed, 2016) [107].

⁵⁴ UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto* (2nd ed, 2016) [109].

⁵⁵ See also, Andreas Schloenhardt & Thomas Cottrell, 'Financing the smuggling of migrants in Australia' (2014) 38 *Criminal Law Journal* 265, 269–273.

⁵⁶ Financial Action Task Force, *Combating the Abuse of Alternative Remittance Systems: International Best Practices* (2003) 2.

assets.⁵⁷ Whilst a remittance may also be transferred domestically, the true utility of remittance services relates to the ease with which transfers may be made internationally, especially compared to the complex, cumbersome, and very expensive international transfer options offered by banks and other mainstream financial institutions.⁵⁸

The term 'alternative remittance service' is often used in this context to describe informal money or value transfer services that operate outside of regulated Western financial systems.⁵⁹ Several types of alternative remittance systems have emerged, many with long traditions and established rules that are typically associated with particular ethnic or cultural groups or geographic regions.⁶⁰ These include, for example, the Hawala system, which originates in India, and Hundi, its Pakistani equivalent.⁶¹ The terms used to describe these systems differ greatly, with some referring to alternative remittance systems, 'informal value transfer systems', or 'informal funds transfer systems' whilst others speak of them as 'underground,' 'unregulated,' or 'parallel' 'banking systems'.⁶²

While the characteristics of and differences between the various systems are beyond the scope of this report, the principal, distinguishing feature of alternative remittance services—and the ones that cause most concern for regulators and law enforcement alike—is the fact that they are based upon trust-bonded networks of individuals and provide a quick, cost effective, and reliable means of transferring value across borders without the need for any sophisticated equipment or information technology.⁶³ It is for these reasons that the attention of some legislators has shifted towards controlling, containing, and, in some instances, criminalising the use of alternative remittances systems to finance the smuggling of migrants.

Remittance services are typically used by migrant communities, migrant workers in particular, to make recurring payments to support friends or relatives in their country of origin.⁶⁴ Whilst formal commercial remittance arrangements, such as Western Union or MoneyGram, may adequately serve this purpose, some migrants may choose to use alternative remittance services because they offer the only financial connection to the migrant's place of origin.⁶⁵ Alternative remittance systems also generally offer better exchange rates and lower transactions fees than those offered in the formal banking and finance sector.⁶⁶ For these reasons, global remittance flows are recognised as playing a vital role in contributing to development and financial flows to many countries worldwide.⁶⁷ It also has to be noted in this context that in most countries the provision of

⁵⁷ David Rees, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Australian Institute of Criminology (2010) 13.

⁵⁸ World Bank, Committee on Payments and Settlement Systems, *General Principles for International Remittance Services* (2007) 6.

⁵⁹ David Rees, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Australian Institute of Criminology (2010) 3.

⁶⁰ Financial Action Task Force, *Combating the Abuse of Alternative Remittance Systems: International Best Practices* (2003) 2.

⁶¹ Patrick M Jost & Harjit Singh Sandhu, *The Hawala Alternative Remittance System and its Role in Money Laundering* (2000) 15.

⁶² Nikos Passas, *Informal Value Transfer Systems and Criminal Organizations; a study into so-called underground banking networks*, Research Notes, Research and Documentation Centre of the Dutch Ministry of Justice (1999) 9; Financial Action Task Force, *Combating the Abuse of Alternative Remittance Systems: International Best Practices* (2003) 2.

⁶³ Nikos Passas, *Informal Value Transfer Systems and Criminal Organizations; a study into so-called underground banking networks*, Research Notes, Research and Documentation Centre of the Dutch Ministry of Justice (1999) 10; Joanna Trautsolt & Jesper Johnsen, 'International Anti-Money Laundering Regulation of Alternative Remittance Systems: Why the Current Approach does not work in Developing Countries' (2012) 15 *Journal of Money Laundering Control* 407, 411.

⁶⁴ World Bank, Committee on Payments and Settlement Systems, *General Principles for International Remittance Services* (2007) 6.

⁶⁵ Samuel Munzele Maimbo, *The Money Exchange Dealers of Kabul: A Study of the Hawala System in Afghanistan*, Working Paper No 13, World Bank (2003) 1.

⁶⁶ Nikos Passas, *Informal Value Transfer Systems and Criminal Organizations; a study into so-called underground banking networks*, Research Notes, Research and Documentation Centre of the Dutch Ministry of Justice (1999) 13.

⁶⁷ World Bank, Committee on Payments and Settlement Systems, *General Principles for International Remittance Services* (2007) 51.

alternative remittance systems is not illegal and that the overwhelming majority of transactions through these systems are done for legal purposes.⁶⁸

At a very basic level, an alternative remittance transaction will directly involve four parties:

- (1) the transferor (the person making the transfer),
- (2) the transferee (its recipient),
- (3) an alternative remittance dealer in the country of origin ('dealer A'), and
- (4) an associated alternative remittance dealer in the receiving country B ('dealer B').

To instigate the transaction, the transferor approaches and provides currency or other stores of value to be transferred from the transferor to dealer A. Upon receiving the funds from the transferor, dealer A will communicate with dealer B, notifying that person of the receipt and instructing dealer B to release the corresponding payment to the transferee.⁶⁹

A principal characteristic of this scheme, which also explains its low-cost nature, is that the individual transaction funds never, physically or otherwise, cross any border because all payments are made into, and out of, reserves and or accounts held by each dealer within their respective country. The balance of payments between the two associated dealers is later settled, either by transfers in the opposite direction, using conventional bank transfers, postal money order, cash couriers, through return alternative remittance transactions, by invoice, or by the delivery and sale of commodities.⁷⁰ In reality, relations between alternative remittance dealers may be far more complex, with dealers acting as affiliates of larger networks and intermediaries.⁷¹

II.4 Corruption and the smuggling of migrants

Migrant smuggling could not occur on the large scale that it so often does without collusion between corrupt officials and criminals. Corruption seriously undermines national and international efforts to prevent and control the smuggling of migrants, just as it weakens the fight against other crime types. Corruption can assume many different forms and the two types of crime, corruption and smuggling of migrants, are related in various ways.⁷²

Corruption may occur in countries of origin, transit, or destination. It may be systemic, institutional, or individual, and occur in both the private and public sectors. It may occur at various points of a smuggling venture, including recruitment, transportation, illegal entry, or harbouring (enabling illegal stay). Corruption facilitates the falsification or use of fraudulent travel and identity documents. It may also occur after smugglers or smuggled migrants have been apprehended to facilitate their illegitimate release or to extort more money from smuggled migrants or their relatives. In other instances, corruption supports fraudulent adoption, marriage, or employment schemes and various other forms of fraud linked to smuggling of migrants.⁷³

There is evidence that corruption is a significant predictor of smuggling of migrants out of a country because, like poverty, personal insecurity, and violence, it may be a push factor for emigration and

⁶⁸ Nikos Passas, 'Demystifying Hawala: A Look into its Social Organization and Mechanics' (2006) 7 *Journal of Scandinavian Studies in Criminology and Crime Prevention* 46, 47.

⁶⁹ David Rees, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Australian Institute of Criminology (2010) 2;

⁷⁰ Nikos Passas, *Informal Value Transfer Systems and Criminal Organizations; a study into so-called underground banking networks*, Research Notes, Research and Documentation Centre of the Dutch Ministry of Justice (1999) 14; David Rees, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Australian Institute of Criminology (2010) 2.

⁷¹ David Rees, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Australian Institute of Criminology (2010) 2.

⁷² UNODC, *Global Study on Migrant Smuggling* (2018) 50-51; IOM, *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 9.

⁷³ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 3.

thus create a market for migrant smugglers.⁷⁴ Because corruption weakens existing systems and measures to protect borders, control immigration, protect refugees, and enforce the law, it can also have an especially debilitating effect on efforts to curtail smuggling of migrants. Bribery and other forms of corruption are used to circumvent controls in place to prevent irregular migration and protect smuggling operations from law enforcement and prosecution. The considerable profits generated by smuggling of migrants make corruption possible on a large scale.⁷⁵

Corruption is considered one of the main factors influencing the prices charged to migrants by smugglers, as well as smugglers' changing modus operandi. The strengthening of police controls and border patrols may increase the risk of interception for smugglers who may then need to invest more in corruption in order to successfully manage their business. It may also bring them to change their routes and to try to recruit new corrupt officials.⁷⁶

II.4.1 Terminology and frameworks

The international community has adopted separate but related legal frameworks to deal with corruption, smuggling of migrants, and organised crime. The main instruments are the *United Nations Convention against Corruption*, the *United Nations Convention against Transnational Organized Crime* and the *Smuggling of Migrants Protocol*. A range of other international instruments on corruption address specific types of corruption or apply to specific regions. The smuggling of migrants is only one type of transnational crime that involves organised crime or corruption and the two Conventions include measures that have a much broader scope than simply preventing and combating the smuggling of migrants.⁷⁷

United Nations Convention against Transnational Organized Crime

The *United Nations Convention against Transnational Organized Crime* (UNTOC) was adopted in 2000. Its purpose is to facilitate international cooperation in the fight against various forms of transnational organised crime (Article 1), including the smuggling of migrants. Its provisions apply to offences established in accordance with the *Smuggling of Migrants Protocol* and therefore form part of the framework established to combat the smuggling of migrants.⁷⁸

The Convention recognises corruption of public officials as a major impediment to the fight against organised crime and includes several provisions related to corruption, requiring States Parties to adopt measures to prevent, detect, and punish corruption of public officials.⁷⁹

United Nations Convention against Corruption

The *United Nations Convention against Corruption* (UNCAC) was adopted by the UN General Assembly in October 2003. Under the Convention, States Parties are required to introduce policies and programmes to prevent and control corruption. The Convention requires a number of measures relating to both the public and private sectors, ranging from institutional arrangements, such as the establishment of a specific anti-corruption body, to codes of conduct and policies promoting good governance, the rule of law, transparency, and accountability.⁸⁰

The *Convention against Corruption* stresses the importance of preventing corruption before it occurs. It calls for the criminalisation of active and passive bribery of national public officials,

⁷⁴ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 9.

⁷⁵ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 9-10.

⁷⁶ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 13-14; Cat Barker, *The People Smugglers' Business Model*, Research Paper No 2, Parliamentary Library, House of Representatives of Australia (2013) 16.

⁷⁷ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 4.

⁷⁸ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 4.

⁷⁹ Articles 8 and 9 *United Nations Convention against Transnational Organized Crime*.

⁸⁰ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 4-5.

foreign public officials, and officials of public international organisations; embezzlement, misappropriation and other diversion of public property; trading in influence; and abuse of functions. The Convention also requires the criminalisation of other activities in support of corruption, such as obstruction of justice and the concealment or laundering of the proceeds of corruption. This criminalisation is required in order to facilitate the effective detection and prosecution of corruption.⁸¹

Importantly, the *Convention against Corruption* provides a framework for international cooperation in fighting corruption, particularly with respect to tracing, freezing and seizure of assets, as well as asset recovery and anti-money laundering measures. It also encourages cooperation between national anti-corruption agencies and other law enforcement agencies involved in the fight against organized crime, migrant smuggling, and corruption.⁸²

II.4.2 Actors

Government officials

When it involves government officials, corruption can occur at both high and low levels, from ministers, diplomats and consular officials, to border guards, police officers or cleaning staff at airports.⁸³ At the higher level, for example, visa-issuing authorities and immigration directors may be offered bribes and benefits to provide a service or to ‘turn a blind eye’ to the smuggling of migrants. At the lower level, immigration, security, airport and airline staff may be paid to do something as small as stamping a document without closely inspecting it or unlocking a door. Left unchecked, low level corruption can spread throughout a system or an organisation, including those which are specifically tasked to control immigration and fight smuggling of migrants.⁸⁴ In some cases, corrupt officials may themselves be part of the criminal enterprise or even leaders or instigators of such activities.⁸⁵

Corruption within law enforcement and border control agencies has some unique characteristics that make it particularly hard to control. For example, poor external oversight, the secrecy of many aspects of the work, the discretionary authority they enjoy, and the level of autonomy that typically exists within some units are all factors that make these agencies vulnerable to corruption. In addition, officers from these agencies are often in regular contact with informants and other criminal elements and may be under real pressure to engage in corrupt activities.⁸⁶

A general prevalence of corruption and a lack of political will to control it unfortunately often go hand in hand. Predictably, corrupt officials who profit from the smuggling of migrants and have found ways to exploit irregular migrants are rarely willing to support effective measures against smuggling of migrants or corruption.⁸⁷

Private sector involvement

In addition to focusing attention on government officials, migrant smugglers can also find accomplices in the private sector. Smugglers often seek to corrupt or intimidate individuals in key private sector businesses and organisations, such as common carriers, transporters, employment agencies and employers, security service providers, fishing industry entrepreneurs and employees, education personnel, or ports and airport personnel. They may also find ways to infiltrate these

⁸¹ Chapter III *Convention against Corruption*.

⁸² Chapters IV and VI *Convention against Corruption*.

⁸³ Fritz Heimann and Mark Pieth, *Confronting Corruption: Past Concerns, Present Challenges, and Future Strategies* (Oxford University Press, 2018) 32-33.

⁸⁴ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 10.

⁸⁵ IOM, *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 9.

⁸⁶ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 10–11.

⁸⁷ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 11.

private sector organisations. The utility of these private sector individuals lies in the fact that they may have confidential information required by the smugglers, or be capable of producing false documentation (proof of residency, certificate of employment, residency certificates, certificate of studies, etc.) in support of a visa, or immigration or refugee application. Individuals working for private security service providers at airport or other checkpoints can help smugglers and migrants avoid controls.⁸⁸

Organised crime involvement

Migrant smuggling does not always involve organised criminal groups. When it does, these organisations typically rely heavily on corruption in order to facilitate their migrant smuggling and other transnational criminal activities. Criminal organisations are ready to take advantage of immigration control, border protection, and security systems that are weakened by corruption.

Smuggling of migrants is essentially a business and, like any other business, the criminals involved in it wish to reduce their costs, maximise their profits, and reduce their exposure to risk, including the risk of arrest and prosecution. They use the large revenues commonly generated by their smuggling activities to corrupt officials, buy their complicity, and in the worst cases function with relative impunity.⁸⁹ In some cases, criminal groups go to great lengths to identify vulnerable officials who are likely to respond to overtures or to infiltrate law enforcement or border protection agencies.⁹⁰ Corruption is an easy means of circumventing or neutralising immigration control, border protection, and law enforcement measures. It allows smugglers to offer a 'reliable service' to irregular migrants and to charge even more for their services.

When corruption exists, whether in border protection, immigration control or law enforcement agencies, its impact is not necessarily limited to migrant smuggling. On the contrary, whenever corruption can facilitate migrant smuggling, it can also be used to facilitate other forms of transnational crime. Once public officials have been compromised, their cooperation can be used in various ways. They themselves may not always realise the exact nature and full extent of the criminal activities their collusion with criminals actually facilitates.⁹¹

The importance of corruption, not surprisingly, is reflected in the way many migrant smuggling networks are organised. Bribing and maintaining relationships with various corrupt officials is even treated as a distinct function in many migrant smuggling networks.⁹²

II.4.3 Types of conduct

There is no globally accepted definition of corruption. The *Convention against Corruption* requires the criminalisation of various clear manifestations of corruption, including bribery in the public sector, bribery in the private sector, trading in influence, and abuse of functions, and allows each State to go beyond the minimum standards thus set forth.⁹³

A definition commonly used is that corruption is the abuse of entrusted power for private gain. It can be systemic, affecting, for example, a whole border protection, law enforcement, or justice system. It can be institutional, where various institutional practices have been perverted by corruption and a culture of tolerance of corruption has taken hold. It can also be localised or individual, where those involved take advantage of opportunities to exploit their professional position for personal gain. For a public official, it involves giving or obtaining an advantage through

⁸⁸ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 18.

⁸⁹ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 11.

⁹⁰ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 12.

⁹¹ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 12.

⁹² UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 12.

⁹³ Articles 15-19, 21 *Convention against Corruption*.

illegitimate means or through means inconsistent with his/her duties.⁹⁴ Any of these forms of corruption can be linked in one way or another to the smuggling of migrants and must therefore be addressed in order to prevent and control smuggling of migrants and other forms of transnational crime.⁹⁵

Bribery

Bribery is the act of conferring a benefit in order to improperly influence an action or decision. A corrupt transaction may be initiated either by a person who offers a bribe or by an official who requests or demands one. A bribe can also be described as a payment extracted by a public official from an unwilling member of the public, before the citizen can receive the service to which he or she is entitled. Strictly speaking, such a transaction is a form of extortion. Bribes can be given directly or indirectly (to a third party or intermediary) and they can take many forms, including cash and other valuables, favours (including sexual), inside information, property, and employment or promises of employment. They can be given on a case-by-case basis or on an on-going basis as part of a continuing relationship. In many instances, corrupt officials cooperate with migrant smugglers for many years.⁹⁶

Officials who accept a bribe to facilitate the illegal entry of people, vehicles, or cargo into their country may not know exactly what crime they are actually facilitating. Thus, some officials may receive part of the bribes collected by other officials who are in collusion with migrant smugglers. Those who benefit from the bribes may not all be aware of the nature, scope, or details of the smuggling scheme.⁹⁷

A bribe can be given 'according to the rules' (to obtain something the official is withholding but is under a public duty to provide), or it can be 'against the rules' (a payment to encourage an official to ignore the rules in favour of, or at the request of, the person offering the bribe). Once bribery has occurred, it can lead to other forms of corruption. By accepting a bribe, officials are effectively compromised and thereafter vulnerable to blackmailing and psychological pressure. They can easily be coerced into further and often more serious derelictions of their duties.⁹⁸

In discussions of corruption offences, the expressions 'active bribery' and 'passive bribery' are often used. Active bribery usually refers to the act of offering or giving a bribe, while passive bribery refers to the requesting or receiving of a bribe. A corrupt transaction may be initiated under either means: by a person who offers a bribe, or by an official who requests or demands one. Corruption is frequently linked to various forms of fraud and when officials are actively seeking bribes (including rent seeking) corruption resembles extortion.⁹⁹

Trading in influence

Trading in influence involves the promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage to get that person to abuse his or her influence (real or supposed) in exchange for an undue advantage for oneself. It may also involve the solicitation or acceptance of such an undue advantage by a public official or any other person.¹⁰⁰

⁹⁴ See, for example, Susan Rose-Ackerman and Bonnie J Palifka, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge University Press, 2016) 7-9.

⁹⁵ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8.

⁹⁶ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8.

⁹⁷ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8.

⁹⁸ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8.

⁹⁹ Fritz Heimann and Mark Pieth, *Confronting Corruption: Past Concerns, Present Challenges, and Future Strategies* (Oxford University Press, 2018) 36-37.

¹⁰⁰ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 8-9.

Abuse of office

Abuse of office, functions or position involves the performance of or failure to perform an act, in violation of laws, by a public official, in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity for personal gain.¹⁰¹

II.4.4 Types of smuggling of migrants and related corruption

Typically, smuggling of migrants and related conduct can be facilitated by corruption in relation to:

- Illegal border crossing by land, sea or air and illegal stay of migrants;
- Producing, issuing and using fraudulent or fraudulently obtained documents for the purpose of migrant smuggling (or enabling stay).

A typical modus operandi for migrant smuggling is the abuse of legal channels of migration such as asylum procedures, family reunion procedures, work and study schemes, and tourist visa schemes. Corruption in the public and private sectors can play a significant role in the establishment of fraudulent filiation or adoption, or in the arrangement of sham marriages for the purpose of migrant smuggling.¹⁰²

Corruption and illegal entry and stay of migrants

There are many ways in which corruption can be used to facilitate the movement of migrants, their illegal entry, or their illegal stay in a country. Some of the most frequent include:

- Petty corruption of law enforcement, immigration control and border control officials who then abuse their function for personal benefits and exploit travellers, migrants, and irregular migrants;
- Corruption, infiltration, and intimidation of immigration control and border protection officials to facilitate border crossing and illegal entry into a country;
- Corruption of immigration officials involved in reviewing refugee applications, authorising an immigrant's stay in the country, or executing deportation orders;
- Corruption of officials to prevent smuggled migrants from returning to their country of origin;
- Abuses of function by officials;
- Systemic corruption in government agencies, including participation in conspiracies to smuggle migrants;
- Corruption of private sector employees (e.g., air carrier and common carrier staff, travel or agencies, private security personnel) to circumvent the controls in place to prevent illegal entry into a country.¹⁰³

Not all forms of corruption necessarily involve large conspiracies. Officials may engage in acts of petty or routine corruption, exploiting their position for personal advantages. They may delay, for instance, the performance of their function until a favour is given or promised, using techniques to create artificial and unnecessary delays. Bribes may also be accepted for disclosing confidential or protected information, such as tipping off smugglers about on-going investigations, new control measures, or actions taken by their agency to detect and prevent migrant smuggling. Officials

¹⁰¹ Article 19 *Convention against Corruption*.

¹⁰² UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 14.

¹⁰³ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 15.

involved in border protection, immigration control, consular services, and law enforcement are at greater risk of corruption, because of the functions they perform or the positions they occupy. In that sense, they belong to a group that presents a 'higher risk of misconduct'.¹⁰⁴

In particular, smugglers often have long-standing arrangements with corrupt senior police officials whom they contact and pay in advance when a 'shipment' of irregular migrants is being moved to a different location. The senior officials then ensure that their colleagues who are responsible for road blocks and checkpoints are informed and know to let the migrants move without interference. Part of the bribe must then trickle down to the rank and file of the police. In such cases, an entire police unit or police system is compromised and not just a few individual officers.¹⁰⁵

Private sector firms and employees responsible for producing various documents or permit applications, arranging travel or employment, or facilitating or controlling the movement of goods and people, may be bribed to facilitate a smuggling operation. Members of the fishing industry may be recruited by organised crime groups to facilitate migrant smuggling by sea, while employees of private transportation companies may allow migrants to stow away on passenger or cargo ships, in ship containers or trucks, or on airliners. Corrupt banking and finance officials can also be bribed to provide false documents, or to facilitate the laundering of proceeds of migrant smuggling operations.¹⁰⁶

Corruption, smuggling of migrants, and fraudulent documents

Some of the ways in which corruption can facilitate the use of fraudulent documents for the purpose of migrant smuggling include:

- Corruption in the issuance of false travel and identity documents;
- Corruption to facilitate the use of fraudulent documents;
- Corruption in the issuance of genuine travel and identity documents on the basis of fraudulent support documents, issued by the public administration or the private sector;
- Corruption of private sector business and organisations in support of fraudulent applications for passports, visas, or permanent residency (e.g., fraudulent certificates of marriage, paternity, filiation, employment, registration in an academic institution).¹⁰⁷

Fraudulent documents often play a major role in migrant smuggling schemes and corruption plays an important role in the production and use of fraudulent documents. One form of document fraud involves the buying of passports and visas through corrupt officials in embassies. In some countries, because of weaknesses in government administration, inefficiency and widespread corruption, it is relatively easy to get genuine documents with partially or completely false information in exchange for a bribe.¹⁰⁸

Some of the technological advances to protect the integrity of official identification and travel documents can be defeated by corruption. For example, the replacement of a bio-data page in a passport requires the involvement of a person with access to specialised techniques. However, it may be much easier for a corrupt official to issue documents by fraud rather than to alter a document. Fraudulent supporting documents may be used to obtain a genuine passport or visa.

¹⁰⁴ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 15-17.

¹⁰⁵ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 17.

¹⁰⁶ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 18; Anne T Gallagher and Fiona David, *The International Law of Migrant Smuggling* (Cambridge University Press, 2014) 521.

¹⁰⁷ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 19.

¹⁰⁸ See, for examples, Yuliya G Zabyelina, 'The Untouchables: Transnational Organized Crime Behind Diplomatic Privileges and Immunities' (2013) 16(3) *Trends in Organized Crime* 343, 352-353.

Corrupt officials may agree not to scrutinise these documents too carefully or may even agree to certify certain documents that they know have been forged or altered.¹⁰⁹

A frequent modus operandi for migrant smugglers is ‘visa smuggling’ whereby regular visas are obtained through fraudulent means. Visa smuggling is often planned well ahead of the actual travel and combines a variety of methods for different stages of the journey. This may include the creation of fictitious companies to obtain executive visas to a particular destination country for the purpose of working in a phantom branch of that company. Visa applications can also be supported by other counterfeited documents including flight tickets, boarding passes, and resident permits, often obtained through corruption, to show that the identity of the visa applicant is the same as that in their passport.¹¹⁰

Abuse of ‘approved destination status’ processes can result in successful irregular entry of another person. After a person gains entry into a country with a legitimate visa, the passport with the visa is returned to the country of origin with exit stamps, while the person to whom the visa was issued remains in the destination country.¹¹¹

Corruption, smuggling of migrants, and obstruction of justice

There are many ways in which corruption can help smugglers circumvent or defeat law enforcement efforts to investigate and prosecute migrant smuggling. Some of them are:

- Corruption and intimidation of law enforcement officials to prevent the successful investigation of migrant smuggling incidents;
- Corruption and intimidation of law enforcement officials to prevent the successful investigation of allegations of corruption;
- Corruption and intimidation of prosecutors and members of the judiciary to prevent the successful prosecution and conviction of smugglers;
- Corruption relating to the obstruction of justice (e.g., corruption and intimidation of witnesses);
- Corruption to facilitate the laundering of the proceeds of migrant smuggling and other criminal activities;
- Extortion practiced by corrupt law enforcement officials.¹¹²

In many countries, there are frequent reports of police officers, prosecutors, judges or other officials being bribed to ensure that migrant smuggling activities are not properly investigated or prosecuted or, if they are prosecuted, to ensure a favourable outcome. There are also numerous examples of bribery in relation to the detention and deportation of irregular migrants.¹¹³

¹⁰⁹ UNODC, *Migrant Smuggling by Air* (2010) 11; see, for example, Australian Strategic Policy Institute, *Strategy: People Smugglers Globally, 2017* (2017) 21.

¹¹⁰ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 21.

¹¹¹ OECD Directorate for Financial and Enterprise Affairs, ‘Corruption and the Smuggling of Refugees’ (2015) 3.

¹¹² UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 22.

¹¹³ UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper (2013) 22.

III. Fraudulent travel or identity documents

III.1 Production and supply to smugglers

The production of high quality forgeries requires technical skills and know-how. It is for this reason that smugglers (or smuggled migrants) generally resort to specialised forgers who produce and supply such documents. The following sections thus differentiate between (1) the production and supply of such documents by forgers and (2) the acquisition of such documents by smugglers or smuggled migrants.

III.1.1 Production of forgeries

Most of the available open-source information concerning the production of fraudulent travel or identity documents in Southeast Asia relates to cases from Thailand. Several reports describe Thailand as a 'hub' for passport forgery, with a 'reputation for gangs that produce counterfeit documents' and a 'booming trade in stolen and falsified passports'.¹¹⁴ This may be at least partly attributable to Thailand's high levels of tourism and the theft of foreign passports and other documents, providing forgers with access to documents to work with.¹¹⁵ The prevalence of corruption in Thailand has been noted as further factors contributing to the high levels of document forgery.¹¹⁶

The large number of reports concerning the production of forged travel and identity documents in Thailand may be attributable to several causes. It needs to be stressed in this context that Thailand has a considerably larger population than many Southeast Asian countries and has a much more vibrant English language media sector. This may distort the level of reporting and falsely create the impression that Thailand experiences disproportionate levels of document fraud.¹¹⁷

Reports about the production of forged travel and identity documents from other countries are more isolated. A literature review published by UNODC in 2012 found that there is a 'well developed industry in Indonesia [that] facilitates the procurement of fraudulent documents'.¹¹⁸ Other news and research reports contain examples of production of forged documents for the purpose of smuggling of migrants in Malaysia,¹¹⁹ Singapore,¹²⁰ and Viet Nam¹²¹, though these reports make no suggestions about the scale and spread of document forgery in these countries.

¹¹⁴ See, for example, [s.n.] 'Bangkok Blast Suspect Seized with Passports and Bomb-Making Equipment "Part of People-Smuggling Gang"', *South China Morning Post* (online), 30 August 2015; Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9; Philip Sherwell, 'Master Forger Arrested in Thailand over Fake Passports for Migrants to Europe', *The Telegraph* (online), 10 February 2016; Lindsay Murdoch, 'Police Crack Thai Fake Passport Racket and Arrest "The Doctor"', *The Sydney Morning Herald* (online), 10 February 2016.

¹¹⁵ Anucha Charoenpo & Manop Thip-osod, 'Fake Passengers Bought Tickets at Pattaya Agents', *Bangkok Post* (online), 11 March 2014.

¹¹⁶ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9; Michael Peel & Jeremy Grant, 'Thailand's Role at heart of Identity Crime', *Financial Times* (online), 11 March 2014.

¹¹⁷ [s.n.], 'Editorial: Forgers Feel the Heat', *Bangkok Post* (online), 26 July 2016.

¹¹⁸ UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 17; see also [s.n.] 'Immigration Officials Uncover Visa Forgery Ring', *The Jakarta Post* (Jakarta), 7 March 2018, 5.

¹¹⁹ Norsyafawati Ab Wahab, 'Immigration Dept Cripples Passport, Document Forgery Syndicate', *Bernama Daily Malaysian News* (online), 6 March 2018; see also, Michael Peel & Jeremy Grant, 'Thailand's Role at heart of Identity Crime', *Financial Times* (online), 11 March 2014.

¹²⁰ ICMPD, *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe* (2011) 38.

¹²¹ Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Vietnam* (2017) 26.

Passports

Most reports on the production of fraudulent travel or identity documents for the purpose of smuggling of migrants involve passports and, as mentioned, most of these reports concern cases detected in Thailand. The methods and equipment used to produce forged passports vary, and may either involve the use of genuine passports, which are altered or used as templates, or the creation of forged passports from scratch.¹²²

Where genuine documents are used, they may be stolen from, or sold by, their owners in the country of production, such as foreign visitors in Thailand. They may also be mailed from other countries to Thailand for alteration. In one case reported in 2014, for instance, 103 stolen passports were discovered when they were couriered from Spain to Thailand in order to forge their content.¹²³

Various types of equipment are used to fraudulently create, alter, or copy passports. In some cases, technologically advanced tools have been used to create high quality forgeries (sometimes referred to as 'mirror-grade' passports),¹²⁴ which are impossible to detect by the naked eye and can fool many experts, including law enforcement and border officials.¹²⁵ Generally, the production of fraudulent passports in Southeast Asia may include, inter alia, the use of lasers,¹²⁶ 'pattern screen blocks',¹²⁷ backlight lamps,¹²⁸ high-definition scanners and printers,¹²⁹ and embossing machines and passport laminate.¹³⁰ Fake visa stickers and stamps are also used during production, together with biodata pages and forged signatures.¹³¹ These stamps and stickers create the appearance that the passport has been widely used and accepted at various control points.

¹²² Philip Sherwell, 'Master Forger Arrested in Thailand over Fake Passports for Migrants to Europe', *The Telegraph* (online), 10 February 2016.

¹²³ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9; see also, [s.n.] "'Johnny Painter" Stitched up for Role in "Doctor's" Passport Ring', *Bangkok Post* (Bangkok), 11 April 2016.

¹²⁴ [s.n.] 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹²⁵ [s.n.], 'The Big Issue: Passports, Please', *Bangkok Post* (Bangkok), 14 February 2016, 2.

¹²⁶ [s.n.], 'The Big Issue: Passports, Please', *Bangkok Post* (Bangkok), 14 February 2016, 2.

¹²⁷ [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹²⁸ King-Oua Laohong, 'Passport Forgery Bust Nets Iranian After 2-Year Inquiry', *Bangkok Post* (Bangkok), 19 March 2015.

¹²⁹ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9.

¹³⁰ [s.n.], "'Johnny Painter" Stitched up for Role in "Doctor's" Passport Ring', *Bangkok Post* (online), 11 April 2016.

¹³¹ [s.n.], 'Cops Bust Passport Fraud Racket', *Bangkok Post* (online), 5 September 2014; Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9.

Case example: Hamid Reza Jafary ('the Doctor')

Mr Jafary, an Iranian national who had lived in Thailand for 25 years, was the leader of what was described as one of Thailand's 'biggest passport counterfeiting syndicates'.¹³² He was known as the 'the Doctor', supplying fraudulent documents to a range of clientele, including a number of migrant smuggling organisations.¹³³ Most of the smuggled migrants who used documents produced by Mr Jafary came from Iran, Syria, Iraq, and Afghanistan and sought to travel to Europe or Australia.¹³⁴ He also sold fraudulent passports online.¹³⁵ The fraudulent passports were reportedly sold for THB 50,000–80,000 each.¹³⁶

Prior to his arrest, Thai officials had been investigating Mr Jafary's syndicate for several years.¹³⁷ He was also wanted by the United Kingdom, France, Australia, New Zealand, and Japan.¹³⁸ A number of previous arrests, mostly of middlemen, had been made, but while these cases were often linked to 'the Doctor', capturing Mr Jafary himself had proved difficult. He operated in secret, with few people knowing his real name or what he looked like.

Thai officials were eventually able to identify Mr Jafary after analysing phone data, from which they identified a number they believed belonged to Mr Jafary. They discovered this number was used to order pizza to a certain address. Law enforcement officers attended the address and discovered that Mr Jafary was running a second-hand computer business, which he used as a front for his passport forgery operation.¹³⁹ The second floor of the business contained technologically advanced forgery equipment.¹⁴⁰ 173 forged passports were discovered when he was arrested in 2016.¹⁴¹

Mr Jafary was assisted by other members of his syndicate, including five Pakistani men who helped him contact potential clients.¹⁴² An important associate was Mr Mahammad Rumzan, a Pakistani national nicknamed 'Johnny Painter' due to his ability to create high quality forged passports. Mr Rumzan was arrested two months after Mr Jafary while delivering stolen passports to another document forger. When his two apartments were searched, Thai officials discovered 40 counterfeit passports and 91 visa stamps, together with a range of equipment and materials used for producing forged documents. Thai authorities alleged that Mr Rumzan received THB 2,000–3,000 per forged passport he created.¹⁴³

News reports in the years following the arrest of Mr Jafary indicate that the transnational syndicate he was part of was still in operation.¹⁴⁴

¹³² [s.n.], 'Thailand Arrests Iranian, 5 Pak Nationals for Fake Passports', *India Today* (online), 10 February 2016.

¹³³ [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹³⁴ Lindsay Murdoch, 'Police Crack Thai Fake Passport Racket and Arrest "The Doctor"', *The Sydney Morning Herald* (online), 10 February 2016.

¹³⁵ [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹³⁶ [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016; [s.n.], 'Editorial, Forgers Feel the Heat', *Bangkok Post* (Bangkok), 26 July 2016.

¹³⁷ [s.n.], 'Police clamp down fake passport Ringleader', *Bangkok Post* (online), 9 February 2016.

¹³⁸ Philip Sherwell, 'Master Forger Arrested in Thailand over Fake Passports for Migrants to Europe', *The Telegraph* (online), 10 February 2016.

¹³⁹ Wassayos Ngamkham, 'Pizza Order Leads to Iranian's Arrest', *Bangkok Post* (online), 11 February 2016.

¹⁴⁰ [s.n.], 'The Big Issue: Passports, Please', *Bangkok Post* (Bangkok), 14 February 2016, 2.

¹⁴¹ Philip Sherwell, 'Master Forger Arrested in Thailand over Fake Passports for Migrants to Europe', *The Telegraph* (online), 10 February 2016.

¹⁴² [s.n.], 'Thailand Arrests Iranian, 5 Pak Nationals for Fake Passports', *India Today* (online), 10 February 2016.

¹⁴³ [s.n.], "'Johnny Painter' Stitched up for Role in "Doctor's" Passport Ring', *Bangkok Post* (Bangkok), 11 April 2016.

¹⁴⁴ [s.n.], 'Nabbed Pakistani Man Suspected of Isis Links', *Bangkok Post* (online), 16 January 2018.

Case example: Seyed Paknejad

Mr Seyed Paknejad, an Iranian man described as one of the world's most wanted passport forgers, was arrested by counter-terrorism police in Malaysia in 2013. He allegedly supplied forged documents to migrant smuggling, drug trafficking, and terrorist groups.¹⁴⁵ The passports were predominantly used to smuggle clients from Middle Eastern countries to New Zealand, Australia, the United States, and Europe.¹⁴⁶ The migrants would initially travel to Thailand before using forged documents to secure passage to their final destination.¹⁴⁷

It is believed that Mr Paknejad sold the passports for MYR 3,000–4,000.¹⁴⁸ If a visa was required, this price could be as high as MYR 10,000.¹⁴⁹ Overall, it is estimated that he earned as much as MYR 9,000,000 from his criminal activity,¹⁵⁰ which is reported to have spanned over five to ten years.¹⁵¹ During this time, he provided more than 3,000 counterfeit documents to buyers in 14 countries. He was first arrested in Thailand in 2012 when passports and drivers licences were found in his apartment together with sophisticated counterfeiting equipment.¹⁵² After being released on bail, Mr Paknejad fled Thailand on a fraudulent Turkish passport and continued to run his forgery syndicate from Malaysia.¹⁵³ Soon after his arrest in Malaysia, Thailand formally requested his extradition.¹⁵⁴ Malaysia surrendered Mr Paknejad in 2015. Later, in 2017, a court in Thailand found Mr Paknejad guilty of drug possession and document falsification and sentenced him to a five-year term of imprisonment.¹⁵⁵

Computers and smartphones often aid in the creation of forgeries and are used for storage of document copies.¹⁵⁶ Pictures of the intended recipient of the forged passport may be taken overseas and transmitted by smugglers to the forger to create the passport. The passports are then sent back to the smuggler and handed to the smuggled migrant. Regular courier services have reportedly been used for this purpose.¹⁵⁷ Fraudulent passports used to facilitate the smuggling of migrants come from a great range of countries. A forgery ring busted in Thailand in March 2015, for instance, was in possession of genuine passports from 65 different countries.¹⁵⁸ In general, there appears to be a preference for passports from European Union (EU) Member States that allow easy access into the EU and visa free entry into many other countries. The level of production varies between different forgers and networks, though several investigations revealed syndicates that were responsible for producing hundreds or even thousands of passports.¹⁵⁹

¹⁴⁵ Jared Savage, 'International Bomb Plot Forger Found with Kiwi Passports', *The New Zealand Herald* (online), 14 September 2013.

¹⁴⁶ [s.n.], 'Iranian Jailed for 5 years', *Bangkok Post* (online), 21 March 2017, 2; Jared Savage, 'International Bomb Plot Forger Found with Kiwi Passports', *The New Zealand Herald* (online), 14 September 2013.

¹⁴⁷ [s.n.], 'Iranian Jailed for 5 years', *Bangkok Post* (online), 21 March 2017, 2.

¹⁴⁸ [s.n.], 'Passport "Brains" Held', *New Straits Times* (online), 7 August 2013.

¹⁴⁹ [s.n.], 'Passport "Brains" Held', *New Straits Times* (online), 7 August 2013.

¹⁵⁰ [s.n.], 'Busting the "Brains"', *New Straits Times* (online), 10 August 2013.

¹⁵¹ [s.n.], 'Passport "Brains" Held', *New Straits Times* (online), 7 August 2013; [s.n.], 'Iranian Jailed for 5 years', *Bangkok Post* (online), 21 March 2017, 2.

¹⁵² Jared Savage, 'International Bomb Plot Forger Found with Kiwi Passports', *The New Zealand Herald* (online), 14 September 2013.

¹⁵³ [s.n.], 'Passport "Brains" Held', *New Straits Times* (online), 7 August 2013.

¹⁵⁴ [s.n.], 'DSI Seeks Iranian Forger from Malaysia', *Bangkok Post* (online), 8 August 2013.

¹⁵⁵ [s.n.], 'Iranian Jailed for 5 years', *Bangkok Post* (online), 21 March 2017, 2.

¹⁵⁶ [s.n.], 'Cops Bust Passport Fraud Racket', *Bangkok Post* (Bangkok), 5 September 2014.

¹⁵⁷ UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 104.

¹⁵⁸ King-Oua Laohong, 'Passport Forgery Bust Nets Iranian after 2-Year Inquiry', *Bangkok Post* (Bangkok), 19 March 2015.

¹⁵⁹ King-Oua Laohong, 'Passport Forgery Bust Nets Iranian after 2-Year Inquiry', *Bangkok Post* (Bangkok), 19 March 2015.

Visas and other documents

Many reports point to a diverse range of other documents that are frequently produced to facilitate the smuggling of migrants in Southeast Asia. These include, inter alia, visas, residence documents, identification cards,¹⁶⁰ birth certificates,¹⁶¹ and drivers licences.¹⁶² Information concerning the production of false visa, resident cards, and other documents is, however, not easily separable from reports relating to passports set out in the previous section. Like passports, the production of fraudulent visas is common in Southeast Asia.¹⁶³ Some reports show that passport and visa forgery often go hand in hand, with forgers tending to be involved in the production of several types of document.¹⁶⁴ The information gathered for this report sheds little light on how fraudulent visas and documents other than passports are commonly produced in the region.

Profile, roles and networks of the forgers

Based on the available information, it appears that persons producing fraudulent travel and identity documents are often separate from the migrant smugglers they sell to. Thus, smugglers commonly purchase or otherwise source fraudulent documents from others, rather than producing these documents themselves. Many persons engaged in producing high quality forgeries have very advanced technical know-how and produce fraudulent documents that may be supplied to a range of buyers and used in a great range of crime types.¹⁶⁵ Forgers arrested in Thailand have reportedly sold documents for the purposes of, inter alia, arms trafficking, trafficking in persons, and terrorism, in addition to smuggling of migrants.¹⁶⁶

The available information further suggests that some forgers work individually and locally and supply fraudulent documents to local clients, while others are working in teams or networks and are associated with transnational organised crime groups.¹⁶⁷ As mentioned earlier, some investigations have uncovered syndicates responsible for producing hundreds or even thousands of fraudulent documents.¹⁶⁸ The sources consulted for the purpose of this report further give the impression that forgers do not merely specialise in producing one type of document, such as passports, but often supply a range of travel and identity documents to various clients.¹⁶⁹

While persons involved in document forgery in Southeast Asia may come from the region, involvement of nationals of European countries, the United States, and countries from other Asian regions has also been reported.¹⁷⁰ In some instances, persons of different nationalities have worked together in forgery syndicates and coordinated criminal activity across different countries,

¹⁶⁰ [s.n.], '13 Sought for False Thai ID Racket', *Bangkok Post* (online), 6 August 2015.

¹⁶¹ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 64.

¹⁶² King-Oua Laohong, 'Passport Forgers Arrested in Bangkok', *Bangkok Post* (online), 4 September 2014.

¹⁶³ [s.n.], 'Immigration Officials Uncover Visa Forgery Ring', *The Jakarta Post* (Jakarta), 7 March 2018, 5; Wichayant Boonchote, 'Thai, Vietnamese Corralled in Fake-Visa Raid', *Bangkok Post* (online), 11 March 2015.

¹⁶⁴ Norsyafawati Ab Wahab, 'Immigration Dept Cripples Passport, Document Forgery Syndicate', *Bernama Daily Malaysian News* (online), 6 March 2018.

¹⁶⁵ See, for example, Lindsay Murdoch, 'Police Crack Thai Fake Passport Racket and Arrest "The Doctor"', *The Sydney Morning Herald* (online), 10 February 2016; [s.n.], 'DSI asks KL to Return Forger with 60 Days', *Bangkok Post* (online), 9 August 2013.

¹⁶⁶ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9.

¹⁶⁷ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9; Norsyafawati Ab Wahab, 'Immigration Dept Cripples Passport, Document Forgery Syndicate', *Bernama Daily Malaysian News* (online), 6 March 2018.

¹⁶⁸ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9.

¹⁶⁹ See, for example, [s.n.], 'Passport, Visa Forger Arrested', *Bangkok Post* (online), 26 August 2013; King-Oua Laohong, 'Passport Forgers Arrested in Bangkok', *Bangkok Post* (online), 4 September 2014.

¹⁷⁰ [s.n.], "'Icebox Killer' Sentenced to Almost 44 Years', *Bangkok Post* (online), 18 December 2017.

reflecting the often transnational nature of their crimes.¹⁷¹ To assist the selling of forged documents internationally, some offenders have been noted to use the internet to advertise their services. In one case, forged passports and other documents were placed on an illicit online store and ordered by customers, who then transferred money to the forger. The documents were then sent to customers using regular postal services.¹⁷²

III.1.2 Supply of genuine documents

Migrant smugglers may be supplied with genuine documents through several avenues. The first involves supply of documents by corrupt immigration or other government officials. There are some, albeit limited, reports from Indonesia and Malaysia of officials providing genuine passports to migrant smugglers, usually in return for bribes.¹⁷³ Other types of genuine but fraudulently created documents may also be provided, including birth certificates, adoption records, and identification cards. Migrant smugglers may also be supplied with genuine documents by immigration officials who are tricked by false applications and misrepresentations. The Australian Department of Foreign Affairs and Trade notes that passport fraud in Vietnam is difficult to detect as false documents are often used to obtain genuine passports.¹⁷⁴ Fake documents, such as admissions to education institutions and conferences, have been used to acquire genuine visas.¹⁷⁵

Some migrant smugglers have been supplied with genuine documents by persons willing to sell their own documents, particularly tourists looking to make money.¹⁷⁶ One report notes that tourist passports can be sold for potentially thousands of dollars in Thailand.¹⁷⁷ Following the sale, the tourists may then falsely report them as lost or stolen. In other cases, genuine passports have been stolen, sometimes by opportunistic criminals who then sell them to smugglers or document forgers. It has also been reported that waitresses working in bars in Thailand have stolen passports from clients in return for a commission.¹⁷⁸

III.2 Acquisition, procurement, and supply of fraudulent documents by smugglers

Open source information about how migrant smugglers acquire and procure fraudulent travel or identity documents, and how they supply these documents to smuggled migrants, is limited. Most reports either relate to the production of such documents (see Section III.2 above) or to their use and possession (Section III.3). By comparison, there is a relative paucity of open source information about how smugglers interact with those forging documents and how smugglers make such documents available to smuggled migrants.

One explanation for the relative dearth of information are the difficulties in clearly separating migrant smugglers from those producing fraudulent documents. Most reports, including investigations and reported cases, do not specify whether fraudulent documents were produced specifically for the purpose of smuggling of migrants and whether such documents were acquired,

¹⁷¹ See, for example, King-Oua Laohong, 'Passport Forgery Bust Nets Iranian after 2-Year Inquiry', *Bangkok Post* (online), 19 March 2015.

¹⁷² [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹⁷³ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 64; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 137.

¹⁷⁴ Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Vietnam* (2017) 26.

¹⁷⁵ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 30.

¹⁷⁶ Mark Fenn, 'Missing Malaysia Airlines Flight MH370: Thailand's growing passport scam', *The Independent* (online), 13 March 2014.

¹⁷⁷ Clive Williams, 'Stamping out Passport Fraud', *The Canberra Times* (Canberra), 4 November 2013, 4.

¹⁷⁸ Clive Williams, 'Stamping out Passport Fraud', *The Canberra Times* (Canberra), 4 November 2013, 4.

procured, or supplied specifically for this purpose. In some instances, fraudulent documents are produced for a range of purpose or with no specific intention regarding their future use. Furthermore, those producing and preparing fraudulent documents may work independently, may be part of larger forgery networks, or may be subsumed in groups involved in smuggling of migrants.¹⁷⁹ The available sources, for the most part, do not draw these distinctions, except for one report relating to the Philippines which states that groups involved in the smuggling of migrants usually acquire fraudulent documents externally from other groups specialising in document fraud.¹⁸⁰ Based on the information retrieved for the purpose of this research, a few general observations can be made.

III.2.1 Acquisition and procurement of fraudulent documents

It appears that migrant smugglers often first acquire documents from forgers and suppliers, and then pass these on to their clients.¹⁸¹ In such cases, smugglers act as middle men for the trade in fraudulent documents, with no or little direct contact between smuggled migrants and the producers and suppliers of these documents. In some cases, smugglers arrange for fraudulent documents to be sent directly to smuggled migrants by those producing the forgeries, usually by using postal or courier services.¹⁸²

Case example: Bin Mohd Ali

The case of Mr Sherdali Bin Mohd Ali provides an example for the procurement of a fraudulent document by a migrant smuggler and the supply of this document to a smuggled migrant. The migrant, an Afghan refugee referred to as H.A.J. in court proceedings, had been residing in Malaysia and held a valid UNHCR identification card. Frustrated with the waiting time for resettlement as a refugee, H.A.J. engaged the services of a migrant smuggler, Mr Ali, to help him travel to Australia. H.A.J.'s brother agreed to pay for the smuggling venture by transferring USD 10,000 once H.A.J. reached Australia.

Mr Ali asked H.A.J. to provide him with passport size photos and personal details, which Mr Ali then gave to an associate to create a counterfeit Malaysian passport. Messrs Ali and H.A.J. then flew from Kuala Lumpur to Kota Kinabalu on the island of Borneo before driving to the border of Brunei Darussalam, from where they intended to fly to Australia. Mr Ali kept possession of the fraudulent passport during their journey.

Unknown to Messrs Ali and H.A.J., border officials in Brunei Darussalam were tipped off and intercepted the pair before they entered the country. Mr Ali was later charged with and convicted for passport and migrant smuggling offences in Brunei Darussalam. During his trial, he was noted to be part of a document forgery syndicate in Malaysia.¹⁸³

III.2.2 Supply of fraudulent documents to smuggled migrants

Migrant smugglers may have fraudulent documents delivered to migrants, or may hand such documents to their clients in person.¹⁸⁴ For example, a document forgery syndicate in Malaysia arranged to meet customers in designated locations, usually car parks or public bathrooms.¹⁸⁵ To conceal the transfer of fraudulent documents, these may be hidden or covered up, which happened

¹⁷⁹ UNODC, *Global Study on Migrant Smuggling* (2018) 130.

¹⁸⁰ UNODC, *Global Study on Migrant Smuggling* (2018) 130.

¹⁸¹ [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016.

¹⁸² Jeerawat Na Thalang, 'Out of a War Zone, into a Thai Prison', *The Bangkok Post* (online), 7 February 2016.

¹⁸³ *Public Prosecutor v Sherdali Bin Mohd Ali* (Intermediate Court of Brunei Darussalam, Criminal Trial No 9/2010, 27 January 2011).

¹⁸⁴ See, for example, Sutthiwit Chayutvorakan, 'Cameroonian with Fake Visa Arrested', *Bangkok Post* (online), 5 December 2016.

¹⁸⁵ Bernama, 'Malaysia Busts Document and Stamp Forging Syndicate', *The Straits Times* (online), 21 February 2018.

in a case reported in Thailand, where forged passports were given to smuggled migrants hidden in the covers of diaries.¹⁸⁶

In some instances, smugglers may arrange the flights for smuggled migrants and accompany them during transit when the fraudulent documents are used.¹⁸⁷ If smuggled migrants pass through multiple transit points, they may be supplied documents by different smugglers for each stage of the journey.¹⁸⁸

Case example: Keeping Mark John

The case of Mr Keeping Mark John provides a rare, detailed example of the supply of documents by smugglers to a smuggled migrant. Mr John was a 45-year-old British national who was recruited by a migrant smuggling syndicate to help facilitate the smuggling of their clients. In September 2016, Mr John was arrested by Singapore authorities for attempting to help a Sri Lankan national, Mr Kajanan, to exit Singapore and travel to Auckland, New Zealand.

The Sri Lankan man had paid a migrant smuggler in Sri Lanka to help him travel from Sri Lanka to Auckland. The smuggler, known as Jogarajah, first asked Mr Kajanan for a photograph and with it produced a forged Indian passport bearing the name of Mr John and a photo of Mr Kajanan. The smuggler also gave Mr Kajanan a ticket to fly to Singapore. Meanwhile, Jogarajah contacted Mr John, who was in Cambodia at the time, and told him to travel to Singapore and buy a ticket for a flight to Auckland.

Upon entering Singapore, Mr Kajanan, following the instructions of Jogarajah, checked in for a flight to Colombo and obtained a boarding pass at Singapore's Changi airport. Using this boarding pass, he then proceeded to a washroom in Terminal 3 where Mr John had left the boarding pass for the Auckland flight in a sink. Mr Kajanan left USD 400 in the sink for Mr Keeping to collect as payment. He then entered the gate-hold room for the Auckland-bound flight using the fraudulent passport with Mr John's name and the boarding pass to pass security and airline personnel. He was arrested by immigration officers at this point.

Messrs Keeping and Kajanan were imprisoned for 12 months for their respective offences.¹⁸⁹ During his trial before a Singapore court, it was revealed that Mr Keeping had also been involved in a similar smuggling operation in Tokyo in 2016.

III.3 Use and possession of fraudulent documents

In Southeast Asia, fraudulent documents are frequently used to facilitate irregular migration.¹⁹⁰ There are many reports in which migrants using fraudulent documents are apprehended. Most of these reports involve cases where travellers were found in possession of fraudulent documents at airports.¹⁹¹ These cases involve fraudulent passports, visas, and a range of other fraudulent

¹⁸⁶ Wassayos Ngamkham, 'Pizza Order Leads to Iranian's Arrest', *Bangkok Post* (online), 11 February 2016.

¹⁸⁷ See, for example, [s.n.] 'Indian "Commonwealth Games imposters" Detained at Brisbane Airport, Man Charged', *ABC News* (online), 29 March 2018; IOM, *Country Migration Report: the Philippines* (2013) 41; Jon Fernquest, 'Went from Turkey to Malaysia to Find Work: Bombing Suspect's Story', *Bangkok Post* (online), 20 September 2015; see also *Public Prosecutor v Sherdali Bin Mohd Ali* (Intermediate Court of Brunei Darussalam, Criminal Trial No 9/2010, 27 January 2011).

¹⁸⁸ Jon Fernquest, 'Went from Turkey to Malaysia to Find Work: Bombing Suspect's Story', *Bangkok Post* (online), 20 September 2015.

¹⁸⁹ *Keeping Mark John v Public Prosecutor* [2017] SGHC 170; Elena Chong, 'Sri Lankan jailed for posing as another to get into airport holding room', *The Straits Times* (online), 22 November 2016; Elena Chong, 'Two Men Jailed for Impersonation, Passport Forgery', *The Straits Times* (online), 23 November 2016.

¹⁹⁰ See, for example, [s.n.] '13 Illegals Held Over Fake Immigration Dept Stamps', *New Straits Times* (Kuala Lumpur), 8 January 2014, 11; Sutthiwit Chayutworakan, 'Iraqi Held Over Fake Passport', *Bangkok Post* (online), 6 June 2015; [s.n.] 'Myanmar Workers Caught Using Fake Passports', *Bangkok Post* (online), 10 April 2014.

¹⁹¹ See, for example, Sutthiwit Chayutworakan, 'Three Indians Held Over Fake Passport', *Bangkok Post* (online), 18 June 2015.

documents that were discovered in the possession of migrants who used them to exit, enter, or remain in a country.

It should be noted that in many reports about the use and possession of fraudulent documents the involvement of migrant smugglers is unclear. Media reports often state that persons using or possessing fraudulent documents have been apprehended, charged, and/or convicted for such conduct, but rarely contain information relating to how the documents were acquired.¹⁹² While most reports only reveal information about the use and possession of these documents by migrants, it is likely that most of the reported cases involve instances of smuggling since migrants are unlikely to have produced the fraudulent documents themselves.

III.3.1 Use and possession of fraudulent documents to enter a country

Fraudulent travel or identity documents are used to enable travel to or between Southeast Asian countries and to facilitate departures from the region for destinations outside Southeast Asia.

Entry into and travel within Southeast Asia

Numerous reports relate to the use of fraudulent documents, most often passports, to enter a Southeast Asian country. The majority of reports concern entries and attempted entries into Malaysia,¹⁹³ Indonesia,¹⁹⁴ and Thailand.¹⁹⁵ The migrants found in possession of these documents mostly involve nationals of countries that do not enjoy visa free entry, such as Afghans, Iraqis, and Sri Lankans.¹⁹⁶ The point of entry may be their intended destination or may be a transit point en route to other destinations in Southeast Asia or outside the region.¹⁹⁷

The use and possession of fraudulent documents is, of course, not limited to nationals from outside the region and migrants from Southeast Asia, too, may resort to fraudulent documents to enable their travel within the region. Myanmar nationals, for instance, have been apprehended using fraudulent passports to travel into and within Thailand.¹⁹⁸ In another case, a Vietnamese national was using a fake passport to enter Singapore.¹⁹⁹

Departures from Southeast Asia to destinations outside the region

The use of fraudulent document to depart from Southeast Asia to destinations outside the region is similarly common. This involves both nationals of Southeast countries and other nationals who transit through the region, especially through one of Southeast Asia's main international airports.

The available information, inter alia, involves reports about specific instances where fraudulent documents were used to smuggle migrants from Vietnam to Hong Kong SAR and Europe,²⁰⁰ from

¹⁹² See, for example, Fadley Faisal, 'Vietnamese Men in Court Over Possession of Forged Passports', *Borneo Bulletin* (online), 8 January 2014; Ni Komang Erviani, 'Bali on Alert for "Bad Tourist" Arrivals', *The Jakarta Post* (online), 10 October 2015.

¹⁹³ See, for example, [s.n.] '13 Illegals Held Over Fake Immigration Dept Stamps', *New Straits Times* (Kuala Lumpur), 8 January 2014, 11

¹⁹⁴ See, for example, Khushwant Singh, 'Afghan National Jailed a Year For Using False Iranian Passport', *Straits Times* (online), 25 June 2013.

¹⁹⁵ See, for example, Sutthiwit Chayutworakan, 'Three Indians Held Over Fake Passport', *Bangkok Post* (online), 18 June 2015.

¹⁹⁶ Ahmad Almaududy Amri, 'People Smuggling in Southeast Asia: Trends, Challenges and Way Forward (2015) 7(2) *Australian Journal of Maritime & Ocean Affairs* 132, 136.

¹⁹⁷ Antje Missbach & Frieda Sinanu, 'The Scum of the Earth'? Foreign People Smugglers and Their Local Counterparts in Indonesia' (2011) 30(4) *Journal of Current Southeast Asian Affairs* 57, 73-74; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013); University of New South Wales, Social Policy Research Centre, 'The Experiences of Irregular Maritime Arrivals Detained in Immigration Detention Facilities, Final Report' (2013) 61, 62; see, for example, Khushwant Singh, [s.n.], 'Afghan National Jailed a Year For Using False Iranian Passport', *Straits Times* (online), 25 June 2013.

¹⁹⁸ [s.n.] 'Myanmar Workers Caught Using Fake Passports', *Bangkok Post* (online), 10 April 2014.

¹⁹⁹ Chew Hui Min, 'Vietnamese Woman Jailed 10 Weeks for Entering Singapore Using Fake Passport', *Straits Times* (online), 6 October 2016.

²⁰⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 31-32; UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 67; Samuel Chan, 'Illegal Workers Being Smuggled into Hong Kong Hidden Under Trucks', *South China Morning Post* (online), 21 January 2015.

the Philippines to Saudi Arabia and Europe,²⁰¹ from Indonesia to New Zealand,²⁰² Thailand, and Australia,²⁰³ and from Malaysia to Thailand and Europe.²⁰⁴

By way of example, in 2013, a Palestinian migrant was arrested at Bangkok's Suvarnabhumi Airport for possessing a forged Greek passport with which he sought to travel from Thailand to Sweden, where he hoped to apply for asylum. The man had obtained the forged passport from migrant smugglers in the United Kingdom before travelling through the United Arab Emirates to Thailand.²⁰⁵ In a large-scale case reported in 2016, almost 200 Indonesian and Malaysian migrants were stopped from leaving Manila's Ninoy Aquino International Airport after it was discovered they were all using fake Philippine passports. Several smugglers allegedly organised and accompanied this group.²⁰⁶ In March of 2018, nine Indian nationals who arrived on a flight from Thailand were apprehended at Brisbane Airport in Australia. They were carrying fraudulent documents, including false media credentials, which they were using to pose as journalists. One member of the group was later charged with offences relating to smuggling of migrants.²⁰⁷

²⁰¹ Jun Ramirez, 'BI Nabs 3 Foreigners in Human Smuggling Attempt at NAIA', *Manila Bulletin* (online), 23 February 2018; Jeannette I Andrade, 'Foreigners Using Fake Philippine Passports Accosted at Manila Airport', *The Jakarta Post* (online), 19 August 2016; Johnson Manabat & Raya Capulong, '5 Foreigners Nabbed at NAIA for Using Fake Passports', *ABS-CBN News* (online), 7 December 2017.

²⁰² Ni Komang Erviani, 'Bali on Alert for "Bad Tourist" Arrivals', *The Jakarta Post* (online), 10 October 2015.

²⁰³ Sutthiwit Chayutworakan, '4 Caught with Forged Australian Visas', *Bangkok Post* (online), 16 March 2015; Ni Komang Erviani, 'Bali on Alert for "Bad Tourist" Arrivals', *The Jakarta Post* (online), 10 October 2015.

²⁰⁴ King-Oua Laohong, 'KL Deports Iranian Tied to Passport Scam', *Bangkok Post* (online), 22 July 2016; Sutthiwit Chayutworakan, 'Three Indians Held Over Fake Passport', *Bangkok Post* (online), 18 June 2015; [s.n.], 'Four Sri Lankans Linked to Fake Passport Ring Held', *New Straits Times* (online), 9 March 2016; Sutthiwit Chayutworakan, 'Iranian Woman Caught Using Fake UK Passport', *Bangkok Post* (online), 1 February 2018.

²⁰⁵ Jeerawat Na Thalang, 'Out of a War Zone, into a Thai Prison', *Bangkok Post* (online), 7 February 2016.

²⁰⁶ Jeannette I Andrade, 'Foreigners Using Fake Philippine Passports Accosted at Manila Airport', *The Jakarta Post* (online), 19 August 2016.

²⁰⁷ [s.n.], 'Indian "Commonwealth Games imposters" Detained at Brisbane Airport, Man Charged', *ABC News* (online), 29 March 2018.

Case examples: Fraudulent documents and MH 370

Malaysian Airlines (MH) Flight 370 disappeared on 8 March 2014 en route to Beijing from Kuala Lumpur. Initially, the discovery that two of the passengers were travelling on stolen passports 'raised the unsettling possibility of foul play'.²⁰⁸ Days later, however, Interpol dismissed suggestions that this proved that the passengers were involved in the plane's disappearance; rather, the two men were asylum seekers.²⁰⁹

The two men were Iranian nationals who were able to enter Malaysia without a visa. Here, they made pre-arranged contact with a smuggling agent who gave them stolen passports and onward plane tickets.²¹⁰ The passports reportedly cost them USD 10,000 each.²¹¹ Their plan was to use the passports to travel beyond Beijing to further destinations — Berlin and Copenhagen — in order to seek asylum.²¹² The two passports, one Italian and one Austrian, were stolen in Thailand.²¹³ The Italian passport was stolen after an Italian tourist used it to rent a bike while holidaying in Phuket in 2012.²¹⁴

While no link was ever found between the two Iranian nationals and the disappearance of MH 370, some media outlets nevertheless used this incident to highlight the Southeast Asian 'migration path' the two men had used. One report, for instance, stated that it is not uncommon for Iranian migrants to transit in Southeast Asia en route to other destinations, especially via Malaysia due to visa free entry. The report, quoting a Human Rights Watch representative, further noted that it is 'much easier than most people would think' to acquire stolen or altered passports in Southeast Asia.²¹⁵

Several media outlets also used this case to report about Thailand's 'booming trade in stolen and falsified passports',²¹⁶ given that was where the Iranian men's fraudulent passports originated. In the wake of the incident, one report noted that 'Thailand remains a robust venue for the sale of high-quality false passports (including altered stolen passports) and other supporting documentation'.²¹⁷

III.3.2 Use and possession of fraudulent documents to exit a country

In some instances, fraudulent travel or identity documents are used solely for the purpose of exiting a country and/or to check-in for and embark on a departing flight. Several reports involve cases where migrants used fraudulent documents to leave on a departing flight from Southeast Asia and then destroyed these documents en route to their destination. For example, a 2013 research paper notes a specific instance where a Sri Lankan migrant used a false Canadian passport and a forged Australian visa, provided by a Malaysian migrant smuggler, to exit Sri Lanka. The migrant destroyed

²⁰⁸ Thomas Fuller & Eric Schmitt, 'Passport Theft Adds to Mystery of Missing Malaysia Airlines Jet', *New York Times* (online), 8 March 2014.

²⁰⁹ Saeed Kamali Dehghan, 'Iranians Travelling on Flight MH370 on Forged Passports "Not Linked to Terror"', *The Guardian* (online), 12 March 2014.

²¹⁰ Alan Dawson, 'The Big Issue: Passports for Sale', *Bangkok Post* (online), 16 March 2014.

²¹¹ [s.n.], 'Fake Passports Cost RM33,000 Each', *New Straits Times* (online), 13 March 2014.

²¹² Alan Dawson, 'The Big Issue: Passports for Sale', *Bangkok Post* (online), 16 March 2014.

²¹³ [s.n.], 'Fake Passports Cost RM33,000 Each', *New Straits Times* (online), 13 March 2014.

²¹⁴ Enoch Yiu & Danny Lee, 'Passport Used on Lost Malaysian Airlines Flight Traced to Bizarre Theft in Phuket', *South China Morning Post* (online), 10 March 2014.

²¹⁵ Mariano Castillo, 'Passengers' Fake Passports Shine Light on Southeast Asia Migration Path', *CNN* (online), 11 March 2014.

²¹⁶ Jon Henley, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9.

²¹⁷ Mariano Castillo, 'Passengers' Fake Passports Shine Light on Southeast Asia Migration Path', *CNN* (online), 11 March 2014.

the documents on the plane before he arrived in Perth where he applied for asylum.²¹⁸ A media report from the same year notes that migrants may be given 'genuine but altered passport[s]' and false tourist visas to exit Thailand and Malaysia and then travel to Australia. The smugglers instruct the migrants to destroy these documents after landing but before passing through immigration controls in Australian airports.²¹⁹

III.3.3 Use and possession of fraudulent documents to remain in a country

Fraudulent travel or identity documents may also be used to enable migrants to remain in the country where they already are. Most of the available reports of this kind come from Thailand and Malaysia and usually involve collusion with corrupt government officials.²²⁰ For example, in 2015 a number of officials in a registration office in Thailand were arrested for creating falsified Thai identity cards to allow migrants to stay in Thailand permanently without a visa.²²¹ Thai media further reported about a case in May 2018 where Thai immigration officers colluded with document forgers and education institutions to provide migrants with fraudulent student visas.²²² Information gathered for a 2012 UNODC report refers to cases in which Philippine migrants purchased documents to allow them to stay and work in Malaysia.²²³

²¹⁸ Cat Barker, *The People Smugglers' Business Model*, Research Paper No 2, Parliamentary Library, House of Representatives of Australia (2013) 9, 10.

²¹⁹ Michael Bachelard, 'Smugglers Sell Fly-in Asylum', *The Sydney Morning Herald* (Sydney), 18 August 2013, 3.

²²⁰ Piyarach Chongcharoen, 'Bribery 'Greases Trafficking Wheels'', *Bangkok Post* (online), 11 December 2014; Piyarach Chongcharoen, 'Local Leader Probed Over Outdated Migrants Papers', *Bangkok Post* (online), 15 July 2017; [s.n.], 'Immigration Officer Gets 5 Years Jail, RM 63,000 Fine for Corruption', *Free Malaysia Today* (online), 15 December 2016.

²²¹ [s.n.], '13 Sought for False Thai ID Racket', *Bangkok Post* (online), 6 August 2015.

²²² Wassayos Ngamkhanm, 'Fake Visa Schools to be Hit with Charges', *Bangkok Post* (online), 5 May 2018.

²²³ UNODC, *Migrant Smuggling in Asia: An Annotated Bibliography: Volume 1* (2012) 86.

IV. Financing of smuggling of migrants and laundering of proceeds of smuggling of migrants

IV.1 Providing financial and material resources

IV.1.1 Investing in the smuggling of migrants

Cases and other reports concerning the financial flows from migrant smuggling are extremely limited. A 2014 news report states that smugglers may invest large sums of money, up to AUD 40,000, to finance smuggling of migrants from Indonesia to Australia. This money goes towards purchasing vessels and fuel, as well as funding bribery of local officials, before likely being recouped through fees charged to the smuggled migrants.²²⁴ Other research on migrant smuggling in Indonesia further indicates that many smuggling operations involve networks of sponsors inside and outside of the country. These sponsors set up the criminal infrastructure required to run migrant smuggling operations, investing money to cover costs of bribery and other expenses, including safe houses in transit countries and document fraud. They may coordinate this investment with lower level smugglers, who are responsible for coordinating 'day-to-day business'.²²⁵

The 2013 trial of a Myanmar national in the Indonesian District Court (*Pengadilan Negeri*) provides a rare case example of investment in migrant smuggling. The accused smuggler organised and paid for the purchase of a vessel to smuggle migrants from Indonesia to Australia, as well as provisions for the journey, using money provided by a more senior organiser. He also recruited the captain of the vessel, which departed Indonesia successfully carrying 53 smuggled migrants. The accused was later arrested and, following court proceedings, ultimately found guilty. He appealed his conviction unsuccessfully in Indonesia's High Court (*Pengadilan Tinggi*).²²⁶

IV.1.2 Providing material assistance

Aside from provision of financial resources for smuggling ventures, there are several reports noting support of migrant smuggling through forms of material assistance. Prosecutions of Indonesian migrant smugglers in Australian courts have observed that such persons may provide vessels for the purpose of bringing migrants from Indonesia to Australia. They are often paid themselves to crew the vessels they provide and may also stock them with provisions for the journey.²²⁷ Prosecutions in Indonesia also show cases where military and police officials have provided transport, usually cars and trucks, for smuggled migrants transiting through the country.²²⁸ There are also many reported instances of persons, including skilled forgers and immigration officials, providing smugglers and smuggled migrants with fraudulent documents.²²⁹

Many Thai fisherman provided their boats to smuggling ventures in 2014, for the purpose of transporting Rohingya migrants out of Myanmar. In some cases, these boats were converted in order to carry larger numbers of migrants, with some capable of carrying up to 1,000 people. It is likely that these boats were, in most cases, operated by the owners themselves.²³⁰

²²⁴ George Roberts, 'People Smugglers Offering Discounts, Multi-Buys to Combat Federal Government Asylum Seeker Policies', *ABC News* (online), 24 March 2014.

²²⁵ UNODC, *Migrant Smuggling in Asia: An Annotated Bibliography, Volume 2* (2014) 76.

²²⁶ *Pengadilan Negeri Serang Putusan Nomor 393/Pid.Sus/2013/PN.Srg*; *Pengadilan Tinggi Banten Putusan Nomor 144/PID/2013/PT.Btn*

²²⁷ *R v Hasanusi* (unreported, District Court of Western Australia, 1365/2009, Fenbury DCJ, 21 April 2010); Debbie Guest, 'Accused People-smuggler's Mutiny Fear', *The Australian* (online), 16 March 2010.

²²⁸ See, for example, *Pengadilan Militer Tinggi Jakarta Putusan Nomor 10-K/BDG/PMT-II/CE/I/2013*.

²²⁹ See Section III.1 above.

²³⁰ [s.n.], 'Thai fisherman convert boats to cash in on people smuggling', *ABC News* (online), 20 November 2014.

IV.2 Paying migrant smugglers

In general, one of three ways is used to pay migrant smugglers. These include (1) full payment up front prior to departure, (2) payments made in instalments over the course of the journey, or (3) payment upon arrival to the destination country.²³¹ Where irregular migration involves smuggling along more than one leg (or through more than two countries), where the services of different smugglers are used at different stages of the journey, or where different actors are used for different services (for example, transporters and document forgers), separate ‘stage by stage’ payment appears to be common. This practice seems to be common if migrants are smuggled from South Asia through Southeast Asia to Australia.²³² In one case, for example, a smuggled migrant paid a deposit of USD 1,000 (for a full fee of USD 10,000) to be smuggled by air from Pakistan to Malaysia using fraudulent documents. After paying a further USD 4,000, the migrant was accommodated in a guest house in Kuala Lumpur, ferried across the Malacca Strait to Sumatra, Indonesia, and then brought by cars and buses to Bogor on Java. The migrant then paid USD 5,000 to be taken to Jakarta and later by boat to Australia.²³³

If migrants are smuggled from one country to another within Southeast Asia for the purpose of finding employment abroad, it appears to be common for the smuggling fee to be financed through deductions from the migrant’s wages.²³⁴ Reports relating to irregular labour migration and smuggling of migrants from Cambodia, Lao PDR, and Myanmar to Thailand show that Thai employers commonly cover all or some of the costs to pay for the recruitment and transportation of irregular migrant workers and later deduct that money from the migrants’ pay once they have arrived in Thailand and commenced work.²³⁵ Some migrant smugglers maintain arrangements with certain employers, whereby they receive payments to source labour in other countries.²³⁶

Usually this means the migrants must repay their debt over long periods of time, and many migrants lose track at what point they will be able to discharge their debt.²³⁷ Such arrangements create considerable debts, but also tie the migrants closely to their recruiters and employers and make it difficult, if not impossible, to change employers. This poses considerable risks to migrants if they lose their jobs or return to their country of origin before the debts are repaid in full. Such situations may also lead to increased vulnerability of migrants to exploitation in that recruiters and employers sometimes artificially inflate the migrants’ debts and abuse the power the debts give them over the migrants.²³⁸

IV.2.1 Payments made by migrants themselves

Migrants may pay individually for the services of migrant smugglers or may negotiate fees for groups. Usually, some deals are made or discounts apply if migrants are smuggled and pay as a

²³¹ Andreas Schloenhardt & Thomas Cottrell, ‘Financing the Smuggling of Migrants in Australia’ (2014) 38 *Criminal Law Journal* 265, 269.

²³² See, for example, *Karim v The Queen* [2013] NSWCCA 23; *Chaudry v The Queen* [2007] WASCA 37; *R v Sam* (unreported, District Court, Brisbane, Rafter SC, 9 June 2011).

²³³ *R v Sam* (unreported, District Court, Brisbane, Rafter SC, 9 June 2011).

²³⁴ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 72.

²³⁵ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked – The realities of young migrant workers in Thailand*, Volume 1 (2006) 71; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 56; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 147; Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 35; UNODC, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017) 46, 91–90, 136–137; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 19.

²³⁶ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 157.

²³⁷ ILO, *The Mekong Challenge— Underpaid, Overworked and Overlooked – The realities of young migrant workers in Thailand* (2006) 71; Su-Ann Oh, ‘Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?’ in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013* (2004) 150, 155; UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3.

²³⁸ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13.

group.²³⁹ In some cases, smugglers may offer deals to prospective smuggled migrants such as ‘buy nine get one free’. Doing so enables smugglers to recruit large numbers of clients while reducing their need to recruit migrants individually.²⁴⁰ Some reports concerning smuggling from Indonesia to Australia show that migrants may pay for the services of smugglers by acting as facilitators. They may run errands for migrant smuggling organisations in transit countries, recruit other migrants, or even work on smuggling vessels.²⁴¹ Migrants generally do so when they are unable to afford the fee for their desired smuggling service.²⁴²

IV.2.2 Payments by family/relatives and friends

Smuggling services are often expensive and individual migrants may be unable to finance their smuggling themselves. UNODC reports note that payments are sometimes made by the family members of smuggled migrants. These payments may be financed ‘through the sale of property or assets by the migrant and their family’.²⁴³ While there is very little available information regarding this method of payment, the following case concerning migrant smuggling through Southeast Asia to Australia details the funding of two smuggling ventures by family members.

Case example: R v Buka [2016]

The Iraqi born accused was expelled and deported to Iran as a result of the policies of Saddam Hussein. In 2000, he arrived in Australia by boat and became a citizen in 2007.²⁴⁴ In December 2011, he arranged the smuggling of his niece and her husband from Indonesia to Australia. Mr Buka advanced AUD 4,200 to Mr Hussein (smuggler) using money transfers from Australia. He did so because his niece had been defrauded of her own money by a person described in court as ‘one of the unscrupulous people who prey on the vulnerability of those desperate enough to pay to make the journey to Australian waters’. Consequently, she was unable to pay for the trip herself.²⁴⁵

Mr Buka subsequently also aided his sister-in-law’s nephew to come to Australia from Iraq. He acted as a conduit for funds provided to him by other relatives to be transferred from Iraq to Malaysia and Indonesia. He further assisted the nephew in finding and securing accommodation during transit in Malaysia and Indonesia, as well as forwarding money for living expenses in the two countries. Mr Buka was later charged with people smuggling offences in Australia for his efforts to help his niece, her husband, and his sister-in-law’s nephew.²⁴⁶ In sentencing the defendant, the County Court of Victoria noted that it would have been difficult for him to ‘withstand the tugs of family loyalty ... in refusing to assist’.²⁴⁷

IV.2.3 Loans by smugglers or other third parties (excl. family)

The sources consulted for this report contain little information pertaining to loans given to smuggled migrants, either by smugglers or other third parties. Based on prior UNODC reports, it appears that the fees for smuggling services may be loaned to migrants by ‘village moneylenders’

²³⁹ *R v Zainudin* (2012) 115 SASR 165.

²⁴⁰ George Roberts, ‘People Smugglers Offering Discounts, Multi-Buys to Combat Federal Government Asylum Seeker Policies’, *ABC News* (online), 24 March 2014.

²⁴¹ *R v Jaber Mandalawi* (Transcript of Proceedings, District Court of Queensland, 4 April 2014); see also Andreas Schloenhardt & Colin Craig, ‘Prosecutions of People Smugglers in Australia 2011-14’ (2016) 38 *Sydney Law Review* 49, 62–63.

²⁴² George Roberts, ‘People Smugglers Offering Discounts, Multi-Buys to Combat Federal Government Asylum Seeker Policies’, *ABC News* (online), 24 March 2014.

²⁴³ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 72.

²⁴⁴ Karen Percy, ‘Iraqi-Born Australian Avoids Jail Time Over People Smuggling’, *ABC News* (online) 10 February 2016; Vincent Morello, ‘Refugees Turned People Smugglers: AFP’, *The Courier Mail* (online), 29 March 2012.

²⁴⁵ Karen Percy, ‘Man Who Illegally Helped Family Come to Australia From Iraq Faced ‘Intense Pressure’ From Relatives, Court Told’, *ABC News* (online), 1 February 2016.

²⁴⁶ *R v Buka* [2016] VCC 75.

²⁴⁷ *R v Buka* [2016] VCC 75 [12].

and ‘recruitment agents’.²⁴⁸ In some cases, these debts are paid through deductions from the migrants’ salary.²⁴⁹

Many brokers in Myanmar, also referred to as ‘carries’, offer to advance fees and repay debts later as a tool to recruit would-be migrants into journeys the migrants could otherwise not afford. This method also creates the impression that the journeys are free as no up-front payments are required. The brokers make the migrants believe that higher fees and more expensive arrangements will lead them into higher-paying employment in Thailand or that it will enable the migrants to take up employment in Bangkok or other major urban centres where salaries are generally higher.²⁵⁰

IV.3 Transferring funds and laundering the proceeds of smuggling of migrants

Information on the methods used for transferring funds to finance migrant smuggling ventures in Southeast Asia is very limited. UNODC’s 2018 *Global Study on Migrant Smuggling* notes that methods of transferring funds seem to vary dependant on the nationality of migrant smugglers and smuggled migrants. The Study does, however, not provide further details about what nationalities use which method. Some smugglers prefer to use informal financial systems while others use regular financial services such as money transfers through bank accounts.²⁵¹

IV.3.1 Banking sector

The most detailed accounts of money transfers and laundering of proceeds in relation to smuggling of migrants are the case of Rahmatullah Bostan (see box) and a case described in a 2014 publication by the Australian Transaction Reports and Analysis Centre (AUSTRAC).²⁵²

The case, described in the AUSTRAC report, involves a syndicate that organised the transport of migrants from Indonesia to Australia. The majority of the migrants were Iraqi and Iranian nationals who paid between AUD 4,500 and 10,000 per person. Numerous amounts were transferred through regular bank transactions over a five-year period. A total of 28 international funds transfer instructions were sent out of Australia amounting to more than AUD 42,000. Two persons were later charged with migrant smuggling related offences in relation to these transactions.²⁵³

²⁴⁸ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 72.

²⁴⁹ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 138.

²⁵⁰ Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53 *International Migration* 37, 42.

²⁵¹ UNODC, *Global Study on Migrant Smuggling* (2018) 134.

²⁵² Australian Transaction Reports and Analysis Centre, *AUSTRAC Typologies and Case Studies Report 2014* (2014).

²⁵³ Australian Transaction Reports and Analysis Centre, *AUSTRAC Typologies and Case Studies Report 2014* (2014) 29–30.

Case example: Bostan and Bostan

A migrant smuggling venture was organised to transport 70 Afghan migrants from Indonesia to Australia. The organiser of the venture, Mr Qambarali Bostan, was assisted by his son Rahmatullah Bostan. The migrants paid between AUD 8,000 and 10,000 each for the journey. Large amounts of money were paid in cash in Indonesia. Some of these funds were then sent to Australia, while other funds were transferred from Australia to Indonesia to assist with the costs of the smuggling venture. Transfers were done through standard banking services, with the father sending numerous international funds transfer instructions from Indonesia to his son in Australia. To avoid reporting requirements, the amounts were sent in amounts below the AUD 10,000 reporting threshold.

The smuggled migrants were apprehended by Indonesian authorities in West Java before they were able to board the vessel. One of the smuggled migrants, when interviewed by police, stated that she paid Qambarali AUD 6,000 in Pakistan, where she first met him, and agreed to pay a further AUD 3,000 at a later date. The smuggled migrant then travelled from Karachi to Kuala Lumpur on a forged Pakistani passport, before travelling to Indonesia. She alleged that a corrupt officer from Pakistan's Federal Investigation Agency at Karachi airport aided her departure.

Australian authorities became suspicious following reports of irregular activity including, inter alia, cash deposits from multiple third parties, significant cash withdrawals at different bank branches, and the transfer of AUD 40,000 from the father to the son over a six-day period. They also intercepted phone calls between Rahmatullah and the smuggled migrants following their apprehension by Indonesian authorities. The two men were charged with migrant smuggling related money laundering and drug offences.²⁵⁴ Qambarali committed suicide before his trial,²⁵⁵ while Rahmatullah pleaded guilty to receiving proceeds of crime and various drug offences. He was sentenced to a nine month suspended jail term. Charges of migrant smuggling against Rahmatullah were dropped once the prosecution conceded that he had no knowledge of, and no role in organising, the smuggling venture itself.²⁵⁶ It was alleged during the trial that a third smuggler, Mr Ali Sadat, was involved in the venture. A large portion of the money collected from the smuggled migrants was given to Mr Sadat, who is said to have bought a house in Phuket, Thailand with the proceeds.

IV.3.2 Other financial services sector

The use of informal money transfer systems is documented by several reports relating to the smuggling of migrants from Indonesia to Australia. One of the advantages of this system identified by the report is the fact that money can be held 'in trust' by hawala dealers, to be disbursed to smugglers after the successful completion of smuggling ventures.²⁵⁷ In one case, smuggled migrants deposited funds with hawala dealers in Pakistan before travelling to Indonesia and Australia.²⁵⁸ A 2013 UNODC report states that all financial flows relating to smuggling of migrants from Vietnam to Europe are managed through a 'hawala-like system'.²⁵⁹

²⁵⁴ Australian Transaction Reports and Analysis Centre, *AUSTRAC Typologies and Case Studies Report 2014* (2014)18–19.

²⁵⁵ Melissa Iaria, 'Charges Withdrawn after Accused People Smuggler's Death', *The Age* (online), 1 December 2009.

²⁵⁶ *R v Bostan* (Unreported, Magistrates' Court of Victoria, Magistrate Hawkins, 14 September 2010); Australian Associated Press, 'Man Admits Handling Money Related to People-Smuggling Attempt', *Herald Sun* (online), 14 September 2010.

²⁵⁷ George Roberts, 'People Smugglers Offering Discounts, Multi-Buys to Combat Federal Government Asylum Seeker Policies', *ABC News* (online), 24 March 2014; [s.n.], 'Smugglers Paradise', *ABC News* (online), 31 May 2012.

²⁵⁸ *R v Djara & Justhen* (Unreported, District Court of Western Australia, 5 June 2014).

²⁵⁹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 32.

V. Corruption

V.1 Public sector involvement

V.1.1 Active and passive bribery of government officials relating to illegal entry of migrants

The sources consulted for this report suggest that corruption, involving law enforcement, military, immigration, and other government officials, plays an important part in the illegal entry of smuggled migrants in many parts of Southeast Asia.²⁶⁰ Corrupt public officials in Thailand,²⁶¹ Myanmar,²⁶² Indonesia,²⁶³ Malaysia,²⁶⁴ Cambodia,²⁶⁵ and Lao PDR have all reportedly been involved in smuggling ventures.²⁶⁶ Several reports have alleged that acceptance of bribes and complicity in smuggling ventures is widespread in certain countries.²⁶⁷ In some cases, bribery appears to take place in a somewhat ad hoc manner, while other cases indicate systemic involvement of officials in smuggling operations. Bribes may be paid by smugglers or by the smuggled migrants themselves, and may constitute financial or other benefits (for example, sexual favours).²⁶⁸ Nonetheless, and despite general assertions as to the prevalence of corruption in the region, there are only a few specific and detailed instances described in the available literature. As a result, the true extent of corruption across the region, together with its patterns and typologies, is largely unclear.

Bribery of law enforcement officials appears common at border checkpoints between various Southeast Asian countries, with multiple reports of bribery on the Myanmar-Thailand and Malaysia-Indonesia borders in particular. Police may accept bribes in return for simply allowing smuggled migrants to enter a country unhindered; they may also accept payment in return for fraudulently stamping or providing immigration and other documents at border points. In one case, a migrant smuggler obtained documents from police at a border checkpoint, which enabled him and the smuggled migrants he was escorting to bypass further military checkpoints.²⁶⁹ The smuggler stated that he paid bribes to a large number of officials including police and defence volunteers.²⁷⁰ In another case, a police chief and five of his subordinate officers were removed from a Thai border checkpoint after allegations they had accepted bribes to allow migrants to evade immigration procedures.²⁷¹ Certain border points may be viewed as lucrative postings, due to opportunities to request and accept bribes.²⁷²

A few, isolated, reports detail government immigration officials accepting bribes to facilitate the illegal entry of migrants, most of which concern Malaysian authorities. In one case, migrant smugglers allegedly bribed officials in the Malaysian province of Sabah to ignore smuggling of migrants from the Philippines.²⁷³ Investigations into officials at Kuala Lumpur International Airport, meanwhile, have resulted in numerous arrests for alleged receipt of bribes. In 2017, approximately

²⁶⁰ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 70; Tracy Ferrier, 'Corruption Fuels Southeast Asia's Smuggling Trade', *Global Spotlight* (online), 5 June 2017.

²⁶¹ Piyarach Chongcharoen, 'Bribery 'Greases Trafficking Wheels'', *Bangkok Post* (online), 11 December 2014.

²⁶² Ryn Jirenuwat & Russell Goldman, 'Dozens Found Guilty in Thailand in Human Trafficking Case', *The New York Times* (New York), 20 July 2017, 5.

²⁶³ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 138.

²⁶⁴ [s.n.], 'Malaysia Nabs Five Including Two Immigration Staff in Human Smuggling Case', *Channel NewsAsia* (online), 15 December 2017.

²⁶⁵ Anne Gallagher & Marie McAuliffe, 'South-East Asia and Australia', in Frank Laczko & McAuliffe (eds), *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 211, 226.

²⁶⁶ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 70.

²⁶⁷ See, for example, Farrah Naz Karim, '80pc of Enforcers Manning Borders on the Take', *New Straits Times* (online), 3 June 2015.

²⁶⁸ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 172.

²⁶⁹ [s.n.], 'Myanmar Workers 'Pay Bribes' to Officials', *Bangkok Post* (online), 11 December 2014.

²⁷⁰ Piyarach Chongcharoen, 'Trafficking Suspect Details Litany of Police Bribes', *Bangkok Post* (online), 9 June 2015.

²⁷¹ [s.n.], 'Sa Kao Immigration Chief Transferred in Bomb Case', *Bangkok Post* (online), 1 September 2015.

²⁷² UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 172.

²⁷³ [s.n.], 'Sabah Kidnappings may be Caused by Corruption', *Asia News Network* (online), 24 June 2014.

40 per cent of immigration department staff at Kuala Lumpur International Airport were transferred in an effort to combat corruption.²⁷⁴ Staff at the Malaysian High Commission have also reportedly received bribes.²⁷⁵

In addition to bribery of law enforcement and immigration officials, bribery of military officials has also been reported. UNODC has previously noted that substantial bribes have allegedly been paid to Indonesian military officials, including to a general.²⁷⁶ A particularly well reported instance of systemic bribery and corruption centres on the involvement of Thai military officials, as well police and other officials from Bangladesh, Myanmar, and Thailand, in the smuggling of Rohingya from Myanmar into Thailand.

Case example

In 2015, a number of abandoned camps and mass graves were uncovered in South Thailand and Malaysia. Migrants, many of them ethnic Rohingya, had been smuggled from Myanmar and Bangladesh into Thailand, before being held for ransom in these camps before being granted onwards passage.²⁷⁷ Many of these migrants suffered abuse and exploitation, and many died. The case is emblematic of the blurry line between smuggling of migrants and trafficking in persons.

Following investigations, it was discovered that high ranking police officials, former and current politicians, including a Mayor, and a Lieutenant-General of the Thai army were involved in the smuggling and trafficking syndicate. The Lieutenant-General, whose portfolio included illegal migration in South Thailand, had received bribes of THB 14,800,000.²⁷⁸ There are reports that both Thai and Malaysian officials were complicit in the operation of the camps and transit routes, receiving payments to permit their continued use.²⁷⁹ A number of these officials were arrested and later convicted for their role in the smuggling and trafficking conduct.²⁸⁰

V.1.2 Active and passive bribery of government officials relating to illegal stay of migrants

While it seems likely that corruption plays a pervasive role in the illegal stay of migrants in Southeast Asian countries,²⁸¹ only a few examples, relating to Indonesia, Malaysia, and Thailand, emerge from the materials consulted for this report.

Corruption in Thailand appears to be widespread among law enforcement and other government officials.²⁸² Bribes to prevent inspections of workplaces which hire irregular migrants and to release

²⁷⁴ [s.n.], 'Malaysia Nabs Five Including Two Immigration Staff in Human Smuggling Case', *Channel NewsAsia* (online), 15 December 2017.

²⁷⁵ [s.n.], 'Human trafficking route discovered in Malaysia', *Vietnam Plus* (online), 9 February 2018; *R v Pulundren* [2010] NSWDC 335.

²⁷⁶ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 138.

²⁷⁷ [s.n.], 'Guilty Verdicts for Rohingya Trafficking Deaths', *Al Jazeera* (online), 20 July 2017.

²⁷⁸ Richard Lloyd Parry, 'Manas Kongpan: Thai General Guilty of Murderous Plot to Traffic Rohingya Muslims' *The Times* (online), 19 July 2017; Salleh Buang, 'Landmark Trafficking Trial a Litmus test for Thai Junta', *New Straits Times* (online), 23 July 2017.

²⁷⁹ Emmanuel Stoakes, 'Thailand Human Trafficking Death Toll Far Greater than Feared, Claims Rights Group', *The Guardian* (online), 6 May 2015; Beh Lih Yi, 'Malaysian Police Arrest Own Officers Over Involvement in Migrant Death Camps', *The Guardian* (online), 28 May 2015.

²⁸⁰ Ryn Jirenuwat & Russell Goldman, 'Dozens Found Guilty in Thailand in Human Trafficking Case', *The New York Times* (New York), 20 July 2017, 5

²⁸¹ See, for example, UNODC, *Global Study on Migrant Smuggling* (2018) 130.

²⁸² Ross Michael Pink, 'Child Trafficking in Thailand: Prevention and Prosecution Challenges' (2013) *Asian Affairs: An American Review* (online); Chhay Channyda & Laignee Barron, "'One-Stop Office" to Help Migrants at Border', *The Phnom Penh Post* (online), 20 June 2014.

asylum seekers from detention facilities have been noted in previous UNODC reports.²⁸³ There are also a number of media reports concerning bribery of officials. For example, an investigation in 2015 found that corrupt officials in a Thai registration office had produced fraudulent ID cards, which enabled migrant to stay in Thailand without visas.²⁸⁴ In another case from 2014, officials were bribed to provide documents showing that workers had returned to their countries of origin when they had, in fact, remained in Thailand.²⁸⁵ Some migrants living illegally in Thailand appear to rely on systematic bribery of officials, which may be paid by their employer.²⁸⁶ A 2016 report notes that employers of illegal migrants may pay thousands of Baht a month in bribes to shield their workers from apprehension and deportation.²⁸⁷ It appears that some officials seek out these bribes.²⁸⁸

Much of the information relating to Thailand involves the smuggling and illegal stay of persons from Myanmar. It has been noted that it is 'practically impossible' to secure the stay of illegal Myanmar migrants without the 'cooperation of corrupt government officials'.²⁸⁹ In one 2017 case a local government official in Sangkla Buri, a district on the border with Myanmar, was allegedly involved in facilitating the illegal stay of nine Myanmar migrants. The migrants stated that a Myanmar national had instructed them to pay THB 3,000 to 4,000 each to the local Thai official, who then helped obtain documents which he said would allow them to stay and work legally in Thailand. After entering Thailand, the migrants were arrested at a police checkpoint and the documents were discovered to be outdated.²⁹⁰

Corruption appears to play a significant role in illegal stay of migrants in Malaysia. A 2018 article observes that there is a 'proliferation' of corruption among Malaysian immigration officials.²⁹¹ Up to 80% of Malaysian border enforcement officials are reportedly implicated in corrupt practices including smuggling of migrants (as well as drugs and weapons).²⁹² For example, 10 immigration officials were arrested in 2017 by the Malaysian Anti-Corruption Commission for accepting bribes to facilitate the illegal stay of migrants in Sarawak,²⁹³ while in 2016 an immigration official was jailed for five years for accepting bribes from Indian migrants who had entered the country using fake documents.²⁹⁴ Other instances have been reported, most of them concerning bribes given to police officials to prevent raids on businesses employing illegal workers.²⁹⁵ Unsuccessful attempts at bribery have also been reported,²⁹⁶ including one case where a Rohingya construction worker offered a bribe to an immigration officer to avoid arrest.²⁹⁷

²⁸³ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 70; UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 148; see also, Maryann Bylander & Georgia Reid, 'Criminalizing Irregular Migrant Labor: Thailand's Crackdown in Context' (11 October 2017) Migration Policy Institute.

²⁸⁴ [s.n.], '13 Sought for False Thai ID Racket', *Bangkok Post* (online), 6 August 2015.

²⁸⁵ Piyarach Chongcharoen, 'Bribery 'Greases Trafficking Wheels'', *Bangkok Post* (online), 11 December 2014.

²⁸⁶ See, for example, Phalla Chea, 'Migration and Human Security of Cambodian Workers in Thailand' in Jiyoung Song & Alistair D B Cook (eds), *Irregular Migration and Human Security in East Asia*, (Oxford: Routledge, 2015) 38-52.

²⁸⁷ Juthathip Lucksanawong, 'Many Myanmar Migrants Caught in Illegal Limbo', *The Nation* (online), 20 June 2016.

²⁸⁸ Chhorn Phearun & Hannah Hawkins, 'Confusion Drives More Legal, Illegal Workers From Thailand', *The Cambodia Daily* (online), 5 July 2017.

²⁸⁹ Verite, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016) 16.

²⁹⁰ Piyarach Chongcharoen, 'Local Leader Probed Over Outdated Migrants Papers', *Bangkok Post* (online), 15 July 2017.

²⁹¹ Anja K Franck, 'Corrupting Borders: Navigating Urban Immigration Policing in Malaysia' (2018) *Geopolitics* 1, 3 [online advance issue]; see also, Choo Chin Low, 'A Strategy of Attrition Through Enforcement: The Unmaking of Irregular Migration in Malaysia' (2017) 36(2) *Journal of Current Southeast Asian Affairs* 101, 108.

²⁹² Verite, *An Exploratory Study on the Role of Corruption in International Labor Migration* (2016) 11.

²⁹³ Adib Povera, '10 Sarawak Immigration Officers Nabbed for Allegedly Taking Bribes to Protect Illegal Immigrants', *New Straits Times* (online), 15 March 2017.

²⁹⁴ [s.n.], 'Immigration Officer Gets 5 Years Jail, RM 63,000 Fine for Corruption', *Free Malaysia Today* (online), 15 December 2016.

²⁹⁵ Bernama, 'Three Cops Allegedly Held for Taking Bribes to Protect Illegal Immigrants', *Berita Malaysia* (online), 7 March 2017.

²⁹⁶ Stephanie Lee, 'Man Arrested for Trying to Bribe Cop at Penampang Police Station', *The Star* (online), 16 March 2018.

²⁹⁷ Bernama, 'Rohingya Illegal Immigrant Jailed Six Months, Fined RM 10,000', *The Malaysian Times* (online), 7 October 2015.

Smuggling through Indonesia is often dependant on corrupt officials, with high levels of corruption noted among its 'police, military, and other officials'.²⁹⁸ A 2014 report states that corruption and bribery 'play a significant role' for migrants wishing to stay in Indonesia, and also those wishing to travel onwards.²⁹⁹ In particular, police and military officials are often involved in transporting smuggling migrants throughout the country.³⁰⁰ Members of the Indonesian military have been charged with offences relating to such conduct on several occasions. In one case, four members of the military were apprehended escorting 41 smuggled Iranian and Syrian migrants from Java to the coastline of the Sukabumi regency.³⁰¹

V.1.3 Active and passive bribery of government officials relating to producing, issuing, supplying and obtaining fraudulent documents

Cases of corruption in the context of smuggling of migrants in Southeast Asia frequently relate to the production and supply of fraudulent travel or identity documents. These documents are usually sought for the purpose of assisting migrants to illegally enter or stay in a country.

There are ample reports from Indonesia,³⁰² Malaysia,³⁰³ Thailand,³⁰⁴ Cambodia,³⁰⁵ Myanmar,³⁰⁶ and the Philippines involving active and passive bribery of government officials relating to producing, issuing, supplying and obtaining fraudulent documents.³⁰⁷ These reports generally involve contact or arrangements between smugglers and immigration or police officials who either fraudulently supply genuine documentation or provide fake or forged documents.³⁰⁸

For example, in 2013 Malaysian officials were caught colluding with a criminal syndicate to smuggle migrants into the country. They did so, in part, by providing migrants with a fake identification document using identities stolen from Malaysian citizens.³⁰⁹ In the Philippines, it was reported that immigration officials sold fake 'hajj passports' (which are necessary to attend the hajj pilgrimage) to Indonesian nationals.³¹⁰ In other cases, officials have stamped smuggled migrants' immigration documents in return for bribes.³¹¹

²⁹⁸ Graeme Hugo et al, *Indonesia as a Transit Country in Irregular Migration to Australia*, Occasional Paper 8, Department of Immigration and Border Protection (2014) 13; Australian Strategic Policy Institute, *Strategy: People Smugglers Globally, 2017* (2017) 14.

²⁹⁹ Graeme Hugo et al, *Indonesia as a Transit Country in Irregular Migration to Australia*, Occasional Paper 8, Department of Immigration and Border Protection (2014) 6.

³⁰⁰ See, for example, Antje Missbach, 'Doors and Fences: Controlling Indonesia's Porous Borders and Policing Asylum Seekers' (2014) 35 *Singapore Journal of Tropical Geography* 228, 229.

³⁰¹ *Pengadilan Militer Tinggi II Jakarta Putusan Nomor 34-K/BDG/PMT-II/AD/III/2013*; see also *Pengadilan Militer Tinggi Jakarta Putusan Nomor 10-K/BDG/PMT-II/CE/I/2013*.

³⁰² UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 64; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 137.

³⁰³ [s.n.], 'Threat to Nation's Security', *New Straits Times* (Kuala Lumpur), 20 November 2013, 14.

³⁰⁴ [s.n.], 'Myanmar Workers 'Pay Bribes' to Officials', *Bangkok Post* (online), 11 December 2014.

³⁰⁵ Leonie Kijewski, 'As Region Cracks Down on Migrants, Agencies Provide Costly, Illegal Passport Service', *The Phnom Penh Post* (online), 19 July 2017.

³⁰⁶ Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Myanmar* (2017) 32.

³⁰⁷ Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Philippines* (2017) 23.

³⁰⁸ See, for example, UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (UNODC, 2015) 64; UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (UNODC, 2012) 138.

³⁰⁹ [s.n.], 'Threat to Nation's Security', *New Straits Times* (Kuala Lumpur), 20 November 2013, 14.

³¹⁰ Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Philippines* (2017) 23.

³¹¹ See, for example, [s.n.], 'Myanmar Workers 'Pay Bribes' to Officials', *Bangkok Post* (online), 11 December 2014.

V.1.4 Corruption and obstruction of justice

Several sources contain reports from Thailand,³¹² Indonesia,³¹³ and Malaysia³¹⁴ in which corruption concerned the obstruction of justice in cases involving smuggling of migrants.

Reports from Thailand and Malaysia observed that police may refrain from arresting people illegally staying in the country in return for bribes.³¹⁵ In one recent case in Thailand, systemic corruption among law enforcement officials resulted in large numbers of apprehended illegal immigrants being released rather than deported. At one police station, for instance, the payment of bribes had the effect that 810 irregular migrants were not handed over to immigration authorities for deportation.³¹⁶

Some of the cases concerning bribery of officials and illegal stay described in Section V.1.2 above involve obstruction of justice insofar as proper police enforcement was forestalled.³¹⁷ While some cases involve bribery in an ad hoc manner, in other instances police officials engage in systematic extortion of migrants illegally staying in a country, demanding large bribes from them or their employers to prevent arrest and deportation.³¹⁸

There is evidence that corruption can influence court processes, particularly prosecutions relating to smuggling of migrants. A 2012 UNODC report states that in Malaysia, some smugglers may go unpunished due to 'corruption and political patronage',³¹⁹ while a 2014 report on Indonesia notes an 'absence of clear evidence that migrant smuggling trials have been conducted in a fair and transparent manner'.³²⁰ A 2013 article states that corrupt officials in the 'military, the police and the public prosecutor's office' in Indonesia act to undermine prosecutions of migrant smugglers and ensure that their operations go undetected.³²¹ Even if smugglers are convicted, corruption is said to be 'endemic' in Indonesia prisons and guards can be bribed to secure release.³²²

V.2 Private sector involvement

The sources consulted for this report reveal very little information regarding corrupt private sector involvement in the smuggling of migrants. Whether this is due to low levels of corruption in this sector and a lack of collusion with smugglers, or rather a lack of investigations and reports, is unclear.

It seems likely that bribery does take place in the private sector to some extent, particularly given the scale of migrant smuggling in Southeast Asia and the central role of airlines and migration/labour recruitment agencies in the movement of people in the region. A 2012 UNODC

³¹² [s.n.], 'Corruption Inquiry Launched in Phuket after Detained Illegal Immigrants Spared Deportation', *The Nation* (online), 14 November 2017.

³¹³ Adam Harvey, 'Alleged Cash Payments from Australian Customs Vanish Ahead of Indonesian People Smuggling Trial', *ABC News* (online) 11 November 2015.

³¹⁴ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (UNODC, 2012) 158.

³¹⁵ Bernama, 'Three Cops Allegedly Held for Taking Bribes to Protect Illegal Immigrants', *Berita Malaysia* (online), 7 March 2017; Juthathip Lucksanawong, 'Many Myanmar Migrants Caught in Illegal Limbo', *The Nation* (online), 20 June 2016.

³¹⁶ [s.n.] 'Corruption Inquiry Launched in Phuket after Detained Illegal Immigrants Spared Deportation', *The Nation* (online), 14 November 2017.

³¹⁷ Juthathip Lucksanawong, 'Many Myanmar Migrants Caught in Illegal Limbo', *The Nation* (online), 20 June 2016; Chhorn Phearun & Hannah Hawkins, 'Confusion Drives More Legal, Illegal Workers From Thailand', *The Cambodia Daily* (online), 5 July 2017.

³¹⁸ Phalla Chea, 'Migration and Human Security of Cambodian Workers in Thailand' in Jiyong Song & Alistair D B Cook (eds), *Irregular Migration and Human Security in East Asia*, (Oxford: Routledge, 2015) 38-52.

³¹⁹ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 158.

³²⁰ UNODC, *Migrant Smuggling in Asia: An Annotated Bibliography, Volume 2* (2014) 75.

³²¹ Antje Missbach & Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1, 2; Cat Barker, *The People Smugglers' Business Model*, Research Paper No 2, Parliament of Australia (2013) 7.

³²² Antje Missbach & Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1, 5.

report notes one instance where employees of a Malaysian airline were involved in a migrant smuggling syndicate.³²³ Some reports further suggest that migration and labour recruitment agencies may also be involved in migrant smuggling.³²⁴

V.3 Organised crime involvement

Based on the available open-source information it is difficult to ascertain to what extent, if any, criminal organised are involved in corruption relating to smuggling of migrants in Southeast Asia. Many if not most reports of corruption examined for the purpose of this study concern opportunistic bribery of officials, which do not show evidence of systematic and ongoing activities by criminal organisations. Most reports relate to instances of corruption involving one or a small number of officials, with bribery seemingly occurring on an ad hoc basis.³²⁵ This may be a reflection of the fact that, generally speaking '[t]here is little evidence of the presence of highly organised criminals' conducting smuggling operations in Southeast Asia.³²⁶ It further appears that bribes are more commonly paid by migrants themselves upon contact with authorities, rather than in an organised manner by or through smugglers or migrant smuggling networks.³²⁷

Nonetheless, while instances of organised and systematic corruption seem to be comparatively uncommon (or are rarely uncovered), a few such cases have been reported. Of particular note is the involvement of multiple Thai government officials in the smuggling and trafficking of Rohingya migrants, a case that is profiled in Section V.1.1 above. Systematic corruption in the context of smuggling of migrants has also been reported from Malaysia, with the alleged involvement of police and immigration authorities in migrant smuggling syndicates.³²⁸ In one case, organised crime syndicates, working with a number of corrupt immigration officials in Kuala Lumpur International Airport, had conspired to smuggle large numbers of Bangladeshi nationals.³²⁹ One report on this case further noted that officers in the Malaysian embassy in Dhaka were systematically bribed.³³⁰

There are also reports suggesting that systemic corruption plays an integral part in the smuggling of migrants in Indonesia. In some instances, corrupt government officials effectively took up roles within criminal syndicates. Their involvement not only facilitated the irregular movement of migrants but had the further effect of stymieing law enforcement and obstructing justice throughout the prosecutorial and judicial systems.³³¹ Several criminal proceedings also involved military officials who were apprehended transporting smuggled migrants.³³² As one 2017 report

³²³ UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 158

³²⁴ UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges* (2015) 64.

³²⁵ See, for example, Bernama, 'Rohingya Illegal Immigrant Jailed Six Months, Fined RM 10,000', *The Malaysian Times* (online), 7 October 2015; Piyarach Chongcharoen, 'Local Leader Probed Over Outdated Migrants Papers', *Bangkok Post* (online), 15 July 2017; Adib Povera, '10 Sarawak Immigration Officers Nabbed for Allegedly Taking Bribes to Protect Illegal Immigrants', *New Straits Times* (online), 15 March 2017.

³²⁶ Anne Gallagher & Marie McAuliffe, 'South-East Asia and Australia' in Marie McAuliffe & Frank Laczko (eds), *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 211, 217.

³²⁷ See, for example, [s.n.], 'Myanmar Workers 'Pay Bribes' to Officials', *Bangkok Post* (online), 11 December 2014.

³²⁸ Ahmad Johari Mohd Ali, 'Bar Council Urges Government to Set Up RCI on Wang Kelian', *Bernama Daily Malaysian News* (online), 17 March 2018; [s.n.], 'Threat to Nation's Security', *New Straits Times* (Kuala Lumpur), 20 November 2013; Emmanuel Santa Maria Chin, 'Crime Triumvirate Exposed as Main Force in Bangladeshi Smuggling Racket', *Malaymail* (online), 16 December 2017; UNODC, *Migrant Smuggling in Asia: A Thematic Review of the Literature* (2012) 156.

³²⁹ Emmanuel Santa Maria Chin, 'Crime Triumvirate Exposed as Main Force in Bangladeshi Smuggling Racket', *Malaymail* (online), 16 December 2017.

³³⁰ Arfa Yunus & Fairuz Mohd Shahar Putrajaya, '40pc of KLIA Immigration Staff Moved', *New Straits Times* (Kuala Lumpur), 16 December 2017, 4.

³³¹ See generally Antje Missbach & Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1, 3-5.

³³² *Pengadilan Militer Tinggi II Jakarta Putusan Nomor 34-K/BDG/PMT-II/AD/III/2013*; *Pengadilan Militer Tinggi Jakarta Putusan Nomor 10-K/BDG/PMT-II/CE/I/2013*; Antje Missbach, 'Doors and Fences: Controlling Indonesia's Porous Borders and Policing Asylum Seekers' (2014) 35 *Singapore Journal of Tropical Geography* 228, 229.

observes, 'Indonesia is considered a useful transit country [...] due to high levels of corruption among its police, military and other officials'.³³³

³³³ Australian Strategic Policy Institute, *Strategy: People Smugglers Globally, 2017* (2017) 14.

VI. Conclusion

The smuggling of migrants occurs on a large scale and in a myriad of ways across Southeast Asia. This report has shown that the use of fraudulent travel or identity documents, the financing and the laundering of proceeds of crime, and corruption frequently serve to enable and facilitate smuggling ventures between, into, and out of the ten ASEAN Member States. Other reports, including prior research conducted by UNODC, demonstrate the level and pervasiveness of smuggling of migrants in the region and illustrate the great range of methods used to smuggle migrants overtly and covertly.

One of the main observations emerging from the available information, including case reports, academic sources, official publications, and media reports, is the sheer ingenuity, flexibility, and inventiveness of those facilitating the smuggling of migrants by producing and providing fraudulent documents, financing the smuggling of migrants and laundering the proceeds of this crime, and bribing government officials to turn a blind eye to, or become actively involved in, smuggling operations. Based on the available evidence, it appears that a seemingly endless range of means and methods are used to enable and support the smuggling of migrants in Southeast Asia and that perpetrators go to great length to conceal the illegal entry of smuggled migrants, avoid close inspections by border control and other authorities, misrepresent the purposes of the migrants' journeys, deceive government officials, and avoid detection and arrest by law enforcement agencies.

Smugglers and their aids quickly adapt their methods to changing laws, border controls, and law enforcement measures. This report has shown that in many instances they are one step ahead of those charged with investigating smuggling of migrants, arresting migrant smugglers and prosecuting them. If border controls and law enforcement 'get in the way' of smuggling operations, smugglers will attempt to bribe government officials who can obstruct, frustrate, stop, and report the smuggling of migrants. All too often, these attempts are successful and the cases illustrated in earlier parts of this report show that some officials become actively involved in facilitating smuggling ventures.

The ingenuity of those facilitating the smuggling of migrants, and the myriad of means and methods at their disposal, add to the profits made by smugglers and to the fees that those willing or forced to migrate via irregular channels have to pay. The smuggling of migrants is a crime that is defined by the purpose to obtain financial or other material benefits. The more complex and sophisticated the methods used, the better the quality of fraudulent documents supplied, and the higher the bribes paid to corrupt officials, the more smugglers can charge for their services. This, in turn, makes smuggling all the more profitable and preys on the desperation and vulnerability of smuggled migrants and their families who often fund the irregular journeys.

A further observation is the fact that despite the high costs and profit margins associated with smuggling of migrants in Southeast Asia, little is known about the financing of smuggling of migrants. Information about the laundering of proceeds of crime is sketchy and often does not relate specifically to cases involving migrant smuggling. This may be due in part to the difficulties in identifying and tracing the funds used to finance smuggling ventures as well as the funds deriving from the smuggling of migrants. For this reason, it would be desirable to conduct further research into the laws relating to money laundering and financing of crime in the ten ASEAN Member States and into the law enforcement and financial investigation methods used combat these phenomena.

The challenges associated with preventing, detecting, and prosecuting the smuggling of migrants are not limited to financing and money laundering. The techniques, equipment, and know how used by those producing and providing fraudulent documents, financing smuggling operations, laundering proceeds of this crime, and bribing government officials are frequently sophisticated

and specialised; in some cases, they exceed the expertise and capacities of those charged to combat this crime.

To keep up with the methods used to facilitate the smuggling of migrants and to match ingenuity of smugglers, law enforcement and government agencies need to be adequately trained and equipped with relevant powers, tools, and know how. The *Convention against Transnational Organized Crime* along with the *Protocol against the Smuggling of Migrants by Land, Sea, and Air* contain many of the legal mechanism needed to enhance law enforcement and facilitate international cooperation. In addition, UNODC offers assistance to States Parties to implement these measures into domestic law, to train law enforcement, prosecutors, and judges, and to improve international cooperation and information exchange on the smuggling of migrants.

This report does, however, also demonstrates the limitations of law enforcement and shows that enhanced border controls and technical equipment frequently merely lead to a displacement of smuggling routes or encourage smugglers to resort to more clandestine methods that are more dangerous and costly to smuggled migrants. Efforts to combat the smuggling of migrants must thus be accompanied by measures designed to give migrants easier access to legitimate, high-quality travel and identity documents as well as to legal avenues of migration, thus reducing the demand for smuggling of migrants and the opportunities for migrant smugglers.

Bibliography

- Ali, Ahmad Johari Mohd, 'Bar Council Urges Government to Set Up RCI on Wang Kelian', *Bernama Daily Malaysian News* (online), 17 March 2018 <<https://www.nst.com.my/news/nation/2018/03/346289/bar-council-urges-government-establish-wang-kelian-rci>> (accessed 14 July 2018)
- Almaududy Amri, Ahmad, 'People Smuggling in Southeast Asia: Trends, Challenges and Way Forward (2015) 7(2) *Australian Journal of Maritime & Ocean Affairs* 132
- Andrade, Jeannette I, 'Foreigners Using Fake Philippine Passports Accosted at Manila Airport', *The Jakarta Post* (online), 19 August 2016 <<http://www.thejakartapost.com/news/2016/08/19/foreigners-using-fake-philippine-passports-accosted-at-manila-airport.html>> (accessed 14 July 2018)
- Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Myanmar*, Canberra ACT: Australian Government, Department of Foreign Affairs and Trade, 2017, available at <<http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>> (accessed 12 July 2018)
- Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Philippines*, Canberra ACT: Australian Government, Department of Foreign Affairs and Trade, 2017, available at <<http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>> (accessed 12 July 2018)
- Australia, Department of Foreign Affairs and Trade, *DFAT Country Information Report Vietnam*, Canberra ACT: Australian Government, Department of Foreign Affairs and Trade, 2017, available at <<http://dfat.gov.au/about-us/publications/Documents/country-information-report-vietnam.pdf>> (accessed 13 July 2018)
- Australian Associated Press, 'Man Admits Handling Money Related to People-Smuggling Attempt', *Herald Sun* (online), 14 September 2010 <<https://www.heraldsun.com.au/news/victoria/man-admits-part-in-people-smuggling/news-story/af8c246472198385bf3f68493685d8b1>> (accessed 14 July 2018)
- Australian Strategic Policy Institute, *Strategy: People Smugglers Globally, 2017*, Canberra, ACT: ASPI, 2017
- Australian Transaction Reports and Analysis Centre, *AUSTRAC Typologies and Case Studies Report 2014*, Canberra, ACT: AUSTRAC 2014, available at <<http://www.austrac.gov.au/typologies-and-case-studies-report-2014>> (accessed 12 July 2018)
- Bachelard, Michael, 'Smugglers Sell Fly-in Asylum', *The Sydney Morning Herald* (Sydney), 18 August 2013, 3
- Barker, Cat, *The People Smugglers' Business Model*, Research Paper No 2, Canberra, ACT: Parliamentary Library, Parliament of Australia, 2013
- Beh Lih Yi, 'Malaysian Police Arrest Own Officers Over Involvement in Migrant Death Camps', *The Guardian* (online), 28 May 2015 <<https://www.theguardian.com/world/2015/may/28/malaysian-police-arrest-own-officers-over-involvement-in-migrant-death-camps>> (accessed 12 July 2018)
- Bernama, 'Malaysia Busts Document and Stamp Forging Syndicate', *The Straits Times* (online), 21 February 2018 <<https://www.straitstimes.com/asia/se-asia/malaysia-busts-document-and-stamp-forging-syndicate>> (accessed 12 July 2018)
- Bernama, 'Rohingya Illegal Immigrant Jailed Six Months, Fined RM 10,000', *The Malaysian Times* (online), 7 October 2015 <<http://www.themalaysiantimes.com.my/rohingya-illegal-immigrant-jailed-six-months-fined-rm10000/>> (accessed 11 July 2018)
- Bernama, 'Three Cops Allegedly Held for Taking Bribes to Protect Illegal Immigrants', *Berita Malaysia* (online), 7 March 2017 <<http://english.astroawani.com/malaysia-news/three-cops-held-allegedly-taking-bribes-protect-illegal-immigrants-134641>> (accessed 12 July 2018)
- Boonchote, Wichayant, 'Thai, Vietnamese Corralled in Fake-Visa Raid', *Bangkok Post* (online), 11 March 2015 <<https://www.bangkokpost.com/news/general/494448/thai-vietnamese-corralled-in-fake-visa-raid>> (accessed 12 July 2018)
- Buang, Salleh, 'Landmark Trafficking Trial a Litmus test for Thai Junta', *New Straits Times* (online), 23 July 2017 <<https://www.nst.com.my/opinion/columnists/2017/07/259885/landmark-trafficking-trial-litmus-test-thai-junta>> (accessed 13 July 2018)

- Bylander, Maryann & Georgia Reid, 'Criminalizing Irregular Migrant Labor: Thailand's Crackdown in Context' (11 October 2017) Migration Policy Institute <<https://www.migrationpolicy.org/article/criminalizing-irregular-migrant-labor-thailands-crackdown-context>> (accessed 12 July 2018)
- Castillo, Mariano, 'Passengers' Fake Passports Shine Light on Southeast Asia Migration Path', *CNN* (online), 11 March 2014 <<https://edition.cnn.com/2014/03/11/world/asia/malaysia-migrants/index.html>> (accessed 11 July 2018)
- Chan, Samuel, 'Illegal Workers Being Smuggled into Hong Kong Hidden Under Trucks', *South China Morning Post* (online), 21 January 2015 <<https://www.scmp.com/news/hong-kong/article/1683731/vietnamese-workers-smuggled-hong-kong-under-trucks>> (accessed 12 July 2018)
- Channyda, Chhay & Laignee Barron, "'One-Stop Office" to Help Migrants at Border', *The Phnom Penh Post* (online), 20 June 2014 <<https://www.phnompenhpost.com/national/one-stop-office-help-migrants-border>> (accessed 12 July 2018)
- Charoenpo, Anucha & Manop Thip-osod, 'Fake Passengers Bought Tickets at Pattaya Agents', *Bangkok Post* (online), 11 March 2014 <<https://www.bangkokpost.com/news/topstories/399238/fake-passengers-bought-tickets-at-pattaya-agents>> (accessed 12 July 2018)
- Chayutworakan, Sutthiwit, '4 Caught with Forged Australian Visas', *Bangkok Post* (online), 16 March 2015 <<https://www.bangkokpost.com/news/general/498132/4-caught-with-forged-australian-visas>> (accessed 12 July 2018)
- Chayutvorakan, Sutthiwit, 'Cameroonian with Fake Visa Arrested', *Bangkok Post* (online), 5 December 2016 <<https://www.bangkokpost.com/news/general/1152132/>> (accessed 12 July 2018)
- Chayutworakan, Sutthiwit, 'Iranian Woman Caught Using Fake UK Passport', *Bangkok Post* (online), 1 February 2018 <<https://www.bangkokpost.com/news/crime/1405650/iranian-woman-caught-using-fake-uk-passport>> (accessed 14 July 2018)
- Chayutworakan, Sutthiwit, 'Iraqi Held Over Fake Passport', *Bangkok Post* (online), 6 June 2015 <<https://www.bangkokpost.com/news/general/584365/iraqi-held-for-illegal-entry>> (accessed 11 July 2018)
- Chayutworakan, Sutthiwit, 'Three Indians Held Over Fake Passport', *Bangkok Post* (online), 18 June 2015 <<https://www.bangkokpost.com/news/general/596832/three-indians-held-over-fake-passport>> (accessed 13 July 2018)
- Chea, Phalla, 'Migration and Human Security of Cambodian Workers in Thailand' in Jiyoung Song & Alistair D B Cook (eds), *Irregular Migration and Human Security in East Asia*, (Oxford: Routledge, 2015) 38-52.
- Chew Hui Min, 'Vietnamese Woman Jailed 10 Weeks for Entering Singapore Using Fake Passport', *Straits Times* (online), 6 October 2016 <<https://www.straitstimes.com/singapore/courts-crime/vietnamese-woman-jailed-10-weeks-for-entering-singapore-using-fake-passport>> (accessed 15 July 2018)
- Chin, Emmanuel Santa Maria, 'Crime Triumvirate Exposed as Main Force in Bangladeshi Smuggling Racket', *Malaymail* (online), 16 December 2017 <Crime Triumvirate Exposed as Main Force in Bangladeshi Smuggling Racket> (accessed 11 July 2018)
- Chong, Elena, 'Sri Lankan jailed for posing as another to get into airport holding room', *The Straits Times* (online), 22 November 2016 <<https://www.straitstimes.com/singapore/courts-crime/sri-lankan-jailed-for-posing-as-another-to-get-into-airport-holding-room>> (accessed 12 July 2018)
- Chong, Elena, 'Two Men Jailed for Impersonation, Passport Forgery', *The Straits Times* (online), 23 November 2016 <<https://www.straitstimes.com/singapore/courts-crime/two-men-jailed-for-impersonation-passport-forgery>> (accessed 13 July 2018)
- Chongcharoen, Piyarach, 'Bribery 'Greases Trafficking Wheels'', *Bangkok Post* (online), 11 December 2014 <<https://www.bangkokpost.com/news/general/449056/>> (accessed 14 July 2018)
- Chongcharoen, Piyarach, 'Trafficking Suspect Details Litany of Police Bribes', *Bangkok Post* (online), 9 June 2015 <<https://www.bangkokpost.com/news/general/587217/trafficking-suspect-details-litany-of-police-bribes>> (accessed 11 July 2018)

- Chongcharoen, Piyaarach, 'Local Leader Probed Over Outdated Migrants Papers', *Bangkok Post* (online), 15 July 2017 <<https://www.bangkokpost.com/news/general/1287658/local-leader-probed-over-outdated-migrant-papers>> (accessed 15 July 2018)
- Choo Chin Low, 'A Strategy of Attrition Through Enforcement: The Unmaking of Irregular Migration in Malaysia' (2017) 36(2) *Journal of Current Southeast Asian Affairs* 101
- Dawson, Alan, 'The Big Issue: Passports for Sale', *Bangkok Post* (online), 16 March 2014 <<https://www.bangkokpost.com/news/politics/400092/the-big-issue-passports-for-sale>> (accessed 12 July 2018)
- Dehghan, Saeed Kamali, 'Iranians Travelling on Flight MH370 on Forged Passports "Not Linked to Terror"', *The Guardian* (online), 12 March 2014 <<https://www.theguardian.com/world/2014/mar/11/passengers-malaysian-plane-mh370-iranian-forged-passports>> (accessed 12 July 2018)
- Erviani, Ni Komang, 'Bali on Alert for "Bad Tourist" Arrivals', *The Jakarta Post* (online), 10 October 2015 <<http://www.thejakartapost.com/news/2015/10/10/bali-alert-bad-tourist-arrivals.html>> (accessed 12 July 2018)
- Faisal, Fadley, 'Vietnamese Men in Court Over Possession of Forged Passports', *Borneo Bulletin* (online), 8 January 2014
- Fenn, Mark, 'Missing Malaysia Airlines Flight MH370: Thailand's growing passport scam', *The Independent* (online), 13 March 2014 <<https://www.independent.co.uk/news/world/asia/missing-malaysia-airlines-flight-mh370-inquiry-shows-thai-passport-scams-continue-9187928.html>> (accessed 12 July 2018)
- Franck, Anja K, 'Corrupting Borders: Navigating Urban Immigration Policing in Malaysia' (2018) *Geopolitics* 1 [online advance issue]
- Fuller, Thomas & Eric Schmitt, 'Passport Theft Adds to Mystery of Missing Malaysia Airlines Jet', *New York Times* (online), 8 March 2014 <<https://www.nytimes.com/2014/03/09/world/asia/malaysia-airlines-flight.html>> (accessed 11 July 2018)
- Fernquest, Jon, 'Went from Turkey to Malaysia to Find Work: Bombing Suspect's Story', *Bangkok Post* (online), 20 September 2015 <<https://www.bangkokpost.com/learning/learning-news/699856/turkey-to-malaysia-to-find-work-suspect-story>> (accessed 12 July 2018)
- Ferrier, Tracy 'Corruption Fuels Southeast Asia's Smuggling Trade', *Global Spotlight* (online), 5 June 2017 <<https://www.mindsglobalspotlight.com/@southeastasia/2017/06/05/32453/corruption-fuels-southeast-asias-smuggling-trade>> (accessed 14 July 2018)
- Financial Action Task Force, *Combating the Abuse of Alternative Remittance Systems: International Best Practices*, Paris: FATF, 20 June 2003, available at <<http://www.fatf-gafi.org/media/fatf/BPP%20SRVI%20June%202003%202012.pdf>> (accessed 15 July 2018)
- Gallagher, Anne T and Fiona David, *The International Law of Migrant Smuggling* (Cambridge University Press, 2014)
- Gallagher, Anne & Marie McAuliffe, 'South-East Asia and Australia' in Marie McAuliffe & Frank Laczko (eds), *Migrant Smuggling Data and Research: A Global Review of the Emerging Evidence Base* (2016) 211
- Guest, Debbie, 'Accused People-smuggler's Mutiny Fear', *The Australian* (online), 16 March 2010
- Harvey, Adam, 'Alleged Cash Payments from Australian Customs Vanish Ahead of Indonesian People Smuggling Trial', *ABC News* (online) 11 November 2015 <<http://www.abc.net.au/news/2015-11-11/cash-goes-missing-ahead-of-indonesian-people-smuggling-trial/6929540>> (accessed 11 July 2018)
- Heimann, Fritz and Mark Pieth, *Confronting Corruption: Past Concerns, Present Challenges, and Future Strategies* (Oxford University Press, 2018)
- Henley, Jon, 'Passport to Crime: Have You Ever Lost Your Passport on Holiday? The Illegal Trade in Forged and Doctored Travel Documents Props up Criminal Activity all Around the World: From Human Trafficking to Terrorism', *The Guardian* (London), 11 March 2014, 9
- Hugo, Graeme et al, *Indonesia as a Transit Country in Irregular Migration to Australia*, Occasional Paper 8, Canberra, ACT Department of Immigration and Border Protection, September 2014

- Iaria, Melissa, 'Charges Withdrawn after Accused People Smuggler's Death', *The Age* (online), 1 December 2009 <<http://news.theage.com.au/breaking-news-national/accused-people-smuggler-charges-dropped-20091201-k2tu.html>> (accessed 15 July 2018)
- ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries*, Bangkok: ILO, 2015
- ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers*, Bangkok: ILO, 2008
- ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked – The realities of young migrant workers in Thailand, Volume 1*, Bangkok: ILO, 2006
- International Centre for Migration Policy Development (ICMPD), *Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe*, Vienna: ICMPD, 2011
- IOM, *Country Migration Report: the Philippines 2013*, Manila: IOM, 2013, available at <<https://www.iom.int/files/live/sites/iom/files/Country/docs/CMReport-Philippines-2013.pdf>> (accessed 16 July 2018)
- Jirenuwat, Ryn & Russell Goldman, 'Dozens Found Guilty in Thailand in Human Trafficking Case', *The New York Times* (New York), 20 July 2017, 5
- Jost, Patrick M & Harjit Singh Sandhu, *The Hawala Alternative Remittance System and its Role in Money Laundering*, Lyon: Interpol General Secretariat, January 2000, available at <<http://www.nmta.us/assets/docs/hawala.pdf>> (accessed 12 July 2018)
- Kijewski, Leonie, 'As Region Cracks Down on Migrants, Agencies Provide Costly, Illegal Passport Service', *The Phnom Penh Post* (online), 19 July 2017 <<https://www.phnompenhpost.com/national/region-cracks-down-migrants-agencies-provide-costly-illegal-passport-service>> (accessed 12 July 2018)
- Koser, Khalid, 'Why Migrant Smuggling Pays' (2008) 46(2) *International Migration* 3
- Laohong, King-Oua, 'Passport Forgers Arrested in Bangkok', *Bangkok Post* (online), 4 September 2014 <<https://www.bangkokpost.com/news/politics/430475/pakistani-thai-gang-used-restaurant-as-front-for-forgery-operation>> (accessed 12 July 2018)
- Laohong, King-Oua, 'Passport Forgery Bust Nets Iranian After 2-Year Inquiry', *Bangkok Post* (Bangkok), 19 March 2015 <<https://www.bangkokpost.com/news/topstories/500847/passport-forgery-bust-nets-iranian-after-2-year-inquiry>> (accessed 13 July 2018)
- Laohong, King-Oua, 'KL Departs Iranian Tied to Passport Scam', *Bangkok Post* (online), 22 July 2016 <<https://www.bangkokpost.com/news/general/1041241/kl-departs-iranian-tied-to-passport-scam>> (accessed 13 July 2018)
- Lee, Stephanie, 'Man Arrested for Trying to Bribe Cop at Penampang Police Station', *The Star* (online), 16 March 2018 <<https://www.thestar.com.my/news/nation/2018/03/16/man-arrested-for-trying-to-bribe-cop-at-penampang-police-station/>> (accessed 15 July 2018)
- Lucksanawong, Juthathip, 'Many Myanmar Migrants Caught in Illegal Limbo', *The Nation* (online), 20 June 2016 <<http://www.nationmultimedia.com/national/Many-Myanmar-migrants-caught-in-an-illegal-limbo-30288591.html>> (accessed 11 July 2018)
- Manabat, Johnson & Raya Capulong, '5 Foreigners Nabbed at NAIA for Using Fake Passports', *ABS-CBN News* (online), 7 December 2017 <<http://news.abs-cbn.com/news/12/07/17/5-foreigners-nabbed-at-naia-for-using-fake-passports>> (accessed 11 July 2018)
- Meyer, Sarah R et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37
- Missbach, Antje, 'Doors and Fences: Controlling Indonesia's Porous Borders and Policing Asylum Seekers' (2014) 35 *Singapore Journal of Tropical Geography* 228
- Missbach, Antje & Frieda Sinanu, 'The Scum of the Earth"? Foreign People Smugglers and Their Local Counterparts in Indonesia' (2011) 30(4) *Journal of Current Southeast Asian Affairs* 57
- Missbach, Antje & Melissa Crouch, 'The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia' (2013) 14(2) *Australian Journal of Asian Law* 1

- Morello, Vincent, 'Refugees Turned People Smugglers: AFP', *The Courier Mail* (online), 29 March 2012 <<https://www.couriermail.com.au/ipad/refugees-turned-people-smugglers-afp/news-story/02e8c1554c1cfb1680575d4b281fb979>> (accessed 12 July 2018)
- Munzele Maimbo, Samuel, *The Money Exchange Dealers of Kabul: A Study of the Hawala System in Afghanistan*, Working Paper No 13, Washington DC: World Bank, August 2003
- Murdoch, Lindsay, 'Police Crack Thai Fake Passport Racket and Arrest "The Doctor"', *The Sydney Morning Herald* (online), 10 February 2016 <<https://www.smh.com.au/world/police-crack-thai-fake-passport-racket-and-arrest-the-doctor-20160210-gmq7kl.html>> (accessed 12 July 2018)
- Naz Karim, Farrah, '80pc of Enforcers Manning Borders on the Take', *New Straits Times* (online), 3 June 2015 <<https://www.nst.com.my/news/2015/09/exclusive-80pc-enforcers-manning-borders-take>> (accessed 12 July 2018)
- Neske, Matthias, *Comparative Research on Financial Flows within Migrant Smuggling from Asia to Europe*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2013
- Ngamkhanm, Wassayos, 'Pizza Order Leads to Iranian's Arrest', *Bangkok Post* (online), 11 February 2016 <<https://www.bangkokpost.com/news/crime/859520/pizza-order-leads-to-iranian-arrest>> (accessed 12 July 2018)
- Ngamkhanm, Wassayos, 'Fake Visa Schools to be Hit with Charges', *Bangkok Post* (online), 5 May 2018 <<https://www.bangkokpost.com/news/general/1458434/fake-visa-schools-to-be-hit-with-charges>> (accessed 12 July 2018)
- OECD Directorate for Financial and Enterprise Affairs, 'Corruption and the Smuggling of Refugees' (2015)
- Oh, Su-Ann 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013*, Singapore: Institute for Southeast Asian Studies, 2014
- Phearun, Chhorn & Hannah Hawkins, 'Confusion Drives More Legal, Illegal Workers From Thailand', *The Cambodia Daily* (online), 5 July 2017 <<https://www.cambodiadaily.com/news/confusion-drives-legal-illegal-workers-thailand-132138/>> (accessed 14 July 2018)
- Phetsiriseng, Inthasone, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives*, Vientiane: UN Development Fund for Women, Regional Programme on Empowering Women Migrant Workers in Asia, 2007
- Ramirez, Jun, 'BI Nabs 3 Foreigners in Human Smuggling Attempt at NAIA', *Manila Bulletin* (online), 23 February 2018 <<https://news.mb.com.ph/2018/02/22/bi-nabs-3-foreigners-in-human-smuggling-attempt-at-naia/>> (accessed 14 July 2018)
- Rose-Ackerman, Susan and Bonnie J Palifka, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge University Press, 2016)
- Passas, Nikos, 'Demystifying Hawala: A Look into its Social Organization and Mechanics' (2006) *7 Journal of Scandinavian Studies in Criminology and Crime Prevention* 46
- Passas, Nikos, *Informal Value Transfer Systems and Criminal Organizations; a study into so-called underground banking networks*, Research Notes, The Hague: Research and Documentation Centre of the Dutch Ministry of Justice, April 1999
- Parry, Richard Lloyd, 'Manas Kongpan: Thai General Guilty of Murderous Plot to Traffic Rohingya Muslims' *The Times* (online), 19 July 2017 <<https://www.thetimes.co.uk/article/manas-kongpan-thai-general-guilty-of-murderous-plot-to-traffic-rohingya-muslims-wncrlwp76>> (accessed 12 July 2018)
- Peel, Michael & Jeremy Grant, 'Thailand's Role at heart of Identity Crime', *Financial Times* (online), 11 March 2014 <<https://www.ft.com/content/4a05c430-a8fb-11e3-bf0c-00144feab7de>> (accessed 12 July 2018)
- Percy, Karen, 'Man Who Illegally Helped Family Come to Australia From Iraq Faced 'Intense Pressure' From Relatives, Court Told', *ABC News* (online), 1 February 2016 <<http://www.abc.net.au/news/2016-02-01/wasim-buka-iraqi-people-smuggler-faced-family-pressures-court/7129998>> (accessed 12 July 2018)
- Percy, Karen, 'Iraqi-Born Australian Avoids Jail Time Over People Smuggling', *ABC News* (online) 10 February 2016 <<http://www.abc.net.au/news/2016-02-10/iraqi-born-australian-avoids-jail-time-over-people-smuggling/7155138>> (accessed 11 July 2018)

- Petros, Melanie, *The Costs of Human Smuggling and Trafficking* Global Migration Perspectives No 31, Geneva: Global Commission on International Migration (GCIM), 2005
- Pink, Ross Michael, 'Child Trafficking in Thailand: Prevention and Prosecution Challenges' (2013) *Asian Affairs: An American Review* (online) [not paginated]
- Povera, Adib, '10 Sarawak Immigration Officers Nabbed for Allegedly Taking Bribes to Protect Illegal Immigrants', *New Straits Times* (online), 15 March 2017 <<https://www.nst.com.my/news/2017/03/221117/10-sarawak-immigration-officers-nabbed-allegedly-taking-bribes-protect-illegal>> (accessed 17 July 2018)
- Rees, David, *Money Laundering and Terrorism Financing Risks Posed by Alternative Remittance in Australia*, Research and Public Policy Series No 106, Canberra, ACT: Australian Institute of Criminology, 2010
- Roberts, George, 'People Smugglers Offering Discounts, Multi-Buys to Combat Federal Government Asylum Seeker Policies', *ABC News* (online), 24 March 2014 <<http://www.abc.net.au/news/2014-03-24/people-smugglers-adapting-methods-to-combat-australian-policies/5342276>> (accessed 12 July 2018)
- Savage, Jared, 'International Bomb Plot Forger Found with Kiwi Passports', *The New Zealand Herald* (online), 14 September 2013 <https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11124579> (accessed 12 July 2018)
- Schloenhardt, Andreas & Colin Craig, 'Prosecutions of People Smugglers in Australia 2011-14' (2016) 38 *Sydney Law Review* 49
- Schloenhardt, Andreas & Thomas Cottrell, 'Financing the Smuggling of Migrants in Australia' (2014) 38 *Criminal Law Journal* 265
- Schloenhardt, Andreas, *Organised Crime and Migrant Smuggling: Australia and the Asia-Pacific*, Research and Public Policy Series No 44, Canberra, ACT: Australian Institute of Criminology, 2002
- Sherwell, Philip, 'Master Forger Arrested in Thailand over Fake Passports for Migrants to Europe', *The Telegraph* (online), 10 February 2016 <<https://www.telegraph.co.uk/news/worldnews/asia/thailand/12149720/Master-forger-arrested-in-Thailand-over-fake-passports-for-migrants-to-Europe.html>> (accessed 12 July 2018)
- Singh, Khushwant, 'Afghan National Jailed a Year For Using False Iranian Passport', *Straits Times* (online), 25 June 2013 <<https://www.straitstimes.com/singapore/afghan-national-jailed-a-year-for-using-false-iranian-passport>> (accessed 11 July 2018)
- Stoakes, Emmanuel, 'Thailand Human Trafficking Death Toll Far Greater than Feared, Claims Rights Group', *The Guardian* (online), 6 May 2015 <<https://www.theguardian.com/global-development/2015/may/06/thailand-human-trafficking-mass-grave-burma-rohingya-people>> (accessed 11 July 2018)
- Thalang, Jeerawat Na, 'Out of a War Zone, into a Thai Prison', *The Bangkok Post* (online), 7 February 2016 <<https://www.bangkokpost.com/news/special-reports/854428/out-of-a-war-zone-into-a-thai-prison>> (accessed 13 July 2018)
- Trautsoit, Joanna & Jesper Johnsen, 'International Anti-Money Laundering Regulation of Alternative Remittance Systems: Why the Current Approach does not work in Developing Countries' (2012) 15 *Journal of Money Laundering Control* 407
- UN General Assembly, *Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions; Addendum: Interpretative notes for the official record (travaux préparatoires) of the negotiations for the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, UN Doc A/55/383/Add.1 (3 Nov 2000) [Interpretative Notes]
- UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01, Bangkok: UNIAP, 2007
- University of New South Wales, Social Policy Research Centre, *The Experiences of Irregular Maritime Arrivals Detained in Immigration Detention Facilities*, Final Report, Canberra: ACT: Department of Immigration and Citizenship, July 2013, available at

- <<https://www.homeaffairs.gov.au/ReportsandPublications/Documents/research/IMA-experiences-IDF.pdf>> (accessed 15 July 2018)
- UNODC, *A Short Introduction to Migrant Smuggling*, New York, NY: United Nations, 2010
- UNODC, *Crime Facilitating Migration from Pakistan and Afghanistan*, Vienna: UNODC, 2009
- UNODC, *Corruption and the Smuggling of Migrants*, Issue Paper, Vienna: United Nations, 2013
- UNODC, *Global Study on Migrant Smuggling*, New York, NY: United Nations, 2018
- UNODC, *In-depth Training Manual on Investigating and Prosecuting Smuggling of Migrants*, New York, NY: United Nations, 2011
- UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, New York, NY: United Nations, 2004
- UNODC, *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, Vienna: UNODC, 2nd ed, 2016
- UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2012
- UNODC, *Migrant Smuggling in Asia: An Annotated Bibliography: Volume 1*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2012
- UNODC, *Migrant Smuggling in Asia: An Annotated Bibliography, Volume 2*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2014
- UNODC, *Migrant Smuggling in Asia, Country Profiles: Southeast Asia*, UNODC Regional Office for Southeast Asia and the Pacific, August 2015
- UNODC, *Migrant Smuggling in Asia: Current Trends and Related Challenges*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, April 2015
- UNODC, *Migrant Smuggling by Air*, Issue Paper, Vienna: UNODC, 2010
- UNODC, *Model Law against Smuggling of Migrants*, New York, NY: United Nations, 2010
- UNODC, *Smuggling of Migrants by Sea*, Issue Paper, New York, NY: United Nations, 2011
- UNODC, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2017
- UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*, Bangkok: UNODC Regional Office for Southeast Asia and the Pacific, 2013
- Verite, *An Exploratory Study on the Role of Corruption in International Labor Migration*, Amherst, MA: January 2016, available at <<https://www.verite.org/wp-content/uploads/2016/11/Verite-Report-Intl-Labour-Recruitment.pdf>> (accessed 12 July 2018)
- Vutha, Hing et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach*, CDRI Working Paper Series No 58, Phnom Penh: Cambodia Development Resource Institute, August 2011
- Wahab, Norsyafawati Ab, 'Immigration Dept Cripples Passport, Document Forgery Syndicate', *Bernama Daily Malaysian News* (online), 6 March 2018 <<http://www.bernama.com/en/general/news.php?id=1441903>> (accessed 12 July 2018)
- Williams, Clive, 'Stamping out Passport Fraud', *The Canberra Times* (Canberra), 4 November 2013, 4
- World Bank, Committee on Payments and Settlement Systems, *General Principles for International Remittance Services*, Basel: Bank for International Settlements & World Bank, 2007, available at <<https://www.bis.org/cpmi/publ/d76.pdf>> (accessed 12 July 2018)
- Yiu, Enoch & Danny Lee, 'Passport Used on Lost Malaysian Airlines Flight Traced to Bizarre Theft in Phuket', *South China Morning Post* (online), 10 March 2014 <<https://www.scmp.com/news/asia/article/1444757/passport-used-lost-malaysia-airlines-flight-traced-bizarre-theft-phuket>> (accessed 11 July 2018)
- Yunus, Arfa & Fairuz Mohd Shahar Putrajaya, '40pc of KLIA Immigration Staff Moved', *New Straits Times* (Kuala Lumpur), 16 December 2017, 4

- Zabyelina, Yuliya G, 'The Untouchables: Transnational Organized Crime Behind Diplomatic Privileges and Immunities' (2013) 16(3) *Trends in Organized Crime* 343
- [s.n.] '13 Illegals Held Over Fake Immigration Dept Stamps', *New Straits Times* (Kuala Lumpur), 8 January 2014, 11
- [s.n.], '13 Sought for False Thai ID Racket', *Bangkok Post* (online), 6 August 2015 <<https://www.bangkokpost.com/news/general/646404/13-sought-for-false-thai-id-racket>> (accessed 15 July 2018)
- [s.n.] "'Johnny Painter" Stitched up for Role in "Doctor's" Passport Ring', *Bangkok Post* (Bangkok), 11 April 2016
- [s.n.], 'Afghan National Jailed a Year For Using False Iranian Passport', *Straits Times* (online), 25 June 2013 <<https://www.straitstimes.com/singapore/afghan-national-jailed-a-year-for-using-false-iranian-passport>> (accessed 15 July 2018)
- [s.n.] 'Bangkok Blast Suspect Seized with Passports and Bomb-Making Equipment "Part of People-Smuggling Gang"', *South China Morning Post* (Hong Kong), 30 August 2015
- [s.n.], 'Busting the "Brains"', *New Straits Times* (online), 10 August 2013
- [s.n.], 'Cops Bust Passport Fraud Racket', *Bangkok Post* (online), 5 September 2014 <<https://www.bangkokpost.com/news/politics/430521/cops-bust-passport-fraud-racket>> (accessed 10 July 2018)
- [s.n.], 'Corruption Inquiry Launched in Phuket after Detained Illegal Immigrants Spared Deportation', *The Nation* (online), 14 November 2017 <<http://www.nationmultimedia.com/detail/national/30331532>> (accessed 12 July 2018)
- [s.n.], 'DSI Seeks Iranian Forger from Malaysia', *Bangkok Post* (online), 8 August 2013 <<https://www.bangkokpost.com/news/general/363558/dsi-seeks-iranian-forger-from-malaysia>> (accessed 11 July 2018)
- [s.n.], 'Editorial: Forgers Feel the Heat', *Bangkok Post* (online), 26 July 2016 <<https://www.bangkokpost.com/opinion/opinion/1044673/forgers-feel-the-heat>> (accessed 12 July 2018)
- [s.n.], 'Fake Passports Cost RM33,000 Each', *New Straits Times* (online), 13 March 2014
- [s.n.], 'Four Sri Lankans Linked to Fake Passport Ring Held', *New Straits Times* (online), 9 March 2016
- [s.n.], 'Guilty Verdicts for Rohingya Trafficking Deaths', *Al Jazeera* (online), 20 July 2017 <<https://www.aljazeera.com/news/2017/07/thai-court-deliver-verdict-people-smuggling-case-170719024750630.html>> (accessed 12 July 2018)
- [s.n.], 'Human trafficking route discovered in Malaysia', *Vietnam Plus* (online), 9 February 2018 <<https://en.vietnamplus.vn/human-trafficking-route-discovered-in-malaysia/126391.vnp>> (accessed 15 July 2018)
- [s.n.] 'Immigration Officials Uncover Visa Forgery Ring', *The Jakarta Post* (Jakarta), 7 March 2018, 5
- [s.n.], 'Immigration Officer Gets 5 Years Jail, RM 63,000 Fine for Corruption', *Free Malaysia Today* (online), 15 December 2016 <<http://www.freemalaysiatoday.com/category/nation/2016/12/15/immigration-officer-gets-5-years-jail-rm63000-fine-for-corruption/>> (accessed 8 July 2018)
- [s.n.] 'Indian "Commonwealth Games imposters" Detained at Brisbane Airport, Man Charged', *ABC News* (online), 29 March 2018 <<http://www.abc.net.au/news/2018-03-29/nine-indian-nationals-detained-at-brisbane-airport/9601444>> (accessed 10 July 2018)
- [s.n.], 'Iranian Jailed for 5 years', *Bangkok Post* (Bangkok), 21 March 2017, 2
- [s.n.], 'Malaysia Nabs Five Including Two Immigration Staff in Human Smuggling Case', *Channel NewsAsia* (online), 15 December 2017 <<https://www.channelnewsasia.com/news/asia/malaysia-nabs-five-including-two-immigration-staff-in-human-9501926>> (accessed 12 July 2018)
- [s.n.] 'Myanmar Workers Caught Using Fake Passports', *Bangkok Post* (online), 10 April 2014 <<https://www.bangkokpost.com/news/politics/404375/four-myanmar-men-seeking-work-in-bangkok->

- were-caught-using-fake-passports-when-trying-to-board-a-nok-air-flight-at-mae-sot-airport-on-thursday> (accessed 15 July 2018)
- [s.n.], 'Nabbed Pakistani Man Suspected of Isis Links', *Bangkok Post* (online), 16 January 2018 <<https://www.bangkokpost.com/news/security/1396358/nabbed-pakistani-man-suspected-of-isis-links>> (accessed 14 July 2018)
- [s.n.], 'Passport 'Brains' Held', *New Straits Times* (online), 7 August 2013
- [s.n.], 'Passport, Visa Forger Arrested', *Bangkok Post* (online), 26 August 2013 <<https://www.bangkokpost.com/news/topstories/366475/favicon.ico>> (accessed 12 July 2018)
- [s.n.], 'Passport Forger Arrested in Thailand', *SeeNews* (online), 10 February 2016
- [s.n.], "'Icebox Killer" Sentenced to Almost 44 Years', *Bangkok Post* (online), 18 December 2017 <<https://www.bangkokpost.com/news/crime/1381279/icebox-killer-sentenced-to-almost-44-years>> (accessed 12 July 2018)
- [s.n.], 'Police clamp down fake passport Ringleader', *Bangkok Post* (online), 9 February 2016
- [s.n.], 'Smugglers Paradise', *ABC News* (online), 31 May 2012 <<http://www.abc.net.au/4corners/smugglers-paradise---australia/4051864>> (accessed 13 July 2018)
- [s.n.], 'Sa Kaeo Immigration Chief Transferred in Bomb Case', *Bangkok Post* (online), 1 September 2015, <<https://www.bangkokpost.com/news/security/676556/sa-kaeo-immigration-chief-transferred-in-bomb-case>> (accessed 12 July 2018)
- [s.n.], 'Sabah Kidnappings may be Caused by Corruption', *Asia News Network* (online), 24 June 2014 <<http://globalnation.inquirer.net/107028/sabah-kidnappings-may-be-caused-by-corruption>> (accessed 11 July 2018)
- [s.n.], 'Thai fisherman convert boats to cash in on people smuggling', *ABC News* (online), 20 November 2014 <<http://www.abc.net.au/news/2014-11-20/thai-fishermen-convert-boats-to-cash-in-on-people-smuggling/5907870>> (accessed 16 July 2018)
- [s.n.], 'Thailand Arrests Iranian, 5 Pak Nationals for Fake Passports', *India Today* (online), 10 February 2016 <<https://www.indiatoday.in/pti-feed/story/thailand-arrests-iranian-5-pak-nationals-for-fake-passports-553128-2016-02-10>> (accessed 12 July 2018)
- [s.n.], 'The Big Issue: Passports, Please', *Bangkok Post* (Bangkok), 14 February 2016, 2
- [s.n.], 'Threat to Nation's Security', *New Straits Times* (Kuala Lumpur), 20 November 2013, 14

Table of cases

Australia

- Chaudry v The Queen* [2007] WASCA 37; *R v Sam* (unreported, District Court, Brisbane, Rafter SC, 9 June 2011)
- Karim v The Queen* [2013] NSWCCA 23
- R v Bostan* (Unreported, Magistrates' Court of Victoria, Magistrate Hawkins, 14 September 2010)
- R v Buka* [2016] VCC 75
- R v Djara & Justhen* (Unreported, District Court of Western Australia, 5 June 2014)
- R v Hasanusi* (unreported, District Court of Western Australia, 1365/2009, Fenbury DCJ, 21 April 2010)
- R v Jaber Mandalawi* (Transcript of Proceedings, District Court of Queensland, 4 April 2014)
- R v Pulundren* [2010] NSWDC 335
- R v Sam* (unreported, District Court, Brisbane, Rafter SC, 9 June 2011)
- R v Zainudin* (2012) 115 SASR 165

Brunei Darussalam

Public Prosecutor v Sherdali Bin Mohd Ali (Intermediate Court of Brunei Darussalam, Criminal Trial No 9/2010, 27 January 2011)

Indonesia

Pengadilan Militer Tinggi Jakarta Putusan Nomor 10-K/BDG/PMT-II/CE/I/2013

Pengadilan Militer Tinggi II Jakarta Putusan Nomor 34-K/BDG/PMT-II/AD/III/2013

Pengadilan Negeri Serang Putusan Nomor 393/Pid.Sus/2013/PN.Srg;

Pengadilan Tinggi Banten Putusan Nomor 144/PID/2013/PT.Btn

Singapore

Keeping Mark John v Public Prosecutor [2017] SGHC 170