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Agenda Item 2 - Impact of natural disasters, conflicts and crises, such as the COVID-19 pandemic, on trends in organized criminal groups and on routes for the smuggling of migrants, as well as good practices to support effective law enforcement cooperation during such crises to detect, investigate and prosecute such cases.

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Introduction

- Covid 19 restriction - increased demand for smuggling subjecting migrants to even riskier conditions.
- Reaching destinations have been made more difficult by the border closures and restrictions on movement.
- Greater reliance on smugglers for new pathways.
- Dumping of migrants from Zambia, Malawi, the Democratic Republic of the Congo, Botswana and Mozambique in Zimbabwe, enroute to South Africa
- Restrictive measures affect women and other vulnerable migrants which then places them at heightened risk for crime, violence, extortion and trafficking.
(Mbiyozo, 2020)

1. Mbiyozo, A. 2020. Migrant smugglers are profiting from travel restrictions. <https://issafrica.org/iss-today/migrant-smugglers-are-profiting-from-travel-restrictions>



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Dangers of Smuggling

- South Africa continues to identify human smuggling activities.
- Perpetrators are transnational syndicates operating within the Republic and across borders.
- Links to human trafficking and drug syndicate and other crimes.
- Immigration Act has a penalty for facilitating entry, departure and residence in South Africa by fraud, conduct or otherwise .
- Capacity constraints is a limitation leaving immigration with no option but to opt for deportation instead of criminal charges.
- Smuggling dangers include vessels at sea bringing migrants into the country at great risk to the safety of the smuggled persons.
- Human Smuggling can have adverse effects politically – in terms of social stability and relations with the sending and transit countries.



Smuggling Data

- IOM estimate that 800,000 people are smuggled every year across borders.
- Only in countries that criminalize smuggling are able to provide an account of cases.
- Lack of stats is attributed to the lack of classification of this crime – there are asylum statistics, deportation statistics but no assisted entry statistics.
- High volumes of deportation and asylum seekers in South Africa might be due to smuggling



Legal framework on migrant smuggling

- ❑ Department of Home Affairs is designated to be the lead department in respect of the Protocol on Smuggling of Migrants.
- ❑ Immigration Act, currently used to prosecute offenders involved in illegal migration does have an offence for facilitating illegal entry, residence and departure.
- ❑ However smuggling legislation would specifically broaden facilitation and allow for a stronger focus on illegal migration by other departments as there would be specific legislation and the requirement for specific targeting of the offence of smuggling than is presently the case.
- ❑ Research was conducted to benchmark with other countries.
- ❑ A draft Bill was then developed through consultation with all relevant stakeholders. South Africa is still giving consideration to the Smuggling bill on whether to incorporate it into the current Trafficking legislation as most countries that have the offence of Smuggling have done or whether to amend and incorporate it into the Immigration Act.

Conclusion

- One of the recommendations made in the study by Mbiyozo (2020) is that, to mitigate the impacts of Covid-19, African countries should restore regular migration passageways responsive to smuggling and trafficking threats for vulnerable people taking into account health and security screenings.



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