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Marie McAuliffe
Department of Immigration and Border Protection

Victoria Mence
Department of Immigration and Border Protection

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For more information contact:

Irregular Migration Research and Analysis Section
Department of Immigration and Border Protection
PO Box 25
Belconnen ACT 2616
Email: Irregular.Migration.Research@immi.gov.au

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Virtually no country is untouched by, or immune to, the effects of international migration—particularly its unauthorized variant. The issue is thus certain to remain a top agenda item in national, regional, and global conversations for the foreseeable future (Demetrios Papademetriou, Migration Policy Institute, 2005).

Some problems are so complex that you have to be highly intelligent and well informed just to be undecided about them. (Lawrence Peter, 1984).

1. INTRODUCTION

The estimated number of international migrants has increased dramatically over the past fifty years, from estimates of around 77 million in 1960 to around 232 million in 2013.¹ During that time the pace of movement has increased as more and more international travel links have emerged. There has been an expansion in migration pathways as access to air travel has increased resulting in much greater diversity among international travellers.²

The volume of cross-border movements that many countries around the world are facing is increasing and shows no signs of abating. In the US, it is estimated that up to 360 million cross-border movements occurred in 2013.³ In Australia, 14.5 million cross-border movements were recorded in program year 1996-97 compared to 31.6 million in 2011-12. The current estimate is that by 2020 Australia will experience 50 million movements per year across its border. Countries in Asia are also experiencing increases in movement, including labour migration to the 'tiger' economies of Malaysia, South Korea and Thailand.

As access to international movement has increased, states have sought to implement a range of strategies to manage this increase in scale, pace and diversity. Immigration and border management policies and practices have rapidly evolved to meet changes in global circumstances and perceptions of risk associated with the movement of large numbers of people. Against this backdrop of increasing movement, irregular migration poses enduring challenges.

Alongside increased global mobility more generally there has been, over recent years, an increase in refugees and asylum seekers globally. For example, UNHCR data indicate that in 2000 there were around 19 million displaced persons⁴ worldwide, compared to 35.8 million in 2012.⁵ There has also been a substantial trend increase in the number of displaced persons⁶ since the recent global low of 2003. The overall global population of displaced persons more than doubled between 2003 and 2012, from 14.8 to 35.8 million people.

With changes in global migration occurring at a more rapid pace than perhaps ever before, it is essential to view global irregular maritime migration as part of bigger dynamic forces rather than a narrow, discrete phenomenon. Of particular relevance are the ever-increasing global migration flows,

¹ UNDESA (2013).

² IMI (2006) p. 2.

³ US Customs and Border Protection (2014). Cross-border movements include departures and arrivals of citizens and non-citizens.

⁴ UNHCR (2014). This figure comprises refugees, asylum seekers, internally displaced persons, stateless persons and various other populations of concern to UNHCR.

⁵ UNHCR (2014). This figure includes 10.5 million refugees, 925,000 asylum seekers, and 17.6 million internally displaced persons.

⁶ UNHCR (2014). For the present purpose, 'displaced persons' comprise refugees, asylum seekers, internally displaced persons (IDPs), stateless persons and 'others' of concern. Other aggregate figures used by UNHCR may also include populations of returned refugees and returned IDPs.

as well as the movement of asylum seekers and refugees. There are several other frames of reference that can usefully be applied when considering irregular maritime migration including the increasing securitisation of migration, the role of unregulated actors (e.g. people smugglers), human development, and the tension between state sovereignty and international obligations. These issues are discussed in this paper, and add weight to the notion that irregular maritime migration can be thought of as a ‘wicked problem’—one that is complex, multi-faceted as well as dynamic and difficult to adequately conceptualise and respond to. The view that this phenomenon is a problem requiring ongoing effort to address is perhaps best underscored by the many thousands of lives lost at sea across the world as a direct result of irregular maritime migration.

While it is acknowledged that there are limitations in seeking to distinguish global irregular maritime migration from other forms of irregular migration as well as from broader asylum-related migration flows, it is also important to note that it is a phenomenon with attributes that are distinguishable from irregular migration by land and air. This paper attempts to articulate the key aspects of this phenomenon.

In preparing this paper, one of the key issues it raised was the relatively minor focus global irregular maritime migration has received in the academic literature compared to other related topics. Perhaps one of the reasons for a more subdued level of academic enquiry is feasibility. While there can be no doubt that irregular maritime migration is a high profile, visually powerful form of irregular migration, the ability to conduct research on its various aspects is undoubtedly challenging. Firstly, access to potential or actual irregular migrants who are willing to engage with researchers can be very difficult. The sensitive and profound nature of their experiences poses particular challenges. Secondly, the criminal aspects of irregular maritime migration have meant that aspects of counter people smuggling, transnational criminal networks and disruption are often unable to be examined fully due to the inability of accessing classified information. Information and statistics are not readily available outside government.⁷ Thirdly, the polarized nature of the public discourse surrounding irregular migration (and maritime migration in particular) makes examination of the topic in a balanced way difficult.

The somewhat more limited level of academic enquiry on the specific topic of global irregular maritime migration perhaps also needs to be viewed in relation to the seemingly, at times, frantic pace and significant focus it has been afforded in terms of policy deliberations of governments around the world, including those characterised as ‘source’, ‘transit’ and ‘destination’ countries. Attempts to study correlation and causality in complex and turbulent policy environments are likely to be compromised.

Notwithstanding these challenges, there would appear to be a strong appetite for the development of agile responses based on a good understanding of evidence, options, implications and risk. One of the challenges is to be able to balance these aspects in environments that are constantly evolving, and are increasingly characterised by contestability. In this context, the paper attempts to bridge, as far as possible, the academic and policy arenas by drawing on both. We hope that readers are open to this approach and the possibilities it presents as a means of informing discussion.

In terms of the structure of the paper, the second section below summarises the literature on global forces and irregular maritime migration. The third section provides an overview of statistical information on irregular maritime migration in selected parts of the world. The fourth section briefly highlights some of the multi-faceted elements underpinning the phenomenon. The fifth section describes a range of policy and operational responses to irregular maritime migration. The sixth section briefly summarises the potential outlook in global terms.

⁷ Koser (2010).

2. GLOBAL FORCES AND IRREGULAR MARITIME MIGRATION

Irregular maritime migration is commonly examined in academic literature as one element of the much broader occurrence of irregular migration, which in turn is a feature of modern migration patterns in an era of increased globalisation.

The origins of irregular migration, and its links to forces driving the dramatic increase in international migration in the latter part of the twentieth century, are important themes in the literature. The increase in regular migration and the correspondingly rapid rise of irregular migration has, in the view of many commentators, an irresistible momentum that is likely to continue.⁸

In a 2004 paper, considered a touchstone of research and analysis on irregular and regular migration patterns, Castles examined some of the geopolitical, sociological and economic characteristics of modern migration patterns and suggested that the forces driving regular and irregular migration were inextricably interlinked. Castles provided several examples of policies intended as temporary migration measures to meet labour demand in developed economies that resulted in laying the foundation for further unanticipated migration as workers settled and diaspora communities expanded. One of the key points Castles made in his analysis is that the increase in irregular migration can be linked to attempts by developed economies to manage migration patterns to meet market demands in a world economic framework that is theoretically based on operating to free up markets but at the same time wants to exert tight control over migration.⁹

This section briefly outlines some of the key global forces interacting with migration dynamics, including migration and development, securitisation, telecommunications and the media and diaspora. There are undoubtedly many other forces impacting on irregular migration, such as urbanisation, demographic change and environmental change, however, while acknowledged as important, the limited scope of this paper precludes them from being examined. Regrettably, there has also been no scope to examine irregular maritime migration from a gender perspective. There is growing awareness of the increasing feminisation of migrant labour;¹⁰ examination of irregular maritime migration from a gender perspective, particularly perhaps in relation to flows that are considered more relevant to migrant labour (e.g. Ethiopia to Saudi Arabia via Yemen), would undoubtedly reveal interesting dimensions.

2.1 Migration flows and development

The increase in irregular migration is regarded by many commentators as an inevitable consequence of a globalised economy founded on integrated markets that fuel high labour demands and high levels of immigration.¹¹ Hollifield looked at what he called the 'liberal' paradox whereby rich developed countries promote and embrace open channels of trade, money and labour (particularly by highly skilled migrants) whereas the mass movement of unskilled workers willing to work for low wages, also necessary to a globalised economy, face highly regulated migration controls. This tension between immigration restrictions and the demand for labour has, in Hollifield's view, driven the increase in irregular migration.¹²

⁸ Koser (2005) p. 7.

⁹ Castles (2004).

¹⁰ Castles, De Haas & Miller (2014) p. 16.

¹¹ Castles (2004); Hollifield (2004).

¹² Hollifield (2004) p. 905.

For people facing very difficult (and possibly life-threatening) circumstances—including poverty, endemic corruption, lack of health care, education, employment and/or housing as well as persecution—and who have the ability to migrate, industrialised countries with good human rights records, sound economies and functioning civil societies will remain desirable destinations as they offer, in comparison to other countries, a higher standard of living and security. As noted by Terrazas, “[t]he notion that international migration is somehow related to the well-being of countries of origin is deeply intuitive...”¹³

While beyond the scope of this paper, the extensive academic literature on the relationship between migration and development, stretching back many decades, has examined aspects of this relationship in what De Haas called a ‘pendulum’ fashion characterised by optimism in the 1950s and 1960s, pessimism of the 1970s and 1980s and a re-discovered optimism in the 1990s and 2000s.¹⁴ Bodies of research have focussed on two key aspects: the reasons people migrate and the relationship between human/nation-state development and trends in movement; and the impact of migration both on countries of origin and destination countries.¹⁵

The substantial literature on the relationship between development and movement indicates that the *ability to migrate* is a significant issue. The ability to migrate is not related to the ‘strength’ of needs or the depth of direness faced, and some groups most in need do not have the resources or ability to migrate. Carling, for example, argued that those affected by extreme conditions such as warfare can have the strongest migration aspirations but a lack of ability to do so: a group he calls the ‘involuntarily immobile’.¹⁶ Other significant research has found that as human development increases, and access to education, income, housing, transport and technology improves, the ability of people to migrate increases and populations become more mobile – the so-called ‘hump migration’ theory.¹⁷ De Haas has argued that the relationship between development, economic growth and migration is fundamentally non-linear so that, for example, “a lack of freedoms is likely to fuel migration aspirations, the same lack of freedoms may simultaneously decrease people’s capabilities to migrate”.¹⁸

In this context, and at a macro level, examination of overall quality of life by country, together with the ability to migrate reveals interesting dynamics. For example, that some citizenship groups are more likely than others to travel via irregular (maritime) migration pathways accords with analysis of some high level global indices on human development, corruption and visa access.¹⁹

Examination of human development, corruption and visa access indices provides some insights into the functioning of countries’ civil societies as well as the ability of people to travel regularly. The visa access index illustrates that the ease with which individuals can travel across borders is in many respects an ‘accident of birth’. Visa requirements not only reflect the relationships between individual nations, they also reflect the relations and status of a country within the international community. Visa

¹³ Terrazas (2011) p. 3.

¹⁴ De Haas (2010) p. 227.

¹⁵ Terrazas (2011) p. 3.

¹⁶ Carling (2002).

¹⁷ Zelinsky (1971); Martin and Taylor (1996); Skeldon (1997).

¹⁸ De Haas (2011) p. 14.

¹⁹ The Visa Requirements Index measures visa restrictions in place in 199 countries and indicate the capacity of individuals to travel to other countries with relative ease. The higher the rank the more countries an individual can enter visa free. The Corruption Perceptions index has been published yearly since 1995 by Transparency International. The CPI ranks countries by ‘perceived levels of corruption’. Sources include the World Bank, the World Economic Forum, as well as a range of expert assessments and opinion surveys. 176 countries are ranked on a scale from 100 (very clean) to 0 (highly corrupt).

requirements are also an indicator of how stable, safe and prosperous a country is in relation to other countries.

As Table 1 below shows, the top countries listed in all three indices have very high levels of human development, with lower levels of corruption. Passport holders from these countries enjoy visa free access to around 85 per cent of all other countries worldwide. These countries are also significant destination countries.

There are stark differences between destination countries and source/transit countries, with lower human development, higher corruption and immobility via regular migration pathways much more likely to be features of source—and to a lesser extent transit—countries.

The lowest ranked countries in Table 1 include some of the most corrupt countries in the world. The visa restrictions in place for these countries are a strong indication that regular migration pathways are problematic for citizens, and irregular pathways are likely to be the most realistic (if not only) option open to potential migrants.

The table below is a high level macro summary of indices. There are meso-level and micro-level factors involved in irregular maritime migration (discussed in several sections below) that have considerable impact on movements. The combination of indices presented does, however, provide some insights into the dynamics effecting global maritime migration.

Table 1: Human development, corruption and visa mobility indices: Selected irregular maritime migration countries

Country (in HDI rank order)		Human Development Index 2012	Corruption Perceptions Index 2013	Visa Mobility Index 2013
		Rank	Rank	Rank
Very High Human Development	Norway	1	5	4
	Australia	2	9	6
	USA	3	19	2
	Netherlands	4	8	3
	Germany	5	12	2
	New Zealand	6	1	5
	Sweden	7	3	1
	Canada	11	9	4
	Denmark	15	1	2
	France	20	22	4
	Spain	23	40	4
	Italy	25	69	3
	UK	26	14	1
	Greece	29	80	6
High Human Development	Cuba	59	63	66
	Mexico (S&T)	61	106	23
	Libya	64	172	87
	Malaysia *	64	53	9
	Iran *	76	144	86
	Turkey *	90	53	42
	Sri Lanka	92	91	88
	Algeria	93	94	79
	Tunisia	94	77	65
Medium Human Development	Dominican Republic	96	123	74
	Thailand *	103	102	60
	Egypt (S&T)	112	114	79
	Syria *	116	168	87
	Indonesia (S&T)	121	114	73
	Vietnam	127	116	81
	Morocco (S&T)	130	91	75
	Iraq	131	171	92
	India *	136	94	74
	Pakistan *	146	127	91
Low Human Development	Bangladesh *	146	136	85
	Myanmar	149	157	86
	Yemen * (S&T)	160	167	83
	Haiti	161	163	80
	Sudan	171	174	88
	Ethiopia	173	111	85
	Afghanistan	175	175	93
	Eritrea	181	160	90
A number 1 ranking means:		Very high human development	Least corrupt country	Most mobile passport citizenship
The lowest ranking means:		Low human development	Most corrupt country	Least mobile passport citizenship

Country Key

Destination

Transit (T)

Source (S)

*Refugee host country

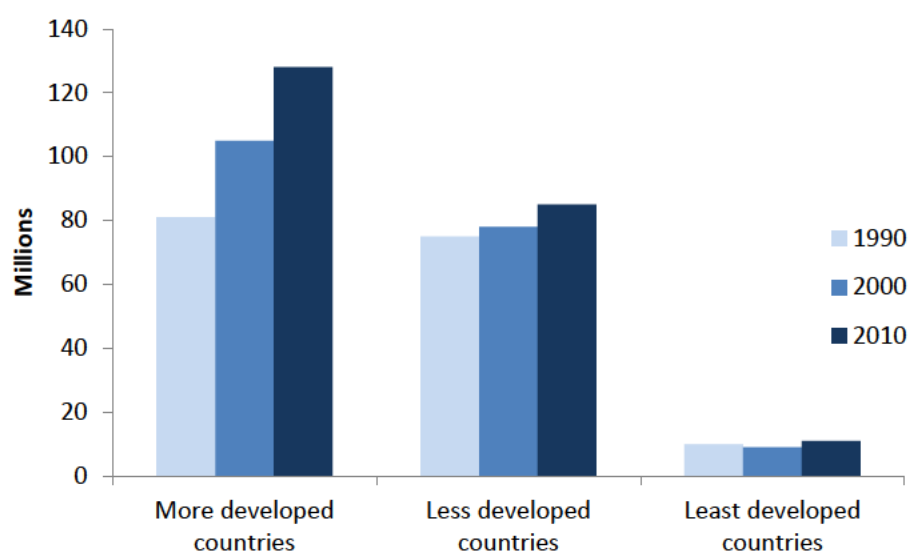
Notes: Destination, transit and source country categories relate to irregular maritime movement generally, and can comprise asylum and/or temporary migrant worker or other flows.

Sources: —UNDP, Human Development Index 2012 (Human Development Report 2013), <http://hdr.undp.org/en/content/human-development-report-2013>—Henley & Partners, Visa Restrictions Index 2013. www.henleyglobal.com/visa-restrictions/

—Transparency International, Corruption Perceptions Index 2013, www.transparency.org/cpi2013/results

Figure 1 below shows that the majority of the increase in international immigrant populations between 1990 and 2010 occurred in the most developed countries of the world. Given the visa mobility index data in Table 1 above, it is highly likely that this movement occurred, and will continue to occur, via regular migration pathways. As shown in Table 1, while citizens of countries with very high development all have high visa mobility, even countries that have been rated as having high human development have much lower (and far more mixed) visa mobility. It is, therefore, likely that populations in the less developed and least developed countries are much less likely to have high visa mobility. In effect, irregular migration could well be the only migration option for millions of people, regardless of their motivations.

Figure 1: World immigrant populations, by levels of development



Source: World Development Indicators database, based on United Nations Population Division data, from Castles, De Haas and Miller (2014), p. 8.

2.2 The securitisation of migration

In the academic literature, international migration has been characterised as a non-traditional security issue in the post-Cold War period, along with other phenomena such as food and energy access, international terrorism, drug trafficking and transnational crime. A school of academic thought—The Copenhagen School—conceptualised ‘securitisation’ as the characterisation of danger and threat of a particular kind via a speech-act that moved ‘security’ from the military realm to other realms, such as migration.²⁰

The end of the Cold War, and the related demise of a powerful external threat to the security of the West, enabled the emergence of threats, or perceived threats, that involved non-state actors. This had implications for a range of global and international issues, particularly those that were not (adequately) regulated between states, or those that operated outside of states’ control, such as international terrorism. People smuggling and human trafficking are other examples of threats involving non-state actors that would appear to be largely beyond regulation.

²⁰ Weaver (1995).

Faist argued that one of the effects of the events of 11 September 2001 was that it reinforced the trend towards securitising migration, which directly resulted in increased migration control, significant investment in border management systems and substantial institutional responses (such as the formation of the U.S. Department of Homeland Security, which incorporated the former Immigration and Nationalisation Service), most notably in the United States but more generally throughout the Western world.²¹ In Miggiano's view, the intensification of border controls is an overt demonstration of the securitisation of migration processes that is especially apparent with the deployment of military resources to manage sea borders.²²

Relatedly, public administration of migration has changed over time, with greater focus being afforded to security aspects, as reflected in the changed roles and responsibilities of government departments and agencies. Migration has increasingly become a focus of security-related agencies, although the implications resulting from the changing focus for migration as a public policy issue remains unclear.²³

Some of the other consequences of securitising migration discussed in the literature include aspects related to migrant integration²⁴ as well as the heightened expectations of the public that governments should, and are able to, control transnational movements across their borders.²⁵ Issues of human security are also addressed, and the tensions between national security concerns and human security, which "broadens the scope of security analysis and policy from territorial security to the security of people"²⁶, are highlighted including in relation to migration policies and the negative impacts on migrants.²⁷

The implications for the management of irregular maritime migration are potentially profound. There is no doubt that the phenomenon is currently portrayed as a security issue in destination countries, and some argue that the impact of the securitisation of migration in the twenty-first century is on course to intensify.²⁸

2.3 The role of telecommunications and the media

The role of telecommunications and the media in migration (including irregular maritime migration) should not be underestimated, particularly in the context of increasing migration flows and the technological advances in communications contributing to globalization.²⁹

Coverage of migration in various media, such as newspapers and television, has been noted for its polarisation, particularly in Europe. Key findings by academics indicate that references to migration in the media are generally episodic rather than consistent, increasingly focused on irregular migration, and are often associated with topics of criminality or border protection.³⁰ The securitisation of migration in recent times is prevalent in media coverage on migration.³¹

²¹ Faist (2004).

²² Miggiano (2009) pp. 1-8.

²³ Koser (2012).

²⁴ Huysmans (2000); Ceyhan & Tsoukala (2002); Mulvey 2010.

²⁵ Faist (2004) p. 4.

²⁶ Gomez & Gasper (2013).

²⁷ Doneys (2011).

²⁸ Humphrey (2013).

²⁹ Hopkins (2009).

³⁰ Threadgold (2009); Kim et al (2011); Pickering (2001).

³¹ GCIM (2005); Koser (2012).³² The Hon. Scott Morrison, in his opening address to the Legal and Constitutional Affairs References Committee (Public Interest Immunity Claim) on January 31, 2014. *Hansard*.

A more recent issue concerning irregular migration and media coverage is that which has arisen in perhaps recognition of the increasing role of media and telecommunications throughout the migration process—the possibility that public information could be exploited by people smugglers. With the launch of Operation Sovereign Borders in September 2013, the Australian government restricted the dissemination of information on operational matters, citing public interest immunity. The decision not to release operational information was based on the grounds that such information would place people involved in operations at risk and unnecessarily cause damage to Australia's national security, defence and international relations.³² Part of the rationale was that such information would provide people smugglers with the opportunity to avoid detection or to precipitate a search and rescue response.³³

2.3.1 Information campaigns

Many governments have undertaken official information campaigns as part of a broader response to irregular migration, and in keeping with international frameworks such as the *International Framework for Action to Implement the Smuggling of Migrants Protocol*. Campaigns can fill gaps in knowledge about realities of irregular migration (including in relation to policy settings), and especially the dangers of irregular movements, including the risks of trafficking, abuse and exploitation.³⁴ Some campaigns have specifically targeted migrant smugglers by communicating the criminality of migrant smuggling and consequences of offending.³⁵ A case study on the use of information campaigns in the United States is below.

United States information campaigns on irregular maritime migration

Following a significant increase in irregular maritime arrivals in 2004, the U.S. Coast Guard, in collaboration with the Center for Integrated Research and Training and the Dominican Republic's National Council of Drugs (Consejo Nacional de Drogas) launched a campaign in the Dominican Republic's capital to raise awareness of the risks associated with travelling irregularly by boat, and of the reality of migrant life abroad (including labor exploitation, solitude, illegality).¹ The major theme of the campaign was 'Illegal trips are to death' and included posters, billboards, public service announcements on television and radio, a recorded song, taxi-window announcements, coasters for distribution in clubs, and bottle bags for distribution in neighborhood grocery stores.²

The US has also developed communications strategies where they are unable to collaborate with the governments of source countries, such as Cuba. Here, the US focused on communicating their readiness to respond to mass irregular migration, including interception and return.³ In 2007, the U.S. Coast Guard used a media campaign to inform potential migrants of the implementation of the first biometrics-at-sea system designed specifically to target illegal maritime migration and identify potential felons attempting entry into the US. These actions were seen to have a noted deterrent effect, indicated by a 40 per cent decrease in maritime migration in the months following the trial of the system.⁴

¹ Graziano (2013).

² Ibid.

³ Watts (2008).

⁴ Ibid.

³² The Hon. Scott Morrison, in his opening address to the Legal and Constitutional Affairs References Committee (Public Interest Immunity Claim) on January 31, 2014. *Hansard*.

³³ Lt. Gen. Angus Campbell, in his opening address to the Legal and Constitutional Affairs References Committee (Public Interest Immunity Claim) on January 31, 2014. *Hansard*.

³⁴ UNHCR (2011) p. 267.

³⁵ UNODC (2012).

Anti-people smuggling and irregular migration information campaigns are considered most effective when targeted to specific 'at risk' groups³⁶ such as ethnic communities in countries of origin.³⁷ Some countries, including Australia, have targeted information campaigns to specific diaspora communities within the destination country, with an assumption that information will then be communicated to potential irregular migrants offshore.³⁸

Determining the success (or otherwise) of such information campaigns is difficult. It is extremely difficult to determine causal links given the multiple sources of information available and the multiple factors involved. Further, an underlying consideration is that information campaigns be supported by concrete policy measures if they are to have any impact.

A series of evaluations of information campaigns on irregular migration undertaken in a range of countries in 2004 found that, at best, the impact of official information campaigns was neutral. This was a result of the audience's distrust of official (usually governmental) sources, difficulties potential migrants had in accessing the information, and the dynamic nature of migration policy development, which meant that materials were soon out of date.³⁹

2.3.2 Telecommunications

Improved telecommunications provide migrants greater access to information, and act to strengthen social bonds between diaspora and countries of origin. Access to remittances via enhanced technology is also likely to be relevant to particular groups.

Information communications technologies] enable new forms of migrant transnationalism characterised not only by the growing intensity of transnational exchanges and activities, but also by a ubiquitous system of communication that allows migrants to connect with multiple, geographically distant and culturally distinct worlds to which they identify and participate on a daily basis.⁴⁰

Family, friends and community members in industrialised countries who have migrated inspire potential migrants to achieve the same outcome and can provide tangible assistance to migrate, including information, funds and advice. Together with enhanced 'real time' communications technology, these networks provide potential migrants with an improved ability to assess their migration options, particularly in comparison to official sources (i.e. government sources), that may be considered of lesser value.

It is important, however, to not overestimate the impact of newer communications technologies. Despite the internet being considered a global communications medium, for example, access to the internet is still limited in many locations. This makes accurate measurement of its level of influence difficult.⁴¹ Further, access alone does not ensure adoption of new technologies. Differential access by race, class, gender and ethnicity are factors in technological engagement.⁴² Access to mobile telephones, however, appears to have increased dramatically, as can be seen in Figure 2 below.

³⁶ EMN (2012).

³⁷ IOM (1999) p.14.

³⁸ Schloenhardt & Philipson (2013).

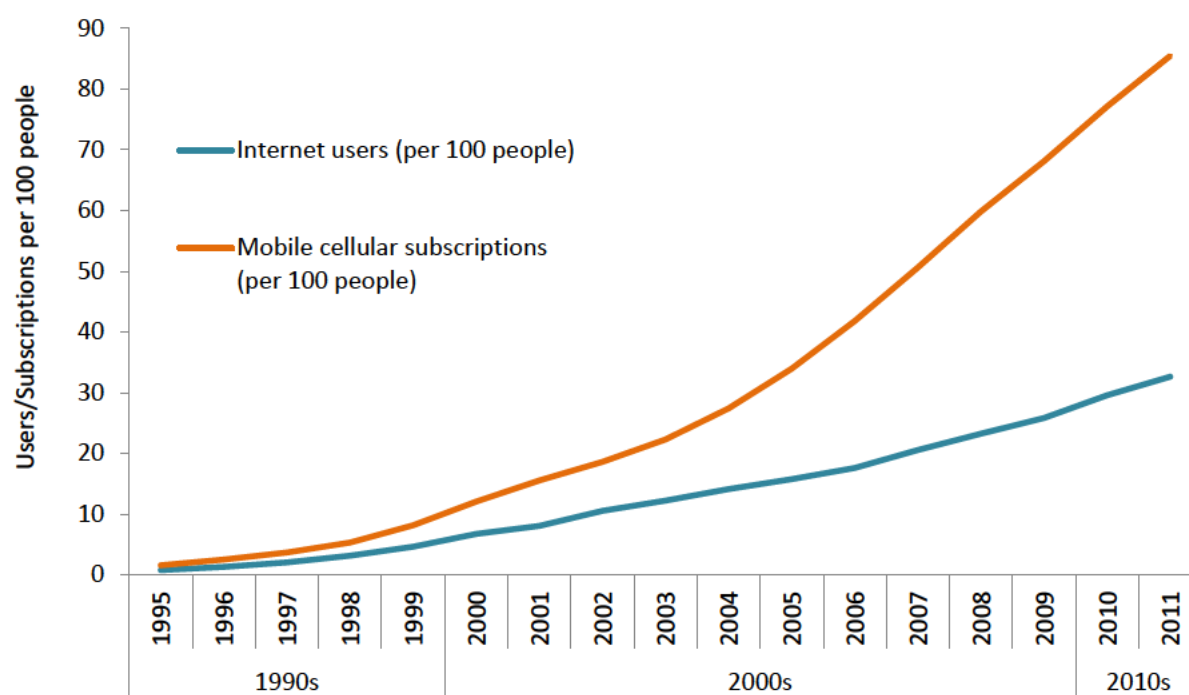
³⁹ UK Home Office (2004), as cited in Koser & McAuliffe (2013).

⁴⁰ Nedelcu (2010); Vertovec (2009) as cited in Nedelcu (2012) p. 1341.

⁴¹ Rabogshvili (2012).

⁴² Panagakos & Horst (2006).

Figure 2: Global internet and mobile telephone access



Sources: Adapted from data extracted from World Bank World Development Indicators, <http://data.worldbank.org>, extracted on 4 March 2014. A similar version of this graph was published by The Brookings Institution on 25 February 2014, www.brookings.edu/research/interactives/2014/snapshot-6-roschach-tests-international-order

The role of telecommunications and the media in migration, including irregular migration, is an area that warrants further exploration. It is evident that telecommunications and media play a role in the decision making processes of irregular migrants. Understanding their impact in different environments and locations is important in informing effective responses to irregular migration.

Greater access to telecommunications undoubtedly affects other aspects of irregular migration, including the organisational capabilities of agents and people smugglers. Discussion of people smuggling dynamics is included in section 4.2 below.

2.4 Inter-connectedness, diaspora and mobility

The influence of diaspora⁴³ has long been considered a factor in migration, including irregular migration. Diaspora provide social networks for potential irregular migrants, which can serve as 'feedback mechanisms'.⁴⁴ These networks consist mostly of family, friends, community or religious organisations, as well as people smugglers and others who assist in the migration journey.⁴⁵ Once established, social networks may facilitate further migration, including affecting destination choice, providing information and material assistance, and a source of emotional support.

⁴³ For the purposes of this paper, the plural form 'diaspora' is used. For an interesting discussion of the entomological, social and political history of diaspora, see Sheffer (2006).

⁴⁴ Crisp (1999); Meyer (2001); Banerjee (1983).

⁴⁵ Koser & Pinkerton (2002).

While empirical evidence about the role of social networks in irregular migration is more limited,⁴⁶ it is probable that ‘transnational networks’ play a vital role in helping people circumnavigate the challenges involved in irregular migration.⁴⁷ It has been noted that such networks are especially important in providing the organizational infrastructure required for people to migrate clandestinely or irregularly, i.e. through people-smuggling, trafficking of persons or the irregular movement of asylum seekers.⁴⁸

In addition to facilitating the migration process itself, transnational social networks provide irregular migrants with subsistence and support upon arrival.⁴⁹ Important for any migrant, the provision of support in the form of possible sources of income and assistance is particularly vital for illegal migrants,⁵⁰ who are more restricted from accessing employment opportunities or possibly even their own financial holdings in their country of origin.

Inter-connections between diaspora and communities in their country of origin are perhaps stronger than ever before as a result of increased access and technological improvements in telecommunications and travel. The use of the internet in particular has been viewed to have strengthened ‘transnational networks’, putting those who have migrated in contact not only with their immediate family and friends, but with ‘virtual ethnic communities’ on the basis of common descent.⁵¹

For all that is known about the influence of diaspora on migration, there is much that is assumed, particularly relating to irregular migration. The difficulties with conducting research on irregular migration discussed in the introduction of this paper have resulted in a knowledge gap regarding irregular migrants’ decision making processes that would reveal more about the role of diaspora in irregular maritime migration.

⁴⁶ Crisp (1999); De Haas (2011); Staring (2004).

⁴⁷ Crisp (1999).

⁴⁸ Ibid p. 7.

⁴⁹ Ibid pp. 7-8.

⁵⁰ Blaschke (1998).

⁵¹ Conversi (2012).

3. STATISTICAL OVERVIEW OF IRREGULAR MARITIME MIGRATION GLOBALLY

According to the latest UNDESA Population Division report on international migration, in 2013 an estimated 232 million people, or 3.2 per cent of the world's population, were international migrants, compared with 175 million in 2000 and 154 million in 1990. Between 1990 and 2013, the estimated number of international migrants worldwide rose by over 77 million or by 50 per cent. Much of this growth occurred between 2000 and 2010.⁵²

In terms of the proportion of migrants that are thought to travel irregularly, broad estimates are available to provide indications of irregular migration globally. The United Nations, for example, has estimated that globally there are approximately 30 to 40 million irregular or undocumented migrants, a number that equates to between 15 and 20 percent of all international migrants.⁵³

Some commentators question the utility of attempting to quantify irregular migration, citing the practical difficulties as well as the underlying rationale for collecting and citing such statistics, which can amount to alarmism.⁵⁴ There are, however, clear benefits in attempting to quantify irregular movements, including from the perspectives of national governments, regional and local governments, international organisations, service providers, employers and others. A better understanding of irregular migration, including in relation to quantity, allows for the development of responses and mitigation strategies as a means of managing the multitude of potentially conflicting interests.

3.1 Challenges in quantifying irregular migration

Understanding the scale and nature of irregular migration is important, not only in national and regional contexts but also in a global context, as a means of identifying trends and patterns for a range of policy, economic and geopolitical reasons. There are, however, significant challenges in establishing reliable estimates upon which meaningful analysis and useful comparisons can be made.⁵⁵ A summary of these challenges is included in Table 2, which highlights the inherent difficulties in accurately placing the quantum of irregular migration in a broader context.

Part of the difficulty is related to definitional issues, which may differ by jurisdiction, as well as the wide-ranging nature of 'irregular' status, which can result, for example, from people entering countries undetected through sophisticated smuggling operations as well as from minor administrative issues that have the effect of rendering a person irregular. A useful summary of the main categories of irregular migrants is summarised in Table 3, highlighting the complexity of 'irregularity', which clearly has its more benign forms, particularly when viewed in the border management and/or security context.

⁵² UNDESA (2013).

⁵³ UNDESA (2003) as cited in ICHRP (2010).

⁵⁴ Castles (2002); Clarke (2000).

⁵⁵ Koser (2010).

Table 2: Difficulties in measuring irregular migration

Aggregating data	<ul style="list-style-type: none"> • Tends to disguise the complexity of irregular migration, e.g. 'mixed flows' consists of economic migrants and those fleeing persecution • Lack of comparable data both over time and between locations
Media	<ul style="list-style-type: none"> • Media tendency to focus on the highest available estimate • Statistics may be used more to alarm than inform
Confusion in definitions	<ul style="list-style-type: none"> • Irregular migration covers a range of people who can be in an irregular situation for different reasons, and people can switch from a regular to irregular status, or vice versa
Stocks and flows	<ul style="list-style-type: none"> • Can be difficult to differentiate between the two and discern what is actually being counted • Flows usually only focus on entries, not exits or return flows • Stocks assume permanence, when migrants may leave, change their status or die. • Impossible to combine both stocks and flows to gain a total estimate
Data accessibility	<ul style="list-style-type: none"> • Often collected by enforcement agencies and not made publicly available.
Sensitivities around human rights	<p>There may be some non-disclosure of irregular migrants by various parties (e.g. employers) making quantifying the number of irregular migrants difficult.</p>

Source: Koser (2009).

Table 3: Definition of irregular migration

In principle, the irregular migration population can be divided into five categories:		
1	Migrants who have illegally entered the country by either physically evading formal immigration control or presenting false papers.	
2	Migrants who legally entered the country for a fixed period which has expired; they did not renew their permission to stay and are therefore unlawful overstayers.	3 Migrants who are lawfully entitled to reside in the country, but are in breach of some visa condition, notably by working more than their immigration status permits.
4	Asylum seekers who legally entered the country to pursue a case for refugee status, but who remain despite a final decision refusing them a continuing right to remain.	5 Children born in the country to such 'irregular migrants', who also lack a right to remain although they are not themselves migrants.

Source: Gordon et al. (2009).

Difficulties in quantifying irregular migration notwithstanding, it can be an important exercise, not least because it highlights the very substantial differences in estimates. In this regard, the imprecise nature of the task of quantification becomes apparent, and the need to treat data on irregular migration with caution is underscored. For example, estimates on the number of irregular migrants in Europe has varied widely from two to eight million.⁵⁶ Recent reports estimate that there are around 12 million in the United States.⁵⁷ Some reports estimate that there are 'several' million irregular migrants in South and South East Asia, and between three and five million in South Africa.⁵⁸ Further information on the estimated number of irregular migrants in selected locations is at [Attachment A](#).

In a global context, irregular migration to Australia constitutes a very small proportion of all irregular migration, especially when compared to the US and Europe. More than five million temporary entrants visited Australia in 2012-13 with 16,460 persons recorded who did not leave when their visas expired. In the same period, some 25,100 people arrived irregularly by boat.

With ever-increasing global migration occurring within a context of greater access to telecommunications and travel (particularly air travel), the number of people seeking to travel irregularly around the world via maritime means is often viewed as minor when compared to other modes of transport. While this is a valid point, there are two aspects worth examining in relation to scale: trends over time, and relativities in relation to other forms of irregular migration. These are discussed below, following a short section on quantification of irregular maritime migration in various parts of the world.

3.2 The 'visibility' effect and quantifying irregular maritime migration

Unlike other forms of irregular migration, the numbers of irregular maritime migrants moving from poor, less developed and/or conflict ridden countries in Asia, Africa, Latin America and the Middle East to rich developed countries, such as the flows heading for the US, Europe and Australia, are relatively well documented. One of the reasons that this movement is monitored so closely is that it is highly

⁵⁶ Koser (2005, p. 9) states that: 'No EU member state, ... regularly publishes official estimates of the size of its irregular population'.

⁵⁷ Hoefler, Rytina & Baker (2011).

⁵⁸ Koser (2005) p. 9.

visible. It also tends to be a focus of intense public interest. As a consequence, there has been in more recent times the development of highly regulated border management processes that have increased the capacity to count and report on the scope of irregular maritime flows.

The U.S. Coast Guard, for example, reports precise figures going back to 1995.⁵⁹ The EU's Frontex has increased its capacity, especially since 2008, to report on the number of persons detected while undertaking maritime migration in the Mediterranean and North Atlantic.⁶⁰ In the Indian Ocean, the number of irregular migrants heading to Australia is recorded in some detail, although public reporting has tended to be at the aggregate level. These flows are typical of the focus on 'South-North' movement, and highlight the interest in monitoring irregular maritime migration to the North.⁶¹

The appetite for monitoring and reporting on such flows would appear to be considerable. There is also an issue of capability. Highly industrialised, richer destination countries, as opposed to poorer, less developed destination countries, have greater capacity to monitor and report on irregular maritime migration. Perhaps the largest, most significant flows of irregular maritime migrants occur well outside the three 'South-North' hotspots of the US, Europe and Australia, as the examples of Indonesia-Malaysia maritime migration and Africa-Middle East maritime migration discussed below appear to indicate, notwithstanding the lack of reliable statistics.

3.3 The scale of irregular maritime migration

The scale of irregular maritime migration is difficult to quantify outside of the main South-North migration corridors. That said, even as recently as ten years ago, such movement into Europe was not monitored and reported on in the highly systematised way it is today through Frontex. Overall, irregular maritime migration is able to be quantified in specific locations, namely the Caribbean Sea to the US, the Mediterranean Sea to Europe and the Indian Ocean to Australia. In recent years, Canada has experienced incidents of large non-commercial vessels of several hundred passengers arranged by smugglers, although this has been limited.⁶²

Data tends to capture interdictions/detections, and so clearly does not capture all attempts (successful or otherwise). It is likely that there are successful undetected maritime ventures in all contexts, but arguably this is less likely in some circumstances. For example, it is possible that failing to be intercepted off the North West coast of Australia by authorities may result in irregular migrants perishing in the very harsh and isolated coastal regions; the need to be detected by authorities is a genuine one.

3.3.1 South-North irregular maritime migration: US, Europe and Australia

The Caribbean is the major region for undocumented maritime migrants attempting to enter the United States, predominantly from Haiti, Cuba and the Dominican Republic. Since 1982, almost 50 per cent of migrants interdicted at sea were Haitians, followed by Cubans (29 per cent) and migrants from the Dominican Republic (15 per cent), as highlighted in Table 4. Trend data, as shown in Figure 3,

⁵⁹ U.S. Coast Guard Maritime Migrant Interdictions (8 January, 2014).

⁶⁰ FRONTEX is an independent European Union Agency with the mandate to co-ordinate operational cooperation between the EU Member States in relation to border security. The agency became fully operational in October 2005.

⁶¹ The North-South characterisation is not a geographical configuration but is based more on development and political divides. The North includes the US, Europe, Canada, New Zealand, Australia and East Asia. The South includes countries and regions in [Africa](#), [Latin America](#), parts of [Asia](#) and parts of the [Middle East](#).

⁶² Canada-United States IBET Threat Assessment (2010) (Reporting year 2009).

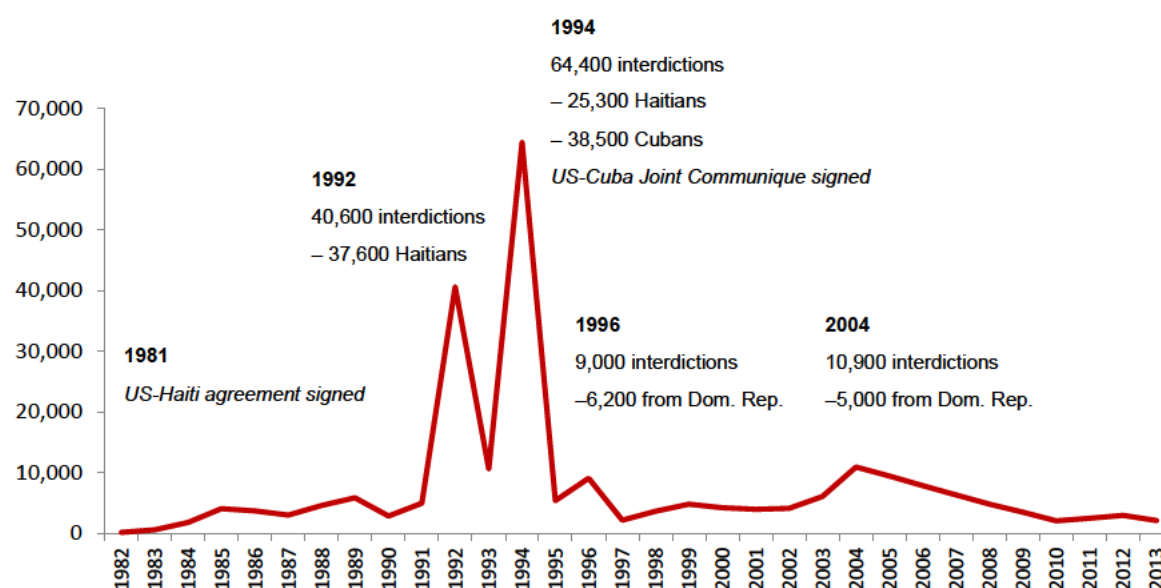
illustrates the very substantial increases in the early to mid-1990s, and the subsequent tapering off of interdictions.

Table 4: Total number of US maritime migrant interdictions by nationality (1982-2013)

	Maritime migrant interdictions (n)	Proportion
Haitian	118 700	49%
Cuban	70 700	29%
Dominican Republic	36 600	15%
Ecuadorian	8 300	3%
People's Republic of China	6 000	2%
Other	2 000	1%
Mexican	900	0%
Total	243 200	100%

Source: Adapted from U.S. Coast Guard, www.uscg.mil/hq/cg5/cg531/AMIO/FlowStats/currentstats.asp and www.census.gov/compendia/statab/2012/tables/12s0534.xls

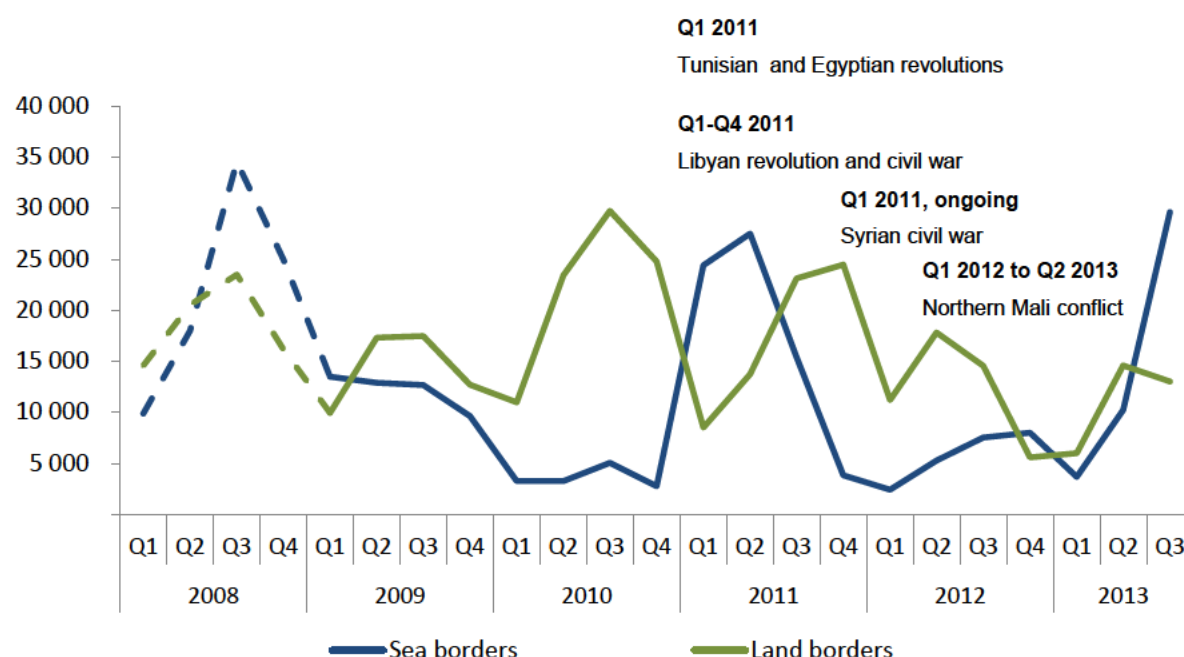
Figure 3: Maritime migrant interdictions since 1982 by fiscal year



Source: Adapted from United States Coast Guard, www.uscg.mil/hq/cg5/cg531/AMIO/FlowStats/currentstats.asp and www.census.gov/compendia/statab/2012/tables/12s0534.xls

Irregular migration into the European Union (EU), either by land, air or sea, has been coordinated by Frontex since it began operations in 2005. Prior to this, each member state was responsible for its own marine surveillance along the EU's southern borders. As a result, historical statistics on the number of detections of illegal entry by sea are difficult to aggregate. Figure 4 highlights the peaks in maritime migration in 2008, 2011 and the third quarter of 2013. It also shows the fluctuation of movement between land and sea borders, with troughs in maritime detections coinciding with peaks in land border detections.

Figure 4: Number of EU illegal border crossing detections (2008 -2013)



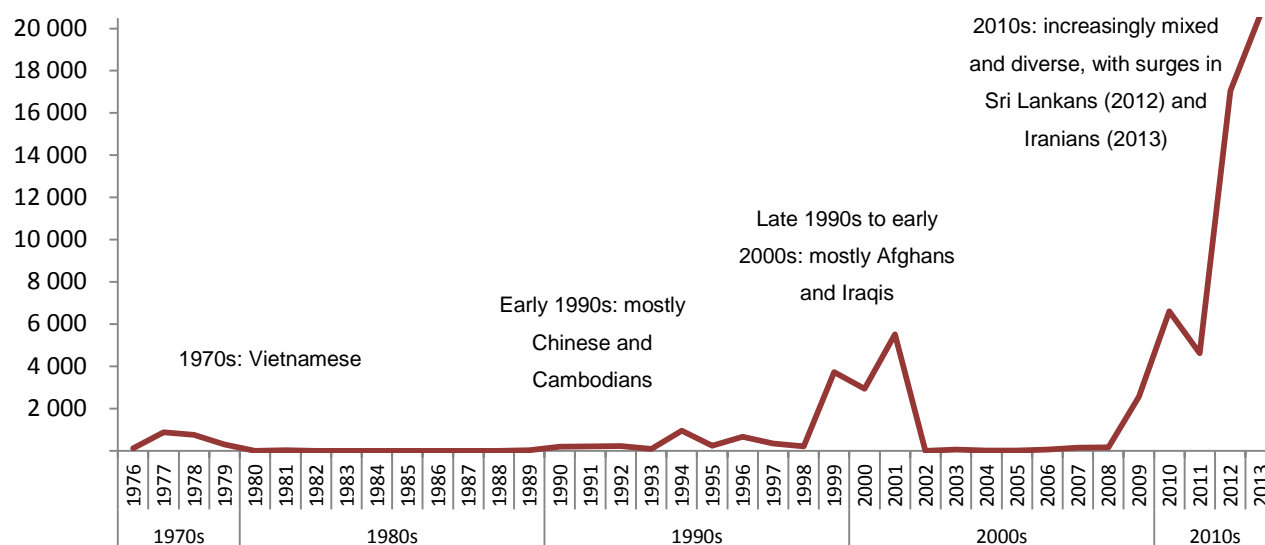
Data source: Adapted from FRONTEX quarterly reports, 2010 – 2013: <http://frontex.europa.eu/publications/>. Data for 2008 is a dotted line as it has been approximated based on a graphical display provided in FRONTEX 2011 Q4 quarterly report.

Since the mid-1970s, Australia has received over 69,000 IMAs.⁶³ The vast majority of these (71 per cent, almost 49,000) arrived in the last four calendar years. The year 2013 experienced the largest volume of IMAs to Australia ever recorded, with over 20,700 arrivals.⁶⁴ A total of 41 citizenship groups have arrived in Australia since 2008. Figure 5 shows the trend of IMAs to Australia since the 1970s.

⁶³ IMA currently stands for 'illegal maritime arrival', however past definitions have referred to these persons as 'irregular maritime arrivals' or 'unauthorised maritime arrivals'.

⁶⁴ Internal departmental data (unpublished).

Figure 5: Number of IMAs to Australia (1976-2013)



Source: Adapted from Parliament of Australia (2013); updated using unpublished departmental data.

3.3.2 Further examples of irregular maritime migration: Horn of Africa and South East Asia

Another region of substantial irregular maritime activity, involving migrants mainly from Ethiopia and Somalia, is the Gulf of Aden and the Red Sea between the Horn of Africa to Yemen. The organisation responsible for recording this movement is the Regional Mixed Migration Secretariat (RMMS).⁶⁵ The capture of data has improved steadily since 2010. While the reporting may not capture every movement the numbers reported give a clear indication that the scope of irregular maritime movement involved is substantial. Around 500,000 people are estimated to have crossed the Gulf of Aden between 2007 and 2013.

Other flows tend to be more clandestine. Based on the migration characteristics of various citizenship groups and their inability to access regular travel pathways, there are thought to be significant numbers of people moving by boat in the South East Asian region. Many of these people appear to be undocumented migrant workers seeking work in neighbouring countries. Others travel to Indonesia from where they join boats to Australia. The true scale of this movement is thought to be substantial and used mainly by those who lack the capacity to travel via regular pathways, although the numbers are difficult to track and there is limited data to report. There are estimated, however, to be around two million irregular migrants in Malaysia alone.

Media reporting on sudden flashpoints or hot spots is triggered, more often than not, by tragic incidents such as boats sinking, loss of life at sea or a sudden and unexpected upsurge in movement. Media reports, for example, indicate that the last two years has seen an increase in the maritime migration of Rohingya to Thailand, Malaysia and beyond.⁶⁶

⁶⁵ RMMS is co-founded by UNHCR, IOM and others. The overall objective is to support agencies, institutions and forums in the Horn of Africa and Yemen sub-region to improve the management of protection and assistance response to people in mixed migration flows in the Horn of Africa and across the Gulf of Aden or Red Sea in Yemen.

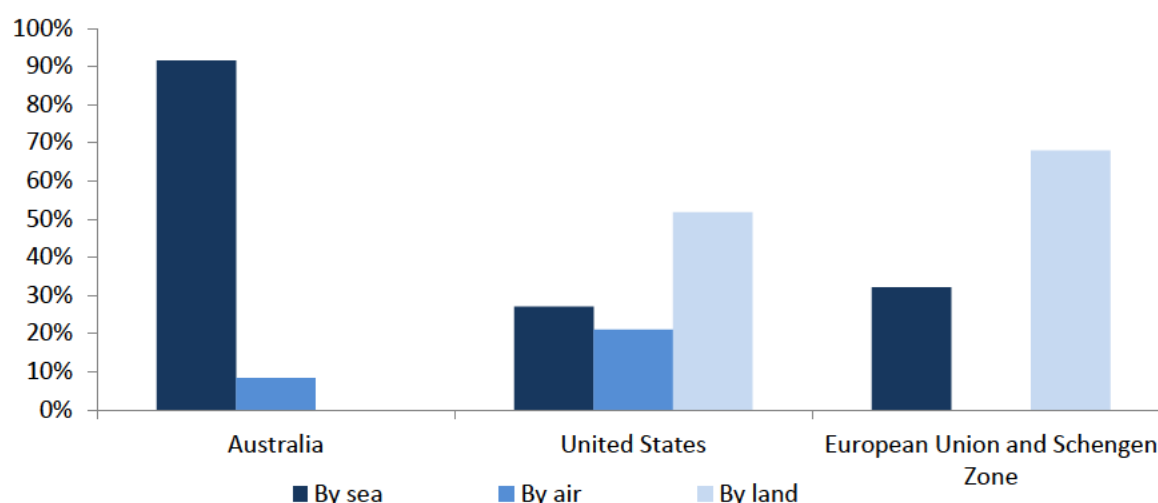
⁶⁶ Reuters (2013, June 28); Reuters (2013, July 17); ABC (2013, September 11).

3.4 Comparative quantitative analysis

Analysis of official data published by Australia, the United States and the European Union suggests a differentiation in the way irregular migrants enter key destination countries predominantly reflecting geography (see discussion in section 4.1 below).

Figure 6 shows that the vast majority of irregular migrants detected in 2012 were attempting to enter Australia by sea (92 per cent). By comparison, the majority of detected irregular migrants to the United States were by land. In the European Union, land travel comprised a higher proportion of irregular migration than sea travel, noting that air detection statistics were not available. Ideally, trend analysis would be able to provide a fuller picture of the relativities within regions, and more accurately highlight differences between regions, particularly given the fluctuations in Europe between land and sea detections.

Figure 6: Proportion of detected irregular arrivals by region and mode of travel around 2012



Sources and notes

A. Data for Australia was sourced from the Department of Immigration and Citizenship Annual Report 2012-13. Sea arrivals for Australia were based on 25,000 irregular maritime arrivals (excluding vessel crew members) and excluded a small number of illegal foreign fishers and people who arrived on a scheduled cargo or cruise vessel and were refused entry at a seaport. Air arrivals were based on those who arrived on a scheduled flight and were subsequently refused entry at an airport.

B. Data for the United States was sourced from the U.S. Department of Homeland Security's Annual Report for Immigration Enforcement Actions (2012). The data relates to approximately 193,000 aliens determined inadmissible at a U.S. border. It excluded some 360,000 persons apprehended at border control points, as a breakdown of these persons by mode of travel was unavailable.

C. Data for the European Union was sourced from FRONTEX Annual Risk Analysis 2013. Data relates to over 72,000 illegal border crossings between border control points for 27 countries in the European Union and 3 Schengen associated countries (Norway, Iceland and Switzerland). Data for unauthorised air arrivals for the entire European Union was unavailable.

The proportions are for illustrative purposes only and are based on the number of detected irregular arrivals by mode of travel. The data does not include estimates for undetected border crossings, and does not take into account variations in proportions over time. Note that the graph refers to proportions, not absolute volumes. The reference period for Australia is Australian Financial Year 2012-13;⁶⁷ the United States is Fiscal Year 2012;⁶⁸ the European Union is calendar year 2012.

Based on most accounts, the scale of detected and undetected irregular migration (South to North) and number of unauthorised persons at any given time in the US and Europe is substantial and indicates that irregular maritime migration at the borders constitutes a small part of irregular migration. In contrast the situation in Australia is different – as an island continent, geography, sea borders and relative isolation provide Australia with a unique ability among industrialised countries to manage its border. Australia does not have the vast and porous land borders that characterise the border

⁶⁷ Australian Financial Year 2012-13 is 1 July 2012 to 30 June 2013.

⁶⁸ United States Fiscal Year 2012 is 1 October 2011 to 30 September 2012.

management problems faced by the US and Europe, and maritime migration is the main manifestation of irregular migration in the Australian context.

Placing irregular maritime movements in the context of irregular migration more broadly is an important step in assessing the significance of irregular maritime migration, particularly in relation to calibrating policy responses. While this is not a straightforward exercise, and should be treated with some caution, Figure 6 does highlight the different dynamics occurring in different national and regional settings. This perhaps may go some way to explain the levels of focus afforded to the different forms of irregular migration.

4. THE COMPLEX, MULTI-FACETED NATURE OF IRREGULAR MARITIME MIGRATION GLOBALLY

The term ‘wicked problem’ was initially used by US academics Rittel and Webber in 1973 in the context of urban planning to describe social planning problems unable to be addressed successfully by traditional linear, analytical approaches.⁶⁹ Rittel and Webber contrasted ‘wicked’ problems to ‘tame’ problems, which they described as tightly defined problems able to be addressed in a straightforward (but perhaps technically complex) manner. The term ‘wicked problem’ has subsequently entered common usage, including to describe a range of global and national problems, such as climate change, terrorism, transnational crime, Indigenous disadvantage and obesity.⁷⁰

In its 2007 paper, the Australian Public Service Commission described wicked public policy problems as having the following characteristics:

- being difficult to clearly define;
- having many interdependencies and are often multi-causal;
- attempts to address often leading to unforeseen consequences;
- are often not stable;
- usually have no clear solution;
- are socially complex;
- hardly ever sit conveniently within the responsibility of any one organisation; and
- some are characterised by chronic policy failure.

It could be said that many of the above characteristics, but perhaps not all, apply to irregular maritime migration. Regardless of differences in views on the exact nature of the problem as well as possible *solutions*, it would be difficult to suggest that irregular maritime migration is not a wicked problem from a range of perspectives including those of states, international organisations, and civil society. The view that this phenomenon is a problem requiring ongoing effort to address is perhaps best underscored by the thousands of lives lost at sea across the world as a direct result of irregular maritime migration.

It perhaps would not be too far of a stretch to suggest that some migrants themselves may view irregular maritime migration as a problem. Recent survey results indicated that migrants who had travelled to Australia as IMAs found the migration journey itself to be more difficult or much more difficult (83%) than they had expected. Very few respondents (one per cent) indicated that the journey was easier or much easier than expected. This accorded with respondents’ reported experiences en route to Australia, particularly in relation to how unsafe they felt during their journey.⁷¹

In seeking to understand the complexity of irregular maritime migration as a dynamic global phenomenon occurring within the broader global forces discussed in section 2, it is worth summarising some of its key aspects. While it is beyond this paper to examine the multitude of issues that may relate to the phenomenon, an attempt to draw out the key aspects has been made. Undoubtedly, additional aspects will be raised during the discussions. The key aspects summarised below include:

⁶⁹ Rittel & Webber (1973).

⁷⁰ APSC (2007); Conklin (2005); Ritchey (2013).

⁷¹ McAuliffe (2014).

- geography and mode of transport;
- non-state actors and people smuggling;
- international obligations and state sovereignty;
- government-to-government cooperation;
- migrants' motivations; and
- migrant experiences in transit.

4.1 Geography and mode of transport

Geography plays a fundamental role in irregular migration flows. The physical proximity of source and destination countries as well as the nature of their geographic positioning—land borders, sea/ocean channels—is a significant factor in people movement. The ease (or otherwise) in which people are able to travel irregularly using different modes of transport is an important factor, as the following examples highlight:

- Around 266,000 Mexicans are estimated to have been apprehended trying to enter the United States overland in 2012,⁷² whereas 79 Mexicans were intercepted by U.S. Coastguards in 2012;⁷³
- 977 Haitians were intercepted by U.S. Coastguards in 2012;⁷⁴
- An estimated 107,500 migrants were estimated to have travelled to Yemen across the Gulf of Aden in 2013;⁷⁵
- Approximately 64,000 irregular maritime migrants, including sub-Saharan Africans and Arabs affected by the 'Arab Spring' were detected crossing the Central Mediterranean to Italy and Malta in 2011;⁷⁶ and
- Over 49,000 illegal border crossings were detected by the EU's Frontex on Europe's external land borders in 2012.⁷⁷

While not wishing to over-generalise, and noting that all forms of irregular movement would involve considerable challenges and difficulties for migrants, the ability to undertake land border crossings (however perilous) is likely to involve a reduced level of organisation and logistical support compared to maritime migration. Firstly, maritime migration usually involves groups of people rather than individuals and so requires at least a basic level of organisation. Secondly, infrastructure in the form of a sea-worthy vessel is required to make the journey, involving logistics and cost. Land border crossings, on the other hand, can be undertaken by individuals and do not require the same level of infrastructure and organisational support.

This has implications for direct movements between source and destination countries—the huge volume across the US-Mexican land border being a case in point—as well as for the relative ease in which transit countries can be entered. Transit countries with long porous land borders (e.g. Libya, Egypt, Morocco) may perhaps pose fewer constraints than transit countries with different geography (e.g. Indonesia, Malaysia). Many irregular maritime migrants to Spain, for example, travel from different locations in sub-Saharan Africa through land borders of Morocco before travelling by sea to

⁷² Passel, Cohn & Gonzalez-Barrera (2013).

⁷³ U.S. Coast Guard (2014).

⁷⁴ Ibid.

⁷⁵ RMMS (2013c).

⁷⁶ Papadopoulos & Fratsea (2013) p. 6.

⁷⁷ FRONTEX (2013) p. 21.

Spain or entering via the Spanish enclaves Ceuta and Melilla.⁷⁸ Movement to Australia, on the other hand, presents a unique dynamic in that not only is Australia without a land border, its main transit country (Indonesia) has limited land borders given its island composition.

The fundamental role of physical geography, while able to be overcome via air travel, is arguably a more important aspect now compared to 15 to 20 years ago, and prior to the significant increase in screening of air travellers.⁷⁹ It is likely with the recent advances in border control and identity verification technology, air travel offers fewer opportunities for irregular migrants seeking to enter destination countries, although people using genuine travel documentation based on a fraudulent identity remains a considerable challenge, and is one that is being increasingly addressed through the use of biometric technology.

It is possible that, overall, the tightening of air travel has had an impact on irregular migration via other modes (land and sea). There is no doubt that irregular migration by land border crossing and maritime ventures continue to be viewed as viable options by migrants, agents and smugglers where these options are available, and particularly given that many citizenships that travel irregularly are unable to access regular migration pathways (see Table 1 above). In addition, and as discussed above, a certain level of organisational capability needs to be in place to support irregular maritime migration, and while this may act as a constraint, it may also enable/encourage the expansion of unregulated actors (e.g. organisers, smugglers and corrupt officials).

4.2 Non-state actors and people smuggling

There has been substantial research and enquiry into people smuggling processes and dynamics, predominantly in relation to migrant smuggling into Europe, and in the context of the Protocol against the Smuggling of Migrants by Land, Sea and Air.

In a 2011 report by the United Nations Office on Drugs and Crime (UNODC), a global review of migrant smuggling revealed a number of dynamics and characteristics that highlight the considerable challenges in tackling and reducing smuggling—see the summary of the UNODC report below. More recently, the UNODC has highlighted the significant role corruption plays in migrant smuggling, noting that:

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...[it] may occur in countries of origin, transit, or destination. It may be systemic, institutional or individual.⁸⁰

The organisational capabilities of non-state actors involved in irregular migration, including corrupt officials, agents, organisers and smugglers, has undoubtedly been assisted by changes in telecommunications, which offer greater opportunities for people to participate successfully in the movement of people irregularly. In this sense, smuggling networks are able to occur largely outside of effective state regulation, allowing perhaps a greater degree of 'opportunism' by a wider range of actors than has occurred in the past.

⁷⁸ De Haas (2005).

⁷⁹ Faist (2004).

⁸⁰ UNODC (2011) p. 3.

The Smuggling of Migrants—A Global Review

Excerpt from UNODC's 2011 report 'The smuggling of migrants—A global review and annotated bibliography of recent publications'

Sources reviewed reveal a strong interest among the academic community in analysing the phenomenon of smuggling of migrants from a conceptual perspective... literature has attempted to improve the concrete understanding of smuggling of migrants through the conceptualization of the phenomenon as a migration business, a security threat or a family (network) business. (p. 11)

The literature reviewed also reveals a dual perspective about geographical trends and smuggling routes. The "traditional" view holds that all smuggling trends are converging towards high-income countries. This perspective is dominant in the literature published in the early 1990s. More recent research based on empirical evidence shows that smuggling routes are far more diverse than initially conceived and that Western-centric visions may not accurately represent the complex dynamics of smuggling of migrants. Information gathered through recent empirical research also shows the adaptability of smuggling organizations, which shift routes in response to law enforcement countermeasures. (p. 37)

Women and other vulnerable migrants seem to make up an ever growing proportion of migrant smuggled worldwide. Paradoxically, there is a great lack of specific research devoted to these groups. Research should have a specific focus on gender and on vulnerable populations, including unaccompanied minors and refugees. (p. 54)

There is a striking lack of information regarding the profile of smugglers. Scholars' views can be divided into a criminological and a sociological perspective. The information about the smugglers is based mainly on police and court records and, to a lesser extent, on interviews with migrants. Some recent research includes a psychological perspective, including interviews with the smugglers about their motivations and background. Research based on interviews with smugglers should be further developed, as it provides subjective insight into the migrant-smuggling phenomenon. (p. 61)

There is a striking lack of information about smuggler-migrant relationships... Access to information is particularly difficult since smugglers are often reluctant to be interviewed. (p. 65-66)

...there is a certain consensus that smuggling networks function according to the enterprise model, with large numbers of smaller, flexible crime groups or individual criminals that interact when necessary. While the link with mafia and organized crime organizations remains controversial, the research available highlights that increasingly sophisticated networks have replaced small-scale businesses in regions where anti-smuggling law enforcement strategies are particularly robust. (p. 81)

When available, data and information on suffering and death among migrants are collected by journalists and NGOs. Other human rights issues associated with smuggling methods and irregular migration are better reflected in literature. More substantial research should be conducted on this topic. Gender-sensitive research should be further developed, as testimonies of female migrants have revealed the extreme vulnerability of women during the smuggling process. Future research about unaccompanied minors should also be developed in order to get a more precise picture of the human costs of smuggling of migrants within that group. (p. 106)

The notion of organised, 'apex' smuggling systems that are controlled by mafia-type bosses has largely given way to recognition that smuggling involves less organised, highly agile networks of relationships:

...the evolutions of the smuggling industry does not seem to produce highly structured and hierarchically governed organisations, but rather flexible coalitions managed through contractual agreements and repeated interactions.⁸¹

Targeting of operational and policy responses to reduce the viability of migrant smuggling for the range of actors involved has been a key focus of governments, including in relation to irregular

⁸¹ Pastore, Monzini & Sciortino (2006) p.109.

maritime migration.⁸² Such responses will undoubtedly continue to be central components in strategic and tactical efforts to reduce irregular maritime migration.

Other commentators have drawn attention to the need for more systematic change to underlying markets as a key component to reducing irregular migration, and have characterised some employers as ‘bad actors’ and suggested that “markets—not criminal masterminds, syndicates or networks—drive illegality”.⁸³ In the context of the somewhat limited data on stocks and flows of irregular migrants in section 3 above, it could be hypothesised that structural labour market issues are more of an issue for some markets that have a greater reliance on irregular migration (e.g. the US and parts of Europe) compared to other markets (e.g. Australia).

4.3 International obligations and state sovereignty

The tensions between state action and international legal obligations and responsibilities are a recurring theme throughout the literature. While detailed legal and technical analysis is beyond the scope of this paper, there are some aspects worth highlighting that demonstrate that the problems are complex and not easily reconciled.

Irregular maritime migration, in many respects, encapsulates one of the most contentious fault-lines between state sovereignty and international legal obligations and responsibilities. Strong links tend to be made by governments between migration control, border protection and state sovereignty. Governments are often very concerned to demonstrate that they have a firm grip on the movement of people across borders - a (legitimate) sovereign right that tends to be jealously guarded.⁸⁴ “Control over migration is interpreted,...as being somehow intrinsic to what is it to be a nation, to ‘stateness’ and to the core of membership and national identity’. Irregular migration is often seen as a direct challenge to state sovereignty.”⁸⁵

Irregular maritime migration invokes a range of international norms and conventions in relation to human rights, law of the sea, including rescue at sea, and criminality associated with people smuggling and trafficking—all of which makes for a complex mix.⁸⁶ A list of the main international legal instruments is at [Attachment B](#).

Given its visibility, and the attention irregular migration by sea attracts, the imperative to demonstrate state control of maritime borders is particularly sensitive.⁸⁷ However, reconciling state practices to stem the flow of irregular maritime migration with international legal responsibilities and obligations is complicated by conflicting interests, blurred lines of responsibility and overlapping issues.⁸⁸ For example, in Europe confusion and disagreements over territorial boundaries at sea and state responsibility for search and rescue are proving difficult to resolve. There are concerns that the confusion over who has responsibility among states undermines international cooperation to protect life at sea, seen by many as a fundamental humanitarian consideration.⁸⁹

⁸² Koser (2011, March 31).

⁸³ Papademetriou (2014) p.2.

⁸⁴ Van Selm & Cooper (2005) p.33; Brouwer & Kumin (2003).

⁸⁵ Ibid (2005) pp. 12-16.

⁸⁶ Miltner (2006); De Bruycker, Di Bartolomeo & Fargues (2013).

⁸⁷ Van Selm & Cooper (2005) p.4.

⁸⁸ Mallia (2003).

⁸⁹ Annan (2014); Mallia (2003).

State measures to control irregular maritime migration can, and do, often clash with humanitarian considerations inherent in multiple international legal instruments that are activated in relation to irregular maritime migration, including in relation to non-refoulement. Reconciling these conflicting interests is a fundamental challenge for all stakeholders involved. Critics of restrictive measures that are increasingly focused on preventing migrant flows from reaching their destination or from departing source and transit countries, suggest that this fails to address the protection concerns of refugees caught up in irregular maritime migration flows.⁹⁰

Gammeltoft-Hansen suggested that this extra-territorial shift to focus on measures that attempt to deflect or prevent movement is regarded by some commentators as a geographical relocation of the border, with the potential to relocate the limits of sovereignty in relation to border control.⁹¹ Striking a balance between state sovereignty and international legal frameworks in the context of the increasing trend towards extra-territorialism in relation to irregular maritime migration, and the complex set of issues involved, is thought to be a key global challenge of the future.⁹²

4.4 Government-to-government cooperation

Irregular maritime migration presents an undeniably visual manifestation of irregular migration and as such triggers some fundamental political and policy concerns relating to states' international protection obligations, sovereignty, border control, security, and as such demands the attention of governments.⁹³ The potential and actual impacts on bilateral relationships as well as regional and broader international relationships and reputations are also key considerations for governments, including as they relate to sovereignty issues.

There is a strong sense that, notwithstanding different interests, values and priorities, as Newland pointed out, "international migration has surpassed the ability of any one country to manage unilaterally."⁹⁴ The transnational nature of irregular maritime migration behests government-to-government cooperation, including in a multi-layered or tiered fashion. Engagement via multilateral forums as well as regional consultative processes are important means of understanding and working through points of convergence and divergence; these forms of engagement can also act to support or enhance bilateral cooperation.

⁹⁰ Dauvergne (2003); Gammeltoft-Hansen (2008).

⁹¹ Ibid (2008).

⁹² Ibid p. 29.

⁹³ Koser & McAuliffe (2013), Koser (2010); Watson (2009).

⁹⁴ Newland (2010) p.336.

The Budapest Process

Excerpt from the Budapest Process website (25 February 2014), www.icmpd.org/Budapest-Process.1528.0.html

The Budapest Process is a consultative forum of more than 50 governments and 10 international organisations, aiming at developing comprehensive and sustainable systems for orderly migration. It involves states from the wider European region with the purpose of exchanging information and best practices in dealing with topics such as regular and irregular migration, asylum, visa, border management, trafficking in human beings and smuggling of migrants, readmission, return, etc. Through this dialogue, the Process promotes good governance in the field of migration, a harmonised approach in dealing with irregular migration challenges and the transfer and common understanding of migration concepts and policies.

The Budapest Process was initiated by Germany in 1991, which was one of 26 European countries to work on joint measures against the increase of irregular migration pressures in Europe. The Budapest Process is currently chaired by Turkey, with Hungary as co-chair. In 2010 the Budapest Process was expanded to include the so-called "Silk Routes countries" (Afghanistan, Bangladesh, Iraq and Pakistan) as new participating states.

4.4.1 Practical solutions to displacement

There is a sense that the willingness of states to engage in forms of cooperation and collaboration on irregular maritime migration that do not involve the formulation of restrictive responses has diminished over time.⁹⁵ This diminution is reflective of current global and geopolitical dynamics, and in particular a growing sense of the potential for significantly increased 'unmanaged' migration in light of increased international movement.⁹⁶ The collaboration involved in managing earlier displacement—the Comprehensive Plan of Action in South East Asia to deal with flows from Vietnam and Laos being one example—appears, in a general sense, to have increasingly given way to state-centric hardening of positions.

Where there are 'pockets' or discrete groups that are able to be managed, it would appear that there is a greater degree of willingness to engage collaboratively in a positive sense in attempts to manage displacement. One such example of this can be seen in relation to states' handling of stateless groups, where the size of the stateless groups appears to be a factor (among others) in states' willingness to collaborate to find solutions with the assistance of the UNHCR. A second factor related to cooperation would appear to be related to whether the displacement issue is entrenched and/or enduring, or more akin to an acute, sudden onset displacement. This is perhaps best highlighted by large-scale displacement in Libya and Syria, which resulted in significant humanitarian support being provided from a range of actors, particularly at the outset.

4.4.2 International organisations, civil society and the corporate sector

Along with nation states, international organisations have often been central to multilateral responses. The role of international organisations has changed, alongside the increase in scale of international migration, as highlighted by Geiger and Pecoud:

The last two decades have seen major shifts in the way international organisations address migration. While state sovereignty remains central in the politics of migration, IOs are increasingly developing their visions regarding how the cross-border movements of people should be governed (or 'managed') and, in some

⁹⁵ Castles (2004); De Haas (2011).

⁹⁶ GCIM (2005).

cases, they have become important actors in the design and implementation of migration policy.⁹⁷

Increasingly, international organisations are seen as key actors in aspects on international migration, notwithstanding the bilateral-multilateral state sovereignty focus.

According to the literature, there has been a concomitant increase in civil society engagement on the issue as the scale of irregular migration has increased and issues associated with migrant rights have come to the fore. According to Taran, “civil society activity and organizing around a rights-based approach to migration has grown exponentially over the last decade.”⁹⁸

Understandably, the focus of civil society, in particular, tends to be on the human rights aspects of irregular migration, with a reduced focus on collaboration to develop solutions aimed at minimising irregular migration (including irregular maritime migration).

As Taran highlights:

...while inter-governmental dialogue appears focussed on devising national security-related responses to irregular migration, elaboration of alternative, rights-based approaches to governance of migration is desperately lacking...Neither Civil Society Organisations or International Governmental Organisations as distinct sectors have the independent capacity, credibility or social base necessary to achieve implementation of a rights-based international migration ‘regime’. They must work in tandem in order to orient, convince and pressure states to do the right thing for all migrants.⁹⁹

It has been ten years since Taran articulated his concerns about the lack of a focus on migrant rights in the international sphere, and there are signs that the last decade has seen substantial movement on this issue. This is perhaps best highlighted by the inclusion of a roundtable on migrant rights at the October 2013 UN High Level Dialogue on Migration and Development. The appetite for convergence of approaches to restrictive migration policies, enhancing migrant rights and increasing human development may well be increasing, notwithstanding the inherent difficulties in navigating a path that is able to achieve aspects of all three objectives.

The role of the corporate sector in terms of irregular migration has been somewhat difficult to locate. Involvement of this sector appears to be extremely limited, perhaps because the corporate sector (in some countries/economies) relies heavily on irregular migrants as a cheap labour force that is willing to undertake work that others will not. In a recent paper by Papademetriou, some employers are characterised as ‘bad actors’ in their support of irregular migration via behaviours ranging from exploitation of irregular migrants and disregard of labour laws through to indifference in relation to the migration status of workers.¹⁰⁰ Papademetriou argued that the need to address this aspect through changing the market itself is perhaps the most ambitious element in a suite of responses to irregular

⁹⁷ Geiger & Pecoud (2014) p. 865.

⁹⁸ Taran (2004) p. 260.

⁹⁹ Taran (2004) p. 287.

¹⁰⁰ Papademetriou (2014) p. 2.

migration.¹⁰¹ Enforcing labour standards and combatting illegal work require enforcement and greater cooperation with the corporate sector.

Further engagement with the corporate sector on migration issues (including in relation to irregular migration) remains one of the more neglected aspects of the global migration dialogue.¹⁰²

4.5 Migrants' motivations

Research indicates that a number of complex, interrelated factors impact on the movement of irregular asylum and non-asylum migration flows, and in relation to why people migrate.¹⁰³ Historically, there has been somewhat of a dominance in academic and non-academic writing of the theoretical 'push-pull' model, with its roots in Ravenstein's laws of migration from the 1880s.¹⁰⁴

Today, among policy makers, the 'push-pull' theory continues to dominate, possibly because of the attractiveness it offers as a conceptually linear model. It is based on migrants being largely 'passive', without agency. Perhaps a century ago it was highly relevant in social, economic, technological and geopolitical terms, and it offered a way of explaining and understanding migration. It is less relevant today, including because of the substantial social, economic, technological and geopolitical changes that have ensued in most parts of the world.

Hein De Haas has argued that "people will only migrate if they *perceive* better opportunities elsewhere and have the *capabilities* to move."¹⁰⁵ Through a range of dynamics (or 'enabling' factors), including diaspora and other migrant networks, De Haas argued that migrants' agency and counter-strategies can effectively undermine states' attempts to control migration. It is important to note that De Haas' theoretical discussion was not specific to irregular migration, however, he argued that refugee and asylum flows also involve agency and that "the 'voluntary'/'forced' migration dichotomy is simplistic because it assumes that one category of migrants enjoys total freedom and the other category has no choice or agency *at all*."¹⁰⁶

Adhikari's research on the relative impact of a range of factors on migrants' decision making in Nepal highlights that migrant agency, even in extreme conflict situations, is present, and that decisions on movement were based on more than just the threat to one's life and included factors related to economic livelihoods and social networks.¹⁰⁷ He highlighted the need for further research into the survival strategies people adopt once they decide to stay in war zones.

Much of the irregular maritime migration flows, including to Europe, Yemen, Australia and the US, are not sudden onset (although there are exceptions from time to time, such as the 2011 Libya crisis), and do involve migrant agency, and possibly considered, long-term decision-making processes.

The number of factors impacting on movement and decision making highlights the complex nature of irregular migration. It is also important to acknowledge that none of the factors are likely to be static,

¹⁰¹ Ibid.

¹⁰² There are examples of the corporate sector being involved in international migration issues, although the sector tends to be more peripheral than others. At least one exception to this is the World Economic Forum's Global Agenda Council on Migration, although progress at engaging the corporate sector has been by some accounts challenging.

¹⁰³ Castles (2013); De Haas (2011); Koser (2011); Middleton (2005); Neumayer (2004); Havinga & Böcker (1999).

¹⁰⁴ See, for example, De Haas's discussion of 'push-pull' functionalist social theory (2011) p. 8.

¹⁰⁵ De Haas (2011) p. 14.

¹⁰⁶ Ibid.

¹⁰⁷ Adhikari (2013).

and some of them can change decisively and rapidly, undoubtedly adding to the complexity of irregular migration.

It is worth briefly summarising some of the main factors related to migration (including asylum/refugee migration) in more recent literature.¹⁰⁸ Generally, factors involved in decision making that are related to origin country situations and destination country circumstances include:

- the political and security situation in-country (home and/or host country);¹⁰⁹
- the state of the economy, and access to income;¹¹⁰
- the outlook for the future in origin countries, and in particular prevailing pessimism;
- asylum seeker policies in destination countries;¹¹¹
- how welcoming destination countries are perceived to be;¹¹²
- perceptions of destination countries' acceptance of refugees;¹¹³
- the state of economies of destination countries;¹¹⁴
- existence of diaspora and communities in destination countries;¹¹⁵
- the perception of a country's relative safety and security.

There is also a range of 'enabling' factors that are thought to act to facilitate flows, and that are less prevalent in the literature.¹¹⁶ Enabling factors are discussed in more detail elsewhere in the paper, and include:

- geography and the ability to travel to specific destination countries;¹¹⁷
- the ability to travel through transit countries (e.g. facilitative visa arrangements) and proximity to established migration networks (and, in some cases, a related lack of ability to gain visas for lawful entry to destination countries);
- diaspora populations with the ability and resources to assist others in their communities around the world to migrate;¹¹⁸
- an increased ability to self-fund travel as human development and greater access to resources increases;¹¹⁹
- enhanced 'real time' communications technology to provide better information for decision making both of potential irregular immigrants and people smugglers (e.g. blogs, social media, news reporting of events); and
- an international protection asylum system that was established decades ago to address a particular set of circumstances, and has not evolved sufficiently to reflect significant changes in the environment (e.g. refusal of countries to accept the return of their nationals, and the lack of any ability to require countries accept the return of their citizens).¹²⁰

¹⁰⁸ Neumayer (2004); Havinga & Böcker (1999); Zimmermann (1996).

¹⁰⁹ Hatton (2011; 2012a).

¹¹⁰ Adhikari (2013); Hatton (2011; 2012a); Theilemann (2006).

¹¹¹ Neumayer (2004).

¹¹² Theilemann (2006); Neumayer (2004).

¹¹³ Toshkov (2012); Theilemann (2006).

¹¹⁴ Hatton (2011; 2012a); Theilemann (2006); Neumayer (2004).

¹¹⁵ Neumayer (2004); Koser & Pinkerton (2002); Koser (1997).

¹¹⁶ De Haas discusses 'capabilities' rather than 'enabling' factors (2010, 2011).

¹¹⁷ Monsutti (2005; 2010a; 2010b); Havinga & Böcker (1999).

¹¹⁸ Dorai (2011); Koser & Pinkerton (2002).

¹¹⁹ De Haas (2010).

¹²⁰ Hamlin (2012); Hatton (2011); Jones (2009).

4.5.1 Mixed migration and multiple motivations

The 'mixed' composition of irregular migrant populations, as opposed to past assumptions that irregular migration flows were composed primarily of asylum seekers, is a significant and important characteristic of modern manifestations of irregular migration.¹²¹ One of the more significant conundrums highlighted by irregular maritime migration is the 'migration-asylum nexus'. In the midst of the irregular migration flows of migrant workers are people who have moved because of war, ethnic or political persecution and meet the criteria as refugees. To add to the complexity, the boundaries between each group can be blurred or even change over time with migrant workers becoming refugees or vice versa.¹²²

On the one hand, the humanitarian crisis in Syria provides a very stark illustration of the fundamental need for the protection of people in fear of their lives, and of the ongoing and perhaps growing need for an effective international system that provides refugee protection. There is a clear imperative for states and international organisations to respond quickly and decisively in such situations.

When examining irregular maritime movement involving asylum seekers, onwards movement is an important consideration, as are the reasons underpinning movement. It is, in this context, useful to acknowledge Johansson's distinction between anticipatory refugee movement and acute or spontaneous movements.¹²³ As highlighted by Koser and McAuliffe, '[for] IMAs in Australia, who have undertaken long and relatively expensive journeys from their origin countries, and transited other countries where they might have remained in an irregular situation...the choice of Australia for most...appears to be deliberate'.¹²⁴ Much of the movement to Australia in recent years has been anticipatory rather than acute. This, in turn, and given the substantial distances travelled from source through (multiple) transit countries to Australia, means that both the decision to leave and the choice of destination are highly relevant topics of research in the Australian context.

A further line of enquiry relevant to the examination of global irregular maritime migration is the extent to which communities actively use migration as a strategy for survival and/or to improve individual and collective outcomes. This conceptualisation of migration as a social strategy acknowledges that there are often many reasons underpinning migration that are not static but dynamic in nature, depending on prevailing circumstances. Monsutti, for example, has argued that in relation to Hazaras, no hard and fast distinction can be made between refugees and economic migrants and that a 'migration continuum' exists that has developed as part of a broader strategy of survival:

Afghans give different and usually plural reasons for their decision to migrate: perhaps an outbreak of fighting, a threat from a personal enemy, the danger of bombing or compulsory conscription; perhaps the search for work or opportunities to trade, the need for medical treatment, or the undertaking of a pilgrimage.¹²⁵

When viewed as a social strategy, the existence of migration pathways and networks, including to and within destination countries, is almost certainly likely to have an impact on the tendency and ability of

¹²¹ Miltner (2006) p. 75; UNHCR (2007); Papastavridis (2007).

¹²² Koser (2013) p. 2; Koser (2005).

¹²³ Johansson (1990).

¹²⁴ Koser & McAuliffe (2013) p.13.

¹²⁵ Monsutti (2005) pp. 168-9.

groups of people to migrate successfully. Migration as part of historical and cultural norms is an aspect that is prevalent in some academic discussion.¹²⁶

Some evidence of the many reasons underpinning asylum flows and the search for a better life are provided by the results of a survey of potential irregular immigrants in Sri Lanka, conducted in March 2013, which found that the main reasons for travelling to Australia were not necessarily directly related to protection issues. The survey was conducted across high maritime migrant source areas in Sri Lanka.¹²⁷ A key finding was “the reasons for travelling to Australia by boat/leaving Sri Lanka by boat” were:

- to give their families a ‘better’ future – 92 per cent
- lack of job opportunities – 86 per cent
- Australia’s job opportunities – 86 per cent
- too difficult to enter Australia by legal channels – 83 per cent
- people smugglers are telling the truth – 65 per cent
- it’s easier to travel to Australia than other countries – 63 per cent
- previous friends and family being accepted in Australia – 59 per cent
- Australia’s accepting immigration program – 56 per cent
- do not know any other way to travel to Australia – 49 per cent
- persecution in Sri Lanka – 35 per cent
- torture in Sri Lanka – 34 per cent.

Quantitative research has been conducted in the Australian context on the migration experiences of IMAs. The 2013 Survey of IMAs¹²⁸ granted protection in Australia between July 2011 and December 2012 provided evidence that there were a range of factors being taken into account by migrants in decision-making as it related to both the decision to leave their origin country and the choice of destination. In terms of reasons for leaving their country of origin and/or the problems they faced prior to departure, 85 per cent of IMA survey respondents indicated that both protection¹²⁹ and non-protection¹³⁰ issues were involved. A much smaller nine per cent indicated that they had faced or left because of protection issues only.¹³¹ This would appear to indicate that broader quality of life issues, such as education services, health services, and lack of economic opportunity, are being considered during decision making, and are among the factors potential migrants (and their families and others) take into account when assessing and re-assessing migration options.

4.6 Migrants’ experiences in transit

The experiences of migrants in undertaking irregular maritime migration are highly relevant, particularly in the context of it being conceptualised as a ‘wicked problem’. Information and research available points to the significant challenges migrants face undertaking irregular maritime migration.

¹²⁶ Monsutti (2005).

¹²⁷ Jayasuriya & McAuliffe (2013).

¹²⁸ McAuliffe (2014).

¹²⁹ Protection reasons included various forms of persecution (ethnic, religious, political, gender-based), ‘Australia accepts refugees’.

¹³⁰ Non-protection reasons included general insecurity/conflict, ‘Australia treats asylum seekers well’, ‘for a better life’, education, Australian citizenship, work, health services, lack of economic opportunity, housing, join family/community, issues with authorities.

¹³¹ There was a very small proportion of respondents (3 per cent) who indicated that they did not face protection-related problems in their origin country *and* who indicated that they had left their country of origin for non-protection reasons only.

At the extreme end of the spectrum, it is well documented that irregular maritime migration has resulted in thousands of deaths worldwide as a direct result of the phenomenon. There are various estimates of the number of deaths at sea, including 19,000 in the Mediterranean Sea since 1988¹³², 34,000 in the Aegean Sea,¹³³ over 1,000 off the North coast of Australia.¹³⁴

Recent deaths in the Mediterranean Sea caused outpourings of grief, anguish and condemnation—most notably following the loss of over 350 lives following the sinking of a large vessel off Lampedusa Island in early October 2013.¹³⁵ One week after the Lampedusa tragedy, a boat carrying Syrians and other nationalities capsized resulting in around 30 people drowning.¹³⁶ In recent months more people have perished in various locations in the Mediterranean, and 12 people died off the coast of Greece apparently during a maritime border patrol operation.¹³⁷

In late 2013, a series of maritime tragedies in the Caribbean Sea resulted in approximately 45 people perishing in a two-month period, and followed an increase in irregular maritime migration in the region.¹³⁸

There is some academic literature on the experiences of migrants in transit, however, this appears to be limited. The literature does highlight the vulnerability and trauma experienced by migrants during this type of irregular migration process.¹³⁹

The 2013 IMA Survey explored aspects of migrant experiences during their journey to Australia.¹⁴⁰ The vast majority of respondents indicated that the journey to Australia was more difficult or much more difficult (83%) than they had expected. Very few respondents (one per cent) indicated that the journey was easier or much easier than expected. This accorded with respondents' reported experiences en route, particularly in relation to how unsafe they felt during their journey when using a people smuggler(s). The implications of the disparity between potential migrants' views of what the migration journey is likely to entail compared to the reality of the journey are potentially profound.

¹³² Fortress Europe (2013).

¹³³ Today's Zaman (2010).

¹³⁴ Expert Panel on Asylum Seekers (2012).

¹³⁵ Newland (2013).

¹³⁶ Price (2013).

¹³⁷ BBC (2014).

¹³⁸ UNHCR (2013d).

¹³⁹ Pugh (2001); Mariam (2013); Foner (1998).

¹⁴⁰ McAuliffe (2014).

5. A MULTI-FACETED PROBLEM AND SOME MULTI-FACETED RESPONSES

The complex, multi-faceted nature of irregular maritime migration lends itself to multi-faceted, and perhaps multi-layered, responses in order to address the issue in a long-term, sustainable manner. The risks associated with developing ‘silver bullet’ solutions, or responses that only deal with one or two facets, are considerable—not least of which include deaths at sea and increases in maritime movement.

This section focuses on states’ responses to irregular maritime migration, noting that many state responses depend on the involvement and cooperation of non-state actors. Further discussion of the roles of international organisations, civil society and the corporate sector is in section 4.3 above.

5.1 States’ spans of control

Before examining states’ responses to irregular maritime migration, it is worth reflecting on the spans of control that states are likely to realistically possess in dealing with this problem. De Haas has argued that:

...the power of states to influence immigration and, particularly, emigration, is much higher for repressive, authoritarian and centralized states than for liberal, democratic and decentralized states, which need to take more account of democratic processes and fundamental human rights...migrant networks are believed to play a crucial role in facilitating continued migration over formally closed border (Bocker 1994), which is a key example of how migrants’ agency and counter-strategies can actively undermine states’ attempts to control migration.¹⁴¹

It has been suggested that governments tend to rely on three main policy levers to manage irregular migration including border control, refugee acceptance and treatment of asylum seekers during and after processing.¹⁴² However, the factors that country of destination governments have a significant degree of direct control over in seeking to manage or curb international irregular migration is fairly limited. Other factors remain outside of direct control, although destination country governments actively seek to influence where possible, and with varying degrees of success (e.g. visa arrangements in transit countries, effecting deportations, counter people smuggling operations, etc.).

Table 5 below summarises destination country governments’ spans of control, and highlights how extraordinarily difficult it is for governments to manage irregular migration (van Amersfoort, 1996). The factors listed below are not exhaustive. The typology presented is intended to highlight the real limits of government control in this area.

¹⁴¹ De Haas (2011) p. 24.

¹⁴² Based on Hatton (2011).

Table 5: Destination country governments' spans of control of irregular migration

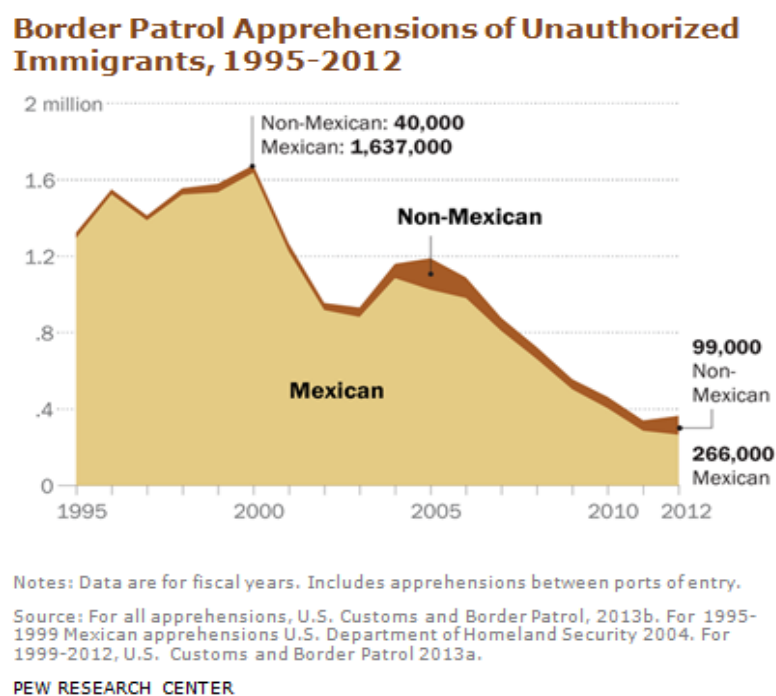
	Direct government control	Governments seek to influence	Outside of control or influence
Circumstances in home/host			
Political/security situation			
Economic situation			
Dysfunctional civil society			
Regional instability			
Negative outlook			
Circumstances in destination			
Refugee status determination rates (taking into account primary, review and/or court decisions)			
Policies on the management of irregular migrants (including asylum seekers)			
Economic situation			
Functioning civil society			
Diaspora/community presence			
Enabling factors			
Ease of travel/transit (e.g. transit country visa policy settings)			
Diaspora/community assistance			
Telecommunications technology			
People smugglers / transnational criminal networks			
Endemic corruption in other countries			

The limited ability of any government to control directly its economy, for example, in an increasingly globalised world is perhaps best demonstrated by the global financial crisis, which was precipitated in mid-2007 in the US economy when a loss of confidence in the value of sub-prime mortgages caused a liquidity crisis. The flow-on effects were substantial throughout the world, and while governments experienced varying degrees of success in averting national financial crises, no national economy was completely immune to the effects. It has been well documented that the GFC also entailed changes in global migration.¹⁴³ One example is that of Mexican irregular migration to the United States, which has seen a significant decrease since 2007, as shown in the figure below. The impact of the economic cycle on migration to the US (as well as 'return' migration from the US) has been a subject of much research and analysis and, notwithstanding the difficulties associated with quantifying those dynamics,

¹⁴³ Abella & Duncanes (2009); Beets & Willekens (2009); Koser (2010).

there is a general view that economic factors play a (significant) role in migration flows, including irregular migration flows.¹⁴⁴

Figure 7: Border patrol apprehensions in the United States



5.2 Conceptualising responses to irregular migration

There is widespread agreement in the literature that there has been an iterative process of implementation of increasingly restrictive policy strategies designed to reduce the arrival of irregular migrants. Since the high asylum applications rates of the early 1990s in Europe, for example, a range of new asylum policy and legislative reforms across the EU and other European countries is thought to have been instrumental in reducing irregular migration flows.¹⁴⁵ Although some commentators have noted that while the number of asylum seekers fell in Europe during the 1990s, the number of irregular migrants increased.¹⁴⁶

Much of the literature concentrating on responses to irregular maritime migration is operationally focused with particular policy responses examined in detail.¹⁴⁷ One of the limitations of this research is that it struggles to keep up with dynamics that are constantly shifting, including in relation to evolving security, geopolitical, social and economic developments and environments.

There is merit in examining responses to maritime migration in a broader context, and with particular reference to the increased restrictiveness in air travel. Conceptually, it could be said that a similar focus on denying (potential) irregular migrants access to territory has occurred in state responses to both air and maritime migration. There are, of course, limitations to this conceptual approach given

¹⁴⁴ Papademetriou & Terrazas (2009).

¹⁴⁵ Koser (2010) p.10.

¹⁴⁶ Ibid p. 11.

¹⁴⁷ See for example De Haas (2006); Lutterbeck (2009).

the practical differences in managing air and maritime flows, which have distinct and different features (as outlined in Table 6 below).

Table 6: Key features of the management of irregular air and maritime border movements

Air travel & irregular movements	Maritime travel & irregular movements
Limited ability to influence ‘transit’ travel prior to point of departure	Limited ability to influence ‘transit’ travel prior to point of departure
Corrupt border and other officials’ likely to facilitate movement	Corrupt border and other officials’ likely to facilitate movement
Smugglers/agents exploit opportunities to facilitate irregular movement	Smugglers/agents exploit opportunities to facilitate irregular movement
Bilateral cooperation required for some aspects but not all	Bilateral cooperation required for some aspects but not all
Reliance on visa system (prior checking of migrants)	Subverts visa system (no checking of migrants)
Highly regulated carriers	Unregulated carriers
Heavy reliance on IT	More limited reliance on IT
Reliance on intelligence reporting	Heavy reliance on intelligence reporting
Known/limited departure points	Known & unknown/unlimited departure points
Ability to not board potential irregular migrants	<i>Inability</i> to not board potential irregular migrants

Nevertheless, there is cross-over in responses to irregular migration by air and sea, with the focus on preventing movement right the way along migration pathways (or pipelines), including in source, host, and transit countries. This approach is evident in the ‘virtual border’ model adopted by Australia in relation to air travel. Integrity and other checks occur well before people board planes.

In addition to implementing measures before and at the border, destination states also focus on ‘in-country’ aspects that may act to encourage or discourage movement, including in relation to the treatment of irregular migrants (e.g. immigration detention, returns and removals, refugee processing, asylum seeker management). These issues are discussed in more detail below.

5.3 Responses to irregular maritime migration

The discussion below is not intended to be exhaustive but aims to provide examples of destination states’ responses to irregular maritime migration. This section is largely descriptive, relying more heavily than other sections of this paper on government information, as opposed to academic literature. It is focussed on specific destination countries/regions that experience irregular maritime migration directly, and for which information is available—the EU, the US, Italy, Greece, Spain, Australia, and Saudi Arabia.

This section has been structured to reflect the migration ‘pathways’ and processes, so that **origin country** strategies are discussed first, followed by **transit country** strategies, then strategies implemented at the border, and finally strategies focused on policies and practices in the **destination country**.

*Morocco: From Emigration Country to Africa's Migration Passage to Europe**Excerpt from De Haas (2005)*

Since 2004, Morocco and Spain have collaborated in joint naval patrols and readmission of Moroccan and non-Moroccan nationals in return for \$390 million in aid.

To reduce immigration flows from Morocco, the EU is also seeking to boost Morocco's development. In 1996, Morocco signed the European Mediterranean Association Agreement (EMAA) with the EU, Morocco's most important trading partner. This should lead to the establishment of a free trade area in 2010. The EU's support for Morocco's economic transition is mainly implemented through the MEDA (Mésures d'Accompagnement or Accompanying Measures) program, which aims to increase competitiveness by developing the private sector and promoting good governance.

Significant funds from the MEDA program target the stated goal of immigration reduction. Of the total MEDA aid budget of 426 million euros for 2000-2006, 115 million euros (27 percent) are being spent to "break out of the circle of weak growth, unemployment, poverty, and migration" through support for the control of illegal immigration and rural development programs. In particular, the funds target the northern provinces, which are seen as a source of poverty, drugs, human smuggling, and illegal migration.

Although the Moroccan government is formally complying with MEDA's and the EU's fight against illegal immigration, serious doubts remain about the credibility and effectiveness of these policies. First, on a yearly basis, MEDA aid is equal to only two percent of remittances. Second, besides a certain reluctance to play the role of Europe's policeman and massively expel sub-Saharan immigrants, which might also harm strategic political relations with sub-Saharan countries, Moroccan policymakers claim it is impossible to stop migration as long as the economic and political root causes persist.

Although the number of interceptions have dramatically increased in recent years, it is estimated that the majority of migrants reach Spain due to the professionalization of smuggling techniques and a diversification and expansion of migration strategies. Also, sub-Saharan immigrants who are deported to Algeria tend to return within a few days.

5.3.1 Stabilising populations in origin countries

There would appear to be a continuing focus on the use of aid-related funds and assistance to improve livelihoods in developing countries and regions as a means of stabilising populations. "Underlying international thinking on aid and migration has been the question of the effectiveness of aid in reducing migration and refugee flows..."¹⁴⁸ While this objective may be secondary to the main objectives related to poverty reduction, human development, and strengthening civil society, it nevertheless remains an important consideration of the international community. It could be argued, however, that as research and analysis on the links between migration and development has deepened, there is recognition that previously held views on development and the extent of sedentariness (or otherwise) are likely to be overly simplistic:

...there is a general consensus among international development stakeholders that boosting a country's economic development will end emigration from that state...this assumption oversimplifies the situation...emigration can acquire a momentum which makes it self-perpetuating and also, in a certain sense, irreplaceable. Migratory movements can generate their own dynamics and impel individuals to emigrate...¹⁴⁹

¹⁴⁸ Nyberg-Sørensen, Van Hear & Engberg-Pedersen (2002).

¹⁴⁹ Lacomba & Boni (2008) p. 138.

5.3.2 Supporting transit countries to manage migration and borders

It has long been recognised that with increasingly globalised travel (and air travel in particular), improving the capability of other countries to manage migration and their borders is likely to have broader implications for the movement of people. Bilateral and multilateral cooperation in relation to air travel has been a key feature of the regulation of people movement for decades. Given some of the key features of irregular air travel included in Table 6, it could be said that cooperation on this form of movement has proved less complicated and easier to manage than that related to irregular maritime movement.

In more recent times, and in response to changes on movements, countries have been confronted by increases in irregular maritime migration that have required consideration of transit country situations and issues. European ‘frontline’ countries’ responses to increases in maritime flows over the last decade have resulted in a range of bilateral agreements and arrangements being finalised with transit countries as a means of reducing arrival numbers.

Italy's support of North African transit countries

Italy's approach to maritime ventures has evolved over the last three decades in response to two main issues: ongoing increases in illegal maritime arrivals; and changes to EU regulation of illegal migrants and asylum seekers, which has meant that Italy has become increasingly responsible for managing those who enter its country.

In attempts to stem irregular maritime migration, bilateral cooperation with Libya, Tunisia and Egypt has been progressed via various agreements over many years. Agreements involve a range of responses aimed at strengthening transit country capacity to manage their own land and sea borders, including information exchange, vocational training, establishing multi-purpose centres in Libya, joint maritime patrols, DNA identification techniques, provision of patrol boats, document examination, border systems, and detention support.²

The events of the 2011 Arab spring in Tunisia, Libya and Egypt saw a significant increase in the number of maritime arrivals to Italy. Despite political changes in all three North African countries, bilateral cooperation has continued and agreements with new regimes have been finalised, and in some cases, expanded.³

Italy's bilateral cooperation on border control with North African countries has been criticised for its lack of attention to human rights. The Office of the High Commissioner for Human Rights, for example, has commented on Italy and Libya's bilateral cooperation on strengthening Libya's capacity to intercept irregular migrants on Libyan territory or territorial waters migration, and in particular on the lack of attention on “strengthening Libya's normative framework and institutional capacities regarding the human rights of migrants.”⁴

From the late 1990s, the EU Dublin agreements have resulted in a significant number of people who entered the EU via Italy being returned there for asylum processing. Previously, asylum seekers would pass through Italy to other parts of the EU without detection and/or processing. See Van Selm and Cooper (2006), page 59. Italy was previously known as the ‘backdoor’ of Europe.

² In May 2009, Italy reached an agreement with Libya to the effect that boat arrivals intercepted were sent back for asylum processing in Libya. In February 2012, the European Court of Human Rights found that Italy's ‘pushback’ policy was in contravention of its human rights obligations.

³ Paoletti (2012).

⁴ OHCHR (2012).

While much of the focus of the support and engagement with transit countries has been on border management practices, training, and related technology, there has perhaps been a lesser focus on developing and supporting migration policy and program management capability. Changes to visa policy settings in transit countries have the potential to supplement other forms of support by offering ‘high impact’, low cost solutions (as demonstrated by the recent changes to Iranian visa on arrival settings in Indonesia).

5.3.3 Supporting transit countries to manage irregular migrant populations

While not relevant to some irregular maritime migration flows, many involve migrants transiting through one or more countries en route to their destination. Several destination countries have actively sought to support and fund transit countries, and international organisations within those countries, to better manage irregular migrants. There are perceived to be benefits in seeking to support irregular migrants in transit countries from a range of perspectives, including both the transit country and the destination country.

5.3.4 Supporting regional responses to irregular maritime migration

There has been substantial cooperation between states and non-state actors in seeking to address irregular migration, including irregular maritime migration. Cooperation has involved the formation of regional consultative processes, engaging in dialogues and roundtables, the establishment of support offices and secretariats as well as range of activities that flow from these forms of cooperation, including training, information sharing, technical assistance, research and analysis.

The Regional Mixed Migration Secretariat

Excerpt from www.regionalmms.org

The overall objective of the RMMS is to support agencies, institutions and forums in the Horn of Africa and Yemen sub-region to improve the management of protection and assistance response to people in mixed migration flows in the Horn of Africa and across the Gulf of Aden or Red Sea in Yemen.

The RMMS is a regional hub aiming to provide: support and coordination; synthesis, analysis and research; information and data management; and advocacy.

The RMMS aims to address overall regional migration and asylum challenges identified by the Inter Agency Standing Committee's Mixed Migration Task Force (IASC MMTF), and coordinate closely with existing Mixed Migration Task Forces (MMTFs in Puntland, Somaliland, Djibouti, South Central Somalia and Yemen - all co-chaired by UNHCR and IOM). The establishment of the RMMS was a response to key recommendations from the Regional Conferences on mixed migration in the Gulf of Aden, attended by agencies and authorities from the region (held in Yemen 2008 and Djibouti 2009). A meeting in Djibouti in March 2011 served to specifically consult on and discuss the establishment of the RMMS. In June 2011 the secretariat coordinator was hired and by mid-July 2011 the secretariat formally commenced its work.

The strategic orientation of the RMMS is therefore to support and enhance the protection of people in mixed migration flows in the Horn of Africa and Yemen region, as an integrated element within a wide-reaching mixed migration protection strategy developed by the actors engaged in mixed migration issues. The creation of the RMMS is therefore part of a wider development of regional initiatives to support migration development.

The RMMS is primarily funded by the European Commission with additional valued support from the Swiss Development Cooperation, the International Organisation for Migration and the British Government.

The development of ongoing, sustainable approaches to the management of irregular maritime migration within regions acknowledges the transnational nature of the phenomenon. The involvement of states, international organisations, civil society and the corporate sector allow for the multiplicity of interest and priorities to be considered, including in relation to sovereignty, migrants' rights, protection and reductions in irregular flows.

5.3.5 Restricting access to territory

There has been a discernible increase in states' attempts to restrict irregular migrants' access to their territory. Over time, this has involved a range of strategies including the introduction of visa

requirements—as has been the case for Moroccans entering Spain since 1991¹⁵⁰—implementing interdictions and returns of irregular maritime migrants, the construction of large physical barriers to fortify borders, the introduction of out-of-country processing of asylum claims (in transit or third countries), and providing for the resettlement of refugees in countries other than the destination country.

The multitude of state responses over the last two decades aimed at restricting access has resulted in considerable public and political debate, most particularly in destination countries. Restrictive policies have perhaps proved most contentious in relation to the treatment of asylum seekers, which in some geographic regions, are part of mixed migration flows. While it is beyond the scope of this paper to detail the range of policy and operational responses conceived and/or implemented, a number of examples are summarised below.

The US approach to interdictions

The United States (US) government's policy is based on interdiction. Following the terrorist attacks in September 2001, interdiction has been more explicitly linked to deterrence of refugee as well as migrant flows. Prior to September 11, interception was meant to interrupt illegal activity but still provide avenues through which people could apply for asylum. That stance has since been abandoned as constituting an unacceptable waste of law-enforcement resources. US policy now focusses on interception and direct repatriation in many cases, although circumstances are often country-specific.

The U.S. Coast Guard is the lead government agency for the maritime interdiction of illegal immigrants and is charged with securing approximately 2,600 miles of coastal border of the US. The mandate of the U.S. Coast Guard stems from the Immigration and Nationality Act, which grants the President authority to suspend the entry of any group of aliens that he deems detrimental to the US and makes it unlawful for any alien to enter the US unless they do so in compliance with the rules set by the President.

Cuban nationals are subject to a policy known as the 'wet foot/dry foot' policy. Cubans found at sea (wet foot) are automatically repatriated to Cuba. Cubans who reach dry land (dry foot) are allowed to remain in the US and apply for residency after one year. Cubans found at sea who claim asylum are held in Guantanamo Bay while their claim is processed; if successful they are transferred to a third country, such as Canada, for settlement.

Irregular migrants from Haiti and the Dominican Republic are subject to expedited removal proceedings, which can include mandatory, indefinite detention, without possibility of bail and little opportunity to make an asylum claim. The US government position is that irregular migrants from Haiti and the Dominican Republic are mainly economic migrants.

The Saudi Arabia-Yemen Barrier

The Gulf of Aden is a significant irregular maritime migration corridor, comprising large volumes of Ethiopians and Somalis, and smaller numbers of Eritreans who travel irregularly to Yemen and, in many cases, onward to Saudi Arabia. The vast majority of migrants use maritime people smuggling services that are concentrated at two embarkation points: the coastal town of Obock in the Republic of Djibouti, and the port city of Bosaso in the pseudo-independent state of Puntland, within internationally-recognised Somalia.

According to the Regional Mixed Migration Secretariat (RMMS), which monitors and analyses irregular movements across the Gulf of Aden, some 330,000 irregular migrants arrived in Yemen from the Horn of Africa in the last four years (2010 to 2013).

One of the most visible signs of the Saudi Arabian government strategies towards irregular migration is its construction of the Saudi Arabia-Yemen barrier. Spanning part of the 1,800km border with Yemen, consisting of sandbags and pipelines, the three metre high barrier is filled with concrete and fitted with electronic detection equipment.² Although Yemen initially protested the construction of the barrier, Saudi Arabia stated that it was necessary for protecting their borders against an influx of illegal immigrants and the smuggling of drugs and weapons and has continued construction of the barrier.³

Based in Nairobi, the RMMS supports relevant agencies and institutions (including UNHCR, IOM and regional governments) to improve the management of protection and assistance to people in mixed migration flows from and within the Horn of Africa, including to Yemen.

² RMMS (2013 b) p. 82.

³ RMMS (2013 b) p. 82.

¹⁵⁰ González Enríquez (2011) p. 3.

Papua New Guinea Resettlement and Operation Sovereign Borders

In July 2013 the Regional Resettlement Arrangement between Australia and Papua New Guinea was announced. The arrangement provides for irregular maritime arrivals transferred to PNG under the Australian *Migration Act 1958* and who are found to be refugees to be permanently resettled in Papua New Guinea or any other participating regional country, including Pacific Island states, other than Australia (DFAT 2013). Under the arrangement, those found to be refugees will not be resettled in third countries other than those that participate in the Regional Resettlement Arrangement. The policy is centred on preventing IMAs accessing Australia during refugee status determination processing and, for those found to be refugees, as re-settled refugees.

In September 2013 the Australian government announced the implementation of the military-led Operation Sovereign Borders to combat people smuggling. Operation Sovereign Borders is a military-led, border security operation supported and assisted by several Australian federal government agencies. Measures under Operation Sovereign Borders include detection and interception of suspected illegal entry vessels and transfer of passengers, as well as disruption and deterrence measures with regional partners. Media reporting indicates that 'turnback' operations involving the return of irregular migrants on lifeboats to Indonesia have been occurring.

5.3.6 In-country policy on asylum seekers and refugees

There is much discussion in the academic literature and in the broader public discourse on government policy in relation to treatment of irregular migrants, and asylum seekers in particular, including on its impact on irregular migration flows. In reality, this single 'policy' approach comprises many elements including:

- migrant placement (e.g. detention facilities, 'community' detention/housing support in the community);
- visa arrangements and conditions (e.g. work rights and access to welfare support while status is resolved, permanent/temporary protection visas);
- voluntary and involuntary returns policies and arrangements, including for those who do not engage protection; and
- refugee status determination (RSD) policy and its implementation.

There is acknowledgement in the literature that destination countries' policies towards irregular migrants and asylum seekers and refugees are likely to be one factor effecting irregular movement, although causality (or even correlation) is highly problematic due to the number of factors involved in irregular movement.

Hatton's extensive work, for example, on the influence of deterrence measures in OECD countries and in Europe found that restrictive refugee status determination processes did appear to work in the second surge of asylum seekers in the late 1990s-early 2000s to reduce numbers, but only when aligned with other substantial structural changes such as the universal consolidation of measures to restrict access to territory by implementing tighter border controls and tougher visa regimes that followed September 11.¹⁵¹ In line with Hatton's findings, other researchers who have looked at the impact of RSD on asylum flows acknowledge that identifying a direct link between RSD and the number of asylum applications is not possible.¹⁵²

Research indicates that there is some evidence that aspects of government policy on the treatment of asylum seekers and refugees does have some impact on migrant decision making.¹⁵³ The extent of such impact is unclear, particularly when other factors underpinning movement (e.g. displacement factors and access to territory) are taken into account.

¹⁵¹ Hatton (2012a) pp. 124-5.

¹⁵² Neumayer (2004); Neumayer (2005).

¹⁵³ Robinson & Seagrott (2002).

With complex and constantly evolving regulatory systems, such as control of ‘illegal’ immigration, setting the rights goals is absolutely essential. In that regard, instead of seeking perfection, with its predictable disappointments, controlling ‘illegal’ immigration might proceed from the twin premises that uncertainty and imperfection will be a way of life, and policies will always be partly an exercise in the inexact. (Demetrios Papademetriou, Migration Policy Institute, 2005)

6. CONCLUSIONS

Irregular maritime migration is intrinsically linked to a range of other phenomena—regular migration, other forms of irregular migration, human development, improvements in telecommunications and the securitisation of migration. The complex, multi-faceted nature of irregular maritime migration renders it a particularly challenging issue for many states around the world. The geopolitical implications now and into the future are potentially profound as origin, transit and destination states work to better manage movements and seek to avoid deaths at sea and reduce migrant vulnerability.

When examined as a global phenomenon, it is evident that South-North irregular maritime migration flows are highly visible and well documented, especially compared to other (larger) flows, including in South East Asia, Africa and the Middle East. A better understanding of the scale and nature of flows in other parts of the world, including in relation to the issues that migrants face, may raise additional challenges with broader implications for global migration movements.

In global and international discussions, it would appear that the appetite for a greater degree of convergence of approaches to restrictive migration policies, recognising migrant rights and increasing human development may well be increasing, notwithstanding the inherent difficulties in navigating a path that is able to achieve aspects of all three objectives. This will continue to be a challenge for individual nation states and regions as the global discourse evolves and expectations change. It may well be that in the future not only will migrants’ aspirations increase, but significant populations may find that their capability to migrate may also increase. For some of these people, irregular maritime migration may well prove the only viable migration option.

Notwithstanding considerable challenges, it is worth reflecting on the policy and operational response capacities of some nation states to effectively harness resources (including financial, human, intellectual, technological, and social, etc.) to deal with complex and difficult issues. There would appear to be a strong appetite for agile responses based on a good understanding of evidence, options, implications and risk, including in global and regional forums. One of the challenges for policymakers is to be able to deliver on all of these aspects in dynamic environments, and in an era of greater contestability.

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ATTACHMENT A – Estimated number of irregular migrant populations by region/country

Residing region/country	Time period	Estimated population (stock)	Data sources
European Union	2007	4.5 million	Council of Europe. 2007b. <i>The Human Rights of Irregular Migrants in Europe</i> . Comm DH Issue Paper (2007) 1, Council of Europe, Brussels, p.8
	2008	1.9 - 3.8 million	Clandestino Project, Policy Brief: Size and Development of Irregular Migration to the EU: http://irregular-migration.net/typo3_upload/groups/31/4.Background_Information/4.2.Policy_Briefs_EN/ComparativePolicyBrief_SizeOfIrregularMigration_Clandestino_Nov09_2.pdf , p.4.
	2008	8 million	http://www.theguardian.com/uk/2010/may/25/eu-border-fewer-illegal-immigrants
United Kingdom	2007	417,000 - 863,000	Gordon I et al. 2009. <i>Economic Impact on London and the UK of an Earned Regularisation of Irregular Migrants in the UK</i> . Greater London Authority: London, p.7.
	2009	750,000	Koser 2009. <i>Dimensions and dynamics of irregular migration</i> , Geneva Centre for Security Policy, p.186.
Italy	2008	651,000	Clandestino database on irregular migration, <i>Stocks of Irregular Migrants: Estimates for Italy</i> . http://irregular-migration.net/typo3_upload/groups/31/3.Database_on_IrregMig/3.2.Stock_Tables/Italy_Estimates_IrregularMigration_Oct09.pdf , p.1
	2010	544,000	European Migration Network, Italy. Migration channels - Visa and irregular flows 2012: http://www.emnitaly.it/images/publ/8/eng2.pdf , p.213
	2011	<500,000	European Migration Network, Italy. Migration channels - Visa and irregular flows 2012: http://www.emnitaly.it/images/publ/8/eng2.pdf , p.213
Greece	2011	172,000 - 390,000	Clandestino database on irregular migration, <i>Stocks of Irregular Migrants: Estimates for Greece</i> . http://irregular-migration.net/fileadmin/irregular-migration/dateien/3.Database_on_IrregMig/3.2.Stock_Tables/Greece_Estimates_IrregularMigration_Jul12.pdf , p.1
Spain	2009	300,000 - 390,000	Clandestino database on irregular migration, <i>Stocks of Irregular Migrants: Estimates for Spain</i> . http://irregular-migration.net/typo3_upload/groups/31/3.Database_on_IrregMig/3.2.Stock_Tables/Spain_Estimates_IrregularMigration_Nov09_2.pdf , p.1
United States	2007	12.2 million	Pew Hispanic Centre, 2013. <i>Population decline of unauthorized immigrant stalls, may have reversed</i> , September 2013: http://www.pewhispanic.org/2013/09/23/2-number-and-trend/
	2010	10.8 - 11.2 million	CRS Report for Congress, 2012. <i>Border security: Immigration enforcement between ports of entry</i> : http://fpc.state.gov/documents/organization/180681.pdf
	2012	11.7 million	Pew Hispanic Centre, 2013. <i>Population decline of unauthorized immigrant stalls, may have reversed</i> , September 2013: http://www.pewhispanic.org/2013/09/23/2-number-and-trend/
Saudi Arabia	2013	1 million+	Estimate by Iain Walker, Oxford University's centre on Migration, Policy and Society: http://compasoxfordblog.co.uk/2013/08/saudi-arabia-and-its-immigrants/
Yemen	2013	25,000+	IOM's estimate of irregular Ethiopian migrants stranded on the Yemeni-Saudi border en route to Saudi Arabia. Regional Mixed Migration Secretariat (2013), <i>Responses to mixed migration in the Horn of Africa and Yemen: policies and assistance responses in a fast-changing context</i> . www.regionalmms.org/index.php?id=40
Australia	2010	53,900	Department of Immigration and Border Protection, http://www.immi.gov.au/media/fact-sheets/86overstayers-and-other-unlawful-non-citizens.htm
	2011	58,400	Australian National Audit Office, Individual Management Services Provided to People in Immigration Detention, 2013: http://www.anao.gov.au/~media/Files/Audit%20Reports/2012%202013/Audit%20Report%2021/201213%20Audit%20Report%20No%2021.pdf , p.39

ATTACHMENT B – International Legal Instruments

European Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 5; 213 UNTS 221 (entered into force 3 September 1953).

- The 'European Convention on Human Rights' sets forth a number of fundamental rights and freedoms (right to life, prohibition of torture, prohibition of slavery and forced labour, right to liberty and security, right to a fair trial, no punishment without law, right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to marry, right to an effective remedy, prohibition of discrimination). More rights are granted by additional protocols to the Convention.

International Convention for the Safety of Life at Sea, 32 UST 47; 1184 UNTS 278 (entered into force 25 May 1980).

- The main objective of the SOLAS Convention is to specify minimum standards for the construction, equipment and operation of ships, compatible with their safety. It assigns responsibility for compliance to a vessel's "Flag State;" i.e., the State under which the vessel is registered. States to the SOLAS Convention also have certain powers to inspect vessels of other States.

International Covenant on Economic, Social and Cultural Rights, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993 UNTS 3; 6 ILM 368 (1967) (entered into force 3 January 1976).

- This Covenant is one of the basic documents contained in the International Bill of Human Rights. The document includes some of the following rights: 1) right to food; 2) right to work; 3) right to housing; and 4) right to education.

International Covenant on Civil and Political Rights, 999 UNTS 171 and 1057 UNTS 407 / [1980] ATS 23 / 6 ILM 368 (1967) (entered into force 23 March 1976).

- The International Covenant on Civil and Political Rights (ICCPR) is one of the basic documents contained in the International Bill of Human Rights. Specific civil and political rights are enumerated in this instrument, such as inherent right to life, right to liberty and security of person, right to a fair trial, and many more important rights.

International Convention on Maritime Search and Rescue, 1403 UNTS (entered into force 22 June 1985)

- This Convention was aimed at developing an international SAR plan, so that the rescue of persons in distress at sea will be co-ordinated by a SAR organization and, when necessary, by co-operation between neighbouring SAR organizations.

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, A/RES/45/158 (entered into force 1 July 2003).

- This Convention provides a set of binding international standards to address the treatment, welfare and human rights of both documented and undocumented migrants as well as the obligations and responsibilities on the part of the sending and receiving States.

Protocol relating to the Status of Refugees, 606 UNTS 267, (entered into force 4 October 1967).

- The 1967 Protocol removes the temporal and geographical restrictions on the definition of refugees that had been included in the post-World War II (1951) Convention relating to the Status of Refugees.

Universal Declaration of Human Rights, UNGA Res 217 A(III) (UDHR) (adopted 10 December 1948).

- This document is an integral part of the International Bill of Human Rights. The rights and obligations enumerated in the United Nations Charter were codified in the UDHR. This was the first instrument to articulate the fundamental rights and freedoms of all people.

United Nations Convention against Transnational Organized Crime, GA Res 55/25, UN GAOR, 55th sess, 62nd plen mtg, Agenda Item 105, Supp No 49, UN Doc A/RES/55/25 (8 January 2001) annex II ('2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime').

- The Convention against Transnational Organized Crime and supplementary protocols aims to promote cooperation in more effectively preventing and combating transnational organized crime. To supplement the Convention, two Protocols also tackle specific areas of transnational organized crime that are of particular concern to UN Member States, trafficking and smuggling.

United Nations Convention against Transnational Organized Crime, GA Res 55/25, UN GAOR, 55th sess, 62nd plen mtg, Agenda Item 105, Supp No 49, UN Doc A/RES/55/25 (8 January 2001) annex III ('2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime').

United Nations Convention on the Law of the Sea, 1833 UNTS 3 / [1994] ATS 31 / 21 ILM 1261 (1982) (entered into force 16 November 1994).

- This international agreement establishes a legal order for the oceans. It contains provisions on territorial sea and innocent passage, international navigation, archipelagic states, exclusive economic zone (EEZ), continental shelf, high seas, regime of islands, enclosed seas, right of access of land-locked states, and settlement of disputes.

United Nations Convention relating to the Status of Refugees, 189 UNTS 137/ [1954] ATS 5 (entered into force 22 April 1954).

- The Convention contains provisions that define who refugees are, outline their legal status, and provide administrative guidelines for complying with the Convention, including co-operation with the UN High Commissioner for Refugees.

United Nations Convention relating to the Status of Stateless Persons, 360 UNTS 117 (entered into force 6 June 1960).

- This Convention defines the term "stateless person" as "a person who is not considered as a national by any State under the operation of its law" (article 1). The convention defines the obligations of states to these people and their status.

United Nations Declaration on Territorial Asylum, UN Doc. A/6716 (adopted December 1967).

- This Declaration provides for the mutual respect among States of other States' decisions to grant asylum to persons fleeing persecution. It proscribes the expulsion or return of such persons to States where they may be persecuted. However, persons who have committed war crimes, or crimes against peace or humanity, are not entitled to a grant of asylum.

United Nations Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live, A/RES/40/144 (adopted 13 December 1985).

- This Declaration guarantees to non-nationals ("aliens") a number of fundamental rights, such as life and security, privacy, fair treatment before tribunals, freedom of conscience and religion, peaceful assembly, and others. It proscribes torture and cruel punishment of non-nationals. It also expressly precludes the legitimization of the illegal entry of aliens into a State, and requires their observance of the laws of the State in which they are present.

Information sourced from:

Electronic Information System for International Law (EISIL).

<http://www.eisil.org/index.php?sid=4ails&t=index&having=302254> [accessed 27 February 2014].