



Photo Credit: A Middle Eastern woman and her children try to keep warm at the Idomeni refugee camp in Greece: Giannis Papanikos, Shutterstock, December 2015

Two Big Risks of Forced Migrations: Migrant Smuggling and Trafficking in Persons

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Forced migration or forced displacement continues to relocate millions of people around the world. The category includes refugees, migrants, and internally displaced persons, and it is a direct result of persecution, conflict, other events seriously disturbing public order, and generalized human rights violations. The United Nations High Commissioner for Refugees estimates that more than 82.4 million people¹ are currently forcibly displaced—more than twice the number of people as a decade ago. Of those, women and girls make up 50 percent of displaced populations; they are, in general, at a higher risk of violence.

War and conflict remain the main causes of displacement on a global scale, and the displaced are increasingly female. Also, more women are migrating on their own rather than as dependents. Coming from the Middle East, more than 6 million Syrians are refugees or asylum seekers; women make up the majority of those displaced, representing an estimated 78 percent.² Likewise, the recent end of the US war in Afghanistan continues to pose tremendous risks for Afghani women. The new Taliban government so far represents a deterioration of the advancements in women's rights achieved in the last 20 years during the US occupation. Consequently, the present

About the Series

Gender-based violence (GBV) affects one in three women worldwide, making it an urgent and important policy challenge. Many countries around the world have passed laws intended to protect women from violence, yet violence persists. Over the past year, the COVID-19 pandemic has raised awareness of the perils women face from gender-based violence—what has come to be known as the “shadow pandemic”—but it has also aggravated risk factors while increasing barriers to protection, support, and justice.

This publication aims to focus on the intersection of gender-based violence and the rule of law by examining how legal frameworks, judicial system responses, and public policy contribute to the ways in which gender-based violence is—and is not—addressed around the world. Each piece addresses the complicated challenge of gender-based violence and the successes and failures of various public policy responses globally, and offers recommendations for a path forward.

situation places them at a higher risk of exploitation in the labor market, gender-based violence, torture, and forced marriage. In the Americas, displaced Venezuelans are only second to Syrians; women account for 52 percent of the total displaced population of more than 5 million.³ Border crossings between Venezuela and Colombia have become increasingly dangerous; women and girls are particularly at risk. Criminal groups have taken over the territory, where women are now targets of their violent actions and forced recruitment. Women living in Central America's Northern Triangle,⁴ for example, face poverty, gang violence, institutional weakness, and corruption that makes them targets for domestic violence, human trafficking, and various forms of gendered-based violence.

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Gender-based violence is more pervasive in crisis scenarios where displaced women lack access to education, health services, security, lawful immigration status, and acceptance of changing gender norms. Receptor countries in Europe, as well as the United States and other high-income countries, are faced with the challenge of responding to a worldwide crisis where “the scale of displacement and the pre-existing political and economic tensions in the region [limit] the efficiency of the responses.”⁵ Consequently, human smuggling services—managed or supported by criminal organizations (including the so-called “drug cartels”)—take advantage of migrants’ vulnerable situations, particularly in the case of women, who might become victims of

human trafficking or other violent crimes. However, while women migrants and asylum seekers are most vulnerable to trafficking rings or other organized crime groups, receptor countries’ immigration policies often exacerbate dire conditions for migrants’ livelihood.

Forced displacement is not gender neutral; instead it comes with key challenges for women and girls who are forced to migrate (or are forcefully displaced) worldwide. “The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof.”⁶ Significant security risks are linked with two illicit activities: migrant smuggling and trafficking in persons. It is worth noting that these are two distinct phenomena, typified as two different crimes according to international law. These terms are often confused or used interchangeably. An essential distinction between them is that, “victims of trafficking are considered victims of a crime under international law; smuggled migrants are not—they pay smugglers to facilitate their movement.”⁷ According to international law, “human trafficking is a crime involving the exploitation of an individual for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. On the other hand, migrant smuggling occurs when a person voluntarily enters into an agreement with a smuggler to gain illegal entry into a foreign country and is moved across an international border.”⁸

One key concept in this distinction is “consent.” It is worth noting that the consent of a victim of human trafficking is irrelevant when any of the means set forth in the Trafficking in Persons Protocol have been used—i.e., “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”



Photo Credit: Central American asylum seekers and their children being processed by Border Patrol agents in La Joya, Texas: Vic Hinterlang, Shutterstock, May 2021

“The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof.”

What is more, “The recruitment, transportation, transfer, [harboring] or receipt of a child⁹ for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means” mentioned above.¹⁰

Even though we are talking about two clearly different phenomena, confusion arises for a number of reasons. When referring to certain other illicit activities—such as the drug trade or illicit arms trade—the terms “smuggling” and “trafficking” are frequently used interchangeably. What is more, it is

not always easy to separate one illicit activity from the other. Actually, when analyzing the effects and risks of forced migrations, the separation of these phenomena is often a gray area.

Most displaced migrants or refugees must hire the services of human smugglers and pay corrupt authorities in various countries in order to make it to their desired destinations in safer and more developed nations. Migrant smugglers frequently put displaced migrants and refugees at great risk since they are often linked—or even work in tandem—with human trafficking rings, drug trafficking organizations, kidnapping rings, and other organized crime groups. Migrant and refugee women and girls are comparatively more vulnerable than men, and they are the groups more likely to be subjected to violence along the migration routes. They are also frequent victims of human trafficking for the purpose of sexual exploitation.¹¹

In order to provide effective solutions to these multilayered problems, a reckoning with the cultural

roots of gender-based violence is needed across the world. Such problems have to do mainly—but not exclusively—with South–North flows, where women who are facing extreme poverty, violence, and a lack of protection from the state attempt to reach more stable and richer countries that promise better opportunities and security for them. Awareness campaigns and activist efforts have come a long way in bringing attention to women’s vulnerable role in human displacement scenarios and susceptibility to extreme instances of gender-based violence, forced labor, and human trafficking rings.

But this is not enough. On an immediate level, transit and receptor countries must provide adequate protection for migrant flows, particularly for displaced women and girls against the rapacity of human smuggling networks and the deleteriousness of human trafficking rings along the world’s migrant routes (land, maritime, and aerial). This includes efforts to deter the collusion between criminal organizations and local authorities and the preemption of inhumane treatment against displaced populations. Moreover, adequate anti-trafficking legislation in each country, effective enforcement, and wider availability of protection services for victims are paramount actions needed to reduce security risks for forcefully displaced women and girls. The European Union just released its 2021–2025 strategy¹² to prevent trafficking, break criminal business models, and protect and empower victims. With half of identified victims in the EU being non-EU citizens, the strategy aims to reduce demand by working with national authorities and civil society organizations targeting high-risk sectors. It also addresses the use of online platforms for the recruitment and exploitation of victims and places special emphasis on international cooperation with countries of origin and transit. In North Africa and the Middle East, Egypt¹³ is making important strides in addressing human trafficking and related crimes, with a comprehensive approach. The country has inaugurated specialized shelters for trafficked victims, increased prosecution, expanded training, and rolled out public awareness campaigns.

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Likewise, it is fundamental to have reliable data to support and expand policies that promote gender equality and provide women with economic and social opportunities. In Latin America, for example, a region where women are highly susceptible to these types of crimes, underreporting gives way to a normative and institutional vacuum, minimizing efforts and rendering them obsolete. To counter this, projects such as Infosegura in Central America, which is dedicated to providing gender-based violence data, have proven pivotal in allowing authorities to develop solutions based on reliable information.

National efforts to dismantle human smuggling networks, combat human trafficking, and eradicate corruption, such as Operation Sentinel¹⁴ and Joint Task Force Alpha¹⁵ in the United States are excellent initiatives, and their reach should be extended to regional and perhaps even global levels. More specifically, authorities in the various affected countries should collaborate closely to strengthen protections for displaced women and girls and deter the activities of migrant smugglers and human traffickers. Inadequate anti-trafficking legislation needs to be improved at the country level to raise these policies to international standards.¹⁶

Overall, there is a need for close cooperation between refugee-sending countries, transit countries,

and destination countries, in order to successfully face the enormous human challenges of forced migrations and address the root causes of such displacements. Due to the global complexity of trafficking and smuggling rings, international law enforcement cooperation is fundamental to conducting more investigations into the corruption and violence in certain areas, the illicit roles of state and local actors, and the configuration of human smuggling networks and human trafficking rings in their own territories. Most important, these efforts must lead to improved accountability by government authorities and civil society organizations regionally, while assuring the safety and protection of women along migration routes.

NOTES

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