

Migrants' Rights Network—Written Evidence (PMS0006)

1. The Migrants' Rights Network (MRN) is a registered charity set up in 2006 to strengthen civil society campaigns and advocacy work in support of a progressive, rights-based approach to immigration. MRN is now a leading UK network on migrants' rights issues, regularly contributing our perspective to public debate through the media and other policy fora. MRN works for an evidence-based conversation on immigration issues, extending across the whole of the public and bringing in Parliamentarians committed to open-minded discussion.
2. MRN has worked on issues related to irregular migration and refugee movement since its inception. Our range of interests and concerns extend to the situation in the European region and we are actively involved in the work of the Platform for International Cooperation on Undocumented Migrants, based in Brussels.
3. We have had the advantage of seeing evidence presented to the Committee by Mr Steve Symonds of Amnesty International and to Mr David Mepham of Human Rights Watch. We hope it will assist the brevity of this submission to say that we are in agreement with them.
4. The EU Plan against Migrant Smuggling (“The Plan”) appears overly focussed on policing operations, rather than in addressing the causes of migration movements. The crises in refugee and migration movements that we are seeing in Europe are caused by huge humanitarian crises around the world, particularly those mentioned in Oral Evidence Session No. 3 such as Syria, Somalia, Eritrea, Afghanistan and Libya, but also others. There are no safe, legal routes for refugees to claim asylum within the EU. Within that context a major contribution to the task of reducing smuggling would come from the creation of safe, legal routes into the EU for refugees; making a greater commitment to resettlement across the EU region; and more investment in durable solutions in sending countries, and also in transit countries. However, these solutions will have to be approached in a holistic manner, and with serious long-term investment and commitment. The overemphasis on policing in the Plan is at best a distraction from the root causes of the problem, and at worst will increase violations of the rights of those fleeing persecution and seeking sanctuary in the EU.
5. We are particularly concerned that the attitude of the UK government continues to be hostile to those fleeing persecution. We add our voice to those requesting that this Committee question the Prime Minister, and the Immigration Minister on their comments suggesting that the majority of those fleeing across the Mediterranean are ‘economic migrants’, as the evidence clearly shows otherwise.
6. Priority should be given to assisting vulnerable migrants, and ensuring that there are safe legal routes for refugees into the EU.
7. We agree with the points raised in the third oral evidence session around the apparent overemphasis in the policy of an enhanced police or judicial response. Routes into Europe are many and varied, and given the corruption and absence of rule of law protections in some relevant countries, forging effective partnerships to police Europe’s borders will be extremely difficult if not impossible. The Plan is overconfident in its assumptions around the possibility of more effective enforcement.

8. Smuggling networks are poorly understood, but what we do know, is that they are highly resilient, widely distributed, and the vast majority of actors and facilitators are very easily replaceable. These are not centralised operations capable of being hampered by the arrest of a few key players. Each stage of the journey may involve a person with local knowledge, capable of guiding migrants across a border. They will have contacts at the next stage to recommend, but they will not be dependent upon them. If any link is broken, new ones will be found. If a part of the border is made impassable, a new route will be found, with new guides.
9. Smugglers are not a uniform group, and we are concerned by the blanket characterisation all those who facilitate migrant movements in the Plan, the Agenda, and amongst EU officials and governments as being criminals. For example, the recent Anglo-French ministerial statement calls for action ‘stopping the evil criminal gangs who prey on migrants at every stage of the journey’.¹ While there is no question that criminal gangs or individuals, employing brutal measures, do prey on vulnerable migrants, and play a role in smuggling, it is overly simplistic to view all those who facilitate migrant movement over borders as violent or ‘evil’ criminals. Some are motivated by purely humanitarian concerns, such as the old woman who provides food for refugees passing through her village, or the unknown well wishers who put up signs pointing the way to water fountains in hot, dry country.² Others, while taking money, have a greater concern for the well-being of their passengers, and do not simply treat them as any other cargo. There are undoubtedly arrivals in far better appointed boats - rich Syrians have hired yachts to cross the sea in safety with their children.³ We would be wary of extrapolating the experience of the most vulnerable border-crossers, who are naturally more likely to need rescue and come to the attention of the authorities, to all those who use the services of smugglers.
10. We would recommend that where criminal measures are taken against people smugglers there should be exemptions for all those acting with predominantly humanitarian motives, even if they accept some compensation. For those who are undoubtedly engaged in criminal smuggling activity, account should be taken of any measures smugglers take to improve the safety and well-being of their passengers when considering charging and sentencing. This would incentivise more to avoid the sort of ‘evil’ behaviour decried by the UK and French governments.
11. A very recent study conducted by interviewing new arrivals in Sicily provides good insight into this issue:⁴

“The journey to Italy is facilitated by migrant smugglers and criminal groups who can offer various services, from transportation to corruption of border officials. The testimonies collected inside the reception centres in Sicily confirm that **the business of migration across the Sahara Desert, Libya and the Mediterranean Sea is comprised of a combination of highly organized**

¹ *Managing Migratory Flows in Calais: Joint Ministerial Declaration on UK/French Co-operation, Calais August 20 2015*, <http://statewatch.org/news/2015/aug/uk-fr-calais-agreement.pdf>

² <http://newirin.irinnews.org/on-the-migration-road-in-macedonia/>

³ <http://www.telegraph.co.uk/news/worldnews/europe/italy/11554510/The-first-class-refugees-paying-thousands-to-reach-Italy-by-yacht.html>

⁴ *Move or Die: Migratory Routes from Sub-Saharan Countries to Europe*, MEDU (Medici Per I Diritti Umani), August 2015 (<http://www.statewatch.org/news/2015/aug/eu-medici-per-diritti-humani-move-or-die-08-2015.pdf>) (emphasis as in original text)

smugglers and non professional individuals acting alone, or providing a specific service on a contract basis. Different actors are responsible for organizing different sections of the journey: from the migrants' home country to Niger or Sudan; from there to Libyan border; from the border to a collection point on the coast; and finally from Libya to Italy across the Mediterranean. **The smuggling network has become a loose chain in which even a single individual can enter and exploit the vulnerable migrants**, through kidnapping, forced labour or extortion of money. This makes the dismantling of the trafficking network even more challenging for authorities.”

An interview with a smuggler elaborates on the fundamental problem facing policing operations:

“”Who? Where?” asks a friend of Hajj’s when contemplating the potential targets of EU anti-smuggling operations. “No one has the name ‘smuggler’ written on their chest. Anyone here who has no money can sell their apartment, buy a boat, and organise a smuggling trip. By the time of the next trip you’d already have regained half the cost of the apartment. It’s a very easy formula.

12. The extent to which enhanced police operations can have any effect on overall numbers of people crossing into the EU is limited. There is a massive humanitarian crisis taking place near to the EU’s borders, and so far the great majority of refugee movement has been to countries outside the EU. This is likely to continue to be the case. However, many of those countries such as Turkey, Lebanon, and Jordan are at capacity. Libya, which was for a while a refuge, is now far from safe. There will continue to be a great demand for routes into the EU. Given the horrors that people face if they remain where they are, no amount of policing or punishment is going to have a significant impact on their desire and determination to reach safety. We recommend that the Committee considers the full text of the *Move or Die* report referred to above in its reflections on this point.
13. A great deal of this ground has been covered in the oral evidence sessions by Ms Collett, and by the representatives from Amnesty International and Human Rights Watch. Without rehearsing their evidence, we would like to raise a point that does not seem to be addressed in the Plan, around the EU’s land borders. There is a failure to address the degree of endemic corruption, and an absence of practical rule of law protections in a number of states on the Eastern borders of the EU. Enhanced police response and judicial activity can only have an effect if the police and the judiciary are truly independent, and have the freedom and power to pursue smuggling operations. Unfortunately the EU plan will need to address more clearly what is to be done with regard to states where the police, government officials, and even the judiciary might profit from smuggling operations.
14. We agree completely with the principle that assistance should be given to vulnerable migrants. However, it is important to recognise that in the absence of safe legal routes into the EU, prevention of smuggling may have the opposite effect. Any prevention measures must be accompanied by strong measures to ensure the safety of those attempting to leave a country. We are concerned that Plan does not put forward concrete proposals as to developing safe, legal routes for asylum seekers. From this, and from the political response that the recent crisis has received, it seems to us likely

that politicians will focus on policing measures, and will place insufficient resources into assisting vulnerable migrants. The UK's position refusing to take part in even the modest plans for relocation set out in the Agenda, is one example of a widespread refusal across countries in Europe to take necessary humanitarian measures.

15. We would welcome any improvement to the gathering and sharing of information about smuggling, providing it is done in a manner that respects vulnerable individuals' rights to privacy.
16. We welcome an increase in cooperation with third countries, providing it is focussed on measures that preserve the rights and improve the conditions of people in those countries. It is not enough to simply pay or otherwise encourage countries to push back potential migrants from EU borders. The EU should be very careful to avoid situations where third countries end up committing human rights abuses against those seeking to enter the EU, pursuant to EU policy.
17. We are concerned by the proposal to give Frontex the power to play a role in returns. We would advocate strongly for placing the onus squarely on European governments to assess asylum or other claims made by individuals. It is essential that tribunals hearing asylum and protection claims are, and are seen to be, completely impartial and diligent in their assessments. Outsourcing this to an inter-governmental border control agency creates an unacceptable conflict of interest, and would cast doubts on the credibility of the EU system.
18. The Plan is not set out in sufficient detail for us to be able to give a proper assessment of its impact on human rights, and particularly the human rights of vulnerable migrants or refugees. However, where policing operations close down relatively safer routes for travel without a corresponding effort to provide safe legal routes and to increase safety and stability in sending countries, the risks will only increase for migrants forced to take more dangerous routes. In these situations it is the most vulnerable who will be most at risk. We have seen this already happen over the past few decades as Europe has developed stronger border controls, and migrants have progressively been driven to use more dangerous routes. A good analysis of this trend can be found in the International Organisation for Migration's publication *Fatal Journeys: Tracking Lives Lost during Migration*, Chapter 3 Tracking Deaths in the Mediterranean.⁵
19. Finally we acknowledge that many of those involved in people smuggling are violent and abusive. Policing efforts that target and stop these criminals are to be welcomed. However, to the extent that the Plan envisages a reduction in migrants seeking or gaining entry into the EU as a result of these efforts, we believe it is overly optimistic. The only way to reduce smuggling is to ameliorate the push factors that drive people to move, and to provide safety and stability to those who have been displaced.

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⁵ http://publications.iom.int/bookstore/free/FatalJourneys_CountingtheUncounted.pdf