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**FORCED MIGRATION STUDIES PROGRAMME
WITS UNIVERSITY**

Report on Human Smuggling across the South Africa/ Zimbabwe Border

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This research report was produced by the **FORCED MIGRATION STUDIES PROGRAMME** at the University of the Witwatersrand. The research was conducted by Tesfalem Araia ([Tefalem.Araia@wits.ac.za](mailto:Tesfalem.Araia@wits.ac.za)) and the report written by Tesfalem Araia with editing and assistance from Darshan Vigneswaran, Tamlyn Monson and Tara Polzer.

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Widespread xenophobic attacks on foreigners in South Africa in May 2008 generated new debates around the issue of border control. This research report adds to and refines this discussion by looking at the land-based human smuggling industry on the South Africa/Zimbabwe border.

Defining Human Smuggling

According to Article 3 of the United Nations (UN) Protocol Against the Smuggling of Migrants by Land, Sea and Air, the smuggling of migrants refers to:

the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. (UN, 2000).

Human smuggling is therefore generally understood as a commercial transaction between a smuggler and a smuggled person enabling the client to cross a border illegally or clandestinely, with the consent of both parties. For the purposes of this report, we do not limit our investigations to paid transactions, however. Our purpose is to understand the role of human smuggling in irregular border crossing, which requires us to compare smuggling transactions with situations where undocumented border crossers may be assisted at no cost by family members, friends or fellow migrants.

By definition, human smuggling is different from human trafficking. Human trafficking involves, from the outset, an intention by the trafficker to profit from the forced exploitation (for instance, through sex, servitude or slavery) of the person smuggled illegally or clandestinely across a border. Smugglers, in contrast, generally do not exploit their clients once they have crossed the border. However, it is important to recognize that, like human trafficking, human

smuggling often involves forms of fraud, force and coercion, and the violation of human rights.

Human Smuggling on the South Africa/Zimbabwe Border

Using a combination of survey data and in-depth field work, this report shows that:

- Largely because of a general state of uncertainty about conditions at the border, human smugglers are able to charge high fees for their services and, in a number of cases, abuse their clients by extorting money from them or abandoning them in dangerous environments.
- Migrants smuggled across the border are vulnerable to abduction, rape and murder by criminal elements that are difficult to distinguish from smugglers themselves.
- Human smuggling on the Zimbabwe/South Africa border does not seem to be connected to the practices of goods-smuggling or human trafficking in the sense that smugglers are not directly involved in these other forms of illegal border crossing.
- The South African border with Zimbabwe is heavily policed, leading to large numbers of arrests and deportations. However, this strictly controlled environment creates opportunities for some individuals within the migration-control structure to engage in corrupt practices that undermine the work of their colleagues.
- Heavy policing of the border is unlikely to alter long-term migration patterns. In fact, it seems that perceptions of strict immigration controls encourage the practice of smuggling.
- Lack of access to clear information about South African immigration policy and border procedures, together with misinformation spread by smugglers, encourages many migrants – including those with legitimate claims for asylum – to enter South Africa informally or to pay for access to asylum permits to which they are entitled free of charge.

Looking Beyond ‘Illegal Economic Migration’

A recent FMSP survey of applicants for asylum at South African Refugee Reception Offices (RROs)¹ revealed that a lack of knowledge among potential asylum seekers concerning their rights to enter the country legally by claiming asylum at the border. While most survey respondents gave reasons for their migration that suggested they had grounds for asylum, the vast majority (68%) were not aware of their right to asylum before entering South Africa. It is therefore not surprising that a majority of 53% entered South Africa informally. Only 29% of those who crossed informally cited economic reasons alone as their motivation for entry. This picture suggests an environment in which reasons for migrating cannot fully account for the levels of informal border-crossing. Lack of access to accurate information and the availability of human smuggling services appears to play an important role in encouraging undocumented migration.

Policy Implications of the Findings

There have been many calls for additional deterrence, surveillance and policing of the South African border. However, until now, a lack of credible research and a proliferation of anecdotal evidence has provided at best a slippery footing for policy debates on the subject. As a result, policy proposals have oversimplified the causes of human mobility and overlooked the potentially grave consequences of increased investment in border controls.

As a corrective measure, the findings reported here are based on two substantial bodies of evidence. The research remains preliminary – conducted on a highly secretive and opaque activity – but the findings provide evidence that speaks against policy options that involve increasingly restrictive border policing. In fact, the research suggests that increased policing or ‘tightening’ of immigration controls would be unlikely to succeed in controlling clandestine immigration, and, indeed, might worsen immigration governance and increase the likelihood of human rights abuses in the border regions.

¹ See detailed description of this survey in the chapter on Research Design and Methods below.

The findings of this report suggest that tightened security against informal border crossings may:

- Increase the numbers of undetected and undocumented migrants in South Africa, since fear of strict border officials and misinformation about legal entry options drive undocumented border crossing;
- Make the South African population more vulnerable since undetected migration is harder to manage. In cases such as the recent cholera epidemic in Zimbabwe, undetected migration can prevent health authorities from successfully containing the spread of infection;
- Increase the demand for smugglers' services, thereby increasing their resources and numbers;
- Encourage smugglers to alter or diversify their tactics, possibly including more risk-prone and corrupt activity;
- Increase incentives for corruption among border officials; and
- Increase the risk of harm to informal or clandestine border-crossers, resulting in serious injuries and loss of life.

In addition, it seems likely that more restrictive measures may:

- Fail to prevent an 'influx' of people entering South Africa through the border with Zimbabwe; and
- Fail to address other forms of cross-border criminality such as the smuggling of goods and arms or trafficking in persons to be exploited in South Africa.

Recommendations

Since the xenophobic attacks of May 2008 there have been increasing complaints about South Africa's 'porous' northern borders, and a number of calls for the border to be 'closed'. The research discussed here casts doubt on these 'tightening' approaches to border management, which our findings suggest may increase migrants' vulnerability while simultaneously failing to address South

Africas' desire to decrease the number of informal entries into South Africa. Further investment in immigration controls may also increase opportunities for corruption among officials without helping to address other harmful forms of cross-border movement, such as drug smuggling and human trafficking.

The findings discussed here lead to the following recommendations to government:

- Fully investigate and root out corrupt practices within the border control staff of the South African Police Service (SAPS), the Department of Home Affairs (DHA) and the South African National Defense Force (SANDF).
- Ensure that *everyone* who claims asylum at the border is provided with a transit permit allowing them to travel to a refugee reception office in the interior, regardless of their nationality or country of origin.
- Publicise South African migration legislation and raise awareness of conditions at the border both in the vicinity of the border posts and in other high-impact areas, such as in the town of Beitbridge and in buses en route to South Africa.
- Issue temporary protection permits for Zimbabwean citizens that will ensure that the growing flow of Zimbabwean nationals into South Africa is effectively calculated, monitored and managed and policies for addressing the acute humanitarian and needs of the Zimbabwean population can be implemented.
- Implement a visa-free entry system in line with the SADC Protocol on the Facilitation of the Movement of Persons, easing the official, documented passage of persons into the country and discouraging recourse to undocumented entry via smuggling.

South Africa/Zimbabwe Border Control Infrastructure

South Africa and Zimbabwe share a border that is approximately 200 km long, marked the entire way by the Limpopo River. On the Zimbabwean side, the principal deterrent against human movement is the river's edge. In contrast, on the South African side, security is tight. Approximately one kilometre from the river, there is a three-line barbed-wire fence with the potential to be charged with electric power. The border line is patrolled by South African authorities including the South African National Defence Force (SANDF), the South African Police Service (SAPS), the Department of Home Affairs (DHA), and at least one private security agency. There are two official border posts along the frontier with Zimbabwe, but the Beitbridge post, located on the N1 highway, is currently the only operational facility. While located several kilometres away from the border itself, the Zimbabwean town of Beitbridge and the South African town of Musina each play crucial roles in cross-border migration, serving as temporary bases for onward travel.

Renewed Attention to Zimbabwean Migration

There is a long history of human migration, both formal and informal, across the South Africa/Zimbabwe border line. However, over the past 18 months, the media, international NGOs and policy makers have paid increasing attention to Zimbabwean cross-border migration. There are at least two reasons for this heightened concern.

Increased Cross-Border Traffic

First, due to the dire political and economic crisis in Zimbabwe, migration to and through the Limpopo region has increased. In addition to political refugees, who have been subjected to several waves of government brutality, many Zimbabwean migrants who are unable to find jobs, obtain food, or support their families have crossed the border into South Africa in search of work and material

goods. The traffic is not one-way. Some Zimbabweans who have settled in South Africa return periodically to their country of origin, or send couriers with cash and in-kind remittances to their families. Although at the time of writing there are indications that the political situation in Zimbabwe may be moving towards stability, it is likely that human movement between Zimbabwe and South Africa will continue to remain high for some time, not least because of a continued acute economic and social welfare crisis.

New Debate on Border Control

Second, the recent dramatic rise in xenophobic attacks against foreigners in South Africa has given impetus to a new debate on border control. Well before the May 2008 xenophobic attacks and subsequent humanitarian crisis, or the contentious Zimbabwean elections in March and June 2008, the Democratic Alliance (DA) had been calling on the African National Congress (ANC) government to tighten border security. This call was repeated in response to the May 2008 violence. Amongst other things, the DA has called for a return to the Apartheid-era policy of placing primary responsibility for border control with the SANDF.²

Residents of areas affected by xenophobic violence in many cases laid blame for the attacks on a perceived failure by the South African government to adequately control in-migration. Observers such as the South African Institute of Race Relations (SAIRR), the Institute for Security Studies (ISS) and the Human Sciences Research Council (HSRC) also each suggested that conflicts between South Africans and foreigners are the product of a failed border-control policy.³ These conclusions are easily co-opted as support for calls to intensify border security in the wake of the May 2008 attacks. The recent outbreak of cholera related to Zimbabwean migration into South Africa added a new dimension to the debate, and could serve as ammunition for those insisting on a border lockdown.

Until now, it has been difficult to evaluate the merits of policy proposals such as these, because there has been limited research dedicated specifically to the issue

² SAPA 2008; SAPA/IOL 2008a.

³ HSRC, Democracy and Governance Programme, "Citizenship, Violence, and Xenophobia in South Africa: Perception from South African Communities", Pretoria, June 2008, p.49.

of border control in South Africa.⁴ While advocates of intensified control may have visited the border and witnessed the worrying spectacle of migrants crossing the river, there does not appear to have been any sustained investigation into the relationships between border policing, human migration and the smuggling industry. The research the Forced Migration Studies Programme (FMSP) has undertaken in this regard forms part of an effort to address this absence of credible information and provide a stronger basis for related policy debates.

Creating a Credible Policy Resource

In 2007, an FMSP research team conceptualised a three-week period of intensive fieldwork at and around the Beitbridge border to explore the links between smuggling, border policing and undocumented migration. In the report that follows, the qualitative, in-depth findings of this fieldwork period are combined with the results of the nationwide RRO survey completed in August 2008, to present a more credible picture to inform ongoing policy debates around border control. Further details on the research design and methodology are provided in the next chapter.

⁴ Coplan 2001; Forced Migration Studies Programme, WITS University Law Clinic & Lawyers for Human Rights 2005; Steinberg 2005.

Research Design and Methods

Investigating Human Smuggling on the South Africa/Zimbabwe Border

This study examines the inner workings and practices of the smuggling industry on the South Africa-Zimbabwe border. The interest in this subject was prompted by a mid-August 2007 excursion to the Beitbridge border post, where FMSP researchers learnt about the dramatic growth in the smuggling industry and heard stories about the multiple forms of abuse people experienced when crossing the Limpopo River.⁵

This motivated the research team to look beyond the push- and pull-factors that are commonly believed to underlie undocumented migration, and investigate the role the human smuggling environment plays in encouraging undocumented migration through informal border crossing. Looming large within this role was, of course, the manner in which smugglers assist migrants to manoeuvre around the changing enforcement strategies of the South African border authorities.

The research into this clandestine activity was designed to elicit the voices of the smugglers themselves, their accomplices and their clients. As such, the research team attempted to ensure that the project:

- Looked at human smuggling in its own right and did not reduce it to a component part of related clandestine cross-border activities, such as human trafficking and the smuggling of goods;
- Identified the character and motivations of the various individuals and groups involved in human smuggling;
- Isolated the reasons behind the various problems of rights abuses and corruption occurring within and around the human smuggling industry; and
- Generated policy-relevant information that would help the South African government to respond to, or at least avoid aggravating, the problems identified.

⁵ Chirwa et al 2007.

In October 2007, the research team began a two-pronged research initiative to shed light on the smuggling industry. Given its clandestine nature, smuggling cannot be easily studied using conventional research methods or tools. Both those engaged in providing services and their clients were expected to have been involved in a legally dubious enterprise, whether intentionally or unwittingly, and in many cases to have contravened key sections of South Africa's Immigration Act (no. 13 of 2002). The team assumed that all participants – even asylum seekers who by law may not be penalised for crossing the border informally⁶ – would at the very least recognise their precarious position as informal border crossers. Several types of sampling and data collection were therefore ruled out from the start due to the risk they posed of silencing nervous respondents or placing respondents and researchers at risk. It was eventually decided that two sets of data – a nationwide survey and a series of follow-up interviews in the field – would be used to inform this analysis.

The Nationwide Survey

In order to generate a relatively reliable portrait of key aspects of the smuggling process, we drew on survey data from a study piloted in 2007 and completed in August 2008. As part of its ongoing monitoring of refugee protection in South Africa, the Wits Forced Migration Studies Programme (FMSP) conducted a nationwide survey of asylum seekers at the refugee reception offices (RROs) in South African cities. This survey of 1,016 individuals included questions that identified whether respondents had entered South Africa informally. For respondents who fit this profile, a series of questions about their experiences when crossing the border were integrated into the survey, including:

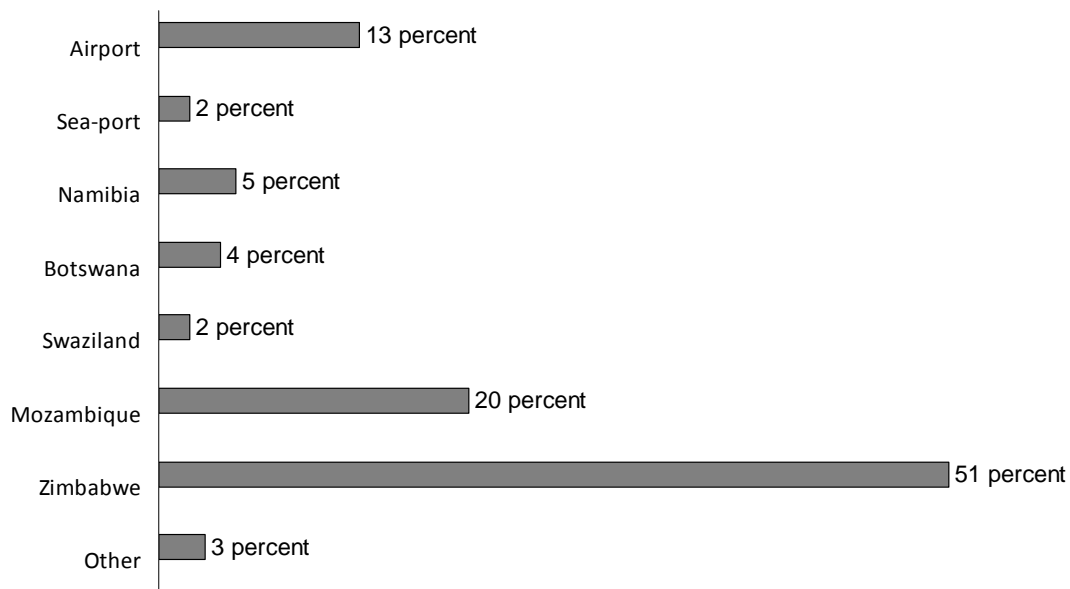
- Which border the respondent crossed;
- Whether the respondent was provided with any assistance to cross the border; if so, who provided it, and how much, if anything, the respondent paid; and
- Whether the respondent suffered any abuses in the process; the nature of these abuses; and the perpetrators.

⁶ See Refugees Act, No. 130 of 1998, Section 2 and Section 21 (4).

This survey was primarily focused on conditions at the reception offices themselves, and, as a sample of the population approaching RROs, only captured the experiences of a small section of the total population of informal entries to South Africa. Importantly, since all of the respondents appeared to be freely presenting themselves at the RROs, this component of the study was unlikely to capture the experiences of several categories of migrants in South Africa, including economic migrants who do not try to access the asylum system; migrants and refugees who remain in border or rural areas without accessing the urban-based RROs; and victims of human trafficking. The field research, described below, addressed some of these gaps by speaking with economic migrants and refugees in the border area.

Despite these limitations, the survey data provided some useful indicators of the types of problems emerging in South Africa’s human smuggling industry and helped to verify the Beitbridge border post as a crucial site for studying this issue. While it could be expected that most Zimbabwean migrants would have entered through Beitbridge, we found that the Zimbabwean border was also popular among non-Zimbabwean migrants when compared to other land, air and sea-ports (as illustrated in the chart below). 22% of those who crossed this border reported that they were smuggled.

Choice of Entry Point among Non-Zimbabwean Migrants



Field Research

In order to test some preliminary hypotheses generated by the pilot phase of the RRO survey, which took place from October to December 2007, a three-week follow-up visit to Musina and Beitbridge was undertaken. During this visit, 73 formal interviews, and a smaller number of informal interviews⁷ or conversations, were conducted with migrants, smugglers, police and immigration officials. Given the sensitivity of the questions being asked, open-ended forms of questioning were used, allowing respondents to narrate their experiences without feeling that they were being interrogated. The research team also visited key sites on the South African side of the border, including taxi ranks, petrol stations, restaurants, shops, road blocks, the border post, the border line itself, and the Limpopo River, and observed practices at these sites. Since it was crucial to the story to test some of the claims being made about conditions on the Zimbabwean side of the border, a researcher assistant conducted observations and interviews there, although, due in part to security issues, only a limited amount of reliable data could be collected in this way.

Limitations

The survey data allowed the research team to develop only a small set of claims that could be tested through the application of replicable research procedures. The fieldwork component of this study is primarily useful as a descriptive account of our researcher's experiences. In particular, it is likely that we captured the perspectives and knowledge of only a relatively small section of both government (senior officials) and non-government participants ('professional' smugglers) in the smuggling process, to the neglect of other views. Given that one of the research findings is that smuggling practices are highly diversified and flexible, it is likely that the character of the industry will transform significantly over time – making the research findings a snapshot of an ever-transforming process. Further, this report does not engage in a detailed review of border control policy and practices across the full length of the South African border, basing its assessment specifically on evidence of changing conditions at the Zimbabwe

⁷ Here, the term 'informal interviews' refers to information gathered through casual conversations without the typical introduction indicating the purpose of the interaction. The ethical dilemma posed by this research strategy had to be weighed against the benefits of gaining knowledge about a clandestine and largely illegal activity.

border. Hence, this study should not be taken as an attempt to provide a final word on the nature of the human smuggling industry or on the subject of border control. Instead, it should be read as a corrective to conventional understandings of these subjects, and a provocation for further investigation.

Discussion of Findings

Why do Undocumented Immigrants Choose to Cross Clandestinely?

Undocumented migration is often understood as synonymous with opportunism and/or criminal intent. There is a widely held belief that undocumented migrants are illegal ‘border-hoppers’ with no bona-fide claim to enter South Africa. But the findings in this report show that many informal border crossers are in fact asylum seekers with seemingly bona-fide claims, or individuals who could claim asylum if they were more informed about refugee policy in South Africa and less intimidated by South African border control practices. Only 29% of those interviewed in the survey at RROs cited economic reasons as the sole motivation for leaving their country of origin. Where respondents cited several reasons for their migration, war (37%) and political reasons (20%) featured strongly alongside economic factors (42%).

Many informal border crossers are in fact asylum seekers with seemingly bona-fide claims.

Furthermore, asylum seekers often choose to enter South Africa informally after being misled by smugglers, who do not advise their potential clients about the opportunities to enter South Africa legally. These findings, which will be discussed in more detail below, indicate that in order to understand the human-smuggling industry and the demand for these services, one must first comprehend the costs and benefits that migrants perceive in formal and informal

entry respectively, and, in particular, the barriers that prevent more migrants from entering the country through formal channels.

What Prevents Immigrants from Using Official Border Posts?

The South African Immigration Act (no. 13 of 2002) contains a general requirement for all persons to enter or depart from the country formally, via a port of entry. However, the vast majority of those who wish to migrate to South Africa have few legal avenues to do so. Even highly skilled migrants or investors face a set of immigration laws that strongly privilege South African citizens. In addition, poor service delivery at some of South Africa's Department of Home Affairs (DHA) offices and embassies abroad make it extremely difficult to obtain permits, even in cases where an individual has obtained a job or secured a contract.

Less skilled migrants face considerably starker choices. While it is possible to enter South Africa on a corporate or seasonal-worker permit, or to qualify for refugee status through the lengthy asylum-seeking process, permits can be costly and difficult to obtain, and there is little awareness of the right to seek asylum in South Africa. The majority of would-be migrants lack, or believe that they lack, legal means of entering the country and seeking employment. Many immigrants with a reasonably good chance of acquiring asylum enter South Africa clandestinely because they are unaware of the possibility of seeking asylum. 68% of asylum seekers interviewed at South African RROs had not known about the possibility of seeking asylum before they left their countries of origin.

Even in the case of people who know their right to apply for asylum at the border, border authorities often illegally restrict access to asylum.⁸ On declaring their intention to seek asylum at the border, individuals must by law be provided with a section 23 permit that allows them two weeks to report to a refugee reception office. However, the survey results show that the letter of the law is

⁸ On a positive note, many of our migrant respondents expressed a belief that recently it has become easy – albeit not necessarily certain – for migrants from known refugee producing countries such as Somalia, Ethiopia and DRC to access an asylum seekers permit at the border post. We even heard reports of nationals from these countries being captured by officials along the border line after ‘jumping’ the border and then sent to the border post to access section 23 permits.

not always followed. For instance, respondents from the Democratic Republic of Congo (DRC), a renowned ‘war-torn’ country, were far more successful in obtaining transit permits than those from Zimbabwe. Of 56 respondents from DRC who said they claimed asylum at the border, 91% were given transit permits on declaration of their intent to seek asylum. Of 12 Zimbabwean respondents in the same situation, only 75% received transit permits.⁹ In both cases, a number of would-be asylum seekers were denied their legal rights, and it is possible that prejudice was exercised against Zimbabwean asylum seekers. In this way, many migrants are denied the right to claim asylum by border officials with no mandate to judge the merits of their claims.

Migrants are denied the right to claim asylum by border officials with no mandate to judge the merits of their claims.

What are the Costs of Entering South Africa Informally?

The barriers to formal entry help to explain the high demand for informal border-crossing services. However, the simple fact that there are large numbers of people attempting to enter South Africa informally does not mean that entry is easily achieved. There are various obstacles to crossing the border into South Africa, discussed in more detail below.

Zimbabwean ‘Security Officials’

First, contrary to public perception, the Zimbabwean side of the border is not entirely unguarded. While the Zimbabwean authorities have not invested in securing the territory against *entry*, a number of respondents referred to forces impeding *exit*. Respondents noted the presence of Zimbabwean security officials

⁹ Only 100 of the 1,106 respondents stated their intention to seek asylum at the border, creating a number of nationality groups which are too small to make reliable disaggregated claims. The two largest groups allow us to draw some tentative conclusions, even though the absolute numbers are still too small for robust statistical analysis.

in the border area, who may monitor and/or earn profits from the smuggling industry, and are likely to hinder migrants' journeys.

This study was not able to ascertain to what extent such 'security officials' target particular political groups or individuals or whether they mainly collude with the smuggling industry for personal profit.

The Limpopo River

The second significant barrier is the Limpopo River. While the dangers of the river have been sensationalised by stories of migrants being mauled or devoured by wild animals, the seemingly calm waters of the river itself are perhaps the greater danger. During the wet season the river can be extremely dangerous to cross and it is likely that at least some migrants have drowned while crossing. On the other hand, in the dry season the river water is relatively low and can be waded more easily in specific places.

SAPS and SANDF Border Patrols

Once past the river, migrants must pass through three lines of barbed wire and then make their way through a wire fence (see cover image). At this point, informal migrants face their most significant set of obstacles. The border area is heavily patrolled by SAPS and SANDF forces, operating in vehicles but also utilising a series of 'echo stations' or facilities for surveillance, reconnaissance, storage, and temporary accommodation along the way. The security forces defend the border intensively, patrolling in the vicinity of border-adjacent farms and setting up roadblocks on most of the major arteries and service roads in the district.

The border area is heavily patrolled by SAPS and SANDF forces using vehicles and a series of 'echo stations' for surveillance, reconnaissance, storage, and temporary accommodation.

The Refugees Act (n. 130 of 1998) prohibits – without qualification – expulsion, return or refusal of entry for certain categories of person, including asylum seekers who have a legitimate fear of persecution in their home country or who have fled from serious breakdowns in public order. Hence, not all informal entries are in fact illegal. Because the legality or otherwise of informal entry by a would-be asylum seeker cannot be determined until the application for asylum has been processed, South African security forces are prohibited from deporting asylum seekers who enter the country informally. Instead, they are expected to assist these individuals in obtaining a s.23 permit to legalise their stay. As described below, however, this law is regularly contravened.

Amagumaguma

Migrants smuggled across the river can face ambush by criminal groups known as *amagumaguma*, which are infamous for their methods of extortion and abuse. Fieldwork revealed that the *amagumaguma* can be either smugglers themselves or independent criminals who lurk in the bushes near the border, waiting to prey on unsuspecting migrants. Their role is discussed further below.

Police Roadblocks and Inland Patrols

The nationwide annual deportation total was close to 313,000 in the year 2007-2008, with projections of 370,000 for the 2008-2009 year.

Finally, informal entrants – like many of their formal counterparts – also face the police presence that continues in all the major towns along the N1 highway toward Johannesburg. This takes the form of roadblocks along the N1 and street patrols that are conducted in the town of Musina with the primary focus of seeking out undocumented migrants. As has been reported elsewhere,¹⁰ the police retain an army warehouse which has been serving as a detention facility

¹⁰ Chirwa et al 2007.

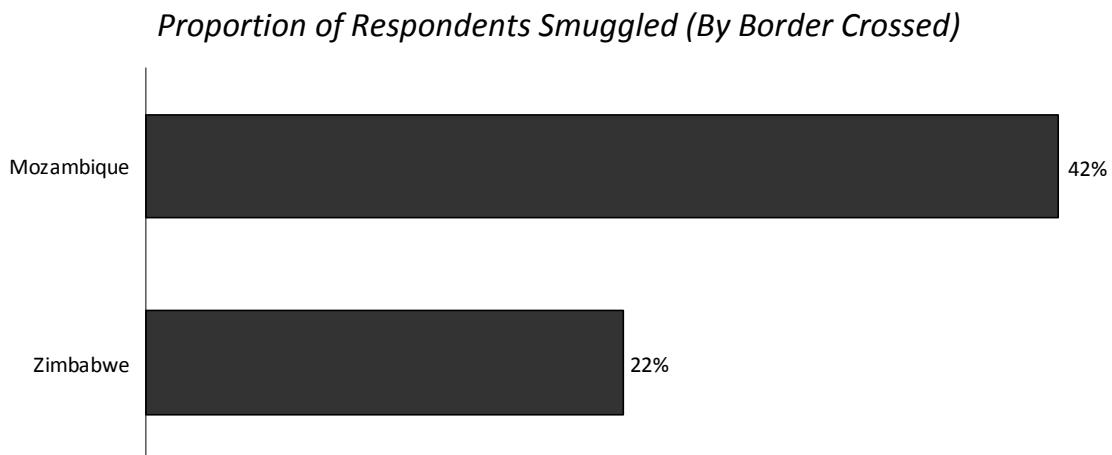
from which Zimbabweans are deported on a daily basis. It is likely that this facility makes a substantial contribution to the nationwide annual deportation total, which was reported to be close to 313,000 in the year 2007-2008, with projections of 370,000 for the 2008-2009 year.¹¹

The Human Smuggling Industry

It is likely that human smuggling across the Limpopo has existed in one form or another ever since the South Africa/Zimbabwe border fence was first built.¹² At present, smuggling is a daily occurrence, providing a service to many migrants from different countries, of all ages and of both genders. Of the national survey respondents who crossed a land border (a total of 91%), a majority of 76% crossed through Zimbabwe.

Of the respondents who crossed a land border, a majority of 76% crossed through Zimbabwe. Just over a fifth of these were smuggled.

Among those who crossed the Zimbabwe border, just over a fifth were smuggled. This is a smaller proportion than seen among those who crossed the Mozambican border, as shown in the chart below.

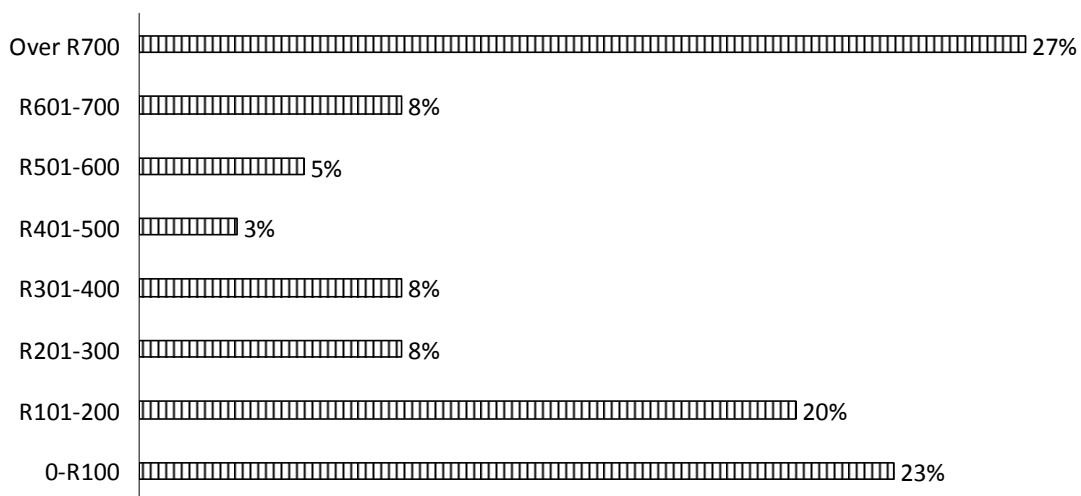


¹¹ Department of Home Affairs 2008: p62; 23.

¹² We met one smuggler who had worked in the industry in this area since 1995.

In total, 23% of all respondents were smuggled across a border. The proportions smuggled were very similar among both Zimbabwean and non-Zimbabwean respondents crossing the Zimbabwe/South Africa border. The majority (63%) of those who were smuggled paid for the assistance they received to reach or cross the border.¹³ The amount paid for these services was measured on a scale, and while relatively few respondents paid mid-range fees (R200 to R700), large proportions paid R200 or less, or, on the other end of the scale, over R700.¹⁴

Distribution of Amounts Paid for Assistance to Reach or Cross the Border



Smuggling Demand and Supply

Smuggling is a relatively sophisticated industry, arranged in the form of a network amongst service providers and officials, organised primarily by a small number of key players, and following distinct tactics, routines and schedules.

¹³ A recent IOM study conducted in Musina (IOM 2009) reports that 40% of their respondents paid someone money to gain entrance into South Africa, but that in some cases this was to thieves rather than to smugglers and so the statistics are not directly comparable.

¹⁴ The question that generated these results asked about 'assistance' informal crossers received in reaching or crossing a border as respondents might not have been familiar with the notion of smuggling, which also has overtones of illegality that might have discouraged disclosure.

Information obtained from respondents in the fieldwork phase suggests that smuggling is a relatively sophisticated industry, arranged in the form of a network amongst service providers and officials, organised primarily by a small number of key players, and following distinct tactics, routines and schedules. The analysis of the industry presented is separated here into 'demand' and 'supply' aspects. Key to this distinction is the recognition that suppliers of smuggling services are constantly engaged in the manipulation of demand, through misrepresentation of conditions at the border, variation in the range of services available and adjustments to the cost of these services. This fact confirms that the demand for and supply of human smuggling services does not relate in a straightforward way to changes to the push and pull factors in sending and receiving countries.

Demand for Smuggling Services

The overall demand for smuggling services depends to a substantial degree on the numbers of people crossing into South Africa and the nature and extent of barriers, both physical and legal, that prevent people from doing so legally. In this respect, the evidence that the research team procured of an increased volume of smuggling activity on the border line can be seen as a natural response to two simultaneous developments:

- The increase in numbers of migrants, particularly from Zimbabwe, seeking entry into South Africa; and
- The increased investment of official resources in border control, which, rather than discouraging immigration altogether, may only discourage formal border crossing.

Increased investment of official resources in border control, rather than discouraging immigration altogether, may only discourage formal border crossing.

It is important to note that the smuggling industry does not function in the manner of a conventional transport-service industry, such as the airline industry, where one would expect the nature of the service to respond more or less directly to the level and nature of demand. This results from the high levels of perceived and actual risk involved in crossing the border informally, and migrants' lack of access to accurate information about the nature of the risks and the available means of addressing them. When migrants 'contract' smugglers to assist them in entering South Africa, they do not know what potential dangers they will face, what the safest techniques for entering South Africa are, or which smugglers can be trusted. As a result, the smuggling services that migrants purchase rarely correspond to their own best interests or preferences. For example, for most migrants the cheapest and safest way of crossing the border informally is simply to bribe the police officers at the border posts and walk across Beitbridge. Yet the majority opt for more dangerous and costly measures.

Another contributing factor is ignorance of legal immigration alternatives and reception conditions. For individuals fleeing from states afflicted by violence and breakdowns in public order, documented entry as an asylum seeker is most likely the cheapest and safest entry option. However, the survey data shows that approximately half (51%) of asylum seekers fleeing the conflict-stricken DRC enter South Africa informally. Ignorance of the conditions governing the right to asylum most likely help to explain this unexpected finding. As already stated, the national survey data shows that 68% of respondents were not aware of the possibility of seeking asylum when they left their countries of origin.

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Supply of Smuggling Services

In certain respects, the smuggling market is a classic free market, with providers of various nationalities offering a range of different types of services to suit different clients. However, it is also deeply segmented on the basis of wealth. The

people involved in smuggling migrants into South Africa may be usefully understood as a network of service providers. This network is more tightly bound and based on trust at its core, involving:

- Regularised, albeit informal, ‘contracts’ for services amongst different agents;
- Transport organised in segments across the border; and
- Bribes paid in advance to officials to avoid enforcement of immigration laws.

The network is more loose and contested at its periphery, involving:

- Isolated exchanges between migrants and smugglers;
- Limited capacity to provide connecting transport; and
- Payment of bribes on an ad-hoc basis.

Since many of the people smuggled into South Africa are travelling long distances, from places deep in the Zimbabwean interior, or from third countries to urban centres in South Africa, it is unsurprising that smuggling shares close linkages with the transport industry.¹⁵ More worrying is the evidence, discussed in more detail later in this report, that smugglers share well-developed relationships with high-level South African border control officials.

The Relationship between Human Smuggling and other Cross-border Criminality

Our findings do not reveal a close connection between other forms of cross-border criminality and the human smuggling “enterprise”. None of the smugglers who participated in this research mentioned any involvement in other forms of smuggling apart from assisting migrants to cross the border for a fee. While the

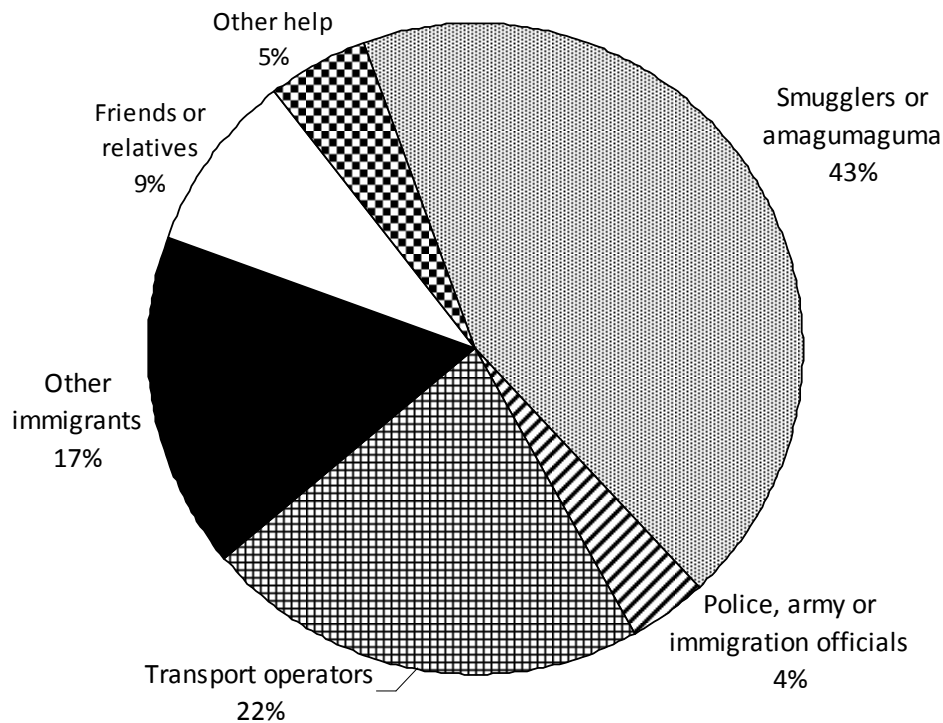
¹⁵ The survey data shows that, while both smuggled and non-smuggled border crossers used bus transport to an equal extent (50% and 51% respectively), respondents who were smuggled traveled by car or truck more often than those who crossed informally without assistance, who often travelled much of the critical journey on foot.

border-crossing element of human trafficking may be facilitated by human smugglers in some instances, human smuggling is not the only way human traffickers use to “import” people into countries. There are other formal, even legal, migration options to bring victims of trafficking into a country. Moreover, the key definition of trafficking lies in continued exploitation after crossing the border. Although our research does not allow us to categorically exclude the possibility of human trafficking across the Zimbabwean border, none of our ‘professional smuggler’ respondents reported maintaining contact with or control over their clients after facilitating the border crossing. Given that respondents were quite open in reporting other clearly illegal activities to us, we have no reasons to believe they would have lied about or hidden this specific aspect of the industry, were it a central element of their practices. Similarly, while smuggling of illicit goods is clearly present across the South Africa/Zimbabwe border, we did not find evidence that the same people were directly involved in both goods and human smuggling.

This does not mean that there are no systemic connections, particularly through the corruptability of border control personnel. However, our research did not aim to establish the levels of systemic interaction between the various forms of border criminality.

Primary Actors in the Smuggling Industry

The chart below illustrates the range of individuals and groups that survey respondents reported as having assisted them in reaching or crossing the border outside the formal channels. While not necessarily representative of the industry as a whole, this image provides us with an indication of the variety of actors engaged in assisting asylum seekers to enter South Africa clandestinely.



Groups that assisted (smuggled) migrants across borders

To best describe the types of actors involved in the smuggling process, this report separates these groups out into five types: professional smugglers, amateur smugglers, transport operators, government officials and migrant smugglers. The research team found several examples of individuals who confounded these distinctions, but the categories nevertheless help to structure this analysis of the industry.

'Professional' Smugglers

The core of the 'professional'¹⁶ smuggling network is occupied by a small group of men from South Africa, Zimbabwe and several other migrant- and refugee-'sending' countries on the continent. The individuals in this group have lived in the border area for several years – at least one since 1995. These smugglers may

¹⁶ The word 'professional' is used here to indicate their greater control of the system in which smugglers operate, and to distinguish them from those deemed to be 'amateurs'.

have both hard and soft investments in the industry: purchasing taxis to provide their own transport; hiring employees to separate themselves from the risky, physical work of transporting or guiding clients; and at times contracting the services of amateurs. Each professional smuggler forms a key node in an extensive network, often spanning several countries – among them, Burundi, DRC, Eritrea, Ethiopia, Kenya, Malawi, Somalia, Sudan, Tanzania and Uganda – and penetrating deep into various government bureaucracies. The smugglers use these networks to provide a more integrated service, often spanning the entire length of a migrant’s journey – a service inclusive of bribes to officials and almost always including transport through to Johannesburg. Finally, some professional smugglers are involved in the procurement of permits for clients.

Several of these smugglers know when familiar officers will be on patrol and have gained access to the keys of various gates along the fence.

The services of professional smugglers are more reliable than those of amateurs: the client is more likely to finish their journey where they intended, successfully negotiate dangers and law enforcement officials, and avoid being abandoned along the way. Through their contacts with officials, several of these smugglers have a knowledge of police schedules. They know when familiar officers will be on patrol and have gained access to the keys of various gates along the fence. Some have the capacity to arrange for transit through the border post itself.

Unsurprisingly, their services come at a higher price. Professional smugglers reported that they would usually not accept less than R800 per person for the trip across the border. Fees may be higher if clients are from countries other than Zimbabwe. Considering that 27% of smuggled respondents in the RRO survey paid over R700 for the assistance received, it is arguable that a quarter or more of those smuggled across the border use the services of ‘professional’ smugglers.

Members of the professional smuggler group tend to look down on ‘amateurs’. They have in-depth knowledge of border practices and see themselves as relatively invulnerable to official policy. In the words of our respondents:

These ones [amateur smugglers] are new; they don't know anything. I know everything here; I have been here since 1995.¹⁷

I am the border, I can do whatever I like across this border, and you just have to bring money.¹⁸

While professionals appear to be more reliable than amateurs, even this group is not immune to police patrols. Furthermore, as with the amateurs, they are not averse to extorting extra money from their clients along the way.

Amateur Smugglers

Amateur smugglers assume a more peripheral status within the smuggling network. Almost all of these providers are Zimbabwean, and some are themselves without documentation legalising their residence in South Africa.

Their peripheral status in the network and status as 'amateurs' should not be equated with poor qualifications or educational status. Some respondents had been teachers or students in Zimbabwe and began smuggling to earn money to survive. As one respondent admitted:

...it is better than stealing. If the situation in my country [were] good, I wouldn't be working like this, but we are starving. So, this is the only way I can survive, I have my wife and one child who wait for me to get them something to eat ... I'm trying to survive. It's better than stealing.¹⁹

This group provides a less sophisticated service, mostly involving assistance in moving people from Beitbridge town to Musina. For a higher price, some may offer to organise transport to Johannesburg through an ad-hoc arrangement with a transport operator. Amateur smugglers are less capable of predicting changes

¹⁷ Interview S1, Zimbabwean/South African 'professional' smuggler, April 2008.

¹⁸ Interview S2, Zimbabwean/South African 'professional' smuggler, April 2008.

¹⁹ Interview S3, Zimbabwean amateur smuggler, April 2008.

in police patrol schedules and have a poorer knowledge of routes. Hence, they are rightly perceived by clients as a more risky option.

While less central to the network, amateurs are larger in number than professionals and probably account for a larger share of the market in terms of client numbers. The research team was unable to determine which group achieved the greater turnover in terms of hard cash. Amateur smugglers charge between R100 and R600 per person, depending both on the apparent ability of the client to pay and whether the service is inclusive of transportation to Johannesburg. Although extortion is present throughout the smuggling industry, amateurs appear more likely than professionals to use coercive means, such as threats of physical violence.

Transport Operators

It was more difficult to gauge what role taxi drivers played in the industry, as most were reluctant to speak to researchers. This was unfortunate, as there were indications in other interviews that taxi drivers play a crucial role in any smuggling process, whether as employees of professional smugglers or contacts of amateur smugglers.

Furthermore, some respondents made it clear that at least some taxi drivers offer smuggling services of their own. There is a direct taxi service that operates between the Zimbabwean town of Beitbridge and the South African town of Musina, and some of these drivers reportedly charge a fee for taking individuals without papers through the border post. Due to a limited penetration of this respondent group, it was difficult to establish what relationships with officials – if any – drivers use to ensure unimpeded passage for their clients. Nevertheless, two South African officials from the immigration and police services admitted that their respective colleagues often cooperate with taxi operators to smuggle migrants through the official port of entry.

Taxi drivers are also said to charge extra from undocumented migrants seeking passage to Johannesburg, and may also charge customers fees to evade capture at roadblocks. It is possible that bus and truck drivers are also involved in human

smuggling, but researchers found no evidence of such activity in the field. Although the RRO survey did show that transport by truck was more common among smuggled respondents, fieldwork produced no evidence that smuggling in goods and people are closely related industries.

Government Officials

Government officials regularly assist smugglers in evading detection and/or arrest. Again – due to their understandable fear of disciplinary or legal sanction – only a few officials were prepared to speak frankly to researchers about this practice. Nevertheless, our findings suggest that a significant proportion of the police force is directly involved in the trade. Indeed, there is a smuggling service wholly provided by the police, which provides passage directly through Beitbridge border post. In addition to interviews with respondents who used this service at a cost of (usually) R200, a police officer affirmed that “corrupt police officers at the border post are involved in aiding and abetting.”²⁰

There is a smuggling service wholly provided by the police, which provides passage directly through Beitbridge border post.

It is less clear to what extent DHA and SANDF officials are involved. However, fieldwork did produce evidence suggesting that DHA officials had been bribed to provide transit permits. Said one immigration officer: “People bribe the police and our own officials at the port of entry in order to avoid arrest and enter into South Africa; that is a major problem here.”²¹

Other migrants

Finally, many migrants become involved in smuggling as opportunities arise. At one end of this spectrum, there was evidence of migrants securing the services of

²⁰ Interview O1, South African police officer, March 2008.

²¹ Interview O2, Immigration officer, March 2008.

smugglers for fellow border crossers in order to extract a 'commission' or – as in the case of one informal border crosser – accepting payment simply for accompanying others on the journey. The respondent in question said that while on his way to South Africa he was able to smuggle three others who agreed to pay for his services.

At the other end, ad-hoc 'communes' of migrants sometimes form spontaneously at the border line and without the exchange of funds, in order to organise collective safe passage across the river. Whether this activity constitutes smuggling according to the widely accepted definition is debatable, since no clear exchange of material or financial benefit takes place, with the benefits limited to information exchange and safety in numbers.

Amagumaguma

Though the five groups discussed above make up the known components of the smuggling industry across the Zimbabwe border, it is worth mentioning a body of people who are less visible and more difficult to grasp: the *amagumaguma*.

Though our respondents' understandings of the term *amagumaguma* differ so widely as to make definition almost impossible, there is a good deal of consensus that these individuals are non-state actors responsible for various forms of abuse, exploitation and extortion along the border. In some respondents' comments, the term *amagumaguma* refers simply to particularly unscrupulous smugglers, who turn on their clients and rob, beat and/or abandon them during the crossing process. Other respondents referred to the *amagumaguma* as an entirely separate group, a mob of gangsters that roams the border area, preying on smugglers and their clients alike. Finally, a smaller group of respondents implied that the notion of *amagumaguma* was merely a ploy by cunning smugglers to boost the market for their services by creating the impression that assistance was crucial to safe passage.

It is likely that there is some truth in each of these understandings. However, no clear category of persons emerged out of the litany of rumour, myth and speculation that surrounded this term. Nevertheless, the amorphous nature of

this group, both in the popular imagination and in the accounts of cross-border migrants, supports the strong indication from all our findings that the smuggling industry is characterised by high degrees of uncertainty and significant levels of extortion and abuse.

Human Smuggling: Techniques and Process

Having identified the principal actors in the smuggling industry, the report now turns to the mechanics of its operations on the Zimbabwe-South Africa border. Examining the two distinct smuggling routes across the border – direct entry through the Beitbridge border post and circuitous entry across the border line – the discussion outlines findings about the primary techniques and practices employed to smuggle people into South Africa. Following on from this is a discussion of the main forms of abuse and denial of rights that occur during and as a result of the smuggling process.

How Individuals are Smuggled Directly through the Border Post

Contrary to the common perception that all informal entrants to South Africa must risk the dangers of the Limpopo River and face the barbed wire fences, many migrants are able to pass undocumented through the Beitbridge border post. Although it is likely that there are a wide variety of ways in which this could be arranged, respondents spoke of three techniques, described below.

1. Pedestrian Entry Via Police Bribes

According to respondents, police officers at the border post operate a system whereby one pays R50 to the officer at the ‘entry gate’ to the South African post, walks to the ‘exit gate’ on the other side, and pays the same amount to the police officer stationed there. This technique appears to be the least physically demanding, as well as the least complex, least dangerous, and cheapest method of crossing the border informally, and can be accomplished by individuals on an independent basis, without assistance from third parties.

2. Vehicle-assisted Entry Via Services of Professional Smugglers or Taxi Drivers

Another way of securing entry is to travel in a vehicle and arrange for police officials to forego document checking or fail to arrest those without documents. In some cases, this involves the exchange of money on site. However, at least one professional smuggler pays officials advance fees to ensure that his clients are not harassed over a specified period.

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Although this mode of passage may be more expensive, it is surprising given its relative security that so many individuals choose other means. One Zimbabwean respondent, who had paid a taxi driver to smuggle him through the border post, reflected on the costs and benefits “It is better to pay more money and be safe than become the prey for the *amagumaguma*.”²²

3. Irregular Procurement of Section 23 Permits

All foreign nationals claiming asylum at the border post are entitled by the Immigration Act (no.13 of 2002), at no charge, to a section 23 permit guaranteeing their right to remain in the country for 14 days. However, some professional smugglers exploit their clients’ ignorance of South African refugee law by presenting this as a service and charging clients to access these documents from DHA officials. Smugglers charge their clients in advance by falsely claiming that they will pay a specific amount in bribes or charges to officials in order to procure the permit.

All foreign nationals claiming asylum at the border post are entitled to a free transit permit, but some professional smugglers charge their clients to obtain these documents from DHA officials.

²² Interview BC1, a Zimbabwean border crosser, April 2008.

How Individuals are Smuggled across the Border Line

Given the obvious advantages of the various direct methods of entering South Africa through the border post, it is difficult to understand why so many migrants choose to enter along the border line. One potential explanation is that, particularly for Zimbabweans fleeing political persecution, the presence of security officials at the border post makes this option undesirable. While reports of a Zimbabwean state presence come from a number of sources, the research team could not confirm or deny these claims.

Another explanation is that most migrants are simply unaware of these options, and smugglers and taxi drivers involved in circuitous crossing have good business reasons not to provide further information. Given limited access to Zimbabwe to conduct research there, it was difficult to directly observe this stage of the smuggling process. Nevertheless, other evidence did support this contention.

The Role of Inexperience

According to respondents involved in the provision of smuggling services, most migrants arrive in Beitbridge with little knowledge of the ways of entering South Africa and the types of services available to assist them. The survey results on awareness of the asylum system seem to confirm this.

There are taxi ranks from which smugglers are known to operate, and some migrants learn about these locations through family, friends or transport operators. Others arrange in advance to use the services of a particular individual or group, based on recommendations from other migrants. Others simply arrive in Beitbridge and begin asking questions.

Few of the respondents we spoke to were in a position to distinguish between the quality of services offered by the different smugglers plying their trade at the taxi ranks, or to determine the potential risks of the various options. In a vacuum of accurate information, would-be border crossers make a decision based on what they are told. The decision-making process, and negotiation with smugglers, commonly occurs within conditions of psychological uncertainty and stress due to the pervasive reputation of *amagumaguma*.

Structural and Cost Factors of Former Border Crossing

Informal crossing is also linked to the ability of migrants to afford the costs of formal migration avenues. For instance, it costs US\$650 for an urgent passport and US\$400 for an ordinary one in Zimbabwe, and it might take up to a year before it is issued to applicants. Passports are also only issued in Harare, meaning that applicants from other parts of the country have additional costs and travel difficulties. Even the Emergency Travel Document costs US\$70, in a context where civil servants earn less than this per month.²³ Thus, despite some efforts by the International Organisation for Migration (IOM) to inform deportees from Zimbabwe and other Zimbabwean migrants about formal options of migration, in practice the documentation to migrate formally remains unreachable for most Zimbabweans. Until recently, the expensive South African visa, only available in Harare, also was a significant barrier to legal entry.

Terms of Payment

Border crossers attempting to reach Musina before arranging their own onward transport have to pay either in cash upfront, or via one advance instalment and a second instalment later. This latter form of payment is also a mechanism whereby unscrupulous smugglers confirm that clients are carrying cash and are therefore more vulnerable to extortion during the course of the journey. According to most of our respondents, this type of abuse during border crossing is very common.

For those with sufficient financial resources who are trying to reach a destination deeper inside the South African territory – Johannesburg, for example – an agreement is commonly made for a contact inside South Africa to pay the full fee at the conclusion of the journey. In this case the smuggler may check the reliability of the sources and confirm the agreement by telephone.

²³ Telephonic Interview with Zimbabwean Official, 21 April 2009, Beitbridge, Zimbabwe

Coordination of the River and Fence Crossing

It was difficult to identify exactly how responsibility for crossing of the river and border fence is organised and coordinated. Usually, the smuggling 'contract' will be organised between a client and a single individual. This primary smuggler is often the person who makes the initial contract with the client. However, this individual will invariably employ a number of other people to carry out various tasks along the way. These tasks may include transporting clients to and from the actual border-crossing site, and guiding people across the river and fences. On some occasions, the actual smuggling process will be a cooperative one in which migrants who have procured assistance through different organisers are actually smuggled as part of a single group. Contact between the network of people involved in each of these processes is usually maintained via cell phone.

Due to the fact that there is a visible, high-level police presence in the immediate vicinity of the border post, smugglers will usually transport migrants at least 30 km away from the border post on the Zimbabwean side before attempting to cross. At this point, they have to help clients cross the Limpopo River. Based on their prior experience and contacts, smugglers will know where and how best to cross the water. When smuggling groups it sometimes becomes necessary to create a human chain, with people holding hands in order to prevent individuals from being carried away by the current.

After crossing the river, individuals or groups will pass through the three lines of barbed wire and will then, depending on the expertise of the smuggler, negotiate the fence by using either pre-made cuts or keys to the various points at which there are gates. Immediately after crossing the fence, there will usually be a taxi waiting to transport clients along the service road that runs the length of the border line and serves as the most practical route back towards Musina.

Evading Police Intervention

As is customary in any police force, officers work according to predetermined schedules and will be assigned to the border area on this basis. Smugglers, particularly the more professional operators, will generally arrange the time of

crossing to coincide with the shift of an official with whom they work, or with whom they have a previous connection.

Professional smugglers will generally arrange the time of crossing to coincide with the shift of an official with whom they work.

This does not mean that there is not an element of risk, and clients are regularly arrested and deported. However, in some cases, smugglers have been able to illegitimately secure the release of clients even after they have been taken into custody. Amateur smugglers, who are less likely to be privy to the relevant knowledge, simply have to try their luck on the road, attempting to bribe officials as and when they encounter them.

Those who have already paid for their onward transport will most likely travel directly through Musina in the same vehicle that picked them up on the service road, or leave soon after arrival in the town. Those who have paid only for the border crossing will be dropped at an informal taxi rank where they may sleep before arranging transport for the rest of the journey. At this site they are vulnerable to arrest and further extortion, either by the police or by taxi operators.

Key Forms of Abuse

We were about 10 people, we paid \$200 each. The deal was for them to take us safely to Johannesburg... We were transported by a minibus and after we crossed the river we were taken by those who waited for us in a minibus. The taxi is like this one [showing me a passing vehicle]; they are terrible; they don't keep balance. While they were driving us to Musina, we had an accident; the car overturned. One Bangladeshi died on the scene and many others were injured. The rest of us were lucky to get away with minor injuries... The car driver was local and an ambulance came after a

while... it was in the bush along the fence asphalted road. The name of the one who brought us was 'Mandela'. He is very famous in the area. He deals with the police chiefs if there is anything wrong. After that we were arrested, with some local criminals. The police they wouldn't release us without paying another \$100. I was very angry and agitated and insisted I did not have money, they released me during the night but they kept the others in the cells. I was so scared for my life, had heard there were criminals in this country. After few hours police in plain clothes stopped me. They were from CID and told me, "You guys, we know you; you have always dollars with you." They put me in their car, it was like yours [referring to the car I used at the time]. The music was high. There were two big guys on the back seat; in front, the driver and I. I knew I was in danger. Nobody even could hear me with the noisy music. I started to beg him and told him, "If you don't fear God, you can kill me." I really thought they were going to kill me. Then the driver said nervously, "We don't do that; please don't say that." He put his hand in his pocket and gave me R50 and said, "Go away from me now." It was horrible. (BM, Bangladeshi border crosser.)

Migrants negotiate from a position of weakness from the moment they first interact with a smuggler. They have little information about the border itself or their potential options. The human smuggling industry depends heavily on the lack of information available to migrants, and human smugglers trade on their clients' confusion and desperation. It is unsurprising, then, that the industry is characterised by multiple forms of coercion and abuse, including not only misrepresentation but also extortion, abandonment, obstruction of the asylum process, theft, physical violence, and injury or death through the natural hazards of border crossing.

Misrepresentation

Smugglers provide their clients with misleading information about border conditions, the dangers posed by law-enforcement officials, and the risk of falling victim to *amagumaguma*. They also withhold information about the range of

potential options available and the opportunity to claim asylum at the border post. According to one smuggler:

They know nothing; they think we do them a favour while they arrive at the border post; we don't. We only pay on the other side [Zimbabwe], here the police let them in and the immigration give them asylum but they think it is me who organised that for them.²⁴

According to some of our respondents, smugglers will also on some occasions misrepresent their intentions by accepting a lower price at the beginning of a transaction on the assumption that they will extort more money later on.

Extortion

Smugglers commonly extort money from their clients during the journey. Since migrants have almost no recourse to protection and no capacity to bargain, they are regularly forced to pay additional money to guarantee their safety. Smugglers admit that they regularly alter the terms of the transaction unilaterally or lie about the nature of the initial agreement; the presence of police or the amount that had to be paid in bribes to secure entry or passage; or the remuneration originally promised by the smuggler with whom the migrant initiated the transaction.

The most powerful means of extorting money from clients is to threaten to abandon them in the border area. Smugglers say that this technique is particularly effective during the Limpopo crossing, where migrants are heavily reliant on the smugglers to ensure safe passage. One respondent told us a story of a professional smuggler who made direct use of the police to extort additional money. It appears that in such cases a smuggler may call a police associate who will then threaten the migrants simply with their presence, or with arrest and deportation, until they agree to pay more – either to the smuggler or directly to the police officer.

²⁴ Interview S4, Ethiopian professional smuggler, March 2008.

A smuggler may call a police associate who will threaten the migrants until they agree to pay more – either to the smuggler or directly to the police officer.

For smugglers, another effective means of extorting additional payment is simply issuing a threat to take migrants to the police or a detention centre. In most cases, the border crosser himself or herself is the target of these extortion techniques, but in some cases friends or families at the place of origin or destination are brought into the transaction.

Abandonment

Sometimes, if extortion does not work, smugglers will deliver on their threats to leave clients in precarious situations. Several respondents claimed that their smugglers left them at some point along the route. This risk appears particularly grave in the case of long-distance smuggling rings. Respondents told of being abandoned in other countries on their way to South Africa, spending time in prisons, or being forced to sell their belongings in order to survive and continue their journey. According to one professional smuggler, these tactics are more common to amateur smugglers: “[t]hese are not true dealers; they are just thieves. They tell them ‘we will take you for cheaper money’ and [the clients] believe them.”²⁵

Obstruction of Access to Asylum

According to sources in the border area, access to the asylum system has improved for groups coming from recognised ‘war-torn’ countries. Whereas previously the majority of potential asylum seekers may have chosen to be smuggled into South Africa, an increasing number are now making their presence known to officials and claiming asylum at the border. On a particularly positive note – and contradicting our own previous findings on this subject – even in cases

²⁵ Interview S5, a Zimbabwean smuggler, April 2008.

where an individual from such a country is found entering the country clandestinely, the police may redirect them to access section 23 permits. This was confirmed by the account of a group of four Ethiopian asylum seekers who had paid significant sums of money to be smuggled into South Africa:

We left Ethiopia on Tuesday and travelled by plane to Nairobi and from there to Harare. It took us only two days. The dealer in there [Addis Ababa] called his partner in Zimbabwe. They know each other; we did know him, the latter. He received us at the airport and he has a taxi, he brought the six of us himself up to the border, where he told us to jump over the fence and we run fast, it was around midnight. After that the police caught us and put us in their van and brought us here, where they gave us the papers and let us to go... We paid 20,000 [Ethiopian birr] each [to the smugglers].²⁶

However, the survey data suggests that not all nationals from recognised refugee-sending countries are presenting their claims at the border post; indeed, large numbers are not. Furthermore, potential applicants are often misled by smugglers as to their eligibility to claim asylum and/or compelled to pay for this right. Until July 2008, when an agreement to give Zimbabweans asylum seeker permits was implemented in Musina, the asylum-seeker system was often closed to Zimbabwean nationals based on the arbitrary 'discretion' of immigration officials. This constituted a circumvention of refugee protection legislation. The Musina Legal Advice Office, a local NGO working on this issue, reported the extreme difficulty that Zimbabweans experienced in convincing officials to recognise their claims.

²⁶ Interview BC2, a group of Ethiopian migrants, March 2008.

Potential applicants are often misled by smugglers as to their eligibility to claim asylum and/or compelled to pay for this right.

Theft

Many of the migrants interviewed or spoken to during the fieldwork in Musina had been robbed of their goods and belongings by either their smugglers or unfamiliar people lurking on one or other side of the border. Most victims claimed to have been searched by these groups, who may demand money, cell phones or other items. It appears that the perpetrators organise themselves in gangs in order to overpower their victims. A researcher met two Zimbabweans who crossed at night but were confronted by a group of people who searched them and robbed them of all their belongings, including bags, documents, money, and cell phones. On other occasions, thieves have forced migrants to take off their clothes, giving them dirty and torn clothes or shoes in return:

They had knives and axes, they searched us; took our transport money – we had 200 each. Afterwards, they told us to take our clothes off. We did; we were so terrified, and there was nobody to help; it was at night. They took our shoes; we had nice shoes and they gave us this. These dirty clothes we are wearing are also theirs.²⁷

As we observed in the earlier discussion of *amagumaguma*, it is difficult to determine whether these apparently independent groups are actually working together with the smugglers. What is certain is that at least some of the smugglers working this border have committed similar acts of theft from their clients.

²⁷ Interview BC3, Zimbabwean border crosser, April 2008.

Physical Violence

On some occasions theft and extortion lead to violence.²⁸ Sometimes people are unwilling to part with their goods, or simply have no money available, and their assailants are willing to back up threats of violence:

*You don't know where they come from in the dark. They appear out of nowhere and start insulting and calling names. They tell you "don't move; we will kill you." If you have no money, at least small money, they will kick you like anything.*²⁹

Respondents reported many cases of wanton violence and abuse, including rape and murder, and these were supported by officials, particularly in reference to the more distant past. The research team did not uncover any specific evidence of such acts in the recent past, except in follow-up research discussed in the section on gender-based violence. This does not mean that abuses such as these do not occur, but in an environment characterised by such intense speculation, rumour, and exaggeration, it is extremely difficult to arrive at an accurate assessment. Nevertheless, it is clear that physical violence – and/or the threat thereof – is a very real problem.

Gender-Based Violence

An IOM study of 1155 migrants in Musina from November – December 2008 found that 3% of their sample stated that they had experienced gender-based violence while crossing the border, including both men and women.³⁰ In our own follow-up research in February 2009, the staff of *Médecins sans Frontières* (MSF) in Musina reported that they had come across several migrant women who told of experiences of rape and sexual abuse during their attempts at informal border crossing in May 2008. Among these was an 18-year-old from Bulawayo who was beaten and raped at knifepoint by a gang leader and then again by another apparent gang member, after she and another girl she had met were 'rescued' by

²⁸ The 2009 IOM Report states that one third of their sample of 1155 had experienced some form of physical violence while crossing the border.

²⁹ Interview BC4, a Zimbabwean border crosser, March 2008.

³⁰ IOM 2009.

a group of men from taking a path they claimed would lead the women towards *amagumaguma*. They later approached patrolling soldiers on the border, preferring to be caught than risk further assault, but the soldiers ignored their pleas. Another Zimbabwean border crosser, a 17-year-old from Harare, reported how she was raped after being unable to pay the *amagumaguma* she encountered after crossing the border alone.

A 17-year-old from Harare reported how she was raped after being unable to pay the amagumaguma she encountered after crossing the border alone.

The staff of the Jesuit Refugee Services in Makhado, a town 100 km south of Musina, also reported having come across three cases of rape by criminal groups both during and after border crossing. Interviews with staff of both organisations established that women are seen as easy targets for sexual violence, because to report these crimes they would have to approach the South African authorities and risk detention and deportation.

When an FMSP researcher visited a shelter in Musina in March 2009, after the closure of the Musina Show Grounds where many Zimbabwean asylum seekers had previously been living, he found further evidence of sexual abuses against women migrants during border crossing. One woman said she had been held at a 'rape camp' on the Zimbabwean side of the border, where Zimbabwean soldiers had cooperated with smugglers in order to violate women desperate to enter South Africa. Another respondent, an 18-year-old Zimbabwean woman, is carrying the baby of the smuggler who abducted and raped her when she could not satisfy his demand for additional payment during the journey:

He was angry and he took all my clothes, shoes and everything. I cried and I cried. I begged him to leave me but he refused. He said he will kill me. I cried the whole day. He raped me many times; I was there for many days. After one week he gave me R15 and left me. He didn't kill me but he did what he did. The doctor told me, 'You are pregnant,' and I am angry now. I don't know what to do. I am not prepared to have a child...

Injury or Death due to Natural Hazards

It is also difficult to assess reports of death due to drowning or mauling by wild animals. While it is certainly possible that migrants face these kinds of harm – particularly with regards to drowning – there is little hard evidence on this issue.

Corruption

I also faced the same problems when I was bringing my wife in 2007. I went to Musina to receive her, there at Beitbridge. The dealer left her alone there and he called me from Zimbabwe to tell me that my wife had crossed into South Africa. I found her so exhausted and hungry. [...] She is alright now, as you can see, but then she was only bones. We had to wait for her transit paper which they delayed us. I was concerned about her conditions and decided to take her away immediately in my friend's car. [...] Then on our way to Petersburg, a speeding car with emergency lights followed us and then drove on our side and the police said, "Follow me". He led us outside the town. Soon after another two police cars followed. We were so afraid and I thought they were going to ask about my wife and her paper. In one secluded area they all jumped out of their cars. They told us, "We know about you." We showed them our papers. "We don't care about you; we want to ask about this car." "We just brought it from Pietersburg," we replied. They demanded R5,000. I had only R1,300 and took it out and gave him, and I took R100 from his hand saying, "For my toll gate". They then let us go and disappeared back to Musina.³¹

There is extensive evidence, including evidence provided by government sources working at the Beitbridge border post, of official corruption related to the smuggling industry. SAPS and DHA officials working on the border are involved, albeit to differing degrees depending on rank and the nature of their responsibilities. We did not find any evidence of SANDF involvement.

³¹ Interview BC5, a Bangladeshi border crosser, April 2008.

In many cases, corruption is initiated by smugglers themselves. Officials are reportedly paid regular 'stipends', bribed on an ad-hoc basis, and encouraged through the use of improper influence to:

- Assist in providing access to government facilities – particularly gates and fences;
- Allow the passage of informal migrants;
- Secure the release of informal migrants;
- Provide official documentation – particularly in the case of DHA officials;
- Alter patrol and surveillance strategies to guarantee passage; and
- Protect smugglers from arrest and prosecution.

As suggested above, corruption is not always simply a matter of police bending the rules in favour of specific clients. Some police officers are also actively engaged in providing their own smuggling services and conspiring to extort money from informal migrants. As noted above, in attempting to extort additional money from a client, smugglers may call in police officials to threaten clients with the possibility of arrest and deportation.

There is extensive evidence of official corruption related to the smuggling industry, including regular 'stipends' and ad-hoc bribes.

The fact that there is widespread corruption in the border-control system should not be taken to mean that *all* officials are participating or profiting from this enterprise, or that many of the officials who do so do not act in accordance with the law and their responsibilities in other respects. In fact, one of the key reasons why smuggling is such a profitable enterprise is because of the effective and heavy police and Home Affairs presence on the border, which leads to regular arrests and deportations. Even the most professional smuggler cannot make

guarantees to all clients that they will be safe from intervention by the authorities.

Summary and Conclusions

This report has set out to reveal the nature of smuggling practices on the Zimbabwe/South Africa border in an attempt to reflect both on common conceptions of the character of human smuggling and to temper exaggerated and often misinformed claims about the nature of the problems that beset border control. Without an informed understanding of these problems, there is no foundation upon which to build policy or other interventions.

The research reveals some surprising facts that can be expected to inform any official interventions for improved border management. The findings do not support recent calls for tightened border controls in reaction to the May 2008 xenophobic attacks; indeed, they suggest the opposite: that government should focus on improving access to formal entry routes to ensure that the majority of immigrants enter through official channels, acquire documentation, and are captured on DHA records. This approach could be expected to promote effective control and management of the foreign population.

Government should improve access to formal entry routes to ensure that the majority of immigrants enter through official channels, acquire documentation, and are captured on DHA records.

In summary, our findings included the following:

- Human smugglers capitalise on a general state of uncertainty about conditions at the border to charge high fees for their services and in certain cases to extort money from their clients or abandon them in dangerous environments.

- More pernicious criminal elements on the border line, which are difficult to distinguish from smugglers themselves, regularly prey on migrants, leading to reported cases of abduction, rape and murder.
- Human smuggling on the Zimbabwe/South Africa border is not closely associated with the smuggling of goods; nor does it seem to be strongly linked to the practice of human trafficking.
- The South African border with Zimbabwe is heavily policed, leading to large numbers of arrests and deportations. However, this strictly controlled environment creates opportunities for some individuals within the migration-control structure to engage in corrupt practices that undermine the work of their colleagues.
- Heavy policing of the border is unlikely to alter long-term migration patterns. In fact, it seems that perceptions of strict immigration controls encourage the practice of smuggling.
- Lack of access to clear information about South African immigration policy and border procedures, together with misinformation spread by smugglers, encourages many migrants – including those with legitimate claims for asylum – to enter South Africa informally or to pay for access to asylum permits to which they are entitled free of charge.

It appears that official and unofficial obstacles to formal, documented entry into South Africa boost the market for informal migration into the country.

A final conclusion that can be drawn from the research is that not all migrants that cross the border by land are citizens of South Africa's immediate neighbours. While most of the smuggled migrants interviewed during fieldwork in and around Beitbridge came from Zimbabwe, migrants smuggled across the Limpopo come from as far away as Malawi, Somalia, Ethiopia and Bangladesh. Indeed, certain smugglers also hail from more distant African nations.

Thus, it appears from the research that official and unofficial obstacles to formal, documented entry into South Africa boost the market for informal migration into the country. The increased demand for informal entry that results from strong border controls in turn contributes to the rise of corrupt practices among officials and often abusive human smuggling activities that undermine border control by increasing the number of invisible border crossers. Arguably, it is this growing invisible population that presents a serious problem to South Africa, rather than the inevitable growth in the documented foreign population – the nature and extent of which is amenable to measurement, allowing the development of suitable and informed interventions and management strategies.

This is not to detract from the clear importance of access to documentation in preventing the human rights abuses that plague informal border crossing. Individuals and organisations pressuring government to embark on even stricter policies and controls must acknowledge the inevitability of informal crossing in response, along with the serious victimisation that can take place in a context of extreme vulnerability, especially for women migrants.

Given these findings, FMSP supports the progressive approach of the Deputy Minister for Home Affairs, Malusi Gigaba, who stated at a round table discussion reported in the media in April 2008 that South Africa “must move away from the attempt to control and combat migration towards a new paradigm of managing international migration”.³²

Recommendations

These findings, while based on preliminary research conducted on a highly secretive activity, suggest that additional investment in border policing may not achieve the intended control and might have significant negative impacts upon both the migrant population and government security agencies. In fact, the findings suggest that South Africa’s current strict border control measures have

³² SAPA/IOL 2008b.

the paradoxical effect of creating a demand for the services of human smugglers, which in turn leads to corruption and human rights abuses.

In line with the migration-management paradigm under consideration by the DHA, we recommend that South Africa pursue the following goals in the interest of effective border management:

- Substantively investigate and root out corrupt practices within SAPS border control staff and their DHA and SANDF counterparts.
- Ensure that *all* asylum seekers are provided with section 23 permits at the border, regardless of their nationality or country of origin.
- Publicise South African migration legislation and raise awareness of conditions at the border both in the vicinity of the border posts and in other high-impact areas, such as in buses en route to South Africa and in the town of Beitbridge.
- Consider issuing temporary protection permits for Zimbabwean citizens that will ensure that the growing flow of Zimbabwean nationals into South Africa is effectively calculated, monitored and managed, and policies for addressing the acute humanitarian needs of the Zimbabwean population can be implemented.
- Implement a visa-free entry system in line with the SADC Protocol on the Facilitation of the Movement of Persons, easing the official, documented passage of persons from the region into the country and discouraging recourse to undocumented entry via smuggling.

Any reactionary tightening of immigration legislation or enforcement policy is strongly discouraged. Based on this research these kinds of interventions may:

- Fail to prevent large-scale in-migration over the Zimbabwean border;
- Fail to address serious forms of cross-border criminality, including the smuggling of goods and arms or trafficking in persons to be exploited in South Africa. From what our research has revealed, these forms of organised crime will not be impacted by interventions targeting human smuggling;

- Increase the demand for smugglers' services, thereby increasing their resources and numbers;
- Raise the numbers of invisible and undocumented migrants entering South Africa via smuggling, leading to further loss of control over this population and hindering the effective development of a migration-management approach to border control;
- Encourage smugglers to alter or diversify their tactics, possibly generating more risk-prone and corrupt activity;
- Increase incentives for corruption among border officials; and
- Increase the risk of harm to migrants seeking to cross the border informally, resulting in serious injuries and loss of life.

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