South East Asia and Australia

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Introduction

Internal displacement, refugee and stateless populations and asylum and irregular labour migration flows have long posed challenges for South-East Asia as a region. Multiple drivers of irregular migration – such as conflict, inter-ethnic and broader community violence, natural disasters, profound inequality and lack of opportunity – feature in many parts of the region. Entry and border management are particularly challenging because of archipelagic and isolated borders, and further complicated by traditions of informal (often seasonal) migration for work. Illicit migratory practices, such as the corrupt behaviour that facilitates migrant smuggling and human trafficking, are endemic and have proved difficult to manage. The political, economic and social costs of irregular migration are growing for most States of the region, and it is unsurprising that this issue is now firmly established on the political, policy and research agendas in both South-East Asia \(^78\) and Australia. Within this broader landscape, migrant smuggling has emerged as a persistent feature of irregular migration and a source of pressing concern to governments of the region.

While the situation has been markedly different in Australia (where the focus has remained squarely on traditional forced migrant categories of asylum seekers and refugees), the policy discourses in South-East Asia have tended to focus on “irregular migration” and “illegal/irregular migrants”, with a strong leaning towards labour migration and migrant workers (Nethery and Silverman, 2015; Kneebone, 2015). This reflects the nature of international migration in the region: the search for work has always been the primary driver for irregular migration in South-East Asia (UNODC, 2015:vii). However, it is also apparent that there has been a preference on the part of policymakers to conceptualize and depict international migration in the region in specific ways, including by downplaying asylum flows and populations in need of international protection.

\(^78\) The United Nations defines South-East Asia as Brunei Darussalam, Cambodia, Indonesia, the Lao People’s Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam (see United Nations Statistics Division, 2013).
This conceptualization has been evident for decades. For example, during the Comprehensive Plan of Action for Indo-Chinese Refugees in the 1980s and 1990s, the Association of Southeast Asian Nations (ASEAN)\(^79\) persistently but ambiguously referred to refugees as “illegal immigrants/displaced persons (refugees) from Indochina” (ASEAN, 1979).

The region as a whole has struggled to embrace the ideals and many of the practices associated with safeguarding migrants’ rights – whether regular or irregular migrants, migrant workers, asylum seekers/refugees, students or smuggled and trafficked migrants. This can be seen in the weakness of legal and policy frameworks (both national and regional) relevant to the rights of migrants, including asylum seekers and refugees. In contrast, there has been a strong focus on countering the transnational criminal aspects of migration, as reflected in the region’s embrace of relatively new international instruments and procedures developed to address the involvement of organized criminal groups in migration, including through trafficking and smuggling. For example, as shown in Table 9.1, all States in the region are party to the 2000 United Nations Convention against Transnational Crime, almost all are party to the related Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), and most are party to the related Protocol against the Smuggling of Migrants by Land, Sea and Air (Smuggling Protocol). Conversely, few States in the region are party to the Refugee Convention (and related Protocol), even fewer have ratified the International Labour Organization (ILO) and UN migrant workers conventions and UN statelessness conventions.

\(^{79}\) ASEAN Member States include the following: Brunei Darussalam, Cambodia, Indonesia, the Lao People’s Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam, with Timor-Leste and Papua New Guinea attending as observers.
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<tbody>
<tr>
<td>Brunei Darussalam</td>
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<td>-</td>
<td>2008</td>
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<tr>
<td>Cambodia</td>
<td>1992</td>
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<td>2007</td>
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<td>Indonesia</td>
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<td>2012</td>
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<td>2009</td>
<td>2009</td>
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<tr>
<td>Lao People’s Democratic Republic</td>
<td>-</td>
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<td>-</td>
<td>2003</td>
<td>2003</td>
<td>2003</td>
<td>2003</td>
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<tr>
<td>Malaysia</td>
<td>-</td>
<td>-</td>
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<td>2004</td>
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<tr>
<td>Myanmar</td>
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<td>2012</td>
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<tr>
<td>Singapore</td>
<td>-</td>
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<td>2007</td>
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<td>Thailand</td>
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<td>2013</td>
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<td>Viet Nam</td>
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<td>-</td>
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<td>2012</td>
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<td>2012</td>
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</table>


The growing profile of migrant smuggling has resulted in the allocation of funds by concerned States to support research and other works of international organizations in this area. Partly as a result of this support, international organizations operating within this region have been very active, particularly over the past several years. Some examples of activities include the following: (a) capacity-building, technical assistance and training of officials in anti-smuggling techniques and approaches by the UN Office on Drugs and Crime (UNODC) and International Organization for Migration (IOM); (b) assisting victims of smuggling and/or trafficking by IOM and the United Nations High Commissioner for Refugees (UNHCR); (c) providing a level of protection to those escaping persecution via smuggling by the UNHCR; and (d) advocating for the rights of migrants (including smuggled migrants) by IOM, UNHCR and ILO. Of particular relevance to this chapter on migrant smuggling research and data is a range of work undertaken by the UNODC’s Regional Office for South-East Asia and the Pacific that has shed light on aspects of migrant smuggling in the region while also providing useful resources for researchers, analysts, policymakers and practitioners.80 This chapter draws on this work, most notably UNODC’s online Bibliographic Database on Migrant Smuggling and Related Conduct (launched in October 2014),81 its annotated bibliographies on migrant smuggling in Asia (UNODC, 2012 and 2014a), as well as its 2015 research report on migrant smuggling in Asia (UNODC, 2015).82 Importantly, the definition of “smuggling” applied in the region, particularly by UNODC in its various roles but also by States generally, is based on the definition in the Smuggling Protocol (the unauthorized movement of individuals across national borders for the financial or other benefit of the smuggler) with its attendant focus on transnational criminal practices. As discussed later in this chapter, researchers have tended to examine smuggling through different lenses, including as a form of sociocultural practice, as well as a business/service industry.

International organizations working in the region, especially IOM, ILO and UNODC, have been consistently active on the issue of trafficking in persons but have not deeply engaged with the links between trafficking and migrant smuggling. The exploitative aspects of migrant smuggling, including its overlap with trafficking in persons, has been an occasional focus of attention for human rights organizations and other civil society actors in the region. For example, in collaboration with the Office of the UN High Commissioner for Human Rights (OHCHR), the Bangkok-based Global Alliance on Trafficking in Persons has been conducting research on migrant smuggling in the region (Global Alliance against

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80 In particular, the Coordination and Analysis unit headed by Sebastian Baumeister.
81 Available from www.unodc.org/clrd/index-sherloc-bib.jspx
82 The research was led by Professor Andreas Schloenhardt, University of Queensland and Professorial Research Fellow at the University of Vienna.
Trafficking in Women, 2011) and contributed to the subsequent development of a set of principles and guidelines on human rights at international borders (OHCHR, 2014).

In this chapter, with its focus up until the end of 2015, we provide a brief overview of migrant smuggling in the region before outlining the main data available on the issue. We then provide a critical review of the research literature in the field published over the last five years. In concluding, we highlight that while significant improvements have been made in the region in recent years in relation to data and research on migrant smuggling, ongoing challenges remain in filling data and research gaps. We offer some suggestions as to how these gaps may be constructively addressed.

Overview of migrant smuggling in the region

Given its clandestine nature, and that both smugglers and smuggled migrants are often (but not always) seeking to evade detection by border authorities, migrant smuggling in the region is difficult to accurately assess and analyse. That said, in South-East Asia, irregular migration flows and the number of irregular migrants residing in countries are thought to be significant. For example, in a recent report on migrant smuggling in the region, UNODC asserted that, “In South-East Asia high levels of irregular migration take place within the region, particularly from the countries of the Mekong subregion to Thailand and Malaysia and also from Indonesia to Malaysia. These movements are, to a significant extent, facilitated by smugglers.” (UNODC, 2015:57)

As is the case in other regions, the visibility of smuggling routes in South-East Asia is uneven – some routes being highly visible, while others remain largely in the dark. The most visible routes tend to be the maritime smuggling routes within the region, particularly those from Bangladesh and Myanmar across the Bay of Bengal and Andaman Sea to Thailand, Malaysia and Indonesia, as well as those from Indonesia (and Sri Lanka) to Australia – both of which consist mainly of asylum seekers. Other known smuggling routes dominated by irregular migrant workers (those between Indonesia and Malaysia, for example) are much less visible.83

While the exact composition and nature of migrant smuggling flows are difficult to ascertain, it is possible to deduce the region’s major smuggling routes (see Figure 9.1) from (the usually easier to map) irregular migrant populations.

83 However, note recent research discussed in the next section by Hugo and colleagues has provided valuable insights into these smuggling routes (Hugo, Tan and Napitupulu, 2014).
For example, Malaysia currently hosts over 2 million irregular migrant workers, well over half of them from Indonesia (Djafar and Hassan, 2012:704). It is reasonable to assume that while not all were smuggled, many used a smuggler at some point in their journey. It follows that the route between Malaysia and Indonesia is likely a busy and lucrative one for smugglers. The same may be said of the large populations of Myanmar, Lao and Cambodian irregular migrant workers in Thailand.

Figure 9.1: Migrant smuggling routes in South-East Asia and Australia

Certainly the link between migrant smuggling and irregular migration for work appears to be a strong one within the region. The expense and heavy administrative burden attached to regular labour migration channels have encouraged the development of informal networks of recruiters, brokers and transporters who often work together to facilitate irregular entry (Bustamante, 2007). UNODC cites the example of irregular migration from Cambodia to Thailand, which can cost a tenth of what migrants are required to pay to use regular channels (UNODC, 2015:61). Irregular migration networks feed high region-wide demand for low and semi-skilled workers across many sectors including construction, fisheries, manufacturing, agricultural work and domestic service. While the profile of irregular migrant workers is correspondingly diverse,
it has been asserted that younger men comprise the majority of flows, and that they are more likely to use the services of smugglers than women, who will more often migrate irregularly as part of a family group (UNODC, 2015:61).

Smugglers are a similarly diverse group, reflecting the multitude of tasks involved in smuggling operations. For example, smuggling from the Middle East to Australia via Indonesia involves high-level organizers who typically share the nationality of their clients and a multitude of intermediaries and local operators providing everything from fraudulent documentation to crewing of smuggling vessels (UNODC, 2013:45–47). Much smuggling within the region appears to be opportunistic or involving only loosely connected groups. There is little evidence of the presence of highly organized criminals except to the extent that large-scale involvement of corrupt officials – such as was revealed in the Rohingya\(^{84}\) case – can be characterized as organized criminal activity. This picture may be different for smuggling operations through and from South-East Asia, which are relatively riskier and require a higher degree of organization.

While smugglers can help to ensure a safe border crossing, irregular migration in South-East Asia is fraught with dangers. Smuggling only compounds the risks. The perils of facilitated maritime crossings in the region, often in overcrowded, unseaworthy and poorly crewed vessels, have been well documented.\(^{85}\) Land crossings can also be deadly. In 2008, a group of 121 Myanmar migrants who paid smugglers to transport them to Thailand in a seafood storage lorry began to suffocate after the air-conditioning unit failed. Though they managed to alert the driver, he refused to stop. Fifty-four migrants, most of them women, had died by the time the container was opened. No arrests were made, except of survivors who were quickly deported back to Myanmar.\(^{86}\)

Facilitated irregular migration within South-East Asia often morphs into abuse and exploitation that may rise to the level of human trafficking. In fact, in this region, there can often be little to distinguish between what Kyle and Dale have referred to as “migrant exporting schemes” and “slave importing operations” (Kyle and Dale, 2011). The smuggled Rohingya asylum seekers who ended up being sold into forced labour in Thailand (see Box 9.1) provide an example of this slippage, as does the debt-financed and facilitated migration of poor Indonesian women into domestic service in Malaysia (Andreviski and

\(^{84}\) Note that the term *Rohingya* as used to describe the Muslim peoples of Rakhine State, Myanmar, is not accepted by the Government of the Union of Myanmar, which in June 2016 issued an order directing State-owned media to use the term “Muslim community in Rakhine State”.

\(^{85}\) On deaths of smuggled maritime asylum seekers en route to Australia, see Weber and Pickering (2014) at pp. 177–206.

Lyneham, 2014). The following case study explains how the intersection between smuggling and trafficking operates in this setting.

**Box 9.1: The intersection between migrant smuggling and human trafficking in practice**

Thirty-two-year-old Heni ... came to Malaysia on March 2009. ... She used the service of an agent who was an acquaintance from her village, and paid RM 1,500 to the agent. She came to Malaysia with 15 others using social visit passports. In Penang, the agent took away all their passports and sent them to employers who needed them. She worked in Gelugor, Penang and was paid RM 500 a month. The agent took all of her salary for the first four months. ... she was captured by the authorities when she stayed at a friend’s house in Relau, Penang (Ajis, Askandar and Awang, 2015:129).

**Smuggling of asylum seekers and refugees**

Available information appears to confirm that migrant smuggling plays an important role in moving asylum seekers and refugees through and out of the region. While acknowledging this link, it is important to note significant exceptions, especially in relation to sudden onset, large-scale movements caused by transnational or civil conflict. For example, smuggling did not appear to be a part of the refugee flows from Viet Nam in the 1970s and 1980s, nor of the much more recent displacement of refugees from Myanmar into China’s Yunnan Province as a result of civil conflict in early 2015 (Perlez, 2015). Generally however, it is apparent that many asylum seekers and refugees moving within, into and out of the region rely on migrant smugglers for some or all of their journey, and that some irregular flows involving smugglers are mixed, comprising migrants in need of international protection, as well as those who do not need protection (McAuliffe, forthcoming; UNODC, 2015).  

Asylum flows within the region are dominated by movement from Myanmar. The bulk of non-Myanmar asylum flows are moderate in comparison and have flowed largely to countries outside South-East Asia, including to China, France, the United States, Papua New Guinea, India and Australia (see Table 9.4). There appears to be a particularly heavy reliance on smuggling by asylum seekers and refugees travelling by boat from Cox’s Bazar in Bangladesh to Thailand, Malaysia and Indonesia (UNHCR, 2015; McAuliffe, 2015). Another prominent route until the end of 2013 was that taken by maritime asylum seekers from other regions including South Asia, Central Asia and the Middle East to

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87 Irregular maritime flows from Cox’s Bazar, for example, comprise asylum seekers, refugees and migrant workers.

88 The 300,000 Vietnamese in China moved to China between 1979 and 1982 and have integrated into the Chinese community and are awaiting citizenship. In March 2006, UN High Commissioner for Refugees António Guterres described the situation as “one of the most successful integration programmes in the world”.

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9. South-East Asia and Australia
Australia, smuggled through transit countries including Indonesia, Malaysia and Thailand (Koser and McAulliffe, 2013; Barker, 2013). Not all the major routes are maritime. Asylum flows originating from South-East Asia to much more distant countries, particularly the United States and France, involve smuggling via air travel (UNODC, 2015:68–69). In addition, land crossings between Myanmar and Thailand, as well as Myanmar and Bangladesh (and to a lesser extent, Indonesia and Papua New Guinea) have historically been intertwined with smuggling (UNODC, 2015:69).

**Review of data on migrant smuggling**

Hard data on an unregulated, illicit activity such as migrant smuggling is difficult to collect, challenging to access and sensitive to report. While it is apparent that all States have some degree of data collection capability in relation to irregular migration flows, irregular migrant populations and migrant smuggling, this capability appears to be highly variable between States in the region. In addition, there may be government reluctance to share data, which may be related to a desire to avoid scrutiny or controversy. Information may also be restricted because it pertains to law enforcement investigations and prosecutions. Irrespective of the underlying motivations, the impact is significant. UNODC, the lead UN agency concerned with migrant smuggling, explains the difficulties encountered in seeking to establish what is happening:

A major obstacle for any research conducted in this field is the lack of complete and reliable data and the difficulties in accessing data kept by various state institutions. A large number of governments do not specifically collect information on the question of whether a person’s illegal entry or illegal stay was facilitated and whether this facilitation was motivated by a financial or material benefit, which would be in line with obligations under the Smuggling of Migrants Protocol. Thus, many governments do not distinguish in their statistics if a person was a smuggled migrant (an irregular migrant who resorted to the assistance of migrant smugglers) or if an irregular migrant entered or stayed in a country without the assistance of migrant smugglers … there is tremendous discrepancy between what is recorded regarding persons who were detected when attempting to illegally enter a country or when already illegally staying in a country and the data recorded regarding smuggled migrants. This represents a major challenge to researching and depicting migrant smuggling (UNODC, 2015:4).
The summary of data contained in the 2015 UNODC report (Table 9.2), with its many “unknowns”, caveats and broad estimations, provides further insight into the very real impediments to estimating and reporting on smuggling in South-East Asia. But, as noted above, this has not prevented the emergence of general agreement on broad trends. It is generally acknowledged that migrant smuggling is characterized as follows: (a) widespread throughout South-East Asia, acting mainly to support specific sectors of national economies that rely heavily on unregulated labour; (b) often merges with human trafficking (as well as other illicit activities such as drug smuggling); and (c) facilitated by corrupted authorities and officials. These factors conspire to pose very significant risks to migrants’ rights and well-being, irrespective of the reasons underpinning their unauthorized migration.
### Table 9.2: Estimated numbers of irregular migrants and persons smuggled

<table>
<thead>
<tr>
<th>Origin</th>
<th>Destination</th>
<th>Irregular migrants</th>
<th>Smuggled migrants</th>
<th>Residing in...</th>
<th>Irregular migrants</th>
<th>Smuggled migrants</th>
<th>From...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td></td>
<td>-</td>
<td>-</td>
<td>Unknown</td>
<td>Unknown</td>
<td>Unknown</td>
<td>Unknown</td>
</tr>
<tr>
<td>Cambodia</td>
<td></td>
<td>120,000 to 180,000</td>
<td>Unknown</td>
<td>Thailand</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Indonesia</td>
<td></td>
<td>Several million</td>
<td>Unknown</td>
<td>Malaysia</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Lao People’s Democratic Republic</td>
<td></td>
<td>110,854</td>
<td>44,000</td>
<td>Thailand</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Malaysia</td>
<td></td>
<td></td>
<td>3–5 million</td>
<td>Unknown</td>
<td>Indonesia, Bangladesh, Myanmar, Cambodia, Lao People’s Democratic Republic, Philippines, Sri Lanka and Viet Nam</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Myanmar</td>
<td></td>
<td>470,000+</td>
<td>Up to 90% of all irregular migrants</td>
<td>Bangladesh, Pakistan, India, Malaysia, Thailand</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Philippines</td>
<td></td>
<td>765,000</td>
<td>Unknown</td>
<td>Malaysia, United States, Singapore, China (Hong Kong), United Kingdom, Saudi Arabia, United Arab Emirates</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Singapore</td>
<td></td>
<td></td>
<td>Unknown</td>
<td>Unknown</td>
<td>Unknown</td>
<td>Unknown</td>
<td>Philippines, Malaysia, Myanmar</td>
</tr>
<tr>
<td>Thailand</td>
<td></td>
<td></td>
<td>2,500,000–3,000,000</td>
<td>Up to 80% of all irregular migrants</td>
<td>Cambodia, Lao People’s Democratic Republic, Myanmar</td>
<td></td>
<td></td>
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<tr>
<td>Timor-Leste</td>
<td></td>
<td>Unknown</td>
<td>Unknown</td>
<td>Unknown</td>
<td>-</td>
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<td>-</td>
</tr>
<tr>
<td>Viet Nam</td>
<td></td>
<td>Unknown</td>
<td>Unknown</td>
<td>France, Germany, United Kingdom, Sweden, Czech Republic, United States</td>
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Note: The UNODC research team compiled the data based on returned surveys from participating countries (see UNODC (2015)), pp. 4–10).
The transnational criminal focus applied to smuggling in the region means that some data collected and coordinated at a regional level is kept out of the public domain on the (usually unspoken) grounds that its circulation could help smugglers. This is the case for the Voluntary Reporting System on Migrant Smuggling and Related Conduct (VRS-MSRC). The VRS-MSRC was developed by UNODC in support of the Bali Process, and is a web-based data collection system that assists States in collecting, sharing and using data on these issues. The data variables collected as part of the VRS-MSRC are in Table 9.3. The sensitive nature of the data collected would appear to preclude it being in the public arena as it relates to individuals, operations, smugglers’ behaviour and intelligence gathering. UNODC actively encourages States’ participation in the VRS-MSRC and recognizes that participation is linked to maintaining a confidential system for data-sharing purposes. Notwithstanding the number of States participating in the VRS-MSRC (20 States as of July 2014) (UNODC, 2014b), sensitivities and tensions are evident. The majority of the 45 Member States of the Bali Process do not participate, with some expressing concerns about data sharing. China, for example, indicated at a recent Commission on Crime Prevention and Criminal Justice meeting that States have “the right to keep secrets about their borders and the workings of their law enforcement agencies that they are under no obligation to share, [and]...that the sharing of information could lead to data being leaked to human smuggling organizations” (Vanguard, 2015).

Table 9.3: Data variables collected in the VRS-MSRC

<table>
<thead>
<tr>
<th>Illegal entries</th>
<th>Illegal exits</th>
<th>Smuggled migrants</th>
<th>Interaction between migrant smugglers</th>
<th>Migrant smugglers’ involvement into other crime areas</th>
<th>Clients of migrant smugglers</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• By citizenship</td>
<td>• By gender / age</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• By ‘countries of last exit’</td>
<td>• By exit</td>
<td>• By entry point</td>
<td>• By entry or exit points</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refused entries</td>
<td>Fraudulent documents</td>
<td>Smuggled migrants</td>
<td>Interaction between migrant smugglers</td>
<td>Migrant smugglers’ involvement into other crime areas</td>
<td>Clients of migrant smugglers</td>
</tr>
<tr>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
<td>• Total</td>
</tr>
<tr>
<td>• By citizenship</td>
<td>• By “issuing countries”</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
</tr>
<tr>
<td>• By entry or exit points</td>
<td>• By land/sea/air and ‘countries of next destination’</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
<td>• By citizenship</td>
</tr>
<tr>
<td>Illegal residences</td>
<td>Routes</td>
<td>Suspects of migrant smuggling</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Total</td>
<td>• By countries</td>
<td>• Total (number of suspects)</td>
<td>• By citizenship</td>
<td>• By gender</td>
<td>• By gender</td>
</tr>
<tr>
<td>• By gender / age</td>
<td>• Methods and fees</td>
<td></td>
<td>• By citizenship</td>
<td></td>
<td>• By citizenship</td>
</tr>
<tr>
<td>• By citizenship</td>
<td>• “from country to country”</td>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

Source: Baumeister, 2013.

89 See UNODC VRS-MSRC leaflet (2014b). Participating countries in the region include Australia, Cambodia, Indonesia, the Lao People’s Democratic Republic, the Philippines and Thailand.
Further sensitivities and tensions involved in collecting and sharing data on migrant smuggling exist, including between States, on a confidential basis. In explaining the challenges encountered in operation of the VRS-MSRC, UNODC has highlighted a range of factors, such as the following: (a) competition among agencies at the national level and lack of coordination and cooperation between them; (b) differences between States with regard to the understanding of key terms and the data collected; and (c) mistrust and lack of international cooperation. Political will to genuinely share data is often compromised and, even where such will is present, there will often be operational difficulties translating it into effective action (Baumeister, 2013). The extent to which the VRS-MSRC has been successful in meeting the Bali Process and UNODC’s data-sharing objectives is unclear. It is also unclear the extent to which non-government researchers and analysts (possibly under the guidance of UNODC) have had access to de-identified smuggling data collected in the VRS-MSRC, or whether this possibility has been explored. According to senior officials however, the VRS-MSRC continues to operate, and work is underway on improving “data networks, collection, management and reporting”, as well as a future phase to include “translation of support documents to languages other than English and the possibility of extending the system to capture human trafficking-related data” (Bali Process Ad Hoc Group Senior Officials Meeting, 2015).

At the State level, very little data on migrant smuggling is publicly available. In some cases, data that used to be available has been significantly reduced. For example, until September 2013, the Government of Australia routinely released basic information on smuggled maritime migrants and Suspected Illegal Entry Vessels (SIEVs) intercepted by authorities. However, the commencement of Australia’s military-led Operation Sovereign Borders in 2013 was accompanied by new and substantial restrictions on the release of information about smuggled migrants and SIEVs. This approach was justified as necessary to “carefully manage the release of information to protect our people and avoid assisting smugglers” (Campbell, 2014:8). The change in approach has undoubtedly made it harder for smugglers to remain abreast of the success or otherwise of their ventures. Likewise, it has made it more difficult for researchers, analysts, commentators and others to gain information on maritime smuggling to Australia, although some limited information on maritime smuggling ventures and responses is made available publicly but usually long after events have taken place.90

Data on smuggling of asylum seekers and refugees

Just as estimates of irregular migrant populations can provide an indication of migrant smuggling flows, UNHCR data provides useful insights into migrant smuggling routes to, within and through the region. This data can also help identify smuggling patterns and changes in smuggling dynamics, as well as potential smuggling “hotspots” that could be preemptively addressed through multifaceted policy interventions aimed at addressing underlying causes (such as reducing inter-ethnic violence in specific communities), not just counter-smuggling activities. Asylum seeker application statistics, which indicate movements possibly (or in some cases undoubtedly) involving migrant smuggling, are especially valuable in this respect (see Table 9.4). Statistics on refugee populations (including those in refugee-like situations), as well as internally displaced and stateless populations, can also highlight populations at risk of migrant smuggling.
Table 9.4: At-risk populations in the region: Refugees, asylum seekers, internally displaced and stateless persons, 2014

<table>
<thead>
<tr>
<th></th>
<th>As a receiving country</th>
<th>Internal at-risk populations</th>
<th>As an origin country</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Refugees (1)</td>
<td>Asylum seekers</td>
<td>Total</td>
</tr>
<tr>
<td>Australia</td>
<td>55,598</td>
<td>22,745</td>
<td>78,343</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Cambodia</td>
<td>63</td>
<td>40</td>
<td>103</td>
</tr>
<tr>
<td>Indonesia</td>
<td>4,270</td>
<td>6,916</td>
<td>11,186</td>
</tr>
<tr>
<td>Lao People’s Democratic Republic</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Malaysia (2)</td>
<td>99,381</td>
<td>51,240</td>
<td>150,621</td>
</tr>
<tr>
<td>Myanmar</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Philippines (2)</td>
<td>222</td>
<td>109</td>
<td>331</td>
</tr>
<tr>
<td>Singapore</td>
<td>3</td>
<td>–</td>
<td>3</td>
</tr>
<tr>
<td>Thailand</td>
<td>130,238</td>
<td>7,931</td>
<td>138,169</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
</tbody>
</table>

**Source:** UNHCR, 2015.

**Notes:**
1. Refugees include persons in refugee-like situations.
2. Figures do not include 80,000 Filipino Muslims currently in Malaysia without status, and as reported in the “other” category in UNHCR’s Global Trends 2014.
Data on abuse, exploitation and deaths of smuggled migrants

As noted previously, smuggling can often involve abuse and exploitation of the migrants involved, either during their journey or at destination (and also on return, if indebted). In some cases, abuse and exploitation may lead to the identification of a migrant smuggling situation, and thereby contributes to a deeper understanding of smuggling patterns and trends. An example is provided by the Rohingya crisis of 2014, aspects of which are dealt with in Box 9.2. In this case, details of the smuggling experience of the migrants emerged only after the severe exploitation they experienced at the hands of smugglers came to light.91

Intergovernmental organizations and private sector bodies are playing an increasingly active role in mapping trafficking routes and calculating numbers of victims.92 This information can provide an important contribution to understanding migrant smuggling because of the links and overlaps between the two practices. In the Asia-Pacific region, it is generally accepted that while only a small percentage of irregular migrants are trafficked for exploitation, most victims of trafficking are irregular migrants – subject to exploitation such as forced labour in a country that is not their own but to which they travelled in order to obtain work. In such situations, trafficking may be part of the smuggling process (as appears to be the case for some smuggled Rohingya asylum seekers), or it may take place after the migrant is smuggled across the border. Either way, data on trafficking can be potentially useful as a supplementary source of insight. The situation of Thailand provides a useful illustration. The Global Slavery Index, produced by the non-governmental organization (NGO) Walk Free, estimates the number of persons held in “slavery” in Thailand to be almost half a million, with victims – many of them irregular migrants who have been smuggled – originating largely from neighbouring countries including Cambodia, the Lao People’s Democratic Republic and Myanmar.93 The US Department of State’s annual Trafficking in Persons Report also highlights the link between smuggling and trafficking, affirming that officials on both sides of the border with Cambodia, the Lao People’s Democratic Republic and Myanmar are complicit in smuggling undocumented migrants, some of whom become subject to trafficking and related exploitation (US Department of State, 2014:372–376). Given the likelihood that a significant proportion of those using irregular migration channels are relying on paid facilitators at some point, the following can be reasonably assumed: (a) smuggling plays an important role

91 See for example, Yi (2016); Buckley and Barry (2015); Human Rights Watch (2015); Stoakes (2015); Tufft (2015); US Department of State (2014).
92 See for example, UNODC (2014c); and Verité (2014).
93 Note that the methodology used to arrive at this figure has been criticized as inadequate, including by one of the authors of the present chapter. See Gallagher (2014).
in the provision of exploitable labour to Thailand; (b) the number of irregular migrants smuggled into Thailand each year likely runs into the tens or even hundreds of thousands; and (c) major smuggling routes exist between Thailand and its immediate neighbours. Another important indicator of smuggling routes, which can also point to smuggling practices, is the estimated number of deaths en route. IOM’s missing migrant data project systematically collects and reports on migrant deaths, including as part of migrant smuggling ventures.

**Box 9.2: The Rohingya of Cox’s Bazar**

Myanmar has long regarded its Rohingya minority as irregular migrants, and they have been the subject of long-term intergenerational systematic discrimination (Ullah, 2011; Southwick, 2015). This is most pointedly demonstrated by the Rohingya’s inability to secure citizenship in Myanmar, rendering them stateless. In 2012, following extreme inter-ethnic violence in Myanmar’s Rakhine province, large numbers of Rohingya fled to Bangladesh’s district of Cox’s Bazar adjacent to Rakhine province. Further displacement from Bangladesh has occurred over time, but most dramatically in May 2015 when thousands of Rohingya and Bengalis became stranded at sea after being abandoned by migrant smugglers (Newland, 2015).

The Rohingya of Cox’s Bazar are widely acknowledged as being an irregular migrant population at serious risk of displacement, although little information or data are available on them (Parnini, 2013; Ullah, 2011). Challenges of accessing the population are significant. Most of what is known about the Rohingya of Cox’s Bazar comes from UNHCR (as a service provider and advocate), NGOs and human rights groups operating outside Bangladesh and Myanmar, as well as a small number of researchers who have conducted research on the population. Most research and information gathering, however, occurs after Rohingya have fled Bangladesh (and Myanmar) to neighbouring countries, including Malaysia and Thailand.

Recent fieldwork conducted in Cox’s Bazar, however, has shed light on the prevalence of specific smuggling processes in specific populations. In late 2014, a survey of 4,757 households in Cox’s Bazar was conducted involving both Rohingya and non-Rohingya households. The survey found that 94 per cent of Rohingya respondents had at least one household member who (n=1,073) wanted to migrate internationally on a visa, but of these, just 2 per cent indicated that this type of migration was likely (McAuliffe and Jayasuriya, 2016). Unauthorized migration to seek asylum was considered much more likely by Rohingya respondents (46% had at least one household member who wanted to seek asylum; 33% had at least one household member who considered they were likely to do so; 26% had at least one household member who was planning to do so). This was in stark contrast to non-Rohingya respondents (3% had at least one household member who wanted to seek asylum; 3% were likely to do so; 2% were planning to do so). Alarmingly, Rohingya were much more likely to be targeted by migrant smugglers, with at least one person in 27 per cent of households surveyed having been approached directly by smugglers during the previous 12 months compared with 6 per cent of non-Rohingya households.

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94 Note that the term *Rohingya* as used to describe the Muslim peoples of Rakhine State, Myanmar, is not accepted by the Government of the Union of Myanmar, which in June 2016 issued an order directing State-owned media to use the term “Muslim community in Rakhine State”.

95 Including the Arakan Project Bangkok, Fortify Rights Bangkok, Human Rights Watch.

96 See, for example, Anwar (2013); Azis (2014); Amnesty International (2015).

97 The survey was undertaken by Dr Dinuk Jayasuriya, Development Policy Centre, Australian National University, and commissioned by the Irregular Migration Research Programme in the Australian Department of Immigration and Border Protection.
Given extremely limited household incomes, very low education levels and compromised health of Rohingya (ibid.), the “attractiveness” of Rohingya in the eyes of smugglers was not entirely clear. Their capacity to pay for smuggling both before and after the smuggling process was not immediately apparent. The results were even more unexpected in light of results of other groups at risk of displacement and smuggling (for example, 8% of Hazara households in Pakistan and 17% of households in Afghanistan were approached by smugglers).

The May 2015 events, however, shed new light on the smuggling of Rohingya, bringing into stark relief the uneasy nexus between migrant smuggling and trafficking. It became clear – initially through investigative journalism resulting in the exposure of Thai trafficking networks\(^98\) – that Rohingya (and Bengali) of Cox’s Bazar were being smuggled into sophisticated trafficking networks operating out of Thailand. In July 2015, the Thai attorney general’s office charged 104 people (including Thai officials) with human trafficking offences stemming from an investigation into jungle camps and mass graves found on the Thai–Malaysian border where Rohingya and others were held prisoners for ransom or sold into servitude (Barron and Lone, 2015).

The regional responses to the May 2015 humanitarian crisis, which were fragmented, inconsistent and uncoordinated, demonstrated that despite a strong focus on counter-smuggling and anti-trafficking, the region was ill-prepared for an irregular flow of around 7,000 people, some of whom were refugees (McAuliffe, forthcoming). The lack of research on Rohingya and the paucity of data on their irregular movements in the region was brought into clear focus following the crisis.

**Review of migrant smuggling research**

There is a growing body of research on migrant smuggling in South-East Asia and Australia, notwithstanding the difficulties in undertaking research on a sensitive issue that is largely clandestine in nature. To assess the nature and extent of research on smuggling in the region, the starting point was UNODC’s October 2014 Annotated Bibliography on Migrant Smuggling in Asia (UNODC, 2014a).\(^99\) The bibliography includes 76 publications from both academic and grey literature, with a focus on migrant smuggling in South-East Asia or Australia published between late 2010 and early 2014. The criteria used to compile the bibliography comprised a mix of key subject words and terms (such as “irregular migration”, “smuggling” and “routes”), as well as all countries in Asia.\(^100\) To supplement the UNODC bibliography, searches (for English-language materials only) were conducted in Google scholar and ProQuest to locate additional materials published in 2014 and 2015 (up until the end of 2015), which took the number of research publications up to 104. A list of research published since UNODC’s 2014 Annotated Bibliography is in the appendix. While gaps are inevitable, the authors assess that the identified material provides both a

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\(^{98}\) Reuters journalists Jason Szep and Andrew Marshall, among many others.

\(^{99}\) Note that the geographical scope of the bibliography is wider than that of the present chapter.

\(^{100}\) The full list of criteria can be found at pages 3–5 of the report.
substantial and representative proportion of all recent relevant literature on the subject of migrant smuggling.

Within identified research, smuggling was mainly examined in the context of “irregular migration” with around 70 per cent of all material referencing irregular migration. Much of the research focused on smuggling patterns and underlying factors, with relatively less focus on smuggling practices (see Table 9.5). This is understandable as researching smuggling practices necessarily requires fieldwork that is difficult to conduct, time and resource intensive and possibly involves risks to both researchers and their subjects (both migrants and smugglers). Quantitative assessments of migrant smuggling were clearly difficult to undertake, with only four research publications including such assessments. Significantly, none of these were “academic” (published by academic publishers, principally in academic journals and books), instead published by international organizations or governments. Data accessibility is likely to be a key factor in the limited focus quantitative assessments reflected in the literature.

<table>
<thead>
<tr>
<th>Research topic</th>
<th>Number of research publications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smuggling</td>
<td>104</td>
</tr>
<tr>
<td>Routes</td>
<td>49</td>
</tr>
<tr>
<td>Factors underpinning irregular migration</td>
<td>47</td>
</tr>
<tr>
<td>Modus operandi of smugglers</td>
<td>23</td>
</tr>
<tr>
<td>Profile of smuggled migrants</td>
<td>20</td>
</tr>
<tr>
<td>Human and social cost of smuggling</td>
<td>21</td>
</tr>
<tr>
<td>Fees</td>
<td>19</td>
</tr>
<tr>
<td>Profile of smugglers</td>
<td>13</td>
</tr>
<tr>
<td>Organization of smuggling</td>
<td>5</td>
</tr>
<tr>
<td>Quantitative assessment</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: UNODC, 2015; authors’ own research.

Most of the research (60%) was academic as defined above. Government agencies were the second most active source of published research (17%), although it should be noted that most of this was produced through the Government of Australia’s Irregular Migration Research Program, which supported academic and applied research on irregular migration (McAuliffe and Parrinder, 2015). Subtracting this source, the percentage of identified publications from government sources falls to 8 per cent. Publications of international organizations (principally UNODC) represent around 10 per cent of the total pool. Some of these were supported financially by the Government of
Australia. The remaining research was published by civil society (such as Human Rights Watch and Amnesty International) and private sector researchers.\textsuperscript{101}

Analysis of the identified research confirms a strong focus on qualitative research methods, with 63 per cent of the research involving qualitative methods and a further 19 per cent employing mixed methods. Only five studies employed quantitative methods, two of which were completed as part of Australia’s Irregular Migration Research Program. Given the difficulties accessing study subjects for empirical research (including potential or actual migrants and migrant smugglers), as well as the challenges accessing quantitative data for secondary analysis, it is not surprising that the main research methods employed were qualitative. The high reliance on qualitative research methods may also reflect disciplinary approaches: legal research for example, which rarely employs quantitative methods, was much more prevalent in the identified research. This was especially pronounced for research on Australia, with around a third of all Australia-focused research being undertaken within a legal disciplinary framework.

The geographic focus of the literature was highly uneven with Australia-focused research accounting for almost two thirds of the total research; the Indonesia–Australia maritime smuggling corridor being the primary topic of interest. The Indonesia–Malaysia smuggling corridor also received significant attention, as did the smuggling systems in the Greater Mekong region. There was little smuggling research identified on Singapore (six publications), the Philippines (eight), Viet Nam (seven) and the Lao People’s Democratic Republic (eight), and an absence of any work focusing on Timor-Leste and Brunei Darussalam.

Much of the identified research focuses on the policy and political discourses of the region, particularly around border management and counter-migrant smuggling, and often through a law enforcement lens. This is not to say that researchers agree with those discourses but rather that they have provided a focus for critically examining migrant smuggling in the region. By using dominant discourses as a starting point, researchers have made contributions to the ongoing development of a more sophisticated understanding of manifestations of the migrant smuggling phenomenon, including through applying sociocultural analytical frameworks. Alternative conceptualizations are provided, for example, through the recasting of assumed frames of reference, including in relation to territoriality and the development of informal migration industries (McNevin, 2015).

\textsuperscript{101} One research publication identified by UNODC was self-published.
Other researchers have examined the practical implications of the smuggler–migrant power imbalance, including how exploitation and abuse occurs, as well as the business structures and processes that act to support smuggling operations (Amri, 2015; Missbach, 2015; Zulyadi, Subramaniam and Kamello, 2014). In their research on the nexus between smuggling and trafficking in Malaysia, Ajis, Askandar and Awang use case studies to illustrate key findings and provide greater depth to data collected on aspects of smuggling and irregular migration.

With a heavy leaning towards normative frameworks, law enforcement and criminology, the research findings of key researchers in the field of migrant smuggling in the region have clear implications for policy. The work of Schloenhardt, Missbach and Gallagher, for example, while acknowledging their differing disciplines and approaches, all offer insights that are policy relevant, particularly as they relate to understanding how counter migrant smuggling approaches are able to be subverted or may otherwise be unsuccessful. As Schloenhardt and Cottrell (2014:285) argue in their analysis of the aspects of Australian legislation on the financing of smuggling:

> While the objective of preventing the financing of a heinous crime and the cutting off of support provided to migrant smugglers might be a laudable goal, the offences of supporting people smuggling introduced … run the risk of criminalising conduct that is not only widespread, but that is also not inherently illegal … it is extremely doubtful that the new “anti-migrant smuggling financing” regime can and will achieve its stated purpose.

**Conclusion and ways forward**

The quality and quantity of data on migrant smuggling and irregular migration in South-East Asia and Australia has improved significantly over the past several years. It is now understood, better than ever before, how smuggling happens, who is involved, and what the consequences are. The capacity to assess and predict the impact of anti-smuggling laws, policies and practices is correspondingly enhanced (see Schloenhardt and Cottrell, 2014; and McAuliffe, forthcoming).

That said, significant challenges remain. The body of research examined in this chapter confirms that available information is uneven and incomplete. For example, the high profile of Australia as a destination country for smuggled migrants and the relatively greater capacity of Australia to conduct and support research has resulted in a skewing of information and analysis towards the situation as it affects that country. This is the case even though smuggling
elsewhere in the region appears to be more problematic for both migrants and States. Data collection is heavily skewed towards law enforcement, with little information available on the experiences of smuggled migrants, including their abuse and exploitation. Available information provides little insight into how national policies and regional cooperation frameworks have or have not worked in relation to specific incidents of migrant smuggling.

Advancing regional understanding of migrant smuggling and supporting multifaceted evidence-based policy will require these and other shortcomings to be addressed. Priorities identified by the authors of this chapter include the following:

- A greater focus on perspectives of smuggling from transit and country of origin, including on the role of corruption in facilitating movement and shaping the experiences of smuggled migrants. This will require improved support for the involvement of national researchers and institutions in academic and applied research.
- More attention to the experiences of smuggled migrants including their experiences of abuse and exploitation.
- Greater attention to linking knowledge about the mechanics of migrant smuggling (what is happening, to whom and with what consequences) with knowledge of migrant smuggling policy and practice with a view to understanding how one impacts the other. This will require closer links between States in the region and researchers from academia and international organizations.
- Broader and more consistent use of tools such as the UNODC VRS-MSRC. Ongoing monitoring of the system’s functioning will be important to ensure it continues to meet the needs of participating States and attracts the participation of States not currently involved.
- Case-based / situational research and analysis aimed at securing information and insight into national and regional capacity to respond to major smuggling-related events. Recent commitments by Bali Process leaders to undertake a review of the regional response to the May 2015 “irregular migration events in the Andaman Sea” in order to share lessons and develop recommendations aimed at improving contingency planning is an important step forward in this regard.\(^{102}\)

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\(^{102}\) See tenth ad Hoc Group (AHG) Senior Officials’ Meeting of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) held in Bangkok on 2 February 2016, Co-Chairs’ Final Statement, para. 11.
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