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**Disrupting the Finances of Criminal Networks
Responsible for Human Smuggling and Trafficking**

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ACRONYMS

AML-CFT	Anti-Money Laundering - Countering Financing of Terrorism
AU	African Union
BMM	Better Migration Management
CDR	Call Data Records
CIB	Criminal Investigation Bureau
CMR	Central Mediterranean Route
CSOs	Civil society organisations
DNFBP	Designated non-financial business or professions
EAC	East African Community
ECOWAS	Economic Community of West African States
ESW	Egmont Secure Web
ETM	Emergency Transit Mechanism
ESW	Egmont Secure Web
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EU	European Union
EUTF	EU Trust Fund
FATF	Financial Action Task Force
FIU	Financial Investigation Unit
FIIAPP	International and Ibero-American Foundation for Public Administration and Policy
FRC	Financial Reporting Centre
GCCS	Global Centre on Cooperative Security
GHoA	Greater Horn of Africa
HoA	Horn of Africa
IGAD	Inter-Governmental Agency for Development
IOM	International Organisation for Migration
IRIN	Integrated Regional Information Networks
ISSP	Inter-Governmental Agency for Development Security Sector Program
JMLT	Joint Money Laundering Intelligence Taskforce
KYC	Know your customer
MENAFATF	Middle East North Africa Financial Action Task Force
MMC	Mixed Migration Centre
NCA	National Crime Agency
NGOs	Non-Governmental Organisations
NRA	National Risk Assessment
REF	Research and Evidence Facility
ROCK	Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative
STR	Suspicious Transaction Report
TSHB	Trafficking and Smuggling of Human Beings
TST	Transnational Security Threat
UAE	United Arab Emirates
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UNODC	United Nations Office on Drugs and Crime
USG	United States Government

Executive Summary

Over the last two years, human traffickers and smugglers in East and North Africa have shifted their business models in response to efforts to contain migration flows to Europe, resulting in notable shifts in migration patterns. At the same time, the European Union (EU) has deepened its understanding of how human smugglers and traffickers use money laundering and other illegal financial means to advance their work. It is also investing in combating money laundering, as well as building the capabilities of the Inter-Governmental Authority for Development (IGAD) and East African Community (EAC) member states to gather evidence, share cases, and prosecute transnational criminal networks through training and collaborative efforts. The evolution of both the criminal networks and the efforts of the EU, IGAD and EAC have evolved in parallel with each other, often in a mutually influential relationship.

High-level agreements and efforts to deter migration from Libya have had significant impact. The routes previously used for migration out of Africa have shifted, and new ones (most significantly via Niger, Algeria and Turkey) have emerged. In this context, two main developments have occurred in relation to irregular migration and criminal networks.

Firstly, whereas in 2017 there were widespread reports of migrants (including asylum seekers)¹ being treated as ‘captive travellers’ or ‘slaves’, in 2018 there are increased reports of migrants and refugees being treated as commodities or collateral. Over the past two years, they have become victims of even more violent and exploitative treatment at the hands of human traffickers. They are routinely held hostage and aggressively tortured for ransom and sold across several criminal networks in a cyclical exchange. Indeed, while the number of migrants coming to Italy sharply dropped in 2018 (BBC 11 September 2018), the number of migrants in known Libyan detention centres nearly doubled from 5,000 to 9,300 between 2017 and 2018 (Mixed Migration Centre Aug. 2018). The actual figures of human trafficking victims are likely to be much higher.

Secondly, smuggling and trafficking networks are evolving. Not only have they broadened their reach, they have also de-criminalised many aspects of their smuggling business mode, employing increasingly legal mechanisms to work from West Africa, Turkey and Europe. Today, the smuggling of humans relies less on clandestine movement, and more on ‘commercial travel’.

Efforts to combat illicit financial transactions linked to trafficking and smuggling from Africa are still at an early stage. At this time, national Financial Investigation Units (FIUs) have just begun to address these types of financial transactions. Governments and investigators are constrained by a number of factors, including: the lack of financial data; limited human and investigative resources; a lack of awareness or concern from public authorities and the private sector; weak legal frameworks and corruption; and limited domestic, regional and international cooperation and information sharing. Large sections of the criminal networks’ topology remain superficially documented and analysed, while international organisations often still use outdated data to map the main criminal networks.

In this context, relying on financial institutions, law enforcement and prosecution resources without further integration, information sharing including with other stakeholders, is not enough to make a significant impact in the fight against organised criminal networks. Most donors are investing in providing technical assistance on AML-CFT, mainly consisting of training and “Training the Trainers” approaches, with their limitations. The EU AML-CFT programme is also training FIUs, as are the Danish government and UNODC. However, much more engagement is needed with law enforcement, intelligence and in some instances with the military. Financial Investigations Units, prosecutors, judges, civil society organisations, including human rights activists, private entities, banks and financial institutions also need similar training and a platform for collaborative action.

¹ Throughout this report, the term migrant will be used to describe all those who move, whether for labour or protection reasons. This term includes refugees and other forced migrants.

Undermining the capacities of criminal networks and affecting their financial capabilities requires a new approach, outlined here, that uses innovative ways of gathering and sharing information, intelligence and evidence of the processes that underpin smuggling and trafficking operations and the networks behind them.

1. Introduction

Human smuggling and trafficking networks are in the midst of a transformation in terms of their modes of operations. In this context, the EU is looking at how existing anti-money laundering tools and instruments can disrupt human trafficking networks, in particular their financial capabilities and assets.

Currently, the EU has two avenues of approach that are connected at the intersection of anti-money laundering - countering financial terrorism (AML-CFT) and human smuggling and trafficking (TSHB). On one hand, the EU supports projects directly related to TSHB – such as the Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative (ROCK) and Better Migration Management (BMM) projects. On the other hand, it supports projects related to criminal justice prosecution. Simultaneously, the EU is deepening its understanding of how human smugglers and traffickers deploy money laundering and other financial crimes to advance their work, by mapping the latest evolutions of the traffickers' reach and control, and exploring potential policy and programme responses.

Between August and November 2018, a two-member team (funded by the EUTF Research and Evidence Facility (REF)) conducted primary research and gathered secondary data on illicit networks that include those involved in TSHB. The team focused their research on international criminal operations and migration trends between East and North Africa, Yemen and Europe, with special emphasis on operating models, new routes and transit options. The field research was conducted over a period of five weeks covering Ethiopia, Kenya, Sudan and Tanzania.

Unfortunately, the field research coincided with a period of the year (August) during which several key national and foreign interlocutors were absent. Nevertheless, the team was able to interview a wide range of researchers, subject matter experts and human rights specialists with direct and in-depth knowledge. As a result, the team was able to access confidential sources and information on the structure and activities of criminal networks and the conditions of people who are smuggled and trafficked. The researchers worked in close consultation with government officials from Ethiopia, Sudan, Tanzania, Kenya and Somalia (Puntland). They also worked in cooperation with entities such as IGAD's Security Sector Program, the EU funded Anti Money Laundering and Countering Financing of Terrorism (AML-CFT) and Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative (ROCK) projects, EUROPOL, International Organisation for Migration (IOM), INTERPOL, the United Nations Office on Drugs and Crime (UNODC), and the United Nations Panels of Experts on Yemen.

The research addressed the following nine points as set out in its Terms of Reference (See Annex 2):

1. Provide initial overview of main criminal networks, including structure, modus operandi, and capacity.
2. Gather open source existing evidence on how disrupting financial operations of traffickers and smugglers has helped in reducing their capacity to do harm.
3. Provide an initial overview of sources and destinations of financing of the TSHB networks in the Horn of Africa region.
4. Attempt to quantify the TSHB business in the region, describe the main business model being used, including use of remittances and avenues for money laundering.

5. Describe the principal characteristics between the fight against TSHB in the region, and current efforts to utilise available AML-CFT tools; i.e. extent of cooperation between FIUs and anti-trafficking units.
6. Document the activities both current and planned of national and international authorities engaged in fighting TSHB in particular, and identify whether they are focusing on disrupting the financial flows of the criminal networks.
7. Identify existing mechanisms for cooperation between national authorities as well as challenges to and opportunities for enhanced cooperation at regional and international levels.
8. Establish pathways for synergies between national authorities and various projects funded by the EU and other donors.
9. Recommend to the EU potential support to policy and activities under the EUTF and possibly EU mechanisms.

Review of Available Literature

The literature findings are presented here by their respective sectors of interest. The research reviewed the May 2012 Inter-Governmental Agency for Development Security Sector Program (ISSP) and Global Centre on Cooperative Security (GCCS) joint baseline study² on AML-CFT tactics in the IGAD sub-region. This was one of the first studies to identify the chronic lack of up-to-date data and evidence-based analysis of AML-CFT vulnerabilities specific to the region, and recommend a “broader web of partnerships”. The team also reviewed the 2015 GCCS report that examines the progress of AML-CFT efforts in the Horn of Africa and concludes that the region is seriously vulnerable to money laundering and financing of terrorism activities.

There is considerable literature on the trafficking and smuggling networks that define the migrant and refugee experience for those moving from the Horn of Africa. Most of the work chronicles the circumstances of the migrants’ travel, routes taken, and push and pull factors. This research and writing has served both as a record of one of the region’s most critical ongoing challenges, and has also informed the work of policy-makers, activists and analysts.

Though the human experience is well documented, there is significantly less available information on the ‘nuts and bolts’ of the criminal organisations that move these humans. Without this reporting – on their leadership structure, interpersonal dynamics and the ways in which the money gets moved – it will be difficult to comprehensively map, analyse, and take action in accordance with factual evidence.

The researchers reviewed two key works published in 2017 by the REF and used them as a starting point. Both studies consider migration between the Horn of Africa and Yemen, and explain the push and pull factors behind the movements, and examine the extent to which trafficking and smuggling is embedded in migration.³

In 2016, Sahan conducted a scoping study, under the auspices of the IGAD Security Sector Program, on human trafficking and smuggling networks between the Horn of Africa and southern Europe, via the Central Mediterranean Route. The study provides a baseline assessment of the criminal syndicates along the trafficking / smuggling corridor, and how they operate across source, transit and destination countries. The report has been used as a reference for the present study, which had a more limited scope and timeframe with which to gather evidence.

² For full references and link to available websites, please see Annex 1 - Bibliography

³ See REF July and Sept 2017.

The first Global Study on the Smuggling of Migrants from the UNODC was published in 2018. It provides an overview on the state of illicit human movement. A July 2018 report from the Financial Action Task Force (FATF) is a critical piece which explicates and quantifies the staggering profits made from forced labour, human trafficking and smuggling. By quantifying the scale of human and fiscal movement these studies provide a general picture of the parallel breadth of the networks needed to facilitate the migration, but they do not delve into the dynamics of individual syndicates. The FATF paper also does not focus on the Horn of Africa.

In 2018, the Netherlands Institute of International Relations published a paper on the impact of EU migration policies on the Saharan migration routes. It reports that migrants, smugglers and traffickers are agile and able to adjust as needed to ensure continued functioning, and that at EU prompting, strengthening border patrols can lead to increased 'militia-isation.'

In 2018 Sahan published research on cross border security threats in the IGAD region, writing a case study of the Djibouti-Ethiopia-Somali tri-border area⁴. This project created a baseline assessment of the types of criminal syndicates operating within this corridor.

The team also reviewed research the REF generated in a 2018 report on Darfuri migration from Sudan to Europe, exploring in detail the drivers of displacement and the experiences of the Sudanese migrants and refugees along the route towards (and in) Europe.

Additionally, the team referenced monthly country updates and fact sheets produced by IOM and UNHCR that documented population flows at points of entry and exit in Ethiopia, Sudan, South Sudan, Eritrea, Libya, Niger, Turkey, and Greece. Similarly, the team accessed the corresponding US State Department Trafficking in Persons country reports. These provide global law enforcement data per country where every jurisdiction worldwide is assessed, looking at the number of victims rescued, number of prosecution and number of convictions per year.

Besides the above reports, the researchers referred to news outlets including the ongoing coverage of current fighting in Libya, and writing in Foreign Affairs on EU politics and migration. Ground reporting from IRIN in Libya and Refugees Deeply in Niger provided context. IRIN also published a piece from Ethiopia on the surge in arrivals from Eritrea. Journalists with the Somali news outlet Radio Ergo published a four-month investigation on human trafficking of Somali migrants. Brief news articles from the Sudan Tribune and Voice of America in Somalia, among others also provided guidance.

Many of the above-mentioned studies, although recent, do not capture the dynamics and shifting trends among organised criminal networks that have occurred in the past 12 months. It is these that the present report is focused on, setting it out as a particular contribution to the literature.

⁴ 'Cross Border Security Threats in the IGAD Region: A Case Study of the Djibouti-Ethiopia-Somali Tri-border Area', IGAD Security Sector Program – Sahan Research (Not yet available online).

2. Dynamics of Trafficking and Smuggling Networks

The criminal elements under review have developed trafficking and smuggling operational patterns and business models specific to the country or countries in which they are working. Because these illicit rings are transnational, however, their operational protocols and business models change between borders to reflect the law enforcement capabilities, counter-measures, and political culture of the country: the travellers are subject to the conditions and rhythms the environment imposes on the trafficking and smuggling network while they are passed from one criminal group to another criminal group.

Each country included in the research has seen a shift in the methods and procedures used by smuggling and trafficking networks since 2016.⁵ These changes largely fall into two categories. Firstly, the smugglers and traffickers have taken on legitimate covers, moving their previously clandestine operations 'above board', increasingly using valid travel documents and commercial means of transport. Secondly, smugglers and traffickers have altered their business models, adapting them in response to containment and systematic registration measures taken around the Mediterranean shores; not only using new routes through West Africa, or exploiting forced labour.

Given the highly adaptable nature of the networks specialised in TSHB, the difficulty in gaining the trust of people who know about them, and the sensitivity of the research, the time allocated to field research and investigation of the inner workings of these networks was insufficient to produce as comprehensive and credible an evidence-based research and analysis as was intended. The researchers used their pre-existing contacts with key informants to access a wealth of information that has not previously been documented. However, much more remains to be researched in this area.

Defining smuggling and trafficking

Smuggling typically is described as a relationship that is entered willingly by both parties but is transactional because there is money passed. According to the UN Protocol Against the Smuggling of Migrants by Land, Sea and Air, migrant smuggling is defined as: *'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 permanent resident'* (UNODC, 2000).

According to UNODC's Protocol to Prevent, Suppress and Punish Trafficking in Persons *'Trafficking in persons is the acquisition of people by improper means such as force, fraud or deception, with the aim of exploiting them'*.⁶ The Protocol further clarifies that the consent of a trafficked person may be rendered irrelevant when obtained through improper means.⁷ In the case of trafficked children, the Protocol

⁵ Sahan Foundation and IGAD Security Sector Program (February 2016). *Human Trafficking and Smuggling on the Horn of Africa-Central Mediterranean Route*.

⁶ This is spelled out in more detail in Article 3, paragraph (a): *'Trafficking in Persons... mean[s] the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'*.

⁷ *'The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (Article 3, paragraph (b)).*

elaborates that the vulnerable status of children makes it impossible for them to consent regardless of whether any improper means were used or not.⁸

The main differences between smuggling and trafficking relate to consent and transnationality. Smuggling involves the consent of those being smuggled. In contrast, victims of trafficking have never consented, or an initial consent has been rendered meaningless by the improper means of the traffickers (UNODC, 2009). Smuggling is always a transnational movement, as it involves illegally moving a person across a border into another country, whilst a trafficked person does not necessarily need to move across a border (UNODC, 2009). Levels of exploitation and how offenders generate their income also provide additional differences.

In practice, however, the terms are often used interchangeably and the differences between them are often blurred. Someone who starts off as being smuggled can become trafficked as their journey progresses: for example if they are sold off to someone else, or to another group, and are subsequently held under a form of detention, often at ransom.

Sources and Destinations of the Criminal Networks

This chapter provides an overview of the sources and destinations of the criminal networks. It takes a country-by-country approach, and includes sections on Libya, Niger, Turkey and Greece which, while outside the region of concern, are core elements of the networks being examined here. The amount of information given with respect to some countries (e.g. Ethiopia and Somalia) is more than that available for others for two reasons. First, the researchers' own contacts with key informants were more developed in some countries than in others, allowing for greater depth of information to be gathered. Second, some countries have more established procedures and track records in terms of combatting TSHB.

Ethiopia

Ethiopia plays two key roles in TSHB: first as a major source of out-migration, and second as one of the most active countries in fighting TSHB and prosecuting human traffickers and smugglers. The team was granted first-hand access to key law enforcement officials.

The Ethiopian government is vigilant in attempts to intercept criminal networks. It is the only country in the HoA to have completed a National Risk Assessment (2018) in which it identified human trafficking as one of the six key risks that has a significant impact on the people, security and economy of the country. The government has declared TSHB as one of its top priorities for counter-action. Despite these initial efforts, the illicit networks have managed to stay largely elusive. In August 2018, military cooperation between Sudan and Ethiopia in the form of a joint military task force was established in order to combat TSHB. However an independent source who had recently interviewed migrants crossing between the two countries told the research team that smugglers and traffickers have been largely unaffected by the task force. The criminal networks are easily adjusting to the presence of the military task force by using less regulated border passages away from the main roads. Ethiopian police have observed a spike in migration numbers just after seasonal workers receive their pay (Ethiopians from the central highlands move to the commercial farms in the western lowlands for a few months a year for waged labour), indicating that people move once they have money to support their transport. They subsequently noted

⁸ *"The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (Article 3, paragraph (c)). "Child" shall mean any person under eighteen. (Article 3, paragraph (d)).*

a drop during the harvest season, when people have an opportunity to find a job and earn their living on their farms.

According to the Ethiopian Federal Police, Ethiopia has four main exit points by land. The most popular is the Moyale border into Kenya, which is mainly used by migrants taking the southern route towards South Africa, via Kenya and Tanzania. The second busiest route is the Metema border crossing into Sudan, which is used by migrants taking the northern route to Europe. The third exit point is the Gambella border into South Sudan, and is the newest way migrants travel to Europe. The fourth exit point is the Tog Wajaale crossing into Somaliland, which is used by migrants taking the eastern route to the Gulf States, via Yemen. IOM also notes the Galafi border post into Djibouti as an alternative exit to Yemen and the Gulf.⁹

Smuggling out of Ethiopia is facilitated by agents who are part of an intricate web of expansive international networks. These agents recruit would-be migrants and arrange the logistics, mainly through legal means that are backed by complex money laundering schemes. During interviews with representatives from the Ethiopian Federal Police, it was revealed that smugglers and traffickers are operating through increasingly legal businesses, such as officially registered travel agents, for parts of their operation. Over the last two years, the police have noticed a sharp increase in the establishment of formal travel agencies. Travel agencies are used as covers to legitimately provide clients being smuggled with legal visas and commercial air travel arrangements, most commonly to Saudi Arabia or Gulf states. Several of these travel agents are originally from Yemen and have established legitimate front businesses in Addis Ababa.

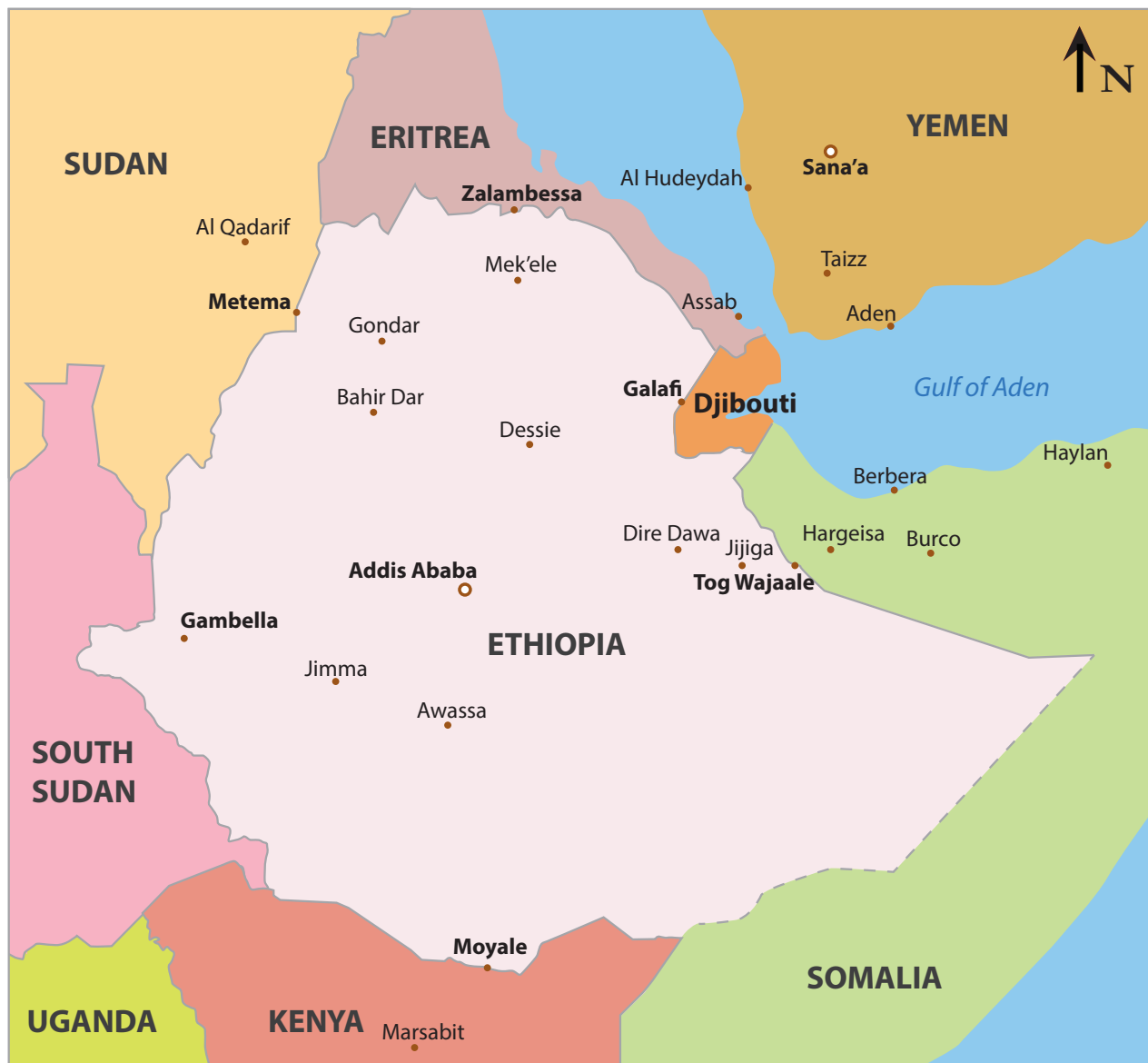
In order to formally justify the travel and facilitate the issuance of work visas, the agents provide names of persons who will act as employers in the proposed destinations. An alternative cover may be a visit to a family member already employed in Saudi Arabia or the Gulf. The visa sponsors operating from Saudi Arabia and the Gulf States are mostly members of these organised criminal networks.

In Ethiopia, smuggling and trafficking networks gradually take control of the migrants' journey, and continuously negotiate the price for onward movement. Migrants initially place themselves in the hands of the smugglers / traffickers freely. They want to travel to new markets. For Ethiopians the preferred destinations are South Africa, the Gulf States and Europe (by order of current migrant flows). They know that they will have to pay additional costs beyond the price of transport to their intended destinations. They are informed by those who have moved before them that they will be subjected to such mistreatment as lack of care, poor food and accommodation and demands for additional payments. These demands are made after the journey has started. Some migrants know they cannot afford those demands without asking their relatives while they are on the road. They also know that sometimes they can be roughed up or even tortured, or abandoned in unfamiliar places if they or their relatives do not meet the traffickers' demands.

In practice and once the migrants are on their way, this means that smugglers and traffickers often communicate with, or investigate, the migrant's family in order to assess their potential worth. According to a representative from the Ethiopian Federal Police, traffickers oblige families to make their payments to other countries as a means of mitigating against the risks of prosecution in Ethiopia. Usually, financial transactions are made via cash transfers through informal and unregulated operators who do not comply with international financial transfer regulations. Official bank transactions are rarely used except as a last resort.

⁹ Interview with Humanitarian Expert, UN Panel of Experts Yemen, 25 September 2018; citing her interviews with IOM personnel, and Ethiopian migrants in Djibouti April-May 2018.

Travelling with these networks is not at a fixed cost, but is renegotiated between the smugglers, the captive migrants and their relatives at various stages of the journey. In 2018, the Criminal Investigation Bureau (CIB) recorded payments of up to Birr 140,000 (Euros 4,000) to travel to Saudi Arabia. Upon arrival, migrants travelling under this scheme usually do not show up at the place of employment and do not visit their relatives. They remain under the control of the criminal network until all payments are cleared. The Ethiopian police officer also stated that smugglers and traffickers sometimes release captive migrants when they are sure they cannot extract payments from their relatives.



The smuggling and trafficking travel agent networks in Ethiopia are duplicitous with their profits, investing proceeds in local commerce and organising partnerships with local businesses. Some Federal Police interviewed suggested that smuggling and trafficking profits are also used to purchase mobile

assets, such as vehicles and trucks. Other questionable financial transactions linking suspected smugglers and traffickers to other businesses are often justified as repayments of personal loans.

Eritrea

A large proportion of migrants in Ethiopia, Sudan, Libya and across the Sahel are Eritrean. Nevertheless, getting access to Eritrea and obtaining credible information on what happens inside the country present great challenges. The US has tried to understand the structure of the network by closely monitoring the banking activities of Eritrean networks operating between Africa and Europe. A pattern of systematic transfers of the same amount of money: US\$ 3,200 was noted. Forty of the monitored accounts contained over US\$ 4 million each. These accounts in Europe are managed by family members of the smugglers and traffickers, who subsequently transfer the funds from Europe to accounts in countries where AML requirements are more lenient. Dubai is regularly mentioned as one of these countries.¹⁰

Since the spring of 2018, legal means of leaving Eritrea have increased. Three independent sources monitoring migration out of Eritrea have noted that the monthly average of departures has grown from 1,200 to 1,500.¹¹ These consist of overland travel to Ethiopia as well as affordable commercial flights out of Asmara to Turkey via Cairo. The availability of facilitated Turkish visas has created a new pathway to Europe. More research is needed to understand migrants' situation in and from Eritrea. Furthermore, the newly forming peace between Ethiopia and Eritrea has implications for the operating of the networks in and between the two countries. Since the opening of the border between both countries, there has been a sudden increase in the number of Eritrean nationals moving into Ethiopia. The Eritrean regime does not yet appear to have demonstrated to its population that peace and cooperation between both countries will actually translate into an improvement of living conditions in Eritrea. No steps have been taken yet to respond to popular demands for a Constitution, freedom of expression, formation of political parties, elections, the establishment of a parliament, and most importantly to the abandonment of the undefined terms of military service. So far, Ethiopia has said that it will continue to receive and recognise Eritrean refugees, but there is some concern on the part of Eritreans coming across the border that this arrangement may not last.

As stated, besides looking at the migrant departing figures, it is difficult to get information on how criminal networks organise themselves inside Eritrea due to restrictions on accessing the country. As of 28 June 2018, the US State Department reported that the government does not "fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so".¹² The State Department also noted that the Eritrean government did not disclose its anti-trafficking efforts. The Eritrean smuggling and trafficking syndicates are involved in a vast global network. Despite surveillance within and outside the US, their practice shows no signs of stopping. There is little information to be gleaned about the efforts made by the Eritrean government to combat human smuggling and trafficking or money laundering. According to UNHCR's 'Libya: Registration - Fact sheet, September 2018', the active asylum seekers, who are identified as Eritreans, form the third largest group with 6,328 persons currently registered in Libya, and represent the 3rd largest group of registered persons in Libya.

¹⁰ Interview with confidential source who had access to these records, Addis Ababa, 19 August 2018.

¹¹ Ibid. Corroborated by interviews with European and North Africa law enforcement officers during August and September 2018.

¹² United States Department of State, *2018 Trafficking in Persons Report - Eritrea*, 28 June 2018, available at: <http://www.refworld.org/docid/5b3e0b4ba.html> [accessed 10 November 2018].

Somalia

The research team was able to benefit from previous research conducted by the REF on mixed migration from Somalia. The team had access to several field researchers with direct knowledge of irregular migration and organised criminal networks. In particular, the researchers had numerous conversations with one trusted source who charters boats for the *mukhales* (agents who recruit migrants on behalf of smugglers and traffickers), as well as about 30 migrants in Bossaso (Puntland's main port city) who were en route to Yemen.¹³

Somalia's smuggling and trafficking networks are striking in their broad reach and process, which includes a vast web of *mukhales*, business people, as well as significant collusion from some police officers. *Mukhales* encourage youth to travel and they negotiate on behalf of smuggling and trafficking groups on the price of the trip from Somalia to their destination. They are young or middle-aged men who engage in an array of illicit activities from piracy to weapons smuggling to violent crime. The boats that leave Puntland carrying people subsequently return carrying weapons from Yemen. *Mukhales* are in touch with weapons smugglers as well. According to a researcher on the ground in Puntland, being a *mukhale* isn't considered a good or honourable job in Somali society, but "there is little awareness to fight this behaviour and to condemn such activities." Sources estimate that there are at least 15 active *mukhale* networks in Bossaso.

The networks' operational expenses (such as food and drink for the migrants and bribes for the corrupt officials) are funded by wealthy businesspeople who have a variety of income streams, or by former pirates in Puntland who provide them with resources (typically money). These financiers expect a return on their investment which they acquire once the migrants have arrived at their destination and they or their families send the money. Migrants often pay up front a portion of the costs, and have their relatives pay while en route.

Each network spans four border zones along the journey through Ethiopia, Somaliland, Somalia to Yemen. The streamlined process by which translators and negotiators are integrated through the passage requires a high level of sophistication including trusted checkpoints, and financial transfers in a variety of denominations.

Another very meaningful characteristic of these contraband networks is highlighted in an August 2018 Sahar report that reads: "*The characteristics of criminal networks and activities in this zone are shaped by local ethnic, social and cultural dynamics and also reflect the specific strengths, weaknesses, priorities and vulnerabilities of the relevant authorities on both sides of the borders.*"¹⁴

One of the main routes Ethiopians use to get to Yemen is through Somalia. Wajaale, the border valley between Ethiopia and Somaliland, is the main thoroughfare. Ethiopian *mukhales* arrange the illegal border crossing and connect the migrants with their counterparts in Somaliland, who facilitate their movement towards Yemen. Ethiopian migrants typically give a down payment of about US\$ 100 for the border crossing and then between US\$ 300 and US\$ 400 for their overland travel to Puntland. *Mukhales* take about a 30 percent commission from that fee. The rest goes to the agents, and often a portion towards bribing officials and the cost of transport.

In theory, Somalis should not need to pay *mukhales* to travel overland to Bossaso as they are legally moving within their own country. However, *mukhales* say they can ensure a smooth transfer. This

¹³ These migrants were both male and female and of Somali and Ethiopian nationality.

¹⁴ Quote taken from 'Cross Border Security Threats in the IGAD Region: A Case Study of the Djibouti-Ethiopia-Somali Tri-border Area', IGAD Security Sector Program – Sahar Research.

means passing the migrants through 'friendly' police checkpoints with whom they have pre-arranged financial agreements. Using these checkpoints, travellers avoid being questioned by officials or having to pay additional bribes. This also helps to facilitate movement through the contested border area between Somaliland and Puntland. Essentially the Somali migrants are paying the *mukhales* to pay a modest bribe to police. As such, overall, Somali migrants will typically end up paying a *mukhale* less (less than US\$ 100 according to informants) than they would if they made the journey independently.

Some *mukhales* reportedly have arrangements with the Somaliland and Puntland police. According to this arrangement, the police will stop the bus carrying migrants, force them to disembark, and contact the *mukhale* who arranged the journey to divert them on a truck to the town of Oog, about 486 kilometres from Wajaale. The truck driver the *mukhales* hire is not involved, but might be paid to look the other way and not report any illegal activities. In Oog, the Ethiopian migrants will be subject to food deprivation and often torture until their families pay a ransom via a Somali money transfer company



(known locally as a *hawala*). Ransom payments are typically a few hundred dollars.

Once around one hundred migrants have been accumulated in Oog, another vehicle will take them off road to Alhamdulillah and 'Eel Dhoofar villages. This voyage is an arduous one; the lack of food and water combines with the extreme heat caused by the harsh sun and overpacked vehicles to make many travellers sick. Once they arrive in Alhamdulillah and 'Eel Dhoofar, the migrants take the two-hour trip by minibus into Bossaso. These private buses are reportedly often owned by the police. One migrant interviewee in his thirties says that he paid extra to move from Oog to Garowe (the capital of Puntland), which is about 230 kilometres by the main tarmac road, and is a comparatively safer and more comfortable route than that to Bossaso. From there he travelled along the main road to Bossaso.

Other *mukhales* do not have this arrangement, and the migrants who use their services go straight to Bossaso. Even though the trip to Bossaso via Oog is a harsher experience, the criminal networks that

directly implicate police or other security forces in their operations are said to be also better connected, better protected and more powerful.

From Somalia and Ethiopia, the main points of departure to Yemen are 'Eelaayo, Mareero, Ba'ad, and Shimbiro areas, all in the northeast coast of Puntland. According to a Puntland government assessment obtained for this report, "...29,372 individuals left Mareero in 2017 and 3,214 individuals left Ceelaayo."¹⁵

Sudan

Sudan remains a significant transit route for migrant movement and smuggler and trafficker activity because of its geographical location. Following the 2015 Valletta Summit on migration and the establishment of the Khartoum Process, Sudan has been proactive in strengthening its border control with Ethiopia, beginning with the deployment of a joint military force on their shared border. Since June 2018, a number of key smugglers and traffickers have been arrested in the country.

Due to time limitations, the team could only work in Sudan for three days. Whilst there, the team was able to make initial contact with a large number of official government bodies mandated to combat TSHB, in particular the Khartoum East Police Commissioner and the Chief Justice, as well as the Sudanese Financial Information Unit (FIU). All were eager to engage in further formal cooperation. Sudanese authorities made it clear they are ready for open and frank conversations, and indicated that they were prepared to extend access and will participate in further research on this topic as needed. It was not possible to obtain this information during this first visit, however.

South Sudan

The recent civil war and weakening of its law enforcement and security services has affected the world's newest nation, and this has allowed criminal networks to flower. According to two independent security officers, the capital, Juba, is fastest and probably newest developing irregular migration and TSHB hub. A regional institution, international organisations including UNHCR and IOM and a European law enforcement officer all acknowledged that the city is the burgeoning nucleus for human smuggling and trafficking both by land and air. Criminal networks are reportedly able to operate with impunity and in collusion with the government. The main perpetrators are said to come from Somalia, while the migrants come from across East Africa, mainly through Ethiopia via the Gambella corridor.

The researchers spoke with representatives from IOM and UNHCR who acknowledged the extent of the problem, but were frank about the lack of reliable information or data on irregular migration, or human trafficking as they are consumed with the internal conflict and humanitarian crisis.

Two independent sources reported that a senior law enforcement officer with direct knowledge of Somali trafficking operations across the region has claimed that opportunities are so ripe that smugglers and traffickers who had previously retired are back in business.

Libya

The team acquired information on the developments in Libya from a well-respected researcher with widespread sources directly from within the traffickers' networks. This source had direct online

¹⁵ *Mixed Migration in Puntland*, Ministry of Interior, Puntland, Somalia, January 1, 2017 – December 31, 2017.

communications with smugglers and traffickers, as well as with migrants and their relatives, and confidential sources within the UN and law enforcement agencies.

Smuggling and trafficking networks in Libya maintain complex relations among themselves; regularly switching between fierce commercial competition to control the market of migrants, and then cooperation when they sell and exchange migrants to one another. Each time a migrant is exchanged, there is an increase in the price that is paid.

The informant researcher reported that kidnapping travellers on their way to Europe without actually facilitating their voyage offers greater profits for limited investment and output and much less risk. As a result, there has been an increase in the kidnapping, exploitation and torture of migrants and asylum seekers. According to a confidential source in direct contact with traffickers operating in Libya, “by holding them hostage, by blackmailing their relatives, by depriving them of food, by torturing them, and by rape, every smuggler has become a trafficker.”

A Flexible Financial System in Libya

An Eritrean national who is based in Beni Walid, Libya, a small town about 177 km south-west of Tripoli reportedly leads one of the most active trafficking networks and has adapted to the new system, both holding asylum seekers hostage for ransom in Libya, and moving migrants via Turkey. He operates in close partnership with a Libyan national based in Turkey, and a known operative in Sweden who collects the payments. He keeps in touch with his partner in Turkey via his younger brother, also in Beni Walid. A confidential source viewed an array of records including documentation that showed that this payments collector receives transfers via an unknown transfer organisation; all transfers in the same amount. The source suggested that since the same amounts were transferred on, it could represent management of ransom payments, and may warrant a suspicious transaction report (STR).

On 24 May 2018, 25 refugees escaped from a known trafficker at an illegal detention centre. After they escaped, the refugees called him from inside a nearby mosque where they sought protection from the militia men working for the same criminal network as the known trafficker. The refugees had captured Kalashnikov types assault rifles from their guards and shot at the militia men. They called the trafficker because he is known to be willing to negotiate better treatment or alternative solution to a new problem against additional payments.

The recollections of one source about a situation at the end of July 2018 provide an example of the new business model being used. The trafficker was holding a number of hostages in Libya, and their family members called to request him to release their kidnapped relatives to the Libyan police. The trafficker demanded a ransom of US\$ 3,500 per person. Once the families agreed, he raised the rate to US\$ 4,000. The trafficker conceded that if the ransom were paid, he would personally accompany the travellers to international waters. After the money was wired to a third party in an unknown location, the group was released and they continued on their journey. Once in international waters, the trafficker disembarked into a smaller boat that had been following the crew, and returned to Libya.

Smugglers and traffickers in Libya are no longer moving large numbers of people to Europe. Instead trafficking migrants within Libya, and holding them hostage for ransom, has become the norm. In July 2018, IOM reported that the number of migrants being detained in Libya had doubled from 5,000 to 9,300, but commented that thousands more were unaccounted for as they were languishing in informal detention centres with which the UN is not affiliated. In Libya, smugglers and traffickers are reportedly colluding with government bodies like the Coast Guard, some UN personnel and other institutions. Migrants are received in official centres that are guarded by Libyan nationals with specific arrangements between the UN implementing partners and local entities.

The civil war in Libya has created an opportunity for criminal networks to flourish. Well-documented reports have provided evidence on the increased number of smuggling and trafficking operations in weapons, humans, drugs and terrorists.¹⁶ The outbreak of the Syrian civil war has expanded the areas of operations of the Libyan and other African criminal networks. Weapons, foreign fighters, rebels and terrorist were transported and smuggled from Libya to Turkey and then across the border to Syria. According to regional experts with close knowledge of the Syrian war, the Libyan-related network has set up a base in Turkey to coordinate transport and smuggle operations into Syria. Over the years and with the ongoing decision by the Turkish authorities to limit movement across the borders with Syria, the Libyan network operating in Turkey has taken advantage of this business opportunity to start moving people from Libya to Turkey and then towards Europe.

Niger

The torture, systematic rape, slavery and inhumane conditions in Libyan detention centres eventually brought about the 2017 Emergency Transit Mechanism (ETM), an agreement between Niger and UNHCR. The ETM is an airlift operation of the most vulnerable persons of concern out of Tripoli, Libya directly into Niamey, Niger to be screened for eventual resettlement in Europe. Today, Niger has also become a prime destination for migrants from across the region who have not necessarily suffered in Libya, and therefore are not eligible for resettlement to Europe through the ETM. For example, Sudanese, especially Darfuris, have been walking to Niger expecting to qualify for asylum and relocation. According to a UNHCR officer and a European consultant with direct access to a European prosecutor, asylum seekers who do not meet the UNHCR refugee determination criteria and still possess resources, pay Tuareg smugglers to be taken to Algeria.¹⁷ These dynamics have also made it a likely future hotspot for smugglers and traffickers. There is evidence that criminal TSHB networks began operating in Niamey. There is concern on the part of some informants that it is just a matter of time before they will expand operations from Niger to the fast-developing western Mediterranean corridor.

Evacuations to Niger

In June 2018, a Sudanese and an Eritrean national landed in Niamey, Niger, having been evacuated as most vulnerable persons by the UNHCR flight chartered under the ETM out of Tripoli, Libya. As soon as they arrived in the transit facility, resident women asylum seekers ran to the UNHCR team, stating that they recognised both persons, and demanding to file testimonies that both men were actually known traffickers operating in the same trafficking network described in the Libya case study narrative. Over 10 testimonies describe one of the people as worse than the network's kingpin in Libya. The women's declarations provide detailed and corroborated information that the person specifically targeted Somali women in the Tripoli detention camp with rapes, humiliations, demands for money, threats, and systematic severe beatings. The reports accuse the person of continuous involvement in organising the trafficking of humans together with the network described in the Libya section of this report. According to the UNHCR officer, both traffickers were able to register themselves as asylum seekers because: "they usually share the same profile as refugees: being poor, uneducated, and from small settlements in the countryside". Both traffickers have been referred to and are in custody of the police in Niamey.

The ETM scheme has further prompted more migrants and refugees to travel to Libya with the intent of getting apprehended and ultimately transferred to Niger which should, theoretically, give them a higher chance of getting to Europe with the support of UNHCR. The ETM formally started with the first

¹⁶ Final report of the Panel of Experts on Libya established pursuant to resolution 1973 (2011). UN Security Council, S/2018/812, 5 September 2018; and Report of the Secretary-General, Implementation of Resolution 2380 (2017). UN Security Council, S/2018/807, 31 August 2018.

¹⁷ Phone and email interviews, November 2018.

evacuation flights to Niamey in November 2017. The objective of the operation is to move 10,000 people over three years, but so far 1,025 persons of concern have been evacuated from Tripoli and only 300 asylum seekers have been accepted for resettlement to Europe from Niger. This has created a significant backlog in Niger with 1,135 asylum seekers languishing in Niamey while they wait for the agreement to be fulfilled according to a UNHCR source who works on the ETM project.

There are a few reasons for resettlement not moving at the expected pace. In large part this is because the ETM operation has been affected each time a downstream problem reverberates through this complex chain of actions, according to a UNHCR source. Also, because the EU member state delegations visiting Niamey do their own screening, their up-take in accepting new asylum seekers is much lower than anticipated figures.

A UNHCR source and two independent observers familiar with the conditions that migrants and asylum seekers meet during their voyages spoke of the very high human costs. One UN official interviewed noted that many recent deaths have been reported among migrants who have been travelling for years and were never properly treated for pathologies related to travelling rough and living in camps. A large number of migrants who came to Niger do not fill UNHCR's "refugee determination" criteria and therefore do not qualify for resettlement. These factors have caused a bottleneck both in Libya and Niger that criminal networks have been taking advantage of. A UN staff member described to a source speaking to the team Niger as being "the southern border of Europe".

Turkey and Greece

Informants told the research team that Turkey has become a base for criminal activity, while Greece has become a busier thoroughfare for legal and illegal entry. Additionally, Turkey's relaxation of visa requirements and the expansion of its national air carrier between the Istanbul hub and the Horn of Africa has significantly facilitated access to the east Mediterranean corridor. Once arrived in Turkey, migrants can either take the road or sea to try to enter the EU via Greece. A boat transfer from the Turkish coast to a prearranged Greek island costs EUR 2,500, while a used vehicle transfer overland from Istanbul to Athens costs EUR 3,500. In spite of being more expensive, overland movement is reportedly the easier way to ensure smooth entry as, unlike at the islands, there is no fingerprinting at the immigration point by road.

Whatever the mode of transport, informants say that the entire payment is always made upfront in cash before leaving Turkey. Many migrants become 'stuck' in Greece because they do not have the resources to pay for the rest of their journey, or because under the Dublin III Convention they are legally required to claim asylum in the first country they arrive in. It is not uncommon to find 30 to 40 people in a two to three-bedroom apartment where the monthly rent for a mattress is EUR 70 per month.

3. Evidence of and options for Disrupting Traffickers' Finances

In this chapter, the current efforts in AML-CFT and potential links to the fight against TSHB are explained. Its shortcomings are identified, and steps that could be taken to improve the system are outlined.¹⁸

¹⁸ This chapter was co-written with Steve Farrer, Corban Consulting UK, retained AML / TiP consultant with UNODC Better Migration Management Programme.

Global AML-CFT principles have been in place for nearly 30 years with the Financial Action Task Force (FATF) established by the G7 in 1989¹⁹. However the concept of use of financial institutions to assist law enforcement by looking for suspicious financial activity potentially associated with criminal activity started over 50 years ago (the US Bank Secrecy Act was brought into law in 1970). Despite the fact that the FATF included TSHB into its list of designated categories of offence²⁰, it still appears to be a relatively new concept. Limited or no actions are taken against individuals and entities that are either directly controlling TSHB or indirectly financially benefiting from it. There are limited financial investigations or involvement of the financial sector to help support investigations with information or evidence.

The current approach to tackling the perpetrators facilitating TSHB relies principally on a judicial approach - investigation and arrest by law enforcement and prosecution by the judiciary. Whilst this approach must take place, the figures compiled on number of prosecutions and convictions as part of the Global Law Enforcement Data by the US State Department's annual Trafficking in Persons global assessment²¹ show that this approach is not happening on a sufficient scale to make any significant impact.²²

One of the underlying reasons for this is that securing evidence to a criminal standard (i.e. beyond

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 added to the original law a new requirement that foreign governments provide the Department of State with data on trafficking investigations, prosecutions, convictions, and sentences in order to fully meet the TVPA's minimum standards for the elimination of trafficking (Tier 1). The 2004 *TIP Report* collected this data for the first time. The 2007 *TIP Report* showed for the first time a breakout of the number of total prosecutions and convictions that related to labor trafficking, placed in parentheses.

YEAR	PROSECUTIONS	CONVICTIONS	VICTIMS IDENTIFIED	NEW OR AMENDED LEGISLATION
2011	7,909 (456)	3,969 (278)	42,291 (15,205)	15
2012	7,705 (1,153)	4,746 (518)	46,570 (17,368)	21
2013	9,460 (1,199)	5,776 (470)	44,758 (10,603)	58
2014	10,051 (418)	4,443 (216)	44,462 (11,438)	20
2015	19,127 (857)	6,615 (456)	77,823 (14,262)	30
2016	14,939 (1,038)	9,072 (717)	68,453 (17,465)	25
2017	17,880 (869)	7,045 (332)	100,409 (23,906)	5

The above statistics are estimates derived from data provided by foreign governments and other sources and reviewed by the Department of State. Aggregate data fluctuates from one year to the next due to the hidden nature of trafficking crimes, dynamic global events, shifts in government efforts, and a lack of uniformity in national reporting structures. The numbers in parentheses are those of labor trafficking prosecutions, convictions, and victims identified.

reasonable doubt) can often be difficult due to the nature of TSHB, which mainly relies on victim

¹⁹ <http://www.fatf-gafi.org/about/>

²⁰ <http://www.fatf-gafi.org/glossary/d-i/>

²¹ <https://www.state.gov/j/tip/rls/tiprpt/2018/282579.htm>

²² The statistics in the table above are the summary of all the countries that are assessed by the US State Department in its Annual Trafficking in Persons reports.

testimony. The challenges are not only to record human testimonies of crimes committed, but also to maintain these testimonies until such a time as a court can process the cases.

There is a need for new approach in fighting TSHB that uses improved ways of gathering information, intelligence and evidence of the processes that underpin TSHB operations and the traffickers behind this.

TSHB is a criminal offence in many jurisdictions, and is often a predicate offence, in that it is a crime that provides the resources for, or contains some of the elements of, a more serious crime. If such predicate crimes generate proceeds, then these proceeds may be subject to other powerful legislative frameworks concerning corruption, tax evasion and money laundering. The intelligent use of such legislation to prosecute criminals and achieve the ultimate goal is not new (indeed one of the most notorious gangsters of the 1930s in the United States, Al Capone, was not convicted for the alleged crimes of murder and associated offences but rather for tax evasion²³).

With this in mind, it has been increasingly recognised that a new approach in fighting TSHB, in parallel and complementary to existing investigation methods, should be investigation and targeting of the proceeds of TSHB under the Anti Money Laundering (AML) framework. By virtue of the fact that the AML framework provides global standards on which jurisdictions are regularly assessed and graded, and with which financial institutions within each jurisdiction must comply, especially if part of the international financial network, it does provide a robust and internationally recognised framework, to which international best practice can be applied. There are significant penalties for breaches, which help to ensure compliance.

Some recent developments on the use of AML frameworks to target funds from TSHB show the increasing interest in this new approach:

- UN Security Council Resolution 2331²⁴ (Dec 2016) encouraged Member States to build strong partnerships with the private sector and civil society, and tasked the Financial Action Task Force (FATF) and regional bodies to include analyses of financial flows associated with human trafficking that finance terrorism.
- G20 leaders in July 2017 encouraged the FATF to deepen its understanding of financial flows associated with human trafficking, especially in connection with terrorist organisations.
- The FATF, which sets global rules and best practice on AML, considers human trafficking and migrant smuggling as a designated category of offence.²⁵
- FATF has published papers emphasising the AML risks from TSHB, namely 'Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants' (2011) and 'Financial Flows from Human Trafficking' (2018)²⁶ to help jurisdictions and financial institutions better understand the risks and suggest mitigation measures.

²³<https://www.fbi.gov/history/famous-cases/al-capone>

²⁴<https://www.un.org/press/en/2016/sc12647.doc.htm>

²⁵ <http://www.fatf->

[gafi.org/publications/fatfrecommendations/documents/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html](http://www.fatf-gafi.org/publications/fatfrecommendations/documents/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html)

²⁶<http://www.fatf-gafi.org/publications/methodsandtrends/documents/human-trafficking.html>

In summary, there is an existing AML framework in place in most jurisdictions which can be leveraged to target the proceeds from TSHB.

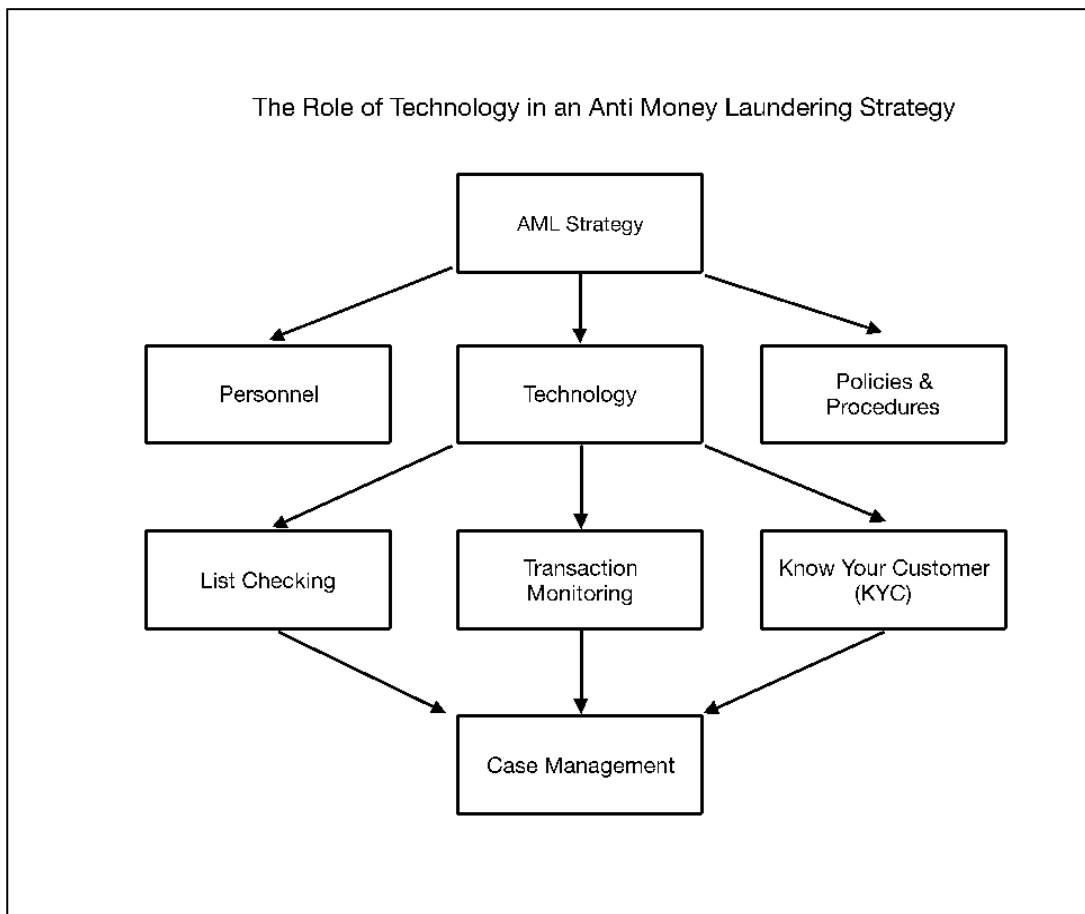
How can involving financial institutions under AML help agencies investigating TSHB? Firstly, financial institutions can provide supporting evidence in an investigation and prosecution based on financial transaction analysis. This is documentary evidence from account and transaction history maintained on the financial institution systems, and can be produced in courts by a bank officer. It can therefore be a reliable source of corroborating evidence in a TSHB case. This concept of using financial institutions to supply supporting evidence in a financial investigation is further explained in the linear model outlined further in this section.

Secondly, as has been shown in other jurisdictions, financial institutions can be a powerful source of information on potential TSHB activities and their perpetrators and networks from monitoring of suspicious activity; this is usually reported through Suspicious Activity Reporting (SAR) via the Financial Intelligence Unit (FIU). This can be used by law enforcement agencies to refine or focus their investigations.

Thirdly, financial records can show the amount of funds and other assets that have been assimilated from the process of TSHB and which may be subject to court orders for asset seizure and forfeiture on conviction.

Fourthly, due to stringent requirement of the AML framework, banks and financial institutions have invested significant amounts in systems and personnel to meet compliance on AML requirements, both domestically and internationally, as detailed in the diagram below. This provides a powerful set of “eyes and ears” to look for suspicious activity on TSHB, that may be of great assistance to law enforcement and judiciary.

Whilst the involvement of financial institutions in fighting TSHB in public private partnerships has been



shown to be a powerful addition (see case studies on page 26) there are several challenges that need to be addressed.

The first challenge is introducing this concept to agencies that are already stretched with existing resource constraints and priorities. The problem resides with the interconnection between dealing with AML-CFT and TSHB issues from a legal and financial perspective. Success will depend on the preparedness from the parties concerned to undertake an innovative approach by introducing an effective anti-TSHB capability to the existing AML-CFT capacity building and vice versa, that AML-CFT compatibility is built into anti TSHB capacity building as well.

The second challenge is that introducing the concept will require changes to process, procedure and thinking (and in some cases, the legal framework). This will need top level support and an investment in training on new methods of identifying, mapping and tackling the problem

Thirdly, there is a need to build new relationships between law enforcement agencies and financial institutions and other non-governmental agencies. This will require the establishment of public / private partnerships – including a new multi-party approach to information sharing.

At present the relationship between law enforcement and banks or financial institutions is often very reactive and follows a linear process in which the initial cooperation between law enforcement and the financial sector can be very protracted. For example, law enforcement will contact a bank only after an arrest has been made, and invariably a long gap (measured in months) occurs between the arrest and the request. The bank can often provide legacy information on accounts and activity in support of the investigation and evidence gathering. The diagram below illustrates the traditional model of engagement initiated by law enforcement.



Many financial institutions, on receiving a production order or judicial request from a legitimate authority for information in support of a criminal case will, on complying with the request, also file a Suspicious Activity Report (SAR) and initiate account closure; this is done to reduce liability from the financial institution’s perspective as they do not wish to continue to operate accounts that are involved in criminal proceedings, unless directed to do so by the courts. On filing a SAR to the Financial Intelligence Unit (FIU) they are absolving their liability. This action can often be the first time that the FIU are made aware of the case.

Outlining a proactive public / private partnership model

Banks and financial institutions are required to check their clients – a process known as Know Your Customer (KYC) - at (a) the initial onboarding of the relationship and (b) at regular intervals during the relationship (this is also termed a “look back”). In many jurisdictions it is required that banks and financial institutions use global third-party databases to assess negative news on clients, in addition to checking their internal negative lists, as part of this process of KYC.

Banks and financial institutions are also required to monitor account activity (“transaction monitoring”) for unusual or suspicious activity, which may be indicative of criminal activity, either by the account holder or on the account without the holder’s knowledge.

Should a bank or financial institution find suspicious activity then they have a range of options in order to mitigate the risk to their clients, and to themselves. It is important to note that banks and financial institutions operate under civil standard (“balance of probabilities”) and whilst information may be gathered and reported on activity suspected to be involved in criminal offences, the underlying information that the bank or financial institution may use is gathered to a civil standard. This may include allegations from various sources.

After assessing risk on an account or transaction, one option that a bank or financial institution may use is to decide to terminate the client relationship and return funds to the client. Another option may be to place the client or account under heightened monitoring within the bank systems for a defined period. A third option is to trigger an account review, which may involve requesting more information from the client to explain account activity. These are all activities operating under the bank’s terms and conditions with the account holder and in accordance with civil law.

A final option, should a bank or financial institution find an activity that it suspects may be linked to a predicate AML criminal offence, is for it to promptly file its suspicions in a Suspicious Activity Report (SAR). This is then submitted confidentially to the Financial Intelligence Unit (FIU). The FIU are expected to analyse this information in combination with other information from other banks or financial institutions. If the analysis meets certain criteria, the FIU will then forward this information to law enforcement for further investigation. The diagram below illustrates the AML Model of Engagement when this is initiated by financial institutions.



This model works well in most countries. However, the problem with it lies in whether the FIU has the operational capacity to be able to analyse the information and put together intelligence briefs to be submitted to law enforcement. The other issue lies in whether law enforcement is able to effectively use such information.

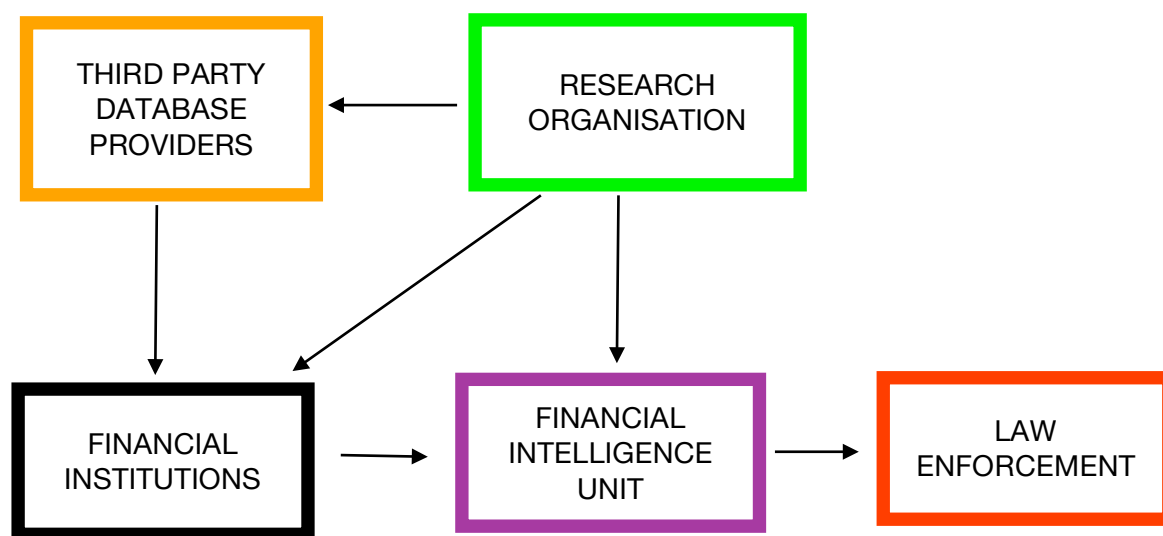
A key aspect here is the domestic legislation that defines: (a) what are criminal activities (and is TSHB one of them); (b) what are the predicate AML offences (and is TSHB one of them); (c) the conditions for asset seizure and forfeiture; and (d) the protocols for information sharing between the various parties

As outlined earlier in this section, the global AML framework does necessitate that jurisdictions, and the financial institutions operating within them (especially if operating internationally) should be following the minimum standards required, and that they should have the capabilities, as outlined above, in place in their daily business operations.

This report proposes a number of recommendations to enhance the existing models of cooperation and, in doing so, establish a partnership between the banks and financial institutions with law enforcement and the judiciary. Furthermore, it recommends allowing for the involvement of a third group providing

key information sources on TSHB (field research and analysis centres, NGOs and human rights activists, etc.).

This model of engagement is illustrated in the chart below.



The new proposed model collates information from non-traditional sources and feeds this into financial institutions and FIUs. Feeding information into financial institutions can occur directly (as a trusted source) or indirectly (via the financial institutions' third party database providers). The three major third party providers are: Thomson-Reuters (now rebranded Refinitiv) and their World-Check solution product; Dow Jones Risk and Compliance solution suite; and LexisNexis WorldCompliance. The new proposed model integrates well with the use of technology in KYC in an AML model and also provides third party validation.

Information is key if this proposed approach is to be effective in leveraging the existing AML legal framework and infrastructure to fight TSHB. Regularly the best sources of such information are field research and analysis centres, UNHCR, IOM, UNODC, NGOs and human rights activists. However, often this information is outdated and therefore unusable. But how does this information get back to banks and financial institutions, and also to law enforcement? At present, in most jurisdictions, there is no formal model for such information exchange.

When information on TSHB flows (whether directly or indirectly) into financial institutions, it causes the financial institution to conduct name matching or transaction searches that look for suspicious activity. If this is identified and linked to a predicate offence then a Suspicious Activity Report will be filed with the FIU. There are models in place - namely Project Protect (Canada) and the Joint Money Laundering Intelligence Taskforce (JMLT) (United Kingdom) whereby such information can be powerfully used in identifying and supporting investigations into TSHB.

Prosecuting a case by relying on documentary evidence from a financial institution in support of a financial crime (in this case the proceeds from TSHB), rather than taking the riskier approach of witness testimony can be a compelling case.

In order to make this process work for TSHB, several key areas need to be addressed:

1. TSHB should be a predicate criminal offence in the country or countries concerned.
2. The proceeds from TSHB should be subject to AML laws.
3. Assets and seizures should be able to be made under law in relation to predicate AML offences including TSHB.
4. The SAR reporting format / mechanism should have a specific checkbox or field to indicate TSHB (for ease of analysis).
5. Guidance should be given to financial institutions by FIU / Central Bank on the importance of using SAR reporting on TSHB.
6. An information flow on TSHB should be established - potentially under a public-private partnership. However, the way in which sensitive and confidential information can be securely shared between parties will be of key importance. This could, for example, be defined by law, as an MOU or as a confidential informant.

This model needs to be implemented at:

- The national level
- The regional level (Heads of FIU meetings / MENA-FATF / ESAAMLG / IGAD)
- The international level (FATF / Egmont)

Given the transnational nature of these crimes, it is also important that regional and international cooperation frameworks be underpinned, as far as possible, by mutual legal assistance and extradition treaties.

Going beyond existing cooperation frameworks

The current focus of efforts aimed at combatting TSHB is based on a traditional model of victims' testimony, law enforcement, investigations and criminal prosecutions. Although significant resources have been made available, the size and scale of these approaches are not producing substantive, methodical, and predictable results. Statistics show the limitations of this approach, and advocate a new paradigm of a multi-party public / private partnership, bringing in organisations with innovative and powerful experience and skills sets.

Hence, the proposed new approach focuses on building new partnerships. As law enforcement and the judiciary cannot deal on their own with TSHB, additional resources should be mobilised. It is proposed alongside the existing law enforcement and judiciary approach to engage and involve banks and financial institutions as equal partners as well as NGOs, civil society organisations, research centres and technology companies in an effective public / private partnership. At the heart of this new paradigm lies the requirement to share relevant intelligence and information to fill in the current knowledge gap on organised criminal networks. This new approach can only be gradually built at national and regional levels when states and regional organisations recognise the fight against TSHB as one of their priorities.

Such initiatives already exist, but their efficiency is undermined by a lack of information exchange and inconsistency in approach. Indeed, meetings do take place but there are rarely any tangible or visible outputs. According to an AML compliance office, "tangible forums, behind closed doors, where information flows across the table, and where specialists are taking responsibility for taking action still need to be established or developed".

The implementation of such public / private partnerships is still not widely adopted, and needs to be reinforced by learning from existing mechanisms, such as the very successful 'Joint Money Laundering Intelligence Taskforce' (JMLIT)²⁷ set-up by the National Crime Agency in the United Kingdom with the support of the banks²⁸, and Project Protect in Canada - which has seen spectacular results²⁹, from information sharing on suspicious activity associated with TSHB from financial institutions to the FIU and, after analysis, onto law enforcement to complement their investigations.

The recent Financial Flows from Human Trafficking³⁰ document published by FATF indicates that this is of concern for the global AML regulators and more emphasis and resources need to be focused on the problem.

Furthermore, a recent article entitled "Banks can fight financial crime. But we can't do it alone"³¹, written by a banking compliance head, outlined that financial institutions are ready to play their role in fighting human trafficking, as well as other predicate offences, but need to be part of information sharing partnerships.

In today's world, where transactions take seconds and crime is as international as any legitimate big business, we would be complacent if we did not adopt a more responsive system; a system that allows greater sharing of information between banks, or between banks and public bodies, and is therefore better able to disrupt attempts by criminals to move their ill-gotten monies.

For a bank, finding indicators of financial crime amongst the millions of legitimate customer transactions carried out every day is like looking for a needle in a haystack. Any one transaction, by itself, may provide little evidence of illegal activity. But when we put together a range of information – such as details of those carrying out transactions and with whom they transact – we can start to build a clearer picture of possible financial crime.

Sharing information helps us build that picture. As a bank, we can see payments flow through the financial system around the world. But we may lack the information that enables us to focus on particular customers or payments.

Law enforcement may have specific information about criminals but lack the ability to see the transactions they are carrying out. Criminals take advantage of gaps when this type of information is not shared.

The development of public-private partnerships is helping address these gaps. These are forums established between the public sector and banks. They have now been established in the UK, Hong Kong, Singapore, Canada, Australia and the US. The partnerships enable banks to share information with other banks and with law enforcement more easily. They also allow public bodies to provide information to banks that helps us to focus our searches in the right areas.

²⁷ <http://www.nationalcrimeagency.gov.uk/crime-threats/money-laundering>

²⁸ <https://www.bba.org.uk/news/bba-voice/uniting-to-tackle-financial-crime>

²⁹ <https://www.theglobeandmail.com/news/national/canadian-banks-police-following-money-trail-to-target-human-trafficking/article34093888/>; see also <https://beta.theglobeandmail.com/files/editorial/News/0219-nw-na-trafficking/PROJECT-PROTECT.pdf>

³⁰ <http://www.fatf-gafi.org/publications/methodsandtrends/documents/human-trafficking.html>

³¹ <https://www.weforum.org/agenda/2018/12/banks-can-fight-corruption-and-trafficking-but-we-can-t-do-it-alone/>

These partnerships are delivering results. The UK's partnership, the Joint Money Laundering Intelligence Taskforce, has reported arrests and seizures of suspected criminal cash as a result of shared information³².

But there is still more that can be done.

There are still only six partnerships in place around the world. Simply put, we need more. The sharing of bank information is subject to regulatory and privacy requirements in many countries. This can make it hard to share information even within one bank, and more so with other partners. We have seen progress in tackling this at the international level through the multilateral Financial Action Task Force. But more could still be done to ensure that the benefits of public-private partnerships are truly delivered.

4. Mechanisms for Regional /International Cooperation

Not all African nations are included in international financial institutions, such as the Egmont Group of Financial Intelligence Units. For the East Africa region, a handful have recently begun to seek and obtain membership.³³ Conducting investigations on transnational criminal networks requires broader cooperation that goes beyond the IGAD and EAC regions. This lack of a platform hinders unity among FIUs operating in the region and abroad.

According to law enforcement and FIU sources interviewed in the Horn of Africa during August 2018, criminal networks conduct most of their transactions in cash, including those involved in TSHB. It is common knowledge that suitcases of money move between the Gulf, Turkey and Africa, thereby evading detection by financial institutions,³⁴ Once it has been brought into the country or region, this cash is sometimes deposited into money services businesses or other financial institutions from where it can be laundered back into the economy. This mode of operation (combined with the limited available data and lack of legal infrastructure) makes it very difficult to quantify the scope of TSHB business in the region. There is some indication that some laundered money is then reinjected back into national banking systems. In most cases, the destinations of the funds are Kenya, Somalia, Sudan, Libya, Turkey and Dubai.

The money does not move in sequence with the people being smuggled or trafficked, or with the smuggler or trafficker. For example, a former Somali minister monitored a case in which he had personal investment: a family paid US\$ 10,000 to a *mukhale* to send their son to Djibouti and then on to Yemen. From there, the son travelled back across the Red Sea to Sudan. When he arrived in Sudan, his family received a call, demanding that they pay an additional US\$ 5,000 to the *mukhale*. After that, their son was moved to Libya and when he was detained again, the family sent additional funds to Sudan.

³² <http://www.nationalcrimeagency.gov.uk/publications/suspicious-activity-reports-sars/983-sars-reporter-booklet-december-2018>

³³ The Egmont Group is a global organisation made up of more than 150 national FIUs. It provides a forum for them to improve cooperation in the fight against money laundering and the financing of terrorism, and encourages the implementation of national laws to combat these crimes. Source: Association of Certified Anti-Money Laundering Specialists (ACAMS), Study Guide, CAMS Certification Exam, Sixth Edition.

³⁴ Financial institutions are anyway limited in their ability to carry out due diligence by the constraints placed upon them by lack of access to bank accounts in many European countries. Banks have refused to permit most money transfer companies operating in the Horn of Africa to hold accounts with them due to concerns about falling afoul of anti-terrorism or AML regulations.

This example underscores the autonomy and complexity (characterised by networks of networks) of such operations, which are often bound by trust. The Somali *mukhale* will act as the entry point and manage any payment made to smugglers from Somalia to Sudan, including his Ethiopian, Yemeni and Sudanese counterparts. This transnational network operates on the basis of trust. Once the migrant moves out of Sudan to Libya for example, his relatives will send the money to individuals based in Sudan. The Somali *mukhale* is no longer involved in that operation as a new network managed by a Sudanese broker has taken over.

In order to comprehensively investigate the financial aspects of these kinds of operations, investigators therefore need to reach across borders within several jurisdictions. There is no effective platform for this type of cooperation between East and North Africa at present, limiting the ability to build cases on the financial aspects of TSHB.

To conduct a successful investigation on the aforementioned case, the authorities in Libya would have to communicate with the authorities in Sudan who would have to provide details on the cross-border interactions of the Sudan-based individual who interacted with the Libyan network. From there, the Sudanese authorities would have to trace back through Yemen, Djibouti and Somalia in order to generate leads.

The team could not obtain any data or information regarding potential use of proceeds of TSHB to support terrorist operations. Whilst there are unconfirmed reports, indicators of such activities are so limited, or incomplete, that they may not be considered as circumstantial evidence. Gathering and identifying relevant evidence is beyond the scope of this study. However, the principal recommendations of this study provide a framework for future mapping of the typology of criminal and terrorist networks.

Any transnational criminal activity is an entry point into a broader multidimensional network. Drugs, weapons, TSHB and terrorist activity do not happen independently. A 2010 Somalia Eritrea Monitoring Group (SEMG) report notes that the terrorist that conducted the July 2010 Kampala attacks against crowds watching the FIFA World Cup were smuggled into Uganda by regional criminal networks such as illegal fisherman operating off the coast of Tanzania.³⁵ As noted in the 2016 EU Drugs Market reports, “there is some overlap between the routes used and there are advantages to be gained by sharing established logistical infrastructure, which includes transportation and storage facilities”.³⁶

The financial investigation officers in the countries under review are developing a reasonable understanding of the money-laundering and terrorism finance risks through their National Risk Assessment. Furthermore, the government officials we interviewed expressed their willingness to develop their information sharing and coordination activities between FIUs and anti-trafficking units at a national, regional and international level. Nevertheless, in spite of this, the persistent limitations of their coordination and information-sharing mechanisms does not reflect the fluid nature of the smugglers and traffickers’ networks in the greater Horn of Africa region.

In this region, countries have different perceptions of the risks generated by TSHB. As an example, the smuggling of human beings is not a crime in Kenya. “Until recently, migrants’ smuggling within the

³⁵ Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council Resolution 1916 (2010).

³⁶ http://www.emcdda.europa.eu/publications/eu-drug-markets/2016/online/ramifications/link-to-terrorism-and-criminal-activity_en

organised crime context had not been defined by Kenyan law. In 2011, the Kenya Citizenship Act was enacted and it mirrors the definition given in the Smuggling Protocol.”³⁷

As such, it is difficult, almost impossible, for FIUs investigating TSHB networks to obtain cooperation or data from other country FIUs. In this context, it is key to learn from best practice from elsewhere to help FIUs in HoA establish good models. Five examples of good practice have been outlined below.

Examples of good practice³⁸

Model 1 - Transnational Co-operations

With EU funding since its inception, INTERPOL has deployed its effective West Africa Police Information System (WAPIS) to enhance critical information exchange, strengthen analysis and improve coordination among the region’s law enforcement agencies.³⁹ IGAD SSP and INTERPOL have initiated the first steps to establish a similar INTERPOL information system for the IGAD region.⁴⁰ For the EAC region, the member states, INTERPOL and the EU are planning the deployment of INTERPOL’s Police Information System.

At a BMM-sponsored forum in Vienna coordinated by UNODC, an Italian prosecutor presented the case of Nigeria seconding one of its TSHB prosecutors to the prosecutor office in Catania. This appointment is to facilitate transnational cooperation in information sharing, co-investigation, and prosecution between Italy and Nigeria. According to the prosecutor, the on-the-ground mutual legal assistance and intelligence sharing provided timely and expeditious process to a series of Italian – Nigerian transnational cases, and resulted in several successful prosecutions.

Model 2 - FIU “at the heart” of TSHB Information Exchange

A quality example of the key role of the FIU is Project Protect from Canada.⁴¹ An informal arrangement between financial institutions and the FIU (FinTRAC) to prioritise SARs for human trafficking (by the inclusion of the code word “Project Protect”) allowed financial institutions to submit SARs focused on sex trafficking in Canada.⁴² The quality of the information was of such value that it helped FinTRAC to better analyse and prepare intelligence briefs to law enforcement with impressive results.

Model 3 - FIU facilitating Public-Private Information Exchange

In the United Kingdom, the Joint Money Laundering Intelligence Task Force (JMLIT) was established by the National Crimes Agency (NCA) (which is also the FIU) and partners in government, including the British Bankers Association, law enforcement and more than forty major British and international banks.⁴³ One of the five core priorities is “understanding and disrupting the funding flows linked to organised immigration crime, human trafficking and modern slavery”. Regular confidential meetings allow the exchange of key operational information between public and private sectors. The working

³⁷ http://www.scielo.org.za/scielo.php?script=sci_arttextandpid=S2077-49072015000100002

³⁸ Written in collaboration with Steve Farrer, Corban Consulting UK, retained AML / TIP consultant with UNODC Better Migration Management Programme.

³⁹ <https://www.interpol.int/About-INTERPOL/International-partners/European-Union/WAPIS-programme>

⁴⁰ Email exchange with ISSP, 20 October 2018.

⁴¹ <https://www.theglobeandmail.com/news/national/canadian-banks-police-following-money-trail-to-target-human-trafficking/article34093888/>

⁴² <https://beta.theglobeandmail.com/files/editorial/News/0219-nw-na-trafficking/PROJECT-PROTECT.pdf>

⁴³ <http://nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/joint-money-laundering-intelligence-taskforce-jmlit>

group on human trafficking is chaired by a financial institution, which has declared corporate intent to disrupt the financial flows associated with TSHB.

The NCA has been actively involved in the development of similar partnerships in a number of countries around the world including Australia, Hong Kong, Singapore and the USA.⁴⁴

Model 4 - Best Practice of an FIU focused on TSHB

An example of an FIU developing local capacity to deal with TSHB was presented at a BMM-sponsored forum in Vienna coordinated by UNODC.⁴⁵ The forum raised awareness of how FIU analysts collate intelligence from a wide variety of traditional (law enforcement) and non-traditional (open source intelligence, social media) sources to produce intelligence on TSHB networks and the associated financial flows.

Model 5 - Public - Private Partnerships

FIUs are uniquely placed to be able to leverage information sources and analytical tools and techniques from both the public and private sector. Partnerships with both public and private institutions are key. Public sector partnerships are determined by both legal status and operational needs - this varies from jurisdiction to jurisdiction.

Options for Public-Private Partnerships

Partnerships with a range of private and civil partners (outlined below) should be considered for the following reasons:

- Financial institutions are a key source of financial information and benefit from having enhanced tools to identify and investigate financial transactions and client risk.
- NGOs / NPOs / CSOs are a key source of information on TSHB routes and facilitators, which they have often gained from debriefing victims of TSHB.
- Research organisations are in a strong position to collate information from a variety of sources and provide an analysis of the TSHB networks.
- Media is able to investigate and report stories on TSHB both domestically and internationally.
- Third party database providers collate and verify information on suspect individuals and organisations obtained from public source information on a global scale.
- Third party solution providers monitor financial transactions and add risk context to transactions, including TSHB risk.
- Third party investigators use technology to collate information and analyse networks and association.

⁴⁴ <https://www.gov.uk/government/news/anti-money-laundering-taskforce-unveiled>

⁴⁵ Regional Expert Group Meeting on Strengthening National Capacities in Disrupting Illicit Financial Flows Deriving from the Smuggling of Migrants and the Trafficking in Person in Eastern and Northern Africa, Vienna 23-25 October 2018.

5. Overview of Current Activities of National and International Authorities

This chapter outlines the current and planned activities of national and international authorities and summarises the main obstacles that these authorities face in the process of investigating TSHB.

Governments and investigators are constrained by a vast array of factors: lack of financial data (most transactions are made in cash), limited human and investigative resources, little awareness or concern from public authorities and the private sector, weak legal frameworks, corruption, and limited regional and international cooperation.

They are also not sufficiently included in international institutions, such as the Egmont Financial Group of Intelligence Units. Money laundering and financing of terrorism risks from TSHB profits are not adequately detailed or in some cases not even considered in national risk assessments (NRA).

As mentioned above, in 2018 Ethiopia has completed its NRA in which it identified TSHB as one of six key risks that impact its people, security and economy. In 2018, the government declared TSHB one of its top priorities for counter-action. Tanzania completed its NRA in October 2018, but it is not yet published. In a phone conversation with the research team, a government official stated that human trafficking is not a priority in Tanzania.⁴⁶

In Ethiopia and Tanzania, the government is deploying financial investigators to gather evidence on TSHB activities, with a focus on money laundering and ransom for profit. A representative from the Ethiopian Financial Reporting Centre (FRC) informed the research team that the institution has investigated and submitted to the federal police seven cases based on suspicious transaction reports submitted by local banks. These were mostly related to kidnapping en route to Yemen. Out of the seven cases, three were successfully prosecuted. In Ethiopia, the FRC conducts a financial investigation and submits findings to the Federal Police who are mandated to investigate further and turn any information over for prosecution. Each federal state of Ethiopia runs its own investigations, independent of the capital. The lack of a unified platform could be one of the reasons for the low number of investigations.

Authorities in Tanzania, Sudan and Ethiopia are starting to consider using financial tools to disrupt TSHB but the number of expert financial investigators is extremely small. A law enforcement official in Addis Ababa stated that when the government recruits finance professionals, they are often hired by the private sector or international organisations once they have gained valuable skills and experience. Also, a robust legal framework to support prosecutions is not in place.

In most cases, law enforcement agencies do not realise the importance or do not have the capacity to analyse financial intelligence to enhance their investigations. Custom officers that capture trafficking networks analyse data such as call records, but they will not investigate financial data, for example. Furthermore, legal frameworks do not support the necessary conditions for bringing TSHB to prosecution so it is not practical for financial investigators to focus on TSHB in the current climate. In some countries like Kenya, as noted above, trafficking is a crime but smuggling is not.

Options for Improved Transnational Cooperation

In summary, there needs to be action at both a national and regional level, namely:

At a national level, for each jurisdiction:

⁴⁶ Though a researcher was deployed to Tanzania in August 2018, it was only possible to meet with the head of the FIU and one law enforcement officer.

- TSHB should be recognised as a predicate criminal offence in law.
- AML law should apply to the proceeds from TSHB.
- Provision in law should be made to seize assets in relation to predicate AML offences including TSHB.
- FIUs should ensure that SAR reporting formats and mechanisms have a specific checkbox or field to indicate TSHB.
- Guidance should be given to financial institutions by FIU or the Central Bank on the importance of using SAR reporting on TSHB.
- Capacity building at FIU is required to ensure that it is equipped and trained on TSHB and able to promptly analyse and pass on cases of interest to law enforcement.

At the regional level, it is incumbent for each state to put first in place the national level as a basis for transnational cooperation.

As each jurisdiction moves forward on this path then an information flow on TSHB must be established (potentially under a public-private partnership) to allow the financial sector to play a broader role in identifying suspicious activity associated with TSHB. In this context, it will be important to ensure that sensitive and confidential information is securely shared between parties. This could be defined by law, MOU or as a confidential informant.

In the context of the AML framework, the definition of financial institutions should include banks, money remittance services, as well as mobile banking payment providers, and registered informal money agents.

The role of the FIU in working with specialist anti-trafficking units (within government agencies) will also be important. In some jurisdictions, the FIU plays a proactive role in alerting anti-trafficking teams to potential areas or persons of interest. In other jurisdictions, the FIU plays a more supportive role by liaising between law enforcement and financial institutions to obtain information and evidence in support of an ongoing criminal investigation. It is therefore key for the FIU to define clearly what services it can provide and role it can play. Where the FIU lacks capacity, training and resources will need to be provided.

In a study by APGML / UNODC (2017)⁴⁷ covering the role of financial investigations into illegal wildlife (a similar type of a predicate AML offense to TSHB) it was revealed that:

- Only 26% of jurisdictions reported conducting any financial investigation into wildlife crimes, including financial investigations related to the predicate offence, asset forfeiture, or in pursuit of money laundering charges.
- 79% of jurisdictions reported that they do not include the FIU in a multi-agency approach to combat wildlife crime.
- Only 1% of wildlife crime cases were reported to have involved money laundering investigation, charges or prosecutions.

⁴⁷ <http://www.apgml.org/methods-and-trends/documents/default.aspx>

This highlights that much work needs to be done to change traditional attitudes towards investigations, especially involving financial investigations, and the role of the FIU. The FIU needs to earn the trust and respect of the agencies that it is cooperating with, both domestically and internationally.

6. Pathways for Synergies

This chapter describes the existing mechanisms for collaboration between national authorities and EU funded projects.

FIU Coordination

Conducting investigations on transnational criminal networks in the Horn of Africa requires broader cooperation that goes beyond national and regional borders. The AML-CFT national efforts in the HoA are seriously hindered by the lack of involvement of several countries in the Egmont Group of Financial Intelligence Units. At the moment, Tanzania and Sudan are included.⁴⁸

Overall, coordination among FIUs in the greater HoA region is significantly evolving, especially with regards to investigating terrorist financing. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) has been at the forefront of this by adopting a number of capacity building initiatives to encourage FIUs to discuss coordination, cooperation and information sharing, and to encourage them to sign MoUs and ultimately joining the Egmont Group.⁴⁹

By bringing its members together, ESAAMLG “enables regional factors to be taken into account in the implementation of anti-money laundering measures”.⁵⁰ It also provides technical assistance for members working on understanding their Money Laundering and Terrorist Financing risks while they are developing their NRA. Not all countries in the HoA are members of the ESAAMLG. Sudan, Libya, Djibouti and Somalia are members of the Middle East and North Africa Financial Action Task Force (MENAFATF), another FATF-style body headquartered in Manama, Bahrain. Saudi Arabia, United Arab Emirates and Yemen are also members of the MENAFATF organisations. There are no regular meetings between FIUs of the ESAAMLG and MENAFATF, but on some occasions, they do meet informally, often on the sidelines of international events. Although, according to an ESAAMLG representative, these two organisations are interested in working together more closely by establishing a more conducive environment to cooperation. This willingness to collaborate should be encouraged.

This chapter examines pathways for synergies between national and regional authorities and organisations and EU-funded projects. Countries with shared political and security threats have coordinated (often militarily) in the past, and could also coordinate on investigating financial crimes in the future.

⁴⁸ Under the EUTF, the definition of the Horn of Africa includes Sudan and Tanzania.

⁴⁹ ESAAMLG is a Financial Action Task Force Regional Body – headquartered in Dar es Salaam, Tanzania – that has similar form and functions of those of FATF, in addition to providing input to FATF on standards and typologies. It is an inter-governmental body whose mandate is to promote the effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other threats to the integrity of the international financial system. Launched in Tanzania in 1999, current membership in the ESAAMLG comprises 18 countries: Angola, Botswana, Comoros, Ethiopia, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

⁵⁰ http://www.scielo.org.za/scielo.php?script=sci_arttextandpid=S2077-49072015000100002

Encouraging regional FIUs to work with law enforcement on TSHB cases might create a platform for future investigation on TSHB or for sharing data on specific illicit networks. For example, ESAAMLG has conducted regional projects and studies in order to “obtain information, statistics and trends related to wildlife poaching, illegal trade in wildlife products and associated money laundering.”⁵¹ A region-specific project focusing on illicit smuggling and trafficking networks that brings together the ESAAMLG, MENAFATF, law enforcement agencies and experts could also have a positive impact on countries’ ability to investigate these illicit networks.

In addition, law enforcement officials and financial investigators interviewed for this project suggested that most funding is destined for countries such as the UAE and Saudi Arabia, two countries that are members of the Egmont Group and the MENAFATF body.

Law Enforcement, Intelligence and Anti-Trafficking Unit Coordination

With growing cross-border criminal activities such as drugs, weapons and TSHB as well as growing terrorist related activities, African law enforcement and intelligence agencies have increased partnership and cooperation through regional and international organisations such as IGAD and the EAC.

The Inter-Governmental Agency for Development (IGAD)

The IGAD region faces a multiplicity of serious transnational security threats, the most critical of which is arguably the steady rise of jihadist terrorism. One of the ways in which IGAD has responded to these threats is through the establishment of the IGAD Security Sector Program (ISSP). The ISSP comprises expertise in counter terrorism, transnational organised crime, maritime security, capacity building and countering violent extremism. In 2015, ISSP launched a Transnational Security Threats (TST) initiative to promote cooperation between IGAD Member States.

The East African Community (EAC)

The East African Community (EAC) is a regional intergovernmental organisation of six partner states: Burundi, Kenya, Rwanda, South Sudan, the United Republic of Tanzania, and the Republic of Uganda. Its headquarters are in Arusha, Tanzania. The EAC is working on harmonising all laws relating to finance, immigration and customs as the community is becoming a free trade zone. The EAC is also working on harmonising police rankings and establishing a Police Liaison Office within the structure of the Directorate of Peace and Security. The EAC Peace and Security Protocol is an initiative that identifies more than 20 objectives for fostering regional peace and security.

European Union Funded Projects

Overall, EU funded projects would gain relevance with integration. Bringing at least the "Anti-Money Laundering/Countering the Financing of Terrorism in the Greater Horn of Africa (AML/CFT Project in the GHQA, 2014-2019)"⁵², the "The Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative (ROCK)" project⁵³, and the Better Migration Management project⁵⁴ under one Rule of Law strategy and institutional platform would enhance their relevance, and facilitate direct engagement with national and regional counterparts in both the EAC and IGAD regions.

⁵¹<http://www.fic.na/uploads/TrendsandTypologies/OtherTrendsandTypologyReports/Special%20Typology%20Report%20on%20the%20Wildlife%20Crimes%20and%20Related%20ML.pdf>

⁵² Funded by the Instrument contributing to Stability and Peace

⁵³ Funded by the EU Emergency Trust Fund for Africa

⁵⁴ Funded under the EU Emergency Trust Fund for Africa

The AML-CFT is a well-functioning project, largely because from the outset, it approached and took into account suggestions made by IGAD and EAC and their member states. The project adapted its programme of instruction to raising awareness and strengthening national capabilities available in the region, especially by its “train the trainer” component. All AML-CFT training modules are completed by a formal certification process. The project’s programme also unites the entire spectrum of services, its leadership cultivating a culture of inter-agency cooperation between national and regional regulatory and institutional frameworks. The project regularly brings together Financial Investigation Units, law enforcement agencies, intelligence services, the banking sector, customs, national anti-corruption agencies, as well as anti-terrorist judges and prosecutors. As example of AML-CFT results for Sudan, covering the period between September 2015 and 2018, the project delivered 23 sessions (mostly formal training) to 253 persons; and for Ethiopia 11 training sessions to 47 persons between May 2016 and September 2018.⁵⁵

As the current AML-CFT project cycle comes to completion in June 2019, these important gains need to be secured, and the investments made by the EU built upon. The continuation of the AML-CFT project would allow the addition of training modules specific to TSHB, with an emphasis on transactions by mobile phones and informal economies. A TSHB advisory / training capability could be used as a call-down facility applied to all other EU-funded projects.

Enhancing the Impact of EU Funded Projects

Improved coordination among EU-funded projects and joint-execution of their respective programmes of work, and utilisation of resources would allow greater efficiency and effectiveness. Actually, the current four projects are inter-dependent. In particular, the mutual legal assistance component of the FIIAPP, upon which the ROCK project relies, needs immediate structural support that goes beyond training investigators. At present, the justice side of law enforcement that assures the quality of cases brought to court and the rule of law are insufficiently developed. There is no legal framework for capturing evidence that can stand up in a court of law and mutual legal assistance so it can be transferred from one country to another. “We can have trained the best intelligence agents, the best police, the best equipment. If we do not bring files in due form to the magistrates for a subsequent judgment, firm and uncompromising but fair and transparent, all that we do before is useless,” one Senior Technical Advisor of an EU- funded project told the researchers.⁵⁶

It is also important to note that without mutual legal assistance in place, the ROCK project cannot function as intended. An operational ROCK will enable the transfer of critical information from country to country allowing for the continuation of investigations that span the IGAD and EAC regions.⁵⁷

Further, the ROCK’s mandate needs expanding to reflect the realities of the structures of African security forces. Control of African borders mostly falls under the mandate of the military forces. National intelligence services work on all border issues as their mandate covers the entire country. African police units are usually constrained to operating in towns and villages. For example, the Sudanese border is about 8,000 km, but there is only a police presence along 40 km of it, the rest of the border is the charge of the military and the national intelligence. For the ROCK project to function as it as intended, its mandate should formally include relations and cooperation with all African security components dealing with organised criminal networks.

⁵⁵ Interviews with AML-CFT project, Nairobi, Kenya, August and September 2018

⁵⁶ Interview with FIIAPP project, Nairobi, Kenya, 10 August 2018

⁵⁷ Interviews with ROCK project, Khartoum, Sudan, 13 and 14 August 2018

7. Recommendations

The aim of these recommendations is to define what is required to operationalise substantive measures against criminal networks finance at the intersection between TSHB and anti-money laundering.

In order to achieve that intended outcome there are parallel avenues to explore:

1. Support a better linked and integrated strategy for harmonising TSHB and AML-CFT activities, acknowledging that responsibility for development, oversight and management of an appropriate strategy would be subject to confirmation by key national, regional and transnational authorities;
2. Build upon the investments made in AML-CFT by adding a TSHB capability to it, that can also serve the other EU-funded projects, e.g. ROCK, BMM among others;
3. Expand the current criminal justice efforts by combining and systematizing them with a legally authorised and FIU-centric multilateral cooperation approach that directly targets criminal organisations' financial capabilities
4. Given the complexities and dimensions that this report identifies, continue research and evidence-based analysis to help the EU and its partners identify a) The most effective paradigms to address TSHB risks and b) In-depth topology of TSHB criminal networks

Government officials in both the IGAD and the EAC regions are conscious that the actions and financial operations of criminal networks bear a growing capacity to do harm. Understanding and analysing TSHB networks and their involvement in other types of criminality is therefore essential to the efforts in combatting organised crime.

A greater role for the IGAD and the EAC would assure the continued participation of key regional and national officials, testing the countries' leadership engagement, identifying bottlenecks and solutions, as well as fostering commitment to these.

The team's recommendations are clustered into the following four pillars :

1. Strategy, integration and coherence

To address the lack of overall coordination within and between the TSHB and AML-CFT sectors, the following activities are proposed:

- 1.1 Improve the coordination, liaison and convening functions between the different roles and activities of IGAD, EAC, ESAAMLG, and MENAFATF by establishing an appropriate oversight platform to convene and lead the work to curb smuggling and trafficking in human beings as it relates to money-laundering and criminal finance. This committee would also include INTERPOL, EUROPOL, the AU, the US Government and the Egmont Group, FATF, the UN as permanent members.⁵⁸ Other possible participants may include AU member states, law enforcement

⁵⁸ IGAD Security Sector Program (ISSP) is mandated to address Transnational Security Threats, including AML-CFT and TSHB, in accordance to IGAD structure and peace and security strategy, IGAD SSP is mandated with addressing TST, including TSHB and AML with ISSP's Transnational Organised Crime pillar. IGAD is also the focal point on border issues vis-a-vis the AU.

agencies, and any other relevant entities focused on disrupting organised criminal networks' finances.

- 1.2 Assist the region and its member states (IGAD and EAC) to develop a Rule of Law strategy with its international partners, INTERPOL / EUROPOL / AFRIPOL, by developing a blueprint for a process-oriented strategy that addresses both the regional and the national dimensions of TSHB and other associated criminal risks, subject to confirmation by a baseline study.
- 1.3 In order to have a maximum effect on disrupting criminal finance flows, establish a public / private partnership between IGAD, EAC, INTERPOL, FIUs, financial institutions and other private sector specialised companies, and concerned civil society organisations. Such a partnership would enable collaborative action to bring together all law enforcement, financial intelligence agencies and concerned organisations, to understand their complementary roles in managing TSHB risks and coordinating their actions regarding criminal networks finances, including sanctions and assets recovery and seizure.
- 1.4 Support the implementation within IGAD and EAC of the INTERPOL's Police Information System. This will assure connectivity of all IGAD and EAC partner States to INTERPOL's databases and secured communication network I-24/7, a critical and tested instrument to enhance and extend transnational cooperation, information sharing, joint investigation and prosecutions.

2. Training and Other Support Services

To support the harmonisation of TSHB together with AML-CFT activities, training is needed to extend the reach of the latter to be applied to the former. Specifically, those who receive this training should be familiarised with the ways that organised criminal networks utilise their finances to support trafficking activities.

- 2.1 Use the existing AML-CFT project to formally coordinate training plans and activities to execute – as per recommendations 1.1-1.4 above – a joint strategy and policies, with an emphasis on raising awareness, capacity building and transnational cooperation, and to bridge the gaps between FIUs, law enforcement, intelligence and judicial agencies in combating TSHB criminal networks.
- 2.2 Curricula for the training programmes should be translated into the national languages of the countries in which they are being used.
- 2.3 To enhance the effectiveness of the training programmes, post-training mentoring of the trainees should be undertaken by the AML-CFT project and/or national authorities.
- 2.4 Integrate banks and financial institutions, as well as civil society organisations, into training plans and curricula (linking to Recommendation 1.3 above).
- 2.5 Eventually, work towards institutionalising training at national and regional levels (curricula/syllabus, trainers, integrating to existing institutions, mainstreaming in existing courses).

3. Financial Investigation Units

The financial investigation units sit at the crossroads of all information flows between actors engaged in harmonised TSHB and AML-CFT. To enhance the capacity for national and transnational cooperation, the following recommendations are given:

- 3.1 Encourage exchange of MoUs to develop modes of cooperation on transnational information sharing, joint investigation and prosecutions, between national and regional FIUs of the IGAD and EAC regions.
- 3.2 Employing the Egmont Group model, establish a HoA FIUs working group in cooperation with Financial Action Task Force regional bodies, such as ESAAMLG, MENAFATF. This will enable greater policy harmonisation between the regional states.

4. Mapping and Analysis

To address the gap between evidence collection and analysis among financial organisations and legal institutions dealing with TSHB, several research-oriented activities are recommended:

- 4.1 Carry out continuous field research, analysis and evidence-based reporting on organised criminal networks responsible for TSHB, documenting migrants' conditions, including the latest trends, routes, and business models.
- 4.2 Develop a comprehensive typology of forms of criminal intermediation and / or poly-criminality linked to human smuggling and trafficking networks to encompass associated types of transnational organised crime, such as trafficking in arms, drugs, slavery, and terrorism.
- 4.3 To support Financial Investigation Units map all borders' financial institutions, designated non-financial business or professions (DNFBPs), transport companies, travel agents. Mapping should be conducted in conjunction with INTERPOL, IGAD and the EAC and their member states.

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Annex 2 - Rapid Assessment Terms of Reference

ADDRESSING HUMAN TRAFFICKERS AND SMUGGLERS IN THE HORN OF AFRICA THROUGH DISRUPTION OF THEIR BUSINESS MODEL AND FINANCIAL OPERATIONS

SCOPING STUDY

SUMMARY

Irregular migration from the Horn of Africa to Europe is facilitated by extensive human smuggling and trafficking networks that generate billions of dollars in profits every year. The lucrative nature of the trade fuels corruption along smuggling routes, undermines border management, facilitates other types of transnational crime, including terrorism, trafficking of drugs and firearms, and in some areas, drives insecurity and conflict between rival armed groups. There are growing indications that these migration corridors are becoming sources of revenue and conscripts for Africa's militant Islamist militias, including affiliates of Al-Qaeda such as Al Shabaab.

Based on a study commissioned by the Ethiopian and Sudanese Governments linked to the Central Mediterranean Route⁵⁹, irregular migration from the Horn of Africa is dominated by sophisticated and integrated networks of transnational criminal groups. These networks take on 'clients' via schools, the Internet, social media and by word of mouth and benefit from limited and weak state capacities in peripheral areas to ensure easy travel across borders. There is also evidence that in certain countries, notably Libya, migrant smuggling is directly linked to other organised crime, such as the smuggling of weapons and drugs.

These networks derive massive profits from moving thousands of migrants and refugees. They are formed by key individuals in communication with each other and operating between Europe (notably Italy), Libya, Ethiopia and Sudan. The principal 'kingpins' who dominate this route are reported to be predominantly Eritrean in nationality, but they collaborate with ethnic Somalis, Ethiopians, and Sudanese to operate across borders and amongst the diverse communities in the region.

The European Union Emergency Trust Fund for Africa (EUTF) is already supporting projects aiming at combatting the trafficking and smuggling of human beings (TSHB) in the Horn of Africa region, most notably the Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative (ROCK)⁶⁰ and the Better Migration Management programme (BMM)⁶¹ However, considering that one of the most effective ways to disrupt and dismantle TSHB criminal networks is to identify and confiscate the money they spend and collect, the EU needs to operationalize the intersection of human trafficking and money laundering. Indeed, case studies have shown that while TSHB is in many respects

⁵⁹ Sahan and IGAD (2016) - Human trafficking and people smuggling on the Horn of Africa – Central Mediterranean Route.

⁶⁰ https://ec.europa.eu/trustfundforafrica/sites/eueta/files/regional-operational-centre_en_6.pdf

⁶¹ https://ec.europa.eu/trustfundforafrica/sites/eueta/files/rider_t05-eutf-hoa-reg-09_-_better_migration_management_7.pdf

a unique crime, the methods by which its perpetrators attempt to launder its proceeds are identical to those used for other types of crime⁶².

The major programme currently addressing anti-money laundering efforts in the HoA region is the “Anti-money laundering and countering the financing of terrorism in the greater Horn of Africa” project currently funded through the instrument contributing to stability and peace (IcSP), for which a mid-term review has provided key recommendations and is due to end operations in the beginning of 2019. There is an opportunity to build on the momentum it has established in key target countries, and to focus its scope on the priority areas of the EUTF, one of which being the combatting of trafficking and smuggling of human beings.

The rapid evolution of the threat requires that the national and regional strategies and responses of the countries of the region keep pace with the changing tactics, techniques and procedures of traffickers and smugglers and adapt accordingly.

OBJECTIVE

The purpose of this scoping study is to help the EU identify and formulate an intervention which would operationalize the intersection between the efforts to end the trafficking and smuggling of human beings (TSHB) business in the Horn of Africa and the anti-money laundering tools and instruments which are being developed in the region.

Specific objectives of the study include:

- To provide an initial overview of the main criminal networks involved in irregular migration in and from the region, including their structure, modus operandi, and capacity;
- To provide an initial overview of the sources and destination of financing of the networks in the HoA region;
- To attempt to quantify the TSHB business in the region and describe main business models being used, including use of remittances, avenues for money laundering, etc.;
- To describe the principle characteristics of links between the fight against TSHB in the region and current efforts to utilize available AML-CFT tools: i.e. extent of co-operation between financial investigation units and anti-trafficking units, etc.;
- To document the activities, both current and planned, of national and international authorities engaged in fighting TSHB, and particularly identify whether they are focusing on disrupting the financial flows of the criminals;
- To identify the existing mechanisms for cooperation between the national authorities, as well as challenges to and opportunities for enhanced cooperation at regional and international levels;
- To establish pathways for synergies between the national authorities and various projects funded by the EU and other donors;

⁶² OSCE- Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings-
<https://www.osce.org/secretariat/121125?download=true>

- To make recommendations to the EU for potential expansion of its support to policy and activities under the EUTF and possibly other EU mechanisms.

APPROACH

The Research and Evidence Facility is engaged in research on irregular migration that potentially encompasses TSHB (in particular see reports on migration between the HoA and Yemen and on migration from Darfur). It is expected that this scoping study could serve as the basis for more in-depth, sustained engagement in fighting TSHB, building relationships, foster trust between partners, promoting cooperation between the relevant national and international authorities, and identifying strategic areas of engagement for external actors. This will also require in-depth understanding of the ongoing programmes dealing with the fight against trafficking and smuggling on the one hand; and AML-CFT on the other hand (see above).

The study will emphasise the need for the building of relationships with partners based on trust and confidence. The consultant(s) will therefore visit some key target countries and meet with government representatives, civic leaders, opinion makers, and researchers, where appropriate upon introduction by an EU representative.