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Scrutinising the double disadvantage: knowledge production in the messy field of migrant smuggling

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ABSTRACT

Human smuggling is a global phenomenon which has been difficult to research. Even though there is a large and growing literature on human smuggling, it lacks a systematic review of the major theoretical and conceptual approaches. Besides the lack of conceptual cohesion, there is fundamental lack of hard evidence to substantiate most aspects of the smuggling process because of methodological challenges. This 'double disadvantage' is an important explanation for theoretical as well as conceptual discrepancies in existing smuggling studies. In order to clarify and understand the diversity of theoretical approaches within the field of smuggling this article provides an overview of various readings of the literature. We identify a need to better understand how our knowledge about smuggling is constructed in this messy field. Furthermore, we question why we are producing particular types of knowledge and argue for more critical work in the field of human smuggling.

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1. Introduction

Human smuggling is a global phenomenon which has been difficult to research. Even though there is a large and growing literature on human smuggling, it lacks a systematic review of the major theoretical and conceptual approaches. In addition, there is fundamental lack of hard evidence to substantiate most aspects of the smuggling process (Salt and Hogarth 2000). Difficulties in obtaining data lead to challenges in generating concepts to explain migrant smuggling. Insights gained from incoherent or malformed data sources lead to conceptual ambiguities and misleading understandings of migrant smuggling, resulting in what we call the 'double disadvantage'.

The double disadvantage comprises both methodological as well as theoretical issues. Methods and data used in the literature on human smuggling studies are varied and often come from secondary sources. These methods include: legal and administrative data such as court files, judicial archives, and police reports (Bilger, Hofmann, and Jandl 2006; Pastore, Monzini, and Sciortino 2006), interviews with 'experts' working in the field (Neske 2006), and global historical and state-based comparative approaches (Kyle and Liang 2001). Some studies are based on interviews with smuggled migrants

(e.g. Van Liempt and Doomernik 2006), and some combine surveys and questionnaires with interviews (Chin 1999; Herman 2006; Zhang 2008), or rely on ethnography and participant observation (Spener 2009). Even fewer studies are based on interviews or participant observation with smugglers themselves (for exceptions see Zhang 2008 and Sanchez 2015, among others). The lack of an inside perspective can be explained by the fact that smuggling is a clandestine practice that is methodologically as well as ethically difficult to research. Smuggled migrants often live in marginalised, hidden, hard-to-reach, and vulnerable situations where precarity is often the norm. Respondents may not be willing to speak openly about the topic or fear speaking. Another limitation in the available data is that studies are typically focused on one location, usually a receiving nation-state (Black 2003, 48). Rarely are multi-sited methods used and the knowledge that is produced often lack a country of origin, transit, or transnational perspective.

Difficulties in obtaining data lead to the second disadvantage of conceptual 'messiness' and fragmented explanations, with competing understandings and norms around migrant smuggling. Some explanations of how the smuggling industry works receive more value in the literature. Van Liempt and Sersli (2012) for example show that the criminological perspective is very dominant in the field of migrant smuggling. This potentially skews the debate as gaps in data collection are re-produced in explanations and theories of human smuggling. Thus, the second disadvantage relates directly to how researchers must remain critically sensitive to knowledge production in the field of migrant smuggling. What is at stake is the ethical and politically sensitive production of knowledge about migrant smuggling and its effects on policy and the media. To scrutinise this 'double disadvantage' this article outlines five analytical approaches to migrant smuggling and their relevance. It argues that studies on migrant smuggling suffer from the double disadvantage, and that researchers must remain critically attentive to the forms of knowledge production in the field.

2. What is human smuggling?

Before we start with providing an overview of the literature it is important to clarify what we exactly refer to when we speak of migrant smuggling. The International Organisation for Migration's (IOM) first study on what was then called trafficking, dates from 1994, and is composed of a world-regional perspective (IOM 1994). At that time smuggling and trafficking were used interchangeably. In the 1990s several reports on smuggling came out published by IOM that dealt with various geographical areas. Building on pioneering work (e.g. Salt 2000b), migrant smuggling (which we use synonymously with human smuggling) was legally differentiated from human trafficking in the UN Convention against Transnational Organised Crime (UNTOC).

The Protocol against Smuggling of Migrants by Land, Air and Sea, which accompanies the UNTOC, defines smuggling of migrants 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 a permanent resident'. This definition of smuggling comprises three important elements. First, it requires a smuggler or intermediary who undertakes the job of facilitating the cross-border movement. Second, it involves a payment to the smuggler by the migrant or someone paying on his/her behalf. Third, the migrant's choice to participate in the transaction is voluntary.

The Protocol to Prevent, Suppress, and Punish Trafficking Persons defines trafficking as: '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'. The migrant's choice is thus not voluntary in trafficking and the means used to commit this crime are force, coercion, abduction, fraud, and deception. Smuggling and trafficking are mostly distinguished by the fact that the latter implies the involvement of victims, but smuggling does not. As such, definitions of smuggling and trafficking are based on the assumption that there is a clear-cut demarcation between voluntary and involuntary processes of migration (Gallagher 2001; Van Liempt and Doomernik 2006). The Palermo Protocols resolved some of the needs for conceptual clarity, but the definition of human smuggling and trafficking remains contested.

In practice the distinction between smuggling and trafficking is not always clear. There are indeed cases of smuggling in which a fee has been mutually agreed upon with no coercion and there are clear cases of trafficking in which someone is kidnapped and trafficked completely against his/her will, but the majority of migration strategies are much more complex and they defy easy categorisations (Ahmad 2011; Van Liempt 2007). For example, it is very probable that some trafficked prostitutes leave their country of origin in full self-consent, as a strategic action to improve their situation (Andrijasevic 2010), or smuggled migrants get exploited along the way (Baird 2014). Migrants in general may face few choices when fleeing persecution and/or social and economic insecurity. Smuggled migrants may be coerced, punished, tortured, or taken hostage by their smugglers while in transit, defying the demarcation of what would otherwise be considered voluntary in this category (Baird 2014; Gallagher 2002).

Several social scientists have provided alternative definitions and criticised the conceptual scope of the UN definition (Brolan 2002; Gallagher 2001; Kirchner and Schiano di Pepe 1998; Van Liempt and Sersli 2012). They argue that the term 'smuggler', as understood in media and policy circles, can be misleading. Differentiating categorically between migrants and smugglers too neatly for example ignores the fact that many 'smugglers' are in fact migrants who facilitate illegal travel, entry and/or regularisation upon arrival of family members, friends, acquaintances, and fee-paying strangers (Ahmad 2011). Besides, migrants may have fewer stigmas attached to the smuggling business and more positive views on smugglers than the media and policy makers (Van Liempt 2007: 128). This latter, broader, more socially embedded understanding of human smuggling is often overlooked. An important explanation for this is the lack of studies in the field that do *not* use a policing perspective.

3. Past literature reviews

Three processes have triggered scholarly interest in human smuggling: first, the globalisation and transnational organised crime debate prompted scholars to investigate transformations occurring in transnational criminal networks and the geopolitics of law enforcement; second, the codification of an institutional definition of 'migrant smuggling' and 'human trafficking', found in the Palermo Protocols, has sparked a shift in research concerning either migrant smuggling or human trafficking as distinct but overlapping

fields of inquiry; third, heightened interest in improving border controls and police actions targeting smugglers themselves have coincided with an increase in interest and funding for projects which address issues of migration routes and systems and the complex role that human smuggling plays within these systems. In other words, developments in the geopolitics of migration management and border control can be seen to interlink with studies of geographies of human smuggling, and it is necessary to take stock of the current scholarship, as the issue of human smuggling continues to generate political debate and legislative action to curb its practice.

As a result of the difficulties in observing, measuring, and gathering reliable data, many studies on human smuggling are shaped by public officials and police who have first-hand information (UNODC 2011a), or by advocates of a particular political position (for example, see Courau 2003). Some recent literature reviews have been completed for law enforcement purposes with the specific intent of aiding the fight against transnational organised crime as conceived by states and inter-governmental organisations (UNODC 2010, 2011a, 2011b, 2012). These studies do not always fully capture what is truly at stake for the migrants involved.

In spite of the limits around defining and observing smuggling, there is however a diversity of evidence about smuggling that spans different regions and methodological approaches. Past literature reviews of migrant smuggling have detailed the diversity of empirical material (Salt and Hogarth 2000), have made comparisons between the social organisation of smuggling and other forms of crime which are organised (Zhang and Chin 2008), and have made links with the broader literature on 'irregular' migration (Koser 2010). Recent literature reviews have also been crucial to understanding how human smuggling studies reflect the anti-smuggling rhetoric (UNODC 2011a). These literature reviews are valuable contributions and have helped a number of studies advance. However, they are either older, lack a specific focus on human smuggling, or focus on a specific geographical region. For this reason we think it is appropriate to compliment previous work with an updated literature review and addresses work across wider geographical areas and across disciplines.

We choose to take an analytical reading of the literature in order to highlight the diversity of ways in which human smuggling is theorised from alternative conceptual starting points; the criss-crossing lines, commonalities, and divergences between disciplinary approaches to human smuggling; and the ways in which researching human smuggling is not consistent or settled in any way. In other words, we will try to give some order to a messy field. In our reading of the smuggling literature we can differentiate between five important themes from which migrant smuggling is studied:

- (1) Smuggling as a Business
- (2) Smuggling as a Crime
- (3) Smuggling through Networks
- (4) Smuggling as part of the Global Political Economy
- (5) Smuggling and Human Rights

We begin with a review of the five approaches we have identified and then progress into an argument that urges for more critical attention to knowledge production in the field of human smuggling. We do not advocate for a particular framework over others, but for more reflection about the ontological and epistemological adequacy of the different approaches, and how they impact theoretical, political, and ethical debates about migration.

4. Five analytical approaches to human smuggling

Our typology is meant as a basis for discussing the theoretical strengths and weaknesses of existing theories of migrant smuggling. It also helps us to critically attend to the complexities and sensitivities of knowledge production within the field and the potential to formulate alternative approaches to studying human smuggling. Overall, five different but interrelated approaches are outlined which have been identified by looking into the human smuggling literature, and scrutinised according to the double disadvantage.

4.1. Smuggling as a business

The earliest conceptualisations of human smuggling come from the older but still useful market model of geographers Salt and Stein (1997). The most valuable contribution of this economic model on human smuggling is that Salt and Stein theorise international migration as a business composed of legitimate and illegitimate markets in which actors pursue profit and commercial gain. Smugglers in their view act as important intermediate agents embedded in wider global markets for migration. Salt and Stein were the first to view smuggling from the perspective of the country of origin, transit and destination and to distinguish between various services that are offered by smugglers in different phases of the process: 'The business idiom drew attention to the complexity of global migration, with its different levels, actors, and interconnections' (Herman 2006, 195). The acknowledgement that smuggling comprises different stages is furthered by Salt & Stein's statement that countries of origin, transit and destination all try to find different ways to control migration within their own economic structures. Goss and Lindquist (1995) have called these intermediate structures 'migrant institutions'. These are a complex articulation of rules and resources that present constraints and opportunities to individual action (Goss and Lindquist 1995, 345).

The 'smuggling as a business' model can be critiqued for several reasons. A first critique is raised around the fact that Salt & Stein did not distinguish between smuggling and trafficking. They wrote this article before the Palermo Protocol was put in place and smuggling and trafficking were used interchangeably. As a result of treating smuggling as trafficking, the model assumes that all migrants are transported as commodities and that no distinction is made between various degrees of exploitation. The lack of distinction points to a larger theoretical critique that migrants' agency is framed in a particular way in the model: smuggled migrants are seen as actively choosing to follow 'illegal' practices, personally gaining from smuggling, and are for that reason often classified as 'criminal'. This has had an important impact on the way human smuggling is portrayed, understood and discussed both in academic and policy debates.

A second important critique that was given on Salt and Stein's tripartite model is that it does not give any indication of the reasons *why* smuggling begins or continues in a certain context (Kyle and Dale 2011; Van Liempt 2007). It gives no indication of the reasons smuggling networks might adapt, or why processes of smuggling stall or decline. It is

only a description of the primary actors and stages of migration. As such, it has been revised and extended by different studies. Bilger, Hofmann, and Jandl (2006), for example, extend the business model to conceptualise smuggling as a transnational service industry operating in a market of incomplete, imperfect information. They outline the risk reduction techniques that actors use to compensate for imperfect information and ensure some degree of transparency in the market, including 'the build-up of reputation and trust', including 'insurance', 'guarantees' and 'a variety of warranties' (Bilger et al., 2006, 66, 85). They use the broad outline of mobilisation, en route, and insertion to guide their analysis, but focus on human smuggling in stages where recruitment and advertisement, organisational structures and networks, prices, risk, reputation and trustworthiness all play a role. They conclude by suggesting that the business of human smuggling is organisationally and structurally distinct from human trafficking, again mirroring the legal and institutional definition following from the Palermo Protocols: smuggling is a service industry based on risk, reputation and trust, and trafficking is a nefarious business based on coercion and exploitation.

Subdividing human smuggling from human trafficking within the business model itself has meant reorienting analyses of smuggling towards migrant decision-making and agent-structure analyses, following a narrow track, presenting 'one-dimensional portraits of human behaviour dictated by narrow agendas of economic utility' (Ahmad 2011, 7). The (re)focusing of the business model onto relations between smuggler and migrant has also meant that attention is aimed at understanding *financial* aspects of migrant-smuggler relations and why smuggling 'pays' (Koser 2008).

A third point is that the model is based on existing literature and presents smuggling as well-organised, hierarchically controlled, and technologically sophisticated enterprises, which is 'radically at odds with the available evidence' (Pastore, Monzini, and Sciortino 2006, 96). Transaction costs of illegal organisations discourage vertical hierarchy, as the actors involved have no recourse to the state or law, and thus form 'loosely coupled coalitions of largely independent professionals and small cliques coordinated through a network of temporary contracts' (Pastore, Monzini, and Sciortino 2006, 97). Pastore, Monzini, and Sciortino (2006) find no evidence that smuggling is governed hierarchically. Thus, the claim in the business model that smuggling consists of vertically integrated organised enterprises is thus refuted on theoretical and empirical grounds (we will return to the organisational critique in the section on smuggling as a crime below).

A last point of critique on the 'smuggling as a business' model is that culture was not a factor in the initial business model. Recent work by Leman and Janssens (2011) has introduced the analysis of specific 'entrepreneurial cultures'. They found that historical and sociocultural contexts differ when examining judicial files of Albanian entrepreneurs between Belgium and the UK. They explore the logics of power and authority within networks and specific ethno-national ideologies of authority and gender. Kyle and Liang (2001, 5), in related work on 'migrant merchants', include in their comparison of China and Ecuador the different socio-historical, political, and economic contexts, histories, gender relations, and ethnicities of each country, and develop an embedded commodification model of migration. Spener's research (Spener 2004, 2009) also shows that the strength of socio-historical ties should not be underestimated as socio-historical links have been hard to sever, even in the midst of government efforts to restrict immigration and restrict undocumented border crossings. Their work is representative of work

extending the business model, and hints towards future work employing an comprehensive analysis of social organisation, costs, networks, culture, and socio-historical context.

4.2. Smuggling as a crime

The initial conception of smuggling and trafficking as a business is tied directly into questions of organised crime (Salt 2000a). The role of transnational organised criminals in the commission of and control over the smuggling of humans has been central to discussions of migrant smuggling from early studies until now (Chin 1999; IOM 1994; Thompson 2000; Salt 2000b; Salt and Stein 1997). Precisely defining organised crime and its role in shaping human smuggling and trafficking organisations generated a lasting debate in smuggling studies, with many questioning the exact role that organised crime plays in human smuggling (Coluccello and Massey 2007; Heckmann 2004; Kaizen and Nonneman 2007; Kyle and Koslowski 2011; Neske 2006; Soudijn and Kleemans 2009; UNODC 2011b). Transnational organised crime is a vague term because of the social construction of crime, what constitutes 'organised' activity, and to what extent organised criminal activity transcends international borders (Von Lampe 2012).

The thesis that human smuggling is a transnational organised crime has been at the heart of the debate of the social organisation of human smuggling and trafficking (Aronowitz 2001; Coen 2011; Icduygu 2004; IOM 1994; Kaizen and Nonneman 2007; Thompson 2000; Mallia 2010; Pastore, Monzini, and Sciortino 2006; Pickering 2004; Schloenhardt 2003; Thachuk 2007; Triandafyllidou and Maroukis 2012; UNODC 2011a; Ventrella 2010; Zhang 2007). The organised crime thesis depicts human smuggling as criminal activities committed in well-organised networks with links to the trafficking of other goods and services, such as women, weapons or drugs (Coen 2011; Schloenhardt 2003; Thachuk 2007; Triandafyllidou and Maroukis 2012; UNODC 2011a). The organised crime thesis posits that operations involve a central command and control structure where a central 'smuggler' dishes out commands and enforces the rules in a social hierarchy. Strategic decisions are made by criminal bosses thought to be involved in multiple other profit-making criminal activities (Mallia 2010; Schloenhardt 2003). In its extreme form, the organised crime thesis hypothesises that smuggling activities are moving towards globalised control by highly organised criminals acting in concert and benefitting from the newest technologies (Coen 2011).

The organised crime thesis has been fiercely criticised throughout the literature, both as a reaction to sensationalist media accounts of smuggling (e.g. depicting smugglers as 'evil geniuses' or 'masterminds' who orchestrate global networks (Perry and Agius 2015)) as well as in a refutation of the early research into the role of organised crime in smuggling (Chin 1999; Icduygu and Toktas 2002; Kyle and Koslowski 2001; Neske and Doomernik 2006; Zhang 2008). Based on interviews with smugglers and smuggled migrants, Chin (1999) and Zhang and Gaylord (1996), for example, state that even for Chinese smuggling, which is regularly associated with organised crime, there are hardly any 'gangs' that control or implement the entire migration journey, from country of origin to that of destination. In the Polish context, Okolski (2000) found little engagement by the Russian mafia. In Turkey there is little association between mafia-like organisations and smuggling (Icduygu and Toktas 2002). According to such research, smuggling is performed by loose coalitions of local organisations with specific expertise, working together on an *ad hoc* and

bilateral basis. As evidence began to accumulate regarding human smuggling, it became clear that syndicated, mafia-style, hierarchical organisations are absent from the empirical picture in the majority of cases—the field of smuggling is usually composed of smallerscale networks of individuals and groups who are efficient at organising piecemeal and ad hoc activities (Icduygu and Toktas 2002; Neske 2006).

Much of the more recent research on human smuggling has gone on to refute the organised crime thesis, or at least amend it by a considerable degree. Recent research from Greece by Triandafyllidou and Maroukis (2012), for example, suggests that smuggling is organised in small-scale networks, but that these networks maintain links with drug traffickers and other forms of fraud and money laundering networks. Other more recent research has also demonstrated that highly organised and hierarchical organisations have entered the smuggling field, profiting from unarmed and vulnerable migrants on the way (Kyle and Scarcelli 2009). Recent accounts of mafia involvement in human smuggling in Italy and the involvement of armed groups in human smuggling in Libya and Turkey complicate the picture (Amnesty International 2015; Day 2013; Today's Zaman 2015).

Migrants may experience more exploitation the further from home, as they are less able to rely on personal networks, providing a space for individuals or groups to take advantage of migrants' vulnerable situations where one cannot go back, but need to cross another border (Van Liempt 2007, 171, 208). The evaporation of the 'chain of trust' (Van Liempt 2007) in transit may explain the re-entrance of mafia-like organisations or the novel entrance of armed groups into the smuggling trade as new spaces for exploitation and coercion have arisen. Thus, focusing research on local specificities, geographical sites, and detailed conditions of human smuggling can open the discussion to explanation in particular contexts and aid in extending and exploring concepts across regions. Whether or not forms of human smuggling organisations in specific locales are isomorphic across regions remains an important question as migration systems undergo transformations. We must remain sceptical, however, of comparing organisational forms based on scant evidence (or inferring certain forms from unobservable social interactions or secondary evidence).

Work on organised crime represents empirical and theoretical advancements in the field but may remain constrained within narrow debates over social organisation and mafia-like syndicates at the expense of alternative questions. Intolerance of migrant smuggling by governments has motivated research concerning social organisation, modi operandi of facilitators, travel routes, and ties with other criminalised groups. Researchers should however remain critical of applying state-defined needs of control in their work. What accompanies such work is the tendency towards policy relevant and applied research, with the potential for isolation from other types of work which engage with broader approaches or reflexive attention to knowledge production. Although we find such work valuable for its purpose, we want to suggest that more critical work can arise through scrutinising how and why knowledge about smuggling is produced rather than uncritically employing state-defined questions and categories.

4.3. Smuggling through networks

While criminological models have overestimated the role of particular networks, the mafia syndicates, the business model of smuggling has been criticised for underestimating 'the role of personal networks in the migration process' (Herman 2006, 199). Research on the transnational scope of familial networks has added an important theoretical dimension to the study of human smuggling (Herman 2006; Staring 2004). Whereas the business model suggests that irregular migrants are completely dependent on the market and have no personal networks to rely on for their mobility, the analysis of smuggling through networks demonstrates that networks of friends, relatives, and acquaintances play an important role and should be incorporated in models that try to understand the mobility phase of irregular migration. One of the main findings of network studies is that smuggling depends on unique network characteristics coupled with individual agency—it is the relations of individuals acting within the structure and distribution of those relations which helps explain smuggling. To complicate the picture, smugglers can sometimes be seen as being part of, or as extensions and substitutes to, migrants' social networks, with trust playing an important role (Bilger, Hofmann, and Jandl 2006; Koser 1997, 2008; Staring 2001).

Research on family networks shows that smugglers play a *limited* role in migration, and that 'the arrival of illegal immigrants is guided by the managing efforts of supportive and loyal relatives in transnational networks... human smugglers who facilitate the illegal entry of immigrants for-profit bear less responsibility than is commonly assumed' (Staring 2004, 291). Herman expands the model of Salt and Stein, providing an updated, multi-level representation of migration as a 'family business', reorienting social relations from those of for-profit gain to those of familial trust and kinship bonds (Herman 2006, 218). She argues for incorporating 'the social non-profit factor' into the study of smuggling, adding a 'personal component ... bringing the role of personal and especially familial ties into the foreground' (Herman 2006, 217). Staring (2001) suggests that networks of trust and solidarity complement migration, not necessarily relations of unequal power as suggested in the smuggling as a business model. Thus, the strength of social ties plays an important role as well—not only the vertical dimension of power and coercion count, but also the horizontal dimension of solidarity and connection.

The social network approach suffers from the first disadvantage, as empirically mapping clandestine networks involves a number of methodological and ethical challenges related to recruitment and drawing connections among criminalised actors. Selecting respondents and designing criteria for including respondents is fraught with ethical consequences, and may be difficult to realise in practice. Respondent selection for network studies is done often by convenience. Herman (Herman 2006, 225), for example, used her 'personal network' to recruit respondents while Van Liempt and Doomernik (2006, 169) recruited respondents 'more or less by coincidence', raising issues of bias in findings and hampering more robust theoretical elaboration at the structural level. Migrant networks could be constructed from personal narratives, but such a technique raises ethical alarms by revealing clues to respondent identity. Thus, network structure and dynamism are difficult to capture empirically, with unobserved network structure and dynamics inferred from limited data. In addition, longitudinal change within smuggling networks is difficult to capture with contemporary network methods, as observing network change over time presents a number of problems of ethics and access. These issues can be overcome, as Leman and Janssens (2011) construct a picture of smuggling networks in Belgium and the UK from 1995 to 2005 using judicial files within a framework of 'entrepreneurial culture', signifying the importance of archival research in human smuggling studies. In our next section, we expand on literature which deals with structural aspects of smuggling to discuss smuggling and the global political economy approach.

4.4 Smuggling as part of the global political economy

The global political economy approach includes multiple empirical contexts and analytical themes, which are well represented by the comparative historical-structural analyses of Kyle and Koslowski's (2001, 2011) edited volume Global Human Smuggling. Kyle and Koslowski offer an empirically diverse set of comparative studies from across multiple world regions, advocating for 'a sustained historical and empirical examination of different smuggling activities using more inductive and comparative reasoning by observers not so directly tied to advocating a priori a specific state policy or political/philosophical position' (Kyle and Koslowski 2001, 12). Despite some conceptual obscurity by conflating the definition of smuggling and trafficking, and a broad focus on historical and national/regional analyses, Global Human Smuggling (2001, 2011) remains the most comprehensive textbook on the topic.

The vastness of world regions affected by migration make the global approach to human smuggling relevant as it holds promise for understanding variations which occur across regions and times. Far from being a business without a space, human smuggling is territorialised historically and structurally, with dynamic routes and parallels with historically licit and illicit trade routes. However, while drawing an overview of global approaches to human smuggling, it is striking to see that studies are routinely focused on one location, customarily a receiving nation-state, and explore the transnational networks leading to and criss-crossing these states (Black 2003, 48). How are we to trust in the full theoretical elaboration of human smuggling at a regional or global scale when the evidence is empirically inadequate or biased towards receiving contexts? It may be important to remain agnostic about how adequate our theories are when we are unable to observe all the relevant transnational dimensions.

Complementing the global approach is the migration systems approach (Kritz, Lim, and Zlotnik 1992). A migration system is 'a set of places linked by flows and counterflows of people, goods, services and information, which tend to facilitate further exchange, including migration, between the places' (de Haas 2010, 1593). The main thrust of migration systems approaches is towards explanations of migration emphasising complex socio-historical, political, and economic interactions between regions. According to migration systems approaches, migration is not a result of simple causes, or push-pull dynamics, but is instead composed of circular feedback effects and ongoing modification. Human smuggling, in such an approach, is conceived of as an 'intermediate structure' between the sending and receiving context (recall here Salt & Stein's intermediaries), embedded in the complex interplay of systemic forces that lead to migration (de Haas 2010). Recapturing causal dynamism has been the goal of recent work on migration systems, offering pathways for new theorisations of human smuggling (Bakewell 2012; Bakewell, de Haas, and Kubal 2011; de Haas 2009, 2010).

Cvajner and Sciortino (2010) theorise 'irregular' migration systems, focusing on the 'careers' of irregular migrants. They outline three different irregular migration 'careers': atomistic—'migratory trajectories that are defined by a sequence of separate (and often

disparate) steps'; volume-based—'large scale flows of irregular migrants'; and structured —'occurring within irregular migratory systems that have a long and established history and function on the basis of a well-established infrastructure' (Cvajner and Sciortino 2010, 215, 217, 219). They argue that the 'origins of irregular migration systems ... are not the result of conscious or organised planning' but of 'different paths and contingencies' aided by networks (Cvajner and Sciortino 2010, 221). They hypothesise that different types of social networks will react to policies in different ways, affecting migrant 'careers' (Cvajner and Sciortino 2010, 222). Although very valuable in generating new hypotheses, the conceptual categories developed are based on an analysis of the migration histories of non-citizen domestic workers in Italy, raising concerns about the relationships between localised careers among specific groups of migrants in Italy and categorical idealisations and theoretic formulations at the systemic/structural level. Are these categories applicable beyond irregular domestic workers? How can we talk about the elements of a theory without the particularities of its context and formulation? Our abilities to construct approximate theoretic formulas of human smuggling depends in part on our abilities to engage with individual/structural couplings and local/global patterns of migration. With these considerations in mind, the extension of systems thinking into human smuggling studies may open new avenues for understanding the diverse contexts under which smuggling arises.

The insufficiencies of global structural approaches provide unique opportunities for researchers to focus on how knowledge about smuggling is constructed and to be critical about how we are transporting generalisations to new contexts. The question whether or not human smuggling shares certain general features across the globe or whether it remains rooted in particular local contexts is a question which must remain closely scrutinised. We will return to this argument in the conclusion, but first we review the final set of literature we have identified: legal and socio-legal human rights approaches.

4.5. Smuggling and human rights

The literature on human rights and migrant smuggling, primarily normative, departs from other theoretical approaches to respond to the question: how should states ethically and legally respond to human smuggling? These studies emphasise the lack of protection which is offered to migrants who have been smuggled. The Palermo Protocols are not human rights instruments, but instruments to aid states in the fight against organised crime. Access to asylum, for example, is constrained by criminalising smuggling, as a majority of asylum seekers are thought to use smuggling services to flee political persecution (Crepeau 2003; Morrison and Crosland 2001). A multitude of analyses of the laws criminalising smuggling have demonstrated that to do so may constrain the ability of individuals to access rights and gain protection if necessary (Brolan 2002; Kirchner and Schiano di Pepe 1998; Obokata 2005). The main protection concerns involved in the smuggling protocol are related to the containment and protection of migrants, including prevention measures, criminalisation, and return (Crepeau 2003, 177). The main point of these works is to demonstrate that although states have rights to prevent entry, states must ensure that an individual's entry into the state should not adversely affect their ability to access asylum and make a claim for refugee status (Brolan 2002, 592). Some have hypothesised that the criminalisation of smuggling hints at a covert mechanism to end the right of asylum on European territory, arguing for a tough defence of the principle of asylum (Morrison and Backers 2001). In contrast, some work takes a more hostile tone, arguing for the use of the law as a weapon to combat crime and to be enforced rigorously through new technologies and techniques (Coen 2011; Mallia 2010).

The debate over EUNAVFOR Med, the ongoing (at the time of writing) anti-smuggling naval operation in the southern Mediterranean, is a contemporary example of the tensions between control and protection. EUNAVFOR Med is a military operation designed to disrupt the 'business model' of migrant smugglers in Libya. Much of the evidence suggests that EUNAVFOR Med will have distributed effects not only on the smuggling business model, but on migrant networks, local communities, and undermine rights claims and protection concerns of those seeking refuge. Future work must critically attend to the effects of anti-smuggling operations in the Mediterranean and their harmful effects. By incorporating insights from the human rights approach to human smuggling, researchers can also integrate a deeper ethical engagement in their work by pointing to the mechanisms by which anti-smuggling operations undermine protection and increase harm in particular contexts.

Counteracting the practice of smuggling and enforcing laws criminalising it is primarily a state-centric and inter-state endeavour, and efforts to end the practice have not seen much success. Policy failure, it is argued, is due to national interests overriding attempts at regional cooperation, as well as undermining rights claims (Nadig 2002: 9). In such accounts the focus on combating crime and protecting state sovereignty trump human rights concerns: 'While human rights concerns may have provided some impetus (or cover) for collective action, it is the sovereignty/security issues surrounding trafficking and migrant smuggling which are the true driving force behind such efforts' (Gallagher 2001, 976). In parallel, failure to harmonise smuggling legislation across states, or applying it inconsistently, indiscriminately or in a piecemeal fashion, adversely affects refugee rights (Brolan 2002, 591–594).

While human rights approaches acknowledge that migrants are entitled to protection because they are vulnerable, irrespective of their legal status in a particular country, there is an inherent tension in the approach between victimisation and agency, mirroring the double disadvantage. Migrants can appear as defenceless victims who must be protected by the state, or alternatively as exercising agency, as migrants lodge claims against states for abusing their rights. Moreover, the protection of migrants is only partly fulfilled through human rights law, as criminal law plays a strong role in smuggling transactions, adding further tension to debates on protection and smuggling. Such tensions give rise to conflicts between migrants and states, as migrants' claims to rights conflict with states' interests, as well as giving rise to differential treatment even though states should not impose penalties on migrants for illegal entry. Thus, while the human rights approach adds value by highlighting the politico-legal tensions involved in smuggling, it tends to emphasise normative arguments attached to policy concerns about the implementation of law at the expense of understanding the complex effects of law in diverse empirical contexts. In other words empirically grounded socio-legal analyses seem to be missing from the literature. Nuanced legal and socio-legal analyses thus can be wedded to other analytic approaches to attend to knowledge production in research, which we turn to now.

5. Conclusion: critical approaches to knowledge production in a messy field

In conclusion, we advocate for new work which reflexively and ethically engages with the how and the why of knowledge production in the field of migrant smuggling. The challenges of researching human smuggling embodied by the double disadvantage prompt us to argue for an approach that addresses how we generate knowledge about smuggling and the ethics of knowledge production. We identify a need to understand more how our knowledge about smuggling is constructed and to be more critical about why we are producing this knowledge.

Given the constraints of the double disadvantage, emerging approaches to migrant smuggling should be accompanied by serious and sensitive attention to ethics. Since human smuggling occurs in an environment of marginality, inequality, and precarity, it is essential that researchers engage not only with the ethical guidelines of specific disciplines and national guidelines, but look across disciplines and national traditions to engage with ethical decision-making procedures and guidelines at regional and global levels. Integrating ethical engagement with theoretical practice can enrich theory through inductive and abductive exploration in the field. Specific methods should be explored and critiqued along ethical (and political) grounds in order to evaluate their merits for understanding migrant smuggling. Constructive dialogue between researchers can aid this endeavour.

There is a concomitant need to be critical about policy work and how research feeds into such efforts. Such work can begin by deconstructing the double disadvantage and their associated components within the literature. We have shown above that some positions within the literature are more dominant than others, revealing power relations within the literature and highlighting the contested character of knowledge production where some positions dominate over others. We think moving towards a critical approach to knowledge production in the field can bring to light some of the conceptual ambiguities that have arisen because of theoretical dominance of certain positions within the literature.

We would argue that a critical approach to the politics of migrant smuggling must be maintained in order to explore political and ethical alternatives and generate theories which can offer alternative explanations. Certain alternative approaches, such as those of Van Liempt and Sersli (2012), Mountz (2010), Spener (2009), or Ahmad (2011) (among others), are good examples of employing a critical stance. Other avenues of critical transdisciplinary research must be defined by uncovering the structural mechanisms promoting migrant oppression and the relation of migrant smuggling to this oppression. Aligning feminist criticism of migrant smuggling may, for example, aid in uncovering the structural mechanisms by which oppression of migrants persists, and the intimate role that migrant smuggling plays in this reproduction of oppression.

Our argument is not that migrant smuggling studies must become more theoretical or simply more critical. Certainly the problems of migrant smuggling studies—the double disadvantage—cannot be resolved by more theory or more criticism. We do not claim to lay the problems of theorising human smuggling, and the related problems of practice, to rest, but by providing an analytic overview of the literature we attempt to problematise data collection and conceptual boundaries to engage with how and why we are producing knowledge about human smuggling. Critically addressing the ethics of scholarly interest in

human smuggling and understanding why scholarship has proceeded in its current direction should be at the core of debates on researching human smuggling. A number of questions do arise however from the need for more empirical work on the topic that intersect with the question of theory and criticism.

Finally, we identify five critical areas for future transdisciplinary research on migrant smuggling which involves reflexive attention to the production of knowledge and researcher intentions (there are other areas, but these we think offer fruitful beginnings). First, new data from various temporal and geographical locations and scales are needed in order to scrutinise what we already know and how we can produce knowledge for the future. Second, exploring new methods to work with hidden, hard-to-reach, and/or marginalised populations, or gaining access to formerly hard-to-reach archival data is necessary in order to expand the scope of available data on the topic. Such methods can help to gain insight into the heterogeneous composition of migrant smuggling across multiple domains, with an explicit attention to the ethics of knowledge production and why such work is or is not necessary. Third, comparative studies which relate new data and theory from across geographical contexts, not limited to receiving contexts, can address questions arising from the practice of making theory. Fourth, much remains to be learned about the interests and experiences of migrant 'smugglers' themselves. And lastly, we advocate a break with common sense, with the pre-constructed, and to practice 'radical doubt' (Bourdieu and Wacquant 1992, 235ff.) in order to reframe our knowledge about 'smuggling' and participate in the construction of more fluid, tensile, and trans-categorical concepts which push the field beyond pre-conceived legal or institutional definitions.

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