

Border Crossings:  
Human Smuggling Operations in the Southwest

by

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## ABSTRACT

Following the implementation of federal immigration control measures in the 1990s, Arizona became the main point of entry for undocumented immigrants along the US border with Mexico in the early 2000s. Since then, reports have blamed human smuggling facilitators for the increase of undocumented immigration into the state and the apparent development of violent practices targeting the undocumented. However, little is known about the organization of the groups who work at facilitating the transit of undocumented immigrants along the US Mexico Border. Based on interviews and narratives present in legal files of smuggling cases prosecuted in Phoenix, Arizona, the present study provides an analysis of local human smuggling operations. It argues that far from being under the control of organized crime, smuggling is an income generating strategy of the poor that generates financial opportunities for community members in financial distress. The study, raises questions over smuggling's perceptions as violent and instead identifies smuggling-related violence as a reflection of the structural violence carried out by the state against immigrant communities through policing, surveillance and the consistent and systematic exercise of race-based policies.

## DEDICATION

This dissertation is primarily dedicated to my aunt Ana, who made my life possible. To Genucho, David and Flor, who left ahead of me just so that they could be always by my side, and to Elenita and Pascual, who never left. To my cousins Lupe, Alfred, Mireya and Adriana; Servando, Toño, Adriana and Betty; Armando and Geño; Anahi, Lil' Cuchis, Sandy, Paola, Osvaldo; Sandy, Gus and Juanito, whose very lives and journeys to *El Otro Lado* inspired this research, and to my cousins Claudia and Salvador and their four children, hoping someday they can forgive my silence.

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Al Santo Malverde - Gracias, Patronsito. Por el milagro (misspelled words and all).

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## Chapter 1

### INTRODUCTION

#### **Discovering Counternarratives**

In the Fall of 2000, after a brief and painful stint as a clerk in Family Court – the section in charge of divorces and custody battles – I begged a human resources representative at the Maricopa Superior Court in Arizona for a transfer. I had been hoping for a chance to move to a department where I did not have to deal with the anger of couples, the fears of children, or the screams of abusive attorneys. Without showing much interest in my concerns she told me about an opening in criminal court where, she said, I would do interviews. She asked if I had ever done anything like that, and fearing that if I said no I would be sent back to the divorce window, I said I had. She also wanted to know if I spoke Spanish and if I didn't mind having to use my car for official travel. "Anything," I said, "I will do anything to leave Family Court."

Little did I know that I would spend most of the following seven years conducting interviews for presentence reports. Presentence reports are court-ordered documents that provide a summary of the legal facts involving a criminal offense from the perspective of all the parties involved and which provide sentencing recommendations to the judge presiding over the case. Among other documentation like victim statements, police accounts, court motions, background checks, the reports require the completion of a face to face meeting with the accused party –which constitutes the actual presentence interview. Most of the

accused are in custody at local detention centers waiting for the conclusion of their cases.

Every week I would drive to the four detention centers in Maricopa County to complete between 10 and 15 of these interviews. Given my language skills, most cases I was assigned involved Spanish-speaking detainees, the majority of whom were undocumented Latino immigrants. For most of my interviewees, our encounter was the first opportunity they had to discuss their case with someone fluent in Spanish without the need of an interpreter, what frequently facilitated our communication and my ability to develop rapport. Given the ethnicity of my clients and my own, and the nature of the cases that I was consistently assigned (drug trafficking, human smuggling, intoxicated driving and domestic violence charges), it was not long before I became interested in the dynamics of crime and race in the context of the court system.

My interest developed in the context of an especially turbulent time in Arizona's history, defined by the passage of aggressive anti-immigrant laws and ordinances. One of these laws was SB1372, also known as the Coyote Law. As a bill the law was lobbied by community and religious groups in collaboration with members of congress in an attempt to curtail the alleged growth of human smuggling violence in the state. Some of the bill's advocates claimed powerful mafias of Mexican smugglers were behind the violent acts committed against undocumented immigrants in transit and called for the adoption of urgent measures against the "predators." In addition to establishing human smuggling as a crime, SB1372 penalized the facilitation of the transit of people believed to

be undocumented immigrants. The bill was approved into a law by the state congress and signed by the governor in August of 2005.

The creators of SB 1372 hoped that the law would scare away smuggling groups and eventually reduce the incidence of human smuggling in the state. But only a few months after the law was signed, the Maricopa County attorney announced the wording of the law made no distinction between the actions of smugglers and the undocumented immigrants who hired their services. And starting in March of 2006, undocumented immigrants arrested while entering US territory illegally began to be prosecuted under SB1372 for conspiracy to commit an act of human smuggling – their own. By November of 2009, the law that had sought to decrease smuggling crimes in Arizona had led to the conviction of one thousand Latino “co-conspirators.”

As one of a handful of Spanish-speaking interviewers in my division, I was assigned to many of these conspiracy cases, which invariably involved undocumented immigrants not fluent in English. In fact by late 2006, I was spending most of my time conducting investigations into human smuggling activities. It was while completing these interviews that I began to notice that my interviewees’ statements clashed with the courts perceptions surrounding human smuggling. Rather than referring to their journeys as criminal offenses, I couldn’t avoid listening to how my interviewees spoke about their lives’ goals and wishes, and how migration was a path towards accomplishing them. I heard about friendships and adventure; about determination, fear, and hope. The migratory journey, which in the eyes of the state constituted nothing more than a crime of

human smuggling, constituted part of a much larger project of community and identity formation for the men and women I interviewed.

I was captivated by the experiences of my interviewees and their testimonios, by their power and their meaning. But all along I was growing increasingly concerned about the state processes that punished and criminalized my interviewees' journeys without even acknowledging the social aspects these involved. Devoid of their social context references to friends, family, solidarity and trust, the reports that criminalized my interviewees' journeys to *El Norte* did not really seem to make much sense. It did not take me long to realize that the social components of the migratory journey, as well as the interactions that developed among immigrants, *coyotes*,<sup>1</sup> friends and relatives, held an important meaning for each one of my interviewees.

But the state was not interested in that subaltern "tale," as insightful as it could be. In fact, none of the sections of the presentence reports on human smuggling made reference to the context leading to the very migration for which the accused party (i.e. the interviewee) had ultimately been arrested and charged. The court-ordered tests were more oriented at determining an "offender's" likelihood to reoffend. Questions on actual migration experiences were hardly ever asked. No inquiries about the social dynamics present in the journey were conducted. And despite having been charged with conspiracy, the actual

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<sup>1</sup> Popular folk name given to human smuggling facilitators along the US/Mexico border and Latin American countries.

interactions between the smuggler and his or her customer were consistently left out of the presentence report's narrative.

As I became aware of these gaps I began to ask my interviewees questions about their migration and their journeys. While our conversations would many times start with an explanation of migration as a response to financial need (“You see, the economic situation in Mexico is very bad...”), many others would simply start with a: “*Es que me dijeron que aca todo era bonito, y yo quise venir a ver.*” (I was told over here everything was pretty and **I** wanted to come check it out). Economic concerns rarely dominated our conversations. Instead, both men and women would go on to provide detailed and passionate accounts of their wish for new experiences, their longing for adventure or opportunities to escape familial tensions or gendered constraints. Letting them construct their own accounts rather than having them respond to specific questions, I was able to hear about people's aspirations to become “someone useful,” to meet new people (“Perhaps even one of those artists that you see on TV?”); to visit the distant places that other immigrants had seen before them. Those who had lived in the US in the past shared emotional accounts of the pain and fear that they experienced *following* their journeys. Others spoke of the sense of shame, isolation and loneliness that had at times characterized their immigrant experience in the new country, as when Jose Benitez stated: “For 15 years I thought I was the only one who watched what he wore so that people didn't think I was a *mojarrita*”<sup>2</sup> (Benitez, J. 2011). But in

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<sup>2</sup> Wetback.

all cases, migration was merely described as the result of a cold economic calculation: it was about an individual's personal need for change – and growth.

It would be easy to assume that given the reasons behind their arrests – many of my interviewees had long histories of providing and relying on smuggling services– there would be a high reluctance among respondents to give details to a court officer about their cases. And yet, the majority spoke to me freely about their participation in human smuggling as facilitators, mostly because the activity that the state had criminalized by deeming it exploitative and violent had actually enriched and changed their lives in ways they –and I– had never thought possible. Smuggling was not a crime: it was a job. But it was also a dignifying experience. It had given many the opportunity to provide for family; to secure a future (as abstract as the word “future” could be), and to fulfill life's simplest wishes – buy a pair of running shoes, a camera, a beaten up car; being able to afford dining at a restaurant, or to go out with friends one night.

Through each one of these interviews I began to learn about the local smuggling market: about how it was conformed by loving single mothers, dotting fathers, concerned friends and relatives and supportive neighbors, all working together to facilitate the transit of their friends and relatives into the country -not with a criminal intention but with the wish to help each other improve their economic condition and that of their families. I heard of how smugglers had been migrants themselves, brought across the border by a coyote, and of the role their friends and families had played in their journeys. I also heard of how once in the US, an individual's inability to find employment or to remain employed during a

particularly rough time had resulted in an invitation by concerned friends and family to participate in smuggling. I heard of how these invitations allowed them to make a little extra money to get by, to support their children or their families back home.

While for many of the men and women I interviewed their involvement in smuggling had indeed generated financial returns, they were more concerned with emphasizing the social and personal returns of their participation. Facilitating migrations had given sense to the lives of many, who until then – in their perception– had not been able to accomplish much else. And so instead of thinking of their actions as deviant – the way the state had defined them— smuggling facilitators were proud to be part of the reunification of children with their parents; of contributing to the joyful encounters among friends; or of arranging the one crossing that would save a human life –that of a diabetic patient unable to receive treatment in his or her country, or the one of a transsexual male escaping homophobia and rejection.

This picture of smuggling as a community activity driven by solidarity strongly clashed with the official, pro-criminalization narratives of the state, where *coyotes* were heinous monsters preying on the desperation and vulnerability of agency-deprived and manipulation prone immigrants desperate to achieve the “American dream.” During my entire experience within the court system, human smugglers were nothing else than dark-skinned, apocalyptic, transporters of human cargo invading the urban space; herds of insane decapitators running rampant across the nearby desert in broad daylight; rapists

who wouldn't think twice about abandoning their victims to die. These characterizations troubled me, particularly when I knew none of them accurately portrayed the lives or the experiences of the many people I interviewed in jail everyday day, and when I became aware that erroneous, xenophobic and fear-loaded perceptions reduced the likelihood of my interviewees' chance for a fair, unbiased legal process.

My interactions with detainees and the clash of narratives involving smuggling operations created in me the urge to study the social dynamics of clandestine border crossings, but not from the criminalized stance I was forced to take as an employee of the state. Instead, I wanted to document the perspectives of the facilitators themselves. I wanted to write about the excitement, the happiness, the anger, the disappointment, the fear and even the love smuggling facilitators experienced in their everyday lives. I was convinced that these details, which perhaps were too trivial to be included in a court report, provided important clues into the social nature of smuggling.

Smuggling facilitators were not the only ones talking to me about their actions. Their perception as honest, reliable community members was shared by those who requested their services – the undocumented immigrants who were also arrested while under their care under the terms of the Coyote law. Smuggling facilitators were described as highly regarded acquaintances, as friends valued for their honesty and support, and recognized for their roles as both negotiators and benefactors. And yet amid the fascination I felt for these accounts I still had trouble understanding how these perspectives were so different from the graphic,



gruesome characterizations of smuggling that continued to emerge with even more strength in the media, reinscribing stereotypical notions of smuggling facilitators as profit driven, blood-thirsty Mexican criminals.

In my confusion I also began to notice that the experience of interacting with smuggling facilitators was making me reexamine my own immigrant experience, helping me understand –or perhaps even complicate– much of its meaning. For a long time I had questioned the neoclassic explanations of migration that described the phenomenon as nothing more than a reflex-like response to economic pressures or global income differentials – the kind theorized at length by some migration scholars and favored by the protestant, middle-class bootstraps’ logic of the American mainstream. I didn’t think any of those theories were accurate reflections of the experiences of the immigrants I knew. I was convinced that in the lives of the men and women I interviewed migration was much more than a mathematical calculation. Having traveled abroad extensively I couldn’t understand how the “right” to feel excitement and joy over meeting new people and seeing new places was only afforded to tourists or “expats” but was never extended to migrants, their experiences only described in the literature in terms of labor and production. I began to think of the possibility of conceiving migration as an act of resistance, of defiance, and personal change – the same way I had thought of my own.

And so I began to look for indicators of resistance and agency in the narratives of my interviewees. It didn’t take me long to notice that while the high demand for smuggling services had helped men and women in working as

facilitators improve their finances, what they valued most was the degree of independence, empowerment and personal growth they have acquired through their experiences in smuggling. Through these interviews I also learned that migration was not always a response, as some migration scholars have proposed, to carefully calculated household economic strategies, but for many immigrants it was a way to escape those imposed constraints and redefine them. I heard from women who crossed the border on their own to avoid having to support their younger siblings or parents, and of young men who were encouraged by the prospects of a single life without dependents, who had headed North with the hope of learning more about themselves. None of these experiences had been conceptualized in the literature of migration I had seen thus far. In fact, the scholarship of migration I had read in graduate school was becoming increasingly ineffective at explaining how highly marginalized individuals could perceive their lives as a success despite their immensely limited circumstances. My interviewees' accounts constituted mounting evidence that despite the constraints they encountered, undocumented immigrants were engaged in a conscious effort to change and redefine their own identities and lives. And that they were proud of their achievements, regardless of the context in which they had taken place.

This study's central argument is that undocumented immigrants, despite their marginality and the limitations of their immigration status, develop mechanisms to improve the quality of their lives and that of their families. I use the case of human smuggling to show how the participation of a marginalized individual in a highly criminalized activity does not merely involve negative or

criminal intentions. Instead, it allows immigrants opportunities for self-growth and independence while creating new opportunities for other members of that same group to thrive. Human smuggling facilitators effectively navigate the constraints of their marginalization by fulfilling an essential need within an also marginal community: the need for unregulated transborder transportation. Their involvement, and the very illicit nature of the activity give in turn rise to normative behaviors that regulate facilitators' relationships and interactions with customers, friends, families and fellow facilitators. These behaviors serve as a protection mechanism for all parties involved. The compliance of these norms not only allows for the continued survival of the smuggling market, or for the generation of financial profits. It promotes and ensures social cohesion and creates new opportunities within the market for other people in need. I rely on smuggling facilitators' accounts of their activities to explore how their participation in the market allows them to create their social identity while ensuring the continuance of the market, but also contributing to their own personal development, as well as those of their customers via their migration.

This study aims to understand how involvement in alternative markets constitutes an opportunity for marginalized individuals to achieve a sense of independence and personal advancement within the very socio-legal system that works at limiting their social, economic and legal mobility. At the same time, and while cognizant of the potential for violence of illicit markets, the goal of the study is not to highlight the degree of victimization immigrants are likely to face in their everyday lives like other studies on border dynamics have shown, but

rather to show how illicit markets like smuggling provide opportunities for the exercise of agency through immigrants' adaptation and resistance in a highly constrained context.

### **My Decision to “Migrate”**

Having decided to conduct research on the dynamics of the organizations facilitating undocumented immigrants' travels I began to seek opportunities that would grant me access to data. Initially I shared my research intentions with the very people I interviewed. Virtually every single one of them volunteered to assist me and even offered to get me in contact with other smuggling facilitators willing to share their experiences. But given my position as a state employee, the possibility of conducting ethnographic work involving an extremely criminalized activity outside of the detention system was virtually off the table from the onset. (The fear of being dismissed from the most fulfilling job I ever had was greater than that of being accused or even charged with conspiring to commit smuggling activities). But having also shared my research interests with colleagues and law enforcement officers I was afforded incredible opportunities to witness and document human smuggling operations in the field –or at least, as they took place.

One of these opportunities involved participating in a wiretap investigation of a group of smuggling facilitators operating in Phoenix. From the onset I was immediately fascinated by the richness of the everyday interactions among the group's members, the alliances and agreements that guided their activities, the ethics and values that regulated their exchanges with other groups

and with the immigrants they served. I reconfirmed how aspects like violence, friendship, and the presence –or absence– of romantic relationships among the organization’s members, their customers and third parties seemed to carry more meaning than investigators – none of whom spoke Spanish– could realize.

When after a few days I naively decided to share my observations with the law enforcement officers involved in the case, I found out the focus of investigations like these was not to develop an understanding of the groups’ dynamics, but simply to bring them down by arresting all their members. I remember leaving the wire room feeling angry and humiliated, sensing my observations had probably been seen as puerile. But mostly I was saddened by the realization that investigations of this nature would most likely lead to the arrests of the many men and women whose conversations I religiously listened to. I couldn’t avoid the feeling of guilt that invaded me, and I walked away from the wiretap experiment.

Despite my personal concerns I learned a lot through the wiretap experience. It provided me with a laboratory to validate many of my hypotheses about the social dynamics of smuggling operations. And by listening to the experiences of the facilitators as they occurred, I gained an even better understanding of how normative behaviors emerged and developed in the smuggling market.

As time went by, my research interests became a bit more complex. I also became even more critical of the actions involving the state, especially in the context of the growing numbers of measures to criminalize even more aspects of

immigrants' lives in Arizona. I was also growing painfully aware that despite my best intentions my position as a court interviewer did little to generate any kind of awareness involving what I considered to be the real face of smuggling operations— let alone generate any kind of social change. Furthermore, I was all along aware of my role as an agent of the very state which actions I had become critical of, and of my inability to help my interviewees in that capacity.

In July of 2007 I decided to quit my job with Superior Court to start a doctoral program where I could research border crossing operations and their criminalization at the hands of the state. In a sense, my decision involved a form of migration—I was leaving the comfortable, familiar settings of the courthouse for the unknown world of academia.

### **On Being an Immigrant without “Being” One.**

While my interest in human smuggling operations was born as a result of my experience in Superior Court, it was indirectly tied to my own experiences as an immigrant. I was raised as a member of a Mexican peasant family with a long history of US-bound migration. My grandfather, a railroad worker, lived as a *Bracero* in Northern California from 1938 to 1943. Since then, all the males in my maternal family had migrated at some point in their lives to the United States, and there was a strong social expectation that younger generations of males would continue to do so.

However, starting with my generation, that trend was somewhat altered as the majority of the children being born into the family were girls. As such, we

were not expected to migrate, but had instead to live under our family's supervision until marriage. But since I could remember, I had dreamed of leaving the constraints of my small town, in part inspired by my grandfather's stories of his experiences in Oakland and my male cousins' accounts of life in "The Other Side," but was always painfully aware that my gender posed a fundamental constraint. My grandparents, aware of my wish, were also concerned about the repercussions of going against tradition. But unlike other relatives they never saw the need to impose traditional gender expectations upon me.

Facing a shortage of "eligible" migrants in the family, they asked me if I would like to leave home for the US so that I could learn how to speak English. They were encouraged by the prospect of having a bilingual granddaughter, especially one who expressed no inclination to have children or to do household chores. And so without counting with much of the family's approval, I left Mexico as a teenager to join one of my maternal aunts in a predominantly immigrant community in Southern California.

Once in California I would stop by the small non-profit where my aunt, a social worker, provided legal assistance to migrant fieldworkers. Waiting for her after school I would sit in her office and listen to young men talk with bravado about the times they had crossed the border to enter the US and which had to be documented as part of their applications for residence.

I remember thinking how in Jerahuaro, our hometown, the telling of these events was always conducted in a quasi-ceremonial fashion: a male migrant having recently returned home from his first trip to the US would sit by the

family's hearth, surrounded by male relatives and friends. He would then tell *his* side of his border crossing journey in sober tones. We would hear about his hardships, his encounters with *La Migra* or with police; the many "temptations" found along the way – which for some reason always involved "bad" women or "vices" – all moments of serious danger. Once the man was done with his account and after the quorum of men (former migrants themselves) nodded approvingly, the rite of passage was complete and a new *migrante* was born.

I remember being angered at how these rites would always position men as powerful, triumphant and victorious, while the accounts of the few women who had also migrated did not seem to carry the same weight. In fact, women's testimonies of migration were never told in spaces like those provided to men. They were instead treated as secrets, as "gossip" meant to be shared with other women. Women's experiences in migration didn't seem to carry as much social meaning as those of men- or so it appeared.

But I always knew of their importance, especially because since my migration had taken place under extremely privileged circumstances – I had been fortunate enough to travel with a valid passport and visa – my female cousins and aunts never considered it a "true" act of migration. For them my experience had been way too easy. Given that most of my female relatives' journeys had involved the assistance of smuggling facilitators, I was never afforded the opportunity to claim community-sanctioned, full-fledged migrant status conferred to other men or women. After all, I had not experienced the negotiations leading to my travel; I did not know of the endless bus rides to the border, or of the anxious wait to cross



*The Line* at night. Even my grandparents' own experience of dealing with my departure did not seem to carry the same weight to the eyes of other parents whose children had migrated. They did not have to come up with my smuggling fee, or experience the agony of the long silence between my departure and arrival – the dreaded hours waiting for a coyote to confirm a positive outcome. And so even after having lived in the United States for several years, I always felt that in a sense I had to prove my family that my experience amounted to the “real thing.”

### **My Turn**

And then one day in the Fall of 1999 I was detained by immigration authorities in Arizona while trying to re-enter the US following a brief stay in Mexico. An officer going through my bags found my student ID. Believing, as many immigrants do, that by being honest the *migra* would simply let me go, I proudly explained to the officer that despite having no “papers” I was enrolled in school in San Francisco. I went on to tell him how I hoped to eventually get a degree in anthropology. And suspecting the officer would appreciate full disclosure, I also admitted that I was working in the Bay Area without an employment authorization.

My confession earned me 10 days in immigration detention.

Until that moment, and perhaps as a result of the cultural silencing that characterized the migrant experiences of my hometown's female relatives and friends, I had always assumed that migration “troubles” like the one I was about to experience were something that was only meant to be lived by men. And so as I

was being walked handcuffed to the back of an immigration service truck I feared how my arrest would be described to my grandparents, and how they would be blamed by the entire town for having allowed me –a female– to migrate, as if their loving wish to empower me years ago made them responsible for my detention.

To my disbelief, there were no men in that truck. Every single person around me was a female. The same happened at the detention centers in Arizona, North Las Vegas and San Diego where I was eventually taken. And perhaps fueled by the feeling of anonymity surrounding our detention (“After all, you and I know we’ll never see each other again,” a young pregnant woman told me), incarceration created an ideal space for sharing. It was in immigration detention where for the first time I learned how migration impacted the lives of women, and confirmed that as I had long suspected, their experiences were different from those of men.

During those days I listened to how migration had completely reshaped most of these women’s social context and circumstances. Some engaged in frank discussions about their wish to leave parents and overprotective siblings behind. Others dreamed of getting to know new friends. A few longed for the opportunity of have a boyfriend who hadn’t been their neighbor or classmate at some point in their lives. Those women who had already experienced life in the US would speak about how their views on marriage and family had changed after their migration – some had become employed for the first time in their lives; others had walked out on their husbands, or had become single mothers since.

Others spoke about their experiences at work, of how it was like to deal with harassing coworkers and supervisors who wanted to “protect them” to then ask for sexual favors in return. And so I sat among the women, and listened.

There was something in the women’s stories that resonated with my wish for new voices and perspectives. They spoke with frustration, sometimes even irreverently about their friends and families. Unlike men, they did not describe their migration experiences by its degree of pain or turmoil. There was nothing in their voices that would suggest they thought of themselves as the incorruptible, strong willed characters so abundant in the accounts of my uncles and male cousins. Their accounts were fresh, radiant and honest, and without the moralistic tone of the male dominated immigration discourse of my hometown.

It was also here where I had my first encounter with smuggling facilitators, who unlike the male *coyotes* behind my relatives’ journeys were women. Women had worked as *coyotes* facilitating the crossing of other migrants into the US simply to do a favor, and only occasionally in exchange for payment. They spoke about the numerous challenges they faced in a male-dominated business; of the conflicts emerging among working partners and sometimes among competitors; of their past experiences crossing children or families; of the ways they understood their actions; of their wish to help others in need – men and women like themselves who had turned to smuggling to improve their lives.

Most of the women I spent those days with were only waiting for deportation orders and knew that the possibility of entering the US would become even more remote as a result of their detention. And yet, they were committed to

continue trying to ultimately make it through. After all, for many of them, the crossing represented their chance to return to their families, many times constituted by children born and raised in the US. Unregulated crossings were the assistance of a smuggling facilitators were for the majority of the women around me, not merely an option: it was their only way in.

I was aware of my privilege. I had a passport -and a visa. It was only a matter of time before I was released from immigration custody facing no charges or sanctions, and a few months later I was on my path to citizenship. Once my immigration status changed I was allowed to re-enroll in school and I eventually went on to graduate from college with the anthropology degree I so proudly spoke to the officer about. But the memories of my time in immigration detention, my crucial migrant upbringing and my experience interviewing migrants facing criminal charges have all been elements in my decision to research border crossing operations and their criminalization by the state.

### **Chasing the “Smugglers”**

My interest in the study of human smuggling and border crossing practices has been further informed and shaped by three realizations. First, and even before entering the doctoral program, I was troubled by the minimal attention migration scholarship had paid to the very travel that transforms people into migrants. In part I attributed this oversight to the fact that the study of the transit involving undocumented immigrants –the providers of low-skilled, low-paying labor— generated less interest than that paid to the experiences of professional or skilled

immigrants, whose assimilation and economic mobility are frequently at the core of the discussions on entrepreneurship and industrial innovation. Moreover, while the events of 9/11 generated a wave of publications on smuggling operations, most analyses centered on the impact of smuggling on national security and border protection, both concerns of the nation-state. In either case, I considered the lack of attention paid by US immigration scholars to the dynamics leading to what is considered one of the largest and continuous migrations between any two countries in the contemporary world was an issue that needed to be addressed.

A second realization involved the troubling sensationalism surrounding the rhetoric on smuggling operations in Arizona which has accompanied the anti-immigrant sentiment in the state. To this date, the state's discourse on smuggling continues to be plagued by unsubstantiated claims involving indomitable violence, the control hyper-predatory Mexican males exert over the local human smuggling market and their ties to Mexican drug trafficking organizations. While the severe, even if isolated incidents involving the victimization of undocumented immigrants at the hands of some crossing facilitators constitute a valid reason of concern, the coverage surrounding smuggling is highly problematic due to its xenophobic, racialized tones. The official discourse has done little to improve the understanding of smuggling operations in the state and has further complicated the dynamics of race relations in Arizona.

Lastly, I saw the need to learn from immigrants' own accounts about their involvement in alternative cash generating strategies that promote not only economic profits, but viable opportunities for personal development by engaging

in meaningful work. I was able to uncover through my exposure to critical race theory and to the study of feminisms and gender that the accounts of the many immigrants I have been fortunate to interview over the years did in fact constitute a valid form of knowledge that had to be explored.

## **Methods**

### **Data**

This study is based on the qualitative analysis of 66 cases of men and women, ages 18 and over, charged with human smuggling and human smuggling-related offenses in Maricopa County, Arizona from March of 2006 to January of 2010. All cases selected for this study involve convictions under SB1372, the Arizona criminal statute which eventually became known as the “Coyote Law” because of its use in the prosecution of human smuggling facilitators. Under SB1372, smuggling facilitators as well as the undocumented immigrants who purchase their services can be –and have been– charged with committing an act of human smuggling despite the differences in their roles.

I also relied on a series of one-on-one informal, open ended interviews with smuggling facilitators, their families and clients on their personal migratory journeys and their experiences on undocumented immigration and smuggling. These interviews, which were conducted throughout the data compilation and analysis sections of this project, were primarily used for hypothesis validation and data verification purposes, and constituted an invaluable source of information that allowed me to tie loose ends, clarify doubts and confirm processes, practices

and patterns. It is through these informants' voices, and through those also present in the legal record that the social and community nature of smuggling operations took life.

### **Justification**

This court and county were chosen for several reasons. First, the in-county support for state-sponsored anti-immigrant practices, many of which have resulted in federal quests into the violation of Latinos' human and civil rights (see Romero and Serwag 2004, Campbell 2009). Two of the most recognized examples of these practices are SB1070, which placed Arizona at the center of an international controversy over the state's endorsement of racial profiling practices, and SB 1372, the Coyote Law.

Second, because of the role Maricopa County Sheriff's Office (MCSO) has played at enforcing local immigration law. Through local policing practices like employment-site raids and the setting up of checkpoints in sections of town with large Latino presence, MCSO has been effective at terrorizing Latino families in the county and restricting their free transit, limiting their civic and political participation.

Maricopa County was also an ideal site to conduct this research in light of its role as one of the US's top human smuggling hubs. Since the late 1990s, and as a result of the implementation of immigration control initiatives along the US Mexico Border, Arizona has become the main point of entry for undocumented immigrants into the US. Maricopa County, and the Phoenix Metropolitan Area in

particular, provide access to an exceptional network of roads and highways connecting the state to other regions in the country. These routes are believed to have facilitated the consolidation of Maricopa County as one of the country's main undocumented immigration hubs by facilitating the fast transportation of undocumented immigrants.

To this date, the author has no knowledge of any other past or present studies looking into the operations of human smuggling facilitators in Arizona, which underscores the need for studies in a vastly unexplored area. Furthermore, despite their role at facilitating the transit of undocumented immigrants into the country, only a handful of studies on the operation of human smuggling activities have been conducted in the Southwest.

### **Study Goals**

The study aims:

- To understand the dynamics of human smuggling operations taking place in Maricopa County from the perspective of the undocumented immigrants who participate in them as facilitators. I analyze the accounts of the everyday activities to the inside of smuggling facilitator groups to outline their social organization and structure, in an attempt to understand the interactions that carry social meaning to facilitators, meanings which are in turn transmitted to the inside of the group and to the customers the groups serve.



- To demystify sensationalized, unsubstantiated and stereotyped understandings of border crossing operations, primarily based on largely anecdotal evidence. The official narratives involving smuggling define it as a criminal activity carried out by well organized, armed and violent gangs of Mexican citizens. By systematically analyzing the accounts provided by smuggling facilitators themselves, the study points to the inaccuracies of official interpretations on smuggling operations. And by privileging the voices of smuggling facilitators' and their customers smuggling activities were approached as potential sources of data into the social dynamics of underground economies.
- To understand the social and political consequences of immigration law enforcement in Maricopa County. This is accomplished by analyzing law enforcement policing practices established as a response to smuggling events.
- To contribute to the scholarship of migration by providing an analysis of an under-studied yet essential aspect of the migratory experience and thereby removing the mystery and sensationalism that surrounds human smuggling activities.

## **Preliminary Research**

In addition to my experience conducting interviews in detention settings, I spent the majority of my doctoral program seeking opportunities that could grant me access to document immigrants' border crossing and smuggling experiences. I traveled along border crossing points in Mexico, Spain, Tunisia and Morocco and conducted field observations on the surveillance practices in which state agencies engage to police undocumented immigrants in transit. I visited immigrant communities and informal immigrant settlements and traveled with migrants during segments of their transnational journeys. I conducted research on the policies and practices that regulate the detention of undocumented immigrants in the US and abroad.

These experiences, while geographically outside of the scope of this study, greatly contributed to its development by providing me with opportunities to analyze, contrast and compare smuggling activities and state responses to smuggling, eventually constituting an invaluable mechanism to validate the local findings of the research conducted in Maricopa County.

## **Fieldwork, Sampling and Data Collection.**

The data used in this study are constituted by legal case files of human smuggling cases heard in the Maricopa County Superior Court following the signing of the anti-human smuggling law in August of 2005, when human smuggling was first defined as a crime.

Initially, I approached my former Superior Court managers to inquire about the possibility of gaining direct access to ongoing criminal investigations, which would have given me the opportunity to personally interview individuals charged with human smuggling (men and women waiting in detention for court hearings), and so I volunteered to assist the court conducting presentence interviews. While this option was welcomed by management given their shortage of Spanish speaking interviewers and the overwhelming number of cases on smuggling, the idea did not resonate well with the legal department, which withdrew the approval granted by the leadership citing potential confidentiality and liability issues.

While the legal department did not grant access to smuggling facilitators, I was reminded of the policy on access to court records. Open court cases are not subjected to confidentiality rules. In fact case data on these investigations were fully accessible online and could be accessed by the public without having to petition the court for approval, and so I immediately devised a new strategy to identify human smuggling cases available through public records.

Phase I of the data collection processed involved the identification of smuggling cases prosecuted under the anti-smuggling law –that is, those taking place after August of 2005. Despite the fact that human smuggling incidents in the state preceded the signing of the law, it was only after its passage that the Maricopa County attorney’s began to conduct prosecutions for acts involving human smuggling and related activities and to charge smuggling facilitators and

undocumented immigrants alike. Only cases prosecuted under the new law were included in the sample.

To identify these cases I relied first on media coverage. Media references regarding smuggling cases in Maricopa County were abundant. In late December of 2009 I began to conduct newspaper searches using the two most widely circulated newspapers in Maricopa County, the Arizona Republic and the East Valley Tribune, and identified 631 and 218 references to human smuggling cases respectively. These references were sorted by date and content so to identify those involving human smuggling incidents in Maricopa County alone. The references would identify the name or names of the parties involved in a smuggling investigation. These names were then used to locate specific legal case numbers on the Maricopa County Superior Court website, an unrestricted access online portal. Using this method, I was able to identify 42 independent investigations into smuggling cases prosecuted in the county from the time the law had gone into effect.

Phase II of the data collection involved archival research of these 42 investigations. From January to late April of 2010, I visited the Maricopa County Customer Service Center in downtown Phoenix one to three times per week to access the cases associated with each investigation on the center's public computers.

I was faced with a logistical challenge almost immediately: every single one of investigations I located involved, in addition to the party identified in the media record, anywhere from one to sixty-five additional codefendants (that is,

individuals charged in the context of the same investigation) for a total of several hundred individual cases. I had limited financial and time resources to dedicate to each investigation. And as I revised case files, not all of them contained the information I hoped to find. The richest sources of personal narratives detailing an individual's participation in border crossings were found in the cases that contained presentence reports, court transcripts, police reports, and intake forms. However, these documents were not consistently present in all files.<sup>3</sup> Some codefendants had declined to give personal statements regarding their participation in human smuggling. In some instances police reports or court transcripts were sealed. Some had been damaged to the point they were unreadable, or were altogether missing. Other documents were too short or did not reveal information regarding human smuggling activities.

I limited my sample to the cases which files were the most complete (that is, the ones including presentence reports, court transcripts, police reports and intake forms), and those in which the accused party's testimonies had been documented in at least two occasions by two different law enforcement or court associates (in other words, testimonies had to be present in at least two of the above mentioned documents). I proceeded to make a file for each case which included all the information associated with the case leading to its identification (newspaper articles, handwritten notes, other court documents) in addition to all

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<sup>3</sup> The helpful clerks at the Superior Court Customer Service showed an early interest in my research. It was them who helped me realize not all legal files were alike, and that not all of them included the same documents, a fact I ignored despite my many years preparing reports.

the documents containing smuggling narratives. By the end of phase II, I had identified 66 individual indictments of human smuggling which constitute the sample in its entirety.

### **Data Analysis**

Phase III involved the analysis and interpretation of the narratives obtained from the legal record. Individual narratives –first hand accounts present in the legal record– were scanned, retyped and then read and examined individually to identify significant and recurring themes. These themes were identified:

1. Via the contents of the “summary data sheet” that was created for each case file. The data sheets were devised with the intention of creating a more systematic way of organizing facts involving logistical issues in smuggling (number of people transported; costs and payment method; form of transportation; vehicle of choice; time of day; salaries paid to recruiters, drivers, coordinators and guards; location of the operation).
2. Through the identification of specific terms present in the narratives and in the accompanying documents of the file. These documents provided context to each person’s involvement, and also helped establish ties that could reveal information into social relationships, community ties, participation in the activities of friends, families, even customers; the provision of assistance to customers, competitors, etc). Indicators of conflict and violence were also identified within these documents.

3. Once recurring themes were identified a second round of classification was conducted to determine larger sub-groups. And so references to drug or alcohol use among smuggling facilitators, for example, were grouped under “Smuggling facilitator-substance abuse;” reports of facilitators’ problematic romantic relationships or incidents of domestic violence or marital conflict impacting their activities were grouped under “Smuggling facilitator – relationships-conflict” and so on.

4. A revision of this second round of coding allowed me to establish eight overarching themes present in the data: social organization of smuggling; the role of family in smuggling; smuggling facilitators’ interactions and conflict management; women in smuggling; kidnapping for ransom; physical and emotional violence in smuggling; enforcement by the Maricopa County Sheriff’s Office; enforcement by other agencies. These eight overarching themes were further reduced to the 5 chapters in this project.

There were advantages and disadvantages to organizing the data this way.

The main advantage was that it allowed me to become familiar with aspects surrounding the structural formation of smuggling networks, a core aspect for which I had little information. It also allowed me to separate the logistical and structural aspects of smuggling from the primarily social aspects (everyday interactions, conflicts, etc.), a task which undertakings’ had haunted me for weeks.

While on the one hand this strategy generated large amounts of data on social structure and organization, for example, it revealed that many of my initial assumptions were likely to be wrong. For example, at the beginning of this project I mistakenly believed the cases would yield enough information to write a full chapter on the involvement of women in smuggling, or the role of family in smuggling. I was unable to accomplish either goals given the small number of women identified in my sample. But the efficient identification of themes and the eventual distribution and systematization of chapters allowed for the inclusion of the experiences of every single woman whose case was identified in the sample in the content of the dissertation.

### **Outline of the Project**

This dissertation approaches smuggling operations as a community based activity facilitated by undocumented immigrants of similar ethnic backgrounds, working in loosely organized networks to facilitate undetected border crossings. Most smuggling groups operate with no criminal intention, and seek instead to generate financial, but also personal development opportunities for all participants involved and for their social networks.

Chapter I addresses the enterprise and organization of human smuggling as reported by its actors – the men and women charged with facilitating the activity in the context of the smuggling literature. The chapter provides a model to understand the structural characteristics of smuggling, as well as its organizational



dimensions like membership, leadership and power, structural flexibility and adaptability.

Chapter Two, “Being a Smuggler” delves into the everyday experiences of smuggling facilitators. It addresses –unlike criminal investigations seeking to map the “motives” behind “involvement” – the emergence of smuggling along communities in Arizona as an effort on the part of immigrants to generate supplementary income strategies for their immediate networks of friends and families through the creation of occasional employment opportunities.

Chapter Three describes the nature of the interactions between smuggling facilitators and their customers. It explores how this relationship goes beyond the existence of economic interests, and is in fact based on deep, socially-cemented ties spanning across countries.

Chapter Four addresses violence in smuggling as an element of the continuum of violence immigrants are likely to face during the course of their migratory experience. Aware of the attention smuggling violence has generated, the chapter addresses the phenomenon while suggesting it occurs as part of a continuum of violent acts, where acts like immigrant kidnapping have gained notoriety, but calling for a more nuanced view of violence in smuggling activities that is not merely centered in smuggling facilitators’ as offenders.

Chapter Five presents an analysis of anti-smuggling enforcement practices, which due to their repercussions (deportations, incarcerations, lack of expedited access to justice) have had greater impact upon the lives of immigrants and their families than the potential acts of violence they may involve. I suggest

that state enforcement practices have made immigrant victimization easier not only by criminalizing both facilitators and those who rely on their services, but also through the manipulation of the definitions surrounding the offenses – by expanding the concept of what constitutes smuggling or kidnapping, for example. This chapter also delves into racial profiling practices, and the overall intimidation women and children are subjected to in the context of smuggling investigations. Lastly, the closing section provides a brief conclusion to sum up the findings, contributions, and limitations of this project.

## Chapter 1

# **THE CHARACTERISTICS AND ORGANIZATION OF SMUGGLING MARKETS**

Smuggling organizations are commonly portrayed as large mafia-like groups of well organized males working at transporting human cargo surreptitiously, relying on violent tactics and abusing their victims along their tortuous journeys. Despite these characterizations, very little is known about how smuggling groups operate, their dynamics and internal organization. Few empirical studies have focused on taking a closer look at how smuggling works, what has in turn left room for conjectural and sensationalistic accounts to shape our understanding of the activity responsible for the relocation of millions of people worldwide.

The evidence available to this date, however, shows that while undocumented immigrants must occasionally deal with many unfortunate circumstances, transits facilitated by smuggling organizations operating as loosely organized groups have a tendency to be quite uneventful. People are transported to their destinations under precarious yet not violent circumstances. This precariousness is largely a result of the need to keep transits hidden from authorities, but smuggling in itself does not appear to be inherently violent when the journeys take place within immigrants' own social networks (Koser 2008; Khosravi 2010; Zhang 2007; Zhang 2008).

While this study's sample is by no means representative of the experiences of all undocumented immigrants, the data collected suggest the smuggling

operations taking place in Maricopa County are in many ways similar to those described in the literature of human smuggling operations. They are facilitated by loosely organized groups of people known to each other through friendship or kinship ties. Smuggling takes place as a community-based activity involving transportation services through the payment of a pre-established, pre-negotiated fee. It is community-based because the majority of these transits occur within the own social networks of the participants, provided by and for members of the same networks. This way customer as well as smuggling facilitators are protected by means of the social ties that regulate their interactions.

This chapter examines the characteristics and organization of human smuggling as described by smuggling facilitators in Maricopa County, Arizona. The narratives present in legal case files suggest social expectations lead smuggling facilitators to develop complex normative behaviors that ensure successful operations and the preservation of the market. Activities are not secret or hidden from plain sight. Although they must remain undetected by law enforcement in order to be successful, smuggling services are commonly accessed by undocumented immigrants who need them and who can afford them. Unregulated crossings emerge in these narratives as one of the few alternatives for undocumented immigrants to travel safely – albeit the limitations and risks created by the clandestine nature of the transit– and smuggling groups have been historically effective at facilitating them.

This study seeks to provide an alternative, non-criminalized perspective on smuggling operations. It privileges the voices of its actors –voices consistently

absent from the state and many scholarly discourses on migration- to provide an interpretation of the social dynamics of the market. While the most widely known accounts of smuggling activities have focused on the victimization encountered by immigrants during their transits, this project shows how unregulated transits like those provided by smuggling organizations are one of the least risky options available to undocumented immigrants unable to travel with the “protections” of passports and visas. Through effective negotiation, careful planning and common sense strategies, smuggling facilitators and their customers protect themselves and others during their journeys, while also generating potential employment opportunities for other members in the community and allowing for the further growth of the market.

Working in loose association with one another by sharing access to basic resources and/or information about transportation and transit of migrants across borders, smuggling facilitators are responsible for the transit of millions of people worldwide. And yet despite being demonized by media and law enforcement, little is known about the way they are organized and operate. This study seeks to bridge aspects of that gap.

## **Smugglers in the Contemporary World: Reviewing the Literature**

### **Smuggling as a National Security Concern**

Despite being one of the border areas with the highest number of crossings in the world, and having a centuries long migratory history, little is known about the people and organizations who facilitate the transit of undocumented

immigrants across the US Mexico Border. However, this is not unique to the border that the US shares with Mexico. Worldwide, the knowledge of smuggling operations is minimal at best (Zhang 2008, Zhang 2009). Relying on anecdotal evidence, news media and policy makers have consistently portrayed human smugglers as members of complex, hierarchical, ethnic-based mafias who engage in violence against the very people who procure their services. Occasionally dramatic events like the sinking of boats loaded with passengers in the Mediterranean, the finding of containers packed with the remains Asian migrants, the death by suffocation of Mexican immigrants in oil tankers only reinforce these perceptions. These incidents are usually effective at generating the condemnation of the activities of smuggling facilitators –statements which almost undoubtedly fail to remember that the structural conditions imposed by the state are the ones behind people’s need to rely on smuggling facilitators to migrate.

Until 9/11 the discourse surrounding human smuggling was primarily based on these tragic, failed transits which were approached as crimes committed against individuals. While government officials occasionally went public to further vilify the actions of smugglers and the public would strongly condemn smugglers’ actions, smuggling was mostly recognized due to its dramatic and graphic appeal. But following the terrorist attacks in New York the rhetoric behind human smuggling changed. As part of the emphasis on homeland security that followed the terrorist attacks of 2001, concerns over the existence of potential connections between transnational criminal organizations like those facilitating human smuggling and terrorism began to emerge (Farrell and Fahy 2009: 622).

Since then human smuggling has gradually shifted from being approached as a crime of humanitarian impact into a potential mechanism for the execution of terrorist attacks. Concerned but ill-informed politicians and policy makers began to suggest terrorists could in fact enter US territory with the assistance of transnational human smuggling networks operating along the borders. And so the emphasis on protecting the homeland eventually transformed smuggling into a matter of national security, turning its actors into potential terrorists – including those who were thought of as victims in the past.

Much more recently, in connection to the current spike of drug violence in Mexico, allegations that human smuggling groups could be operating under the shadow of more powerful “cartels” have also emerged. In 2010, the massacre of 72 US-bound Central and South American undocumented immigrants in the Mexican state of Tamaulipas was portrayed by the Mexican media and government as irrefutable evidence of the incursion of drug trafficking organizations in human smuggling activities (Casillas 2010). Initially, the international community refused to accept that explanation and used this opportunity to condemn the Mexican government’s historical lack of commitment to the protection of immigrants in transit. But international pressure did not stop the American government from expressing its concern over the potential spill of drug trafficking related violence into the US and its potential ties to human smuggling, despite the fact that the differences in markets and logistics that exist between both activities make such connection highly unlikely, if not altogether impossible.

In a post-9/11 world where migrants are seen as potential terrorists and members of epic cartels committed to bring down the nation-state, human smuggling operations have attracted the interest of governments redefining their law enforcement priorities. Until a new threat emerges, human smuggling, like many other activities carried out by the poor to improve the quality of their lives, is likely to continue invoking all kinds of imagery and stereotypes.

### **Contemporary Literature on Human Smuggling**

Despite the abundance of references to the abuses of smuggling facilitators, their ties to terrorist networks and their role in transnational organized crime, only a few sound studies of human smuggling operations exist. An even smaller number of studies has relied on empirical evidence to understand the structure and enterprise of the groups responsible for the transit of thousands of immigrants worldwide. And despite the role human smuggling has played at making the US Mexico border one of the most transited borders in the world, the number of studies involving an analysis of the US Mexico smuggling market is minimal at best.

Most of the work on smuggling operations comes from scholars in Europe, who have documented unregulated travel practices into the European Union from countries like Pakistan (Koser 2008), Sri Lanka and Somalia (Van Hear 2004), Afghanistan and Armenia (Bilger et al 2006; Koser 2009), Albania (Antonopoulus 2006), the Netherlands (van Kempt 2007; van Kempt & Doomernik), and Turkey (Icduygu & Toktas 2002). Each one of these works have



studied human smuggling operations from the perspective of immigrants who were successfully smuggled into their destination countries. And while this scholarship has provided important understandings of smuggling operations the voices of those behind the facilitation of immigrants' transits are consistently absent from the discussion. Furthermore, while the above mentioned studies identify and document the dynamics of the smuggling process, they have mostly focused on the economic aspects of the smuggling transaction paying less attention to the social interactions that give place to or result from that exchange.

Khalid Koser, for example, has written extensively about the economics of smuggling. His 2008 study on Pakistani immigrants in London described the wide range of financial arrangements that allow for the unrestricted transfer of fees across countries in order to cover immigrants' smuggling costs. Koser found that smuggling is not only profitable for the smuggling facilitators, but also for the customers who hire their services who after working for a few years are able to repay back their smuggling fees while supporting themselves in their host countries and contributing to their households' needs in their countries of origin.

While Koser approaches smuggling primarily as a business transaction, scholars like Bilger et al (2006: 72) have identified the importance of taking a closer look at the social interactions between smuggler facilitators and their customers. They have analyzed how facilitator's behaviors are conditioned by customers' perceptions of reliability and trust-worthiness. In their study of smuggled undocumented immigrants in Austria, Bilger and her collaborators refer to smuggling as an "imperfect market" where the degree of competition faced by

facilitators forces them to work hard to develop solid reputations to create a sense of trust among clients and potential customers in order to generate business. The study also emphasizes the role finances play in the client/facilitator relationship. Like Koser (2009) Bilger et al suggest that the quality of smuggling services is ultimately determined by a customer's purchasing power.

This finding was also present in Van Hear's work on Somali and Sri Lankan immigrants (2004). He argues that customers' control of or access to forms of financial capital play a role in the determination of the routes that are taken by facilitators, the means of transportation used for migration and the destinations reached. Patterns and impacts of migration are shaped by the resources migrants can mobilize, and these resources are in turn dependent of the immigrants' socio-economic status.

### **Causes of Migration**

The emphasis these immigration scholars place on the economic and labor aspects of smuggling echoes the one present in the literature on the causes of migration. In the neoclassic perspective, international migration is described as the result of geographic differences in the supply and demand of labor (Massey 1999). Countries with a surplus of workers may experience low wages and countries with a scarce workforce are able to provide higher salaries. Workers from low-paying countries migrate to the regions where they can obtain higher economic returns for the same amount of work they provide in their countries of origin. Todaro and Harris (Todaro 1969; Harris & Todaro 1970) augmented this

model to account for the significant urban unemployment that was found in many less developed countries. Within the neoclassic, individual migrants estimate the financial costs and benefits of moving to other locations and ultimately relocate to where the expected discounted net returns are greatest over some time horizon (Borjas 1989; 1990). International migration is conceptualized as a form of investment in human capital. In the context of this theory, immigrants think of migration as a calculated move towards a monetary return and decisions are based on detailed cost-benefit analysis.

Sandell (1977) and Mincer (1978) view migration as a family's decision. The family migrates if they perceived the net gains of their migration as positive. The family migration decision is an aggregation of individual migration utilities. Bigsten (1988) also considers migration a household decision in which a family allocates labor to the urban or rural sector depending on the marginal products of combined wages.

According to the household model of migration decisions to migrate are often made by household members as a whole. Households also do not migrate together (as in Mincer's theory, for example), but rather send one or more household members off as migrants. In network theory a household maximizes joint income, status and minimizes risks. "In real life it is likely that migration decisions are influenced by both absolute and relative income considerations" (Stark, 1991, p. 145).

The dual labor market theory (Priore, 1979) explains migration as the result of a temporary pull factor, a structural labor demand in developed countries.

According to this approach, wages, and occupation, reflect status and prestige. There is a primary sector providing well-paid jobs and a secondary sector with abundant unskilled jobs. As wages in the secondary sector are too low, the secondary sector is unattractive to native workers. Migrants perform these low-status jobs, because they do not consider themselves as part of the destination society. Migration continues to be explained as the result of a “permanent labor demand inherent to the economic structure of the developed nation” (Piore 1979). This theory resembles in part the neo-classic explanation in that the need for low-wage workers is intrinsic to the economy of the high-wage, highly-industrialized society. The demand for cheap labor is assured not only through the availability of jobs in entry level sectors in industrial economies: workers themselves embrace the social status their jobs imprint upon them. In this model international migration is explained as a strategy families rely on to generate income and to acquire status within the community itself.

The network model attributes migration to the development of networks connecting former and current migrants through friendship, kinship and community ties (Massey 1999; Boyd 1999). Personal networks, particularly those that are family-based, are fundamental to population movements and they are effectively used by migrants to facilitate their displacement and ensure their families’ economic survival.

The cumulative causation theory of migration states that every act of migration alters the social context within which subsequent migration decisions are made, making additional migrations more likely (Massey, 1990). Migration is

conceived as affected in cumulative fashion through the distribution of land, the distribution of income, and the regional distribution of human capital (all economic circumstances).

These theories of migration can in fact be used together to complement each other in order to provide a clearer picture of the migratory phenomena, and have indeed facilitated the understanding of the causes of migration. However, they have perpetuated traditional notions of social organization. For example, the emphasis on households suggests the existence of a patriarchal model where decisions are made by male members. In economic approaches to explain migration, migrants are consistently assumed to be males, head of household providers.

Feminist scholars have criticized and challenged many of these male-oriented, male-dominated analyses of migration that portray men as the only potential earners (Hondagneu-Sotelo, 1994). Feminist researchers have also contributed to the scholarship of migration pointing to the increase on global female migration, the gendering of migration, and the implications of that migration in origin and destination countries (Hondagenau-Sotelo 2003; Jones 2008; Kontos 2008; Oishi 2005). They have also written extensively about the feminization of labor in industries like manufacturing and services (Ong 1987 ; Parrenas 2006), and on transnational mothering strategies (Hondagneu-Sotelo & Avila 2003; Parrenas 2005; Smith 2006; Utall 2002). Migration flows during the last few decades indicate a growth in feminization and informalization of transnational labor, with female migrants increasingly entering informal labor

markets (Barajas 2009), healthcare (Barber 2000), domestic services (Glenn 1986, Romero 1992, Romero 1997) and the sex and intimate services industry (Agustin 2005; Agustin 2007).

Another criticism of the excessive reliance of migration theories on economic factors refers to their extremely narrow focus on labor factors (See Krissman 2005 in reference to Massey 1999; Massey 1993: 463) and calls for the revision of the very way networks are defined, as in its current use the term and its conceptualization cannot explain how networks originate in the first place.

A way to strengthen these theories of migration has emerged within other forms of inquiry, primarily through studies relying on the inclusion of immigrants' voices and perspectives as sources of knowledge. While much of the discourse of migration continues to vaguely refer to migrants as "anomic loners stuck in cultures of poverty" (Krissman 2005: 8), recent research has noted how immigrant, subaltern and/or highly marginalized groups create, adapt, adopt and develop systems that allow them to improve their lives and those of the people around them within and despite structural limitations. For instance, Rosas explores the everyday practices of survival among teenagers living within the US Mexico border sewer system (2004); Gomberg-Munoz (2010) maps the lives of a group of busboys working at an Italian restaurant in downtown Chicago; while Tellez (2008) describes the quests of immigrant communities to establish political and geographical presences along border towns (2008). Gonzalez-Lopez shows how Mexican immigrants in the US renegotiate their sexual ideologies and practices and redefine their sexualities (2005); De Genova study on immigrant

factory workers in Chicago describes his and his students' attempts to subject state practices to scrutiny and destabilize them (2005). These studies carry intrinsic demands for the re-evaluation of migration theories to recognize the abilities and the strengths of immigrants. They also enrich the discussion of migration by showing how migrants cultivate their social identities through individual actions.

### **Agency and Migration**

The recognition of immigrants as individuals who play a role in their own decision to migrate calls for the inclusion of the concept of agency. Agency is understood as an individual's ability to make decisions, even if or when constrained by structural limitations. It also refers to an individual's power to engage in a specific behavior or action that may impact his or her life in the short or long term. This engagement involves both awareness of the consequences of such behavior or action, and a process through which the individual reflects upon these outcomes. Agency can exist even if subjects' acts are tied and circumscribed to structure, since their actions carry a purposive, instrumental and calculating nature (Emirbayer and Mische, 1998) that allows them to exert control in multiple forms.

Conceptualizing agency as inscribed within a structure could convey notions of permanence, consistency and stability (Sewell, 1992). Agentic processes, or expressions of agency, however, are dependent to the contextual, temporal conditions of the actors (Emirbayer and Mische, 1998; McNay 2003;

Sewell 1992) which implies the structures surrounding their actions are susceptible to change over time. In other words, even in the presence of a structure individuals can enact multiple behaviors that challenge established norms over time (as in the case of social movements of resistance and change).

However much of the work on agency focuses on the durability of structures and not on the way they change over time (McNay, 1999; McNay, 2003). Despite his impact on theories that emphasize the potential for the transformation of social identities, for example. Foucault's work describes agency largely as a response to repression or constraints. This leads to the definition of agency as a (negative) response to subjection (McNay, 2003), reducing the ability of the subject to act upon his or her surroundings, even if they are not constraining.

Agency, however, can also be defined as the multiple ways in which individuals play an active role in the construction of their lives even when structures are not negative or constraining. By "throwing light on the active processes of self-interpretation (...) inherent to the process of subject formation (...)" there is the possibility to achieve "an understanding of a creative or imaginative substrate to agency" that can then be "conceptualized to explain how, when faced with complexity and difference, individuals may respond in unexpected and innovative ways that hinder, reinforce or catalyze social change" (McNay, 2000 p. 141).

While Foucault's emphasis on discipline leads to the conception of the body as passive –and therefore dematerializing the experience of agency-



Bourdieu incorporates the social *into* the body. For Bourdieu people are not bound by “unconscious rules” imposed onto them, but are instead able to make choices within the limits imposed by the *habitus* (Nash, 2003). Bourdieu also reminds us that social life is a “constant struggle for position, as actors seek (consciously and unconsciously) to weave around the constraints that social structure sets against them” (Dimaggio, 1979 p. 1463). It is the awareness of these very structures on the part of individuals what allows them to act consciously and independently.

The recognition of multiple forms and acts of agency emerge in part from Bourdieu’s notion of the habitus and the field, and from his work on the ways the habitus can be embodied, improvised and re-inscribed and/or contradicted (McLeod, 2005; McNay, 1999). In Foucault’s conceptualization of agency, the lack of a body results in the lack of an active subject through which the agentic process can be carried out (McNay, 1999) despite the fact that the body is central to the subject’s experience of difference, race, class, gender, and therefore should play a role in any discussion of agency. But Bourdieu argues that the social inequalities are established not at the level of the structures (i.e., institutions) but instead, through the power relations inculcated upon bodies and individuals (Bourdieu, 1990 in McNay 1999). It is “the dialectical relationship between the body and a socially structured space” what becomes important while “embodying the structures of the world” (Bourdieu & Wacquant, 1992 p. 168).

## **Smuggling and Agency**

The articulation of multiple forms of agency and the notion of structures as malleable allow for the individuals' ability to challenge them through time in more than one way, a notion that becomes useful while approaching the study of migration. By incorporating these concepts, migration emerges not only as an economic response but also as a personal and individualized process. By considering the role of agency in migration personal contexts can play even more important roles in an individuals' decision to migrate than what theories have to this date recognize. Migration involves a series of complicated, interconnected circumstances that extend beyond economics -some of which may even challenge our current understandings of power, politics and the economy (Nonini, 1997).

Recent studies in smuggling operations seem to incorporate notions of this individual agency in their analyses of population movements. In their study of asylum seekers whose journeys rely on smuggling facilitators for example, Robinson and Segrott (2002) describe the roles future asylum petitioners play in their interaction with smuggling facilitators, describing not merely as a financial transaction but instead as a form of collaboration. Would-be asylum seekers engage in long and extremely well informed decision making processes in which they consider their individual needs for safety, availability of resources, access to friends and family, etc. even before reaching out to the facilitators who will transport them. In Robinson and Segrott's work, asylum seekers are positioned as the ultimate decision makers, having the power of decide the course of their lives by staying in their countries and adapting to their local conditions, or when

making a decision to escape the constraints of their country of origin and travel to one where asylum can be sought.

David Spener's work on the strategies used by men of Mexican origin to cross into the US with the assistance of smugglers also identifies how immigrants' decisions to migrate are well informed and carefully calculated, and take place within the rules and the expectations of the immigrants' community of origin (2010). In other articles, Spener has also challenged some of the most commonly held views of smuggling facilitators as predators or mafia-like (Spener 2004), and has consistently found the networks that facilitate immigrants transits are instead conformed by other immigrants who form partnerships and rely on network-like collaborations to assist individuals in their personal quests for a new life.

Van Liempt and Doomernik's research on immigrants' agency in the smuggling process not only criticizes the Salt and Stein's model of the smuggling process (1997), which for over a decade has dominated most descriptions of the smuggling market. (In Salt and Stein's model, smuggling is described as a primarily economic activity facing little transformations and in which actors play static, limited roles). Through their interviews among asylum seekers, Van Liempt and Doomernik identify ways in which immigrants cultivate a relationship with their smuggling facilitators while developing their own protection mechanisms. Their research also found the interactions between immigrants and the people in charge of their transportation are highly complex and not necessarily profit-driven. They identify their respondents' ability to negotiate the terms of their transits as part of smuggling's community-based, non-criminal nature. But

given the power differentials that may on occasion exist between smuggling facilitators and their customers, the authors do express concerns over potential abuses during immigrants' transits.

These studies have contributed to develop a better understanding of the dynamic roles played by both immigrants and the people who facilitate their transits. However, findings tend to be restricted to the accounts of the undocumented immigrants or asylum seekers who were ultimately successful at migrating, and do not come from the men and women who actually facilitated their transits. While immigrants are a fundamental source of information into the social dynamics of smuggling in each one of these studies, immigrants' knowledge of smuggling operations may be rather limited. Even though many immigrants know their facilitators in advance and in contexts different from those related to their migration, their experiences with smugglers are described in these studies as taking place over a very limited span of time – the length of their migratory journeys. This limits our ability to understand some of the social dynamics behind smuggling operations. Immigrants' experiences with smuggling facilitators are also described primarily as business like or profit driven transactions, and provide little insights of the actual dynamics of the smuggling networks.

Several authors have cited safety concerns as the reason behind the absence of the perspectives of smuggling facilitators in their studies. During interviews, some of these scholars have expressed it is easier to reach out to immigrants than reaching out to smuggling facilitators directly. These statements

reflect there is still a certain distrust of facilitators on the part of researchers.

While I would never encourage a researcher to put him or herself on harm's way for the sake of research, I do believe this fear has played a huge part in the absence of smuggling facilitator's perspectives from the analysis of smuggling operations, an absence which has limited our understandings of the activity.

Fortunately, some researchers have managed to overcome these barriers. Perhaps the most comprehensive study regarding human smuggling operations and the only one to involve extensive contacts with smuggling facilitators in the field, is the work of Sheldon Zhang on human smuggling operations from China to the US. Zhang conducted ethnographic research in the Fuzhou province in China, a renown *snakehead*<sup>4</sup> hub and point of departure of thousands of undocumented immigrants bound for the US. As part of his research involving transnational human smuggling, he and his team conducted 129 interviews with men and women involved in the provision of smuggling services. Among his findings he identified the flexible and highly adaptive nature of smuggling activities, which is at least partially dependent of the community-based nature of the activity. Locals, and not organized crime groups are in charge of the recruitment and transportation of migrants. Zhang provides a model of the structure of human smuggling groups that was adopted in and adapted to this project because there are striking operational similarities between Chinese and US Mexico Border smuggling facilitators.

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<sup>4</sup> Folk term given to Chinese human smuggling facilitators.

Zhang's study was preceded by the work of one of his collaborators, Ko-Lin Chin, who in the late 1990s also conducted research on the activities of snakeheads by interviewing a much smaller group of facilitators within the US detention system (1999). Joining forces as part of a larger field study on Chinese human smugglers, Chin and Zhang concluded that snakeheads are ordinary citizens whose social networks alone provide access to connections and resources to facilitate the transportation of people seeking to leave China (2008). Along with feminist criminologist Jodi Miller, Chin and Zhang have also explored female participation in human smuggling. They found that while smuggling operations are male-dominated, women play key roles working for or alongside male partners and many times also work on their own to provide services in smuggling operations that involve the least risk of violence or detection (Zhang, Chin and Miller 2007).

One of Zhang's greatest contributions to the study of smuggling operations is the emphasis he has placed on uncovering the meaning within the everyday interactions among facilitators. He has shown interactions do not only have an impact on the customer's experience, but also create opportunities allowing for the smuggling facilitator's personal development. In his analysis of women in smuggling operations, for example, he attributes the involvement of large numbers of women in smuggling not to expectations of profit or other potential financial benefits, as other scholars of smuggling would have explained it. Instead, he finds that women have effectively carved a space in the activity

through their visibility, reducing any potential stigma surrounding their participation in a criminalized activity.<sup>5</sup>

### **Human Smuggling in the Southwest**

Important work on human smuggling activities in the Southwest – the main point of entry for undocumented immigrants into the US – has started to emerge in recent years. In his book on *coyotes* (2010), Spener describes the experiences of men crossing borders on their own or with the assistance of human smugglers, paying special attention to the social interactions between immigrants and coyotes in Southern Texas and attempting to craft a theoretical model to understand immigrants’ journeys as an example of agency and resistance. The work of Anna O’Leary has focused on the experiences of immigrant women who endure violence during their border crossings –primarily at the hands of their smuggling facilitators or when encountering *bajadores*, who in O’Leary’s work are described as bandits who steal cash and valuable properties from their victims. Her work also highlights the solidarity shown by immigrants during their transits (2008, 2009). Unlike Spener, her data is based on interviews with immigrants who have been unsuccessful at crossing the border, due to medical issues, physical limitations and deportation. Garcia and Fuentes’ work (2009) involves a case study of the organization of a human smuggling network operating from small towns in Mexico into the United States. Based on a series of interviews with

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<sup>5</sup> “In a business full of uncertainties and hazards, when gendered cultural expectations are compared with a successful reputation, a female snakehead can command significant respect” Zhang 2008: 205.

a young guide or *caminador* (walker), a man in charge of walking immigrants into the US from crossing points along the border, the authors map a perspective on hierarchy and power within a smuggling network.

Along with social scientists who have for decades urged for a reassessment of the border policies leading to the deaths of hundreds of border crossers every year (see Cornelius 2007), scholars in the area of medical anthropology, public health and other health related disciplines have made urgent pleas for studies of human smuggling that can help reduce the likelihood of immigrants in transit to sustain injury or death. Facing an under-staffed and under-funded medical system, overwhelmed trauma centers in the Southwest are becoming increasingly unable to meet the needs of immigrants who encounter violence, become seriously ill, or sustain life-threatening injuries along their journeys. (Keim et al 2006; Lumpkin et al 2004, Sapkota et al 2006.)

There is a shortage of research involving the dynamics of smuggling in Arizona, despite the state's role as undocumented immigration hub. However, multiple studies have raised concerns over the structural conditions in which the smuggling market has developed. Given the state's notoriety at creating anti-immigrant laws and its sanguine efforts to combat undocumented immigration, researchers have looked into the connection between immigration and structural violence in Arizona. Romero's work on the immigration raids in Chandler was essential at understanding the incipient collaborations between local and federal law enforcement agencies in the mid 1990s (Romero 2006; Romero and Serwag 2004); Raquel Rubio Goldsmith has documented multiple examples of the



violence faced by immigrants in transit, and her team has compiled data reflecting the implications of immigration enforcement in the personal security of immigrants in transit who have died during their journeys (2006, 2007).

The undocumented immigration market has also been blamed for an apparent spike in violent acts targeting undocumented immigrants in transit. But with the exception of the previously mentioned work of Rubio-Goldsmith et al (2006) documenting the causes of injury and death sustained by immigrants in transit, few other studies have provided evidence of the alleged connection between human smuggling and smuggling related violence in the state. Multiple activists, local writers and journalists have also written extensively about smuggling violence in Arizona, but have relied primarily on official sources or on accounts of extreme victimization and violence. While this is effective at generating awareness of some aspects of smuggling, these works provide a quite biased view of the phenomenon through the vilification of smuggling facilitators. Thus this project is the first of its kind to provide an explanation of the way the local human smuggling market operates, not from the perspective of law enforcement or government officials, but instead privileging the voices of those who constitute the market itself.

### **Understanding Smuggling Markets**

The emphasis on approaching the study of migration from an economic perspective has reduced migrants' identities to that of workers, mere elements of the production chain. This has led in turn to the emergence of specific and

problematic characterizations of immigrant as passive, voiceless, and in need of help and rescue. Stripping migrants of individuality or possibility has resulted in the inscription of dominant power relations, which facilitate in turn the emergence of paternalistic and punitive responses at the hands of government and non-government actors. Through extensive ethnographic work in transnational communities, contemporary researchers of migration and immigrant issues have called for new understandings of migration that emphasize the role of agency, community and identity formation, and the recognition of immigrants' ability to generate change and improve their lives despite the multiple structural limitations they face.

This is the context in which I approach the smuggling market. Human smuggling refers to the facilitation, for a fee, of an individual's transit across borders while undetected by state mechanisms, via the services of a facilitator, broker or group of service providers. While this definition could convey a sense of simplicity – a mere business like transaction between service seekers and service providers– smuggling practices are quite complex and dynamic. They are dependent on social ties developed to the inside of immigrant networks that serve as mechanisms to protect the men and women who seek to travel. These travelers' ability to cross borders under legalized mechanisms are limited given the wide array of requirements imposed by the state, many of which are simply inaccessible and/or unaffordable to those who travel. Smuggling therefore emerges as one of the few alternatives available to those unable to fulfill state requirements to enter a territory.

While numbers on the volume of undocumented immigration worldwide vary, (Andreas 2010), the presence of undocumented immigrants in most the developed world suggest the groups facilitating their transit are quite effective at accomplishing their goals. However, as we have seen, these complex, transnational operations have been at best minimally explored in the study of migration. Through the few empirical studies on smugglers available today, and with the assistance of law enforcement, we have learned some of smuggling's organizational and logistical mechanisms, but our knowledge of the social dynamics that facilitate smuggling and undocumented migration through smuggling facilitators is minimal at best.

The narratives analyzed as part of this study suggest that the actions of those who participate in smuggling as facilitators take place within a system of a social organization characterized by its high flexibility, openness and relative simplicity. The data also suggest that involvement in smuggling constitutes an economic strategy for the working poor, who tend to be among those who consistently rely on human smuggling services. The poor have also been among those who have historically experienced high degrees of racial, gender, social and economic discrimination, and their actions have endured the greatest levels of criminalization. In a post 9/11 world, the presence of undocumented immigrants in the west has been vilified and constructed as a potential threat to the stability – and specially the security– of the nation-state concerned with the protection of its borders. By imposing barriers on the physical mobility of migrants, contemporary states have been effective at curtailing the opportunities of undocumented

immigrants for social and economic advancement. These limitations have led in turn to the emergence of alternative economic practices of survival among the poor – smuggling being one of the least stigmatized and involving a relatively manageable amount of risk.

### **The Arizona Smuggling Market**

The smuggling market along the Arizona/Mexico border is an example of these alternative practices. Immigrant crossings are facilitated by ordinary people of diverse backgrounds (shopkeepers, hotel administrators, hairdressers, childcare workers, etc.) who are known to each other through their social networks and who collaborate on an as-needed basis in the provision of smuggling services. These networks are comprised by community members who within the constraints of their limited resources – most of them being low income, working class individuals—organize to provide border crossing services. These networks adapt, appear or disappear largely in response to the demand for services and the ability of customers to pay for them.

There is some evidence suggesting the complexity of the networks has changed over time in response to the needs of an ever growing market. Accounts from immigrant accounts in the 1930s provide a much different picture of the Arizona smuggling market. According to the testimonies collected by Gamio, travelers seeking to enter the US through Arizona recalled being transported by individual facilitators who worked on their own or in small groups of two or three facilitators (1930: p. 205-206):

The smugglers, or “coyotes,” who manage the illegal crossing of the immigrants work as individuals and also in gangs. These people know their ground thoroughly, and the habits of both American and Mexican authorities, and sometimes they even have an arrangement with some district official; therefore they are generally successful in taking their human cargo over. They charge as a rule from five to ten dollars a piece, and more if there is baggage or in unusual cases. (...) when the smugglers form a gang, they have men on both sides, either in the offices or along the banks of the river –depending on their system- and they employ a set of signals to avoid an armed clash with the authorities, which nevertheless sometimes occurs.

Andreas also believes many of the local freelance entrepreneurs who once dominated migrant smuggling along the border are being squeezed out by the border enforcement campaign, and being replaced by better organized and more skilled smuggling organizations (2001:118).

The border enforcement campaign Andreas referred to at the time was the series of efforts carried out by the US government to control the transit of undocumented immigrants across the US Mexico Border and which has been relatively effective at sealing entire sections of the border to prevent immigrants from crossing it. By the mid/late 1990s the implementation by the federal government of Operations Gatekeeper and Hold the Line was able to reduce undocumented immigrant flow along the border in California and Texas, while redirecting it to the Arizona desert, a change that was likely to impact the

organization and the ability of smuggling facilitators to provide crossing assistance.

While Gatekeeper and Hold the Line were effective –albeit temporarily- at reducing undocumented immigrant crossings during the 1990s, the increased surveillance and security concerns that followed the 9/11 events had an even greater impact in the transformation of smuggling operations. While Gatekeeper and Hold the Line led to the emergence of a local human smuggling services market in Arizona, the increased militarization of the border and the growing number of anti-immigrant militias and vigilantes along border communities meant that individual smuggling facilitators could no longer continue to provide services on their own as they had no financial resources to circumvent the unprecedented display of state power.

If the operations in the 1990s allowed for the consolidation of the Arizona smuggling market, the degree of enforcement that followed 9/11 – characterized not only by the deployment of federal but also of state border protection measures– allowed for its transformation and current structure. While in the past transit agreements were negotiated directly between immigrants and an individual smuggler who would be responsible for conducting the crossing from beginning to end, 9/11 virtually eliminated the ability of individual smugglers to work independently. However, instead of being phased out of the market as Andreas suggests, it appears these service providers began to increasingly depend on more extended social networks for their work, sharing the growing and multiplying

responsibilities involving crossing services, while always maintaining their independence by providing specific services.

Facing greater logistical pressures (i.e. increasing enforcement and technology along the border), facilitators had to adapt to a new order. They began to rely on the assistance of other local operators who could put them in contact with others who needed assistance. The growing complexity of the landscape also meant the emergence of new tasks, and so individual facilitators “specialized” in providing specific aspects of the journeys, which allowed them to retain their independence. And so while loosely associated to larger groups, smuggling facilitators have managed to retain their independence by providing specific aspects or services of migrant journeys, unlike the facilitators of the past.

While Andreas is correct in his claim that smuggling has undergone a radical transformation, this structural change has not resulted in modifications to other aspects of the market, such as its community-based nature, nor has it resulted in the emergence of the monopolized, controlled smuggling practices he suggested. To the contrary, it has created a wide range of income-making opportunities for increasing numbers of people –particularly for undocumented immigrants who as a result of decreasing access to regulated employment markets have limited income generating opportunities. The “new” structure of the smuggling groups is dependent on the very availability of ordinary citizens who can provide immediate assistance on an as needed basis. Increased surveillance and new geographical conditions, distances between cities and basic customer demands have created a need for drivers, lookouts, guides, coordinators and

recruiters, fee collectors, walkers, guards, cooks and cleaning crews; at the same time it has provided income generating opportunities to mechanics, shopkeepers, locksmiths, hotel clerks, etc. who provide emergency or incidental assistance along the way. Furthermore, since participation in smuggling requires no specialized skills or training, virtually any person with access to a smuggling network can provide assistance and benefit from a sporadic form of income.

The relatively ease to enter the smuggling business and the wide variety of activities it involves may also explain why the activity is perceived among facilitators as informal and deprived of stigma. The majority of those arrested for smuggling do not even consider their activities skilled or complex enough to be considered those of an actual *coyote*, a term that seems to be designated only to the full-fledged professional of the past or to those facilitators whose actions have become legendary. None of the men and women in this study referred to themselves as *coyotes*, and instead described their participation in terms of the specific activity they performed (check cashing, rental property maintenance assistance; driving support; recruitment; cleaning services, etc.). The designation of smuggler or coyote is apparently reserved for the men or women who have established a long-standing reputation in the business, and does not seem to be used –or self adjudicated– at random.

In response to the way in which men and women in this sample characterize their participation in smuggling I opted to refer to them not as “smugglers” but as facilitators. This decision also partially addresses facilitators’ and their customers’ perceptions of smuggling acts as altruistic. But it also intends



to convey facilitator's degree of commitment to smuggling, which many perceive and perform not as a mere side occupation but as a job. In his study of Pakistani smuggling, Koser warns against professionalizing the labor of facilitators, particularly given the abuses many of them are known to carry out against their customers (2008:6). But the dedication and integrity shown by multiple facilitators in the performance of their duties in smuggling, the pride with which they perform their jobs and the gratitude expressed by their customers' demands the recognition of their actions as full-fledged forms of employment, even if they take place under the criminalizing eye of the state.

## **Characteristics of Smuggling Networks**

### **Membership and Initiation**

There are no formal mechanisms or processes leading to an individual's participation in smuggling operations. Entry into smuggling is largely fortuitous (Zhang 2007, Zhang 2009): a combination of social interactions and connections and having access to specific resources. Most smuggling facilitators in my sample entered a smuggling network through kinship relations, but for many others it was merely a matter of happenstance.

Most facilitators were admitted into a group while working alongside family members or very close friends who had been introduced by other close friends or family. Their participation was the result of their immediate access to resources or to other networks they can call upon during a smuggling operation. These resources were as simple as having a running vehicle; knowing people who

lived along the border; holding official forms of identification like driver licenses or border crossing cards; having access to real estate or a stable housing situation, etc. There was no evidence that they were connected to other criminal organizations or involved in any other kind of criminalized activity.

The virtually open membership of smuggling is also evident in the accounts of some participants, who report having been recruited during their own journeys as undocumented immigrants. They were offered to drive, to clean a house or to cook in exchange for reduced fees. Others worked as cooks or clean the houses where undocumented immigrants waited before being transported to their destinations. In addition to receiving a discounted fee, many of them, reported being compensated financially for their services.

In contrast with Fuentes and Garcia's case study of a coyote operating in California (2009), none of the cases in the sample indicate membership involved preliminary financial investments. The facilitator or guide in Fuentes and Garcia's case study stated that the financial investments required to start a smuggling group limited the ability of many facilitators to join and profit from an operation. In my sample, new facilitators were simply invited to join by other facilitators already working within a network and none of them were ever required to make any kind of financial commitment or investment. Given the working class status of all the facilitators in this sample, it was unlikely they had access to discretionary cash for an investment. Instead, people used or were asked to use their own assets (a running vehicle, a house, a rented apartment, for example) to participate in the operations.

But the most frequent path to membership identified in the sample involved invitations extended to men and women known to be experiencing financial hardship – fathers who had been laid off from work; mothers with children requiring expensive or specialized care; new immigrants whose first jobs did not allow them to make a living on their own, etc. In this sense, facilitators operate altruistically by recruiting people in need with the goal of assisting them to improve their financial situation. Potential participants are always informed of the nature of the activity and given details in regards to their specific participation. They are never threatened or coerced to join. There were no reports of facilitators operating under any kind of duress.

Collaboration is also extremely flexible. Given that smuggling facilitators remain largely employed outside of their part-time involvement in smuggling, they may decline invitations to assist a group. Some even limit their participation to certain times of the year –they may opt to withdraw from assisting the networks during low season only to return during the times of high demand—and others are called upon only in emergency cases.

In summary, membership in smuggling is not highly restricted. Entry to smuggling networks, while primarily limited to friends and family, is open to anybody who is perceived as able to provide reliable, timely services. It is also altruistic: it is extended to men and women who are perceived as in need and able to be trusted. This emphasis on assisting others is an indicator of how smuggling facilitators create and share opportunities with other members of the community,

not with the intention of developing extensive criminal networks, but to support others in need.

### **Leadership and Power**

With a few exceptions, most human smuggling organizations do not have identifiable command or leadership structures (Zhang 2007:95). In this sample there was no conclusive evidence of the existence of a unique, centralized power providing operational/logistical control for any of the groups. Instead, networks were constituted by individual service providers collaborating in association with others, who may in turn have ties to other groups of varying size. But members do not follow the orders of a central leadership.

Even in the case of larger groups that mobilized larger numbers of migrants and resources, hierarchical leadership was not evident. Instead of depending on a centralized power, smuggling facilitators made decisions individually, although always in coordination with other facilitators who relied on their assistance.

Most cases in this sample were accompanied by detailed phone records that showed the constant communication among smuggler facilitators. The calls reveal how facilitators shared intelligence, resources, and were constantly informed by their peers of the activities being carried out by other groups – including law enforcement, but there was no indication of hierarchies or division of powers. On the other hand, facilitators had the ability to decide who participated in their activities and who was likely to be excluded. Failure to

deliver during an operation could lead to no future invitations for collaboration, for example. Once in a while arguments arose and collaborations were temporarily discontinued, but especially among facilitators who operated alongside family members, they were frequently reestablished.

The degree of communication existing among facilitators was not limited to those operating in their immediate vicinity. Information is shared and acquired from other providers operating throughout Arizona – and sometimes from established connections with facilitators who work in other states. This awareness of state-wide operations facilitates information exchange and inter-group collaboration. Evidence that facilitators reached out to the community of networks, families and providers in the local market appeared throughout the legal record.

On occasion, temporary “leaders” would emerge. This typically occurred when a facilitator became in charge of coordinating specific aspects of an operation. But these arrangements were always temporary, lasting for as long as an operation was in place. Furthermore, this kind of temporary leadership or decision making privileges were highly transferable (a man in charge of coordinating car travel for a network became suddenly sick and his wife took over his duties for the time he had to stay at home to recover, for example).

## **Competition**

There were groups that were more effective at transporting immigrants in transit than others – they had bigger and faster vehicles, access to more direct

roads, larger numbers of guides or walkers or were simply able to efficiently transport larger numbers of travelers at once. But these logistical advantages did not seem to translate into market power, and quite surprisingly, did not seem to generate or respond to competition. There was no evidence that a single group dominated a specific tier of the market. Instead, facilitators worked within their own networks and so served specific groups of customers, virtually eliminating the need to compete over clientele. In this sample there was no indication that facilitators competed among themselves for the same customers. In fact, they referred customers to one another when unable to provide a service or when the service required specialized care or services (as in the cases involving the transits of children or the transportation of pregnant women). When a facilitator was unable to participate in an operation he or she would typically reach out to another facilitator who could take his or her place, or provided the person seeking for assistance with the names of others who were able to provide crossing assistance. This degree of collaboration further reduced competition, strengthened ties among facilitators and built trust. While the size of a network was defined by the level of resources it had access to, it was ultimately the work of individual facilitators what allowed for the efficient provision of services in networks of any size.

### **Structure as temporary, informal, sporadic**

When collaborations to provide services were established among groups or individuals, they tended to be temporary, informal and sporadic. Collaborations were negotiated as verbal agreements between friends or relatives who requested

“favours” from other facilitators, who committed to assist only for as long as an operation took place. Smuggling facilitators contacted were asked to provide a very specific service (transportation; check cashing services; housing, etc.). The collaboration had the potential to continue during future smuggling events, but that was never guaranteed or made explicit.

Collaborations were carefully planned to the extent that facilitators kept each other informed and expected the other parties to do their jobs. That is why membership was usually extended only to people with access to resources and who have proven to be reliable.

### **Flexibility in Planning and Execution of Operations**

While immigrant journeys would appear to involve specific steps, these cannot always occur in exactly the same order. The degree of law enforcement surveillance may be high; drivers may not be available; the demand for services may also vary. Smuggling facilitators must therefore adapt and be prepared for sudden changes in the delivery of their services. This is why human smuggling involves irregular planning and execution (Zhang 2007: 99).

Despite activities being conducted in coordination, their execution is also informal as a result of this need for continuous adaptation. Certain stages of an operation for example, may result in higher likelihood of detection than others, and so in order to be successful it may require multiple attempts. Conditions may not be favorable for transit during a specific time of the day or night and so schedules must be adapted to improve the chances of a successful operation.

Plans also fluctuate to accommodate changes in weather, an indisposed or injured immigrant, potential encounters with police officers, and even with groups of the feared *bajadores* – bandits known to steal human cargo from facilitators.

### **Structural Flexibility and Adaptability**

Just as operations respond to the conditions on the ground, the actual structure of the smuggling groups must demonstrate flexibility and adaptability. Success is highly dependent on participants' very ability to anticipate and adapt to unforeseen circumstances. That is also why the ability to take one's own decisions without having to wait for central orders is essential to the effective provision of services, and why independent service providers constitute the ideal facilitators for the provision of services of a fluctuating activity like smuggling.

The flexibility of membership is also particularly useful in the case of the frequent unforeseen events – the need for a last minute driver, debt collector or even a cook. The multiple tasks executed by facilitators also create opportunities for members of their personal networks who are not involved in smuggling activities to benefit from their work. Frequent references of facilitators reaching out to other members in the community (mechanics, shopkeepers, small business owners, lenders) and other members within the community with no prior ties to smuggling are common in the legal record.

Since operations are only carried out when the need for services arises, it is not effective for facilitators to become organized into a permanent, more established structure. The irregular flow of opportunities that characterizes



smuggling activities helps explain why facilitators must rely on other more stable forms of employment for their everyday subsistence.

### **Limited use of technology**

Peter Andreas considers that smuggling operations along the US Mexico border have shifted from being traditional family enterprises to highly complex organizations. As evidence he describes how increased smuggling fees have allowed smuggling groups to acquire state of the art equipment, and to consolidate their wealth and power (Andreas 2001:117-119).

The smuggling facilitators in this sample are distant from having achieved the level of sophistication to which Andreas refers. The data suggest the organization of smuggling activities into multiple, specialized activities, has resulted in smuggling fees to be split among larger numbers of members, reducing the concentration of profits, as well as the likelihood of most facilitators to accumulate or develop any kind of wealth. Furthermore, in this sample there was no indication that smuggling operations relied on specialized equipment or technology. If at all, the only piece of equipment smuggling facilitators rely on consistently is their cell phones, which allow them to stay in contact and convey important information to their collaborators. Facilitators' reliance on technology is no different than the one of any other cell phone or internet user. The use of cell phones and radios is extensive due to their affordability, but is by no means indicator of smuggling operations becoming technologically sophisticated.

## **Task specialization**

Specialization refers to an individual facilitator's provision of a specific task during a migratory journey. Andreas' earlier reference to sophistication seemed to suggest the incorporation of advanced technology in the provision of smuggling services has resulted in the emergence of professional smuggling providers. Based on the narratives provided by smuggling facilitators, Andreas' view of technology and eventual professionalization of the smuggling activity seems to suggest smuggling groups have established structures, codes and regulations that in the everyday practice of smuggling would be somewhat unpractical, given that the business depends on constant flexibility and adaptation.<sup>6</sup>

Growing sophistication of the kind Andreas suggests would also imply the acquisition of increasingly technical skills. While people participating in smuggling may have entrepreneurial experience, they lack access to specialized equipment or training. Their participation is actually facilitated by virtue of the relative simplicity of their activities, which do not require nor the operation of complicated equipment or technology. Facilitators learn through socialization the skills necessary to participate in a smuggling operation. The inclusive, "democratic" nature of smuggling operations is in fact dependent on this lack of complexity.

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<sup>6</sup> The notion of sophistication is also present in government and media discourses on smuggling, which frequently allege the existence of ties between this and other illicit markets, like drug or weapons smuggling. The business of drug trafficking presents specific market challenges and has different logistic needs than those of human smuggling operations.

Task specialization on the other hand, seems to be the factor that would most closely resemble Andreas' notion of growing sophistication. As previously stated, the changes on enforcement forced smuggling facilitators who in the past provided all-inclusive services to associate with others that would also provide services. By doing so, they had to limit the scope of their activities to the provision of a single task or service among the many others involved in an immigrant's journey. This said, facilitators provide only one of the many services required to provide a border crossing service. A facilitator may be in charge of driving and nothing else. Others will only collect payments, while others may just provide housing, or coordinate logistics. In this sample, women would frequently work cashing money wires or pick up payments. Guides were not known to have a presence beyond walking or guiding migrants between points. This division of labor also serves as a protection mechanism and allows for the activities to continue despite potential arrests or detection.

### **Community-based nature**

The cases analyzed show the fundamental role social networks and community play in the permanence of smuggling operations. While as we have seen the majority of the literature on smuggling primarily emphasizes the practice as a business, and tends to focus on how smugglers and their customers carefully calculate profits and losses, smuggling networks are constituted by friends and families with personal goals and wishes, for whom participation in smuggling involves more than carefully calculated financial equations. For many facilitators,

the social prestige that comes from being a trustworthy guide or driver or from securing safe accommodations for women and children in transit is more valuable than the generation of financial returns, as social recognition can be used as leverage to secure other goods or services within the local immigrant community.

By virtue of relying and operating within their own social networks, facilitators do from time to time act as service providers for their own family and friends. This creates social expectations regarding care and safety and an obligation for the entire network to protect the individuals in transit. In exchange for honest and careful treatment customers protect their facilitators by not disclosing his or her identity in the event they come in contact with law enforcement while on route, and provide referrals and recommendations. In the case these protections are not afforded, and customers or friends are relatives are mistreated, abused or scammed, immigrants show no hesitation at reporting facilitator behavior to the authorities or future or potential clients.

### **Convenience**

Participation in smuggling is efficient due to its convenience. It involves occasional, short time commitments from its participants. The likelihood of being reported, arrested or detained is relatively low given the close ties that exist among facilitators and their clients. Since smuggling compensation is discreet, it does not create the appearance of sudden wealth that could characterize other more profitable markets like street drug sales, and which also carry a high level of stigma. Most facilitators are paid in cash, which is immediately re-circulated into

the local economy through the payment of basic necessities like rent, food or utilities. Furthermore, due to smuggling's altruistic perception, smuggling participants do not face the scrutiny or potential violence that characterize the experiences of facilitators in other markets.

In summary, smuggling operations are highly flexible: they require the ability of their facilitators to adapt and respond to conditions in the field without having much time to prepare. Smuggling does not depend on a central command or leadership, most facilitators are simply independent providers invited to join a group to improve their financial situation on a temporary, seasonal or sporadic basis. While smuggling has indeed undergone a transformation largely as a result of policing and border security measures, its flexibility and community based nature have allowed for its permanence.

Contemporary smuggling operators work independently or as part of semi-established groups, but always in coordination with others. Most of them are able to maintain their independence, and even those working for a group are relatively free to establish work relationships with other groups or to make money independently. The continued presence of independent smuggling service providers along larger networks in smuggling operations is evidence of the business' high degree of flexibility.

### **Division of Labor**

The provision of human smuggling services in the current market depends on the execution of specialized tasks by facilitators. This means that facilitators

tend to perform primarily just one service, element or part of an immigrant's journey.

This form of task specialization was present in all the cases analyzed. Facilitators performed distinguishable, identifiable roles and hardly ever provided a different service. There was little if at all intermingling of tasks. While smuggling networks vary in size, as well as the conditions under which the services are provided, the following tasks were provided by facilitators across all cases: recruitment; coordination; guidance (guides or walkers); transportation (drivers); safe house staff (guards, cooks, phone operators); and financial services (check cashing/deposit making duties). Several of these categories are similar to those identified by Zhang (2007) but were adapted to reflect the activities of the local market.

**Recruiters.** In this sample, recruiters scout potential customers among their own friends and family to offer border crossing and transportation services. Recruiters look for men and women who are likely to migrate or who have expressed a desire to migrate and who may also have a degree of financial backing within their community or in the US in order to cover their smuggling fees. The recruiter is not always based in the destination country – he or she can travel to specific communities known to him or her to conduct recruitment activities among potential candidates– although many immigrants reported having been recruited over the phone by friends or family members who while

acting as recruiters, lived within the US. Recruiters receive a commission for every immigrant who successfully crosses the border.

The recruiter offers border crossing services and if the potential traveler shows interest, works at establishing a verbal agreement that includes dates of travel, specific services and price. On occasion –especially when recruiters are relatives to their potential customers– accessible financing terms may be offered. Recruiters may offer delayed payment plans, or set a schedule through which the immigrant can pay his or her fee once employment has been secured at the destination. Some others may ask for a partial down payment to cover initial expenses. Recruiters may also conduct their activities on behalf of employers who are in need of workers.

Once the terms of a journey have been determined, the customer is given detailed instructions of the following steps. Typically a customer is provided with the name, number or physical description of the person who will be in charge of coordinating the terms of the actual crossing. The recruiter instructs the customer to travel to a pre-determined point along the US Mexico border where he or she will contact this coordinator for further instructions.

Another form of recruitment takes place along the border. Recruiters seek customers among the men and women who travel on their own to communities on the border in order to cross into the United States. Given that this form of recruitment is mostly conducted outside of the protection of a potential customer's network, the likelihood of leading in scams or abuse is high (most cases involving extortion and violence were identified among immigrants who

travelled without the assistance or a referral of a member within their social networks).

**Coordinators.** Coordinators are in charge of the logistics involving the transit of an immigrant from the border all the way to his or her final destination. They are the main depositaries of information and typically know all the facilitators operating in a determined area in person and the tasks they can perform.

Coordinators, like all other facilitators, work independently, and can provide assistance to several networks at once. But their responsibilities are perhaps the most complex. Their success –and their opportunity to profit- resides on their ability to manage logistical aspects of operations for both customers and facilitators with success, which demands excellent management and customer service skills. While they work for facilitators they are also the primary point of contact for customers and their families. And so coordinators quote prices, collect fees and distribute payments. They accept or decline recruiters' referrals, keep track of incoming groups of customers, find them places to sleep, rest or eat. They locate providers of specialized services, establish the terms of their collaborations and distribute work among them in the most balanced way possible. For their services, coordinators get to keep a portion of the fees they collect and forward the rest with the assistance of couriers.

Coordinators are public personas and the main point of contact for individuals in a community searching for crossing services. But they are also highly regarded community figures, perceived as knowledgeable and trustworthy



benefactors. Many coordinators expressed valuing this level of recognition more than the financial benefits of their collaborations – -which are surprisingly small considering the amount of work they perform– - as it grants them access to other goods and services within their communities.

**Couriers or assistants.** Couriers were typically men in charge of running errands. They transport cash, deliver equipment like radios or cell phones, drive or recover vehicles, pick up food or water, etc. They work primarily for a coordinator, and may also benefit from the coordinators’ degree of social recognition and interaction. Couriers interact primarily with other facilitators and not with customers.

**Guides or “caminadores”(walkers).** In this sample, guides were males – only one reference to a female guide’s activity was located in the sample– who walk groups of immigrants from the border to a meeting point from where drivers picked them up to transport them to cities in the interior. Guides in this sample tended to work in pairs for support and safety, or with the assistance of lookouts, who were typically guides in training and reported suspicious activity (border patrol activity, local law enforcement operations, other suspicious groups, etc.) to the guide.

Guides, on the basis of their performance may also be asked at some point to serve as drivers or couriers, but this is not very common. Many men in fact reported enjoying working the outdoors and declined opportunities to provide other services. Guides are paid a set fee for every person that is transported.

**Drivers.** Driving duties in this sample were also performed primarily by men, although one female detainee was believed by law enforcement to have provided driving services prior to undertaking financial duties, but she never confirmed that asseveration. Drivers pick up undocumented immigrants at a specific meeting point and drive them to another location (a safe house, to the place where they would meet family or friends, or even to their final destination in another state or region).

Most drivers in this sample worked independently, using their own vehicles for sporadic services. A coordinator may reach out to them and ask about their availability to drive a group at a certain time or date. Sometimes drivers borrow vehicles from their friends or relatives and share their pay, while others actually invite the owner of the vehicle to join them so that they could take turns at driving— this is particularly in the case of cross-country travel. The sample included drivers living in Alabama, Georgia, Oregon and Pennsylvania who came to Phoenix to drive groups back their respective states during a slow week at work or when temporarily unemployed.

Drivers cover all expenses related to their travel and either “bill” the coordinator or calculate them into their final payment. They receive no other compensation for the wear and tear of the vehicles. Depending on the resources and the fees charged by a group a driver may be paid for gas and meals, while others are only paid per person transported. Other drivers reported to operate as secondary service providers— they would charge a separate fee (in addition to the smuggling fee) to a customer who needed to be transported to a location the

network did not serve. These drivers could determine their own fees and did not have to share the profit with the group who requested their services.

Other drivers worked for larger networks with access to driver licenses and credit cards that allows for the rental of new or recent model vehicles to transport customers (according to facilitators, newer vehicles are typically not profiled by law enforcement as being involved in transportation of immigrants and are less likely to be stopped). In this case, drivers are also paid a commission for every customer that is successfully transported to his or her destination.

It was common in this sample to come across cases of undocumented immigrants who in the course of their transit had been approached by a coordinator requesting their assistance with driving. The coordinator would reduce these customers' smuggling fees in exchange for their services. Three men in this sample entered a smuggling group this way, and had maintained their contact with a coordinator, what allow them to work sporadically providing driving services.

**Safe House Staff.** This group of facilitators is comprised by men and women who either work independently housing immigrants in transit in their homes temporarily, or by individuals placed by coordinators at safe houses –the places where immigrants are scheduled to arrive and wait pending payment or transportation arrangements. Safe house personnel provide customers with meals and a place to sleep.

In the sample, most safe house facilitators were people with flexible work schedules that allowed them to spend time taking care of the immigrant(s) in

transit. That included mothers working part-time at fast food restaurants who would house and feed immigrants for a couple of nights on an occasional basis or during a time while their children were away or at school. It also included elderly women who had some space at their homes to allow a couple of men or women to spend the night while they waited for the driver who would take them to their destination. Immigrants describe with gratitude and affection the multiple attentions they received at the hands of these facilitators, who treat them “like family” by making sure they had a place to rest and eat. Many immigrants attested these facilitators also provided them with clean clothes, medication, and food and water for the rest of their journeys.

Some safe house facilitators lacked the ability to work from their homes, but would instead spend a few hours per day days working at a safe house providing services like cleaning, cooking, running errands, making phone calls to collect fees, etc. Houses are staffed by two to three men or women who ensure immigrants have what they need.

On occasion, armed guards are also part of a safe house staff. This move appears to have emerged in response to the growth of incidents involving *bajadores* or “rip-off crews” who would conduct home invasions and kidnap immigrants from the locations where they were housed. While the presence of an armed guard may be used to convey to immigrants the need for prompt payment, their goal is only that of protecting, not hurting, immigrants. All safe house members are paid a weekly salary in most cases, although others reported being paid a commission for every person staying at the location.

**Financial Services.** This task is performed primarily by women, and it involves the cashing of money wires or the withdrawal of bank funds made by immigrants, their friends and families to cover smuggling fees. These facilitators have by virtue of their employment access to a financial institution where they can conduct bank transactions like deposits and withdrawals. After a smuggling fee has been wired or deposited at a bank account, the role of the facilitator in charge of financial services is to verify the deposit has been made. Later on, a coordinator may accompany the facilitator to withdraw the funds. Facilitators are paid a nominal fee for every withdrawal or cash transaction they conduct.

While banks are used for in-country transactions (i.e., deposits taken place within the United States), most activity is carried out through money wire companies like Western Union and Money Gram, which allow people in other countries like Mexico to wire cash to individuals in the US. These businesses are not subjected to the same regulations as banks, and so facilitators can withdraw large amounts of money on a regular basis without necessarily appearing suspicious.

Echoing Zhang's findings, data show smuggling facilitators play specific roles in successive stages. While this classification of the division of labor describes the most representative roles found in the data, it is by no means exhaustive. The adaptability and improvisation that characterize smuggling operations create many other activities or occupations that may not be described here. A facilitator may have at some point to perform additional tasks, especially if the operation he or she is part of involves a small number of collaborators. And

other family members or friends – even customers, as in the case of drivers- are recruited to provide last minute help. And for many other people, participation in smuggling operations may involve nothing else than a one-time collaboration.

### **Conclusions**

This overview of the smuggling market described how the human smuggling market is constituted and organized. While the state constantly refers to smuggling networks as being dominated by powerful criminal interests, the data show the market is comprised by independent facilitators who assist other smuggling actors in need on a sporadic basis, without criminal intentions. The organization of the smuggling market points at its community based nature and to smuggling's function at providing income generating opportunities for the poor. Rather than constituting a conspiratorial effort to overthrow state controls, participation in smuggling is a concerted effort among families and friends to generate supplementary resources within a community unlikely to ascend socially or economically. The temporary profits participation in the smuggling market generates are immediately recycled into the local economy and are unlikely to contribute to the creation of wealth among those who participate.

## **Chapter 2**

### **BEING A SMUGGLER**

In the last chapter I highlighted the lack of empirical research involving the people and organizations that participate in the smuggling of immigrants, and expressed my concerns over the shortage of scholarship involving smuggling operations in the US which is shared by other scholars in the area (Chin 1999, Zhang 2008, Zhang 2009). I also mentioned how Western news media, law enforcement and policy makers have consistently portrayed smuggling groups as transnational, violent ethnic mafias with ties to anybody from drug trafficking groups (McMacaul 2006, Miro 2003) terrorist organizations, particularly after 9/11.

While law enforcement agencies have –somewhat reticently– shared their understandings involving human smuggling with scholars, and some scholars have worked at developing access to the immigrants who rely on smuggling facilitators, the current picture of human smuggling operations is rather incomplete. The actual experiences and perceptions of the men and women engaged in unregulated crossing activities are not present in the majority of official accounts, and are unlikely to be privileged in the discussions surrounding policy making or even scholarly work. Whenever present, the statements of human smuggling facilitators are typically used as part of the prosecutorial efforts to incriminate and convict them. This systematic “silencing” of the smuggling facilitator experience has resulted in the development of a biased narrative, where

smuggling facilitators are consistently identified as violent, predatory -and highly racialized- criminals.

This chapter builds upon the first chapter on organization and structure by incorporating the accounts of smuggling facilitators into the discussion on the dynamics of the smuggling market. Facilitators' narratives describe entry into smuggling, the reasons that lead to or shape smuggling involvement and the self-perceptions facilitators have of their work. It also takes a closer look at how smuggling has become a supplementary income generating mechanism for the working poor, who also tend to be among those who consistently rely on human smuggling services.

The first section outlines the demographics and general characteristics of this sample. It is followed by narratives of participation – primarily accounts of the experiences that led facilitators to become part of smuggling groups- and identifies two paths of membership: the social network path (facilitated by friends and family connections) and the one where individuals with no prior friendship or kinship ties are recruited as staffing needs arise. A third section delves into the challenges faced by facilitators in the business. The conclusion paves the way to introduce customers' accounts of their experiences with smuggling groups in Maricopa County, which is the topic of the following chapter.

### **The “Smugglers”**

This study involved sixty six individual cases of undocumented immigrants charged with providing smuggling services the under anti-human



smuggling statute in Maricopa County. Of those cases, fifty four involved male facilitators; the rest were females. Three were US citizens by birth, two by naturalization, and the rest were undocumented immigrants. While the majority of facilitators were from Mexico (61) three were from Cuba, one from El Salvador and one from Guatemala.

With the exception of the five US citizens who were bilingual and one non-citizen who was able to communicate in English, the language of choice among facilitators was Spanish. The average age among men was 29, with a mode of 27. Among women, average age was 27, although half of the women in this sample were 30 years of age and older, and their numbers were considerably smaller than those of male facilitators. Thirty-seven of the facilitators reported being married or in a relationship. Nine women had US born children, as did six of the men. Virtually one half of all facilitators (thirty men and two women) supported families, primarily children, in Mexico.

Education was not reported uniformly. The mode among men was 9th grade. Educational attainment among men ranged from having no formal education in two of the cases to four facilitators having completed several semesters of college (one of them was a college graduate). Among women educational achievement also varied widely (while two reported having received no formal education, two more had completed vocational school after graduating from high school).

While all arrests took place in the vicinity of Maricopa County, facilitators' place of residence varied considerably. Forty were permanent

residents of Arizona – this included all of the women, who lived in the Maricopa County area with their children and/or spouses. The remaining twenty-six lived in other states (California, Nevada, Oregon, Tennessee, Pennsylvania, Florida), but had traveled to Maricopa County with the only intention of providing smuggling services in exchange for financial compensation. Two facilitators – a couple—who had originally operated in Arizona had relocated to Florida to be with their children but were eventually extradited and returned to Arizona.

With the exception of two males and one female, all facilitators in this sample were either employed or sub-employed at the time of their arrest for smuggling charges (which means they did not derive their incomes exclusively from smuggling). Smuggling facilitators were ordinary citizens, who held full time jobs and work regular business hours as house cleaners, childcare workers, hairdressers, roofers, drivers, etc. The average earnings from full time jobs ranged from \$200 to \$250 per week. The fact that facilitators remained employed even while involved in smuggling activities suggests that profits of smuggling alone were not enough for facilitators to cover their financial responsibilities, and that smuggling provided only a supplemental, sporadic source of income. Smuggling profits were low, which contrasts the state’s allegations regarding the high profits generated by the market. Smuggling-related earnings eased some of people’s financial needs, and therefore opportunities to participate in a smuggling operation were welcomed and appreciated, but they could not be relied on as steady sources of income.

Fifteen facilitators (22%) in the sample had a criminal record. But most facilitators' criminal pasts were the result of misdemeanor convictions (that is, minor offenses like drinking from an open container and/or multiple traffic violations). While eleven had been previously convicted for felony charges, the offenses had only involved property crimes (like petty theft, felony shoplifting for example). Only one of the facilitators had been convicted for what was considered a violent offense –he had been sentenced to prison for having sexual contact with a former girlfriend, who was a couple years younger than him and happened to be a minor at the time of the offense.

In terms of gender the data suggest men are involved in smuggling activities at a higher rate than women, a finding that echoes Zhang's in his study of Chinese human smuggling organizations (2008). However this over-representation may be the result of the sample size and the sampling strategy, which only involved failed smuggling events. A sample including ongoing operations, or a larger number of facilitators might reveal higher rates of female participation in smuggling in the area or allow for a closer look at females' experiences in smuggling, and to establish differences among gender participation.

While women participated at a much lower level, they performed important tasks and commanded power within some groups. Testimonies from informants in other cases not included in this project have spoken about women holding positions of power in smuggling networks and were confident to report that women collaborated in much greater numbers, despite being arrested with

much less frequency than men. At this time however, the sample size does not provide extensive data in regards to the experiences of women in smuggling.

The majority of smuggling facilitators were undocumented immigrants who entered the country with the assistance of a smuggling facilitator themselves, and who were eventually introduced into smuggling operations by friends or family members, when asked to participate for a reduced fee or having been approached the group to ask for employment.. Some had initially entered the country using visas, border crossing cards or other kinds of entry permits, but had since expired.

Along with undocumented residents, US born citizens of Latino origin were also identified in the sample. While it appears the local smuggling market is almost entirely run by non-white facilitators, the occasional presence of non-Latino participants may be yet another indicator of the open membership of some of the smuggling groups. During the data collection process, the cases of a white female and an Asian male were identified – the female, a US citizen, was sentenced to a probation term while charges against the Asian male were dropped. Since human smuggling enforcement relies heavily on perceptions of race and ethnic origin, non-Latino participation in the Arizona market could probably be taking place but go on undetected, although this assumption is largely speculative. Non-Latinos may be able operating as they are more likely to avoid detection and arrest, primarily on the basis of their physical appearance. Given that they are not perceived as likely to be associated with Latinos, they are less likely to be stopped by law enforcement under the suspicion of being involved in the transportation of

undocumented immigrants. The size of the sample, however, did not allow me to determine the frequency at which these collaborations occur. An analysis of local law enforcement's practices involving smuggling cases, their reliance on racial profiling and the implications of enforcement in Latinos' impartial access to justice is included in chapter five.

### **Entry into Smuggling**

The narratives of smuggling facilitators suggest two predominant routes into smuggling: one dependent on an individual's social network and contacts (i.e. ties to friends or family members already involved in smuggling activities), and one as the result of sudden staffing and logistical needs within smuggling groups. In this last case, clients are asked to perform specific activities for payment (driving, cooking, and cleaning) or in exchange for a reduction of their fees.

In his study on Chinese human smuggling, Zhang also identifies similar paths into smuggling. The social network route is in his study described as "the friends and family route," while "the snakehead route" involves the employment of an individual outside of the network by a smuggler. He states: "They were different from those who came via the family route (...) the snakeheads who introduced them to the smuggling business were neither relatives nor members of their social circles." (2008: 31). In either case, entry into the smuggling business appears to a matter of happenstance (Zhang 2008:29), as reflected in the testimonies of facilitators involving their entry into smuggling organizations.

## **Social Network Route**

Fifty year-old Zulema Martinez was one of 64 people indicted as part of a state-wide case involving a human smuggling group. The prosecutor described her as “an individual willing to risk the lives of others to meet her own needs” through her “intricate involvement” in a smuggling organization. According to the presentence report filed in court, Martinez, “an illegal immigrant, took advantage of other illegal immigrants purely for monetary gain.” (Maricopa County v. Martinez-Ponce 2007: presentence report).

Leaving an abusive relationship behind, Martinez entered the US on a tourist visa from Mexico in 1976 along with her two small children, who were at that time one and two years old respectively. After living in several states Martinez eventually moved to Arizona and settled down in Phoenix. After saving money for several years she was able to buy a small lunch truck – “*La Loncherita Feliz*” (The Happy Lunch Truck)– which she ran on her own during the week. Running her business she became well known throughout multiple construction worksites in the city that hired Latino workers.

Following the collapse of the construction industry in Phoenix Martinez was forced to look for a second job; she enrolled in beauty school, obtained a barber’s license and began to work as a stylist on the weekends at “Bellos & Bellas” a popular beauty salon in a predominantly Latino neighborhood in Phoenix. In court documents, Martinez stated that through her jobs she was able to meet many people in the community – among them, a couple of Cuban brothers who frequented her salon. One day during a visit to “Bellos & Bellas” she heard

the brothers speak about their transactions, and that was how she learned they worked “bringing people from Mexico.”

Martinez began to act as a contact person between would-be migrants and the two brothers, Jose Luis and German Robaina. People looking for a reliable, fast way to cross into the US would call Martinez on her personal cell phone, and she then quoted prices and availability after consulting with either Robaina brother. In return for her services, the Robainas paid her a small commission. It appears Martinez not only valued her financial arrangements with the Robainas, but that she also thought of the two brothers as her friends. During a particularly rough time in which she had to sell her own vehicle to pay for bills the Robainas lent her money to cover her month’s rent. One of them also attended Martinez’s son’s high school graduation.

Martinez was not the only one who had to rely on multiple jobs to support herself and her family. Many of the narratives reflect facilitators’ income had been severely impacted by Phoenix’s unstable economic market. Several had lost their already precarious jobs in the service and construction industry – two of Maricopa County’s largest industries during the early 2000s- and had been unable to secure full time employment in weeks. Their economic situation was further complicated by local law enforcement policing practices and regulations, which in Phoenix have a tendency to target the undocumented, particularly those who congregate in public places to seek employment performing day labor or side jobs. Despite these local tensions, acts of solidarity among immigrants are

common and facilitators declare in legal briefs how friends got them involved in smuggling in an attempt to help them alleviate their financial difficulties.

That was the case of Victor Castillo. When the housing boom in Phoenix came to a halt, he was laid off from the construction company he had worked at for three years. According to his wife's statements, "he got into the human smuggling business through a friend; he knew we had the two kids and he said he would help"(Maricopa County v. Castillo, 2008). Castillo started working as part of his friend's group, and he was paid \$300 per week for "[taking] food and water to the people at the safe house; getting cars and renting rooms at hotels to keep the people moving." His wife would occasionally assist him taking messages and cashing wire payments.

Sandra Lopez's experience was similar to Castillo's. She was a 27-year-old mother of two who was employed as a cleaning crew member for a large janitorial firm. Her salary (\$5.25 an hour) was insufficient to help her provide for her children, one of whom had a medical condition but who due to her immigration status was ineligible to receive any kind of subsidized medical care. Lopez asked her employer to be moved to a graveyard shift so that she could keep her janitorial job while taking a second job delivering flyers during the daytime.

A coworker, concerned about her situation, volunteered to put her in touch with a smuggling group. Lopez was told she could house undocumented immigrants in transit in the apartment she shared with her daughters in exchange for some cash. According to case records, Lopez collaborated with the group allowing undocumented immigrants to spend the night at her apartment and was



paid \$50 per person per time. Lopez explained to investigators: “I let the migrants stay at the house because I felt sorry for them. I know firsthand the hardships people go through when they come to this country and have nothing” (Maricopa County v. Guiron 2006).

Court records also include the case of people like Jose Emilio. Emilio crossed the border through the desert “without the use of a guide or coyote, using the sun as a guide and walking for 3 days before catching a shuttle into Phoenix” (Maricopa County v. Medina Meraz 2009). Police reports state Emilio arrived at the Phoenix Rescue Mission where he “slept and bathed while he looked for work.” A couple of days later at a nearby convenience store Emilio ran into an old acquaintance from his first time in Phoenix. His friend occasionally collaborated in smuggling activities by driving groups. Emilio explained to his friend he had just come back to the US and was in need of a job, and so his friend invited him to move in with his family. For the next three days Emilio “stayed in the backyard, eating and sleeping in the car and only going into the house occasionally to use the restroom; he stayed outside out of respect for his friend, who had a wife and daughters.” (Maricopa County v. Medina-Meraz 2009). Emilio made some mechanical repairs to his friend’s car and he was paid a few hundred dollars in cash (\$400). Emilio’s friend had been identified by police to work as a driver, and during a nighttime operation, a SWAT team irrupted at his home, arresting Emilio and charging him with collaborating with a smuggling group, his money confiscated as evidence of his willingness to conspire with a smuggling

organization. The charges were ultimately dropped, but Emilio was eventually deported and the money was never returned to him.

While the majority of the people in this sample reported entering the smuggling business with the assistance of friends and family who were concerned with their wellbeing and ability to support themselves, not all introductions can be defined as friendly, supportive invitations from concerned relatives and acquaintances. The already precarious existence of many smuggling facilitators is many times further complicated by familial conflict and pressures. Some facilitators had to endure high levels of stress in order to maintain access to the smuggling activities which income helped them support their families.

Renato Serna, a 33-year-old US citizen became involved in smuggling in an attempt to avoid a family feud escalate. The investigation reports show Serna “and his wife [were] trying to move to get away from her family, because they [were] bad people.”(Maricopa County v. Serna 2005). Given his citizenship status he did not have a problem getting an ID which he used to cash money wires at a local store.

While Serna did benefit financially from his collaboration with his wife’s relatives (he was paid between \$50 and \$100 for each money wire that he cashed), he was frequently forced to jump in to solve financial disputes among family members who had a hard time keeping their accounts straight, and was growing weary of his participation, but feared his wife’s relatives could stop talking to her. Serna was portrayed in legal records as the financial mastermind of the organization, despite the fact that the only financial activity he was determined to

conduct was the cashing of money wires. He was sentenced to a 14 month prison term and probation.

Cecilia Ortiz's testimony also reflects the difficulties that emerge among family members working together as part of a smuggling operation. She became involved in smuggling activities when her uncle asked her husband, Manuel Cosio, a legal permanent resident, to help him cash money wires. Cosio earned \$50 for every money wire collected:

My uncle does not have a license so Manuel picks up money for him. My uncle then gives the money to the guys he works with, and once he gets paid he gives my husband some gas money for helping. But my husband [helps my uncle] because he does not want to cause family problems: we are poor, and we need to feed our children (Maricopa County v. Martinez-Castaneda 2008).

Among immigrant families with limited financial resources and with no social ties apart of their immediate relatives, potential ostracism is avoided at all costs. Ortiz and her husband lived with her aunt and uncle since the latter's involvement in smuggling allowed both families to afford the apartment they shared. In Ortiz's case, collaboration in smuggling was a strategy to ensure the wellbeing of her children. Both families pooled household and care giving resources. Many facilitators –particularly women– appeared to have lived in stressful conditions, having to withstand bouts of familial conflict.

### **Staffing-needs route**

Several testimonies described participation in smuggling as the result of a sudden or unexpected staffing need within the group in charge of their transportation. According to court statements, customers were approached by a smuggling coordinator or safe house staff member and asked to provide a specific service in exchange for a reduction of their smuggling costs.

At the beginning of my analysis, this “arrangement” seemed unlikely (why would facilitators want to split their potential profits with their own clients?) and in fact I initially believed the explanation amounted to nothing but a good line used by immigrants to minimize their role in smuggling activities. However, the frequency with which immigrants reported this collaboration across cases prompted me to explore its likelihood.

Given that the smuggling payments received by some facilitators depend on the number of migrants who are successfully transported, the more customers that can be transported at a single time, the higher the profit. The “hiring” of a paying customer to assist with driving tasks, for example, can potentially signify higher returns for all parties involved, as the number of people transported as part of a single operation increases. Furthermore, since a customer/potential driver is only given a discount on his or her fee, the other drivers are not entirely losing that one commission, but have the potential of multiplying their profits exponentially. From the perspective of the client, the discount translates into less debt (many immigrants acquire loans among friends or relatives to finance their travel) and/or the likelihood of having some extra money left. The commission-

based system in which many facilitators, but particularly drivers depend helps explain why so many immigrants in transit reported having been recruited during their journeys to provide driving assistance. Facing staffing shortages, large numbers of customers to transport, or the unavailability of specific resources (in this sample, vehicles or drivers), customers are given a chance to transition from service recipients into facilitators. While in this sample the majority of these cases involved men asked to provide driving services, many others reported having worked at safe houses cooking, cleaning or acting as guards.

Horacio Felix was taken to a drop house in Phoenix during his journey back into the US. He had agreed to pay \$2500 to be transported to his final destination in San Jose, California. One of the smuggling facilitators at the drop house Felix was staying at asked if anybody knew how to drive because the group was one driver short. Felix raised his hand and the group offered to reduce his fee by \$500 in exchange for his driving services. Felix agreed. Neither Felix nor the smugglers knew the drop house was under police surveillance. As the caravan of vehicles prepared to leave, law enforcement officers raided the house, arresting Felix and charging him with conspiracy to commit human smuggling (*Maricopa County v. Fausto 2007*).

Testimonies in this sample also include those of immigrants who unable to finance their travels or to come up with a smuggling fee reach out to smuggling groups to offer their services in exchange for transportation. That was the case of Audias Orozco, who was trying to find a way to travel to California but lacked the funds to cover the cost. He inquired about potential opportunities and the

smuggling facilitator who had assisted him during his crossing told him he could work at the safe house to pay off his fees, to which Orozco agreed. Orozco had been working for 15 days cooking and running errands at the time police raided the safe house (Maricopa County v. Orozco-Izazaga 2009: 8). Surveillance reports describe how Orozco would leave the house at least once a day only to return a while later pushing a supermarket cart carrying food for those staying at the house. The report suggests that the immigrants staying at the house were aware of Orozco's agreement with the smuggling facilitators. They consistently described Orozco as an immigrant himself ("He was one of us"), working off his fees in order to move in with his friends who lived in another state. While Orozco's actions were never violent, his participation in smuggling was constructed in police reports as a "threat to the Phoenix community" and his presentence recommendation called for "stiff penalties that send a message to smugglers out there that this kind of behavior will not be tolerated in Maricopa County" (Maricopa County v. Orozco Izazaga, 2009: presentence report).

A one-time collaboration can turn into an ongoing partnership between an immigrant and his or her smuggling facilitator. Sporadic contacts may evolve into long-term business relationships that are valued by migrants as occasional opportunities to supplement their incomes. During a visit to Phoenix, Martin Cruz received a call from a smuggling facilitator for whom he had worked three years back transporting a small group of immigrants. Cruz had become in contact with the facilitator during his first time crossing the border –he had been in charge of facilitating his journey. The facilitator asked Cruz if he was interested in driving

12 passengers back to Tennessee, where he now lived. Each one of the passengers would pay Cruz \$100 for his services. Cruz saw the opportunity to make some extra cash and accepted the offer (Maricopa County v. Cruz-Rosette 2009). He picked up his passengers at a busy intersection in a predominantly immigrant neighborhood in Phoenix and was on his way to Tennessee when he was pulled over by an officer conducting random plate checks during an anti-human smuggling operation.

Romantic relationships between customers and facilitators were also identified as entry paths into smuggling in this sample. Romantic involvement among providers in criminalized activities or underground markets has traditionally been characterized as exploitative of women, when not dismissed by scholars as a peripheral or even shallow incident.

Women tend to be described in the literature of underground economies in quasi pathological terms: as being in search of males who can provide protection; as escaping life-long sexual abuse or dysfunctional homes; or seeking to support a drug habit.<sup>7</sup> Yet, none of the women in this sample fitted that profile. The cases did instead reflect that in smuggling, men as well as women do engage in

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<sup>7</sup> In his renowned ethnography of street drug dealers Philip Bourgois describes romantic relationships among street drug dealers portraying women as vulnerable, prone to engage in dysfunctional relationships: “At age thirteen, fleeing an abusive father, Candy was faithfully following [her] traditional cultural scenario (...) Instead of being protected from her abusive father and guided into a new male dominated household, Candy faced the closed corporate inner-city street gang, and she was raped by the adolescent boys that Felix, her future husband, led. (...) Romantic love in a conjugal relationship enables a subordinated woman to assert her individual needs while at the same time binding her to the principle of a male-dominated nuclear household.” *In Search of Respect*. Massachusetts: Cambridge, 2003. p.219-223.

relationships (romantic or not) characterized by tremendous power differentials, where either party –male or female– tends to be in a more vulnerable situation than the other and may have to abide to the conditions imposed by the better situated part.

This was the case of a relationship between a smuggling facilitator and one of his female clients. The relationship was exploitative because the facilitator made her collaborate with the smuggling group without providing any kind of compensation for her services other than room or board, when the woman – a mother of four—was in need of a source of income in order to support her children.

The case of this female facilitator was unique and different from those involving women in the sample. The precariousness of her situation started by her lack of ties to a social network in her country of origin that could provide assistance or support. She had no formal education, was unable to read or write, and had no prior job experience. It is unclear how she was planning to cover her smuggling fees. While she collaborated with the group willingly, she was only allowed to leave the safe house in the company of men or under the supervision of one of the other men working at the safe house. When questioned about her involvement, the woman stated she “did not leave or got help because [she] was scared of getting lost in a city where [she] did not know anyone” (*Maricopa County v. Arriaga-Ortiz* 2009:1).

Court records accused the woman of “minimizing her criminal conduct.” In the court’s opinion there was evidence of her “willing[ness] to jeopardize



[other people's lives] for her own benefit.”(Maricopa County v. Arriaga Ortiz 2009:3). She was eventually sentenced to one year in jail, followed by a five year long probation term. She was, however, not allowed to complete her probationary term in the country because she was deported immediately following the completion of her incarceration term.

The past few examples demonstrate that human smuggling is essentially a business of social networking involving friends and family and dependent of occupational connections or social position (Zhang 2008: 30) . The flexibility of membership exemplified by the times when immigrants were invited to participate in smuggling operations is an important element of smuggling's elastic organizational structure. Involvement does not seem to be highly restricted. But while open, it is highly dependent of past experiences and interactions among individuals, of notions and perceptions of reliability and trust. On the long term, the availability of collaborations depends not merely on an individual's ability to deliver, but also of his or her commitment to ensure the protection of the other persons in the group. The cases previously discussed also reflect the vulnerability to which many of those who become involved in smuggling can be exposed to, and their likelihood to experience abuse. This suggests cases of conflict, victimization and abuse are not limited to the interaction between facilitators and their customers, but that can also emerge among facilitators themselves.

## **Motives and Context of Participation**

Zhang's (2008) and Spener's (2010) report *snakeheads* and *coyotes* participate in smuggling mostly as a way to improve their living conditions, and in response to financial need. Both authors would argue that involvement in the large majority of cases is a carefully calculated decision given its potential to provide relatively reasonable profits while facing relatively low risks.

In this sample, male and female facilitators identify additional motives for their participation in smuggling. In addition to improving their finances, smuggling is a path for social mobility and recognition, and not a mere economic strategy. For many others, participation in smuggling is a way to assist others improve their lives (many facilitators stated they were part of operations only because they wanted to help people). And so while some facilitators do recognize that financial motives played a role in their decision to participate in smuggling, the role of smuggling as an element of community formation and support must not be underestimated.

For those who joined smuggling operations due to financial need, the lack of employment options in the formal economy due to their immigration status was the reason most frequently cited for smuggling involvement. Isai Zuniga had not had a steady job for about a year by the time he became involved in human smuggling. He had managed to support himself by working occasionally as a landscaper and carpenter, but since he did not have a job permit his employment stability was compromised, if at all existent. A friend concerned about his financial situation referred him to his contacts in smuggling. Through his

participation, Zuniga was for the first time able to save some money. And so after conducting several trips for the group (he was working as a driver) he managed to save enough money to afford the security deposit for a house. His girlfriend, a US citizen, was pregnant with his first child and the family had for a long time needed a place to live:

I was a driver. I would pick up *indocumentados*<sup>8</sup> in Naco and then drive them to a house in Phoenix, but I didn't have anything [else] to do with them. I got paid \$150 per person I dropped off at the [safe] house. I did ten or fifteen trips for what I can remember, and then I got caught. [I participated in smuggling] because I needed money, I did not have a steady job and I am illegal. And my girlfriend was going to have a baby and she needed a place to stay. (Maricopa County v. Zuniga 2007: 2).

Despite being aware of the circumstances that limited Zuniga's ability to become gainfully employed, the presentence investigator working on his case characterized him as "an individual willing to risk the lives of others to meet his own needs, committing the [present] offenses (...) for pure financial greed."(Maricopa County v. Zuniga 2007: 3). The report does not make mention his efforts to provide housing for his growing family.

David Rojas also worked for a smuggling organization, but he joined because after several attempts to cross the border on his own he realized he lacked the knowhow only a guide could provide.

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<sup>8</sup> Undocumented immigrants.

In January I tried to come back from Mexico to Colorado, where I used to live. I was taken to a drop house and I was supposed to stay there until I could pay my fee, but after some days it was just evident that I had no [way of putting the money together], so I begged the coyotes to let me go and they did. I kept trying [to come back], but by then it was already March, and I hadn't had any luck at crossing. I was desperate. So this man saw me and approached me at the bus station in Naco and asked me if I wanted to make some money and get back into the States. [He said] I had to recruit other people for him at the bus station. I got him 30 people and I got paid \$200 for my work. Since he saw I was good at getting people the man asked me to work with him (Maricopa County v. Zuniga: 2007: 2-3).

The presentence report submitted to the court in Rojas' case emphasizes the criminal aspects of smuggling by characterizing his actions as those of "a trusted gang member chosen to recruit business, drive and guide illegal aliens across the border." These statements are not only examples of the court system's little understanding of smuggling operations by describing Rojas' actions as those of a gang member. They also fail to grasp the social meaning of his experience. A better understanding of smuggling operations would have shown the court Rojas' recruitment ability was respected and recognized by other facilitators in his group. He was a valued member of the organization because of his individual skills, and not because of the structure of the organization.

Court documents are correct at describing Rojas' activities as "integral [...] to [...] the operation's success," although the characterization of his actions

as “having a negative impact upon the community, since his participation was motivated by his need to financially further himself” is questionable. The evidence presented in court established Rojas worked for or collaborated with the human smuggling network over several months, but he was never paid more than \$200 per event, which is in line with what other guides reported as the average payment for their group-crossing services (an amount that also attests to smuggling’s low returns). Rojas was eventually found guilty of human smuggling and was sentenced to two and a half years in prison.

Alejandro Valadez, 35, had just recently entered the United States illegally. He had been fortunate to find a job at a construction site in Phoenix, and was excited about his future prospects in the country, but as other newcomers he was struggling financially. A man who also worked at the construction site befriended him and offered to put him in contact with his friends in smuggling, suggesting Valadez could probably make a few extra hundred dollars every month by driving groups:

I was working construction, and a coworker asked me if I wanted to make some extra cash. He said I would have to transport some people to New Mexico. I said yes. So this one weekend he picked me up and we drove to the drop house. They gave me the Expedition and the people you found me with. They gave me \$400 for gas and I was told I would get paid \$200 once I completed the trip” (Maricopa County v. Valadez-Rojas 2009).

Valadez was detained when the vehicle he was driving was stopped for allegedly speeding on the highway (he was driving at 60 in a 55 mile per hour zone). Valadez was sentenced to a 6 month probation term and deported.

Armando Jara's construction job had been another casualty in the collapse of the local housing market. After being laid off he had not been able to secure a job in months. During the 13 years he had lived in the country as an undocumented immigrant, he had been able to work in construction, and he had never come in contact with police, not even for a traffic violation. He was embarrassed to admit he was forced to apply for welfare so that he could feed his children who were US citizens and was receiving a few hundred dollars every month on food stamps, but that was not enough to support his family. An acquaintance asked him if he would be willing to drive a few migrants into Phoenix for money.

My partner and I were going to be paid \$3000 for driving the people into Phoenix. I did it because I had not had a job for over 8 months. I have five children, and my wife gets food stamps but that was not enough. I was just supposed to drive the four people into Phoenix and once we got there I was going to get a call and I was going to be told where to take them (Maricopa County v. Jara-Montelano 2009).

Jara was driving a jeep when a police officer began to follow him. When he saw the vehicle, Jara became nervous and sped away, driving into a gas station nearby from where his passengers jumped the vehicle and escaped. He stood by the jeep and waited for the officer to arrest him.

Jara was charged with human smuggling but was released to immigration authorities before his case was heard in court and was deported almost immediately. Since he was his family sole provider, he faced the decision of returning to the US to support his children or to stay in Mexico. He chose to come back to his family, but was arrested by the US Border Patrol as he re-entered the country illegally. His pending case for human smuggling was located, and Jara was sent to Maricopa County to face a judge. Jara spent 3 months in state custody while his case was heard in court and was sentenced to a 2 year probation term. However, he was also released to immigration authorities to face additional federal charges for illegal re-entry.<sup>9</sup>

Facilitators also explain their involvement in smuggling as fueled by their desire to help other immigrants like themselves. That is the case of men like Rafael Sanchez, who admitted to law enforcement officers his role as driver in a smuggling operation when stopped along a highway for a traffic violation. Just like other facilitators, Sanchez entered smuggling after he was unable to find any other form of employment for months. But he ultimately decided to become a driver as a way of paying back the favors others had done for him when he first crossed the border:

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<sup>9</sup> Following the INS immigration reform of 1996, an undocumented immigrant arrested while re-entering the country without proper documentation can be charged with illegal re-entry. However the practice of charging undocumented immigrants only became generalized during the Obama administration. Currently the majority of undocumented immigrants in federal detention in the US face illegal re-entry charges (Human Rights Watch 2009). By 2010 the exceedingly large number of cases pending for prosecution had caused a considerable caseload backup in immigration courts nationwide, and has forced ICE to review its illegal re-entry enforcement policies and procedures.

I know how tough the crossing is for a migrant and his family.

Everybody suffers. I was very fortunate, because when I crossed, I had a very good experience, and that was because good people helped me along the way: the *coyote*; the first person to give me a job, and the one who let me stay in his home while I got on my feet. That is why I decided to do this. I know I was getting paid but in a way I am just paying forward what others did for me. I just wanted to make people happy (Maricopa County v. Sanchez-Reyes 2009).

Celso Chavez also referred to his experience in smuggling as a way to assist others. His friend and codefendant, Abraham Aguilar, had six children in Florida and was having a hard time providing for them. Chavez, a landscaping laborer, was approached by an acquaintance and asked if he would transport 10 undocumented immigrants from Phoenix to Los Angeles for \$600. He thought this would be an opportunity to earn some money while also helping Aguilar, and against his wife's advice, he invited his friend to join him in the trip and split the profits. Chavez's goal was to help his friend and the migrants they transported:

I agreed to transport the people to California, but not just for the money.

They are travelers, we all are travelers, and they needed help to reach their destination. When I first came to the US as an illegal someone was kind enough to give me [a job] so that I could travel to California to work and support my family. I regret my actions – my wife told me this was risky, and she told me not to do it-- but I have always been law abiding, and I make an honest living. I clean up yards and I make about \$1500 per



month. That is how I support my family (Maricopa County v. Nazario-Chavez 2006).

While financial motivations are initially disclosed as the cause leading most smuggling facilitators to participate in smuggling, narratives consistently point at how community members help each other support their families and maintain a sense of dignity in poverty. The solidarity and cooperation that takes place among low income, working class immigrants are concepts that run counter to the anti-immigrant, vilifying discourse that dominates the treatment of migration and smuggling in our state.

At the same time this view of collaboration and mutual support must not be romanticized. If at all, the existence of underground economies among the poor reveal at many levels the desperate conditions they face – to the point that risky actions like the ones some facilitators conduct in smuggling are seen as the only option to secure one’s family’s subsistence. And yet as these narratives have shown, an individual’s participation in smuggling is primarily the result of sincere offers of help, and are demonstrations of solidarity that eventually allow for the survival of entire immigrant families and their children.

### **Self-Perception of Smuggling Activities**

When Zulema Martinez was questioned about her involvement in smuggling, she stated she “honestly believed” she was doing no wrong. For several months she worked assisting an unknown number of immigrants and their families by putting them in contact with a smuggling group who for a fee,

providing border crossing and transportation services. She also remarked during her interrogation that many of those she had assisted were her friends and relatives. “I paid so that I could bring some of them over. I paid so that my relatives could come. I don’t think I did anything wrong by doing that.”

The narratives in this sample suggest that those who were charged with smuggling don’t think of their activities as criminal (Zhang 2008: 35) and considered that their actions amount to much more than the provision of a service in exchange for financial compensation. For smuggling facilitators, their collaboration was also an opportunity to help others while improving their own social status. Feeling they could effectively help others also improved facilitators’ self-perception of their actions. A phone call transcript between two collaborating parties describes how a coordinator felt about his job:

I think I do something good for people. I help them come here, to be with their families, their children – like that little old couple, remember? We took them all the way to Chicago because they were going to their son’s wedding. We didn’t get them through the first try but they finally made it. And they were really appreciative. I think that’s [the importance of] what we do (Maricopa County v. Robaina 2006).

Smuggling plays a central role in the reunification of families who would otherwise face long physical separations as a result of immigration law. Through their actions, smuggling facilitators give families the opportunity to be together, which would otherwise be delayed or even denied by current immigration processes and legislation.

When after many years of not having seen her two daughters Liliana Sanchez and her husband decided to look for smuggling facilitators who could transport their children safely. However she was concerned about the possibility of her children being exposed to the abuses she had heard many immigrants experience. Her own border crossing experience had been difficult. While she didn't face violence, it took several weeks before she was finally able to cross the border- and she did not want for her children to go through anything similar. When through referrals Sanchez contacted a facilitator and expressed her concerns, he replied:

We are not irresponsible, *señora*. I can tell you for a fact we don't cross children through the desert. We would never do that. We can't expose kids to that. We are not that kind of people (Sanchez, L. 2009).

Sanchez was so convinced by the words of the coordinator that she immediately arranged for him to facilitate her children's journeys. A few days later both girls were with their parents in a suburb of Salt Lake City in Utah (

Some smuggling facilitators think of their actions as an opportunity to demonstrate what in business terms would be defined as examples of professionalism and good business ethics. Their constant contact with the public makes them skilled in the "art" of customer service. More than dealing with conflict or tensions, facilitators dedicate time to establish good relationships with their customers and fellow facilitators, tending to their needs, providing them with personal advice or emotional support, etc. On one occasion, Zulema Martinez recommended a caller to postpone his travel due to the high degree of surveillance

along the border, assuring him that waiting ensured a more expedited, uneventful crossing in the near future. Martinez informed the caller that she could recommend other smugglers to take him sooner if he decided not to wait to be crossed by her acquaintances. However, she emphasized the safety concerns and the level of difficulty in crossing at that time. The caller thanked her for her honesty and promised to call her back at a later date to schedule the journey.

Other facilitators spend a lot of time attending social events, and never forget to inquire about their customers' friends and families. While many of these actions can in fact lead to further business opportunities, they also play a fundamental function at increasing community ties, promoting solidarity and collaboration.

Zulema Martinez was well regarded not only by the Robainas, with whom she worked, but also by the immigrants she assisted. She had a reputation of being efficient and trustworthy. Her legal case file primarily includes several transcripts of conversations between her and people who called to inquire about crossing services. However, conversations involving requests for personal advice in troubled times are also abundant in the file. On one occasion Martinez interceded so that her niece in Nogales, Mexico, could employ a man desperately trying to enter the United States and who needed money to cover his smuggling fee:

In call number (...), Martinez speaks to unknown male, who explains his mother is sick and [he] needs to travel to Oregon, where he will be able to secure employment. Martinez quotes the ongoing price of \$2200 for full transportation. Unknown male replies he has been unable to complete the

fee and loses his composure. Martinez asks unknown male if he has any skills. He says he can do anything, but that most of his life he has worked in the fields. Martinez gives him the number to her niece in Nogales and tells him to call her. Martinez assures him her niece will be able to give him a job, so that he can save up and go to Oregon (Maricopa County v. Martinez Ponce 2007: affidavit, p. 27).

Being a well known coordinator also serves as a protection mechanism. In the event a smuggling facilitator or his or her network are detected by law enforcement the identity of the facilitator will be most likely to be protected by his or her customers and collaborators if they may feel obligated or in debt. There is also an implicit loyalty coming from undocumented immigrants who know of the importance of having access to a reliable smuggling facilitator in times of intense immigration enforcement.

Participation in smuggling is also seen by facilitators as part of their individual, personal projects. They see their participation in smuggling as a way to improve their own selves. Also, by working with their families, they see the business as the ideal platform to instill good values in the younger generations. They enjoy being valued for the quality and reliability of their services as well as for the interest they show in their customers' personal lives, and work hard to maintain that level of social recognition. They also take pride on launching the new careers in smuggling:

“Very good! Very good my son! Whatever you do is good! Thank you!”

[*Guero* hangs up the phone with *Honduras*; takes a deep breath. Addresses

unidentified male present in the room] No man, I'm telling you. That kid *Honduras* is good. We took him right from the street, just like that. He came to us asking for a job, doing anything, he said. We put him to mop the rooms, to bring food for people, to get my lunch. He never complained, he never said no. Not like those other lazy bastards. In only a few weeks he was already walking small groups. He has all my trust, you know? He earned it. He's not like others who just come to see what they can get out of you. He wanted a job, an opportunity. And I am glad I gave it to him (*Maricopa County v. Romero-Rivas 2007*).

Many facilitators take pride in their actions. But for many, in addition to not amounting to an actual criminal offense, their collaboration is not actually worthy of being considered as amounting to that of a smuggler. Many facilitators may fully acknowledge their participation, but they do not consider it professional, or elaborate enough to be considered an act of smuggling or *coyotaje*, and frequently fight (and lose) their cases in court.

This perception is not merely an attempt to minimize their participation, as the court system may interpret. Instead, the narratives point at how many facilitators (particularly those performing occasional duties or with limited experience) have not been exposed to the market for as long as others, and have yet to develop perceptions of their work as professional or having any kind of social value. Incipient participation and lack of increased socialization with other providers result in new facilitators' self-deprecation. It appears many of them – again, perhaps due to their limited experience in smuggling activities- were not

even aware of the role they played in the overall operation, given the degree of isolation they operated in.

Javier Torres was arrested when driving 8 undocumented immigrants into Phoenix. His statement to the court reads: “I am sorry for what I did; I did it because it seemed an easy way to make some money so I could send some [of it] home, but this is not what I dedicate myself to. I am not a *coyote*.” (Maricopa County v. Torres- Alvarado 2009: presentence report). His sister’s plea to the court also reflects her understanding of her brother’s participation in smuggling as peripheral, and criticizes the way the court has decided to penalize not only her brother, but his entire family through his conviction:

He has his 2 young children (4 and 8) and his wife who are waiting for him here with us. We know you found him guilty -guilty of what? Of looking out for his children because down here there is no work? Guilty for taking on the responsibility to drive that van so that he could use the money to support his children? It is not fair that my brother has to pay but only you know what his sentence should be because we cannot go to the Other Side where you are. He is desperate to [see] his kids and wife and what can he do if he is in there for no reason? (Maricopa County v. Torres-Alvarado 2009: letter of support).

Sandra Lopez’s father wrote a letter to the judge presiding her daughter’s case, explaining the circumstances that had led her to participate in smuggling while also trying to contextualize the dynamics of that participation:

I am writing to inform you that my daughter is a hard worker; she worked delivering lanskeepin (sic) flyers at homes; she worked doing [office] cleaning. She is a great mother to her two daughters. One of them is ill. Sandra does not live with her husband, she had to deal with [domestic] violence, and that is why she got involved in this. So I am asking for your understanding, and for her freedom, in my name, in hers, and in that of my granddaughters; if we come or are in this country it is because [here] there are laws, justice and safety and freedom (Maricopa County v. Lopez-Guiron 2006: Letter of support).

The court imposed significant financial penalties against Lopez citing “her apparent capability of securing employment despite her illegal status in this country” (Maricopa County v. Lopez-Guiron 2006: presentence report). By the time of her sentencing Lopez had completed 9 months in custody. She was sentenced to one-year probation term, but instead of being released, she was deported immediately following her sentencing hearing given her undocumented status. Her daughters stayed in the US in the custody of her father.

### **The Challenges of the Smuggling Market**

Smuggling facilitators work at developing social recognition and status within their communities and among the members of their networks. Their work, however, is not exempt of challenges or frustrations, and while the market of smuggling is not inherently violent, conflict can arise among facilitators. Failed accounting methods, law enforcement pressures, detection, and the everyday



stresses of family life impact a facilitator's ability to collaborate effectively other facilitators.

### **Family Interactions and Conflict**

Reports of competition among smuggling groups were virtually non-existent in the sample. Conflicts, when present, seem to take place to the inside of a group or network of facilitators and are typically solved internally (primarily to avoid unwanted attention from outsiders – including the police). Conflicts in smuggling arise primarily as a result of the everyday interactions among facilitators, many of whom are also family members. In that sense, arguments are common among people who maintain not only business but also personal ties.

The majority of references to conflict in this sample involve family disagreements over how to run the business; failed romantic relationships among facilitators; arguments between parents and their children, siblings, or couples. Despite the prevalence of familial conflict, most smuggling facilitators are able to maintain their collaboration in smuggling without much distraction or delays. That does not mean these events don't cause frustration, as the following testimony from a smuggling facilitator suggests:

Oh let me tell you... I brought my brother over because back home he had nothing to do; he was not going to school, he did not even have a girlfriend and he would tell my mom that "he was bored." "I'm bored, I'm bored, I'm bored." It was freaking ridiculous. And so we thought: well, if the jackass is so bored, bring him over! Let's teach him who worked so

that he could buy those shoes he wears! And so we got him across and all the way here into [Phoenix]. And what did he do? Nothing. We would talk to him, bring him along to follow loads, tell him about the importance of talking to people straight, of treating customers well, of not letting them down, of being good to people, of always delivering. Because that is how we are: what you see is what you get, you know. And what did he do? Nothing. This new generation takes everything for granted, and they want to come and then take over a business it has taken you years to build. So we just sent him back. He can be bored down there the same way he was here (Anonymous informant A, 2008).

### **Financial Mishaps**

Disagreements also arise from failed financial deals. Some facilitators are not quite skilled at performing mathematical calculations, and reports of losses due to faulty accounting are common. However, despite the large amounts of cash that are handled, only one report of mishandling of funds by facilitators appeared in the sample.

There is an expectation that payments for services provided will be handled timely and responsibly, and that the coordinators will do their jobs at ensuring everybody is paid. However payments do get delayed frequently, leading to anger, discontent and even threats of no further collaboration. These conflicts are usually temporary and never impact operations on the long term. Even when serious disagreements or losses take place, facilitators get over their differences,

continue collaborating with each other, and reach out to fellow facilitators in time of need. Some relationships may be damaged, but people seem to work out their issues:

Well, my husband used to work for Jose Luis. But they got into this fight because my husband– my ex, really– had some money that he was supposed to send back to the people in Mexico, and instead he went and spent it all at the casino. Jose Luis was pissed, he was so mad... and so they stopped talking to each other. Jose Luis had to pay the money out of his own pocket. But they still talk to each other because they have known each other for years (Lopez, 2010).

Smuggling facilitators are concerned with the hardships that come from dealing with customers and other smugglers who may not hold to their same work principles, and who cause unnecessary tensions to both operations and operators. These frustrations are evident in an exchange between a local coordinator and his assistant:

We lost people. We got in trouble just last week because some people escaped from a house and we had not collected their fees. Nobody knew where they went and we [got into an argument] with the guys. That is not good. And then business was slow because of all the security going on along the border. No my friend... Sometimes I really feel taken advantage of, because we do this in good faith, you know. We wait for payment, we work out payment plans, we work with people. I am a good person. That is why others take advantage of you, when you are nice. But after what

happened this last time, no more Mr. Nice! I am not taking any more [clients] without references. No way. Sometimes I wish I had not left my job at the restaurant, you know? Sixteen dollars an hour, and head home by the end of your shift. (Maricopa County v. Robaina, 2007).

## **Competition**

Competition did not seem to be a concern among the individuals and groups whose cases were analyzed. Since most facilitators worked independently, they do not seem to have exclusive ties to a single group, but instead collaborate with other individual providers like themselves. When a specific facilitator is unable to assist, the business is referred to another facilitator who may be available at the time. In return, the other facilitator may pay back with a future referral, or by sharing resources like drivers, walkers, money carriers, vehicles, etc. This collaboration enhances the safety of all facilitators, as they are likely to share information and intelligence to protect their interests.

Despite perceptions of the contrary, smuggling is not inherently violent. Due to smuggling's need to remain undetected, smuggling facilitators, like other individuals who perform criminalized activities, do their best at avoiding authorities' attention. Only one reference of competition-based antagonism among organizations was identified as part of data collection efforts in this sample. This case involved two groups providing border crossing services in the town of Nogales, on the Mexican side of the border. The incident involved a *bajón*, a term used to describe the "stealing" of a customer by another group. In

this case two young men, who had initially agreed to use the services of the group coordinated by Javier *Guero* Tapia, were approached in the street by a recruiter from another group. The recruiter suggested Tapia's group was ineffective and invited the men to opt for his services instead. The men who had grown weary of waiting for several days to cross the border went back to Tapia and thanked him for his services, and moved into the other group's safe house.

Maria "N" – Tapia's assistant– had witnessed the encounter between the recruiter and the two men from afar and called the recruiter over the phone, warning him about the dangers and the consequences of stealing other groups' people. "You bunch of idiots won't even know what hit you, so just watch out!" While the record shows Tapia and Maria were upset over the loss, there was no evidence of retaliation on the part of either group (Anonymous informant B, 2009).

Despite incidents like this, threats between human smuggling facilitators appear to be relatively uncommon, mostly due to the cooperative, non-hierarchical nature of smuggling activities and the community based nature of the activity, which depends on the maintenance of social ties. Good interactions among neighbors allow a smuggling participant to ask for permission to house immigrants in transit for a night in exchange for a couple hundred dollars; a mechanic can conduct an after-hours, unexpected car repair and wait on payment for a few days. Conflict among members is also infrequent as facilitators pose no threat of competition due to the specialized nature of smuggling tasks.

### **Limited Financial Profits**

The cases analyzed show that individuals involved in smuggling were not able to save money consistently, and that their profits never translated in economic upward mobility. Profits from an individual's participation in human smuggling tend to be almost immediately re-circulated into the local economy. The relatively small returns smuggling generates were destined to cover rent, car repairs, food, medical bills, previously acquired debt, etc. In one case a \$200 payment was used to cover the graduation expenses from a child graduating for high school (*Maricopa County v. Martinez Ponce 2007: motion, aggravated circumstances*). Most smuggling activities surveyed in this sample generated returns in the range of \$50 to \$200 dollars to those who performed them. Considering smuggling activities are not characterized for its continuity or stability, participants cannot count on this income as regular, and so they are forced to rely on additional forms of employment.

While returns may be low, participation in the transit of undocumented immigrants is seen within migrant communities as a benign, valuable service provided on *behalf of* the facilitator's own ethnic group, and those who deliver with efficacy and promptitude are most likely rewarded with continuous requests for additional transit services from grateful, discrete and –most importantly- prompt paying customers. And while returns are not necessarily constant or easy to come by, facilitators gain social status within their communities.

## **Leaving Smuggling**

Since the careers of smuggling facilitators in this sample were all brought to a halt – at least temporarily-- as a result of their arrests, little is known about the specific stresses that would force a smuggling facilitator to quit the business, or about facilitators' transition from smuggling into other occupations.

Most facilitators are aware of the sporadic nature of smuggling. In the narratives operations are never described as a permanent, single long-term occupation although this may be a reflection of the size of the sample. People thought of smuggling as a temporary side job, a task that was performed only until something better (a higher paying job for example) could come up. References to “careers” in smuggling (that is, spanning over months or even years) are almost inexistent in the sample; these are basically restricted to coordinators, who have managed to create a strong community presence and who hold in addition to their participation positions that facilitate their contact with would-be migrants and their relatives and families. Most facilitators had only collaborated with their groups occasionally (in fact, for the majority of the facilitators who worked at safe houses and for the drivers recruited among customers, the one experience leading to their arrest constituted their whole extent of their involvement in smuggling). Few facilitators reported having been involved in smuggling for long periods of time. (This was most likely because many were immigrants who had only recently entered the country, and who unlike coordinators lacked well developed social ties in their new home).

The range of expertise in smuggling among the facilitators in this sample ranged from having no prior experience (as in the case of undocumented immigrants requested by smugglers to perform driving or housekeeping activities), to occasional participation (as in the case of some repeat drivers), to constant involvement over a span of several years (particularly among the men and women who conducted financial operations and recruitment, or who held a coordination-like role within the group). Still, the size of the sample does not allow affirmative conclusions about the length of an individual's career in smuggling.

The arrest and conviction of individuals detained in the context of smuggling operations should not be interpreted as a definite end of their participation in the business, as some facilitators reported that they continued participating in smuggling activities despite negative experiences (encounters with law enforcement; detention and even prior smuggling convictions, etc.) Additional research is needed to examine smugglers' experiences following their convictions and the impact of incarceration on smuggling recidivism. Due to their lack of employment eligibility, smuggling facilitators post-conviction most likely re-enter the underground economy performing low paying jobs, or making use of the skills acquired in their participation in smuggling to incorporate into a new network in a different location. This conclusion is merely conjectural since the sample provides no follow up data on employment post-incarceration or conviction for the large majority of smuggling facilitators. Future research needs



to follow the careers of those previously charged with the commission of a crime to understand their post-conviction career choices.

### **Conclusions**

The cases in this sample reveal that smuggling constitutes, more than an economic or security threat, a survival mechanism for the poor that has been criminalized by the state. The forms in which the men and women in this sample organize, support, and even enter into conflict with one another suggest that far from being a criminal enterprise, smuggling is an economic activity like any other, however facing unique risks and challenges. Smuggling organizations are made up by loosely affiliated individuals whose collaborations are characterized by the provision of specialized tasks, for reasons other than financial. For many facilitators, their participation was their way of paying back the favors other had done onto them during their own migratory journeys; for many others, it was a way to gain social status and recognition, which in their view was much more important than generating or accumulating wealth. The constant references to smuggling as a favor done in behalf of others is further evidence of the market's community-based nature, and raises questions about the implication of the law enforcement activities carried out to dismantle operations.

Smuggling operations are skillfully used by the media and the government to criminalize not only an activity, but the population who facilitates it. And so characterizations of smuggling as an exploitative or violent market frequently mobilize representations of men and women abusing others like themselves,

holding them against their will at safe houses, perpetrating isolated incidents of violence, and putting them at risk during high speed chases. And yet, aside from these graphic images, we know little about the actual experiences faced by undocumented immigrants in their interactions with smuggling facilitators as customers. Contrary to the media representations, the majority of migratory journeys are safe and uneventful, with customers experience little or no violence at all – although their travels take place under precarious and many times dangerous circumstances. The following chapter takes a closer look at the interactions between undocumented immigrants and those in charge of their journeys to understand the complexity and the wide range of social relations that take place amid border transit agreements.

## Chapter 3

### **SMUGGLING AS A SOCIAL PROJECT**

Journalists and researchers alike have written about the dramatic events many migrants are unfortunate to experience during their journeys. These graphic accounts describe with terrifying, quasi morbid detail the violence immigrants endure at the hands of their victimizers. Despite the multiple initiators of this violence (robbers, gangs, border vigilantes and law enforcement officers) the depictions of robberies, assaults, abandonment, rapes, shootings and death have primarily focused on the actions of smuggling facilitators, who are consistently characterized as the most ruthless, violent and predatory of all the border criminals.

Despite its fundamental importance in exposing the dramatism of the undocumented immigrant experience, much of this literature raises concerns because it promotes a vilified characterization of Latinos (particularly the undocumented), reinscribing representations of smuggling facilitators as predatory and violent. These portrayals of smuggling facilitators as heinous have in turn been used by the state to justify the use of extreme force against Latino and immigrant communities, particularly through increased policing and surveillance (See Rubio Goldsmith et al 2009).

While many scholars have shown an honest concern to expose the humanitarian crisis on the border, the emphasis on narrating the most extreme cases of smuggling related violence masks the very complexity of the immigrant experience. Migrant journeys across the border are reduced to a single violent act

(the crimes of some smuggling facilitators) while absolving the state from its role in creating the circumstances for the emergence and spreading of acts of this nature. Furthermore, in many occasions the focus on violence alone obscures the efforts of immigrants and their families to resist and counteract the incidences of risk and danger they encounter not only during their journeys, but throughout the course of their everyday lives in the hostile environment of their “host” country.

By focusing on victimization, the mainstream discourse of smuggling related violence also tends to portray undocumented immigrants in transit as gullible, infantile, easy to trick and coerce, and most troubling, in need of the protection and guidance that only more “qualified” and “able” –White- bodies can provide. Ironically, and not by coincidence, this call for protection has taken place within the context of extreme immigration controls which have only strengthened anti-immigrant sentiments and xenophobic acts (Kempadoo 2005: xvii).

By reducing immigrants to the level of victims in need of protection, the state and media discourses further mask the structural conditions in which immigration-related violence occurs: tighter border controls; stricter immigration regulations; increased militarization; an ever growing prison industrial complex and the persisting criminalization of immigrants, minorities and people of color. And so while human smuggling operations may be constantly dismantled by law enforcement and dozens of undocumented immigrants conveniently “rescued,” the overall conditions faced by the latter and which contribute to their ongoing victimization and vulnerability remain virtually unchanged.

While in Arizona undocumented immigrants in transit are conveniently portrayed as victims of human smugglers, Latino residents in the state, regardless of their immigration status, have been historically the targets of extreme levels of surveillance and criminalization at the hands of the state – the most recent example being SB1070, which authorized local law enforcement officers to enforce immigration laws on the basis of systematic profiling. And so while on one hand they are portrayed as the hopeless victims of highly racialized, transnational criminal organizations, on the other immigrants have been forced to endure enforcement initiated employment site raids, mass round ups, deportations, and other state practices aimed to terrorize and intimidate their families and particularly their children.

By focusing not on the graphic events favored in the literature, media and state discourses alone but instead on recognizing the wide range of social interactions that take place between immigrants and those who aid them in their journeys, the characterization of smuggling as inherently violent or exploitative becomes only one potential aspect of a much more complex experience. And by privileging immigrants' accounts of their experiences with smuggling facilitators, the role both parties play as agents of their personal interests emerges. Thinking of immigrants in transit in terms that do not merely highlight their degree of victimization allows for new understandings of their experiences in smuggling. They become the intelligent, active, participatory and discerning individuals who operate within the structural limitations imposed by the clandestine nature of their journeys. They are also capable of negotiating the conditions of their journeys and

of exerting whatever controls they may have available to reduce the risks and the disparities that may develop as part of their interactions with their smuggling facilitators and even fellow travelers.

The narratives in this project reveal that undocumented immigrants in transit are well informed customers with the power to make decisions, decline offers, resist aggressions, self-organize, look after each other and even take charge of segments of their own journeys. All of these actions challenge the paternalistic discourse of the state that portrays immigrants as the brainwashed, infantile third-world victims in need of rescue. Data also provide important insights into the nature of the relationship between facilitators and their customers, and on the way customers think of their facilitators, most of the times in ways other than criminal.

What are the roles undocumented immigrants play in smuggling, and what are the dynamics of their interactions with their facilitators? How do immigrants describe their own experiences in smuggling, and what does that tell us about the smuggling market? This chapter examines the series of processes that allow for immigrants' travel and the way migrants interact with their facilitators during their travels. This emphasis on immigrants as agents of their journeys is significant because migration in the experiences of the men and women in this sample was part of their personal processes of identity formation . But it also showcases the role communities plays in facilitating immigrants' journeys through the sharing of resources, social ties and information, transforming undocumented migration from a crime into a community's project.

The first section of this chapter reflects on the role of community in the decision to migrate, followed by a description of the logistical elements surrounding such decision, as described in the narratives of migrants in transit. It also delves into the bonding and solidarity that emerges among immigrants and facilitators during their journeys, and on the challenges they face together as a group, and reflects on these acts to introduce a discussion of the role of violence in smuggling.

### **Smuggling as a Community Project**

Contrary to the belief that migrants embark on their journeys blinded by nothing more than financial need, migrants' journeys are careful, well planned and most importantly, social projects. Most immigrants in this sample secured smuggling services through their personal networks, seeking referrals from friends and family in their places of origin or among relatives and acquaintances already residing at their desired destination, as the case of Salvador Benitez illustrates:

I remember... I remember that year because it was when my wife Guadalupe got sick of that thing in her liver. We made no money with the peaches, and we had no corn, no wood for the hearth, nothing. We already had the five girls. My Eugenio had just turned 12 and he asked: "What should we do, dad?" I think I got the courage out of my desperation. I told Eugenio to put his hat on and we left for "El Rincón" to go see his godfather, who was in town from California and who back then used to

put together groups of people to bring them to the *Other Side*.<sup>10</sup> When we got there to see him, I didn't know how to tell my *compadre*<sup>11</sup> I had no money to pay him with. And what did he do? *He did us a favor. He crossed us over without charging us a dime.* He took both Eugenio and I, just because. He crossed us through the mountains. When we got to the Other Side I shook his hand and I promised him I would pay him one day. A few months later, once Eugenio and I had good jobs with this company taking out the trash from hospitals, I began to pay my *compadre* back. And that was Eugenio's first trip to California (Benitez S., 2009).

Salvador Benitez's situation was complicated. A well-seasoned migrant who had traveled to the US on multiple occasions, he had just recently experienced a serious family health crisis which had depleted his scarce savings, leaving him with no additional resources to finance a new journey. Aware that his family's survival depended on his ability to return to the US, he reached out to a close family friend – his son's godfather- who happened to be a coyote from the time when one-men operations were a common (and viable) practice in smuggling. The man did not hesitate to offer his services and a few days later Benitez and his son were working in Los Angeles.

The obligations emerging from the acceptance of co-parenthood (the tie that existed between Benitez and his son's godfather) are pivotal social ties. They are perceived as carrying stronger social implications than those outlined by any

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<sup>10</sup> Euphemism for the United States.

<sup>11</sup> Co-parent. Eugenio's godfather.



law, and establish socially- enforced responsibilities among the individuals who share them to provide protection for child(ren) in the event of a parent(s)' absence.<sup>12</sup> Among many rural, indigenous and migrant communities, godparents are also expected to participate in the upbringing and development of a child. The responsibilities emerging from a godparent/godchild relationship also establish a commitment to the child's wellbeing, regardless of his or her age.

Therefore, securing opportunities for economic or social development is part of the obligations assumed by godparents at the time of a child's birth. Elements of this commitment are present in the case of the Gonzalez-Tagal siblings, whose godmother extended an offer to have them join her in Chicago to improve the quality of their lives:

Lorena said she crossed the border approximately ten days ago with her brothers Crisóforo, William and [their] friend Laurencio. She further stated that her godmother Luisa in Chicago made the agreement on their behalf to be smuggled into the United States. Lorena was traveling to

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<sup>12</sup> Denise Segura and Jennifer Pierce expand on *compadrazgo*, the tie between unrelated individuals known as fictive kin in anthropology: Latino families "are more likely to be from the working class, to have higher fertility rates, to value *familism* –family solidarity- and *compadrazgo* –extended family ties. *Compadrazgo* which is devalued by the dominant culture's emphasis on individualism" (...) create connections between families." (...) "godparents enter into special religious, social and economic relationships with the godchild as well as the parents of the child. They act as co-parents providing emotional and financial support when needed. As *compadres*, [godparents] are expected to become the closest friends of the parents and members of the extended family." "Chicano/a Family Structure and Gender Personality: Chodorow, Familism and Psychoanalytic Sociology Revised." In Karen v. Hansen and Anita Garey, eds. *Families in the US: Kinship and Domestic Politics*. Philadelphia: Temple University Press, 1998. p. 296-308.

Chicago so that she could work to support her three daughters who stayed with her mother back in Loma Bonita, Oaxaca. Lorena did not know how much the agreement was for, but indicated that she would have to repay Luisa once she found work in Chicago (Maricopa County v. Gomez Lopez 2007: Lorena Gonzalez-Tagal).

Crisoforo said that his godmother Luisa who lives in Chicago had made an agreement, specifically for Chicago, for \$2300. Crisoforo stated that he has already paid Luisa an advancement of approximately \$1150 and that he promised to pay the rest once he found employment.” Maricopa County v. Gomez Lopez 2007: Crisoforo Gonzalez-Tagal)

Laurencio indicated that Luisa had made the arrangements with this individual to meet them in Agua Prieta for the sole purpose of helping them cross. They were apprehended by Border Patrol on their first attempt to cross the border (...) [but] they crossed again approximately eight to nine days ago through the desert. (Maricopa County v. Gomez Lopez 2007: Laurencio Rodriguez-Hernandez).

The three Gonzalez-Tagal siblings and their friend Laurencio were arrested by the Maricopa County Sheriff’s Office in July of 2007, when the truck they were riding was stopped for having expired license plate tags. They pleaded guilty to one county of solicitation to commit human smuggling, were sentenced to probation after spending 94 days in jail, and were immediately deported after the completion of their incarceration term.

Media frequently reports on migrants being tricked or coerced into traveling with obscure, violent and unscrupulous smugglers. However migrants, particularly those who live in communities with a long tradition of US bound migration, may actually count a smuggler facilitator among their own close friends or family who assumes direct responsibility for their travels. These pre-existing social ties among smuggling facilitators and their customers help prevent or at least minimize the incidence of abuses or scams. But even when a connection exists, the process of selecting a facilitator will most likely still involve meetings, requests for references, interviews with other potential facilitators, etc. Migrants and their families ask questions about reliability, success rate, logistics and support and make their decision based on the information they have available at the time of the journey as well as on their perception of the smuggling facilitator's or group's character. Despite their many limitations, immigrants are able to exert a certain degree of control over their journeys by having access and compiling all of this information from within their social networks. The following account attests to these processes:

We did our homework. We had been told about a guy in Nogales, and we went to see him but I don't know, we just didn't get a good vibe from him, you know what I mean? He just went on and on telling us how good he was, and that he would take us across in no time and things like that. So we just said thank you and went on to talk to another one. This other one

took us, but not without telling us first there was a lot of *migras*<sup>13</sup> working the border and that most likely it would take us several days before we could make it across. And he wasn't lying, that was exactly the way it was: we walked for days; we got caught eight times before making it. But we were glad we crossed with him. Besides, we would have never put ourselves in harm's way. We have family to go back to (Sanchez, A. 2008).

Annabella Sanchez was an immigrant from a small town in Puebla, Mexico. She travelled to the US in 2006 in the company of her younger brother, Tomas (at that time a 14 year old minor) and her husband. The smuggling facilitator she first contacted was recommended by her father – he had been the guide who had crossed him a few years back. However Annabella did not trust him. The overconfidence he displayed during their initial meeting made her wonder if he would actually protect her during the journey, and despite having his father's reference, she decided to look for another provider.

This was Annabella's first time away from home. She had a 6<sup>th</sup> grade education and had been employed for several years as a domestic cleaning homes for upper middle class families in Mexico. The job had taught her to deal with the paternalistic yet abusive personality of many of her employers. Through the years she had developed exceptional negotiation skills – she had gradually learned how

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<sup>13</sup> Immigration enforcement officers.

to deal with difficult clients, as well as the benefits of working independently.<sup>14</sup>

Annabella was also a keen reader of character. Sadly, the fear of violence in Mexico had led to the relocation and eventual loss of many of her clients who were able to leave the country and her income was no longer sufficient to cover her needs. Annabella and her husband decided then to migrate to the United States, where her father worked as a chef's aide.

Annabella did not base her decision to hire a specific smuggling facilitator only on the information she received from her father. Instead, she contracted the services of the one person who was able to provide her the kind of information she wanted, someone who was able to answer her questions and who honestly discussed the potential challenges they would face during the crossing. Annabella, her husband and Tomas eventually joined her father in Utah, and the family still relies on this facilitator for their crossings needs.

Another common assumption of smuggling journeys is that migrants are forcefully recruited by criminals who smuggle them (van Liempt and Doornik, 2006: 165). In this sample, immigrants reported being recruited by their own relatives, who worked as recruiters, coordinators or guides, either independently or in a closer association with a smuggling group, but with no criminal intentions. Immigrant men or women who are already established in the destination county

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<sup>14</sup> Romero describes on her research on domestic workers: "Domestics never passively accept the working conditions established by employers: they develop proactive strategies as well as techniques of resistance to burdensome working conditions and social relationships." (...) only by gaining a measure of control can the employees restructure the work to eliminate demeaning and degrading practices." *Maid in the U.S.A.* New York: Routledge 1992. p.135-136.

work to supplement their incomes by recruiting potential migrants in their own hometowns, extending invitations to their friends and family members to relocate, providing access to financing, particularly in the cases when money is scarce, or making offers to share information about potential employers in search of workers once the migrant has arrived. Potential customers are likely to trust those who extend the offer as they are connected by social or kinship ties. The existence of these relationships also reduce customers' risk as facilitators are perceived as being less likely to subject friends or family to abuses of fraud. And so contrary to the characterization of smuggling as an activity performed by transnational organized crime groups, migrant journeys take place largely under the watch of close relatives and friends:

While in his hometown of Puebla, Mexico, Adolfo stated that he had made arrangements with a friend of his named Cesar to help him enter the United States illegally. Adolfo stated that this friend Cesar new (sic) of a man that could help him [Adolfo] cross over into the United States for a fee of \$2500. Adolfo stated that he and his friend Cesar came to an agreement that once Adolfo found employment in the United States he would pay Cesar back the \$2500 for the coyote. Adolfo stated once the agreement was in place his friend Cesar made all the arrangements for him to be crossed. (...) Adolfo stated once he had arrived to either California or Oregon he would start to send payments back to his friend Cesar as agreed [since by then he would] have a job.”(Maricopa County v. Diaz-Cisneros 2007).

Given that the majority of the smuggling agreements in this sample took place within a traveler's immediate networks, the likelihood for strangers (or people with whom a prior relationship had not been built) to be part of such agreements and who could take advantage of the immigrants in transit is low. Immigrants and their families reduce their risks by primarily dealing locally and only with people familiar to them.

Data present in this sample's cases show that trust is a key determinant of an individual's decision to hire a specific smuggling facilitator. But such trust, in order to be effective, has to be mutual. A facilitator will only work with customers who are trusted. While a customer may want to travel with a specific facilitator on the basis of recommendations, the facilitator can accept or decline the solicitation at his or her discretion. A potential customer must demonstrate he or she is a good candidate for travel and that he or she will pose no risks to the facilitators who are in charge of his or her transit.

Some facilitators also conduct their own research in advance to determine if the transportation of a specific customer should be undertaken or not. Factors considered by a facilitator in preparation for the transportation of a customer include the facilitator's prior interactions and/or personal contact with the potential client; a customer's demonstrated ability to make payments or access to resources to cover smuggling-related expenses; the health or physical condition of a client, etc. Facilitators determine the degree of risk a specific client's transportation will entail and decide to commit to his or her transportation based on that determination. Some facilitators only work on a referral basis and do not

accept customers unknown to them or to their network as a way to further minimize risks. Other facilitators may agree to assist in the smuggling of a migrant but with certain conditions – they may demand that the client is healthy before embarking on the journey or at least physically able to walk the many times long distances involved in the trek through the desert, for example.<sup>15</sup>

This selection method does not only protect the facilitator: it may actually prevent the clients from finding themselves in a situation of extreme danger from which the facilitator cannot protect them. Some facilitators may refuse to accept a client that is sick or too weak to endure the journey, citing these concerns. Facilitators also take these precautions knowing the impact transporting a sick or injured immigrant may have upon the rest of the group (delays, customer demands, likelihood of detection by law enforcement, additional resources, etc.) and therefore try to include only men and women with no visible physical limitations or whose physical health will not hold the group back during the journey.

This process of customer screening and selection has also created a sub-market for the provision of specialized services for unique or difficult cases. Some facilitators have made their niche by providing specialized services to customers who can afford them. These services may include the provision of medical care and monitoring, the use of tunnels for expedited transportation,

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<sup>15</sup> Migrants interviewed during a separate project reported having been told to “train” in anticipation of their journeys by carrying gallons of water for resistance or walking a few miles everyday to develop endurance as instructed by their recruiters.



crossings involving the use of authentic documents under false identities and other mechanisms that can accelerate the transit of immigrants or reduce the potential physical risks involved with their journeys:

-Can I send you one [customer]?

-Sure, we'll take her. How far is she?

-She is seven months [pregnant], but you know we can't take her. If it was earlier [in her pregnancy], maybe, but this way... no... can you imagine if anything happened to her or to the baby? I can't risk two lives like this. I couldn't deal with the guilt if anything happened to them, no way.

-Oh no, no, of course. Tell your client his wife will be very comfortable. And that I only work on a referral basis, you know that. Tell him people seek me out because they know I am good at this. And I am not out to get their money. Some *coyotes* do that – not me. What I can tell him is that with me, she will not suffer.

- How much will she have to walk?

- She will only have to walk a few steps from [our] house on this side [of the border] to the one [we own] on the other. About 90 meters or so. And then [the passengers] get in an air conditioned van, and the nurse checks on them. Not too long ago we had another woman like her, poor thing, her feet would get all swollen! But in 5 hours she was in Mesa with her husband. It is more expensive than what you do, but we always treat [customers] right, and we make people very happy. Tell your client his

wife will get across fast, and that she won't have to walk much or anything. I guarantee my work because I know people depend on me.

- So what do I tell the husband?

- (Laughing) That she will get there before he does! (Maricopa County v. Robaina 2006: call XXXXX).

These specialized services do tend to cost more than traditional journeys, and may have a severe impact in the economies of those who seek them. Some researchers have concluded that those immigrants who are able to afford pricier services are able to do so given their socio economic status, calling in a sense for the inclusion of class in the study of smuggling practices— Van Hear, for example, has stated that it is class what determines the degree of control an immigrant is able to exert over the conditions of his or her journey (2004). Like Van Hear, Koser, in his study of smuggling from Pakistan (2008) notes that the quality of smuggling services –and in a sense the ability of an immigrant or his or her network to avoid or reduce risk- is ultimately determined by a customer's purchasing power.

The evidence present in this study's narratives suggests, however, that in addition to financial resources, community relationships and contacts (e.g. social capital) play an even more important role in a customer's ability to reduce of risk. Even families with limited financial resources perform research in advance to solicit services and may start to save in anticipation for the travel of a loved one, even if their financial situation is precarious. And so it was not class, but the ability to secure access to a reliable facilitator what reduces risks and challenges. Immigrants who hired a smuggling facilitator through their contacts were

considerably less likely to find themselves in a situation of danger (kidnappings, extortion, rape, threats or other violent acts). The level of protection and safety a migrant can expect during his or her journey seems to be correlated to the role his or her personal network played in the negotiation of the verbal contract regulating that journey. The safest journeys (that is, the ones involving fast transportation and crossings, with short or less strenuous treks and therefore less likely to be detected by law enforcement) involved a referral-based agreement. In fact, some immigrants and smuggling facilitators report having traveled under what could be considered exceptional conditions without having to pay additional fees or higher prices. Migrants report having been fortunate to walk only for very short distances or not having walked at all; being transported in brand new, fully equipped and comfortable vehicles; having access to clean, serviced living quarters; been given sufficient meals and opportunities to rest and relax, etc. Some scholars' emphasis on the most dramatic of migrant journeys leaves no room to envision the times when migrants' journeys are completely uneventful –which considering the reliance undocumented immigrants have on facilitators, may actually be quite common:

David said at the house he was treated well. He was allowed to sleep on the couch in the living room. He said he was given clean clothes. David said he was free to leave the house and had in fact gone outside a few times to get wet with the hose to cool off. David said there were no guards and that he had not been threatened. David said food had been left in the house for him and the other people in the house to eat. David appeared to

be in good condition and was clean. He had a blue t-shirt and black, warm pants on. He also was wearing gray boots (Maricopa County v. De Jesus 2009).

The reference to the boots in this account is one of the most compelling pieces of evidence of the treatment migrants receive by their facilitators. David was wearing a kind of shoe that indicated he most likely did not have to walk or endure the desert elements. He showed no signs of having been exposed to the local weather, and there were no indications suggesting he had been abused or mistreated. Most importantly, David had access to food and running water.

Facilitators do not have a reason to place their customers in danger. They recognize their clients are paying for a service and that in many occasions smuggling fees represent a significant financial commitment for the family of the immigrant. Facilitators are more likely to work with their clients to reach their destination than to engage in any kind of conflict situation that may jeopardize their journeys. Hagan comments on the work of facilitators operating in the Tucson area:

While there were numerous reports in the study of unscrupulous coyotes preying on their cargo, there were just as many stories of heroic ones. In more than a few cases, women were spared rape by fellow travelers because of the intervention of a coyote. (...) Coyotes made sure that women were under the care of family, friends or church[es] before leaving them in the United States. (...) Coyotes prayed with their human cargo and asked for their forgiveness for the unexpected hardships they endured

while in their care. In one instance, a coyote actually took a woman to an Arizona emergency room to be treated for dehydration before handing her over to another coyote, who then drove her to her final destination in North Carolina. (Hagan 2008: 78).

Despite being perceived as profit driven, facilitators have no need to mistreat a fee paying customer. In fact, good customer service practices ensure, in addition to future referrals, that customers cooperate with the facilitators, and that in the event the group is detected by police customers protect the identity of the person in charge of the journey. During an interview, the former wife of a smuggling facilitator spoke about the importance of providing safe housing and travel conditions to customers:

So one day just right here, across the street [Lorraine points at a one-story brick house across the street from her salon] they rented that little house right there and I went over to see how they kept the people because I was curious - you know how they tell you in Channel 33<sup>16</sup> that the houses are filthy and that they put the people in and all that. My ex always said people were treated well because otherwise they would escape and well, you lose the money you put into them. So I went there to check it out. Man, were they doing good! [Lorraine laughs]. People were just there waiting, sitting on the couch and watching TV. And one other time I went with him to drop off some money (...) and I walked into this other house. The place was very clean, there was furniture, and they even had this lady

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<sup>16</sup> Local Latino television channel.

who would cook for [people]. You don't want people to leave without paying, you don't want them to escape because you have people to respond to, people who work with you and who you owe money to, so you treat people well. That's the key. Jose Luis treated the clients well, that is why he had so many coyotes working for him (Lopez, 2010).

Unfortunately, despite all good intentions from all parties, Van Hear is correct when he notices not all migrants will have access to the resources –being social or financial- that can make their travels safe. Many immigrants simply lack the financial resources to cover smuggling fees, while others' limited experience with migration translates into limited access to reliable facilitators. Significantly higher fees would also imply migrants run the risk of being priced out of services that would make their transits safer or more comfortable. Despite the existence of an initial agreement, not all families will be able to cover smuggling fees, let alone specialized services. In fact, some of them are even unable to cover the lowest of fees. And several immigrants reported finding out only after arriving to their destination that the family members who had been relied on to assist, or who had initially volunteered financial resources, were no longer willing, or even financially capable of providing any kind of aid. Several cases involved the accounts of immigrants who tried to leave the safe house without paying their fees, what almost invariably led to confrontations with their facilitators and to events of physical violence.

These immigrants constitute the group of those who endure much greater challenges and hardships to cross into the U.S. (Zhang 2010:14). Facing unfamiliar terrain they are forced to rely on unsafe transit options; unable to finance their journeys they must resort to travel long distances on their own to save money. These migrants face an unfathomable degree of vulnerability, and are consistently more likely to be among those who report having experienced violence and victimization during their journeys.

### **Smuggling as a Social Contract**

#### **Enforcing Verbal Agreements**

Smuggling agreements are informal only the sense that there are not put in writing. There are no documents establishing the services or the conditions a facilitator is obligated to provide to his or her clients.<sup>17</sup> People believe on each other's word. Furthermore, verbal agreements established among people sharing long-standing social ties are regulated by a set of also unwritten rules and social expectations that go well beyond the provision of a service. These ties are ultimately the ones protecting all parties- service providers as well as their clientele.

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<sup>17</sup> An exception to this case is the written agreements reported by Icguydu and Toktas in their 2002 study of smuggling operations in Turkey. Once the terms of an operation have been worked out among the facilitator and his or her client, they are put in writing and signed by both parties, making the contract enforceable – although not recognized by any other institution or organization outside of the smuggling organization in charge of the migrant's journey. There are multiple documents related to a smuggling operation that can be exchanged between facilitators and their customers, but in the case of this sample, none of them involved a contract of this nature.

But smuggling is after all, an income generating mechanism, and so payment terms are worked out well in advance of the journey. Some smuggling transactions involve in-kind payments (provision of services, sharing of crops, access to land, water, animals, etc.), while other facilitators may request an advance or down payment in cash in order to secure bus or plane tickets, pay for other land transportation and accommodations, etc.<sup>18</sup>

The majority of the agreements in this sample involved a charge-on-delivery system: smuggling fees were only due when the travelers had safely arrived to their destination and their family and friends had received verification of their wellbeing. Some cases in the sample included references to facilitators who cognizant of the impact smuggling fees have on their ability to recruit and being paid for their services, had worked out payment plans with potential clients. These agreements are typically made by the recruiter, who in every single one of the reported cases was a family member or friend living within the US and never

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<sup>18</sup> Despite the incidence of changing terms, prices themselves have remained relatively stable since the mid and late 1990s. Numbers from the Mexican Migration Project (MMP) at Princeton University show that smuggling fees have remained within the \$1500 to \$2500 range since 1998 (Princeton 2009). The data in my sample point out smuggling fees ranged from \$1200 to \$1700 for an adult crossing from Nogales to Phoenix (with additional fees for an extension to cities like Los Angeles or Portland), which is in line with the data reported by MMP for the years 1998 and 1999. Based on a 2005 survey of return migrants to two Mexican states and also included in the MMP data, Cornelius and Lewis found that between 2002-2004 average smuggling fees were in the range of \$1680 per person. The MMP prices do not provide details into the rationale behind a specific price or the services covered by a smuggling fee. But given the information provided by facilitators in this sample it is safe to infer longer journeys simply involved higher prices (the Tagal siblings, whose case was previously discussed, were expected to pay \$2300 per person to reach Chicago, Illinois, from Nogales, Mexico. Travel to the East Coast could cost as much as \$3300 per person).



a stranger. The recruiter establishes the terms, and in some cases even assumes all the financial costs upfront. In all cases, arrival verification is the ultimate proof of service, and obligates the client, his or her friends or family to pay for the services provided under the terms of the agreement.

This system of sponsorship adds an economic dimension to familial and friendship ties, with migrants incurring into financial and social debts with each other (Gomberg Munoz 2011:53). The close relationship between the parties also reduces the likelihood of fraud or non-payment. But aside from the financial aspects, the fear of the consequences of non-fulfillment stops many from breaching the terms of their agreement. Aside from causing serious damage to the reputation of the non-compliant party – being it the customer or the facilitator- social transgressions of this nature can effectively cut people off from the resources and the support of their entire social network.

Narratives in this sample also attest to the unfortunate occasions when facilitators hike up prices or demand additional amounts once immigrants reach their destination, citing fees cover only specific segments of the journey. Having no other option but to accept the questionable terms of some smuggling facilitators, many migrants must stay under the facilitator's custody or maintain close contact with him or her until the additional fees are paid.<sup>19</sup> Without exception, these cases involved men and women traveling without the protection of established familial and social migration networks.

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<sup>19</sup> In the worst of scenarios, immigrants are held at safe houses against their will and face violent acts until their fees are paid. For an extensive analysis of violence in smuggling operations, refer to chapter four.

A smuggling facilitator provided a justification for the changes in the terms of the agreements involving undocumented immigrants from Central America:

So this man would get the people and tell them he could cross them and say “I’ll charge you \$3000 to get you from here to the US.” But do you think that is enough [money]? No, no way. Just think about it: it is not, not if you are going to keep [immigrants] for that long: you are bringing them all the way from Guatemala, you keep them for a few weeks in Veracruz, then you fly them to Hermosillo, and from there you get them on the bus to Nogales. So \$3000 is nothing, you see? One has expenses, things to take care of. So he would cross the people, and then he would give them to another guy, and go like “So, now it’s up to you to make your money. I brought the people over, I did my part.” And he would just leave the people there. That’s when this other guy would tell people: Now you need to pay me more. And so people would complain but they would pay. Sometimes they go on and say no, I don’t have that much money, and they will get into arguments and threaten with a scandal and so the new guy would have to take whatever they had (Lopez 2010).

This testimony shows that while agreement terms may change, customers do not merely accept them. Aside of the disappointment they may express, there is also resistance. While in this case the facilitator’s testimony suggests breached terms are merely negotiated, other narratives show that in many other cases conflicts escalate, leading to greater tensions and even violence. Due to their

implications in the physical integrity of immigrants these cases are discussed in chapter four which addresses violence in smuggling.

### **Smuggling as a Support Network**

Migrants and smuggling facilitators depend on each other at multiple levels. In many cases they have known each other for long periods of time, or are connected to each other through kinship ties. Most customers have a good impression of their facilitators and consider their actions beneficial. Many will continue to receive the assistance and support of their facilitators for reasons and in contexts unrelated to smuggling even after the completion of their journeys. All of these circumstances foment the development of relationships of mutual support and even friendship.

While the law portrays them as criminal law breakers (Khosravi 2009: 26), smuggling facilitators – particularly those with a track of reliability and professionalism– are perceived by immigrants as honorable, respectful and humane. Migrant narratives consistently cite examples of how facilitators do their best at ensuring the safety of the migrants they transport (Hagan 2008: 78), despite being consistently vilified in the border protection and national security discourse.

Smuggling facilitators are one of the ideal scapegoats in the state's anti-undocumented immigration discourse. It is easy to blame smuggling organizations for the immigrants' deaths resulting from stricter immigration controls and state-sponsored violence: the stories of rescue, support, solidarity and community

present in the accounts of smuggling facilitators and their customer become lost in the course of legal process, replaced by the more powerful narratives of violence and victimization.

The following accounts refer to cases involving individual smuggling facilitators who worked at assisting their clients and ensured their wellbeing.

### **Fernando**

During a police investigation following a traffic stop that led to the arrest of seven undocumented immigrants and their two drivers, an officer questioned a migrant about the process leading to his entry into the United States:

Officer: How would you refer to the person you made an agreement with: as a coyote or as a human smuggler?

Celso: Well, last year he did us a favor by helping us cross. I attempted to cross about a year ago but I got caught, so Fernando gave me my money back and agreed to help me cross again if I came back.

Officer: What do you think would happen if you refused to pay the transportation fee?

Celso: Nothing. Why? The truth of the matter is Fernando is not a bad person” (Maricopa County v. Nazario-Chavez 2006: booking).

In 2007 Celso Nazario left his small town of Santa Rosa in Central Mexico, and headed for the border after the manufacturing company he had worked at for years shut down, unable to compete with the lower prices of foreign suppliers. Santa Rosa, just like other communities in the area, had traditionally

depended on the abundance of light manufacturing and other assembly jobs in the region. The signing of NAFTA and a slowing economy, however, meant the collapse of the local manufacturing industry, and workers like Nazario were forced to seek alternative income sources, like migrating to the US as undocumented workers.

While US bound migration from other parts of Puebla – Nazario’s home state- had taken place since the 1940s,<sup>20</sup> the more industrialized central region of the state lacked an established trend of transnational migration, and so Nazario had no access to the networks and the know-how members of other communities with more established migration practices possessed. And so while on route to the US he kept questioning his decision to migrate not knowing anybody who could facilitate his crossing.

“But then I met these other guys on the bus on the way to Agua Prieta, and we became friends. And so by the time we got to the bus station they seemed to know who we were supposed to see,” Nazario says. Once they had reached the border, his friends introduced him to Fernando, described by Nazario as a “dark-

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<sup>20</sup> Smith (2006) in his book on US bound migration from Puebla’s Mixteca region to New York City describes the first phase of migration as taking place “from the mid-1940s to the mid 1960s, involving individuals from a few towns in southern Puebla who already had relatives in New York,” followed by a second phase “from the mid 1960s to the mid 1980s” which “encompassed increasing numbers of people, including the first appreciable number of women;” a third stage as a result of the Mexican devaluation of the peso and the contraction of the economy, was facilitated in great measure by 1986’s amnesty or IRCA (Immigration Reform and Control Act); and a fourth stage, characterized by the Mixteca’s consolidation as a mature migrant community, where “most people who wanted to leave have already done so.” (Smith, Robert. *Mexican New York: Transnational Lives of New Immigrants*. Berkeley: University of California Press. p. 20-22.)

skin male”, “about 23 years old and kind of tall” whose work was to guide groups of undocumented immigrants through the Arizona desert.

Fernando, who only operated on the basis of referrals, had facilitated the transit of migrants from Nazario’s new friends’ community in the past with a high record of success. People who had crossed the border with the assistance of Fernando reported having to walk for shorter periods of time than those walked with other guides (1 to 2 days instead of 3 or more). Most importantly, Fernando himself walked his clients to the point in the desert where they would board the vehicles that would take them to Phoenix. Fernando would only leave his clients’ side once all of them were on route, what made people trust him even more and seek his services. Nazario’s friend recommended him to Fernando and this accepted to transport him. Although Nazario was arrested when the driver of his vehicle was stopped in Phoenix by police on a traffic violation, in his statement to police he showed his appreciation for Fernando’s assistance, but particularly for his honesty and his willingness to ensure his safety, refusing to label his actions as criminal.

### **Zulema**

Multiple details involving the participation of Zulema Martinez as a smuggling coordinator for the Robaina brothers were discussed in the previous chapter. She was a well liked member of the group and many immigrants procured her services. But what ultimately made Martinez such a valued member in the local smuggling market was her ability to connect with people, her skill at

detecting problems before they would emerge, and an understanding of the everyday needs of immigrant families, who unable to communicate in English had limited access to resources in the community. Martinez was not only facilitating immigrants' crossings: she would lend people small sums of money; find jobs for unemployed parents; schedule doctor appointments for sick children; attend parent/teacher conferences as an interpreter for Spanish-speaking mothers; make contact with local attorneys in legal cases involving her friends or neighbors, etc. Despite of smuggling's perceptions as a profitable activity, Martinez's collaboration with other facilitators never translated into large financial benefits for her or her family. While her involvement in smuggling grew as a result of more people becoming familiar with her services, the legal record does not indicate her collaboration ever generated her large profits. She continued to work long hours in her lunch truck; her personal vehicle was over 10 years old at the time it was confiscated by police – she had in fact just spent several hundred dollars on repairs. In fact on several occasions, Martinez worked without any expectation of being paid. Instead she enjoyed the opportunity to help people and was fully aware of the power that gave her. And she was proud to know smugglers and immigrants alike appreciated her work.

## **Rafael**

Other facilitators understand their role in smuggling as their chance to share with others the few benefits or privileges they have in their new country. Noe Galleres-Rios, who was arrested in the company of other 11 undocumented

immigrants while on transit to Pennsylvania, described with disappointment the time when the van he was riding was pulled over for having an unreadable license plate. His feelings, however, were not related to the stop itself. Galleres Rios was saddened by the way police had treated their driver, Rafael, who was the first of the group to be placed in handcuffs and escorted away.

Rafael – a young Mexican man - had volunteered to take the group of undocumented immigrants from Phoenix to Pennsylvania so that they could find jobs. “He said all he wanted was for us to be happy,” Galleres-Rios said. While Rafael’s goal was also to benefit from his participation in driving undocumented immigrants cross country in his own vehicle (he was guaranteed to receive \$100 per person transported), the driver’s commitment to provide an efficient service was evident to those he transported, to the point that they were more saddened by the driver’s legal future than for the circumstances they themselves were about to face. Rafael was sentenced to 2 years probation after spending almost 3 months in custody (Maricopa County v. Sanchez-Reyes 2009: Presentence Report p. 1). Given that the group had been stopped during an anti-smuggling operation to enforce Arizona’s anti-human trafficking statute,<sup>21</sup> four of Rafael’s passengers were also convicted under conspiracy to commit human smuggling charges.

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<sup>21</sup> Refer to chapter five for an analysis of the practices involving the enforcement of anti-smuggling and anti-trafficking laws.



## Ms. Quintas

The stresses of smuggling are not always faced with the optimism and candor of the passengers and driver in the last narrative. Instead, facing the potential of a law enforcement incursion, or an imminent *bajador*<sup>22</sup> invasion for example, facilitators must mobilize their networks at a moment's notice and find places where to relocate their customers for their protection.

Some facilitators protect their customers not only as a way to keep a particular investment or operation undetected, but also in an honest attempt to safeguard immigrants from violence, arrests or dramatic legal processes. Experienced facilitators are quite effective at intervening during crisis situations to intercede for customers and their wellbeing:

The evening of [Mr. Collazo's] first day at this drop house the coyotes received a phone call and were very agitated. Apparently (...) this drop house had been compromised. They immediately began (...) putting [people] into different vehicles so that they could be transported to alternate locations. Mr. Collazo was taken to (...) Phoenix along with another victim. [At this location] the coyotes made contact with Ms. Quintas, who Mr. Collazo described as the very nice lady. The coyotes told her about what had happened with the drop house and walked right into her place saying they would have to spend the night, along with Collazo and the other victim. Collazo says Ms. Quintas got very angry

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<sup>22</sup> For a discussion of the *Bajador* (Unloader) phenomenon (the kidnapping of immigrants in transit from their smuggling facilitators), refer to chapter four.

because the coyotes looked all scared and were carrying their guns. So she told the coyotes that Collazo and the other victim could stay but that they - the smugglers- had to leave and take their guns with them; that they were not only scaring [Collazo and the other victim], but that she would never allow for that kind of disrespect to ever happen again in her house, no matter how much they paid her. Collazo says once the coyotes were gone, Ms. Quintas fed him and the other victim, and then set up blankets in the kitchen so that they could spend the night. She fed them breakfast the next day before somebody stopped by to pick them up (Maricopa County v. Becerra Robles 2009).

While these examples of collaboration, support, assistance and protection may be seen as mere acts of customer service, they cause a lasting impression on migrants, who will not only be likely to recommend the service of a specific group or smuggler and provide stellar references to future travelers. These acts of protection, kindness and honesty leave a mark on migrants' lives at a much more personal level, and become central elements of their personal narratives of migration.

This is not intended to underestimate or ignore the many times when migrants must fight for survival, especially following scams, robberies, beatings and other assaults –many of which can be initiated by those who offered to assist them in their journey, but also by other groups acting with criminal intentions, or even by law enforcement officers.

Migrants are susceptible to multiple forms of danger and violence while on route to their destinations. In addition to having to deal on occasion with untrained or amateur smuggling facilitators, facing the harsh desert elements, or encountering robbers, assailants or border vigilantes, the potential for victimization at the hands of law enforcement is also real. An immigrant reported an encounter with a team of Border Patrol officers, and the scare-tactics to which they subjected his group:

Carrillo said there were 17 [immigrants] in his group (...) led by two coyotes. They walked through the desert for six days and six nights. On the sixth night, a white truck picked the group up at an unknown location. As they were traveling, four *la migra*<sup>23</sup> vehicles [began to] chase them through the desert. He said a helicopter was also overhead as they were being chased. The victim said the vehicle came to a sudden stop and the driver began yelling for all of them to get out and run (Maricopa County v. Chacon-Perez 2009, p. 3).

An attack at the hands of law enforcement was the last thing Carrillo expected to face. He had feared being abandoned in the desert by the coyotes or being unable to keep up with his group. He had been warned of the tactics some people along the border could engage in with the intention to rob him. But he never expected having to run from police or becoming a victim of law enforcement. But neither had he expected to be helped by the smuggling facilitator:

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<sup>23</sup> Border Patrol.

Carrillo stated that contrary to his expectations, the immigration officers did not return to arrest anybody. Instead the driver of the truck came back to look for him. A second driver – a female– also returned to the location to pick up other migrants, but many were missing by then, terrified by the presence of the helicopter and fearing being arrested (Maricopa County v. Chacon-Perez 2009, p.4).

The Border Patrol agents who initiated the chase did not make any arrests. They did not return to check if anybody had been injured as a result of their actions, what suggests their only intention was to terrorize and confuse the migrants. The smuggling facilitators, however, did come back to check on the people, picked them up and brought them back to the border, from where they made another attempt at crossing a few days later.

Immigrants' accounts of their journeys display a sense of found commonality in the experiences they share with others, which facilitates in some instances the bonding of the group, as in this last example. People who have never seen each other recognize in others the impending journey on their clothing and appearance. They strike conversations and fraternize during the long bus rides from locations in Southern and Central Mexico, and make pacts to travel together and to protect each other during their journey. By the time they reach the border they treat each other like lifelong friends.

Although immigrants do not refer to moments of their journeys where they support and rely on each other for strength, advice or help explicitly as “bonding

experiences”, multiple accounts do highlight the impact of these collaborations in securing safe smuggling services to facilitate their crossings:

I interviewed suspect number 2 who was identified as Moises Lucas Gomez (...) [from] Chignautla, Puebla. (...) I asked how they knew where to catch the vans, and he said because someone in the group had called some friends. (...) I asked him how much it was going to cost him to cross the border, and he told me it wasn't costing him anything. He said the group had met back in Mexico and decided to share the cost. I asked him how those responsible for the vans were going to make their money, or if it was going to be free, and he said no it wasn't going to be free. I asked him to explain [that] to me. He said [the group had come to an agreement among themselves] that they were only going to pay whatever they could afford. I asked him about those who didn't have any money on them, and he said others were going to chip in. He told me that from the time they met on the bus they had decided they would help each other out like a family (Maricopa County v. Salazar 2006).

### **Conclusions**

It is so hard to get people to say anything bad about their smuggler. And it is not because they are afraid or have been threatened or anything like that. It is because smugglers are not as bad as we say they are. Because when you ask people: Did they treat you badly? They say No, sir, they didn't. When you ask them, did the coyote hit you? They seem offended and raise

their hands and say Of course not, the coyote would never do that. Or when you ask were you ever hungry, did they feed you or give you water and well, of course they did. People don't turn them in unless something really bad happens, and that, in all honesty, doesn't happen too often (Anonymous informant C, 2010).

While the state has historically, and virtually exclusively referred to smuggling operations as criminal, these journeys carry a different meaning and nature for the many undocumented immigrants who rely on them. To many of their customers, smuggling facilitators are close friends and family members - people whose actions, even despite the possibility of being driven by profit-seeking goals, ultimately have a positive impact in the lives of migrants and their families. Facilitators are also hard working men and women with access to priceless resources within a community largely unable to fulfill the requirements the state imposes upon them to regulate their transit.

The accounts in this chapter provide important insights into the dynamics of the smuggling market. By privileging the narratives of the migrants in their interactions with their smuggling facilitators, the discursive field dominated by the hyper representation of human smuggling as violent opens up, avoiding the reduction of migrants' experiences to victimization alone and allowing for the inclusion of notions of agency and resilience.<sup>24</sup> At the same time, the chapter

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<sup>24</sup> "Feminist researchers must be aware that they are often entering fields of study that are hyper represented (...) [and therefore] the research design should take into account the discursive field it enters; otherwise feminists risk reinscribing dominant power relations." p. 2222. From Fonow, Margaret and Judith Cook.

recognizes the potential for abuses and the existence of violence, but not as a defining characteristic of smuggling operations, as the state has done. Instead, it suggests violence against migrants depends on the series of actions carried out by multiple state and non-state actors, not only resting upon the shoulders of a single over-vilified character. Narratives also showed that migrants are effective at mobilize their networks and social capital to minimize risk and any potential dangers.

Like the actions of facilitators, violence does not occur in a vacuum. The designation of border regions like the Arizona desert as militarized regions has transformed them into war zones where state agents' actions –regardless of their nature– are justified, creating enormous opportunities for abuse, corruption and violence, which undocumented immigrants are increasingly likely to face in addition to enduring other forms of highly violent acts. And as we will see in the next chapters, the execution of the state's enforcement practices is deeply tied to the exercise of violence, and smuggling related crime is only one of its multiple forms.

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2005. "Feminist Methodology: New Applications in the Academy and Public Policy." *Signs*. Vol.30, 4. p. 2211-2234.

## Chapter 4

### **CONCEPTUALIZING VIOLENCE AND SMUGGLING**

The previous chapter addressed the relationships that develop among smuggling facilitators and their clients: the way communities organize to protect immigrants in transit, sharing information and resources based on social relationships used to reduce potential risks. I also emphasized how most customers travel within their own social networks for protection – networks that are not criminal in nature, but which rely on community members’ knowledge and contacts to facilitate safe transits. I presented data that challenged the commonly held assumption that transnational organized crime is behind these journeys, or that immigrants have no other option but to travel with these so called “criminals.”

However, I also highlighted how immigrants who travel outside of these networks and who lacked social capital or the support of friends and relatives are consistently among those most likely to endure acts of violence and victimization. I question the allegations that consistently blame smuggling facilitators alone for the violence immigrants endure during their journeys. But at the same time, it would be irresponsible not to acknowledge the heinous acts that are many times committed against immigrants in transit by those facilitating their crossings, as it has been documented in Arizona in multiple occasions.

Over the last few years, increasing reports of immigrants’ victimization along the Arizona/Sonora border have dominated the headlines. Journalistic and anecdotal accounts strongly suggest smuggling facilitators are behind these



events, but no empirical research has been conducted to this date to verify the validity of that assertion. Neither has research been conducted on the nature nor the prevalence of violence in human smuggling operations.

In the next two chapters I take a structural/systemic approach to explain violence in smuggling. Instead of focusing on a single actor –or perpetrator– I look at the multiple forms of violence immigrants encounter in their journeys. I argue that smuggling violence is only one of such forms, and that in addition to smuggling facilitators, the state has also played an active and central role in the victimization of migrants. This is done primarily through immigration enforcement and the implementation of surveillance mechanisms and criminalizing laws. While in the case of Arizona the introduction of a law defining smuggling as a crime sought to stop the activities of facilitators operating in the state and the violent acts committed against immigrants in transit, analysis of the data demonstrates that the law’s implementation has actually limited the expedited access to justice of actual and potential victims. This is particularly evident in Maricopa County, where since 2006 hundreds of undocumented immigrants in transit have been charged with conspiracy to commit human smuggling –their own– at a much higher rate than the actual facilitators of their journeys.

This chapter is an analysis of violence within the local smuggling market. Just as in prior chapters, it relies on immigrants and facilitators’ accounts to map its causes, development and dynamics. While evidence suggests the structure of smuggling organizations is effective at facilitating the safe and uneventful transit

of immigrants – albeit its precariousness– reports of an inherently violent smuggling market in Arizona seem to bring into question the ability of networks to provide protection to their customers. To understand the conditions that generate violence (some of which can be internal to smuggling organizations, between organizations, or involve state actors) and the structures that are in place and that allow for its consolidation, I rely on cases of smuggling-related violence present in the sample. Particular attention is given to the kidnapping phenomenon, which alleged increase in the Phoenix area in the 2000s had until very recently been attributed to the actions of smuggling facilitators. A second aspect examined is the role of structural violence, making emphasis on its likely and actual victims, the impact on the smuggling market, and the role law enforcement plays in its expansion.

### **Defining Violence in Illicit Markets**

#### **Violence and “Illicit” Markets**

To talk about a criminalized activity’s market and the use of violence is “both illuminating and misleading” (Williams 2009: 323). While identifying violent acts associated with an illicit activity like human smuggling provides an understanding of the business and the organizations that operate within it, this tactic can also result in overgeneralizations and lead to erroneous conclusions.

Instead of associating a specific criminal act with a particular illicit market, the market must be understood as embedded within a broader political and ideological context. This way, the violence related to a specific market or activity appears as a response to the much larger political, social and cultural

context in which a criminalized organization is operating, and to a much lesser degree, to the characteristics of the organization itself (Williams 2009: 324).

The analysis of the narratives of men and women impacted by human smuggling violence suggests that the broader context in which human smuggling takes place (i.e. immigration enforcement and control) is more critical at understanding violence than the individual violent acts associated with it.

From a criminological perspective, violence is latent and often manifest in criminalized activities. But despite being commonly described as a defining feature (Andreas and Wallman 2009: 25), violence is not an inherent element of all illicit activities (Reuter 2009, Williams 2009). Furthermore, not all illicit markets show the same degree of violence. Some markets – like drug trafficking for example – may be more violent than others (Reuter 2009). When present, the roles of competition and turf may also play a role in the way violence is used by a specific group involved in a criminalized activity to establish markets and/or territories.

In most underground or illicit markets, violence is used as a tool to advance economic and social interests (Naylor 2009: 231) and as a method of enforcement or coercion given illicit markets' lack of access to legal recourse. Since most illicit activities take place out of the protection of court systems or regulations, their rules are socially enforced, leaving the use of violence or coercion for very unique or extreme circumstances.

In the case of smuggling, being a community based activity, the most common form of coercion is the threat of being cut off from a group after losing

the trust of other members of the network. Smuggling participants who do not comply with their part of the transit agreement are more likely to fear and endure social sanctions than violence. Smuggling facilitators who mistreat, cheat, or hurt their customers are likely to be reported to the community as unreliable, which has a serious impact on the ability of a facilitator to carry out business. Nonpaying customers can be blacklisted and future requests for services denied.

While illegality itself is insufficient to generate high levels of violence in a market (Reuter 2009:276), the media has characterized the smuggling market as inherently violent – or as the Arizona Attorney general stated during a press conference, as constituted by “an army of greedy, amoral, young Mexican males [who] have become a subculture unto themselves: extremely violent, extremely dangerous, all manner of bad behavior”(Wagner 2006). These characterizations have been primarily based on the most extreme examples of smuggling violence, which given their graphic nature have been effective at shaping public’s perceptions of smuggling. However a closer look at the structure of smuggling operations raises questions over the alleged utilitarian use of violence and the inherently dangerous nature of the market.

### **Violence and the Social Organization of Immigrant Smuggling**

Given its reliance on friendship and kinship ties and on the existence of verbal agreements, human smuggling activities are pretty self-contained to groups of people known to each other. This prevents not only the incursion of strangers who could inflict damage upon customers or put activities at risk, but also hinders

the development of conflict or its escalation into violence, as data in this sample indicate. Smuggling's lack of turf and virtual absence of hierarchies also limit the causes that generate division or even lead to ruptures among members. This is not to suggest conflict is impossible or unlikely to arise. But in an activity like human smuggling where money-making opportunities depend on facilitators' access to a social network, personal differences are more likely to be put aside to avoid disruptions and detection, and members generally cooperate with one another.

Perhaps due to the loose nature of the ties among smuggling facilitators and the sporadic nature of their interactions, personal conflicts among members do not seem to constitute a threat to the market. Given that facilitators must reach out to others when in need of assistance, common courtesy is typically extended to and expected from all parties whose support is sought and received. Most operations are conducted over the phone, given the varied geographical location of facilitators. Since face-to-face meetings involving all parties are unlikely to take place, facilitators develop their working collaborations by frequently spending inordinate amounts of time talking to each other over the phone. Many times, the issues discussed are completely unrelated to the actual operation. Men and women may share tips about child rearing in the same way they discuss how to deal with nonpaying customers.

Data show that facilitators who collaborate on a more constant basis, live closer to each other, or spend more time together (like in the case of family members), are more likely to have disagreements. This kind of conflict is typically centered over the division of household and business responsibilities.

References to domestic altercations among heterosexual couples (husbands and wives, boyfriends/girlfriends) were abundant. Women report having been subjected to domestic assaults, being involved in arguments with their husbands or other female relatives over their children's education or the degree of cleanliness in a house, or dealing with their partners' infidelities. Men also complain about women's treatment of their children, their bouts of jealousy, or their excessive interest in the business' activities. Business collaborations seemed to take precedence over family violence, conjugal tensions and even divorces. Members consistently put aside their differences once payments were sorted out and new business opportunities arise.

The horizontal, non-hierarchical structure of human smuggling operations documented in this sample may explain the absence of struggles over leadership or control of market segments. This however could be a limitation of the study because the testimonies obtained are only the experiences of facilitators operating as independent service providers loosely associated into networks since no other significant form of social organization was identified in the cases. Smuggling's horizontal structure also means organizational upward mobility is not an option for facilitators, virtually eliminating the need for violence to secure a position of higher power or leadership. However leadership roles do not seem to be much of a concern among facilitators, since most of them enjoy the ability to work on their own and make their own decisions without having to depend on a centralized power.

Since facilitators collaborate with one another through referrals, sharing resources and information and providing opportunities for collaboration there is no evidence of competition or fights over turf. Furthermore, the very community-based nature of smuggling operations ensures the existence and the availability of multiple collaborative opportunities over time. In the event that a facilitator is unable to assist with one operation, there may be others in the future, or other groups he or she can assist.

If at all, a facilitator's reputation – good or bad– may be one of the few causes for serious conflict in smuggling. The likelihood of developing lasting collaborations is dependent on facilitators' work ethics or lack thereof. If a facilitator fails to deliver or to perform as expected, he or she may simply be cut from the network temporarily or no longer be asked to collaborate in the group's activities. Reasons behind the occasional arguments among facilitators may include the loss of fees or customers, the detection of an operation by law enforcement, a facilitator's arrest, failure to receive or deliver payments, etc. In this sample there was no evidence of any kind of reprisals or revenges resulting from an operation.

Aside from arguments, misunderstandings and occasional bouts of anger, violence among facilitators did not seem to be a concern among the men and women in this sample. This is not to suggest that all smuggling markets are alike. Future studies into smuggling organizations with different organizational structure may uncover the existence of competition, high levels of internal conflict and in-group displays of violence. But the Phoenix smuggling market, which is

considered to be the largest center for smuggling operations in the country, does not appear to be characterized by any of these factors on the basis of these data alone. At this point, given the high effectiveness of its horizontal structure, absence of leadership and community-based nature at securing business for its members, the market is highly unlikely to undergo a transformation so radical to the point where violence among smuggling facilitators becomes a concern.<sup>25</sup>

### **Facilitator-Client Interactions: Threats as Violence-Prevention Mechanisms**

The interactions between smuggling facilitators and their customers, despite the existence of verbal agreements or social ties, are not always cordial. While the records show most journeys are uneventful, misunderstandings or arguments (typically involving finances) are common. The cause of the majority of the conflicts reported between facilitators and their clients involve unexpected changes to the terms of the initial agreement, particularly through the unannounced increase of fees.

In general, most smuggling agreements include all the costs involved with a customer's transit from a departure point (usually a location along the border) to a final in-country destination. Upon arrival to his or her final destination, the customer contacts friends or family to inform them of his or her status and asks for any additional fees that may be owed to the facilitator to be paid. Once the fees have been received and verified by a specific facilitator the agreement is considered fulfilled. There are no more obligations between the parties.

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<sup>25</sup> For examples of conflicts among facilitators refer to chapter two.



The sample included several reports of immigrants who were informed upon arrival to the Phoenix area that they had to pay additional fees in order to be taken to their final destination.<sup>26</sup> While it could appear as if immigrants had no recourse other than accepting the terms established by the facilitator, the changes always generated protests and resistance from the clients. People opposed the new fees and refused to make additional payments, objecting to what they perceived as an abuse. While people eventually pay the fees, in some cases, verbal and physical altercations do ensue.

One of these incidents involved the escalation of an argument between a woman and her facilitator. While traveling with her husband, the woman challenged the coordinator's decision to charge them an additional one thousand dollars per person to take them to New York City, which was their final destination. After calling the coordinator a *ratero* (petty thief), the woman informed him she would not pay. A police report describes the facts:

[There was] one incident where the boss of the house got into an argument with a husband and a wife over the increased smuggling fee. Originally, the couple was to be (sic) \$2500 a piece. When they arrived at the drop house, the fee was increased to \$3500. The girl told the boss that he was robbing them. The two started yelling at each other and the boss told her husband to have his bitch shut up or that he would fuck her up (Maricopa County v. Chacon Perez 2009 p.3).

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<sup>26</sup> This situation is not unique to smuggling operations along the US Mexico Border. Zhang (2008) documented the practice of ramping up prices is commonplace among Chinese human smugglers.

A second witness confirmed how “the boss got mad at the girl because she complained about the price, and so he took his gun out, racked a round into the chamber and told her husband to calm her down or he would beat the crap out of her (Maricopa County v. Chacon Perez 2009 p. 3).

The terrified husband reprimanded his wife and asked her not to say anything else. But the witnesses also went on to state the “boss” did help the couple get in contact with some of their friends who lent them the additional money they needed. While the couple ultimately paid for their transportation in full, they were yet to be transported to their destination by the time police irrupted at the safe house. The smuggling facilitators were arrested, but the customers – including the couple – were also charged for their participation in what was alleged to be a human smuggling conspiracy.<sup>27</sup> The money paid was confiscated as part of the investigation and was never returned to the couple.

While in most cases threats do not materialize, they may also be used to convey enough pressure upon other migrants who may be present at the safe house to urge their families and friends to pay off any fees that may be pending or due. Once balances are covered, migrants in transit are taken to their destination or relatives are asked to pick them up at a specific location (usually a public place like a parking lot or shopping center). In these specific cases there were no reports of immigrants having being physically harmed.

Smuggling facilitators dislike having to contact families about overdue or unpaid balances. They find the extra work tiresome and unnecessary, alleging

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<sup>27</sup> See chapter 5 for an analysis of the human smuggling statute.

verbal agreements like those regulating migrants' transits are serious affairs and not meant to be broken:

So that time after we counted the people and straightened out the accounts I once again came short. Yeah, something like \$400. I didn't [add up the fees] right. And you know why this happened? Because I am a good person. Because I tell [customers]: yeah, sure, go ahead, pay me later, when you get a job, and what happens? That they freaking avoid me afterwards! I think people take advantage of you because you are nice to them. That is why I don't want to do this anymore sometimes, because I am tired of being taken advantage of (Maricopa County v. Robaina 2007: Affidavit p. XX).

This conversation reveals the disappointment of the facilitator when informed that one of his clients had left without paying most of his smuggling fee - \$1350. The financial mishap also meant that the facilitator was unable to cover the rent for the safe house, which would result in the loss of some business as he did not have a place available to house customers, having to pass the business on to another facilitator.

Some facilitators may simply absorb the losses, as the last example shows: they send the nonpaying customer back to the coordinator or recruiter, or simply let him or her go after a few days. Other groups may continue pushing for payment through negotiation calls to family and relatives. Facilitators do grant "reasonable" periods of time of a few days for relatives to come up with the balance. If there is further hesitation on families' part or if payment is delayed for

several days without a valid explanation, the facilitator may turn to more serious threats to “encourage” prompt payment.

The increased threat strategy may be an indicator of the lack of experience (and control) some facilitators have in negotiating. Whenever facilitators relied on threats, it usually backfired. In all cases, the terrified family members opted for reaching out to police instead of continuing to negotiate with the caller. Unfortunately, the arrest of the facilitator most likely involves the arrest and deportation of the client as and the loss of any fees already paid.

The outcome of these cases suggests that it is in the facilitators’ interest, rather than the clients’ to provide as many conveniences as possible for the fulfillment of the financial part of the agreements in order to avoid conflict or detection. Facilitators are not part of established organizations that provide them training on how to be patient or deal with difficult, obnoxious or simply nonpaying customers. But the key to reducing the risk of detection is to work with customers to avoid disruptions and inconveniences. Unfortunately, by the time police responds to calls the conflict has reached a point of no return and there are unwanted consequences –primarily of legal nature– for both facilitators and their customers.

Despite reports of agitated arguments, fistfights and ominous threats, there are no indications of extreme violence among smuggling facilitators and the clients who travel with their assistance. The existence of a preceding agreement among the parties, and the referral-based nature of the smuggling market tend to work in the customer’s favor. Customers can ultimately refuse to pay their

balances, or in the worst of cases –as we have seen- report the facilitator’s behavior to police or to potential customers, either way severely impacting the facilitator’s ability to conduct future business.

### **Constructing Victimizers**

Despite the disagreements and tension between smuggling facilitators, and among these and their clients, conflict is generally contained before escalating into full blown acts of violence. And yet, Arizona’s human smuggling market tends to be portrayed as the most violent in the nation. Reports of undocumented immigrants being kidnapped at gunpoint by sadistic Mexican gangs of human smugglers continue to make headlines. Frequent stories of dozens of undocumented immigrants held against their will by *coyotes* in rundown houses throughout the Phoenix area, or of high speed police chases along nearby freeways generate grave concern among the public.

Violence in smuggling does take place, and it can – and has proven to- be heinous. However, it occurs only under very specific circumstances. First, and without exception, all cases involving violent acts in this sample involved immigrants who traveled without the protection of an established familial or social migration network – that is, men and women who travelled without a referral or who lacked the knowledge and/or resources necessary to inform their journeys. Second, when violent acts did occur they seem to have been executed by groups that did not operate as traditional smuggling networks do. These “bad actors” as they are defined in criminology, were small groups constituted almost

in its entirety by men, which engaged in the commission of multiple illicit activities aside from holding undocumented immigrants against their will for ransom.

The kidnapping, extortion, and even sexual and physical assaults many undocumented immigrants in transit are unfortunate to experience do not seem to be the act of smuggling facilitators like those identified in this sample. Instead, these acts are carried out by much smaller groups which have virtually no experience in smuggling, although some reported having been at some point in contact with a smuggling network, or even relied on its services. Contrary to smuggling facilitators, the effectiveness of these groups – and their recognition–relies on the degree of violence they display. While these groups, like smuggling facilitators, also rely on placing calls to immigrants’ families to collect fees through banks or wire services, their similarities end there. And yet the modus operandi of these groups has been equated to that of smuggling facilitators, and law enforcement refers to both groups –regardless of the existence of these essential differences- as smuggling crews. Assuming smuggling facilitator activities are equal to those carried out by other groups who are not in the business of smuggling, and then explaining both groups’ actions as violent acts of rivalry and competition does not merely raise questions on law enforcement’s understandings of smuggling’s dynamics. It may also play a role on law enforcement’s ability to respond to violent acts related to smuggling which may result in the victimization of immigrants in transit. Law enforcement, by

operating on the basis of overgeneralizations may be actually contributing to the violence that has afflicted the market.

### **Defining “Bajadores”**

The smuggling violence that has captured the public’s imagination has been explained by media and local politicians and law enforcement as a sign of growing conflicts over the division of a highly profitable market among competing transnational smuggling organizations. The characterization of the local smuggling market as highly profitable, or as impacted by competition or dominated by criminal organizations reflects the limited knowledge and understanding of the dynamics of smuggling operations on the part of law enforcement and policy makers alike (or their unwillingness to understand them). But what is most troubling is that this stance makes virtually impossible the identification of new actors, trends or threats, which in turn impact the effectiveness of law enforcement efforts, and further expose undocumented immigrants to violence and victimization.

The incursions so widely reported on by the media are not the reflection of competition or rivalry among human smuggling groups. Their presence suggests the existence of an altogether different form of organized activity that unlike smuggling relies on violence to achieve its goals. These newer groups do not operate in networks: instead, they are constituted by “gangs” of 4 to 8 men who engage in opportunistic crime involving targets likely to produce fast cash returns - home invasions, burglaries, armed robberies, stealing of drugs or drug

profits. Given the prevalence of human smuggling activities in the state, these groups have also been known to target smuggling facilitators, although not for cash. Instead, these groups steal, or kidnap undocumented immigrants in transit from their facilitators to then demand ransoms from the latter's very concerned friends and families.

Adolfo went on to explain he, El Guero, Papayo, Mister U and Pariente were not smugglers but '*bajadores*'. They would rob drug dealers and human smugglers in order to make money. Adolfo explained how he has been without work and has had difficulty surviving which led him to do this. Adolfo met Papayo and started working. Adolfo described where the group went and kidnapped the illegals from a drop house and removed some televisions [...]. The televisions were transported back to the house where they had split the money they charged to the families of the immigrants. They used a Honda which was stolen from the house as well. Adolfo told me about a drug robbery [...]. Adolfo, Daniel, Carlos and other unidentified subjects robbed three Sinaloan men of approximately one gram of methamphetamine. Adolfo said they went in through the front door [...] The drugs were sold and they split the money. Adolfo received \$300 for his involvement." (Phoenix **Police Department: 2008**).

Known in underground markets as *bajadores* – “unloaders” in Spanish– the activities of these crews have been known to members of underground markets for decades, although their existence was not fully recognized by American law enforcement but until recently. References to the activities of



*bajadores* are common in folk songs and oral traditions along the border. Groups of *bajadores* are described as low-class, unskilled, unstylish robbers who steal cargo from more professional, more organized groups of individuals involved in the transportation of illicit goods. The term *bajador* was initially designated to refer to crews that would take drug cargo from its “lawful” owners at gunpoint. The term has since been adapted –and adopted– to refer to the men who opportunistically take immigrants in transit by force from the groups that facilitate their journeys. The term was only until recently discovered by media and law enforcement in the context of the activities involving the kidnapping by force of undocumented immigrants.

In the sample, *bajadores* operated in three different ways: by irrupting while heavily armed into safe houses –usually at nighttime– kidnapping undocumented immigrants, many times breaking up large groups of immigrants into smaller ones to facilitate their transportation. *Bajadores* were also known to scout local area freeways for facilitators on route from whom customers are taken by force. And in one case, *bajadores* paid a member of a smuggling facilitator network for information to locate a group of undocumented immigrants about to pay their smuggling fees and whose families would be likely to have immediate access to pay a ransom on demand.

Once a group of undocumented immigrants is kidnapped or taken by force, *bajadores* take them to a location where they are kept against their will. The *bajadores* place a ransom call demanding immediate payment to release the immigrant . Families are warned against contacting the authorities. In *bajador*

related cases, all victims were consistently subjected to some degree of emotional, physical or sexual violence, ranging from being pushed around and threatened, to endure beatings, electric shocks and even sexual assaults.

While *bajador* activities are typically described by law enforcement as a variation of human smuggling, the degree of visibility in which *bajadores* engage – shootings in heavily populated neighborhoods, midday assaults or break-ins, chases along local freeways- are further proof that their modus operandi is unlike that of smuggling organizations, which work at reducing their visibility, minimize potential interactions with authorities and avoid to engage in any other activity that could compromise a smuggling operation.

*Bajadores* may also have shorter career spans than those of smuggling facilitators, due to their visibility. Their excessive tendency to display violence generates unwanted attention, making them more exposed to detection by law enforcement. Given this reliance on violent tactics, *bajadores* are also much more likely than smuggling facilitators to be reported to the police by abused or tortured immigrants and their families, who in this sample and almost immediately following the placing of the ransom call, contacted the authorities to report the offense.

Another characteristic common to *bajadores* is the higher use of illicit substances compared to that of smuggling facilitators, who report none or minimal drug use. Reliance on cocaine and methamphetamine is reportedly extensive among *bajador* crews, as they ingest the substances in order to be able to watch their hostages around the clock. The use of substances creates dangerous

conditions for hostages: many assaults took place while *bajadores* were under the influence of drugs.

In summary, unlike the case of the majority of smuggling operators, who collaborate as part of a loosely formed network of independent service providers, *bajadores* seem to be groups specifically formed to carry out multiple forms of illicit activity, one of which may involve the kidnapping of undocumented immigrants from their smugglers. *Bajadores* also demonstrate a clear reliance on violence and weapons, and self-report higher levels of drug use and dependency.

### **From Victims to Victimizers**

According to immigrants' testimonies, many *bajador* groups force the immigrants they hold captive to assist them in their activities when these are unable to pay off ransom fees. In a fashion that may remind of the hiring of clients as facilitators (see chapter II), migrants are told that in exchange for their safe release they will have to perform duties as assigned (house cleaning, cooking, acting as guards, etc).

In a hard to explain twist, several migrants who initially collaborated out of fear or who did so reluctantly, reportedly become full blown collaborators of the *bajador* group, going as far as committing violent acts against other kidnapped immigrants. When arrested and questioned, multiple men admit they took the side of the *bajador* group when they were unable to pay their fees. Sadly most of them deny having inflicted violence against other migrants despite evidence of the contrary.

On August 27, 2009, police responded to a 911 call of a drop house in Phoenix's West Valley. Locked inside the house police found 11 kidnapping victims, including the person who made the call, and 3 kidnapping suspects. Police also found wooden dowel rods that had been used to beat the victims, as well as loaded weapons and cell phones. The room where the victims were held was boarded up with plywood to avoid escapes.

According to in-court testimony, two guards would constantly point their handguns at the victims in a threatening manner, while a third man made extortion phone calls to collect ransoms. When Antonio Hernandez, along with another immigrant, tried to make a run for the door, a guard responsible for preventing escapes, stopped both men before beating them with the closet rod.

Hernandez described how a man would administer electric shocks to hostages in the house's bathroom. He also disclosed electric probes were put under his arms when the ransom his family had promised to wire was not ready for pick up at a nearby wire transfer store. Later on, while under the influence of cocaine, the *bajadores* used a pair of electric shears to shave off his hair (Maricopa County v. Garcia-Medina 2007: Findings p 289).

Men who collaborate with the *bajador* groups (only one case involved a woman) report threatening migrants, depriving them from food or water, denying access to restroom facilities, carrying weapons with the sole purpose of causing intimidation, etc. More extreme cases in this sample involved serious beatings and several incidences of sexual violence and victimization. Contrary to the assumption that women are the most frequent targets of sexual violence in

smuggling, only one first hand account of male on female sexual assault was found in this sample. The rest involved acts of male on male sexual violence. While the most common acts of this nature involve sexual humiliation, the record included reports of male immigrants being forced to perform sexual acts on each other or on their captors, and of victimizers administering electric shocks to victims' genital areas.

### **Implications of Conceptualizing Smuggling as Inherently Violent**

The evidence suggests the most extreme acts of violence in smuggling are not necessarily performed by smuggler facilitators themselves, who in the worst of circumstances may simply have little recourse aside from threats to enforce compliance, cooperation or payment from their customers. Kidnapping, physical and sexual assaults, and other acts of physical or emotional torture present in this sample seem instead to be primarily the acts of *bajador* crews, in addition to those of immigrants in transit who appear to collaborate with *bajadores* and victimize other immigrants like themselves (a quite frequent and not less problematic form of smuggling violence).

Despite the alleged risks human smuggling organizations pose to local public safety, smuggling enforcement efforts have not shown much interest in understanding their dynamics. Instead, based on police reports present in the sample, law enforcement responses to the activities of smuggling and *bajador* crews are virtually identical. This approach to smuggling enforcement and the similar treatment given to facilitators and *bajadores* by the court system should

not come as a surprise. It echoes the state's posture at defining smuggling crimes, which through the implementation of the anti-human smuggling statute or Coyote law, has indicted smuggling facilitators as well as the immigrants they transport, charging both parties with the commission of human smuggling acts.

### **Undermining Definitions**

The broad definition of smuggling, the imprecision to identify its actors, and the tendency to approach the market as inherently violent, have resulted on the labeling of all incidents involving contact between smuggling facilitators, *bajador* crews and undocumented immigrants, regardless of their nature, as violent incidents— this despite the wide range of contexts and actors involved. The rampant success of the Maricopa County Attorney at prosecuting smuggling activity in Maricopa County has been dependent on these very vague, broad approaches to smuggling activity.

An offense which designation has also generated a certain degree of controversy is smuggling related kidnapping. In Maricopa County, acts as varied as the the taking of undocumented immigrants by force by *bajador* crews from smuggling facilitators; police responses to 911 calls to report an immigrant's inability to pay off fees owed to a smuggling facilitator; the ransom calls placed by immigrant victims and/or *bajador* crews, and calls to police responding to immigrant escapes from safe house incidents, have resulted in the filing of kidnapping charges against *bajadores*, smuggling facilitators and even immigrants in transit.

The holding of undocumented immigrants in transit by smuggling organizations can strictly be the result of the waiting period between an immigrant's arrival to his or her destination and his or her family's ability to allocate the necessary resources to liquidate smuggling payments and associated fees. Frequently, immigrants and/or their families miscalculate their ability to pay a fee, in which case, as a sign of good faith, an immigrant remains by the side or in close contact with the coordinator until the debt has been liquidated. This is not to dismiss the cases in which, even after the payments have been fulfilled, smuggling organizations alter the terms of the original transit agreement. Or the tragic instances when immigrants face abuse, even torture at the hands of *bajadores*.

But the state's tendency to rely on over-generalized, blanket designations of what constitutes an offense in order to prosecute immigrant-related crimes is problematic. The measure does not merely impact the lives of facilitators, *bajadores* or other parties who may be part of undocumented immigrants' victimization, but may also be placing immigrants in increased danger. Law enforcement SWAT team like practices put immigrants at the risk of sustaining injury in situations where no actual violence has taken place. Police incursions frequently lead to the loss of immigrants' fees or investment, creating immense pressures among the friends or families who could have incurred into large debt by financing the journey through high interest loans. And what is perhaps most troubling in terms of legal implications, the tendency to label a wide range of criminal activities as smuggling events has actually undermined the very concept

of the offense, as we have seen in the conviction of undocumented immigrants charged with conspiring to commit their own smuggling.

A similar “transformation” has taken place in the case of kidnapping offenses, which prevalence was until recently believed to be connected to the activities of smuggling facilitators, and which earned Phoenix the dubious title of “Kidnapping Capital of the US.”<sup>28</sup>

## **Challenging the Violence Argument: The Case of Phoenix’s Kidnapping**

### **Statistics**

According to data provided by the Phoenix Police Department, kidnapping reports in the Phoenix area, as shown in the following chart, have been on the rise since the early 2000, when they went from 113 to 317 in 2009, peaking at 358 in 2008.

The numbers do in fact show an increase in the number of kidnappings reported over the past decade. Phoenix Police Department was fast to attribute the increase to the growing presence and influence of drug and human smuggling groups in the city –this despite the fact that crime levels in Phoenix were at their

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<sup>28</sup> For examples of media coverage on kidnappings and violence, see: Myers, Amanda 2010. “Arizona beheading raises fears of drug violence spilling into the US.” CNS News. Accessed on January 30, 2011. <http://www.cnsnews.com/news/article/arizona-beheading-raises-fears-drug-viol>. Randall, Archibold 2009. “Mexican Drug Cartel violence Spills over, Alarming U.S.” New York Times. Published March 2, 2009, Accessed on January 30, 2011. <http://www.nytimes.com/2009/03/23/us/23border.html>. AFP. “Mexican drug war spilling into US.” March 9, 2009. Accessed on January 30, 2011. <http://www.google.com/hostednews/afp/article/ALeqM5gWhRKf9LDBYXihcUl4Wj6OvNdHzQ>.



lowest levels in decades. The abundance of media coverage involving smuggling activity seemed to confirm those asseverations, and so neither the numbers provided by police or their nature were ever brought into question. Furthermore, the sudden appearance of the *bajador* phenomenon seemed to confirm police’s claims that kidnappings were most likely related to smuggling activity. The political pressure to support anti-immigrant measures, as well as the aggressive enforcement carried out by other law enforcement agencies and which target undocumented immigrants did also allow for the numbers to remain unquestioned.



**PHOENIX POLICE DEPARTMENT**  
**Finalized Departmental Reports For Kidnapping**  
**Assigned to Select Details\***  
**Based on Arizona Revised Statutes (ARS)**  
**01/01/00 - 12/31/09**

Excludes Unit  
Report:

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Kidnapping Incidents~	96	116	161	189	178	173	190	260	299	265
Kidnapping Incidents-Info Only	17	25	39	48	51	55	41	84	59	52
<b>Total</b>	<b>113</b>	<b>141</b>	<b>200</b>	<b>237</b>	<b>229</b>	<b>228</b>	<b>231</b>	<b>344</b>	<b>358</b>	<b>317</b>

~All incidents listed as kidnappings assigned to the Home Invasion Kidnapping Enforcement (HIKE) squads and Violent Crimes Bureau Robbery (VCBR) squads are included in the above counts to demonstrate the total number of cases reported during the listed time period. However, those incidents marked as "information only" may not have enough for follow-up and should be excluded from the count of kidnapping incidents.

Fig. 1: Phoenix Police Departmental Reports for Kidnapping

Through my past experience as both a family court associate and a presentence investigator, I knew that the majority of kidnapping acts that are reported to police typically involved domestic violence or custodial interference cases – that is, the removal by force of a child or children by a non-custodial parent. The apparent and rapid transformation of kidnapping from a family-based crime to one dominating the city’s crime statistics simply failed to make sense.

During the data collection period of this project, I reached out to the research unit of the Phoenix Police Department and requested kidnapping numbers to explore its alleged correlation to the smuggling market structure and operations. It was then that I first noticed that the statistics being compiled by police made no distinctions on the nature of the kidnappings being reported, making it impossible to determine on the basis of the numbers alone if the increase was indeed related to the activities of human smugglers or if it obeyed to any other crimes or activities –including parental kidnappings or abductions. Furthermore, the Phoenix Police Department’s decision to include home invasions as part of kidnapping numbers suggested a new interpretation on the part of the department of what constituted kidnapping, as well as the incorporation of multiple offenses that under regular circumstances would have not been reported as kidnappings (see figure’s footnote).

When I approached police analysts to express this concern, I was told that Phoenix Police was not obligated to keep track of kidnappings by their nature, or to specify the rationale behind the inclusion of offenses as home invasions into kidnapping statistics. My request for a breakdown of the kinds of kidnappings being used to calculate the city’s totals was denied on the grounds that that kind of data reporting was not available as public record:

The existing reports that we have for kidnappings just show count by month or count by year but do not break the kidnappings into any further detail, so [there is no] breakdown of kidnappings by race or by whether they are related to undocumented immigrants and human and drug

trafficking/smuggling, etc. To get at the information we would have to build a custom query and complete some additional analysis, and [such] information is not considered information that is available under public records law. (Schick, 2010).

In late January of 2011, allegations that Phoenix Police had manipulated kidnapping numbers for most of the past decade in order to secure federal grants emerged (Hermann, 2011). The scandal led to the reassignment of the Phoenix Police Chief, whose allies and supporters claimed he was being unfairly punished for his refusal to support the implementation of SB1070 in the State (Bui & Hermann 2011). Regardless of the reason behind the handling of the numbers, the lack of criteria explaining the decision to designate multiple, and different crimes as kidnapping incidents does not allow to conclude that the growth of kidnapping activity in the City of Phoenix can be attributed to the activities of human smuggling facilitators alone.

This brief analysis of the state's efforts to conceptualize kidnapping as an element of smuggling shows the troubling implications of approaching an activity as complex as human smuggling only from a criminalized stance. The narratives of both immigrants and facilitators provide critical evidence of the kinds of activities to the interior of smuggling networks and of the role of violence in the market. Improved responses to the smuggling phenomenon require taking a closer look at its social dynamics, leaving aside the emphasis on identifying criminal behaviors, and taking instead a closer look at the social context in which the market develops and takes place.

## Conclusions

“I was just an accomplice.”<sup>29</sup>

On April 6, 2009, Pedro Armenta-Campoy was arrested during a SWAT team operation to rescue Rodrigo Garcia, who had been kidnapped by a group of *bajadores* who demanded a \$2000 ransom in exchange for his release. According to Garcia, Armenta-Campoy had tied his hands and feet to a chair and threatened to cut off his fingers if the ransom wasn't paid.

Armenta-Campoy was charged with one count of kidnapping and sentenced to 5 years in prison. Garcia, despite being a victim in the case, was not afforded the protections given to victims of violent crime. Following his rescue, he was instead released to the immigration service, which deported him back to Mexico, his country of origin. Garcia's input was not considered during the sentencing of any of the *bajadores* involved in the case. The victim advocate assigned to his case made no attempts to locate him, and the court investigator in charge of completing the sentencing recommendations did not even include his name in the report.

Conflict, and the potential of violence do exist in smuggling operations. As I have noted, many immigrants whose travel agreements are changed by their smuggling operators opt for paying higher fees or accepting other financial agreements that will most likely impact their finances in order to avoid potential disagreements. These changes are not merely accepted: arguments do arise, but threats or fear of violence usually means the end of any financial dispute.

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<sup>29</sup> Maricopa County v. Armenta Campoy, CR2009-123885-001DT

Smuggling operators, especially those with limited experience, have a hard time deal with financial losses, family conflicts and problematic customers. But violence does not seem to be an inherent characteristic of the business when it is run by traditional, community based networks.

And yet violence does take place. Reports of smuggling related violence in Phoenix have been on the rise, but it is hard to compile reliable statistics. The reports may be the result of increased public awareness, more intensive enforcement, or the growing visibility of crews of *bajadores* or even smuggling facilitators. But as the case of the Phoenix Police Department at manipulating statistics suggests, there has not been a clear interest in the part of law enforcement to understand the dynamics of smuggling, and instead, its visibility has been used to advance political and financial goals while all along reinscribing racialized and xenophobic images of smuggling facilitators as criminal predator.

And so this chapter suggests that the state, by purposely defining acts like smuggling or kidnapping in broad terms, may be causing a greater level of victimization than that generated by the actions of smuggling facilitators or *bajadores*. Relying on excessive enforcement and massive prosecution practices, Maricopa County convicted in less than three years, one thousand undocumented immigrants by charging them with conspiring to commit their own smuggling – an event that did not involve the commission of any violent acts but yet resulted in the incarceration and prosecution of hundreds of non-dangerous individuals.

This conclusion does not try to underestimate the work law enforcement conducts to prevent criminal activity from taking place, particularly in urban

communities. What it shows is that the range of forms of violence or aggression migrants are likely to face during their unregulated transit does not come from smugglers or robbers alone. It is also result of state's enforcement practices, which are in turn not aimed at rescuing potential victims of violent acts, but increasingly reflect local state authorities' role in immigration enforcement activities across the nation. Citing national security concerns, and responding to American citizens' racial fears, local immigration enforcement is increasingly relying on more aggressive incursions, heavy weaponry, and excessive displays of force – all practices not too different from the acts of violence in which smuggler facilitators and *bajadores* are alleged to engage.

The following chapter takes a closer look at the enforcement actions carried out by local immigration enforcement agencies in Maricopa County. Special attention is paid to the racial profiling Latinos face on their daily interactions with police, and the implications these encounters have in Latinos' access to justice.

## Chapter 5

### **ANTI-SMUGGLING ENFORCEMENT PRACTICES**

The previous chapter discussed the problematic implications of treating smuggling cases as taking place at the hands of a single kind of perpetrator. Data show violent acts in smuggling are of multiple kinds, carried out by multiple actors, and not by smuggling facilitators alone – despite the marked tendency in policy and media circles to suggest the contrary. I explained how the way smuggling has been defined by law enforcement has undermined the latter’s ability to respond effectively to actual events of violence and victimization in smuggling, limiting individuals’ expedited access to justice.

While any serious analysis of smuggling must recognize violence as a potential – not inherent– factor of the market, it must also consider the context in which this violence occurs. Arizona has gained international notoriety for its anti-immigrant rhetoric and for the way its congress has advocated for –and passed– some of the most extreme anti-immigrant laws in the country. The most controversial pieces of legislation have been rejected or challenged in court –as in the case of SB1070. This law initially authorized local law enforcement officers full powers to engage in racial profiling. Even with the attention on violation of civil rights, the everyday exercise of policing practices that target undocumented immigrants and their families (constituted in many cases by US citizens), creating an overall environment of racial persecution and fear, has not been deterred.

This chapter addresses the practices of state actors in the context of human smuggling operations. The abundant references in smuggling facilitator’s

narratives on the impact of smuggling enforcement suggest that in addition to non-state actors, the state also plays an active role in the market's levels of violence and victimization. The implications of law enforcement's actions may not be as graphic as the more publicized acts of violence, for example. But they do have the power of placing smuggling participants, especially their families, in situations of greater vulnerability and risk, raising questions about the effectiveness and the intention of anti-smuggling enforcement

This chapter looks into the practices surrounding the enforcement of anti-smuggling laws and their implications in the lives of Latino immigrants residing in Maricopa County. Specifically, I focus on SB1372, known as the Coyote Law, a piece of legislation used in the county to charge undocumented immigrants as facilitators of their own smuggling, and that has been used in the prosecution of the majority of smuggling cases in the county. First, I describe the statute's history and rationale before addressing the consequences of enforcement in the local smuggling market as present in the narratives of the immigrants who have endured them. The descriptions of the specific activities that individuals were engaged in at the time of their arrests help show the police's practices in determining the probable cause that lead to smuggling arrests –practices that reveal excessive reliance on racial profiling. The wide scope of circumstances leading to smuggling related arrests also suggests that the definition of smuggling has been manipulated and altered to advance the state's anti-immigrant policy and enforcement, while further criminalizing immigrants' presence in the state.



## **The Anti-Smuggling Statute**

### **Arizona's Anti Immigrant Practices and Legislation**

Over the last few years, Arizona's congress has approved strict anti-immigrant laws that criminalize the presence of Latino immigrants in the state. But anti-immigrant sentiment in Arizona is not new. The troubled relationship between Latinos and law enforcement in the state precedes recent legislative efforts. The Latino experience in Arizona has been characterized by a series of belittling, demeaning and ridiculing practices (see Romero 2005), which have had a definite impact on people's access to social and economic opportunities and on their political participation, but most importantly, in their dealings with the law.

Mexican workers employed in the mines during the state's mining boom were consistently paid less than their white counterparts and were subjected to mass deportations a few years later during the Great Depression (Taylor, 1934; Meeks 2006). Racial segregation defined Phoenix's present day urban configuration by prohibiting Latinos from residing in the drier, higher sections of town that were reserved for white citizens, and were forced to live by the wetter and flooding-prone area of the Salt River banks (Lukinbeal, Arreola and Lucio 2010). Decades later, relocations and land buyouts went hand in hand with the anti-crime raids and campaigns of intensive policing in the predominantly Latino section of South Phoenix. Having discovered that area's neighborhoods' potential in the midst of a booming real estate market, developers did not think twice about bulldozing entire sections of this historical and predominantly immigrant section of town to build housing for Phoenix's growing middle class. A similar project in

1997 to “beautify” the city of Chandler resulted in a dramatic series of raids and detentions involving dozens of Latino immigrants and citizens. During the “Chandler Roundup” police conducted an aggressive campaign throughout shopping centers, strip malls and trailer parks in areas with a high concentration of Latino families relying on violence and intimidation and in multiple instances violating the civil rights of detainees and “suspects” (see Romero 2006; Romero and Serag 2005). Vigilante groups have set camp along remote areas of the Arizona desert to stop immigrants in transit in protest for what they claim is the government’s lack of action in addressing the “Mexican invasion.” Most recently, the Maricopa County Sheriff’s Office has engaged in a series of crime suppression raids in predominantly Latino immigrant, working class neighborhoods. The Sheriff’s office has targeted worksites with high numbers of Latino employees, claiming to be enforcing employment laws. These events typically result in the arrest of individuals and workers who despite having no criminal record are treated as dangerous law violators. These policing practices have only created a high degree of intimidation and fear among Latino families in the state.

In addition to the high levels of surveillance and policing experienced by Latinos in their everyday lives, the state congress has worked ferociously at producing and introducing anti-immigrant legislation plagued with xenophobic undertones. This includes laws that have included efforts that go from denying education to the children of undocumented immigrants to prohibiting landlords from renting to people suspected of being undocumented. While defeated in

congress, much recent attempts have sought to create a mandate for elementary schools to document students' parents' immigration status, for hospitals to report sick or injured patients believed to be undocumented to the authorities, and even the elimination of birthright citizenship for the children of undocumented immigrants. The prevalence of these efforts in the legislature suggests that in the near future anti-immigrant measures are only likely to continue being proposed and implemented in order to further contribute to the climate and tension and discrimination targeting Latinos and Mexican Americans in the state.

### **The Coyote Law**

One law that has failed to receive much attention despite its serious implications on the lives of Latinos in the state is the anti-human smuggling law. The law was first introduced as an attempt from a coalition of right wing religious groups operating in the state to curb the allegedly high numbers of human trafficking cases in Arizona.<sup>30</sup> According to the bill's supporters the increase on trafficking cases in the state was tied to the activities of gangs of Mexican human smuggling facilitators operating in the state. While no evidence linking human traffickers to the activities of smuggling facilitators was ever furnished, the growing reports of immigrant kidnappings and the advocates' moralistic call to action eventually generated congressional support for the bill. Drafted by

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<sup>30</sup> While human smuggling is conceptualized as being voluntary in nature –that is, the immigrant seeks the services of the smuggling facilitator to secure his or her transit- trafficking is typically defined as involving a degree of coercion and force. Sex trafficking refers primarily to the transportation of women and children for the provision of sexual services for profit.

Jonathan Pathon, a republican congressman from Tucson, and signed into law in 2005 by then governor Janet Napolitano, the anti-human smuggling statute's ultimate goal was to curtail what were characterized as the high levels of smuggling-related violence in the state. Legislators were convinced that the lack of a law defining smuggling as a crime had encouraged smuggling facilitators to operate in Arizona. Under this rationale, smuggling facilitators were freely engaged in the exploitation and victimization of their clients. The law was therefore intended to serve as a tool to prosecute smuggling facilitators, safeguard victims and prevent the commission of further abuses. Since it targeted the activities of smuggling facilitators the law became known as the "Coyote Law."

A few months after the law had gone into effect, there was a surprising turn of events. The then Maricopa County Attorney Andrew Thomas announced that the language of the statute allowed for the prosecution of smuggling facilitators, as well as the undocumented immigrants who relied on their services. According to Thomas' argument, any undocumented immigrant who willfully agreed to be transported illegally into the country had committed an act of conspiracy to plot his or her border crossing with the assistance of a facilitator and was thereby liable for prosecution.

The decision followed the arrest in early March of 2006 of fifty three immigrants in transit who were stopped while traveling in two vans on their way to Phoenix. A 23 year old sheriff's officer called dispatch to report that the driver of one of the vehicles had failed to make eye contact with him while sharing the road. The officer proceeded to stop the driver, despite having no probable cause

other than the driver's disregard of his presence (Maricopa County v. Salazar-Hernandez 2006).

It did not take long for groups of concerned citizens and legal professionals to respond and to challenge Thomas' office's decision to legally define such immigrants as conspirators. A lawsuit was filed against the measure arguing that this first case, and those likely to ensue, would "promote racial profiling and discriminatory detentions" because officers "have no training and cannot tell whether someone is not lawfully in the state without first detaining and interrogating him." (Background and Talking Points 2006: p.3) Even Jonathan Pathon went on record to remind Thomas that the law "specifically defines human traffickers and coyotes as those who profit from the activity" and that the statute's intention was "to go after those who are involved in drug trafficking and human trafficking for profit, never intending for immigrants to be arrested" (Background and Talking Points 2006: p.2).

None of the plaintiff's arguments prevailed and the lawsuit was eventually dismissed for lack of merit. One of the immigrants convicted under the law filed an appeal on the grounds that the regulation of international migration was exclusively a matter of federal authority, and that the arrests promoted by the conspiracy charge violated federal preemption (Arizona v. Coz-Flores 2008 p. 13). But the district court justified the county attorney's enforcement of the statute and sided with Thomas' office's interpretation, arguing that it "furthered the legitimate state interest to curb *the culture of lawlessness* that has arisen around

this activity by a classic exercise of police power” (Arizona v. Coz-Flores 2008 p. 13).

By June of 2006, 48 of the 53 undocumented immigrants involved in that first case were undergoing court proceedings for their involvement in a conspiracy to commit human smuggling. A few decided to take their case to trial. After having spent between three to four months incarcerated, the majority was anxious to return to their families and communities and opted to sign plea agreements under the assumption that the measure would benefit their case. The signing of a plea, however, signified the waiving of any kind of potential immigration relief the immigrants were entitled to under federal immigration law and virtually eliminated their possibility of re-entering US territory legally in the future. The immigrants were released to the immigration service as their cases were decided in court and each one of them was eventually deported.<sup>31</sup>

### **Smuggling Enforcement Practices**

Following the alleged success of that first incident, and in collaboration with the County Sheriff, the Maricopa County Attorney’s Office began to systematically charge undocumented immigrants arrested during anti-smuggling enforcement operations with conspiracy to commit their own human smuggling. By November of 2009, Andrew Thomas held a press conference to proudly

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<sup>31</sup> Forty eight of the fifty three immigrants present at the time of the stop were indicted. Thirteen cases were dismissed. One remained open as the accused party was mistakenly deported prior to being sentenced. The remaining 34 immigrants were sentenced to probation terms ranging between 1 and 3 years and deported.

announce that the enforcement of the Coyote Law had led to one thousand “successful” convictions involving smuggling facilitators. While a few of these cases have indeed involved the indictment of human smuggling facilitators and even of some *bajadores*, the large majority of those convicted were Latino undocumented immigrants who hired smuggling services. Perhaps the most troubling aspect is that many immigrants who were actual victims in a kidnapping case and who had endured multiple levels of victimization and violence were also charged under the statute. In many cases victims who had assisted in the state’s investigation or prosecution efforts were released to federal immigration authorities for deportation. Many others even faced federal charges arising from their illegal presence in the country.

Despite efforts to modify the way the law was enforced, to this date immigrants in transit as well as smuggling facilitators continue to be arrested and charged under the terms of the Coyote Law. Most arrests take place when immigrants in transit are arrested as passengers in vehicles on route; when they work as facilitators driving groups of undocumented immigrants to their destinations; while providing cleaning or cooking services at safe houses; running errands to offset their fees, housing undocumented immigrants overnight and verifying cash deposits, among other circumstances. Given that low income and working class Latino undocumented immigrants constitute the majority of those convicted with conspiracy to commit human smuggling, the numbers provided by Thomas suggest that the Coyote Law has been effective as a local immigration

enforcement tool. Its impact in the actual smuggling market, however, remains questionable.

### **Enforcing Smuggling through Racial Profiling**

Judicially-sanctioned racial profiling is central to the US government enforcement of the immigration laws (Johnson 2003: 347). Given the Supreme Court's decision on *United States v. Brignoni-Ponce* that established "the likelihood that any given person of Mexican ancestry is an alien is high enough to make Mexican appearance a relevant factor," law enforcement agencies can use a person's "Hispanic appearance" as an element of their decision to initiate questioning (Johnson 2003: 348).

The enforcement of smuggling law in Maricopa County has consistently, and primarily relied on the exercise of racial profiling, and has been through the series of immigration law enforcement practices identified by Romero: Stops carried out by law enforcement are discretionary, based largely on perceptions constructed around ethnicity and class; 2. intimidation is used to demean and subordinate persons stopped; 3. stops restrict the freedom of movement of specific groups (as in this case, Latinos) but not others in the same vicinity; 4. stops reinforce stereotypes of Mexican as alien, foreign, inferior and criminal; and 5. the stops ultimately limit access to fair and impartial treatment before the law, placing Mexican Americans and Latino immigrants at risk." (2006:463).

While racial identification is not incorporated in police reports on human smuggling as the single main cause leading to a stop, this sample's probable cause



statements –the justifications provided by law enforcement to conduct a stop or carry out a search that may lead to criminal charges– focus primarily on the physical appearance of the suspects. In addition to physical appearance, law enforcement officers consistently rely on the identification of specific activities or attire to justify stops and determine probable cause, which is a form of class-based racial profiling (Romero 2006: 462). Officers justify smuggling related stops on the basis of “a suspect’s dirty or soiled clothes”; “failure to make eye contact”; “having a tired and scared look”; “smelling like illegal aliens”; “appearing to be alien”; “seeming nervous and trembling”, “listening to Mexican music”, “wearing a street worker orange shirt,” etc. Despite the fact that none of those reasons involve or even suggest the commission of a criminal action, law enforcement officers claim these behaviors and appearances are suspect and allow for the execution of stops and searches.

Examples of these profiling practices appear in the reports of several Maricopa County Sheriff’s officers participating in smuggling interdiction patrols. The implementation of these patrols in the county followed the successful outcome of the first case prosecuted under the Coyote Law. They involve the setting up of patrols (staffed sheriff’s vehicles) along random sections of the highways and roads in Maricopa County for surveillance. The purpose of these patrols is to detect possible acts of human smuggling as they occur. In this sample, patrols were usually located along heavily transited segments of the county’s road network along interstate highway 17, which connects the county to interstate 40 to the North, and interstate 10, which connects Arizona to California.

According to the standardized narratives included in Maricopa County Sheriff's reports these roads were selected because this is where "most human smuggling activity takes place." The cases in this sample, however, show most arrests do not take place on the highways, but within urban neighborhoods. And so it appears that the sheriff's office has purposely sought locations of high visibility from where to carry out their activities. Unlike other police agencies which respond to events after they take place, Maricopa County Sheriffs look out for potential activity and conduct stops and question individuals based on suspicion of smuggling activity alone, which is in turn based on perceptions of citizenship status based primarily on race and class.

The designation of random segments of urban space as occupied by "human smugglers" has facilitated and justified the conduction of stops along open roads in the Maricopa County area. The enforcement of the law would not raise questions if the data revealed that the law is enforced equally. However all smuggling-related stops involve Latinos and only Latinos, which suggests that stops are primarily justified on the basis of the race and/or ethnicity of the vehicle's driver, and not the presence of any kind of evidence that suggests a person as having committed a crime. This raises concerns over the unknown number of Mexican and Mexican Americans who by reason of fitting this profile may be subjected to questioning solely on the basis of their appearance. However, these types of stops are not reported since they do not lead to an arrest. While these stops may not have legal repercussions, the questioning of others who

fit a profile, reminds both drivers and the vehicle occupants of their second-class citizenship (Romero & Serag 2005).

This becomes even more relevant when we keep in mind that human smuggling activities are not an ethnic-specific activity. Other smuggling cases analyzed in this sample include references to several non-Latino smuggling facilitators. Smuggling facilitators themselves are aware of the degree of profiling they are likely to face, and develop techniques to avoid being easily detected. For example, a coordinator disclosed he “always hire[d] *gueritos* (men of light complexion) to drive the people, because the cops are racist and will stop the first *prieto* (man of dark complexion) they see.” Aware of how law enforcement targets vehicles perceived as being those of undocumented immigrants, the coordinator stated he would “rent brand new cars because *la chota* (police) always go after the beaten up cars.” (Maricopa County v. Robaina, 2007).

Smuggling interdiction patrols are also random in the sense that they are conducted at no specific time during the day or night. In an attempt to show the standardized monitoring previously mentioned, patrols are described them as taking place “at times consistent with other human smuggling incidents.” All reports of smuggling patrols reveal these operations do not take place consistently or at determined time frame. Instead, by referring them as “consistent with other events” the reports create the illusion of uniformity, which helps further validate the stop and justify an arrest to the court. In the sample, “consistent” referred to smuggling activity that took place as early as 4:25 AM or at 11:25PM, or even

3PM.<sup>32</sup> While the wording of reports seeks to imply a pattern, the times of the stops take place do not reflect a pattern of smuggling activity. The fact that stops occur at all times of the day instead reveals the intensity of the surveillance to which citizens in the county are subjected, and are a troublesome indication of the potential infringement of individuals' constitutional right to free transit since patrols are most likely subjecting US citizens to unnecessary and unwarranted questioning and stops.

Racial profiling is not only conducted in the execution of smuggling patrols. It is also frequently used in smuggling enforcement activities in combination with allegations of traffic violations. Many of these so called violations, however, are minimal, and in many occasions border on the absurd. They include: officers citing miniscule speeding violations (from one to five miles over the speed limit); the presence of valid temporary plates; an officer's inability to read a plate from the inside of the police vehicle; the time of the day; the placement of tow hitches; use of plastic frames around metal plates.

The way traffic stops are used along with racial profiling is evident in the police report submitted by a Maricopa County Sheriff's officer and member of a so called "human smuggling unit." Quintero was patrolling one of the highways designated as smuggling corridors (or as Quintero himself describes it, "a known

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<sup>32</sup> Based on probable cause and police report statements collected for this study, among the cases involving anti-human smuggling operations, 9 arrests were conducted between midnight and 5:59AM; 53 between 6AM and 12PM; 53 between 12:01PM and 5:59PM, and 55 between 6PM and 11:59PM. There does not seem to be specific time in which smuggling facilitators operate, contrary to law enforcement's allegations.

traveling route commonly used by suspects involved in illegal human smuggling for profit” (GET REFERENCE FOR QUINTERO’S CASE 214) with the intention of detecting smuggling activity. Allegedly he proceeded to conduct a traffic stop on a SUV on the basis of the vehicle was going 8 miles over the posted speed limit.<sup>33</sup> Quintero went on to describe how once he signaled the driver in the vehicle to pull to the side, the occupants – not the driver- failed to make eye contact with him, making him suspicious they could be involved in smuggling. Without having approached the vehicle, Quintero contacted dispatch to report the stop based on the fact that the passengers “were all of Hispanic decent (sic) and only spoke Spanish.” Despite the fact that Quintero had not established any contact with the driver or passengers, he stated their “confused and scared appearance and their failure to make eye contact” made him believe “all of the passengers were in the United States illegally.” Quintero then approached the vehicle. The occupants and the driver were eventually charged with smuggling. The driver, however, was not an undocumented immigrant. He was a legal permanent resident who had been collaborating with a group providing driving services while in between jobs.

Officers’ actions are not only problematic due to the reliance on racial profiling, but because enforcement actions can effectively get out of control and put those who transit along roads and highways – not only the undocumented immigrants who rely on smuggling– in danger. On September 12 of 2007, two

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<sup>33</sup> In Maricopa County, tickets are not issued by photo radar systems unless a driver exceeds the posted speed limit by 11 miles per hour.

officers patrolling the area of US 60 in the mining town of Wittman, Arizona, began to follow a vehicle because “the ball tow hitch made difficult to read the plate.” (WITTMAN CASE) The report reveals that the officers proceeded to follow the vehicle despite having already determined the plate’s number over a quarter of a mile earlier. They contacted their dispatch unit and had the plate number identified. The dispatch unit informed the officers that the vehicle had not been reported stolen, nor had outstanding tickets or warrants. While at that point there was no reason to continue pursuing the vehicle, as the driver had not violated any laws, the officers continued to follow it for approximately another mile without signaling the driver to stop. Once the vehicle had reached the center of town, the eight passengers –among them a pregnant female—ran out of the vehicle into the small town’s square. At that point the officers called for backup to assist them in searching for the immigrants, with partial results. Four immigrants were arrested and charged with solicitation to commit their own human smuggling, and were sentenced to probation terms following their deportation. The pregnant woman in the case was never located.

While the sheriff’s office has concentrated the majority of its anti-smuggling enforcement efforts in the periphery of the metropolitan area, the Phoenix Police Department conduct the majority of its activities within urban settings. On October 26, 2009, Isabel Medina-Meraz, a single mother of two US born children who ran a small house-cleaning operation in the Phoenix area, was on her way to work along with one of her employees when two Phoenix Police

officers began to follow her vehicle. The officers referred to Medina's behavior as suspicious:

The driver look[ed] in our direction. When she did this she seemed startled and then immediately looked away and stared straight ahead with her hands locked rigidly on the steering wheel. (Maricopa County v. Medina Meraz, 2009: Police Report p.).

The officers did not proceed to make a stop at that point. Instead, Officer Schiaveto states:

I made a U-turn and attempted to catch up with the vehicle to run a registration check; *the plates were valid* (my emphasis). As soon as we made our U-turn we tried to get behind the vehicle. As we made the turn the vehicle had pulled in front of a house.

Despite having verified the validity of the plates, the two officers continued following Meraz as she drove through her neighborhood without making a stop.

We waited until the vehicle left the house and later the vehicle drove by. When it made the turn it failed to use a turn signal. We directed our patrol car behind the vehicle and again the vehicle made an abrupt turn into a parking lot failing to use its turn signal.

It was only at this time (according to the police report, 45 minutes from the time of initial contact) that the pair of officers decided to make a stop, but by the time they approached the vehicle both occupants had already stepped out and

were walking into two different stores, which was the behavior the officers characterized once again as “suspicious.”

The officers proceeded to question Meraz and her companion, who “appeared nervous and were fidgety and looking all around.” Worried about the intimidation and fearing further questioning, Meraz stated under coercion that until recently she had been involved in human smuggling by withdrawing money from bank accounts and receiving \$50 per transaction. The man driving the vehicle was a formerly unemployed construction worker she had hired to help her with her house cleaning business and he had been working with her only for a couple of weeks. Meraz was convicted of human smuggling and sentenced to 4 months in jail.

Meraz was not the only one affected by her arrest. Following her detention, police placed her two minor children and their caregiver –a neighbor of Meraz she had listed as her emergency contact- under around the clock surveillance Meraz’s daughter , a 14 year old minor, was also questioned without parental consent one day after school. The officers searched Meraz’s daughter backpack, and confiscated one of her school notebooks as evidence, claiming the math calculations that appeared on several pages were most likely evidence of the child’s mother involvement in human smuggling. The minor stated she used the notebook to teach her younger sister how to count.

The incident reflects the hypervigilance of Latino as suspects are subjected in the urban space. Police did not believe the child’s account and instead argued that her mother was perhaps tied not only to a human but even to a



drug smuggling organization. The allegations were used not only to justify the search, but also to intimidate the child, and to lead her into believing the questioning was perfectly normal because her mother was a criminal for having cashed checks and earned a few hundred dollars to supplement her income. These painful events teach US born Latino children their appearance will subject them to extreme means of social control, that their behavior will be rendered as suspect, and that despite being born in the US, they lack full access to civil rights (see Romero and Serag 2005).

Meraz's case shows the degree of intimidation and harassment that Latinos and Mexican Americans experience as part of smuggling enforcement. Police actions are justified as matters of "public safety," but affect Latinos disproportionately. Meraz's daughter's experiences also reveals the extreme degrees of surveillance and policing and the impact of these actions upon the lives of families residing in the area.

The Arizona Department of Public Safety, yet another agency involved in the enforcement of anti-smuggling activities, is also known for the degree of intimidation in which it engages toward detainees in the context of criminal investigations. In March of 2009, during an undercover operation in the predominantly immigrant neighborhood of South Phoenix, a male driving a truck stopped in the area where law enforcement was conducting surveillance. According to court reports, the officers had "reason to believe" that the man who was listening to music sung in Spanish was part of the group they were watching. Officers proceeded to hold the man and put him in handcuffs.

As police questioned the truck's driver, Refugio Serna, a Latino US citizen, was pulling into the parking lot. He was planning to pick up his father-in-law --the "suspect" police had placed in handcuffs. Serna ran to his father-in-law's side with the hope to assist him because he was undocumented and did not speak English. Serna describes:

I showed up to pick him up. I approached the officers and asked them what was going on. The officers said we were involved in human smuggling. They asked for consent to search my truck and I granted it. But then the officer put me in handcuffs – for his safety, he said. He told me I was not under arrest and that I was free to leave but that never happened. They put me in the back of the vehicle and they just kept questioning me and driving me around town handcuffed (*Maricopa County v. Serna* 2009).

Police officers cited Serna's "bold and very confident demeanor while driving a truck into the parking lot and playing Mexican music very loud" (sic) as giving them a reason to place him in handcuffs suspecting his involvement. A second officer said Serna's concern over his father-in-law's wellbeing raised police suspicion as that kind of behavior "was odd."

But Serna's experience with police did not end there. Once handcuffed, he was driven around town for 11 hours by the officers, who insistently questioned him about his assumed participation in human smuggling. During the entire day he sat in the back of the police vehicle without having access to his family or legal counsel. He was constantly reminded by officers that he was not under arrest. In

face, the officers suggested sarcastically as they drove Serna through a desolate area that he was free to walk back home if he so desired. They even stopped at one time and opened the door of the vehicle inviting him to leave. Serna's family was also intimidated when police drove him to his home so that his family could see him in handcuffs. While assuring his wife that he was not under arrest, the police said he would not be let go until he spoke about his participation in smuggling. While no charges were filed against Serna, he was forced to request a leave of absence from work as a result of the criminal investigation that was eventually launched against him.

Serna later on expressed his frustration in his statements to court investigators -“they racially profiled me; they said I was dangerous because I am Mexican” (Maricopa County v. Serna: Presentence Report p. XX). His statements reveal the embarrassment, pain and ridicule he experienced as officers paraded him in front of his family and neighbors, intimidating him and trying to make an example of him.

### **Victimization through enforcement**

Enforcement of the Coyote Law does not only target smuggling facilitators, has also resulted in the conviction of undocumented immigrants who either hire the services of facilitators or who are victims of kidnappings or *bajador* cases. The implications of this form of enforcement are evident in the experiences of the victims who instead of being given access to justice are also

punished through failed advocacy services, deportations, indictments, and incarceration.

Daniel Garcia Chevez experienced violence at a drop house where a group of *bajadores* kept him and a group of immigrants against their will. After reaching an agreement with a man unknown to him in Nogales, Garcia had been transported to Phoenix. He was held because “the phone calls to family members did not pan out as the coyotes wanted, and so the threats and the beatings began” (Phoenix Police Department 2009). Fortunately for Garcia Chevez and the rest of the people held at the drop house, the police responded to their calls for help and the *bajadores* were arrested.

Garcia Chevez’s cooperation and statement was instrumental in identifying all guards in the house and provided the police with a detailed account of the beatings, the threats, and the acts of humiliation. He was the only person in the group able to speak English. As a child, he had migrated without documentation to the United States and lived in a small town in California with his brothers where he had worked as a landscaper for several years. He had been arrested during an immigration raid and deported. As the primary wage earner of the family, he was desperate to return to his wife and children all of whom were US citizens. He found himself in a precarious situation and had no other option but to rely on a stranger to cross the border.

Despite his presence in the house and his degree of collaboration with the authorities Garcia Chevez was not considered to be entitled to victim status or protection because he was not included in the list of official victims in the case

and received no advocacy or legal support. Having disclosed his immigration status to the police, he “was turned over to ICE for further disposition.” (Phoenix Police Department 2009, p. 4, 12). Garcia Chevez would eventually be deported, but first he was to face federal charges: “ICE informed (...) this individual was going into federal custody reference his deportation issues and was facing federal charges for re-entry.”

Garcia Chevez’s case is not unique. Most victims involved in extortion cases or in kidnapping situations like the one he was part of, face immediate deportation due to their immigration status. Following the resolution of a smuggling case by law enforcement, and if no charges are filed against him or her under the Coyote law, the immigrant is turned to the immigration authorities to face deportation and removal. Of the 40 undocumented immigrants present at the drop house where Garcia-Chevez was rescued, only one was afforded the opportunity to address the court in writing at the time of sentencing. All victims had been deported by the time a plea was reached in the case.

Even in the case that an immigrant is actually designated as a victim and/or granted temporary permits to stay in the country to assist the state on prosecution, victim services units are not efficient at providing support, advocacy or any other form of assistance to undocumented victims of crime. Unfamiliar with the judiciary system, unable to communicate in English, and lacking effective day to day support (housing, transportation, employment), victims find it difficult to keep up with the advocates’ requests, which involve constant communication, court attendance, the provision of contact information, statement

preparation, documentation that verifies injuries or damage sustained, etc. In many occasions, collaboration with prosecutorial efforts leads to increased pressures in victims' lives, and contributes to their vulnerability:

From the time the police found us and my attorney gave me a bus ticket to come home from that time till now I have not been able to work and it has cost me lost wages and those lost wages are what helps me to pay my rent bills and take care of my family especially my 2 year daughter (sic).

Courts have cost me from being able to go out and do the little jobs that I do get and those jobs are what helps me to pay rent, bills (GET REF).

Victim's concerns are generally absent from presentence reports and sentencing recommendations submitted to court in preparation for sentencing. Most presentence reports analyzed in this study show the inability of court staff to locate victims in preparation for sentencing. Largely as a result of their deportation, most victims are unlikely to receive notification of sentencing, to be present during court hearings, or to have the opportunity to address the court regarding the nature of their victimization. Despite being entitled by law to restitution, minimal efforts are made by the state to locate them or to ensure they receive any kind of compensation that can at least minimally alleviate their victimization.

The interactions between the victims of kidnapping and law enforcement officers in the context of criminal investigations also provide a window into the perceptions and treatment of undocumented immigrants. The legal record shows clear examples of smuggling facilitators, *bajadores* and customers being held as

suspicious and dangerous, subjected to the same forms of treatment. Once they are found by police, all occupants at safe houses are handcuffed, patted for weapons or drugs, and questioned without the presence of attorneys or any kind of legal advocate. In cases involving clear cases of violence, the record shows victims and victimizers alike are transported and housed together at the same detention facilities. They are all held in custody as suspects until investigations determine the charges, which may take anywhere from days to months.

Smugglers, *bajadores* and migrants are also subjected to almost identical lines of questioning, as if there are no distinctions in their experiences. Even when charges are not filed against them, undocumented immigrants who have experienced victimization in their transit at the hands of smugglers or *bajadores*, are consistently treated as suspects, accomplices, co-conspirators, and assumed to be guilty on the grounds of their unauthorized presence in the U.S. The following police statement demonstrates the type of questioning victims are subjected to and how they are subjected to surveillance as if they posed a security threat:

I spoke to Raucel Hernandez, who stated he was also held captive inside the house. I then spoke with Nelson Enriquez, who stated he had gotten there on Friday and paid \$3000 to cross the border; with Juan del Carmen, who crossed the border and got transported to the house where he was now, and with Benito Mendoza, who was treated bad[ly] and was threatened with being killed if he didn't pay up. After questioning, for the remainder of my time in scene, I continued conducting security, and kept eyes on all victims (Phoenix Police Department 2009, B, p 2,6).

Police responses to smuggling reports frequently involve unnecessary displays of force. In 2009, a SWAT team of 4 officers from the Arizona Department of Public Safety irrupted at a safe house where 15 undocumented immigrants, including 4 children, were being held while waiting for transportation to their final destination. The police report describes how all immigrants and their children were found in optimal conditions. The mothers were cooking in the kitchen while their children played in the back yard:

At 910 hours DPS SWAT made an exigent entry on [.....] Campbell Avenue, in Phoenix, Arizona. Fifteen people were detained *including four children*. The people were clothed, clean and all were wearing shoes.

Everyone agreed they were treated well and [that] no threats of violence had occurred at the Campbell location (Phoenix Police Department 2009 C).

Despite the fact that no violence was reported, all immigrants were detained, and while none of them were charged with committing a crime, all of them (including the children) received the treatment given to criminal suspects. The men and women in the group were removed from the house, handcuffed, detained, and questioned for hours. Ten immigrants, including all women, were immediately released to the immigration service for removal proceedings after being questioned by police. All children were separated from their mothers. Only one child was released to relatives who were able to show proof of their immigration status in the US, while the other three were placed in the custody of



the state's child protective services. There was no information indicating the children were ever reunited with their parents.

### **Conclusions**

The findings presented in this chapter show that enforcement of the anti-human smuggling statute has failed to address the initial concerns of its proponents and are likely to have been fabricated as a major problem in the first place. When proponents of the statute expressed discontent over its legal application, political pressures and the state's anti-immigrant, xenophobic climate stopped them from challenging the way it has been enforced.

The smuggling definition of the statute fails to identify victims when present, and provides no effective ways to access restitution or any other kind of relief to those who may find themselves in danger as a result of smuggling. The lack of explicit definitions of victims and smugglers deprives vulnerable groups of the most basic legal and even humanitarian protections.

The Coyote Law was intended to protect immigrants from smuggling related violence but has instead become an immigration enforcement mechanism that criminalizes and increases the victimization and vulnerability of undocumented immigrants. The law has had limited if no impact on smuggling activities because it has consistently been used to punish immigrants, and not to protect them.

In summary, Arizona's efforts to criminalize human smuggling have only been effective in increasing immigrant criminalization. In the state, tensions over

border security and the xenophobic perception involving immigrants have facilitated and justified the racialized enforcement of a poorly constructed anti-smuggling statute. This process has been fueled by the collective fears emerging from the discourse of broken borders, which characterizes undocumented immigrants as criminals, members of drug and human smuggling gangs and as violent sexual predators.

The law has also functioned as a mechanism to reinforce racial and cultural stereotypes of Latinos in the state, and as a powerful reminder of their second-class status. It has also been effective in lessening Latinos' most basic rights and opportunities (free transit; right to be secure against unreasonable searches; fair and expedited access to justice). The experiences of men and women arrested as part of the anti-human trafficking enforcement reveal clear forms of profiling and intimidation that Latinos are likely to face regardless of their immigration status. Current immigration enforcement actions are unlikely to reduce these conditions. In fact, recently released statistics by Immigration and Customs Enforcement reveal the number of arrests of undocumented immigrants for immigration violations during the Obama administration has reached record numbers (Office of the Press Secretary 2010). This is partly due to the growing role of state governments in immigration enforcement activities that rely heavily on racial profiling. A discussion of the implications of federal/state collaborations is outside the scope of the present work, but the analysis of immigration enforcement in Maricopa County indicates the urgent need to showcase the role racism and nativism play in immigration enforcement practices nationwide. These

findings suggest the need for urgent action to respond to the xenophobic sentiment fueling the growth of anti-immigrant legislation.

## Chapter 6

### **CONCLUSIONS: SMUGGLING IN THE ERA OF SECURITY**

The word diaspora often involves the imagery of traumas of separation and dislocation, and this is certainly a very important aspect of the migratory experience. But diasporas are also potentially the sites of hope and new beginnings. They are contested cultural and political terrains where individual and collective memories collide, reassemble and reconfigure (Brah, 1996, in Barber, 2000)

A few years ago, driving home after leaving one of Maricopa County's jails, I thought about the events of the day. I had just spent most of my Saturday afternoon sitting on the floor of a cell, talking to a smuggling facilitator believed to be the head of a large organization responsible for the transportation of hundreds of undocumented immigrants across the Arizona desert. I don't remember what his name was, only that at 26 he was not much older than I was at the time. We had identical musical tastes, liked the same brand of beer --and our families were from the same state in Mexico.

After several hours I realized it was time to say goodbye and walked out of the security area to leave the interview room. Suddenly, the young man ran to the gate as if he had forgotten to say something important, and yelled through the metal bars of the cell, waking up the sheriff's officer dozing off by the door: "If

you ever have a friend, or a relative who needs to get through, look me up! I'll get them across for free!"

It was not the first time that I had been honored with such a gracious offer, or that I had developed rapport with an interviewee. During my time in presentence, I spent ridiculously long amounts of time talking to the men and women about to be sentenced for their participation in smuggling. We would talk about family, relationships, friends, travels; I would share with them some daily news, or even some tabloid gossip. But most importantly, we used to laugh – I used to laugh a lot those days.

That day, following my conversation with the young man, I began to wonder about my future. I had been conducting interviews for several years. People had been sharing with me their hopes, their fears, their frustrations. What was I doing with them? I was growing weary of completing those thick brown files full of incriminatory statements that described smuggling facilitators as heinous criminals, as violent predators scouting Phoenix's freeways for victims. What was next? People liked me, and I enjoyed my job. But what was my commitment to those who I interviewed? What did I want to do with that their voices, and why?

As I sit here writing the conclusions to my dissertation I wonder if I have even vaguely reflecting the compassion, the courage, the hard work and the determination present in each one of the narratives of the men and women whose voices were included in this study. I wonder if while reading this dissertation's pages the guides, the walkers, the coordinators or drivers would recognize

themselves in my analyses. Or if my translations of their accounts are accurate reflections of their thoughts, their feelings of anger, despair, hope. And it saddens me to think I will never know the answer. All of the people I spoke to once were eventually deported following the completion of their sentences. And despite the fact that during the years I worked in presentence I always made sure to leave a card, and people excitedly assured me they would call, nobody I interviewed ever contacted me afterwards.

I decided to study of human smuggling operations without knowing where my research interests would take me or what I would find. I think I initially and rather naively believed smuggling acts as narrated by my interviewees were if nothing else, exciting. I remember the looks in my cousins' faces when I'd speak about my most recent interview with a courageous female smuggler or about a meeting with a handsome, mysterious facilitator. It took me some time to understand these narratives were much more than personal accounts of bravery or determination. I began to uncover the way criminalization processes developed, and the role race and class played in individuals' access to justice. I heard of the impact of detention in the lives of immigrants, and of how different it was from the one faced by other groups. That was how I began to question the nature of the criminalization processes and tried to understand how they originated. While working at this, I also discovered the lack of empirical evidence in the area. I realized the lack of information regarding a market that was so poorly understood was only simplifying its vilification, and its misconstruction on the basis of perceptions regarding race and class.

When law enforcement and government agencies began to show an interest in my work by funding it, I began to wonder if I could use those spaces to speak about an idea that seemed radical at the time: the possibility that smuggling activities, far from being criminally organized or a threat to the stability of the nation-state, were efforts on the part of the working poor to improve the quality of their lives through the creation of alternative forms of income. But at the same time, I was also starting to think about the possibility that my research could, by privileging the voices of those the state had taught the public to fear and reject, provide new understandings of a criminalized activity.

My intention was never to vindicate the role of smuggling facilitators or to transform them into heroes. In fact I didn't have to: they had already achieved that status among the communities of immigrants whose journeys they worked hard at facilitating. But I was convinced that the current characterizations of the smuggling business were inaccurate and biased. Furthermore, immigration law enforcement operations were providing mounting evidence of how misleading definitions and understandings of the market were disproportionately affecting very specific groups in the state – Latino immigrant men, women and their children. And so this study became an attempt to understand the local human smuggling market from the perspectives of those who participated in it, emphasizing not the activity's criminal nature, but the social interactions that emerged among its actors and the role played by the state at imposing sanctions.

While I was encouraged by the possibilities of my research, I almost immediately became aware of its limitations. Mostly due to legal concerns, my

initial methodology had to be reworked. The possibility of establishing personal contact with smuggling facilitators was eliminated by the criminal justice agency where I intended to conduct my research. I overcame this limitation by relying on the first hand accounts of smuggling facilitators available through online public files, which posed no access restrictions. I was also unable to compile a representative sample of the entire smuggling market in the state – I was limited to the cases that by virtue of having been detected by law enforcement had resulted in a conviction and were therefore available for inspection. And so the smuggling-related activities of other groups that were effective at avoiding detection were not included. Something similar happened in the topic of women’s participation in smuggling. The size of my sample and the small number of females it contained provide a very narrow set of data from where to analyze female participation in smuggling. While other smuggling markets have been found by other researchers to be gendered, constant references to female leadership from the time I worked at conducting investigations and in my sample suggested female participation was more important than what I was able to document in this project, and perhaps more prevalent than what other researchers in the area of smuggling have been able to find.

I avoided expanding the scope of the research to aspects that while interesting, would have not contributed to my analysis of the social dynamics of human smuggling operations, like drug trafficking activities. While rare, events involving drug transportation were occasionally reported by facilitators as part of their statements, but referred to the transportation of drugs for personal use and



were not related to the provision of smuggling services. The only references to drugs that were relevant to an analysis of the kind I sought to provide are those involving drug use among *bajadores*. While outside of the scope of this project, it is perhaps important to highlight that no ties between drug and human smuggling organizations were found in the sample, most likely because at the most basic level (that is, logistics-wise), the likelihood of human smuggling facilitators to perform drug trafficking activities simultaneously is slim at best.

Another quite important aspect of this analysis involves the issue of violence. While I reiterate throughout this study that the likelihood of violence to occur in smuggling, and that the smuggling market despite being illicit does not show signs of being inherently violent, violent acts against immigrants do take place. However, a serious analysis of violence in smuggling should not be limited to studying the violent acts committed by smuggling facilitators alone – which are scarce and occur under very specific circumstances. Instead, the potential for smuggling related violence should be understood as one, and only one element of the continuum of violence faced by immigrants during the entirety of their immigration experience. As I have shown, while smuggling related violence has the potential of being heinous –as demonstrated by the attacks some immigrants are unfortunate to endure at the hands of groups like *bajadores*, for example—the state has also been a central actor in the victimization endured by immigrants in transit. This is evident in the examples involving raids, SWAT team responses, and the treatment of victims as suspects, which includes the lack of recognition of

their victim status and the elimination of any protections to which they would be otherwise entitled.

The characterization of smuggling facilitators as violent and callous criminals is not new, but the way their activities have been increasingly portrayed in the context of national security and border protection as threats to the nation-state is. An effective way to secure public rejection towards smuggling has been to suggest smuggling facilitators would be likely to participate in the transportation of terrorists who could carry out massive attacks against US interests. While the very concept of terrorist is also suspect, these statements are further complicated by the xenophobic perceptions surrounding the presence of Latinos in places like Arizona. Calls to limit Latino social, civic and political participation through racist legislation abound in the state, and have counted with the support of a public who amid the gradual loss of its privileges has found on immigrants the perfect target of its frustrations.

In the aftermath of 9/11, governments have taken increasing steps to control the flows of people and goods along their borders, devising plans to improve surveillance and to increase the policing and removal of the “alien invaders.” Increasing interventions by the state to stop all forms of undocumented, unauthorized transits and flows (Aguiar 2009: 2) particularly through the over-criminalization and the construction of immigrants and minorities as threats are common in Western countries. And so by being described as a highly complex, mafia-like enterprise, with ties to markets as diverse as sex trafficking and the weapons trade, with the power to transport

terrorists the same way as drugs, human smuggling networks have become the ideal and preferred target of the nation-state's criminalization efforts.

The US Mexico border, and more recently, the Arizona-Sonora corridor has been transformed, just like many other border regions in the world, into a space of interdiction: a conflict zone where the state implements policies that seek to control actors and commodities defined as illegal (Aguiar 2009: 1). Neoliberal practices have also meant the transformation of borders in an attempt to redefine the very notions of state and nation. Smuggling facilitators pose in this context a dual threat: their actions do not only show the de-territorialized character of the border, but their success at promoting migration constitutes a direct challenge to the very state desperate to re-establish its diminishing powers. In this context, the criminalization of smuggling facilitators is only likely to continue – just the same way undocumented immigration will continue to exist.

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APPENDIX A  
IRB APPROVAL

**To:** Mary Romero  
WILSN

**From:** Mark Roosa, Chair  
Soc Beh IRB

**Date:** 07/14/2009

**Committee Action:** **Exemption Granted**

**IRB Action Date:** 07/14/2009

**IRB Protocol #:** 0907004139

**Study Title:** Exploring Young Migrants' Stories of Migration

The above-referenced protocol is considered exempt after review by the Institutional Review Board pursuant to Federal regulations, 45 CFR Part 46.101(b)(2) .

This part of the federal regulations requires that the information be recorded by investigators in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects. It is necessary that the information obtained not be such that if disclosed outside the research, it could reasonably place the subjects at risk of criminal or civil liability, or be damaging to the subjects' financial standing, employability, or reputation.

You should retain a copy of this letter for your records.



