

The SHERLOC Team is pleased to share with you Issue No. 17 of our newsletter regarding our recent efforts to facilitate the dissemination of information regarding the implementation of the UN Convention against Transnational Organized Crime and the Protocols thereto, and the international legal framework against terrorism.



Credits: Yasser Rezahi

In this issue

**FEATURED CASE ON
TRAFFICKING IN
PERSONS:**
REPUBLIC OF
SEYCHELLES V. ALAM

**FEATURED CASE ON
SMUGGLING OF
MIGRANTS:**
UNITED STATES OF
AMERICA V. PALACIOS
& ASPRILLA

RECENT ACTIVITIES

MEET A CONTRIBUTOR

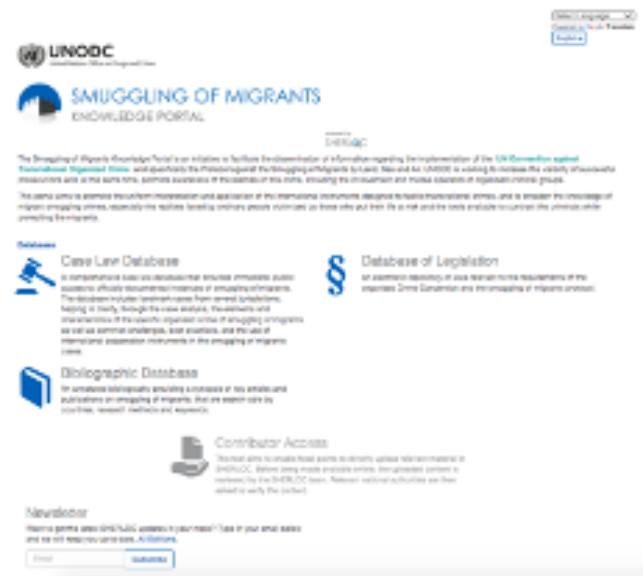
SPECIAL ISSUE: THE HUMAN TRAFFICKING AND MIGRANT SMUGGLING KNOWLEDGE PORTALS POWERED BY SHERLOC

Did you know that SHERLOC powers two unique global tools on trafficking in persons and smuggling of migrants?

Investigating and prosecuting trafficking in persons and smuggling of migrants remains a highly complex endeavor. The 2018 Global Report on Trafficking in Persons indicates that large areas of impunity continue to exist. While most countries have had comprehensive trafficking in persons legislation in place for some years, the number of convictions has only recently started to grow. On the other hand, the 2018 Global Study on Smuggling of Migrants has shed light on the significant challenges of data collection on migrant smuggling but also the heterogeneity of the data available.

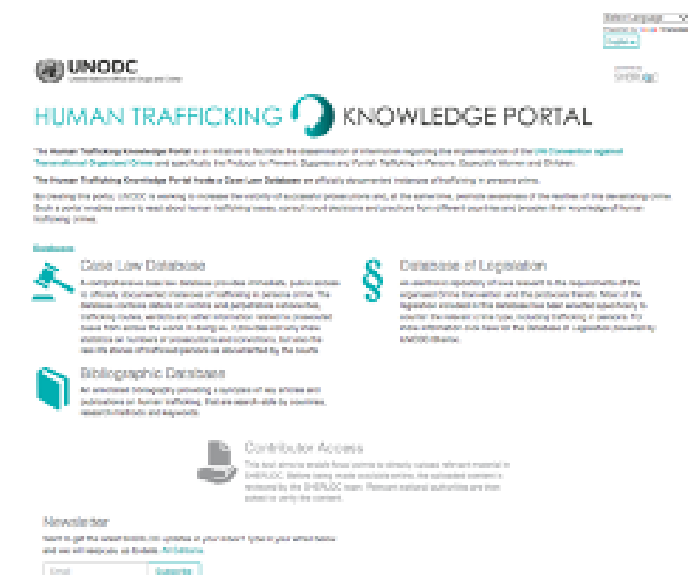
Ever since their launch in 2011 and 2017 respectively, the Human Trafficking and Smuggling of Migrants Knowledge Portals have proven to be unique tools with global outreach. The Portals contain databases on case-law, legislation and bibliographic references. The Portals aim to foster the uniform interpretation and application of two Protocols on Trafficking in Persons and Smuggling of Migrants, while also promoting evidence-based responses.

They serve as practitioners' tool for police investigators, prosecutors and judges; a monitoring tool for government policy-makers; an awareness-raising tool for the public and media; as well as an information tool for researchers and all those responding to trafficking in persons and smuggling of migrants.



As 2020 marked the 20th anniversary of the United Nations Convention against Transnational Organized Crime and its two Protocols on Trafficking in Persons and Smuggling of Migrants, this special issue of the SHERLOC Newsletter takes a particular focus on the Human Trafficking and Smuggling of Migrants Knowledge Portals.

It features two cases, respectively on human trafficking and migrant smuggling, that illustrate the relevance of knowledge sharing and international cooperation. Also included in this issue is information on the public launch of an upcoming study grounded on the analysis of case law from the Human Trafficking Portal, as well as our regular "Meet a Contributor" feature.



Case-law from the two Databases are also used in UNODC technical assistance activities, including capacity building trainings for criminal justice practitioners and also in developing analytical products and tools that help the community of practice exchange information and practices.

Take care and stay healthy,
the SHERLOC team



THE PORTALS CAN BE ACCESSED HERE:
HUMAN TRAFFICKING KNOWLEDGE PORTAL
AND
SMUGGLING OF MIGRANTS KNOWLEDGE PORTAL.

FEATURED CASE ON TRAFFICKING IN PERSONS: *REPUBLIC OF SEYCHELLES V. ALAM*

The *S v. Alam* case of 2018 is the first conviction after the adoption of a new anti-trafficking law.

Faisal Alam, a Bangladeshi national residing in Mahe, Seychelles, was the director of a construction firm called Dove Alliance Ltd. Between 2015-2016, through the help of his brother, Marsud Alam, he recruited four Bangladeshi nationals by telling them they could work as carpenters in Seychelles and misrepresenting the financial incentive and conditions of work, for the purpose of exploiting them by forced labor and practices similar to slavery.

Indeed, Mr. Alam received the workers upon arrival in Seychelles, collected the cash and took their passports. The workers were lodged in unfinished houses, which they were made to work on after a whole day of carpentry work for a third party, Dove Alliance. They lived in deplorable conditions. The amount of food given to them was not enough and they were not paid their salaries for some months. When they asked Mr. Alam about the lack of payment, food and proper accommodation, he threatened to send them back to Bangladesh or kill them.

The officials of the Department of Employment, upon receipt of complaints that expatriate workers for Dove Alliance were being mistreated, initiated investigation and, using the UNODC Human Trafficking Index, found enough indicators and evidence of human trafficking to refer the matter to the police.

The case was then brought to the Seychelles' Supreme Court. Significantly, several witnesses claimed that they received training in human trafficking, particularly the Director General



*Seychelles court's building 'Palais de Justice' at Ile du Port, where also sits the Supreme Court
Image credit: Seychelles News Agency*

for employment promotion in the Department of Employment, the Employment Officer at the Ministry of Employment and the Chief Superintendent of the Police and Head of Detective Services.

They all stated that due to the trainings on human trafficking that they received they were able to distinguish normal labor disputes from cases of human trafficking. Being aware of what exactly constitutes the offence of human trafficking also allowed them to conduct the investigations accordingly.

Moreover, in issuing its decision the Court referred not only to the UNODC Human Trafficking Index, but also to the UNODC Anti Human Trafficking Manual for Criminal Justice Practitioners.

This feature has been adapted from the original SHERLOC case entry. To find out more about this case, click [here](#) to access it on SHERLOC.

FEATURED CASE ON SMUGGLING OF MIGRANTS: UNITED STATES OF AMERICA V. PALACIOS & ASPRILLA

The defendants in this case, along with a third person, worked for the leader of an organized criminal group based in Turbo, Antioquia, Colombia. In September 2016, the defendants offered two Cuban nationals in Colombia to take them to Panama across the land border.

The pair plus one further migrant were met by the defendants and the leader of the group and placed on a boat, believing they would be taken to the United States. The boat took on water, and they had to return to Colombia, where a second boat was sourced. The boat then travelled towards Panama, but ultimately went into a canal area where suddenly the defendant produced a firearm and a knife on the victims.

Two of the migrants (both male) were tied up and thrown overboard; the female migrant was first raped and then murdered.

The male migrants were then pulled back into the vessel, one was killed, but the other one was able to vanish and after some time.

This case offers valuable insights into the gender dimensions of aggravated migrant smuggling in two ways. First, important insights can be gathered through the analysis of the aggravating factors and in particular, gendered violence the three smuggled migrants have experienced during the offence. One of three migrants involved in this Case was a female. Along the smuggling route, the female migrant encountered sexual assault and rape as an aggravation of the smuggling operation. In contrast, the two male migrants were subject to another form of violence.

This feature has been adapted from the original SHERLOC case entry. To find out more about this case, click [here](#) to access it on SHERLOC.



*The northward route: from Central America into Mexico and the United States
Image credit: UNODC*

RECENT ACTIVITIES

Public launch of the study “Female victims of trafficking for sexual exploitation as defendants: A case law analysis”

On 16 December 2020, UNODC launched the study “*Female victims of trafficking for sexual exploitation as defendants: A case law analysis*”. The study dived into the Knowledge Portal on Trafficking in Persons and specifically the Case Law Database, and through a gender lens, analysed case law on trafficking for sexual exploitation involving female defendants, who had been or were simultaneously exploited as trafficking victims. Selecting through 1500 cases, fifty-three cases were analysed from 16 different jurisdictions, with a focus on the European region. This is an illustrative example of how case-law from the Portals is transformed into an analytical product and a practical tool for different stakeholders.

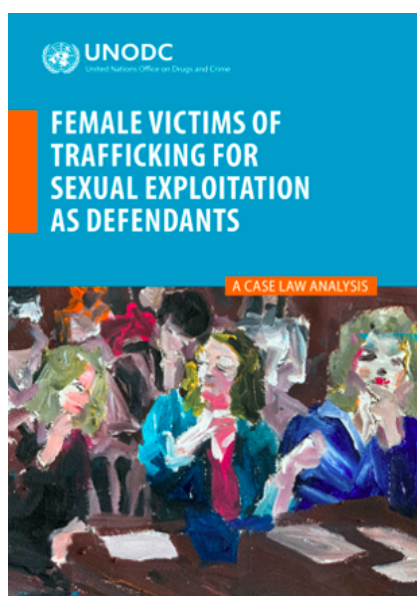
The main finding of this study is that traffickers use victims to shield themselves from prosecution. In many of the cases examined, traffickers used victims to commit acts proximate to the exploitation itself, e.g. recruitment of new victims, maintaining control over victims, collection of proceeds, or advertising of services. These are low-ranking roles within criminal hierarchies, they expose

The analysis further highlighted a nexus between human trafficking and gender-based violence, incl. domestic and intimate partner violence. In around 25% of the cases examined, victims who had been prosecuted for trafficking offences had suffered one or multiple forms of gender-based violence, either before or while being trafficked. These acts of violence included childhood sexual assault, sexual slavery, domestic and intimate partner violence, forced and child marriage. In such cases, the violence was normalised to the extent that the women were unaware of their status as victims and/or the criminal nature of their acts. Very few courts addressed these dimensions.

Furthermore, an examination of victims’ roles in offending also revealed a different set of motives from those typically attributed to traffickers, such as seeking alleviation from their own exploitation, securing the trafficker’s affection and having no alternative but to obey the trafficker’s orders.

The analysis further demonstrates that the “means” of coercion and “abuse of a position of vulnerability” remain unclear in judicial practice. The same applies with the issue of “consent.” All of these aspects are crucial, as the relationship between the victim-defendants and the traffickers in many of the cases could be characterized by the dynamics of “coercive control,” as it is understood in the domestic and intimate partner violence context. Courts appear to apply varying and, at times, stringent standards associated with the criminal law defences of “duress” and “necessity”.

Other difficulties included burden of proof and temporality requirements, as well as the impact of early plea agreements. Explicit statutory exceptions (for instance, those limiting the principle to less serious offences) constituted a further barrier, as did non-recognition of “forced criminality” as a “purpose” or form of exploitation within national anti-trafficking legislation. In addition, the analysis shows that courts also engaged in divergent interpretations of the prior trafficking experience for the purposes of sentencing, using it either as both an aggravating and mitigating circumstance.



victims to greater risk of detection by law enforcement authorities. Using victims in this way is one means by which traffickers evade criminal liability and enjoy impunity.

MEET A CONTRIBUTOR

This issue's featured contributors is a bit different to showcase the importance of cooperation for innovation. Zoi Sakelliadou is the SHERLOC Focal Point in the Human Trafficking and Migrant Smuggling Section (HTMSS) of UNODC and is responsible for a volunteer placement programme of external contributors from the Queen Mary University of London (QMUL).

With the support of Eleonora Scala, HTMSS intern, a team of amazing contributors has supported the work of the Portals since September 2020. We would like you to meet Esther Jaromitski, Eva Ford and María Barraco, who joined us after another group of QMUL students. See more [here](#).

The contributors enhanced the Portals' outreach not only by providing insightful case-law analysis from different jurisdictions, but also by further fostering contacts with practitioners and judicial institutions, undertaking trial monitoring and conducting research.

In times of COVID-19, Esther, Eva and María managed to make the best out of the shift to virtual meetings and events, demonstrating how the programme can serve as a great opportunity to strengthen the network of external contributors that help expand the Portals' knowledge basis.

