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Beyond the dichotomy between migrant smuggling and human trafficking: a Belgian case study on the governance of migrants in transit

Massol de Rebetz, R.M.F.A. de

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R.M.F.A. DE MASSOL DE REBETZ

Beyond the Dichotomy between Migrant
Smuggling and Human Trafficking

The right to free movement and the mobility of people as guaranteed by the Schengen Agreement have given rise to challenges regarding transnational organised crime and particularly migrant smuggling and human trafficking. Against the backdrop of processes of globalization and securitization of irregular immigration, the adoption of the United Nations Convention against Transnational Organised Crime in 2000 established a strict dichotomy between migrant smuggling and human trafficking. The distinction has led to different protective frameworks provided to (worthy) victims of human trafficking versus (undeserving) objects of migrant smuggling. This research addresses this legal dichotomy and unpacks the blurred boundaries between the two phenomena. Taking Belgium, a country of transit, as a case study, the work focuses on the sensitive topic of unauthorised 'secondary migration movements' taking place within the Schengen Area. Relying notably on semi-structured expert interviews, this socio-legal research empirically examines the functioning of the Belgian legal approach to deal with aggravated forms of migrant smuggling which allows victims to access the protective legal status usually strictly reserved to human trafficking victims. The research shows how this unique protective approach affects the governance of transit migration in Belgium, and more generally, unveils the real-life consequences of rigid legal categories.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'Effective Protection of Fundamental Rights in a pluralist world'.

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R.M.F.A. DE MASSOL
DE REBETZ