



# Large Fishing Dragnets Catching Small Fish: Anti-Migrant Smuggling Policies in Chile

**José A. Brandariz**

University of A Coruña, Spain

**Romina Ramos-Rodríguez**

University of Tarapacá, Chile

## Abstract

By oversimplifying the complexity of human smuggling and facilitation phenomena, anti-smuggling policies in Global North countries have acted as large fishing dragnets that catch small fish, since they frequently focus on minor cases and punish migrants' relatives and communities, solidarity networks and activists, as well as migrants and asylum seekers themselves. This concerning scenario shows that the anti-smuggling model that has been widespread since the early 2000s is failing on multiple fronts. This article explores anti-smuggling policies and practices in Chile to investigate whether they reproduce the same shortcomings observed in Global North countries. Relying on a variety of qualitative and quantitative empirical data, this study focuses in particular on the performance of the Chilean criminal justice system in this field and the characteristics of the cases and individuals being criminalised. The article contributes to crimmigration and border criminology debates by examining the criminalisation of migration in an under-explored Global South region.

**Keywords:** Migrant smuggling; anti-smuggling policies; Chile; crimmigration; border criminology.

## Introduction<sup>1</sup>

In recent years, a burgeoning body of literature has underlined that human trafficking policies and practices are clearly failing (Faier, 2024; Mendel & Sharapov, 2022; Musto et al., 2021). This is certainly concerning, not least because human trafficking is a serious criminal phenomenon causing significant social harm. Surprisingly, though, very little has been said regarding failing penal strategies targeting a related criminal activity: namely, migrant smuggling. There is no widespread cross-national conversation on whether, to what extent, and why anti-smuggling efforts are failing in various regions and jurisdictions (see, though, Dandurand & Jahn, 2019; Sanchez et al., 2021). This gap is all the more puzzling given the growing evidence that anti-smuggling regulations and practices are not only grossly failing to achieve their declared goals, but also have concerning and detrimental consequences.

This article does not aim to engage in a conversation on the various social harms produced by anti-smuggling arrangements in Global North jurisdictions. Rather, the goal of this contribution is to examine whether these crime control shortcomings can be confirmed elsewhere. To this end, the article empirically scrutinises anti-smuggling policies and their outcomes in a Global South jurisdiction: Chile.



This South American jurisdiction is a critical site to explore immigration enforcement practices. Chile has become a key destination country for human mobility flows in recent years, especially at the regional level. While the percentage of residing noncitizens was 3.3 per cent in 2015 (United Nations, 2024), it is estimated that this indicator rose to 10.4 per cent by the end of 2023 (INE, 2024). This rise in the number of immigrants is closely related to the Venezuelan exodus, since Chile has been one of the main destinations of Venezuelan nationals leaving their country since the mid-2010s. In this respect, official data estimate that almost 0.73 million Venezuelans were living in Chile by the end of 2024 (INE, 2024), accounting for close to four out of ten noncitizen residents.

The recent Venezuelan exodus has proven to be a challenging test for the relatively liberal regulations and discursive approaches characterising migration policies in many South American countries (Gandini, 2022; Silva et al., 2021). Drawing on collective anxieties over mobility flows, many South American administrations, both progressive and conservative alike, seem to be manifestly failing this test, adopting restrictive policies that have long been criticised in the case of Global North jurisdictions (Freier & Pérez, 2021; Gissi et al., 2020; see also Lebow et al., 2024). Chile is no exception to this rule (Doña-Reveco, 2023). The recent migration surge has had a profound impact on Chile's social and political landscape. In this specific national case, however, there was no liberal approach to be put to the test. In marked contrast to other regional jurisdictions, migration regulations and policies in Chile can hardly be deemed liberal in any sense, at least since the second half of the twentieth century. Squeezed between the largest ocean and the longest mountain range in the world, and with approximately 10 per cent of its territory occupied by the driest desert on earth - almost 100 per cent in the case of the three northern regions of Arica and Parinacota, Tarapacá, and Antofagasta - Chile has long been relatively inaccessible in certain parts. Consequently, as in island countries, a sudden rise in international mobility has been felt as a matter of serious concern by wide swathes of the population, to the point that anti-migration sentiments in Chile are almost unparalleled across South America. Correspondingly, a bipartisan, xenophobic political agenda has been gaining traction over the last decade, resulting in a wide variety of security packages, legal reforms, and crimmigration arrangements (Brandariz et al., 2018; Dufraix et al., 2023). This article does not address the various aspects of this anti-migration agenda (see Ramos & Tapia, 2024). Rather, it specifically focuses on the criminalisation of smuggling and facilitation activities in Chile, a topic that has been largely absent from international academic conversations.

In so doing, the article endeavours to expand the boundaries of international academic conversations on crimmigration and border criminology. It puts the spotlight on a topic that, despite having been widely scrutinised by the migration studies literature (Álvarez Velasco, 2016; Liberona Concha, 2020; Liberona Concha et al., 2021a, 2021b), has remained largely overlooked by crimmigration and border criminology scholars, who have focused more on other critical issues such as the deportation of criminalised noncitizens, the criminalisation of immigration offences such as irregular border crossings, immigration detention, and border policing. This is not a minor gap, because migrants are being increasingly and massively punished for having allegedly engaged in smuggling and facilitation activities (Patanè, 2025 2) - as will be further explored later. Consequently, this underexplored dimension of the criminalisation of noncitizens deserves to be further examined by the crimmigration and border criminology literature (see, on this, Groos, 2023; López-Sala & Barbero, 2021).

Additionally, this article aims to push the boundaries of border criminology studies in a geographical sense as well. Many scholars working in this field have recently emphasised that, after an initial phase of rapid expansion and theoretical development, the consolidation of this academic subfield is crucially dependent on expanding the reach and diversity of these debates, bringing to the fore voices and crimmigration phenomena from unexplored regions, especially peripheral voices (Bosworth et al., 2018; Fernández-Bessa & Ballesteros-Pena, 2024; Mehta, 2023). There are evident - albeit implicit - connections between these recommendations and the cognitive justice-based proposals made by southern criminology scholars (Carrington et al., 2019; see also Brandariz et al., 2025). The exploration of anti-smuggling policies in a Global South jurisdiction such as Chile is clearly in line with this academic endeavour.

The structure of this article is as follows. After a brief methodological note, the third section briefly examines the different dimensions that define anti-smuggling practices in many Global North jurisdictions as a failing crime control strategy. Next, the article scrutinises counter-smuggling arrangements in Chile, analysing whether, to what extent, and why Chilean practices in this field show similar weaknesses. Subsequently, the article moves to the concluding section, which explores why outdated conceptions of migrant smuggling and facilitation should be reframed to bring crime control efforts in this field in line with human rights standards and humane migration policies.

## **Methodological Note**

This study is situated within an interpretative-critical approach and adopts a multi-method qualitative design organised into three phases, integrating quantitative sources for triangulation and contextualisation purposes. The combination of techniques

sought to investigate the normative and institutional dimensions of the smuggling of migrants in Chile, as well as its empirical configurations on the northern border, allowing for the triangulation of heterogeneous materials - documentary, testimonial and statistical - around a single object of inquiry (Flick, 2018).

In the first phase, a documentary analysis (Bowen, 2009) was conducted on legal provisions, public policies and institutional narratives concerning migrant smuggling in Chile, considering the period from the enactment of the legislative act that criminalised this offence (the 2011 Law No. 20,507) to 2024. The corpus included the National Policy against Organised Crime, the National Policy on Migration and Citizenship, international instruments signed by Chile, and administrative measures aimed at containing migratory flows. The analysis sought to identify the rationalities, categories and assumptions that organise the institutional discourse on the phenomenon, paying attention to its continuities, shifts and internal tensions.

In the second phase, qualitative fieldwork was carried out, consisting of 22 semi-structured interviews (Kvale & Brinkmann, 2015) with institutional actors involved in migratory, border and penal control in northern Chile. Sampling was purposive (Patton, 2015) and theoretical, guided by the following inclusion criteria: (i) holding a position with direct responsibilities within the migration control-criminal justice system; (ii) a minimum period of experience in the northern border area; and (iii) informed consent to participate. The sample included public officials, police officers, prosecutors and public defenders, ensuring diversity across institutional positions. Fieldwork was conducted between September and December 2024. Theoretical saturation (Saunders et al., 2018) was operationalised on the basis of informational redundancy in the emerging categories, with data collection continuing until the 22nd interview to ensure representation of all planned institutional positions. All interviews were conducted with informed consent, guaranteeing anonymity and confidentiality in accordance with the project's ethical protocols.

In the third phase, quantitative data were incorporated, obtained through requests for access to public information under Law No. 20,285 on Access to Public Information. The information was requested from the following institutions: the Public Prosecutor's Office, the Judiciary, the Investigations Police (PDI), and the Undersecretariat of the Interior, covering the period from 2011 to 2024. These data served a contextualising function and provided empirical contrast to the qualitative findings. Finally, the material was processed using a directed approach to qualitative content analysis (Mayring, 2014), combining deductive categories derived from the normative and theoretical framework with inductive categories emerging from the empirical material itself. Coding was carried out manually through a process of open coding and axial grouping. The final analytical categories comprised: (i) phenomenological aspects of the facilitation of crossing (pandemic, irregular entries, vulnerability); (ii) dimensions of the criminal offence (profit motive, protected legal interest, penalties); and (iii) socio-territorial factors (border economies, support networks and institutional gaps).

### **Anti-Smuggling Policies as a Harmful Crime Control Strategy**

In the EU, there have been recurring and intense political and public debates on the criminalisation of migrant smuggling and facilitation activities in recent years (Alagna, 2024), especially in the framework of the long-anticipated reform of the outdated EU law provisions on the facilitation of irregular mobility (Alagna & Sanchez, 2024; Mitsilegas, 2024). Paradoxically, though, political and institutional actors have been reluctant to acknowledge that an anti-smuggling strategy that was largely designed a quarter of a century ago is falling short of achieving its stated goals (see, e.g., European Commission, 2017).

There is little to no evidence that the anti-smuggling framework has had any significant impact on preventing undocumented mobility to Global North countries, where, in several regions, such mobility has been increasing in the recent past. In many jurisdictions such as Germany, Spain, and - at least until recently - the UK, smuggling and facilitation criminal offences are relatively sparsely used (Brandariz, 2023). In addition, in the US, smuggling crimes have long played a minor role in the criminalisation of migration, lagging far behind other offences such as illegal entry and illegal re-entry that directly criminalise irregular mobility (Motivans, 2021).

Certainly, in other Global North countries, smuggling and facilitation offences are used much more widely. Greece and Italy are obvious cases in this regard (Pinto, 2025; Winkler & Mayr, 2023). In these jurisdictions, the harmful consequences of these criminalisation practices are particularly conspicuous. Although the anti-smuggling legal framework, especially the 2000 UN Protocol against the Smuggling of Migrants by Land, Sea and Air, is based on a conception of smuggling activities as a manifestation of organised crime (Mitsilegas, 2021), the *really existing* anti-smuggling practices operate as a large fishing dragnet that mainly captures small fish (see also Allsopp et al., 2021), epitomising the centuries-old aphorism on the inherently biased nature of the criminal justice system (see Jago, 2021).

Rather than affecting organised crime syndicates in any meaningful way, criminalising efforts are mainly targeting the *low-hanging fruit*, that is, marginalised and vulnerable individuals and groups, including migrants' family members and migrants themselves (Alagna, 2020; Patanè et al., 2020). The infamous practice of criminalising migrants and asylum seekers as alleged boat drivers, which has gained concerning traction in Greece (Hänsel et al., 2020; Winkler & Mayr, 2023) and Italy (ARCI Porco Rosso, 2024; ARCI Porco Rosso and Alarm Phone, 2021), but also in other blue-border jurisdictions such as Spain (Cañada, 2024; Tervonen, 2023) and post-Brexit UK (Taylor, 2024, 2025), is a clear example of the variety of harms of anti-smuggling arrangements, especially of their impact on vulnerable individuals and communities. The widely debated crimes of solidarity (Allsopp et al., 2021; Carrera et al., 2020; Fernández-Bessa & Mendiola, 2024; López-Sala & Barbero, 2021; Pinto, 2025; Zhang et al., 2018b; see also PICUM, 2025), that is, the criminalisation of the assistance provided by NGOs and activists, represents an additional detrimental consequence of the current anti-smuggling model.

In short, the really existing anti-smuggling practices have proven to be largely ineffective, predominantly punishing minor cases involving vulnerable noncitizens and their communities, rather than organised crime players. These practices are a manifestation of a biased criminal justice system, mainly targeting noncitizens, who account for a very substantial percentage of sentenced individuals (Pinto, 2025).<sup>2</sup> Operating like trawling methods, these criminalisation practices have particularly detrimental consequences for migrant communities. Moreover, anti-smuggling practices punish these minor cases with the severe sentences prescribed for the allegedly serious crimes of smuggling and facilitation in many jurisdictions (FRA, 2014), for example, in the Greek criminal justice system (Winkler & Mayr, 2023).

A key underlying driver of these negative consequences is the misalignment between the criminal model on which the current regulations and arrangements are allegedly based and the phenomenological reality of the criminalisation of facilitation activities (Keiler, 2026; Patanè, 2025). Official policies are grounded in the so-called "organised crime model" (Salt & Stein, 1997), which depicts migrant smuggling as a thriving criminal market essentially ruled by criminal organisations seeking profit (see, e.g., European Commission, 2021; Europol, 2024). Consequently, actors other than criminal groups are thought to play a marginal part in these activities. Specifically, migrants and asylum seekers are considered to have an essentially passive role, as "objects" of this illegal trade (Van Liempt & Sersli, 2013). As previously pointed out, the reality of these criminalisation practices is significantly less epic, much more morally ambiguous, and ominous in its consequences for vulnerable individuals and communities. In stark contrast to these criminalisation results, the organised crime model has led to the legitimisation of exceptional measures and has allowed penal policies in this field to gain institutional traction and media coverage.

In the next section, we scrutinise whether a similarly concerning scenario can be observed in a Global South jurisdiction such as Chile, which has decisively scaled up its anti-smuggling efforts in recent years. This study is not framed as either a comparative study or an analysis of policy transfer processes. Specifically, we explore several dimensions of the Chilean anti-smuggling arrangements, namely: whether legal provisions and practices, as well as public and political debates on smuggling, are based on the organised crime model; what the performance of the Chilean criminal justice system is in this field; and which cases and individuals are actually criminalised.

### **Policing the Northern Border: Anti-Smuggling Arrangements and Practices in Chile**

The gradual consolidation of Chile as a destination country of South-South mobility flows has, in recent years, been characterised by a surge in irregular border-crossing activities. This development occurred against the backdrop of new visa restrictions in 2019 to hinder the arrival of Venezuelan asylum seekers and the closure of Chilean borders to prevent the spread of the COVID-19 pandemic (De Marchi & Alvites, 2022; Dufraix et al., 2020; Stefoni et al., 2021). Official data show that while the number of detected irregular border-crossers stood at 6,310 in 2018, it rose to 56,586 in 2021, 53,875 in 2022, 44,235 in 2023, and 29,269 in 2024 (Policía de Investigaciones de Chile & Servicio Nacional de Migraciones, 2023; Servicio Nacional de Migraciones, 2024, 2025). The overwhelming majority of these irregular border crossings are detected in the northern Altiplano border areas, notably in the two northernmost regions of Arica and Parinacota and Tarapacá.

This increase in irregular mobility was met with widespread social anxiety and public xenophobia, epitomised by violent anti-migrant demonstrations held in the northern town of Iquique in late 2021 and early 2022 (Cambero, 2022). Successive Chilean administrations, in turn, have adopted a hard-line policy, reiterating their commitment to countering irregular migration (Stefoni et al., 2021). Specifically, institutional efforts have been predominantly focused on both preventing the arrival of certain national groups and sealing the northern borders (Ramos et al., 2021; Tapia & Quinteros, 2023). By embracing securitisation discourses and agenda, the progressive administration of President Gabriel Boric (2022-2026) followed in the footsteps of the Special Plans implemented by previous administrations (Ramos & Ovando, 2016) and reinforced the militarisation of the northern border areas (Government of Chile, 2022). Counter-smuggling efforts have been part and parcel of this institutional

agenda, which led to the creation of the Technical Group on Migrant Smuggling in 2023 to coordinate policies in this field (Ministry of the Interior and Public Security, 2023).

In presenting his policy agenda to reinforce border control capacities during a visit to the border-crossing point complex at Colchane, Tarapacá, in March 2023, then President Boric pointed out:

These measures aim to strengthen the presence of the state in order to contain and reduce irregular migration; but, in particular... they will combat head-on the criminal organisations that take advantage of these flows and the needs of the people, in order to commit crimes such as people, drug and arms trafficking.<sup>3</sup>

In a similar vein, the National Policy on Migration and Citizenship, issued in December 2023, adopted a one-dimensional characterisation of migrant smuggling, presenting it as an unlawful activity carried out by organised crime groups. In this regard, this National Policy described one of its main goals as “decidedly fighting against syndicates, organisations and people perpetrating the crimes of migrant smuggling and human trafficking” (Ministry of the Interior and Public Security, 2023, p. 2). The policy plan assumed that “the political, economic, and social situation turns Chile into a country of destination for thousands of migrants per year, creating business opportunities for criminal organisations” (Ministry of the Interior and Public Security, 2023, p. 33). These criminal groups were emphatically depicted as “highly structured criminal organisations that have cross-national connections and engage in sophisticated smuggling activities, relying on their capacities to provide forged and counterfeit travel documents to people on the move” (Ministry of the Interior and Public Security, 2023, p. 23). Furthermore, migrant smuggling was portrayed as being associated with “crimes such as money laundering, corruption, terrorism and drug and arms trafficking” (Ministry of the Interior and Public Security, 2023, pp. 32-33). In line with this unequivocal adoption of the organised crime model, institutional efforts to curb migrant smuggling were included within the National Policy against Organised Crime (Ministry of the Interior and Public Security, 2022).

Mirroring prevalent discourses in Global North countries, institutional actors in Chile unambiguously view migrant smuggling as a criminal phenomenon perpetrated by apparently consolidated organised crime groups. From this perspective, migrants are cast primarily as victims, since both “human trafficking and migrant smuggling are crimes in which individuals are used for profit-seeking purposes, and in which organised crime networks mainly exploit vulnerable groups” (Ministry of the Interior and Public Security, 2023, p. 32).<sup>4</sup> Moreover, this institutional vision focuses counter-smuggling efforts on northern Chile, which is consistently portrayed as being particularly affected by organised crime.<sup>5</sup> It is now time to examine whether the crime control data corroborate this state-sponsored viewpoint on migrant smuggling in Chile.

The way in which the Chilean legal order regulates the criminal offence of migrant smuggling is consistent with this organised crime model, since it includes profit-seeking purposes as the main driver of the facilitation conduct. In this and other aspects, the Chilean legislature followed the provisions of the 2000 UN Protocol closely (Gajardo, 2020). Drawing on this international law instrument, Chile criminalised migrant smuggling in 2011, through the passage of Law No. 20,507, which also criminalised human trafficking. With regard to migrant smuggling, Article 411bis of the Chilean Penal Code punishes with imprisonment and fines whoever assists noncitizens to irregularly cross the Chilean border. Furthermore, the Chilean Code stipulates aggravated sentences in cases where either the life or limb of irregular border-crossers is jeopardised, or where minors are involved.

In line with the metaphor of large fishing dragnets that catch small fish, the results of these criminalisation efforts are not consistent with the hyperbolic tone in which the Chilean administration depicts migrant smuggling practices. To begin with, available official data reveal that the performance of the Chilean criminal justice system in tackling smuggling activities has been markedly poor. Data provided by Chile’s Public Penal Defence (hereinafter, the PPD) following a request submitted to the Transparency Portal show that the number of individuals brought to justice in smuggling cases was 437 between 2011 and 2024. Judicial data, in turn, show that Chilean courts terminated 603 migrant smuggling cases from 2015 to the first half of 2024, accounting for 0.009 per cent of the more than 6.63 million criminal cases terminated over this ten-year period.<sup>6</sup> The number of terminated smuggling cases, however, has risen again in recent years, presumably as a consequence of the increasing number of detected irregular border-crossers.

Insignificant in quantitative terms, these cases do not seem to be particularly significant in qualitative terms either. The aforementioned PPD data reveal that even in cases that were actually brought to trial, a high percentage of defendants (e.g., 50.6 per cent from 2011 to 2022; see Ramos & Brandariz, 2025) were acquitted. Considering only defendants who were sentenced, the sentencing decisions were interestingly lenient - a point that will be further examined below.

In sum, despite the alarming way in which the Chilean administration portrays migrant smuggling activities and the significant law enforcement and militarisation resources invested in sealing the northern border, the Chilean criminal justice system does

not seem to have played a critical role in countering these criminal activities. Considering what Chilean policing and criminal justice agencies have been doing in this field, doubts arise as to whether this penal intervention has actually proved successful and whether the official characterisation of smuggling practices is accurate. In this respect, however, the Chilean case does not appear to differ greatly from those of Global North countries.

Leaving aside these considerations on absolute and relative numbers, it is worth reflecting on whether the organised crime model unambiguously embraced by Chile's National Policy on Migration and Citizenship is suitable to describe *really existing* smuggling cases. The data suggest that the answer to this question cannot be affirmative. These data confirm that, as in other forms of illicit trade (McKenzie, 2020), the individuals and groups involved in migrant smuggling are characterised by considerable diversity, especially with regard to how far their intervention in this field is organised and structured, or alternatively occasional and even random (see Campana, 2018, 2020; Izcara, 2017; Patanè, 2025; Sanchez, 2017a, 2017b).

Socio-demographic data provided by Chile's PPD give some clues regarding the type of acts being criminalised. The database reports that 40.5 per cent of the defendants brought to justice for migrant smuggling from 2011 to 2024 were Chilean nationals. Consistent with the northern regions in which the vast majority of cases are detected, Chileans are followed by Bolivians (14.9 per cent), Peruvians (9.8 per cent), and Venezuelans (9.6 per cent). The share of Chilean nationals involved in smuggling activities is seemingly low. However, when compared with similar indicators in Global North countries, it is actually relatively high. This divergence may be explored by considering an additional socio-demographic dimension that is critical in the Chilean case, namely the ethnic breakdown of these criminalisation data. Since smuggling activities are predominantly detected and criminalised in the Altiplano regions of northern Chile, it is unsurprising that 34.2 per cent of the 437 defendants brought to trial for smuggling offences from 2011 to 2024 were considered to be part of Indigenous peoples, specifically Aymara and Quechua. Beyond contributing to an explanation of the notably high percentage of Chilean nationals, this indicator unveils a racialised dimension of criminal justice practices in this field (see also Liberona Concha et al., 2021b).

Furthermore, this racialisation aspect underscores the connection between criminalised acts and the fabric of Altiplano communities, and more precisely their long-standing forms of cross-border trade, including widely accepted, extra-legal, small-scale smuggling practices (Müller, 2021; see also Spener, 2009), and the spatiality they create, which goes beyond state-centred borders and boundaries. Again, this perspective presents a scenario of cross-border exchange in goods and services that has little to do with the organised crime discourses on which counter-smuggling policies are based (Müller, 2017). Interestingly, these are the Altiplano communities in which the large dragnets represented by the anti-smuggling practices have their greatest trawling effects in Chile.

These trawling effects are further confirmed by the empirical data obtained via interviews with key stakeholders involved in countering migrant smuggling in the northern region of Tarapacá. The real texture of many - if not most - smuggling cases was highlighted by Pedro, a senior law enforcement official of the regional government of Tarapacá, who stressed: "Smugglers are mainly impoverished women," adding pessimistically that in these cases "enforcement does not have, it does not pursue any goal. It is not deterrent, in terms of either general deterrence or special deterrence. It does not have any goal."<sup>7</sup>

The fact that facilitation cases taking place in northern Chile do not fit into the organised crime narrative promoted by the Chilean administration is corroborated by other stakeholders interviewed in Iquique and the northern borderlands, who highlighted not only the morally ambiguous nature of these activities but also the critical involvement of migrants and migrant networks. In this respect, Laura, a mid-ranking criminal judge based in northern Chile, stated: "When the administration does not deal with this phenomenon, you know, lay people will give a hand; folks will not renounce being with their family, they will ask for help, other people are going to be compassionate to them." The humanitarian dimension of facilitation acts was emphasised by a public prosecutor, Víctor, who claimed:

These practices, they are humanitarian, ultimately they are humanitarian. Just think of a person who has made 4,000-5,000 kilometres, walking, by bus, hitchhiking, etc., with a clear goal in mind ... evidently, they will be assisted; it is inherent to the human condition to make support networks.

Interestingly, various stakeholders interviewed for this study further downplayed the criminal character of facilitation practices by stressing that the ultimate cause of irregular border-crossings is not migrant smuggling but state policies. This view aligns with conclusions reached in the literature (Álvarez Velasco, 2016; Liberona Concha, 2020; Triandafyllidou, 2018). In this regard, Carlos, an official of the Delegation of the Chilean Government in one of Chile's northern regions, pointed out: "Initially, access to regular mobility is blocked; then, since flows keep coming, migrant smuggling emerges as a solution." Similarly, Javiera, a member of the cross-border crime unit of the Chilean Police (PDI) stated: "If a country increases restrictions on migration, then smugglers gain momentum." More specifically, Carlos, the aforementioned official underscored

the role played by Chilean migration policies in paving the way for the proliferation of smuggling and facilitation activities, pointing out that:

the change began in April 2019 ... when the new consular visa policy [i.e., which prevented Venezuelan asylum seekers from regularly arriving in Chile] was implemented, it was one of the worst decisions made by the Chilean administration. Any chance ... of regular mobility was blocked.

Although the discourses of institutional actors allow us to identify the texture of facilitation circuits and the impact of restrictive migration policies on them, our understanding remains partial if we do not incorporate the situated experience of those who have been subject to criminal prosecution. In this regard, the marginal significance, and even the debatable criminal nature, of these facilitation practices in the Chilean Altiplano is confirmed when we incorporate the narratives of individuals incarcerated for these offences.<sup>8</sup>

Far from describing properly organised structures, these accounts reveal forms of insertion into facilitation circuits that emerge precisely in contexts of intensified migratory flows and entry restrictions. In this sense, one interviewee, who is imprisoned in the border town of Arica, describes how his participation arose in a scenario of continuous movement of people:

People crossed the border as if there were no controls; they crossed day and night... so I put myself there, and the passengers crossed the border and I waited with my van (bus) and said 'to Arica' and took them; that was my job, nothing more. (HNo.8, Arica)

Similarly, the accounts from the towns of Iquique and Alto Hospicio show precarious and contingent trajectories of involvement, linked to local border transport economies and the intensification of migratory flows during the pandemic: "During the pandemic, I found myself out of work and so I chose to buy a taxi ... and that's where I got involved [in facilitating irregular entry]" (HNo.9, Alto Hospicio). Meanwhile, another interviewee states:

When irregular immigration started [in northern Chile], people were sleeping at the [bus] terminal, and even in the hallways, and that's when we started offering ticket-purchasing services because the bus agencies wouldn't let [foreigners] buy tickets without a valid national ID. (HNo.11, Alto Hospicio)

Furthermore, according to these accounts, the dynamics in question were sustained by informal networks and direct contact, rather than by organised and highly complex structures: "One person came, then another, and another ... they would give them my phone number, and that's how people got to know me" (HNo.12, Arica). In addition, the incarcerated individuals told us that their participation in facilitation occurred through minimal coordination schemes, as exemplified by the statement that: "We were all independent ... there was no boss there" (HNo.9, Alto Hospicio).

One should bear in mind that these accounts come from incarcerated individuals, who have been targeted by the most severe legal response to smuggling cases. In other words, they are expected to epitomise the most serious instances of smuggling prosecuted by the Chilean criminal justice system. However, taken together, these accounts corroborate the narratives of institutional actors regarding the effects of migration restrictions on the expansion of these facilitation practices. Furthermore, they allow us to assert that these are low-scale circuits, motivated by subsistence economies, socially normalised in border contexts, and distinct from the organised crime model that structures the penal response.

These conclusions are further confirmed by the statistical data on the outcomes of criminalisation efforts. Leaving aside the aforementioned high percentage of smuggling cases resulting in acquittal decisions, it is surprising that no custodial sentence was imposed in the overwhelming majority of sentenced cases. Although Article 411bis of the *Chilean Penal Code* prescribes a sentence of up to 10 years of imprisonment in particularly serious cases, official judicial data show that 48.8 per cent of the 85 sentences handed down for smuggling cases in abbreviated criminal procedures in 2023-2024 were sentences of intensive probation, followed by conditional suspension of the procedure (42.8 per cent).<sup>9</sup> This scenario is not new. The same judicial database shows that custodial sentences were handed down in only 8.9 per cent of the smuggling cases sentenced from 2011 to 2022; by contrast, conditional suspension of the procedure (29 per cent), intensive probation (25 per cent), and deportation (20 per cent) were the most usual legal reactions to these cases. To be sure, the Chilean criminal justice system also deals with some serious smuggling cases. However, these official data suggest that such cases play a minor role in this crime control scenario. Only 11 smuggling cases tried in 2023 and 2024 (all of them tried within the framework of oral hearing procedures) received sentences of more than seven years of imprisonment.<sup>10</sup>

An additional dimension of counter-smuggling practices in Chile concerns the criminalisation of pro-migrant rights activists and groups. Crimes of solidarity are much less debated in Chile and South America more generally than in some Global North

regions. However, activists and advocacy groups have endured forms of what Weber (2002) has called “rhetorical criminalisation,” especially in northern Chile, where they have been harassed by various xenophobic actors (Groos, 2023). There have also been forms of “quasi-criminalisation” following the passage of the new 2021 Migration and Citizenship Act (Law No. 21,325), which punishes forms of assistance with irregular mobility by imposing hefty administrative fines. By contrast, cases of “direct criminalisation” have been rare. Nevertheless, beyond other cases that resulted in acquittals (see Olivares, 2021), a Colchane-based reception centre educator received a suspended prison sentence in 2023 for facilitating irregular border-crossings (Mosqueda, 2023).

In summary, empirical data substantiate that there is a gross mismatch between the organised crime-based narrative of the Chilean administration and the phenomenological reality of smuggling and facilitation practices, especially in northern Chile. These data cast light on the extent to which these practices are interwoven with cross-national, racialised communities, long-standing cross-border trade and services, noncitizen individuals, families and communities, and support networks and NGOs. They also shed light on the apparently secondary role that actual criminal groups play in this field.

This mismatch is less surprising when one considers that the texture of these cross-border practices is not significantly different from that of similar facilitation practices being carried out in Global North jurisdictions (Zhang et al., 2018b). Regrettably, Chilean penal policies seem to be characterised by the same misconceptions and pitfalls that undermine counter-smuggling efforts in Global North countries.

### **Fail Again, Fail Better: Calling for a New Policy Agenda on the Regulation of Facilitation Practices**

Anti-smuggling policies in Chile seem to epitomise the well-known mantra of Samuel Beckett: “Try again. Fail again. Fail better” (Beckett, 1983). Since the new Migration and Citizenship Act decriminalised irregular border-crossings in early 2021, dozens of legislative proposals have been presented in the Chilean parliament to scale up penal tariffs and further criminalise irregular mobility (Biblioteca del Congreso Nacional de Chile, 2024; Girao, 2024).

In championing these policies and legal reforms, political actors in Chile entirely overlook the empirical reality of irregular border-crossing activities, which have very little to do with the heroic rhetoric of counter-organised crime efforts. In so doing, they epitomise a troubling policymaking model that is particularly widespread in a deeply centralised polity such as Chile, where migration policies are designed far away from the distant regions and border areas in which they are to be applied.

There is, however, an additional sense in which anti-smuggling efforts in Chile evoke Beckett’s mantra. This article shows that these crime control efforts are characterised by the same shortcomings affecting similar counter-smuggling policies in Global North countries. In other words, Chile follows a path that has proven to be failing in other jurisdictions and regions. Consequently, the answer to the current migration management dilemmas cannot be to try again and fail again — that is, ramping up criminalisation practices based on misleading conceptions of irregular mobility, border-crossing assistance and services, and the ways to manage them. By blaming alleged criminal organisations for undocumented mobility and its lethal consequences, the only goal current policies are successfully serving is that of legitimising a criminalisation model that is deeply debatable in normative terms (Spena, 2014, 2017), and ultimately of masking the liability of state actors in irregularising mobility (Carrera & Colombi, 2025; Jansen et al., 2014; Liberona Concha, 2020) and creating an illegal market in the first place (Spener, 2009; Triandafyllidou, 2018).

Despite being doomed to fail, the current criminalisation model relies on a robust legitimising rhetoric and is useful for state actors, in various respects. However, both in Chile and elsewhere, it is now time to reconsider fundamentally the penal policies in this field and the oversimplified criminological notions on which they are built (Liberona Concha et al., 2021a). The current penal model was given a decisive boost in the framework of the Palermo Convention twenty-five years ago. A quarter of a century is an exceedingly long period in terms of human mobility and mobility policies. The migration scenario has completely shifted in many countries and regions over that time, including Chile. If the lack of expertise, research and intelligence led turn-of-the-century policymakers to believe that the organised crime model was plausible, it is now evident that this is not the case. The autonomy of migration thesis (Bojadžijev & Karakayalı, 2010; Mezzadra, 2004) has proven to be right in claiming that undocumented migrants and asylum seekers retain much more agency than what institutional conceptions generally assume (Campana & Gelsthorpe, 2021). Smuggling and facilitation practices cannot be understood as a homogeneous phenomenon featuring hardened (organised) criminals and passive migrants (Sanchez, 2017b; Spena, 2021; Watson, 2015), not least because migrants themselves frequently cooperate in making their irregular mobility project feasible, and arguably increasingly so (Patanè et al., 2020; see also Liberona Concha et al., 2021a; Van Liempt & Doornik, 2006). Consequently, the facilitation of undocumented migration is a markedly diverse phenomenon made up of noncitizen networks and communities, migrants

themselves, activists and solidarity groups, lay people, shadow economy service providers, part-time lawbreakers, and certainly organised crime actors (Alagna, 2020; Zhang et al., 2018a).

In stark contrast to recent legal proposals - including the European Commission's proposal for a revised Facilitation Directive (Mitsilegas, 2024) - only by seriously considering this diversity and the actual texture of facilitation practices can anti-smuggling efforts overcome the current model (Triandafyllidou, 2018; see also Sanchez et al., 2021), which despite serving political goals does little to manage undocumented mobility while simultaneously harming people on the move, migrant communities, and the general public. Otherwise, the criminal justice system seems doomed to punish - in many countries, with severe sentences - minor cases and forms of assistance and collaboration, even remunerated collaboration, whose wrongfulness is deeply debatable, and which are frequently carried out by racialised individuals and communities. It should not be in the interest of either Chile or any country in the Global South or Global North to adopt this faulty and harmful crimmigration model.

### Acknowledgements

This article was funded by Fondecyt Regular Project No. 1240286 granted by Chile's National Agency for Research and Development (ANID), and by Grant No. ED431C 2023/14 for highly competitive research groups, awarded by Galicia's Ministry of Culture, Education, Vocational Education and Universities.

*Correspondence:* José Ángel Brandariz, Professor of Criminal Law, Law School, University of A Coruña, A Coruña, Spain. [jose.angel.brandariz@udc.gal](mailto:jose.angel.brandariz@udc.gal)

<sup>1</sup> This article has equal co-authorship; authors listed in alphabetical order.

<sup>2</sup> Whereas noncitizens accounted for 28.2 per cent of all individuals sentenced by the German criminal justice system from 2010 to 2020, they accounted for 90.6 per cent of those sentenced for smuggling crimes (§§ 96-97 of the 2004 German Residence Act) over the same period (source: German Statistics Office, n.d.; *Strafverfolgung*. Retrieved 21 May 2026, from [https://www.statistischebibliothek.de/mir/receive/DESeries\\_mods\\_00000107](https://www.statistischebibliothek.de/mir/receive/DESeries_mods_00000107)).

<sup>3</sup> Government of Chile. (2023, March 15). *Colchane: President Gabriel Boric announces measures on security and connectivity to address irregular migration*. <https://www.gob.cl/en/news/colchane-president-gabriel-boric-makes-series-announcements-security-and-connectivity-deal-irregular-migration/>

<sup>4</sup> This institutional perspective is clearly aligned with the humanitarian discourses explored by the Chilean literature (Ramos & Tapia, 2024; Stang, Lara, & Andrade, 2020). Interestingly, in assuming this characterisation of smuggled migrants, the National Policy on Migration and Citizenship claims that “in practice, it can be difficult to draw the boundaries between migrant smuggling and human trafficking” (Ministry of the Interior and Public Security, 2023, p. 32).

<sup>5</sup> See, e.g., the so-called Plan “Nuestro Norte” [Our North], a security infrastructure programme launched by the Chilean government in 2022 and focused on the northern regions of Arica and Parinacota, Tarapacá, and Antofagasta (Government of Chile, 2022).

<sup>6</sup> National Institute of Statistics (INE). Police and judicial statistics. Retrieved 21 May 2026, from <https://www.ine.gob.cl/estadisticas/sociales/seguridad-publica-y-justicia/estadisticas-policiales-y-judiciales>

<sup>7</sup> This claim is not fully supported by the available PPD data, which show that women accounted for 24.5 per cent of the individuals brought to justice for smuggling crimes from 2011 to 2024. This percentage, however, is significantly higher than the share of female defendants in the vast majority of criminal offences.

<sup>8</sup> Between August and October 2025, semi-structured interviews were conducted with individuals charged with and convicted of migrant smuggling in prison facilities in the northern towns of Arica, Iquique, and Alto Hospicio. The fieldwork was carried out with the authorisation of Gendarmería de Chile and through the application of methodological instruments (interview guide and informed consent form) approved by the Scientific Ethics Committee of the University of Tarapacá (CEC Resolution No. 65/2024). In total, 48 interviews were conducted. Although this article incorporates selected accounts for illustrative purposes, the in-depth analysis of this empirical corpus forms part of an ongoing research project aimed at critically examining the role of profit-making purposes in the criminal prosecution of migrant smuggling in Chile.

<sup>9</sup> Judicial Power of Chile. *Numeros PDJUD* [Judicial statistics portal]. Retrieved 21 May 2026, from <https://numeros.pjud.cl/Inicio>

<sup>10</sup> Interestingly, courts located in the capital city, Santiago, have been proven to hand down much more severe sentences than those imposed by “situated” courts located in northern Chile, which are more accustomed to dealing with smuggling cases and are closer to the border areas where the vast majority of cases are detected.

## References

- Alagna, F. (2020). Understanding the complexity of migrant smuggling: The “smuggling spectrum” as a comprehensive analytical framework. *International Journal of Migration and Border Studies*, 6(4), 298-318. <https://doi.org/10.1504/IJMBS.2020.113954>
- Alagna, F. (2024). *Migrant smuggling and the criminalisation of migration in the EU: Policies and practices from Italy*. Palgrave MacMillan. <https://doi.org/10.1007/978-3-031-62570-1>
- Alagna, F., & Sanchez, G. (2024). The persisting challenges of the new European Commission’s smuggling directive proposal. *Border Criminologies*. <https://blogs.law.ox.ac.uk/border-criminologies-blog/blog-post/2024/01/persisting-challenges-new-european-commissions>
- Allsopp, J., Vosyliūtė, L., & Smialowski, B. (2021). Picking “low-hanging fruit” while the orchard burns: The costs of policing humanitarian actors in Italy and Greece as a strategy to prevent migrant smuggling. *European Journal on Criminal Policy and Research*, 27, 65-88. <https://doi.org/10.1007/s10610-020-09465-0>
- Álvarez Velasco, S. (2016). ¿Crisis migratoria contemporánea? Complejizando dos corredores migratorios globales. *Ecuador Debate*, 97, 155-171.
- ARCI Porco Rosso (2024) *Senza frontiere: la criminalizzazione dei cosiddetti scafisti nel 2023*. <https://arciporcorosso.it/senza-frontiere/>
- ARCI Porco Rosso & Alarm Phone (2021) *From sea to prison: The criminalization of boat drivers in Italy*. <https://fromseatorprison.info/>
- Beckett, S. (1983). *Worstward Ho*. Grove Press.
- Biblioteca del Congreso Nacional de Chile. (2024). *Iniciativas legislativas sobre transporte ilegal de migrantes*. [https://www.bcn.cl/asesoriasparlamentarias/detalle\\_documento.html?id=83860](https://www.bcn.cl/asesoriasparlamentarias/detalle_documento.html?id=83860)
- Bojadžijev, M., & Karakayalı, S. (2010). Recuperating the sideshows of capitalism: The autonomy of migration today. *E-flux Journal*, 17, 1-9.
- Bosworth, M., Franko, K., & Pickering, S. (2018). Punishment, globalization and migration control: “Get them the hell out of here.” *Punishment & Society*, 20(1), 34-53. <https://doi.org/10.1177/1462474517738984>
- Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27-40. <https://us.sagepub.com/en-us/nam/qualitative-research-evaluation-methods/book232962>
- Brandariz, J. (2023). Anti-smuggling penal policies: A cross-national exploration. In A. Spina & V. Militello (Eds.), *The challenges of illegal trafficking in the Mediterranean area*. Springer, 91-115.
- Brandariz, J., Dufraix, R., & Quinteros, D. (2018). La expulsión judicial en el sistema penal chileno: ¿Hacia un modelo de Crimmigration? *Política Criminal*, 13(26), 739-770. <https://doi.org/10.4067/S0718-33992018000200739>
- Brandariz, J., Fabini, G., Fernández-Bessa, C., & Ferraris, V. (Eds.), (2025). *Border criminologies from the periphery cross-national conversations on bordered penalty*. Routledge. <https://doi.org/10.4324/9781003333166>
- Cambero, F. (2022, January 31). *Chile anti-migrant protesters destroy camps in tense north*. Reuters. <https://www.reuters.com/world/americas/chile-anti-migrant-protesters-destroy-camps-tense-north-2022-01-30/>
- Campana, P. (2018). Out of Africa: The organization of migrant smuggling across the Mediterranean. *European Journal of Criminology*, 15(4), 481-502. <https://doi.org/10.1177/1477370817749179>
- Campana, P. (2020). Human smuggling: Structure and mechanisms. *Crime and Justice*, 49, 471-519. <https://doi.org/10.1086/708663>
- Campana, P., & Gelsthorpe, L. (2021). Choosing a smuggler: Decision-making amongst migrants smuggled to Europe. *European Journal on Criminal Policy and Research*, 27, 5-21. <https://doi.org/10.1007/s10610-020-09459-y>
- Cañada, I. (2024, January 9). *No son criminales, son pescadores*. El Salto. <https://www.elsaltodiario.com/migracion/no-son-criminales-son-capitanes>
- Carrera, S., Mitsilegas, V., Allsopp, J., & Vosyliūtė, L. (2020). *Policing humanitarianism: EU policies against human smuggling and their impact on civil society*. Hart Publishing. <https://doi.org/10.5040/9781509923021>
- Carrera, S., & Colombi, D. (2025). *Irregularising human mobility: EU migration policies and the European Commission’s role*. Springer Nature.
- Carrington, K., Hogg, R., Scott, J., Sozzo, M., & Walters, R. (2019). *Southern criminology*. Routledge. <https://doi.org/10.4324/9781315194585>
- Dandurand, Y., & Jahn, J. (2019). The failing international legal framework on migrant smuggling and human trafficking. In J. Winterdyk & J Jones (Eds.), *The Palgrave International Handbook of Human Trafficking*. Palgrave, 783-800.
- De Marchi, B., & Alvites, A. (2022). El muro invertido: las zanjas en el límite fronterizo de Chile con Bolivia. *Geopolítica(s)* 13(2), 355-384. <https://doi.org/10.5209/geop.83407>
- Doña-Reveco, C. (2023). How Chile’s welcome turned sour. In C. Horwood & B. Frouws (Eds.), *Mixed Migration Review 2023*. Genève: Mixed Migration Centre, 158-165.
- Dufraix, R., Ramos, R., & Quinteros, D. (2020). “Ordenar la casa”: Securitización y producción de irregularidad en el norte de Chile. *Sociologías*, 22(55), 172-196. <https://doi.org/10.1590/15174522-105689>

- Dufraix, R., Ramos, R., & Quinteros, D. (2023). Sobre las dinámicas (y funcionalidades) del control de la movilidad humana en tiempos de pandemia. El caso de las expulsiones en Chile y su relación con la tesis de la crimmigration. In C. Arancibia, C. Cárdenas & G. Silva (Eds.), *XVII jornadas Chilenas de derecho penal y ciencias penales. En homenaje al Prof. Jaime Vivanco Sepúlveda*. Tirant lo Blanch, 159-171.
- European Commission. (2017). Refit Evaluation of the EU legal framework against facilitation of unauthorised entry, transit and residence: The facilitators package (Directive 2002/90/EC and Framework Decision 2002/946/JHA). SWD (2017) 117 final. [https://www.europarl.europa.eu/RegData/docs\\_autres\\_institutions/commission\\_europeenne/swd/2017/0117/COM\\_SWD\(2017\)0117\\_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/swd/2017/0117/COM_SWD(2017)0117_EN.pdf)
- European Commission. (2021). A renewed EU action plan against migrant smuggling (2021-2025). Com (2021) 591 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021DC0591>
- Europol. (2024). EMSC report: Tackling threats, addressing challenges: Europol's response to migrant smuggling and trafficking in human beings in 2023 and onwards. <https://www.europol.europa.eu/publications-events/publications/emsc-report-tackling-threats-addressing-challenges>
- Faier, L. (2024). *The banality of good: The UN's global fight against human trafficking*. Duke University Press.
- Fernández-Bessa, C., & Ballesteros-Pena, A. (2024). The changing landscapes of immigration detention. *Punishment & Society*, 26(3), 455-464. <https://doi.org/10.1177/14624745241265942>
- Fernández-Bessa, C., & Mendiola, I. (2024). Criminalization of solidarity and production of fear at the border: The case of the French Basque Country border area. In A. Di Ronco & R. Selmini (Eds.), *Criminalisation of dissent in times of crisis*. Palgrave, 59-81.
- Flick, U. (2018). *Doing triangulation and mixed methods* (2nd ed.). Sage.
- FRA. (2014). *EU member states' legislation on irregular entry and stay, as well as facilitation of irregular entry and stay: Annex*. <https://op.europa.eu/en/publication-detail/-/publication/07eefd2d-101b-42e1-81b9-3c68f560adc9>
- Freier, L., & Pérez, L. (2021). Nationality-based criminalisation of South-South migration: The experience of Venezuelan forced migrants in Peru. *European Journal on Criminal Policy and Research*, 27(1), 113-133. <https://doi.org/10.1007/s10610-020-09475-y>
- Gajardo, T. (2020). Interpretaciones de elemento «entrada ilegal» en el tráfico ilícito de migrantes y las ambigüedades del bien jurídico. *Revista de Estudios de la Justicia*, 33, 77-107. <https://doi.org/10.5354/0718-4735.2020.60531>
- Gandini, L. (2022). Between closure and openness: Migration governance and the Venezuelan exodus. In A. E. Feldmann, X. Bada, J. Durand, & S. Schütze (Eds.), *The Routledge history of modern Latin American migration*. Routledge, 456-471.
- Girao, F. (2024). Derecho penal de emergencia y control migratorio en Chile. Retroceso y violación de derechos fundamentales en las recientes propuestas de reforma a la Ley de Migración y Extranjería. *Revista de ciencias sociales (Valparaíso)*, 84, 11-42. <http://dx.doi.org/10.22370/rcs.2024.84.4098>
- Gissi, N., Ramírez, J., Ospina, M., Cardoso, B., & Polo, S. (2020). Respuestas de los países del pacífico suramericano ante la migración venezolana: estudio comparado de políticas migratorias en Colombia, Ecuador y Perú. *Diálogo andino*, 63, 219-233. <https://doi.org/10.4067/S0719-26812020000300219>
- Government of Chile. (2022, June 1). *Plan Nuestro Norte: Security infrastructure investment programme for northern Chile* [Public announcement]. Retrieved May 21, 2026, from <https://www.infodefensa.com/texto-diario/mostrar/3777440/boric-anuncia-plan-inversion-mejorar-seguridad-publica-chile>
- Groos, M. (2023). La criminalización de la solidaridad: Un nuevo instrumento hacia un crimmigration control en Chile. *Crítica Penal y Poder*, 24, 1-17.
- Hänsel, V., Moloney, R., Firla, D., & Serkepkanı, R. (2020). *Incarcerating the marginalized: The fight against alleged "smugglers" on the Greek hotspot islands*. Bordermonitoring.eu. [https://bordermonitoring.eu/wp-content/uploads/2020/12/report-2020-smuggling-en\\_web.pdf](https://bordermonitoring.eu/wp-content/uploads/2020/12/report-2020-smuggling-en_web.pdf)
- Instituto Nacional de Estadísticas (INE) & Servicio Nacional de Migraciones. (2024). *Informe de resultados de la estimación de personas extranjeras residentes habituales en Chile al 31 de diciembre de 2023*. <https://serviciomigraciones.cl/estudios-migratorios/estimaciones-de-extranjeros/>
- Izcara, S. (2017). Etiología del tráfico de migrantes en México: relevancia de los factores de atracción. *Norteamérica*, 2, 29-55.
- Jago, L. (2021). *A net for small fishes: a novel*. Flatiron Books.
- Jansen, Y., Celikates, R., & De Bloois, J. (Eds) (2014). *The irregularization of migration in contemporary Europe: Detention, deportation, drowning*. Rowman and Littlefield.
- Keiler, J. (2026). The EU's facilitators' package - in the twilight of fighting organised crime and the (over)criminalization of solidarity - a comparative evaluation. In N. Vavoula, E. Tsourdi, & V. Mitsilegas (Eds.), *Intertwining criminal justice and immigration control in the EU*. Palgrave, 31-63.
- Kvale, S., & Brinkmann, S. (2015). *InterViews: Learning the craft of qualitative research interviewing* (3rd ed.). Sage.
- Law No. 20,285 on Access to Public Information [Ley No. 20.285 sobre Acceso a la Información Pública]. (2008, August 20). *Diario Oficial de la República de Chile*. <https://www.bcn.cl/leychile/navegar?idNorma=276363>

- Law No. 20,507 Establishing Criminal Offences of Migrant Smuggling and Trafficking in Persons [Ley No. 20.507 que tipifica los delitos de tráfico ilícito de migrantes y trata de personas]. (2011, April 8). *Diario Oficial de la República de Chile*. <https://www.bcn.cl/leychile/navegar?idNorma=1024319>
- Lebow, J., Moreno-Medina, J., Mousa, S., & Coral, H. (2024). Migrant exposure and anti-migrant sentiment: The case of the Venezuelan exodus. *Journal of Public Economics*, 236, 105169. <https://doi.org/10.1016/j.jpubeco.2024.105169>
- Liberona Concha, N. (2020). El rol de las fronteras en el fenómeno del tráfico de migrantes. In Dilla Alfonso H. (Ed.) *Donde el pedernal choca con el acero: Hacia una teoría crítica de las fronteras latinoamericanas*. RIL Editores, 81-97.
- Liberona Concha, N., Piñones Rivera, C., & Dilla Alfonso, H. (2021a). De la migración forzada al tráfico de migrantes: la migración clandestina en tránsito de Cuba hacia Chile. *Migraciones Internacionales*, 12. <https://doi.org/10.33679/rmi.v1i1.2319>
- Liberona Concha, N., Salinas, S., Veloso, K., & Romero, M. (2021b). Tipología de cuerpos traficados desde América del Sur y el Caribe hacia Chile. *Antípoda. Revista de Antropología y Arqueología*, 44, 167-193. <https://doi.org/10.7440/antipoda44.2021.08>
- López-Sala, A., & Barbero, I. (2021). Solidarity under siege: The crimmigration of activism(s) and protest against border control in Spain. *European Journal of Criminology* 18(5), 678-694. <https://doi.org/10.1177/1477370819882908>
- Mayring, P. (2014). *Qualitative content analysis: Theoretical foundation, basic procedures and software solution*. Beltz.
- McKenzie, S. (2020). *Transnational criminology: Trafficking and global criminal markets*. Bristol University Press.
- Mehta, R. (2023). A southern feminist approach to the criminology of mobility. *International Journal for Crime, Justice and Social Democracy*, 12(2), 1-12. <https://doi.org/10.5204/ijcsd.2892>
- Mendel, J., & Sharapov, K. (2022). “Stick them to the cross”: Anti-trafficking apps and the production of ignorance. *Journal of Human Trafficking* 8(3), 233-249. <https://doi.org/10.1080/23322705.2020.1801284>
- Mezzadra, S. (2004). The right to escape. *Ephemera, Theory of the Multitude* 4(3), 267-275.
- Ministry of the Interior and Public Security. (2022). *Política nacional contra el crimen organizado*. <https://www.subinterior.gob.cl/politica-nacional-contra-el-crimen-organizado/>
- Ministry of the Interior and Public Security. (2023). *Política Nacional de Migración y Extranjería*. <https://serviciomigraciones.cl/politica-nacional/>
- Mitsilegas, V. (2021). The criminalisation of migration in the law of the European Union - challenging the preventive paradigm. In G. L. Gatta, V. Mitsilegas & S. Zirulia S (Eds.), *Controlling Immigration through criminal law*. Hart Publishing, 25-45.
- Mitsilegas, V. (2024). Reforming EU criminal law on the facilitation of unauthorised entry: The new Commission proposal in the light of the Kinshasa litigation. *New Journal of European Criminal Law*, 15(1), 3-11. <https://doi.org/10.1177/20322844241235714>
- Mosqueda, Y. (2023, June 19). *Condenan a funcionaria de refugio por tráfico de migrantes en Colchane*. Soy Chile. <https://www.soychile.cl/iquique/policial/2023/06/19/816557/condenada-funcionaria-trafico-migrantes-iquique.html>
- Motivans, M. (2021). *Immigration, citizenship, and the federal justice system, 1998-2018*. Washington: Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/icfjs9818.pdf>
- Müller, J. (2017). La regulación del comercio en Bolivia: de la economía informal al mercado extralegal. *Revista Latinoamericana de Desarrollo Económico*, 28, 119-134.
- Müller, J. (2021). Encuentros y espectáculos fronterizos: disputas por la legitimidad de la frontera y la riqueza en el Occidente de Oruro, Bolivia. *Diálogo andino* 66, 299-311.
- Musto, J., Fehrenbacher, A., Hoefinger, H., Mai, N., Macioti, P., Bennachie, C., Giametta, C., & D’Adamo, K. (2021). Anti-trafficking in the time of FOSTA/SESTA: Networked moral gentrification and sexual humanitarian creep. *Social Sciences*, 10(2), 58.
- Olivares, R. (2021, February 8). *Camionero acusado de transporte ilegal de migrantes fue absuelto por haber actuado por razones humanitarias*. Radio UChile. <https://radio.uchile.cl/2021/02/08/camionero-acusado-de-transporte-ilegal-de-migrantes-fue-absuelto-por-haber-actuado-por-razones-humanitarias/>
- Patanè, F. (2025). Migrants’ agency in smuggling routes: Criminalising practices and socio-legal implications in the EU. In N. Vavoula, E. Tsourdi & V. Mitsilegas (Eds.), *Intertwining criminal justice and immigration control in the EU pp. 139-168*). Routledge.
- Patanè, F., Bolhuis, M., Van Wijk, J., & Kreiensiek, H. (2020). Asylum-seekers prosecuted for human smuggling: A case study of scafisti in Italy. *Refugee Survey Quarterly*, 39(2), 123-152. <https://doi.org/10.1093/rsq/hdaa008>
- Patton, M. Q. (2015). *Qualitative research and evaluation methods* (4th ed.). Sage.
- PICUM. (2025). *Criminalisation of migration and solidarity in the EU: 2024 report*. <https://picum.org/wp-content/uploads/2025/04/Criminalisation-of-migration-and-solidarity-in-the-EU-2024-report.pdf>
- Pinto, M. (2025). Border penalty as antagonistic politics. *Theoretical Criminology*, 29(1), 5-24. <https://doi.org/10.1177/13624806241241068>

- Policía de Investigaciones de Chile, & Servicio Nacional de Migraciones. (2023, February 7). *Se detectaron 3.390 ingresos por pasos no habilitados al país en enero de 2023* [Press release]. Infomigra. <https://www.infomigra.org/se-detectaron-3-390-ingresos-por-pasos-no-habilitados-al-pais-en-enero-de-2023>
- Ramos, R., & Brandariz, J. A. (2025). Las “zonas grises” del tráfico ilícito de migrantes en Chile. *Política Criminal*, 20(39), 360-389. <https://politerim.com/wp-content/uploads/2025/07/Vol20N39A13.pdf>
- Ramos, R., Dufraix, R., & Brandariz, J. (2021). Heterogeneous borders: Migrant workers in northern Chile. In L. Weber & C. Tazreiter (Eds.), *Handbook of migration and global justice* (pp. 62-82). Elgar.
- Ramos, R., & Ovando, R. (2016). La región de Tarapacá: seguridad fronteriza y múltiples apropiaciones de su espacio. *Revista Polis*, 43, 2-19.
- Ramos, R., & Tapia, M. (2024). Entre humanitarismo y seguridad: la reorganización del control fronterizo en Chile (2010-2022). *Estudios Fronterizos* 25, e154. <https://doi.org/10.21670/ref.2418154>
- Salt, J., & Stein, J. (1997). Migration as a business: The case of trafficking. *International Migration*, 35(4), 467-494. <https://doi.org/10.1111/1468-2435.00023>
- Sanchez, G. (2017a). Critical perspectives on clandestine migration facilitation: An overview of migrant smuggling research. *Journal on Migration and Human Security*, 5(1), 9-27. <https://doi.org/10.1177/233150241700500102>
- Sanchez, G. (2017b). Beyond the matrix of oppression: Reframing human smuggling through intersectionally-informed approaches. *Theoretical Criminology*, 21(1), 46-56. <https://doi.org/10.1177/1362480616677497>
- Sanchez, G., Arrouche, K., Capasso, M., Dimitriadi, A., & Fakhry, A. (2021). Beyond networks, militias and tribes: rethinking EU counter-smuggling policy and response. *Euromesco Joint Policy Studies Series*.
- Saunders, B., Sim, J., Kingstone, T., Baker, S., Waterfield, J., Bartlam, B., Burroughs, H., & Jinks, C. (2018). Saturation in qualitative research: Exploring its conceptualization and operationalization. *Quality & Quantity*, 52(4), 1893-1907. <https://doi.org/10.1007/s11135-017-0574-8>
- Servicio Nacional de Migraciones. (2024). *Comunicado público sobre gestión migratoria* [Press release]. <https://serviciomigraciones.cl/comunicado-publico-sobre-gestion-migratoria>
- Servicio Nacional de Migraciones. (2025). *Informe SERMIG: reporte destaca disminución de ingresos irregulares y avances en transparencia* [Press release]. <https://serviciomigraciones.cl/sermig-destaca-disminucion-ingresos-irregulares-avances-transparencia/>
- Silva, J., Franco, A., & Sampaio, C. (2021). How the Venezuelan exodus challenges a regional protection response: “creative” solutions to an unprecedented phenomenon in Colombia and Brazil. In L. L. Jubilit, M. V. Espinoza, & G. Mezzanotti (Eds.), *Latin America and refugee protection: Regimes, logics, and challenges* (pp. 346-368). Berghahn Books.
- Spena, A. (2014). Iniuria migrandi: Criminalization of immigrants and the basic principles of the criminal law. *Criminal Law and Philosophy*, 8(3), 635-657. <https://doi.org/10.1007/s11572-013-9229-6>
- Spena, A. (2017). A just criminalization of irregular immigration: Is it possible? *Criminal Law and Philosophy*, 11(2), 351-373. <https://doi.org/10.1007/s11572-015-9375-0>
- Spena, A. (2021). Smuggled migrants as victims? Reflecting on the UN Protocol against migrant smuggling and on its implementation. *Brill Research Perspectives in Transnational Crime*, 3(4), 43-57. <https://doi.org/10.1163/24680931-12340022>
- Spener, D. (2009). *Clandestine crossings: Migrants and coyotes on the Texas-Mexico border*. Cornell University Press.
- Stang, F., Lara, A., & Andrade, M. (2020). Retórica humanitaria y expulsabilidad: migrantes haitianos y gobernabilidad migratoria en Chile. *Si somos americanos*, 20(1), 176-201. <https://doi.org/10.4067/S0719-09482020000100176>
- Stefoni, C., Cabieses, B., & Blukacz, A. (2021). Migraciones y COVID-19: cuando el discurso securitista amenaza el derecho a la salud. *Simbiótica*, 8(2), 38-66. <https://doi.org/10.47456/simbitica.v8i2.36378>
- Tapia, M., & Quinteros, D. (2023). Colchane e Iquique en tiempos de pandemia: del margen a la centralidad de la crisis humanitaria venezolana (2020-2022). *Si Somos americanos* 23. <https://dx.doi.org/10.4067/s0719-09482023000100203>
- Taylor, V. (2024). “No such thing as justice here”: The criminalisation of people arriving to the UK on “small boats.” *Border Criminologies*. [https://blogs.law.ox.ac.uk/sites/default/files/2024-02/No%20such%20thing%20as%20justice%20here\\_for%20publication.pdf](https://blogs.law.ox.ac.uk/sites/default/files/2024-02/No%20such%20thing%20as%20justice%20here_for%20publication.pdf)
- Taylor, V. (2025). “I told them the truth: An update on the criminalisation of people arriving to the UK on ‘small boats.’” *Border Criminologies*. [https://www.law.ox.ac.uk/sites/default/files/inline-files/I%20told%20them%20the%20truth\\_final\\_02\\_06\\_0.pdf](https://www.law.ox.ac.uk/sites/default/files/inline-files/I%20told%20them%20the%20truth_final_02_06_0.pdf)
- Tervonen, T. (2023, December 20). *La criminalización de los capitanes de cayucos*. El Salto. <https://www.elsaltodiario.com/frontera-sur/criminalizacion-capitanes-cayucos>
- Triandafyllidou, A. (2018). Migrant smuggling: Novel insights and implications for migration control policies. *The ANNALS of the American Academy of Political and Social Science*, 676(1), 212-221. <https://doi.org/10.1177/0002716217752330>
- United Nations. (2024). *International migrant stock as a percentage of the total population at mid-year 2024*. Migration Data Portal. [https://www.migrationdataportal.org/international-data?i=stock\\_perc\\_&t=2024&cm49=152](https://www.migrationdataportal.org/international-data?i=stock_perc_&t=2024&cm49=152)

- Van Liempt, I., & Doomernik, J. (2006). Migrant's agency in the smuggling process: The perspectives of smuggled migrants in the Netherlands. *International Migration*, 44(4), 165-190. <https://doi.org/10.1111/j.1468-2435.2006.00383.x>
- Van Liempt, I., & Sersli, S. (2013). State responses and migrant experiences with human smuggling: a reality check. *Antipode*, 45(4), 1029-1046. <https://doi.org/10.1111/j.1467-8330.2012.01027.x>
- Watson, S. (2015). The criminalisation of human and humanitarian smuggling. *Migration, Mobility, & Displacement*, 1(1), 39-53. <https://doi.org/10.18357/mmd11201513273>
- Weber, L. (2002). The detention of asylum seekers: 20 reasons why criminologists should care. *Current Issues in Criminal Justice*, 14(1), 9-30. <https://doi.org/10.1080/10345329.2002.12036244>
- Winkler, J., & Mayr, L. (2023). *A legal vacuum: The systematic criminalisation of migrants for driving a boat or car to Greece*. Borderline Europe. [https://www.borderline-europe.de/sites/default/files/readingtips/criminalisation\\_of\\_migrants-study\\_by\\_borderline\\_europe\\_en.pdf](https://www.borderline-europe.de/sites/default/files/readingtips/criminalisation_of_migrants-study_by_borderline_europe_en.pdf)
- Zhang, S., Sanchez, G., & Achilli, L. (2018a). Migrant smuggling as a collective strategy and insurance policy: Views from the margins. *The ANNALS of the American Academy of Political and Social Science*, 676(1), 6-225.
- Zhang, S., Sanchez, G., & Achilli, L. (2018b). Crimes of solidarity in mobility: Alternative views on migrant smuggling. *The ANNALS of the American Academy of Political and Social Science*, 676(1), 6-15. <https://doi.org/10.1177/0002716217746908>