

HTMS Ambassador Programme

Human Smuggling & Human Trafficking

Human smuggling and human trafficking are two terms we have heard repeated across the news media in recent years in relation to migration. The two terms are often used interchangeably but whilst they both involve the movement of people and can often be linked, they are two distinct crimes which affect people in different ways.

HUMAN TRAFFICKING

Human trafficking is internationally defined to include the recruitment, transportation, transfer, harbouring or receipt of persons, through the use of threats, fraud, coercion or deception. It involves the abuse of an individual's position of vulnerability for the purpose of exploitation for profit. It is important to note that trafficking does not require individuals to be transported across borders and can occur within a country.[1]

HUMAN SMUGGLING

Human smuggling, also referred to as people smuggling or migrant smuggling, is internationally defined to involve the facilitation of the illegal entry of a person into a country of which the person is not a national or permanent resident, in exchange for financial or other material benefit. Human smuggling occurs across international borders and comprises of a consensual agreement between the smuggler and the individual.[2]

Whereas human trafficking is a crime against the person, human smuggling is a crime against a State. Nevertheless, there are instances where an act of smuggling may turn into trafficking.

A lack of safe routes for seeking asylum and stricter and more punitive border policies, coupled with increasing anti-migrant rhetoric, can compel persons in need of international protection to employ the assistance of smugglers to flee persecution and conflict.

In such circumstances, payment and consent is provided to the smuggler to arrange travel to a place of safety. During the journey, there is opportunity for this to evolve into a trafficking situation if the smuggler in question reneges on the original deal and seeks to exploit the individual. Whilst poor conditions during the journey may not constitute abuse or exploitation, being forced into a situation of forced labour, debt bondage, or criminal exploitation (some examples) would constitute exploitation under the definition of human trafficking. It may also be the case that traffickers pose as smugglers to deceive individuals into embarking on a journey and thereafter force them into exploitative situations. In such instances, the consent is void due to deception and subsequent abuse and/or exploitation.

Care should be taken not to conflate the two crimes as it can greatly impact the level of support persons receive if we are unable to correctly identify the crime. People who are trafficked are entitled to specific protections under the law, requiring a shared response as noted by Pope Francis 'to welcome, to protect, to promote and to integrate'.

REFERENCES:

[1] <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

[2] <https://www.refworld.org/legal/agreements/unga/2000/en/53096>

[3] https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20170815_world-migrants-day-2018.html