

Human Trafficking and Migrant Smuggling: How They Differ

Human trafficking and migrant smuggling are among the fastest growing criminal activities in the world, affecting virtually every country according to the United Nations.

Trafficking and smuggling can occur for a variety of the same reasons, including poverty in countries of origin and high demand for a cheap workforce in receiving countries. In the case of smuggling and in some cases of human trafficking – when victims are deceived into forced exploitation – people are seeking to leave their homes in search of a better life or to escape violence or abuse.

Smuggling and trafficking, however, are distinct crimes.

Smuggling

Migrant smuggling is a violation of a country's border and immigration laws, but is not a violation of a person's human rights. Smuggling occurs when an individual crosses an international border with the assistance of a paid smuggler and without authorization from the receiving country.¹

According to the United Nations, human smuggling is the "procurement in order to obtain directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident"² and involves "the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents."³

Trafficking

Human trafficking is a human rights violation and a crime against the dignity of an individual that involves the practice of holding a human being in compelled service by force, fraud,

or coercion. Human trafficking can occur with little or no transportation; its defining element is the exploitation of an individual. Transnational human trafficking occurs when a victim is recruited and transported across an international border(s), and then exploited for labor and/or sex.

Under U.S. law, trafficking in persons is defined as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;" or "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."⁴

Four Main Differences

According to the UNODC, there are four main differences between human trafficking and migrant smuggling:

- **Consent.** Smuggling includes consent by individuals to be moved across a border. Trafficking victims have either never given consent or, if consent was initially granted, it is rendered meaningless by coercion, deception, abuse, and exploitation.
- **Exploitation.** Smuggling has three possible outcomes: 1) a smuggler walks away with a migrant's money, 2) a migrant gets caught or perishes during the trip, or 3) a migrant makes it to a destination and smuggling ends upon arrival. Human trafficking involves ongoing exploitation at the destination, whether domestic or transnational.
- **Transnationality.** Smuggling is always transnational. Trafficking exploitation can occur within a country or can involve border crossings.
- **Profits.** Smuggling profits are derived from the transportation of an individual from one country to another. Trafficking profits are derived from exploitation.

For more information contact Mary Elizabeth Margolis at margolisme@humanrightsfirst.org or 212-845-5269.

¹ Global Human Smuggling, Edited by David Kyle and Rey Koslowski, Johns Hopkins, p. 4.

² Article 3, [Smuggling of Migrants Protocol](http://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html?ref=menu#What_is_Migrant_Smuggling), http://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html?ref=menu#What_is_Migrant_Smuggling

³ <http://www.state.gov/m/ds/hstcenter/90434.htm>

⁴ 22 U.S.C. § 7102(9).