



## HUMAN TRAFFICKING & MIGRANT SMUGGLING: UNDERSTANDING THE DIFFERENCE

“**H**uman trafficking” and “migrant smuggling” are two distinct crimes that are often conflated or referred to interchangeably. Clarifying the differences between the two is critical to the development and implementation of sound policies. For example, one key difference is that people who are trafficked are considered victims of a crime under international law; smuggled migrants are not. Thus, better awareness of the distinctions between human trafficking and migrant smuggling can potentially improve victim protection and avoid the re-trafficking of victims.

### HUMAN TRAFFICKING

Human trafficking is a crime involving the exploitation of an individual for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. In addition, when a child (defined as under 18 years of age) is induced to engage in commercial sex, it is a trafficking crime regardless of whether force, fraud, or coercion is used. This definition is found in international law, specifically in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime.

Although the term “human trafficking” may suggest movement, no movement is required. It is a crime that can be committed against an individual who has never left his or her hometown. Trafficking victims include women, men, and transgender individuals; adults and children; citizens and noncitizens alike. Individuals may be considered trafficking victims regardless of whether they were born into a state of servitude, were transported to the exploitative situation, previously consented to work for a trafficker, or participated in a crime as a direct result of being subjected to human trafficking.

A recruiter deceived Marie into taking a job overseas in a restaurant, promising her a salary she could not pass up and helping her obtain a visa to work in the destination country. Upon arrival, she was told there was no job. In order to pay off the cost of her transportation and work documents, and to keep her family from being threatened for her “debt,” her recruiter forced her to engage in prostitution. Marie is a trafficking victim: fraud and force were used to subject her to sex trafficking.



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## MIGRANT SMUGGLING

In contrast to human trafficking, for a crime to be considered “smuggling,” a person must be moved across an international border. An individual voluntarily enters into an agreement with a smuggler to gain illegal entry into a foreign country. This often includes procuring fraudulent documents and transportation over a country’s border, although in some countries it can also include transportation and harboring once in the country. In these smuggling cases, an individual consents to being moved and the transaction between the migrant and the smuggler is typically over once he or she has crossed the border or once all fees have been paid in full. It is defined in the Protocol Against the Smuggling of Migrants by Land, Sea, and Air, supplementing the United Nations Convention Against Transnational Organized Crime.



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Encountering tremendous violence in his conflict-torn home country, Amir was introduced to a man who told him he could get to another country for a \$1,000 fee. The man insisted he would get Amir there safely by boat. Amir paid him for the travel and, once in the new country, he never saw him again. There was no force, fraud, or coercion involved and Amir was neither subjected to forced labor nor forced to engage in prostitution. Amir was smuggled but not trafficked.

People who are smuggled can be extremely vulnerable to trafficking, abuse, and other crimes, as they are illegally present in the country of destination and often owe large debts to their smugglers. Smuggled migrants sometimes flee violence in their home country; others simply seek better lives and economic opportunities abroad. Some smuggled persons may be subjected to sex or labor trafficking while in transit or at their destination. However, not all smuggling cases involve human trafficking, nor do all cases of human trafficking begin with smuggling.

## WHY DOES IT MATTER?

Human trafficking and migrant smuggling often overlap in reality, which makes it particularly important that policymakers and others are conscious of the differences between them. When human trafficking is confused with migrant smuggling, victims of modern slavery may not be provided the protections, services, or legal redress to which they are entitled and thus may be left vulnerable to being re-trafficked.