

MIGRANT SMUGGLING WHAT DO YOU NEED TO KNOW?





WHAT IS MIGRANT SMUGGLING?

Migrant smuggling is a crime that involves obtaining financial or material benefits to facilitate the irregular entry of a person into a country of which they are neither a national nor a resident, or their departure from a country where they do not have authorization or a document to leave.

The crime of migrant smuggling is laid down in the Brazilian Penal Code, in Article 232-A, and the person held responsible for it is the smuggler, not the migrant.

ARE MIGRANT SMUGGLING AND IRREGULAR MIGRATION THE SAME THING?

No! Irregular migration refers to the act of a migrant crossing a transnational border without the authorization or document required to leave the country in which they are or to enter the country of destination. In Brazil, irregular migration is not a crime. But beware! It is an administrative offense and it has consequences for the migrant.

Migrant smuggling, on the other hand, is a crime committed by those who promote the migrant's irregular migration, whether by selling false documents, guiding the migrant on the journey or providing transportation for the crossing.

The smuggler takes advantage of the migrant's vulnerability, fear and lack of knowledge to make a profit for himself. Did you know that they often sell services that the Brazilian state itself offers for free?

WHAT IS THE DIFFERENCE BETWEEN MIGRANT SMUGGLING AND HUMAN TRAFFICKING?

Although they have similar ways of operating and often involve the same criminal networks, there are significant differences between them.

The main difference between both crimes is the exploitation of the individual.

Human trafficking refers to the commercialization of human beings for the purpose of:

- sexual exploitation of another person;
- labor in conditions analogous to slavery;
- removal of tissues, organs or body parts;
- illegal adoption;
- any kind of servitude.

When human trafficking involves displacement, it can be internal, that is, within a country, or international, where border crossings can be either regular or irregular.

The crime of human trafficking is committed against a person: the victim. The crime of migrant smuggling, on the other hand, is committed against the country whose law is being violated.

ARE THERE ANY RISKS FOR MIGRANTS WHO USE THE SERVICES OF SMUGGLERS?

Yes! Even though the migrant is paying for the smuggler's services, they are susceptible to a variety of risks along the way. The routes taken by them are often inadequate for the journey and involve passing through jungle areas, rivers in precarious boats and long journeys on foot. There may be no access to potable water, food or safe shelters.

Furthermore, migrants are vulnerable to the actions of the smugglers and other criminals and can face various forms of violence and exploitation. Women, children, adolescents, the elderly, people with disabilities, LGBTQIA+ people and refugees are even more vulnerable. At this point, a situation of migrant smuggling can turn into a situation of human trafficking.

WHAT ARE THE RISKS FOR WOMEN, GIRLS, CHILDREN AND ADOLESCENTS?

Women and girls are more vulnerable to gender-based violence, especially physical and sexual. They may also be forced to take care of other vulnerable people in their family or group throughout the route, having to share the few resources they have, making the journey more physically and psychologically exhausting. They are also at greater risk of becoming victims of human trafficking, especially for sexual exploitation.

Children and adolescents are also more vulnerable, especially if they are unaccompanied or separated from their parents or legal guardians. Apart from the risks associated with the journey, which can be very challenging, they are also susceptible to violence, forced labour and sexual exploitation, kidnapping and even abandonment along the way.

The greater the vulnerability, the greater the risk!





HOW DOES THE CONTACT BETWEEN THE SMUGGLER AND THE MIGRANT OCCUR?

Smugglers' services are primarily provided by word of mouth, that is, by referrals from people who know or have used these services to migrants who might be interested in migrating to other countries without having the authorization or documentation required to do so.

However, in recent years, social networks and messaging apps have played a growing and fundamental role in promoting these services. They are broadcast media with a wide audience reach, which use a variety of techniques to encourage migrants to use these services.

The use of false information that presents migrant smuggling as a safe and guaranteed method of migration is widespread and easy to find.

WHAT ARE THE RIGHTS OF SMUGGLED MIGRANTS?

Smuggled migrants have the same rights as any other migrant in Brazilian territory, such as access to health, education and social assistance services, free legal aid, regularization of documents under the terms of the law, among many others, especially the right not to be criminalized for their irregular entry or stay in Brazilian territory.

Because they have been smuggled, these migrants can present other demands and vulnerabilities that deserve attention and care.

HOW CAN MIGRANTS ENTER BRAZIL LEGALLY?

The Migration Law (Law No. 13.445/2017) offers several ways to enter and stay in Brazilian territory. There are numerous possibilities to obtain a visit visa and a temporary visa. Brazil also has agreements with several countries to waive the need for a visa to enter the country.

Furthermore, when the migrant is already in the Brazilian territory, they can take advantage of one of the many possibilities for a residence permit to stay in the country regularly.

Brazil promotes regular entry and document regularization through humanitarian reception, family reunification, work, study, health treatment, religious activity, protection for people in situations of refuge, statelessness and victims of human trafficking, regional or bilateral agreements, among other possibilities.

TO FIND OUT MORE

Access the Migration Regularization
Guided Navigation page:

<https://www.gov.br/pf/pt-br/assuntos/imigracao>



DOES HELPING A MIGRANT IN AN IRREGULAR SITUATION CONSTITUTE MIGRANT SMUGGLING?

Humanitarian aid and migrant smuggling must not be confused. Organizations and people who provide humanitarian aid are essential for migrants in situations of vulnerability and that are undocumented in the country, and they cannot be criminalized for it. For the crime of migrant smuggling to be committed, there must be financial profit or some material gain by the person promoting the irregular migration.

As for humanitarian aid, the aim is to support vulnerable individuals, helping them to access their rights and receiving adequate care for their demands and needs, without any financial or material compensation.

WHAT IS BRAZIL DOING TO COMBAT MIGRANT SMUGGLING?

In July 2024, the Ministry of Justice and Public Security, with the support of IOM, the UN Migration Agency, launched the Action Plan to Combat Migrant Smuggling, focusing on prevention, improvement of the response and reduction of the impact of this transnational crime. The Plan provides for a coordinated, articulated and integrated approach among various governmental and non-governmental actors to tackle the issue.

TO FIND OUT MORE

Access the Action Plan:

<http://bit.ly/3zefGdP>



HOW CAN I REPORT CASES OF MIGRANT SMUGGLING?

Anonymous reports can be made by calling 100. The service operates 24 hours a day, including Saturdays, Sundays and holidays, and offers assistance in Portuguese, English and Spanish.

In the case of violations against women and girls, reports can also be made by calling 180, which operates 24 hours a day, every day of the week and can be accessed in Brazil and 16 other countries.

Reports can also be made on the Ministry of Human Rights and Citizenship website: <https://www.gov.br/mdh/pt-br/ondh>

To receive assistance or to report via WhatsApp, just send a message to (55 61) 99611-0100. It is also possible to receive assistance via Telegram by typing "Direitoshumanosbrasilbot" into the app's search tool.

To submit a report in Brazilian Sign Language (Libras), visit: <https://atendelibras.mdh.gov.br/ acesso>

To find out more about migrants' rights and how to access services in Brazil, visit the Clique Cidadania app from the Ministry of Human Rights and Citizenship.

DO YOU WANT TO KNOW MORE

About the crime of migrant smuggling, its causes, ways of preventing it and how to combat it?

<https://bit.ly/3ZoxOwa>



Legal basis: Law No. 13.445/2017, Decree No. 9.199/2017, Decree No. 5.016/2004 and Decree-Law No. 2.848/1940.



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