



Información básica sobre la trata de personas y el tráfico ilícito de migrantes

Proyecto

**HACIA UNA SOCIEDAD UNIDA
CONTRA LA TRATA DE PERSONAS
Y EL TRÁFICO ILÍCITO DE MIGRANTES**

Co-financed by the
European Union

PROGRAMA

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Basic information on human trafficking and smuggling of migrants

Human trafficking and smuggling of migrants are crimes that are present in the country. In recent years, the magnitude and seriousness of these crimes has been revealed, following the discovery of cases of human trafficking for sexual and labor exploitation and cases of smuggling of migrants from other countries in the region and even from other continents, which have required great efforts to carry out criminal investigations and to provide adequate attention to their victims.

Aware of the seriousness of both crimes and the need to strengthen efforts to develop preventive strategies in the communities and improve the institutional response, the Paniamor Foundation is implementing the project "Towards a united society against human trafficking and smuggling of migrants", which is co-financed by the international organization Save the Children and the European Union.

As part of the actions at the preventive and care level for victims of both crimes, training workshops have been scheduled for members of the Networks against Domestic Violence and for the Local Subsystems for the Protection of Children and Adolescents, in the cantons where the project intervenes, which are: Corredores and Coto Brus, Garabito and Quepos, La Cruz and Santa Cruz, Desamparados and San José Central.

This document has been prepared to complement and support the learning process on trafficking in persons and smuggling of migrants, developed through these workshops. It is intended to provide basic information on their conceptualization, characterization, implications and consequences, in order to provide more tools and resources to fulfill the responsibilities that have been attributed to public officials.



Human trafficking in Costa Rica

Human trafficking is a crime that violates the dignity and freedom of people, as they are used as objects to be bought and sold and subjected to exploitation for profit. It is called the "slavery of the 21st century" because the victim is prevented from exercising their rights and subjected to cruel and degrading treatment, which has implications for the victim's life and for society.

This crime has a complex and multi-causal origin. Although progress has been made in the fight against it, there are still elements that favor the vulnerability of the victim and her family, such as an exclusionary and expelling educational system with limited opportunities for technical studies; social tolerance of cultural practices such as domestic violence, especially against women and improper relationships; the increase of work in the informal family economy and poverty. Convictions for this crime continue to be low in relation to the increase in actions by organized networks, sometimes favored by impunity.

Law Against Trafficking in Persons and creation of the National Coalition Against the Smuggling of Migrants and Trafficking in Persons (CONATT)¹

In 2000, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* was signed in Palermo, Italy, as part of the *United Nations Convention against Transnational Organized Crime* (known as the Palermo Protocol). Costa Rica ratified this Protocol in 2002 through Law No. 8302. With the ratification of the Palermo Protocol, Costa Rica commits itself to combat trafficking in human beings.

¹ CONATT. 2015. *Modelo de atención integral para víctimas y sobrevivientes del delito de la trata de personas*. San José.

HUMAN TRAFFICKING IS A PROBLEM WHOSE CAUSES STEM FROM MULTIPLE CULTURAL, ECONOMIC AND POLITICAL FACTORS.

SOME MANIFESTATIONS OF THESE ARE:

In 2005, the CONATT was created (Executive Decree No. 34199). In 2008 this decree was reformed, regulating the coordination, structure and functions of CONATT's agencies and incorporating other institutions.²

In 2013, Law No. 9095 *Law Against Trafficking in Persons and the creation of the National Coalition against Trafficking in Persons* came into force.

Causes of the crime:
² La Gaceta. 2008. Executive Decree N°34199. 2007. *Reforms to Create the National Coalition against the Smuggling of Migrants and Trafficking in Persons*. San José. La Gaceta # 2 of January 3, 2008.

- Unemployment
- Lack of study opportunities
- Smuggling of migrants
- Corruption
- Scarcity or lack of national and local policies or programs for adolescents and young people
- Existence of criminal networks
- Conditions of the authorities to prosecute the crime

Source: IOM. *Module IV: Trafficking in Persons Integral Border Management in the Andean Subregion*. International Organization for Migration (IOM). Lima, Peru



Against the Smuggling of Migrants and Trafficking in Persons, whose purpose is to "promote the formulation, implementation, monitoring and evaluation of national, regional and local public policies for the prevention of smuggling and trafficking in persons". This law also mandates to regulate the framework of care and protection for the victim and their dependents and to review and adapt the national regulations according to international commitments to improve the prosecution and punishment of the crime of trafficking in persons and related activities, as well as the smuggling of migrants.

CONATT is made up of 22 institutions and functions operationally through four commissions: Attention to Victims, Prevention, Prosecution of Justice and Information, Analysis and Investigation. The Technical Secretariat of CONATT, since 2010, is in charge of the General Directorate of Migration and Foreigners, through the section of Management of Smuggling of Migrants and Trafficking in Persons.

Immediate Response Team (ERI)

In 2009, another amendment was made to Executive Decree No. 34199 and the Immediate Response Team (ERI) was created as a collegiate body with the specific purpose of providing care to victims of human trafficking. With Law No. 9095 of 2013, the ERI is elevated to legal status. Its functions are to receive possible situations of human trafficking, identify and establish by means of a reasoned technical resolution the accreditation as a victim of human trafficking. When a person is accredited as a victim of human trafficking, the ERI is responsible for coordinating and executing immediate intervention, protection and security actions for the victim.

The ERI is made up of the following institutions: Technical Secretariat of CONATT, General Directorate of Migration and Foreigners (DGME), Public Forces, National Women's Institute (INAMU), Ministry of Labor and Social Security (MTSS), National Children's Trust (PANI), Unit against Trafficking in Persons and Smuggling of Migrants (UNITRAT) of the Judicial Investigation Agency (OIJ) and the Public Prosecutor's Office.

Specialized against Trafficking in Persons and Smuggling of Persons

The Public Prosecutor's Office's Office for the Attention and Protection of Victims and Witnesses of Crime (FACTRA) and the Judicial Branch's Office for the Attention and Protection of Victims and Witnesses of Crime (OAPVD).

The principles governing the work of the ERI are: confidentiality, non-revictimization, human dignity, equality and non-discrimination, protection, participation and information, and the best interests of the minor.

National regulations on trafficking in persons

Penal Code: In Costa Rica, trafficking in persons is a crime and the penalties are established in Article 172 of the Penal Code. It states:

"Shall be punished with imprisonment for a term of six to ten years whoever.

(Means) through the use of technology or any other means, resorting to threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or the giving or receiving of payments or benefits to obtain the consent of a person having authority over another, promotes, facilitates, favors or executes,

(Action) the recruitment, transfer, transportation, harboring, concealment, retention, delivery or receipt of one or more persons within or outside the country, for the purpose of

(Purposes) to subject them to forced labor or services and other forms of labor exploitation, servitude, slavery or practices similar to slavery, servile or forced marriage, irregular adoption, forced begging, forced pregnancy and forced abortion and the performance of any form of sexual exploitation."

Note: the brackets are not from the original, they have been incorporated to explain the process of the crime of trafficking in persons.



Law No. 8764: General Law on Migration and Foreigners. This law creates the special category of victim of human trafficking, which allows migrant victims to obtain a temporary stay in the country.

Law No. 8720: Protection of Victims and Witnesses. Article 15 refers to the specific rules for the protection of victims of the crime of trafficking in persons and establishes that they must be informed of their rights, in a language they understand and in accordance with their age and maturity, and that they may receive documentation and remain in the country.

Stages of human trafficking³

Based on the situations experienced by a victim of human trafficking, five stages can be highlighted:

1. Capture

Capture can occur in three ways:

- ✓ **Forced recruitment:** implies the abduction or retention of a person by force or threat.
- ✓ **Deceptive recruitment:** through grooming or "marriage or relationship agencies", offering scholarships or job offers with the promise of high income in another country or within the country itself.
- ✓ **Partially misleading recruitment:** no lies are made about the type of activity, but no information is given about the conditions under which she will be working. For example, the victim is recruited to work in agriculture, but is not told that she will be in conditions of slavery, that she will not be allowed to leave alone, that she will not be paid what she was promised and that she will have to surrender her passport or identity documents.

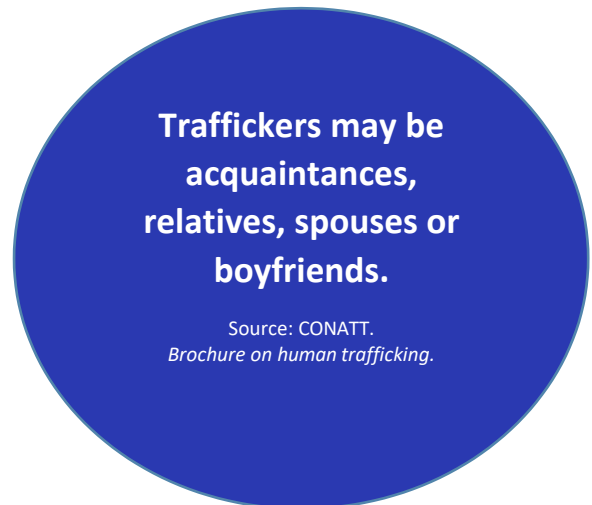
Recruiters can operate in several ways:

- ✓ **Individual Person:** recruits on his own, especially through affective relationships.

³ Taken from: CONATT. 2015. *Modelo de atención integral para sobrevivientes víctimas del delito de la trata de personas*. San José.

- ✓ **Local networks:** nationals or migrants recruited for internal trafficking, i.e., within the same country.
- ✓ **Regional networks:** mobilization between countries in the region.
- ✓ **Family networks:** the recruiter is a family member or acquaintance.
- ✓ **Structured networks:** operate as companies that move large numbers of people.

They may be men or women, professionals from various fields, corrupt officials or well-known people from various backgrounds, who present themselves as people who want to help.



2. Travel and transit

The trip may be made by different means of transportation by land, sea and/or air. In some cases, the victim travels alone and upon arrival at the destination, the exploitation begins. In other cases, once the victim agrees or is forced to leave, the trafficker ensures that she is accompanied from the place of origin to her final destination. This stage involves a great deal of danger and during the journey, which may include several trips, the victim may be sold from one exploiter to another several times, abused, physically and sexually assaulted. It may be at this stage that they are made aware of debts incurred for tickets and expenses required for the journey and that they are able to pay for the trip.



by agreeing to exploitative conditions. The victim loses her autonomy and decision-making power and her freedom of movement is restricted.

3. Exploitation

Once at their destination, the exploitation stage begins in any of its various forms. The victim is deprived of her freedom or her movement is restricted, she is kept submissive and dependent. This is possible through the use of extortion mechanisms in which the victim suffers:

- ✓ real and imminent death threats;
- ✓ physical and emotional exhaustion from being forced to work for days without rest;
- ✓ psychological control tactics such as intimidation, threats, lies, deception and emotional manipulation;
- ✓ limitation and/or prohibition of contact with relatives and acquaintances;
- ✓ document retention.

4. Rescue or escape

In some cases the victim may flee the situation and return to their place of origin on their own, in which case they receive no help or guidance from the State. However, when a victim is identified and rescued by police, health or other personnel, or by an organization in Costa Rica, the ERI is activated to accredit the victim. Once the victim is accredited, an institutional platform of services is activated to provide care, protection and security free of charge.

At this stage, the victim is confused because the traffickers have led her to believe that the authorities will imprison her. For this reason, psychological first aid must be provided by judicial entities such as the OAPVTD. In the case of a child or adolescent, PANI is directly responsible for providing the corresponding care and protection.

Reintegration, resettlement and repatriation

This is the stage of physical and emotional recovery and social reintegration. Each victim requires a particular assessment and it is on this basis that options that can contribute to their reintegration are identified. Institutional, social, legal and economic support is provided, and work and study opportunities are sought in accordance with the victim's abilities.

In the case of a migrant victim, a risk assessment is made to determine what is most convenient for him/her. According to the law, they have the option of returning to their country, leaving for a third country or remaining in Costa Rica.

Factors of protection against human trafficking

- Study opportunities (academic)
- Technical training opportunities
- Scholarship opportunities
- Job offer
- Child care networks
- Recreational and sports facilities
- Cultural activities
- Response of the authorities to the problem with preventive and protective actions.



Purposes of trafficking in persons

Sexual exploitation: the trafficker or exploiter obtains an economic benefit by forcing and subjecting the victim to: prostitution, commercial sexual exploitation of minors, paid sexual relations, performing shows with sexual content, pornography, sexual tourism, any other form of sexual exploitation.

Labor exploitation: the trafficker obtains a benefit by taking advantage of a person who is forced to perform forced labor or services for productive activities, which may be in: maquilas or **factories, domestic work, mining, agricultural work, fishing, and other forms of labor exploitation.**

Servitude and servile or forced marriage: the right of ownership is exercised over a person to exploit him/her, depriving him/her of his/her fundamental rights. Such activities are: **domestic work, forced begging, servile marriage.**

Mention should also be made of **slavery or slavery-like practices**, in which situation a person lacks freedom and rights because he or she is absolutely subject to **the will and domination** of another.

Exploitation in criminal activities: the victim is used to commit criminal acts such as: sale of drugs, weapons, robbery, hired assassination.

Organ harvesting: an anatomical component, organ, tissue, fluid or blood is removed from the victim for purchase or sale without consent or under coercion.

Irregular adoption: when the adoption is a sale or is carried out illegally. Traffickers take advantage of the socioeconomic vulnerability of women and force them to give up their children. These are children who have been stolen, kidnapped or given to the trafficker for adoption without due consent and circumventing state procedures and controls.

Forced pregnancies and surrogacy for illegal adoption are also modalities of this exploitation.

Exploitation in the armed forces: consists of forced recruitment for guerrilla or paramilitary movements. They are called captive soldiers or captive children and adolescents.



Consequences of human trafficking on the victim	
Deterioration of physical health	Due to physical and sexual abuse, as well as poor nutrition, lack of sleep and hygiene and consumption of toxic substances, mutilation of limbs, infections from poorly treated wounds, injuries from running away and contact with toxic substances.
Mental Health	They develop symptoms such as affective balance impairment; impulsive and self-destructive behavior; dissociative symptoms; somatic complaints; feelings of worthlessness, shame, guilt, despair or hopelessness; sense of permanent prejudice; loss of former beliefs; hostility; social withdrawal; sense of constant danger and others.
Interpersonal and social	The victim is subjected to restrictions on movement, time and activities, has permanent control and no contact with support groups; rather, internal division is encouraged to curb any feeling of solidarity that could lead to protest. There is uprooting of the family and cultural and linguistic barriers.
Economic	The supposed debts they have with the traffickers subject them to servitude and keep them in constant stress, as they must send money to their families and with this the supposed debt increases each time.
Legal	The migrant victim has been stripped of her passport, is unaware of her rights and considers that she may go to jail. For this same reason, they do not attend a health and support center and stop their attempts to flee. In addition, they are often forced to commit crimes.



How to act if you see something that makes you suspect a victim of human trafficking

What to do?	What not to do?
<ul style="list-style-type: none"> - Write down the address of the location with as much information as possible, such as the number and color of the house or building. - Write down everything you notice that is passing with as much detail as possible. - In the case of suspicious vehicles, note the license plates, color and characteristics. For example, if it has any dents or signs of damage. - Report it to the authorities. The information can be provided in the form of anonymously, it is a right that we have and must demand. 	<ul style="list-style-type: none"> - Do not interrogate the alleged victim or anyone else; that is a job for the investigators. Doing so puts you and the victim in danger. - Do not turn to others in the community to find out more, or discuss it with neighbors: you could put your life and the lives of others at risk. - Do not try to obtain evidence of what you assume is happening, you should only report what you observe. It is up to the investigators to gather evidence.

When to suspect a human trafficking situation

- People do not have identification cards or passports.
- They are noticeably shy, a consequence of abuse of any kind; you can see lesions on their bodies or they cover up a lot to hide them.
- They have no money (money is handled by traffickers or not given to them).
- Minors in begging.
- They are nervous when they talk because their companion is close by or watching them.
- They act as if they have received instructions from someone else.
- They distrust the authorities or flee from them.
- They do not know the language of the country.
- They do not know their home or work address and may live in a place whose structure is abandoned or in poor physical condition.
- The place where they work does not allow them to go out and they work long hours per day, with no days off.
- They do not receive or have access to medical care.
- Buses, minibuses or cars that do not usually travel through the area

Sources used:
 CONATT (2009) Modelo de atención integral para sobrevivientes-víctimas de trata de personas. San José.
 CONATT. Brochure Combating human trafficking is everyone's responsibility!

Ministry of the Interior, La Maga (2017) Human trafficking module. San José



Including the illicit trafficking of migrants

Migration and its link to development

The movement of human beings across countries, regions and continents has always existed. Its importance has been recognized at the international level through international human rights instruments, in order for States to regulate and protect these movements. One of these is the Universal Declaration of Human Rights which states: "Art. 13, (2) *Everyone has the right to leave any country, including his own, and to return to his country*". The American Convention on Human Rights - known as the Pact of San José and ratified by Costa Rica - establishes in Article 22, 2: "*Everyone has the right to leave any country, including his own*". However, in the exercise of their sovereignty and to protect national security and public order, States may determine the requirements and conditions to enter, remain or settle in the country and to leave it, which must be established by law and may in no way be arbitrary.

The causes of these movements respond to micro factors, such as personal factors (desire to have other experiences or to work in another country, difficulty in finding a job, persecution, threats or aggressions for different reasons), family factors (family reunification, risks or aggressions against the family) and community factors (insecurity and criminality in the neighborhood); and macro factors that arise from the national, regional and even global socio-economic and political context, such as high rates of poverty and unemployment, large-scale political and religious persecution, the impact of natural phenomena that

cause serious damage to a country's infrastructure and crops, high crime rates, among others.

In the last decade, these movements have increased due to political crises and persecution for religious reasons, as well as gender violence (domestic violence and violence against LGTBI persons). Another reason for expulsion that has become relevant in the Central American region is the criminality produced by groups operating in the neighborhoods, called "maras", which are distinguished by the fact that they come from population groups excluded from all benefits, services and social policies in general. It is known, however, that the main reason for migrating is the interest and need to improve living conditions, a phenomenon that has been called "labor migration". According to global estimates by the International Labor Organization (ILO) (2013), there are about 232 million migrants in the world, of which about 150 million are migrant workers.

The causes of migration. The causes of migration are many and in some cases leaving the country of origin is almost the only option for survival. Some of the causes are:

- poverty;
- lack of employment opportunities;
- citizen insecurity;
- the growing demand for skilled and unskilled workers in the countries;
- persecution on the basis of ethnicity, sexual orientation, religion, political choice and others;
- violation of human rights;
- violence and discrimination against women;
- conflicts, wars, political instability;
- social discontent;
- the impact of natural phenomena;
- family reunification and,
- the expansion of telecommunications, family and friends networks that make migration more attractive.



The contribution that migrants make to the countries to which they have moved, and not only to these countries but also to their countries of origin once they decide to return, has been recognized, since they bring with them new knowledge and experiences that will stimulate their development. Contributions are made in all areas: cultural, culinary, linguistic, economic, social, labor, scientific, among others.

The person responsible for committing the crime is the smuggler or "coyote", not the migrant.

The smuggling of migrants is a crime that must be reported.

One of the main contributions that has been the subject of studies is that related to remittances, which are those economic transfers that those who have emigrated send to their relatives in their country of origin. Depending on the level of socio-economic development of the country of origin, they have a significant impact on the dynamization of the economy and family groups. According to the World Bank, for 2016, economic transfers were 536, 666,000 US dollars. With this income from other nations, many households are able to cover their daily expenses and satisfy their basic needs, thus increasing their standard of living.

Migration is not always an option but sometimes becomes the only alternative to improve living conditions or to live free from threats to physical integrity. This is true for millions of people who move to seek employment, flee violence in their communities, seek protection from threats due to their sexual or political orientation, and flee domestic violence, in the particular case of women.

These situations make the people who live in them vulnerable and force them to leave their country immediately, without having the economic resources that would allow them to relocate.

The smugglers offer their services in an irregular manner, i.e., with passports and entry visas to the destination country. It is at this moment when the traffickers appear offering their services of irregular transfer. In some cases, people sell their property or belongings to pay for the transfer and the "help" of the traffickers, or resort to loans from relatives or loan sharks. These people will then put pressure on the migrants when they have not been able to raise all the money and must pay for the services or repay the borrowed money.

And it is these same situations that unscrupulous people linked to criminal networks take advantage of to profit from the needs of others. These people, called smugglers and commonly referred to as "coyotes", offer help to cross borders without being seen by police and immigration authorities in exchange for money. They may also do so by passing through border posts but providing false or altered documents or passports. This gives rise to what is called smuggling of migrants.

Migration can be:

- Regular (through official channels, complying with the legal requirements established by the countries to cross borders) or,
- Irregular (circumventing immigration controls, falsifying or altering travel documents).

It can also be:

- Internal (within the same country) or,
- Cross-border (from one country to another).



What is migrant smuggling?

Smuggling of migrants is the facilitation of the illegal entry or illegal residence of a person, in a country of which that person is not a national or permanent resident, in order to obtain a financial or other material benefit (UNODC, 2011).

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, known as the **Palermo Protocol**, in Article 3, defines smuggling of migrants as the procurement, in order to obtain 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 permanent resident.

The more restrictive, inflexible and harsh the immigration laws and the more severe the border controls, the more people resort to the services of smugglers, so the intended effect of reducing irregular immigration is not always achieved. On the contrary, those who engage in this illegal practice develop more sophisticated and complex strategies to circumvent migration controls, something that ends up exposing the victims to greater dangers. This is why this crime is considered part of organized crime, since it involves the participation of many people who operate as real networks.

This crime is often confused with human trafficking. For this reason, it is important to be clear about the difference between one and the other:

HUMAN TRAFFICKING	SMUGGLING OF MIGRANTS
Human trafficking is a crime committed against people, violating their integrity, their freedom and their lives.	The smuggling of migrants is a crime committed against the sovereignty of a State, it is an attack against national security.
The trafficked person may have crossed the borders of the country of origin. borders on a regular basis. The crossing is not necessarily irregular.	Smuggling of migrants always involves irregular border crossing.
The purpose of trafficking is to exploit the victim or trafficked person.	In the smuggling of migrants, the person is not always exploited, because when the person crosses the border, the deal with the smuggler ends. However, along the way, a person may become a victim of trafficking or other crimes.
Trafficking in persons can be internal (within the same country) or cross-border (the victim is moved from one country to another). one country to another).	In the smuggling of migrants, there is always border crossing.
The transfer is not always risky but the physical and psychological impact has important dimensions.	The transfer is usually carried out under conditions of risk to health, physical integrity and life.



The risks of irregular migration

The process of committing the crime of smuggling of migrants, as pointed out by UNODC (2011), offers opportunities for corrupt practices at different points: in the recruitment of victims; in the preparation or alteration of travel documents; in irregular border crossings; in the transportation of migrants; in the control exercised over them and the exploitation to which they are subjected during the journey; and finally, in the laundering/investment made with the money obtained through the commission of the crime.

There are also many dangers to which irregular migrants are exposed: people can be swindled by traffickers, assaulted by criminals during the journey, suffer accidents due to the conditions of the terrain, fall ill due to poor nutrition, dehydration or disease, and the "coyotes" can abandon them in any situation of risk to themselves. During the journey, women and minors are more vulnerable to sexual aggression and to being victims of human trafficking for different purposes.

Public institutions in the face of the smuggling of migrants

To address this crime, the country has the National Coalition against the Smuggling of Migrants and Trafficking in Persons (CONATT), an inter-institutional and intersectoral body responsible for the formulation, implementation, monitoring and evaluation of national, regional and local public policies to prevent the smuggling of migrants and trafficking in persons, the care and protection of its victims and the prosecution and punishment of those responsible. This body promotes actions aimed at these ends by pooling and coordinating all institutional and private efforts. The CONATT

was created by Law No. 9095 of October 26, 2012, entitled "Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons (CONATT)".

The National Fund against Trafficking in Persons and Smuggling of Migrants (FONATT), also created under this law, is a fund that is financed with the collection of one dollar in the tax on leaving the country and is used for actions aimed at preventing this crime and to provide protection to its victims. According to Law No. 9095, it is destined to:

- to finance administrative and operational expenses for the prevention, investigation, prosecution and detection of the crime of trafficking in persons and smuggling of migrants;
- to provide comprehensive care, protection and social reintegration of accredited victims of trafficking in persons, both nationals and foreigners, and,
- to comprehensively address the crime of smuggling of migrants.

Prosecution of the crime of smuggling of migrants

In Costa Rica, smuggling of migrants is a crime and is typified (provided for) in the Penal Code, Law No. 4573 of May 4, 1970 and in the General Law of Migration and Foreigners Law No. 8764 of August 19, 2009.

Article 249 of Law No. 8764 establishes that:

"A prison sentence of four to eight years shall be imposed on anyone who drives or transports persons, for their entry into or exit from the country, through places authorized or not authorized by the competent immigration authorities, evading the established immigration controls or using legal data or documents, or false or altered ones, or who do not carry any documentation.



The same penalty shall be imposed on anyone who, in any way, promotes, promises or facilitates the obtaining of such false or altered documents, and on anyone who, with the purpose of promoting the smuggling of migrants, harbors, hides or conceals foreign persons who illegally enter or remain in the country.

The penalty shall be six to ten years imprisonment when:

- 1) The migrant is a minor, elderly and/or disabled person.**
- 2) The life or health of the migrant is endangered, due to the conditions in which the act is carried out, or serious physical or mental suffering is caused.**
- 3) The perpetrator or participant is a public official.**
- 4) The act is carried out by an organized group of two or more persons.**
- 5) When the person suffers serious damage to health."**

As can be seen, this crime provides for different conducts in which the smuggler may engage, in order to "help" migrants to leave or enter a country, passing through blind spots or not, transporting them in a vehicle or guiding them to a certain place. For example, the typical "coyote" who asks for a sum of money to help them cross the border without going through immigration posts, transporting them in a truck or guiding them through the mountains. The use of false, legitimate or altered documents or data, or even the use of no documents at all, is foreseen, in which case the crossing will obviously be done in a clandestine manner or evading immigration controls.

Also punishable is anyone who promotes, facilitates or promises to obtain travel documents and anyone who harbors, hides or conceals migrants in an irregular condition. For example, a person who offers a migrant a false or original passport in exchange for a sum of money or contacts a person who manufactures them. In the following article of the same law, the following is stated
also penalizes the person who allocates or profits from

with an establishment or place for the commission of the crime of trafficking in persons and smuggling of migrants, whether it is the owner, lessor, possessor or administrator of the property:

"Article 249 bis.

A prison sentence of four to eight years shall be imposed on whoever promotes, plans, coordinates or executes the illicit trafficking of national migrants to a second, third or more countries through places not authorized or authorized by the General Directorate of Immigration and Foreigners, even when the beginning of the transfer is carried out through the legal channels established by said entity, or evading the established migratory controls or using false or altered data or documents, or being undocumented.

The same penalty shall be imposed on anyone who, in any way, promotes, promises or facilitates the obtaining of legal, false or altered documents or covers up legal or illegal financial transactions that affect the assets of the affected person or his or her guarantors, with the purpose of promoting the smuggling of national migrants, and whoever coordinates, facilitates or carries out actions tending to lodge, hide or cover up national persons who enter or remain legally or illegally in a second, third or more countries, with the purpose of consolidating the smuggling of migrants.

The penalty shall be six to ten years imprisonment when:

- 1. The migrant is a minor.**
- 2. The life or health of the migrant is endangered, due to the conditions in which the act is carried out, or serious physical or mental suffering is caused.**
- 3. The perpetrator or participant is a public official.**
- 4. The act is carried out by an organized group of two or more persons.**
- 5. As a result of the smuggling of migrants, the person turns out to be a victim of trafficking."**



The article contains several of the assumptions described throughout the document to characterize this crime, such as border crossing, evasion of migratory controls, etc.

or the use of false documents. The case of non-carriage of any document is also provided for. Penalties are imposed for acts related to the obtaining of false documents or to the

alterations of the same or the obtaining of legitimate documents to carry out the illicit crossing of borders. The act of concealing financial transactions used to promote these crimes and illicit trafficking with Costa Rican persons to other countries is also punished. Finally, some conducts are established that aggravate the crime, that is to say, that are sanctioned with higher penalties due to the seriousness of the actions.

For its part, the Penal Code penalizes persons who lend their facilities (house, office, apartment, business, among others) to facilitate the commission of the crime of smuggling of migrants. For example, a person who owns a house on a farm to which the "coyote" pays a sum of money to hide migrants during the day. The article states:

"Article 175 bis. - Sanction to owners, lessors, administrators or possessors of establishments.

The owner, lessor, possessor or administrator of an establishment or place that is destined for or benefits from trafficking in persons, smuggling of migrants or related activities shall be punished with a prison sentence of three to five years".

The Penal Code also penalizes the sale and distribution of public documents such as a passport:

"Article 369 bis.-Sale or distribution of public or private documents.

These crimes must be reported in order to prevent individuals from unscrupulous companies continue to profiting from the need of others who, because of necessity, they are forced to migrate.

Whoever markets or distributes a public or private document, whether false or true, by any unlawful means and in such a way as to cause damage, shall be sentenced to three to six years' imprisonment. The penalty shall be four to eight years' imprisonment if the person who markets or distributes the document is a public official".

This crime punishes anyone who sells or distributes public documents such as a passport. Unlike the aforementioned article 249 bis, which punishes whoever promotes, facilitates or promises to obtain legal documents, among others, in this case it punishes whoever "sells" or "distributes" such documents, for example, a false or legitimate passport. The penalty is higher if the person who does so is a public official.

According to Costa Rican legislation, some people are obliged to report these crimes, such as public officials and those who are part of CONATT. In this regard, Law No. 9095, Law against Trafficking in Persons and the creation of CONATT, provides:

"Art. 71. Duty to report.

Public officials shall be obliged to report, before specialized police bodies or before the Public Prosecutor's Office, any situation that constitutes reasonable suspicion of trafficking in persons or smuggling of migrants. Members and representatives of the institutions and organizations that make up the National Coalition have the same obligation.

Source:
UNODC. 2011. *Handbook on combating the smuggling of migrants Module 1. Understanding the licit smuggling of migrants.* New York.



Where to report human trafficking and migrant smuggling crimes?

How to Report

The report may be confidential, i.e., you can do it without giving your name and other personal data. The person making the report should indicate that it is made of anonymously and therefore will not be identified.

In order to file a complaint, it is not necessary to carry evidence, without However, it is important to have as much information as possible, so that the investigators can initiate the investigation and intervene with speed.

Report

9-1-1

2295-3317

Human Trafficking and Smuggling of
Persons Unit
of Migrants of the OIJ

800-8000-OIJ (645)

Toll-free hotline

2295-3764 / 2295-3901

Specialized Prosecutor's Office against
Trafficking in Persons
and smuggling of migrants of the Public
Prosecutor's Office (FACTRA)

2299-8023 / 2299-8195

Human Trafficking and Smuggling Unit of
the Immigration Police

2290-2703 / 2290-2723 / 2290-2734

Trafficking and Smuggling
Management/Secretariat of
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2523-0830 / 2222-8905 PANI

2527-8486 INAMU