

VII Seminar, 3 May 2022

The facets of humanitarian smuggling. The issue of the high sea

Matteo Volante

The massacre of 15 August: paradigm of a phenomenon with indefinite borders

The document aims to make a distinction between the conduct of smugglers and that of individuals who, for humanitarian purposes, engage in search and rescue at sea.

Starting from a news story that occurred in the Mediterranean which had as its protagonist one of the many "sea carts" loaded with migrants, the outlines of a typical case of human smuggling have been described.

The reflection crosses different topics relating to the jurisprudential disputes that have arisen with reference to this event, focusing in particular about the reconstructions provided by the parties involved.

The analysis then revolves around the regulatory foundations of jurisdiction in maritime areas, the rhetoric of humanitarian smuggling as the awareness to criminalize "non-governmental organizations" and the reasons for non-punishment of their members, on the basis of arguments that aim to attribute enhanced legitimacy to the actions generally carried out by the NGOs crew.

In conclusion, possible solutions are outlined for a possible subsumption within the case referred to in art. 12 TUIMM of the two events compared, rather different in their respective essential features. In this way we intend to suggest a more efficient rescue system for boats in distress conditions, to safeguard universally recognized human rights.