

We can be contacted by email: aseeker@agescol.org.uk

There are millions of people in similar desperate circumstances but who do not legally qualify as refugees and are therefore not eligible for normal relief or protection. There are including asylum seekers, internally displaced persons (IDPs), returnees and those in need of temporary or humanitarian protection.

Asylum Seekers

An asylum seeker is a person who has left their country of origin, has applied for recognition as a refugee in another country, and is awaiting a decision on their application.

Internally Displaced Persons

An Internally Displaced Person (IDP) may have been forced to flee their home for the same reasons as a refugee, but has not crossed an internationally recognised border. Many IDPs are in refugee-like situations and face the same problems as refugees. There are more IDPs in the world than refugees. Globally, there are an estimated 20-25 million so-called internally displaced persons (IDPs).

Returnees

Refugees who have returned to their own countries.

Exceptional Leave to Remain (ELR)

People uprooted by civil war fall outside the UN definition of a refugee because they have not been individually targeted for persecution. In the UK asylum seekers who do not meet the criteria of the 1951 Convention but nevertheless need protection may be granted Exceptional Leave to Remain (ELR). It may also be granted on human rights grounds, for example, if a person is likely to be 'subjected to inhuman or degrading treatment', or would not receive a fair trial if they returned home. ELR is normally, but not always, granted for a period of four years (one year initially, then a three year extension). After four years with ELR, a person can apply for Indefinite Leave to Remain (ILR).

From 1st April 2003, in the UK ELR was replaced by 'Humanitarian Protection' for new asylum applicants who do not meet the criteria of the 1951 Convention yet still require protection on human rights grounds. 'Humanitarian Protection' will be granted for three years, after which it will be reviewed and, if continued protection is required, Indefinite Leave to Remain will be granted. There is also be a new category of 'Discretionary Protection', used in cases where it would be inappropriate or unlawful to return someone to their country of origin.

Temporary Protection

In the event of arrival of a large group of people from a particular country seeking asylum because of persecution or upheaval, determination of refugee status may be temporarily suspended and 'temporary protection' granted.

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Meaning of refugee

International law defines a "refugee" as a person who has fled from and/or cannot return to their country due to a well-founded fear of persecution, including war or civil conflict. A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country..."

Article 1, The 1951 Convention Relating to the Status of Refugees

The important meaning about refugee:

Refugees have to be outside their country of origin;

The reason for their flight has to be a fear of persecution;

The fear of persecution has to be well-founded i.e. they have to have experienced persecution or be likely to experience it if they return;

The persecution has to result from one or more of the 5 grounds listed in the definition;

They have to be unwilling or unable to seek the protection of their country.

Refugees are forced to leave their countries because they have been persecuted or have a well-founded fear of persecution. Refugees run away. They often do not know where they will end up. Refugees rarely have the chance to make plans for their departure such as packing their personal belongings or saying farewell to loved ones. Many refugees have experienced severe trauma or have been tortured.

Key legal documents

The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of states. The 1967 Protocol removed geographical and temporal restrictions from the Convention.

Refugee status

Many States party to the 1951 Convention also have refugee status determination procedures, to determine the person's status in accordance with the domestic legal system.

In the UK, the Home Office recognises refugee status and grants asylum when they consider that someone falls within the 1951 UN Convention definition of a refugee. People deemed to be refugees are automatically given Indefinite Leave to Remain (ILR). There is no limit on the time they may stay in the UK. In most cases, they may apply for British citizenship five years after their arrival in the UK, are entitled to a UN Convention Travel Document in the meantime and also to apply for family reunification.

How is the term 'refugee' misused?

The term has slipped into common usage to cover a range of people, including those displaced by natural disaster or environmental change. Refugees are often confused with other migrants.

In international law, the term 'refugee' has a specific meaning and is NOT to be confused with:

Economic Refugee

This term is not correct. The accurate description of people who leave their country or place of residence because they want to seek a better life is 'economic migrant'.

Economic Migrant

Migrants make a conscious choice to leave their country of origin and can return there without a problem. If things do not work out as they had hoped or if they get homesick, it is safe for them to return home.

Illegal Immigrant

Under Article 14 of the Universal Declaration of Human Rights, everyone has the right to seek and enjoy asylum. In addition, Article 13 of the 1951 Convention Relating to the Status of Refugees states that countries should not impose penalties on individuals coming directly from a territory where their life or freedom is threatened on account of their illegal entry.

Often governments refuse to issue passports to known political dissidents or imprison them if they apply. Refugees may not be able to obtain the necessary documents when trying to escape and may have no choice but to resort to illegal means of escape.

Therefore although the only means of escape for some may be illegal entry and/or the use of false documentation, if the person has a well-founded fear of persecution they should be viewed as a refugee and not labelled an 'illegal immigrant'.

Governments are imposing stronger measures such as visa restrictions and fines on transport companies with whom asylum applicants arrive, to stop people travelling to their territory. The more obstacles placed on entry, the more likely a refugee will have to resort to using false documents or enlisting the help of human smugglers.

Environmental Refugee

There are currently 12 million refugees around the world. There are approximately double that number of people who have fled because of floods, famine and other environmental disasters. Although there are similarities between the two groups, the most obvious being the forced nature of their flight and then their need for material assistance and permission to live elsewhere, there are also important differences too. Refugees can not turn to their own governments for protection because states are often the source of persecution and they therefore need international assistance, whereas those fleeing natural disasters continue to enjoy national protection whatever the state of the landscape. Therefore, in order not to cloud the distinction between the two groups, those fleeing for environmental reasons should be considered 'environmental migrants'.