



## Religion & Forced Migration Initiative

Princeton University's Office of Religious Life

### **Refugees, Asylum Seekers, Migrants: The Limits of Labels**

Since refugees became the subject of international law in the early to mid-twentieth century, increasingly complex laws—both domestic and international—have come to govern the definition, status, and rights of people fleeing their homes. This primer introduces some of the terminology used to describe refugees, asylum seekers, and other displaced people, as well as some of the challenges and shortcomings of the words we use to talk about migration and displacement.

The 1951 Convention Relating to the Status of Refugees, created in the aftermath of World War II, is today the seminal document defining refugee status and setting out the obligations nations have towards refugees. Under this convention and the subsequent 1967 Protocol, the most widely accepted legal definition of a refugee is:

a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him or herself of the protection of that country, or to return there, for fear of persecution.<sup>1</sup>

What does this mean in practice? First, to obtain refugee status, a person must flee their home country and cross an international border. People who face persecution or displacement but do not cross into another country are not considered refugees and therefore do not have special status under international law. They may be considered “internally displaced people” (IDPs), but this is not a legal status and does not entitle them to international protection.<sup>2</sup> Second, obtaining refugee status once a person has fled their home country is not automatic but may take years, as a person must demonstrate “a well-founded fear of being persecuted” based on one of the protected characteristics in the Convention. Obtaining refugee status can mean navigating complicated legal processes with limited support, in an unfamiliar

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<sup>1</sup> [Article 1A\(2\), 1951 Convention Relating to the Status of Refugees.](#)

<sup>2</sup> [United Nations, “About internally displaced persons.”](#)

language, while living in difficult or dangerous circumstances. Finally, obtaining refugee status does not mean that a refugee can effectively exercise their rights and live a dignified life. A person may still live in unsafe conditions, lack access to basic needs, or find their human rights otherwise curtailed.

In response to the diverse situations confronting refugees, the United Nations High Commissioner for Refugees, the main international organ responsible for refugee protection, outlines three “durable solutions” to the problems faced by them:

1. repatriation, or return to a refugee’s home country when conditions for return are safe
2. local integration, in which a refugee generally becomes a legal resident of the country in which they are being protected
3. resettlement, in which a refugee’s needs are not met in the country in which they are receiving protection, so they are resettled to a safe third country that has agreed to give them permanent residence.<sup>3</sup>

Because people with refugee status are entitled to certain protections—for instance, the right to asylum, the right to work, the right to housing—and because many nation-states are generally reluctant to assume the responsibility of providing for refugees, securing access to a durable solution, even once one has obtained refugee status, can be another lengthy process.

Sometimes, confusion results from the conflation of the terms refugee, asylum-seeker, and asylee. An asylee, in the U.S., is a person who meets the definition of refugee and is already present in the United States or is seeking admission at a port of entry, while an asylum-seeker is someone awaiting judgment on their claim to asylum. This example helps to clarify the distinction:

1. A person fleeing persecution in Mexico arrives at the US-Mexico border and applies for asylum at a port of entry or within the United States. That person is an asylum-seeker while they wait for their claim to be processed. If they are granted asylum on the grounds of the 1951 Convention, they become an asylee. The person obtained asylee status from within the United States.
2. A person fleeing persecution in Ethiopia arrives at Kakuma Refugee Camp in Kenya, where the UNHCR determines that they are entitled to refugee status. Through its resettlement program, the US offers this refugee a pathway to permanent residence. The refugee is then resettled to the US. The person obtained refugee status outside the United States.

To add to the confusion, some countries have additional forms of protection that are similar to, but distinct from, asylum. For example, some people in the United States are ineligible for asylum because they have previously been deported from the

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<sup>3</sup> [UNHCR USA, “Solutions.”](#)

United States or did not apply for asylum within one year of entering the United States. These individuals, if they can prove they face persecution in their home countries, may be eligible for a less secure form of protection called “Withholding of Removal,” which means that an immigration judge enters a deportation order for them but then forbids the federal government from carrying it out.<sup>4</sup> Withholding of removal allows people to live and work in the United States, but does not offer a pathway to citizenship. Other categories of protection exist for certain groups, including some legal minors, victims of torture, and persons residing in the United States who are prevented from returning to their home countries due to a change in conditions that makes their return dangerous.<sup>5</sup> Each type of protection differs in security (how easily it can be revoked), duration, rights and entitlements, and application process.

These forms of protection are imperfect responses to the fact that many forms of hardship that lead people to leave their homes are not included within the legal definition of refugee. For example, people who leave their home countries because of poverty, natural disaster, climate crisis, or other forms of harm that are not considered “persecution” are not protected under the 1951 Convention. The catch-all term “migrant,” which has no official legal meaning, is often used to refer to people whose reasons for leaving home do not fall within the parameters of the Convention. While other definitions of refugee, like those offered by the 1969 OAU Convention and 1984 Cartagena Declaration, are broader, these are regional agreements to which many countries are not bound.

All of these labels pose problems, not least because they can tend to essentialize “refugeeness,” conflating legal status with assumptions about lived experience. Refugee status was intended as a legal instrument to determine states’ obligations to people in particular circumstances, not a totalizing definition of a person. Yet, it is clear that the term has come to capture more than a legal status alone, as people may (or may not) continue to identify as refugees even after they obtain permanent residence or citizenship in a new country. As anthropologist Liisa Malkki observes, “the term refugee...includes within it a world of different socioeconomic statuses, personal histories, and psychological or spiritual situations. Involuntary or forced movements of people are always only one aspect of much larger constellations of sociopolitical and cultural processes and practices.”<sup>6</sup> While our current international legal regime makes understanding the differences between these statuses

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<sup>4</sup> [American Immigration Council, “The Difference between Asylum and Withholding of Removal.” 2020.](#)

<sup>5</sup> If you are interested in learning more about some of these programs: [Special Immigrant Juvenile Status \(SIJS\)](#); [Convention Against Torture](#); [Temporary Protected Status](#).

<sup>6</sup> Liisa Malkki, “Refugees and Exile: From ‘Refugee Studies’ to the National Order of Things,” *Annual Review of Anthropology* 1995, 24: 496.

indispensable, these labels only capture a small slice of people's lives, identities, and experiences.

### *Connected Oral Histories*

- Listen to [Safeena Niazi](#) describe the decision to apply for a Special Immigrant Visa (13:23-16:31)
- Listen to [Natalia Hernández](#) describe the process of family reunification (17:15-23:00)
- Listen to [Luis Mancheno](#) describe applying for asylum in the U.S. (segment 2, 00:04-12:00)
- Listen to [Jhuma Acharya](#) describe applying for resettlement from a refugee camp (35:00-40:00)
- Listen to [JP Documet](#) describe the Deferred Action for Childhood Arrivals (DACA) program (18:30-27:00)

### *Primary Sources*

- [1951 Convention and 1967 Protocol](#)
- [1969 Organization of African Unity Convention](#)
- [1984 Cartagena Declaration on Refugees](#)
- [I-589 Form \(U.S. asylum application\)](#)

### *Questions for Discussion*

- What are some of the challenges posed by the international laws regulating refuge and asylum? Refer to the oral history interviews to support your answer.
- How do the 1969 OAU Convention and 1984 Cartagena Declaration modify the 1951 Convention and 1967 Protocol? What reasons are given for these modifications?
  - *Extension:* Research these two documents and their historical context. How and why were they created? What concerns and events prompted their adoption?
- Each of the oral histories describes a different legal process by which narrators came to live in the U.S. How are these experiences similar and different? How did listening to these stories make you feel? Did anything surprise you?
  - *Extension:* Visit the oral history archive and listen for other oral histories that describe parts of the legal process of seeking asylum, refugee status, or other forms of protection.
  - *Extension:* Asylum processes differ from country to country. Consider [this description](#) of recent proposed changes to asylum law in the U.K. How would seeking asylum become more difficult under the new law?
- Review Form I-589 (linked under “Primary Sources”), which is the form used to apply for asylum in the U.S. What do you notice about the form and the kinds of information it requires?

- *Extension:* Listen for oral histories that discuss “refugee” or “asylee” as identities. How do people’s experiences living these identities differ from or overlap with the legal meanings of these terms? What role do refugee communities play in the interviews?