

MIGRATION & ASYLUM

GLOSSARY OF TERMS P1



Around the world, many people experience persecution or fear of persecution. They are forced to go somewhere else in their country or abroad because of civil war, violence, hate crimes, social, political and cultural violence, being denied their own identity or natural disasters. The media often use wrong terms and definitions to describe migrants, refugees, asylum seekers and trafficked people. A very basic example is an inconsistency in the understanding of the difference between a refugee and an asylum seeker.

Here are some of the legal terms used to describe people who have left their homes in these circumstances:

REFUGEES

A refugee is someone whose claim for asylum has been accepted and they have been given permission to stay in the country where they claimed asylum.

Article 1 of the Geneva Convention defines a refugee as "a person who is outside his / her country of habitual residence; has 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, or owing to such fear, is unwilling to avail himself of the protection of that country; and is unable or, owing to such fear, is unwilling to return to it".

If you are fleeing from one place to another, in order to qualify as a refugee you have to demonstrate that you have a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. A person who has been given leave to remain in the UK as a refugee will have met the criteria in the UN Convention on Human Rights. The status of a 'refugee' would include people receiving the following statuses: Refugee Status, Humanitarian Protection, Discretionary Leave, Exceptional Leave to Remain and Indefinite Leave to Remain.

The terms applied by the law to refugees need explanation. Often they relate to refugees' rights to stay in this country:

Exceptional Leave to Remain – A person receiving leave to remain as a refugee. Granted if the person failed to meet the strict criteria of the UN Convention. It was replaced in 2003 by Humanitarian Protection and Discretionary Leave.

Humanitarian Protection – A person who receives leave to remain in the UK as a refugee. This is granted if a person does not meet the strict criteria of the UN Convention, but faces a real risk of serious harm.

Indefinite Leave to Remain – A person who receives leave to remain in the UK as a refugee. This can be granted for a number of reasons including programmes to clear backlogs in the asylum system (e.g. 'Family ILR Exercise' and 'Case Resolution'). From 2008 the Indefinite Leave to Remain status was given as five years renewable to full residency status.

Discretionary Leave – A person who receives leave to remain in the UK as a refugee. This is granted if a person does not meet the strict criteria of the UN Convention, but for reasons including family reasons and medical cases.

Family reunion - Family reunion is the procedure which gives the right to people who have received refugee status or humanitarian protection to bring their spouse and dependent children to join them in the UK. All those with a refugee status have rights to family reunion.

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Settled person - A settled person is someone who has been given Indefinite Leave to Remain in the UK. There is no time limit on their stay and they can access support like any other UK residents. From 2007, those applying for Indefinite Leave to Remain or a 'settled person' status have to pass an English language Life in Britain test, like those applying for citizenship. Someone with status may lose his / her Indefinite Leave to Remain automatically if they go abroad and don't return within two years.

ASYLUM SEEKERS

An asylum seeker has fled their home country, crossed an international border and is asking the authorities in a new country to recognise them as a refugee. In summary, an asylum seeker is any individual who is fleeing persecution in their homeland and has arrived in another country. They have made themselves known to the relevant authority and exercised their legal right to apply for asylum. Asylum seekers have to meet the 1951 UN Convention in order to be recognised as a 'refugee'.

There are many categories of asylum seeker:

Induction Asylum Seeker – An asylum seeker receiving housing in Initial Accommodation (Induction Centre), before being dispersed. This is officially called Section 98 Support.

Detained Asylum Seeker – A person who is detained during the asylum process. This usually occurs as part of the 'fast-track' process.

Dispersed Asylum Seeker – An asylum seeker receiving housing in dispersal accommodation and subsistence (financial) support. This is officially called Section 95 Support.

Detained Refused Asylum Seeker – A refused asylum seeker who is detained. This is usually prior to deportation.

Section 4 Refused Asylum Seeker – A refused asylum seeker who accesses Section 4 Support. This consists of housing and (subsistence) vouchers.

Subs Only Asylum Seeker – An asylum seeker who accesses 'Subsistence Only Support'. This is subsistence (financial) support without housing.

Refused Asylum Seeker – A person who was previously an asylum seeker, whose claim for protection and subsequent claims and appeals have been refused, with all appeal rights exhausted (ARE). They are also sometimes referred to as failed asylum seekers. This includes people who are on Section 4 Support and people who are 'destitute'.

Destitute Refused Asylum Seeker – A refused asylum seeker who is destitute, and does not receive Section 4 Support.

Fresh claim – A refused asylum seeker may have a right to re-apply for asylum if they are able to provide new evidence to support their asylum application.

Unsupported Asylum Seeker – An asylum seeker who does not access any housing or subsistence (financial) support.

Third country – Applicants who claimed or could have claimed asylum in another European country before coming to the UK, and may be returned to that country without full consideration of their asylum claim in the UK.

Unaccompanied Asylum Seeking Minors / children – Asylum seeking isn't just for adults. Unfortunately some children can travel alone to seek asylum in another country. These children can apply for asylum in their own right. In this case, they are called unaccompanied children seeking asylum outside their country of origin and separated from parents and family.

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Separated children – Separated children are children under 18 years of age who are outside their country of origin and separated from both parents, and previous / legal customary care giver. Separated children are typically asylum seekers, but not in every case (Source: Refugee Council).

Age-disputed child – An age-disputed child is an asylum applicant whose claimed date of birth is not accepted by the Home Office and / or by the local authority who have been approached to provide support. This term is usually used to refer to people who claim to be children, but who are treated as adults by the Home Office and / or the local authority. Whether an individual is treated as an adult or as a child has serious implications for the way in which the person's claim for asylum is treated, and the support received (Source: Refugee Council).

There are some who have not fled war, persecution or other immediate dangers and these migrant people may be:

A Trafficked Person – A person who is a victim of Human Trafficking. Most are migrants but an increasing number come from the UK.

Stateless People

Nationality is something we take for granted but millions of people have no nationality or are denied nationality by any state. A "stateless person" is someone who is not recognised by any country / state as a national. Many stateless people are either denied citizenship or nationality in the country where they live or are not considered as a national by any state under the operation of its law (article 1 of the 1954 Convention relating to the Status of Stateless Persons).

In 2013, 10 million people around the world were stateless, according to the United Nations High Commission for Refugees. Nationality is the legal bond between a person and a state. For example, being British means you belong to Britain and that the state recognises you as a British national. At the beginning of the 20th century, hundreds of thousands of people became stateless and this led to the 1930 Hague Convention which dealt with Nationality Laws.

The aftermath of World War II led to the formation of the United Nations and a greater commitment from world leaders to end wars. Article 15 of the 1954 United Nations Universal Declarations of Human Rights says that:

- 1. Everyone has the right to a nationality**
- 2. No one shall be arbitrarily deprived of their nationality nor denied the right to change it**

The above convention needed to be reviewed to ensure that it was inclusive and provided power to reduce statelessness status. The 1961 Convention on the Reduction of Statelessness provided greater obligations on states to grant nationality. Article 1, for example, obliges states to "grant its nationality to a person born in its territory who would otherwise be stateless, although the state may attach conditions to the grant, such as age of application, habitual residence, not having been convicted for an offence against national security, or sentenced on any criminal charge to imprisonment for five years". (UN.ORG)

Despite the Universal Declaration of Human Rights stateless people:

- have no country
- have no right to residency or nationality in any country
- have no ID and passport
- cannot travel as they have no travel documents
- may not have the right to work or access land because they are not recognised by any country
- have no freedom to work abroad
- are denied rights to own land, business or access to government agency jobs
- may suffer mental health problems regarding identity, anxiety and depression
- may flee and search for a better or safer place
- may obtain nationality but cannot be protected by their state

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Many people are or may be stateless in Britain; in some cases because they may not have rights to British citizenship or citizenship of their country of origin. They would find it difficult to travel. Another example could be children born in the UK. Since January 1983 only a child with a British or settled parent is automatically British by being born in the UK. Otherwise, a child born in the UK whose parents aren't settled or don't have British citizenship would have neither the parents' previous citizenship nor the right to the British citizenship. The child would be 'subject to immigration control' and must apply to be accepted to 'enter' the UK despite being born in the UK. Such children would have rights to a travel document such as a passport.

OTHER MIGRANTS

EU Migrant - A person from a European Union (EU) country living in the UK. The EU allows the free movement of labour across its member states. The 27 EU states are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

Family Migrant - A person who has come to the UK to join a member of their family, and been given a right to live in the UK. This term does not normally apply to EU migrants as they are able to enter the UK in their own right, nor does it normally apply to the family of refugees who are given the same status as the person they are joining, and therefore are also classed as refugees.

Highly Skilled Migrant Worker - A person who has entered and can work in the UK under Tier 1 of the 'points-based system' (introduced in 2008). This applies to a person who is seeking highly skilled employment in the UK or is self-employed or setting up a business.

International Student - A person from outside the UK, who is a student in the UK.

Non-EEA Migrant Worker - A migrant worker from outside of the EEA. Non-EEA migrant workers will enter the UK under the points-based system.

Non-EU Student - A student from outside the EU. This may also be used to apply to students from outside of the EEA (and Switzerland). Non-EU students enter and can study in the UK under the Tier Points-Based System. This system enables migrants from outside the EEA to work, train or study in the UK. The points-based system contains five tiers which have different conditions, entitlements and entry-clearance checks. There is a points-based assessment to decide if a person qualifies. The five tiers are: (1) highly skilled migrants, (2) skilled migrants, (3) low skilled migrants, (4) students and youth mobility and (5) temporary workers. The points-based system was introduced in phases from 2008.

Low Skilled Migrant - A person who has entered and can work in the UK under 'Tier 3' of the 'points-based system'. This applies to low skilled workers who fill specific labour shortages but it has been 'suspended for the foreseeable future'.

Skilled Migrant Worker - A person who has entered and can work in the UK under 'Tier 2' of the 'points-based system' (from 27 November 2008). This applies to 'skilled people' with a job offer who are looking for employment in the UK, or are self-employed or setting up a business.

Undocumented Migrant - A person who does not have a valid immigration status, either through entering the UK without permission or because they entered under another status and have stayed beyond the period of time allowed.

Youth Mobility and Temporary Worker - A person allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives under 'Tier 5' of the 'points-based system' (from 27 November 2008).

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EU Accession Migrant – A person from one of the countries that joined the EU (European Union) in 2004 (A10) and 2007 (A2). The accession countries are: Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia. Migrant workers often fill jobs in the manual labour workforce that are poorly paid or seasonal, and which do not attract local people. The majority of the migrants come from poorer countries of Europe where there are either no jobs or very poorly paid employment. They come to the UK to earn money for themselves and their families before returning to their own country. Sometimes they will settle on a permanent basis and their families will join them over here.

A2 Migrant – A person from the A2 countries that joined the EU (European Union) in January 2007. The A2 members are: Bulgaria and Romania.

A8 Migrant – A migrant from the A8 countries that joined the EU in May 2004. These countries are: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The A8 are all members of the A10.

A10 Migrant – A person from the A10 countries that joined the EU in May 2004, including the A8, Cyprus and Malta. The A10 are: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

Cyprus & Malta – A person from Cyprus or Malta that joined the EU in May 2004. Both countries are members of the A10.

EU 15 Migrant – A person from the 15 countries that were EU members before the EU Accession countries joined in 2004 and 2007. The EU 15 are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom.

EU Student – A student from the EU. This often also refers to people from the EEA (and Switzerland) who have similar rights as members of the EU to financial support.

EEA Migrant – Anyone from the members of the EEA, which are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

NB: A BRITISH PERSON WHO GOES TO LIVE IN ANOTHER COUNTRY IS A MIGRANT

Illegal immigrant - A person from outside the EU who does not have a visa or who overstays their visa may be classed as an illegal immigrant. If they have a visa but have conditions (such as not being allowed to work) which they break, migrants can be arrested and deported.

ABOUT MIGRANT HELP

Migrant Help is a leading national charity offering support, guidance and accommodation to vulnerable migrants across the UK. Whether someone has fled persecution, escaped from slavery or found themselves in a situation that they do not understand, Migrant Help offers advice, support and a place of safety. For more information, go to migranthehelpuk.org

For press inquiries, email press@migranthehelpuk.org or call 01304 218712