



**INTERNATIONAL  
MIGRATION  
LAW**

# Glossary on Migration

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N° 34

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## First foreword

Effective cooperation among relevant actors is probably more important in the migration field than in any other policy areas. Not only do States sometimes speak different languages when dealing with migration, but also actors within the same State often use an inconsistent vocabulary. Variations in the use of terms are also common depending on the person's field of work.

International law contributes to create some common denominators, through the definitions provided by international instruments that are binding on the States that are parties to them. Among the most significant examples are the definition of a refugee in the 1951 Refugee Convention or the ones contained in the two Protocols on Smuggling of Migrants and Trafficking in Persons to the United Nations Convention against Transnational Organized Crimes. Transnational cooperation would never be effective without a common understanding of the elements of the crimes prosecutors are responsible to fight, and burden-sharing could never become a reality without the commitment of many States to protect those who flee persecution.

In other instances, States have pushed for a more humane approach to migration by calling on the international community to put an end to the use of dehumanizing terms associated with migration, such as “illegal migrants”, in favour of the more neutral attribute of “migrants in an irregular situation”. And these types of shift in the use of terminology are not only for the sake of political correctness but also to contribute to shaping the perception that we have of migration realities. The rise in the use of negative or alarmist terms in recent public discourse around the world have similarly impacted, although negatively in this case, the way migrants are perceived.

At the time of releasing this *Glossary*, the adoption of the Global Compact for Migration has sparked renewed attention to migration realities. It is thus a critical moment to try to contribute to the consolidation of not only a uniform but also a correct and balanced approach to migration terminology.

**António Vitorino**

Director General

International Organization for Migration



## Second foreword

Welcome to the *IOM Glossary on Migration*.

Put like that, it sounds as if this document would solve all issues related to how we speak about, address and find solutions to concerns around migration. It will not. What this document aims at doing is to give definitions for commonly (and on occasion not so commonly) used terms when speaking migration. Some are definitions which are found in legal documents and as such very fixed. Others are terms which are found in soft law documents – and as such equally fixed. Some are working definitions – and may vary slightly from actor to actor who use them when they work. With this, we hope to perhaps bring some harmony in the way terminology is used. What this *Glossary* does not do is to define complex issues: it is a glossary, not a collection of dissertations. Nor does it solve all discussions on complex issues, nor does it attempt to put a stop to ongoing discussions on concepts and issues which are constantly evolving. It does not contain the final truth. What this document does is contribute to the ongoing discussion on the complex concepts and bring clarity on concepts and terms which have either legal or long-standing definitions already.

Our hope is that, while you will not find answers to all your migration-related questions in this *Glossary*, you will find many of the terms and concepts you use when discussing migration, some of which are widely agreed upon and others which are still debated. We consider the *Glossary* a living document, which will only be available online so that it can be regularly updated to reflect the evolving use of the language.

The creation of this *Glossary* took a great amount of time, as hard labour from many stakeholders was poured into it. We consulted with other international organizations, academia, civil society and IOM offices around the world – all of their observations were precious and made this a better and more comprehensive document.

I would like to end this with very special thanks to Alice Sironi and Céline Bauloz in particular, and the International Migration Law team including previous members such as Milen Emmanuel – theirs was the sweat and tears that went into these pages.

**Kristina Touzenis**

Head, International Migration Law Unit





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## Introduction

Similarly to previous ones, this edition of the IOM Glossary on Migration is an accessible collection of definitions of migration-related terminology. It is designed for a broad range of persons engaging with migration at the international level. It also provides some insights on regional and national practices.

The purpose of this edition, like previous versions, is to develop a common understanding and consistent use of migration and migration-related terms based, whenever possible, on international standards. Creating uniformity in language is an important starting point in migration discourse to ensure an accurate understanding and coherent exchange of information among actors working in the field of migration. Most importantly, it is a fundamental step towards collective and more efficient responses. In some cases, the use of appropriate migration terms can foster an objective and balanced approach to migration, support States in better fulfilling their human rights obligations towards migrants, and have a positive impact on State and public perceptions on migration.

Following on from previous editions, this Glossary provides a wide-set of terms pertaining to conceptual, legal, theoretical or practical matters of migration. This version has been streamlined and entries included in the previous version that were only remotely linked to migration have been omitted. Moreover, acknowledging that any glossary should be a constant work in progress that changes to follow the evolving use of the language, several definitions have been revised in this edition to reflect recent developments (including the definition of “migrant”). New terms that are now a part of migration discourse have also been added. These include, for example, many terms in the area of environmental migration, such as “climate migration” and “disaster displacement”, the various meanings of the term “relocation” within the European Union or in the context of climate change, as well as the current use of the term “human mobility” to describe the multitude of ways in which people move from one place to another.

### **Use of existing glossaries**

This Glossary was developed taking into consideration and, in some cases, using definitions provided in existing glossaries on

migration and related fields (as well as legal dictionaries and encyclopaedias). Definitions found in these sources have either been applied in their original form or adapted in reflection of IOM's understanding of the terms concerned.

A group of core glossaries were used, including: UNHCR's *Master Glossary of Terms* (2006); European Migration Network's *Asylum and Migration Glossary 3.0* (2014); the Glossary in United Nations *Recommendations on Statistics of International Migration* (1998); and UNESCO's *Glossary of Migration related Terminology* (2013); *Max Planck Encyclopaedia of Public International Law* (2014); *Black's Law Dictionary* (2014), and *Parry and Grant Encyclopaedic Dictionary of International Law* (2004).

Unlike existing glossaries that either focus on a particular aspect of migration (such as UNHCR's Master Glossary of Terms which focuses on terms relating to displacement and refugee protection), are intended for a particular audience (such as UNAOC's Media-Friendly Glossary on Migration) or are designed for a particular geographical region (such as the European Migration Network's Asylum and Migration Glossary which focuses on Europe), this glossary is intended to be of a wide scope, covering all areas of migration and focusing on terms of global usage.

### Entry format

In this edition each entry provides:

- A *term* paired with a concise definition: gender-neutral pronouns (such as his/her, they, those, their, and them) are applied in the definitions.
- A *source* attributing the authorship of the term: several definitions as explained below were taken from external sources; information to access the source is provided, while the source may not always be the original author of the definition. Where the source is not attributed, the definition was developed by IOM.
- *Relational terms* for cross-reference: reference is made to terms in the Glossary that are (quasi-) synonymous or closely related.
- A *note* accompanies some entries: for more complex definitions, definitions on which there is no common

agreement or that are not self-explanatory, an accompanying note elaborates on the usage of the term or provides additional context or explanation.

With regard to the selection of terms, when various terms are used to define the same or similar concepts, the International Organization for Standardization's (ISO) preferred term standard 25964 was used. The term considered more favourable or appropriate was selected whilst other terms were entered as synonyms.

### **Hierarchy of sources for definition selection**

A significant challenge in developing the Glossary was the lack of internationally legally binding definitions for many of the terms, conflated by variations in the use of some terms among relevant actors.

For example, in the absence of a clear internationally legally binding definition— of the term “highly-skilled migrant worker”—the criteria used to define who is or is not a “highly-skilled migrant worker” may differ from one State to another. Moreover, in some cases, despite the existence of a clear internationally legally binding definition (e.g. of “deprivation of liberty/detention”), in the migration context, States do not necessarily use the term in the way it is defined at the international level (e.g. what might be labelled in one State as a “detention centre” is labelled as a “holding centre” in another). Such variations in labels and definitions raised additional challenges when attempting to extrapolate from existing terms a single definition that can apply across the board within the global context.

To do this, a hierarchy of sources was followed with a view to developing definitions generating wide agreement or international consensus. Definitions found in primary sources of international law (treaties, conventions, covenants, protocols) were given precedence over all other sources; the assumption being that terms defined in international law are not only authoritative, but have already achieved consensus within the international community and operate as a common language.

The following hierarchy of sources was used: 1) customary law, treaties, conventions, covenants or protocols adopted at the universal and regional level; 2) declarations, resolutions, recommendations and other soft-law instruments adopted or

endorsed by States (preferably in the context of UN organs/bodies, e.g. the Security Council, the General Assembly or the Human Rights Council); 3) international or regional jurisprudence (such as that of the International Court of Justice, the International Criminal Court, UN Human Rights Treaty Bodies, the European Court of Human Rights, the Inter-American Court of Human Rights or the African Court on Human and People's Rights); 4) guiding principles developed by IOs/NGOs/Academia and Handbooks; and 5) legal dictionaries, IOM publications and Glossaries, as well as glossaries and publications of other organizations or institutions.

There were cases in which the hierarchy applied was digressed from. Notably, in cases where differing definitions existed in sources of equivalent hierarchy, where no authoritative source was available or where there was an authoritative source but the definition differed from IOM's understanding and/or common use of the term.

For example, this was applied for some definitions used at the international level for statistical purposes. Definitions provided in statistical glossaries are designed for data production or collection and are influenced by the need to count individuals falling under various categories. The definitions used in this Glossary largely reflect the legal conceptualisation of a term or its most common understanding within the international community and are in some cases much broader than the categories finely defined by statisticians. Statistical glossaries were still used in some cases and treated in the same way as non-statistical glossaries – when they reflected the prevailing understanding of a given term at a global level.

In some instances, a source lower in the hierarchy was used. This was also true for sources which were deemed to be authoritative on a term because of their expertise in the specific area.

Some flexibility was allowed in the hierarchy between sources under 4 and 5, with priority being given to definitions that better reflect the approach of IOM.



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## A

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### abduction

The act of taking someone away by force, fraud or persuasion.

*Source:* Adapted from B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* Abduction is explicitly recognized as one of the means in the definition of trafficking in persons (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a)).

*See also* [child abduction](#), [kidnapping](#)

### absconding

The action by which a person intentionally seeks to avoid specific ongoing legal proceedings, of which the person has been notified, or their outcome by not surrendering to the custody of a court or by not remaining available to other competent authorities.

*See also* [risk of absconding](#)

### acceptance and approval

The international act so named whereby a State establishes on the international plane its consent to be bound by a treaty.

*Source:* Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Arts 2(1) (b) and 15.

*Note:* “The instruments of ‘acceptance’ or ‘approval’ of a treaty have the same [meaning and] legal effects as ratification and consequently express the consent of a state to be bound by a treaty. In the practice of certain states acceptance and approval are used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of state [Arts 2 (1) (b) and 14 (2), Vienna Convention on the Law of Treaties 1969]” (United Nations Treaty Collection, Glossary of Terms Relating to Treaty Actions (2016)).

*See also* [accession](#), [ratification](#)

## accession

The international act so named whereby a State establishes on the international plane its consent to be bound by a treaty.

*Source:* Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Arts 2(1) (b) and 15.

*Note:* Accession has the same meaning and legal effect as ratification, but it is the term normally used when the State becomes party to a treaty already in force.

Article 15 of the Vienna Convention on the Law of Treaties stipulates that “the consent of a State to be bound by a treaty is expressed by accession when: (a) The treaty provides that such consent may be expressed by that State by means of accession; (b) It is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or (c) All the parties have subsequently agreed that such consent may be expressed by that State by means of accession.” ((adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331).

See also *acceptance and approval, ratification*

## acquisition of nationality

Any mode of becoming a national, i.e. by birth or at any time after birth, automatic or non-automatic, based on attribution, declaration, option or application.

*Source:* European Union Democracy Observatory on Citizenship, *The EUDO Glossary on Citizenship and Nationality* (2008–2016).

*Note:* The acquisition of nationality can occur at birth or after birth. The most common modes of acquisition of nationality at birth are the acquisition based on descent (*jus sanguinis*) or based on birth on the territory of the State concerned (*jus soli*). Nationality can also be acquired after birth for example by adoption, legitimation of a child born out of wedlock, marriage, naturalization or as the result of the ceding of territory from one State to another.

See also *jus sanguinis, jus soli, nationality, naturalization*

## administrative detention

Deprivation of liberty decided by the competent administrative authority of a State, whether it is subject to judicial review or not.

*Note:* In the migration context, detention often takes the form of administrative detention. Administrative detention is usually less regulated and affords fewer guarantees of legality and due process to those who are detained than criminal detention.

See also *deprivation of liberty, detention (migration)*

## admission (into a State)

The authorization by the immigration authorities to enter into the State.

*Note:* A non-national has been “admitted” if he or she has passed through a border crossing point (air, land or sea) and is permitted to enter by immigration authorities. A non-national who has entered irregularly is not considered to have been admitted.

A

## admission ban

An administrative or judicial decision or act preventing entry into the territory of the State of issuance, for a specified period.

*See also* [entry ban](#)

## adoption

The statutory process of terminating a child’s legal rights and duties toward the natural parents and substituting similar rights and duties toward adoptive parents.

*Source:* B.A. Garner (ed), *Black’s Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* The Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (UNGA Res 41/85 (3 December 1986)) set forth a number of commonly agreed principles and guidelines to ensure the protection of children in relation to national and inter-country adoptions.

*See also* [intercountry adoption](#)

## age assessment

Process by which authorities seek to establish the age, or range of age, of a person to determine whether an individual is a child or not.

*Source:* Adapted from European Migration Network, *Asylum and Migration Glossary 3.0* (2014).

*Note:* Age assessments are commonplace in State immigration procedures used in the absence of documentary evidence to determine the age of an individual and whether the individual should be treated as a child or adult. The Committee on the Rights of the Child (CRC), in its General Comment No. 6, instructs that “identification measures include age assessment and should not only take into account the physical appearance of the individual, but also his or her psychological maturity. Moreover, the assessment must be conducted in a scientific, safe, child and gender-sensitive

and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity; and, in the event of remaining uncertainty, should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, she or he should be treated as such” (CRC, General Comment No. 6 Treatment of Unaccompanied and Separated Children Outside their Country of Origin (1 September 2005) UN Doc. CRC/GC/2005/6, para. 31(i)).

## agreement (international)

The merger of wills of two or more international subjects for the purpose of regulating their interests by international rules.

*Source:* A. Cassese, *International Law* (2nd edition, Oxford University Press, 2005) p. 170.

*Note:* “In the restrictive sense, the term ‘agreement’ means an agreement intended to have an obligatory character but usually of a less formal or significant nature than a treaty or convention... The designation ‘agreement’ is given to a treaty which is usually in the form of a single instrument and which generally differs from a ‘convention’ in that it deals with a narrower or less permanent subject-matter” (J. Grant and J. Barker (eds), Parry and Grant Encyclopedic Dictionary of International Law (3rd edition, Oxford University Press, 2009).

See also *bilateral labour migration agreement, convention, treaty*

**alert list** Refer to *watch list*

See also *lookout list*

## alien

An individual who does not have the nationality of the State in whose territory that individual is present.

*Source:* International Law Commission, Draft Articles on the Expulsion of Aliens, with Commentaries (2014) UN Doc. A/69/10, Art. 2(b).

*Note:* According to the Draft Articles the definition covers both individuals with the nationality of another State and stateless persons.

The terms alien is sometimes used as synonymous to foreigner, non-national or non-citizen. Although the term is often used in domestic legal settings, it tends to bear a negative connotation suggesting an artificial distance and sense of “otherness”. For this reason, to label those who are not nationals of a given country other terms should be preferred, such as “non-nationals” or “migrants”.

See also *foreigner, migrant, non-national*

## alternatives to detention

Any legislation, policy or practice, formal or informal, aimed at preventing the unnecessary detention of persons for reasons relating to their migration status.

*Source:* Adapted from International Detention Coalition, *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention* (revised edition, 2015) p. 78.

*Note:* International human rights law provides that detention, including in the migration context, must only be used as a last resort, that is when alternatives cannot be applied. Examples of alternatives to detention include measures ranging from policy or legislative developments that have an impact on preventing unnecessary detention, to effective screening and identification procedures, community-based or casework-oriented models, bail, bond and surety options, open or semi-open centres, reporting requirements and case resolution options.

*See also* *bail, non-custodial measures, surety*

## alternative care (for children)

May take the form of informal or formal care, may be kinship care, foster care, other forms of family-based or family-like care placements, residential care or supervised independent living arrangements for children.

*Source:* L. Melville Fulford, *Alternative Care in Emergencies (ACE) Toolkit, Extended Guidance* (Save the Children, 2012) p. 9.

*Note:* Alternative care is a State's duty flowing from the International Convention on the Rights of the Child, 1989: "Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations" (United Nations General Assembly, Guidelines for the Alternative Care of Children (24 February 2010) UN Doc. A/RES/64/142, para. 5). While alternative care might be needed for any child irrespective of his/her migration status, it is all the more central for unaccompanied or separated migrant children who shall benefit from the same level of care and protection as children being nationals of the State (*ibid.*, paras. 9(b) and 140-52).

*See also* *caregiver (customary primary)*

**amnesty** Refer to *regularization*

## ancestry-based residence/nationality

Non-nationals admitted to a country other than their own, because of their historical, ethnic or other ties with that country, who, by virtue of those ties, are immediately granted the right of long-term residence or the nationality of that country or who become nationals within a short period after admission.

## appeal

A proceeding undertaken to have a decision reconsidered by a higher authority, especially the submission of a lower court's or agency's decision to a higher court for review and possible reversal.

*Source:* B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

## applicant

In the migration context, a person who formally requests administrative or judicial action, such as the granting of a visa, work permit or refugee status.

*See also* *bona fide applicant*, *principal applicant*, *rejected applicant*

## application

In the migration context, a request, usually written, submitted to the administrative authorities by an individual or an employer seeking administrative or judicial action such as the granting of a visa, a work permit or refugee status.

## armed conflict

A conflict in which there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.

*Source:* Adapted from *Prosecutor v Tadic (Jurisdiction)* ITCY-94-1 (2 October 1995) para. 70.

*Note:* International humanitarian law distinguishes between two types of armed conflict: international armed conflict (IAC) and non-international armed conflict (NIAC):



An IAC exists whenever there is resort to armed force between two or more States. Article 2 common to the four 1949 Geneva Conventions stipulates that an “[a]rmed conflict...may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them” (e.g. Geneva Convention Relating to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (Geneva Convention IV) Art. 2).

Within the meaning of Article 3 common to the four 1949 Geneva Conventions, an NIAC consists in “armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties” between governmental forces and organized non-State armed groups, or between such groups (ibid., Art. 3). An NIAC must in any case reach a minimum level of intensity and the parties involved in the conflict must show a minimum level of organization. This distinguishes an NIAC from internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature. Additional Protocol II to the Geneva Conventions, however, further limits the definition of NIAC by specifying that NIACs are conflicts “which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol” (Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (Additional Protocol II) Art. 1(1)). This definition is narrower than the one in Common Article 3 of the Geneva Conventions, as it introduces a requirement of territorial control and does not apply to armed conflicts between non-State armed groups. This restrictive definition is however only relevant for the application of Protocol II (International Committee of the Red Cross, How is the Term “Armed Conflict” Defined in International Humanitarian Law? (Opinion Paper, March 2008).

See also *drivers of migration, root causes of migration*

## arrival/departure card

A card filled out for customs, and immigration and emigration procedures by an individual prior to or upon arrival in or departure from the country of destination and presented (along with identity documents and, if requested, a visa) to officials at the border crossing point.

*Note:* Also called a migration card. In some States, border officials collect the card upon entry or departure, while in other States, the card, or a portion of it, is returned to the individual and must be presented upon departure from the State. International standards

for such documents are defined by the International Civil Aviation Organization (ICAO) in the Convention on International Civil Aviation (adopted on 7 December 1944, entered into force 4 April 1947) 15 UNTS 295, Annex 9.

See also *migration card*

## assets forfeiture

The seizure of property or money by the government owing to its owner's involvement in criminal activity.

*Note:* Also referred to as assets seizure or confiscation. An example relevant to migration include the impounding of a vehicle used for smuggling human beings into a State.

## assimilation

A one-directional policy approach to integration whereby an ethnic or social group – usually a minority – adopts the cultural practices of another – usually that of the majority ethnic or social group. Assimilation involves the subsuming of language, traditions, values, mores and behaviour normally leading the assimilating party to become less socially distinguishable from other members of the receiving society.

*Note:* Integration policies formulated primarily on the principle of assimilation have been undergoing considerable criticism both within academia and among policy makers, given their one-sidedness and failure to incorporate important relevant policy areas such as social cohesion, transnationalism, diversity and tolerance. For those reasons, integration policies are no longer considered a desirable approach in integrating immigrants in countries of destination or transit (see, for instance, United Nations Office of the High Commissioner for Human Rights, *Minority Rights: International Standards and Guidance for Implementation* (2010) p. 8).

See also *integration, multiculturalism*

## assisted migration

The movement of migrants carried out with the assistance of governments or international organizations, as opposed to spontaneous, unaided migration.

## assisted voluntary return and reintegration

Administrative, logistical or financial support, including reintegration assistance, to migrants unable or unwilling to



remain in the host country or country of transit and who decide to return to their country of origin.

*Note:* In the context of assisted voluntary return and reintegration, voluntariness is assumed to exist if two conditions apply: (a) freedom of choice, which is defined by the absence of physical or psychological pressure to enrol in an assisted voluntary return and reintegration programme; and (b) an informed decision which requires the availability of timely, unbiased and reliable information upon which to base the decision.

In some cases, an assessment may be needed by qualified professionals to determine the extent to which a person is capable to take such a free and informed decision, and who, should the person lack such a capacity, could legally take the decision on his or her behalf.

Assisted voluntary return programmes may provide different levels of assistance to reintegration and, in some cases, they don't provide any assistance to this effect.

*See also* [country of origin](#), [reintegration](#), [spontaneous return](#), [sustainable reintegration](#), [voluntary repatriation](#), [voluntary return](#)

## asylum

The grant, by a State, of protection on its territory to persons outside their country of nationality or habitual residence, who are fleeing persecution or serious harm or for other reasons. Asylum encompasses a variety of elements, including non-refoulement, permission to remain on the territory of the asylum country, humane standards of treatment and eventually a durable solution.

*Source:* United Nations High Commissioner for Refugees, *Resettlement Handbook* (2011) p. 407.

*Note:* Generally, the term is used to refer to territorial asylum – asylum provided by a State to individuals in its territory. In some cases, asylum can also be granted on the premises of an embassy or a legation.

*See also* [asylum \(diplomatic\)](#), [complementary protection \(international\)](#), [international protection](#), [right to seek and enjoy asylum](#)

## asylum (diplomatic)

Refuge that States grant beyond the boundaries of their territory, in places in which they benefit from immunity from jurisdiction of the territorial State, to an individual seeking protection.

*Note:* Diplomatic asylum may be granted by a State “in its diplomatic missions [and the private residences of the heads of mission] (diplomatic asylum in the strict sense), in its consulates, on board its ships in the territorial waters of another State (naval asylum), and also on board its aircraft and of its military or paramilitary installations in foreign territory”, but not on the premises of international organizations (see United Nations General Assembly, *Question of Diplomatic Asylum*, Report of the Secretary General (22 September 1975) UN Doc. A/10150 (Part (II) para. 1).

Some States contest the existence of the right to grant diplomatic asylum. At the regional level, the right has been recognized in regional agreements such as the Convention on Diplomatic Asylum of the Organization of American States ((adopted 28 March 1954, entered into force 29 December 1954) 1438 UNTS 104).

*See also* [asylum](#)

## asylum seeker

An individual who is seeking international protection. In countries with individualized procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker will ultimately be recognized as a refugee, but every recognized refugee is initially an asylum seeker.

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006).

*See also* [asylum](#), [asylum \(diplomatic\)](#), [international protection](#), [migrant](#), [refugee](#)

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## B

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### bail

An alternative to detention consisting in the deposit of a sum of money to guarantee an individual's future compliance with immigration procedures, including appearing at future hearings or compliance with a deportation order. The sum of money is returned if the individual appears, or it is otherwise forfeited.

*Source:* Adapted from Amnesty International, *Irregular Migrants and Asylum seekers: Alternatives to Immigration Detention* (2009) p. 13.

*See also* [alternatives to detention](#), [bond](#), [guarantee](#), [non-custodial measures](#), [surety](#)

### best interests of the child (principle of)

A threefold concept: (a) A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration ... and the guarantee that this right will be implemented whenever a decision is to be made concerning a child... (b) A fundamental, interpretative legal principle: If a legal provision is open to more than one interpretation, the interpretation which most effectively serves the child's best interests should be chosen. ... (c) A rule of procedure: Whenever a decision is to be made that will affect a ... child, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned....

*Source:* Committee on the Rights of the Child, General Comment No. 14 on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, para. 1) (29 May 2013) UN Doc. CRC/C/GC/14, para. 6.

*Note:* Article 3(1) of the Convention of the Rights of the Child stipulates "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" ((adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3).

The best interests determination imposes to take into consideration the child well-being, which is determined by a variety of individual circumstances, such as the age, the level of maturity of the child,

the presence or absence of parents, the child’s environment and experiences (UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child* (2008) p. 15).

## bilateral labour arrangements

All forms of bilateral arrangements between States, regions and public institutions that provide for the recruitment and employment of foreign short- or long-term labour.

*Note:* Bilateral labour arrangements is a broader term, compared to bilateral labour agreements, encompassing non-legal arrangements such as memorandums of understanding (MoUs), as well as “non-governmental” arrangements, for example arrangements between national employment agencies in different countries.

## bilateral labour migration agreements

Agreements concluded between two States, which are legally binding and are essentially concerned with inter-State cooperation on labour migration.

*Note:* The International Labour Organization (ILO) Recommendation concerning Migration for Employment (Revised) (RO86 (1 July 1949)), adopted contextually to the ILO Convention (No. 97) Concerning Migration for Employment ((adopted 1 July 1949, entered into force 22 January 1952) 120 UNTS 71), in its annex “Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons”. In some cases, trade agreements or other regional cooperation platforms will also provide provisions for labour mobility.

See also *agreement, labour migration, treaty*

## biometrics

Automated means of identifying an individual through the measurement of distinguishing physiological or behavioural traits such as fingerprints, face, iris, retina or ear features. Nowadays, it is used also as a synonym of “biometric identifiers”, which are the pieces of information that encode a representation of a person’s unique biological make up (e.g. fingerprints, retinal scans or voice scans).

*Source:* Adapted from International Organization for Migration (IOM), *IOM Data Protection Manual* (2010) p. 109; and IOM, *Biometrics and International Migration* (2005) International Migration Law Series No. 5, p. 6.

*Note:* Biometric scanning is the process whereby biometric measurements are collected and enrolled in a computer system with the purpose of using the measurements to either verify or search for a person's identity. Some governments have introduced the use of biometrics as an improved security measure in issuing passports, visas or residence permits.

See also *electronic passport*

## birth certificate

An official document issued to record a person's birth, including his/her name, place of birth, date of birth and parentage.

*Note:* A birth certificate is usually the basis for the issuance of all other identity documents and serves as a confirmation of the person's identity in governmental records.

## birth registration

The official recording of the birth of a child by an administrative authority of the State and coordinated by a particular branch of government. It is a permanent and official record of a child's existence.

*Source:* Adapted from United Nations Children's Fund (UNCIEF), *Birth Registration Right from the Start* (2002) Innocenti Digest 9, p. 2.

*Note:* According to Article 7.1 of the Convention on the Right of the Child ((adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3): "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents". The registration of a child's birth enables the child to obtain a birth certificate. "In some cases, the issuing of a certificate automatically follows birth registration, while in others a separate application must be made. In either case, a birth certificate is a personal document issued to an individual by the state" (United Nations Children's Fund (UNICEF), *Birth Registration Right from the Start* (2002) Innocenti Digest 9, p. 2). Birth registration is central to prevent statelessness as a lack thereof may be a cause of statelessness (United Nations Office of the High Commissioner for Human Rights, *Birth Registration and the Right to Everyone to Recognition Everywhere as a Person before the Law* (17 June 2014) UN Doc. A/HRC/27/22, paras. 23 and 24).

## bona fide applicant

In the migration context, an individual whose application for entry and/or residence in a State, or international protection is

considered genuine, without fraud or deceitful claims, and is not likely to breach the conditions of entry or residence.

*See also applicant*

## bond

An alternative to detention consisting in a written agreement with the authorities where the individual promises to fulfil their duties, such as appearing at interviews, hearings, or complying with a deportation order, and sometimes includes the deposit of a sum of money by the individual or a third person.

*Source:* Amnesty International, *Irregular Migrants and Asylum seekers: Alternative to Immigration Detention* (2009) p. 13.

*See also alternatives to detention, bail, guarantee, non-custodial measures, surety*

## border checks

Checks carried out at border crossing points to ensure that persons, their means of transport and the objects in their possession may be authorized to enter or leave the territory of States.

*Source:* Practical Handbook for Border Guards (Schengen Handbook) annexed to Council of the European Union, Commission Recommendation Establishing a Common “Practical Handbook for Border Guards (Schengen Handbook)” to Be Used by Member States’ Competent Authorities when Carrying out the Border Control of Persons (9 November 2006) EU Doc 15010/06, para. 12.

*See also borders (international), border control, border control point/crossing point, border management, border surveillance*

## border control

Border checks and border surveillance activities conducted at the physical borders – air (airports), sea (sea, lake, river ports) and land borders (land, railway) – of the State aimed at regulating the entry (or the intention to enter) and departure of persons, animals and goods to and from the State’s territory, in exercise of its sovereignty.

*See also borders (international), border checks, border control point/crossing point, border management, border surveillance*

## border control point/crossing point

A place authorized by the competent authorities to cross the border (for persons or goods), or a place officially designated by the legal framework of the State as an official entry to / exit from the State.

*Source:* Adapted from Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) [2006] OJ L 105/1, Art. 2(8).

*See also* [borders \(international\)](#), [border checks](#), [border control](#), [border surveillance](#), [point of entry](#), [point of exit](#)

## border delimitation

The description of a territorial or maritime boundary in a treaty or other written source, or by means of a line marked on a map or chart.

*Source:* Adapted from J. Grant and J. Barker (eds), *Parry and Grant Encyclopedic Dictionary of International Law* (3rd edition, Oxford University Press, 2009).

*See also* [boundary](#), [borders \(international\)](#)

## border governance

The legislation, policies, plans, strategies, action plans and activities related to the entry into and exit of persons from the territory of the State, comprising detection, rescue, interception, screening, interviewing, identification, reception, referral, detention, removal or return, as well as related activities such as training, technical, financial and other assistance, including that provided to other States.

*Source:* Adapted from United Nations Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014) p. 5.

*See also* [borders \(international\)](#), [border management](#)

## border health

Also referred to as cross-border health, broad term referring to the health-care markets, regulatory environments, health laws, environmental factors, and health-care consumer and

individual behaviours (risk and protective) that shape the health of migrant and other non-migrant populations living in the region intersected by the geopolitical boundaries of two or more nations.

*Source:* Adapted from M. L. Zúñiga, “Border Health” in S. Loue and M. Sajatovic (eds), *Encyclopedia of Immigrant Health* (Springer, 2015) pp. 299–305.

See also *cross-border health*

## border management

The administration of measures related to authorized movement of persons (regular migration) and goods, whilst preventing unauthorized movement of persons (irregular migration) and goods, detecting those responsible for smuggling, trafficking and related crimes and identifying the victims of such crimes or any other person in need of immediate or longer-term assistance and/or (international) protection.

*Note:* Measures to manage borders include the imposition by States of visa requirements, carrier sanctions against transportation companies bringing irregular migrants to the territory, and interdictions at sea. Under international human rights law and international refugee law, States have a responsibility to ensure that border management legislation, policies and practices adhere to human rights and refugee law and respect the rights of all people moving across their borders despite their migration status. The United Nations Office of the High Commissioner for Human Rights’ Recommended Principles and Guidelines on Human Rights at International Borders (2014) provide guidance on how to ensure border management and governance activities comply with human rights standards.

See also *borders (international)*, *border governance*

## border official

An official assigned, in accordance with national law, to carry out tasks related to border management.

*Source:* Adapted from United Nations Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014) p. 4.

*Note:* The term encompasses: border guards, consular and immigration officials, border police, staff at border detention facilities, immigration and airport liaison officers, customs officials, coast guard officials, officials in charge of phytosanitary control and



other front line officers and staff performing border governance roles.

See also *borders (international)*, *border governance*, *border management*

## borders (international)

Politically defined boundaries separating territory or maritime zones between political entities and the areas where political entities exercise border governance measures on their territory or extraterritorially. Such areas include border crossing points (airports, land border crossing points, ports), immigration and transit zones, the “no-man’s land” between crossing points of neighbouring countries, as well as embassies and consulates (insofar as visa issuance is concerned).

*Source:* Adapted from United Nations Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014) p. 4.

*Note:* This broad definition extending to any areas where border governance is exercised, such as embassies or consulates issuing visas, has been chosen because of its relevance in the migration context. Generally, the term “international borders” is used as a synonym of boundary.

See also *border delimitation*, *border checks*, *border control*, *border control point/crossing point*, *border governance*, *border management*, *border official*, *border surveillance*, *frontier*, *sovereignty*, *boundary*

## border surveillance

Surveillance of borders between border crossing points and the surveillance of border crossing points outside their fixed opening hours, in order to prevent persons from circumventing border checks.

*Source:* Practical Handbook for Border Guards (Schengen Handbook) annexed to Council of the European Union, Commission Recommendation Establishing a Common “Practical Handbook for Border Guards (Schengen Handbook)” to Be Used by Member States’ Competent Authorities when Carrying out the Border Control of Persons (9 November 2006) EU Doc 15010/06, para. 13.

See also *borders (international)*, *border checks*, *border control*, *border control point/crossing point*

## boundary

An imaginary line that determines the territorial limits of a State.

*Source:* Adapted from J. Law (ed), *A Dictionary of Law* (8th edition, Oxford University Press, 2015).

*Note:* The boundaries define the limitation of each State's territorial jurisdiction. Boundaries are "three-dimensional in nature in that they include the airspace and subsoil of the State, the terra firma within the boundary, and the maritime domain of the State's internal waters and territorial sea." (J. Law (ed), *A Dictionary of Law* (8th edition, Oxford University Press, 2015)).

*See also* *border delimitation, borders (international), frontier*

## brain circulation

The effect of the movement of skilled migrants among their countries of origin and other countries, bearing their knowledge and skills which can benefit countries of origin as well as countries of permanent or temporary destination. The exchange of knowledge and skills of migrants with communities and institutions in their country of origin and destination that allow migrants to apply the benefits of the knowledge and skills they have gained while living and working abroad.

*Note:* Such exchange occurs through transnational communication networks as well as through regular or occasional travel between the country of origin and destination. In many migration corridors, the paradigm of brain drain/gain/waste/circulation is getting replaced with an approach focused on skills (for example development, recognition, transfer).

## brain drain

Depletion of human capital in a specific occupation or economic sector resulting from the emigration of skilled workers engaged in this occupation or sector from the country of origin to another country (or from one region of a country to another – internal migration).

*Note:* The negative effects of the emigration of (highly) skilled workers on the country of origin ("brain drain") have been contested in recent policy discourse and literature, however, pointing to challenges related to offering employment to these workers at home, but also highlighting the positive impact of migration through "brain circulation", knowledge transfer and "social remittances". As a result, a more acceptable framework for discussing labour mobility has been around the notion of "skills", such as skills development, matching, recognition and transfer.

*See also* *skilled migrant worker*

## brain gain

From the perspective of a country of destination, immigration of skilled workers into the country resulting in the acquisition of human capital.

From the perspective of a country of origin, the positive spill-over effects of the emigration of highly skilled workers such as brain circulation, or the motivational effects of migration that spur aspiring migrants to acquire further skills. Brain gain also occurs when migrants return back to their country or communities of origin and bring back with them new skills and knowledge acquired in migration.

*See also skilled migrant worker*

## brain waste

In the migration context, the under-employment or unemployment of migrant workers who are unable to find jobs matching their skill level, owing to, for example, the lack of skills recognition, informality of employment relations or discrimination.

## build back better

The use of the recovery, rehabilitation and reconstruction phases after a disaster to increase the resilience of nations and communities through integrating disaster risk reduction measures into the restoration of physical infrastructure and societal systems, and into the revitalization of livelihoods, economies and the environment.

*Source:* United Nations Office for Disaster Risk Reduction, *Terminology on Disaster Risk Reduction* (last accessed 12 March 2019).

*Note:* In the context of hazard-induced migration crisis, recovery typically begins in the immediate aftermath of disaster, driven by the spontaneous efforts of the affected populations themselves. However, the recovery strategies adopted by affected populations oftentimes reproduce risk conditions that had precipitated disaster and displacement in the first place. This calls for measures that reduce risk levels or exposure and vulnerability of affected populations to the effects of hazards and strengthen resilience by “building back better” in recovery, rehabilitation and reconstruction (International Organization for Migration (IOM), Strategic Work Plan on Disaster Risk Reduction 2017–2018 (Draft, 2017, p. 12).

## burden of proof

A party's duty to prove a disputed assertion or charge.

Source: B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* In the migration context, in the instance of an appeal against a rejection decision, a non-national seeking admission into a State must prove that he or she meets the criteria for entry under the laws of the State and/or international law. In the context of refugee status determination procedures, "it is the applicant who has the burden of establishing the veracity of his/her allegations and the accuracy of the facts on which the refugee claim is based. [...] In view of the particularities of a refugee's situation, the adjudicator shares the duty to ascertain and evaluate all the relevant facts" (United Nations High Commissioner for Refugees, *Note on Burden and Standard of Proof in Refugee Claims* (16 December 1998) para. 6).

See also *standard of proof*

## C

### caregiver (customary primary)

A person with whom the child lives who provides daily care to the child, without necessarily implying legal responsibility. The child's customary caregiver is the child's usual caregiver. This person has a parental role but may or may not be related to the child, and may not be the child's legal guardian. In an emergency context, this would typically mean the child's caregiver prior to the emergency.

*Source:* L. Melville Fulford, *Alternative Care in Emergencies (ACE) Toolkit, Extended Guidance* (Save the Children 2012) p. 9.

*Note:* In many circumstances when legal guardians do not exist and cannot be appointed, caregiver is used to indicate the adult in charge of care of a child. It is also used in the context of unaccompanied and separated children. As further noted by the ACE Toolkit: "Where possible, the child should have continuity in who provides their day to day care. Frequent changes of placement and caregiver should always be avoided. The Caregiver should not be the child's key worker or child protection worker" (L. Melville Fulford, *Alternative Care in Emergencies (ACE) Toolkit, Extended Guidance* (Save the Children 2012) p. 9).

See also *alternative care (for children)*

### carrier

A legal or natural person who engages in the transportation of goods or people. A carrier usually refers to an airline, bus/rail company, or a ferry or cruise line.

See also *carrier liability, carrier sanctions, commercial carrier*

### carrier liability

In the migration context, the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State. If this obligation is violated, States will apply sanctions to the carriers.

*Source:* Adapted from Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention

against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507, Art. 11(3).

See also *carrier, carrier sanctions, commercial carrier*

## carrier sanctions

In the migration context, any administrative or penal sanctions, including fines or other penalties, imposed by States upon carriers who bring into their territory, intentionally or unintentionally, persons who do not have travel documents required for entry into the receiving State.

*Note:* Carrier sanction regimes often assert financial accountability upon a carrier that has transported irregular migrants, intentionally or unintentionally, for the costs associated with the stay and return of the migrant as well as additional monetary penalties.

See also *carrier, carrier liability, commercial carrier*

## certificate of identity

A document (other than a passport) issued by a government to an individual, usually a non-national, proving his or her identity in order to facilitate his or her entry into or exit from the State.

*Note:* A certificate of identity is normally issued by States to non-nationals, such as stateless persons, or other persons who are unable to obtain a travel document from their country of nationality or those who are in urgent need of a travel document for compassionate or humanitarian reasons. Certificates of identity have to be distinguished from national identity cards that, generally, can be issued to both nationals or permanent residents and which, in some local border regimes or regional arrangements, allow the holder to cross an international border, usually for a limited period of time and for a limited distance from the border.

See also *identity document, travel document, travel documents (Convention)*

## cessation clauses (refugee)

Legal provisions in an instrument that set out the conditions under which refugee status comes to an end because it is no longer needed or justified.

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006) p. 5.

*Note:* Article 1(C) of the 1951 Convention Relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) stipulates that the Convention shall cease to apply

to a person recognized as a refugee if: “(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or (2) Having lost his nationality, he has voluntarily re-acquired it; or (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or (5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; ... (6) Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence” (see also, Organization for African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45, Art. 1(4)).

See also *refugee (1951 Convention)*

## change/switching of status

Procedure whereby a non-national present in a State may seek a different immigration status.

*Note:* For example, the law may establish that a non-national holding a student visa, on completion of studies, is entitled to seek a change of status and to replace his or her student visa to a work visa.

## child

Every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

*Source:* Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Art. 1.

See also *minor, separated children, unaccompanied children*

## child abduction

The removal or retention of a child in breach of custody rights attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child is habitually resident or was habitually resident immediately before the removal or retention.

*Source:* Adapted from Convention on the Civil Aspects of International Child Abduction (adopted 25 October 1980, entered into force 1 December 1983) 1343 UNTS 89, Art. 3.

*Note:* Under international law, protection against abduction is set forth in Article 35 of the United Nations Convention on the Rights of the Child ((adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3) that stipulates “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”.

The abduction of children within one country or across frontiers for the purpose of, for example, economic exploitation, sexual exploitation or sale is considered as a form of trafficking (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a) and (b)).

See also *child trafficking*

## child exploitation

The act of taking advantage of a child, including through: economic exploitation and any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development; exploitation for illicit drug production and trafficking; sexual exploitation and sexual abuse, specifically the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials; and the abduction of, sale of or traffic in children, or any other forms of child exploitation.

*Source:* Adapted from Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Arts 32, 34 and 35.

See also *child labour, exploitation, trafficking in persons, worst forms of child labour*

## child labour (prohibited)

Any work performed by a child which deprives him or her of his or her childhood, potential, and dignity, and is detrimental to his or her health, education, physical, mental, spiritual, moral or social development.

*Source:* Adapted from Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Art. 32.



*Note:* Among the core international labour standards adopted under the auspices of the International Labour Organization (ILO), two conventions deal with child labour: ILO Convention (No. 182) on the Worst Forms of Child Labour ((adopted 17 June 1999, entered into force 19 November 2000) 2133 UNTS 161), and ILO Convention (No. 138) on the Minimum Age for Admission to Employment and Work ((adopted 26 June 1973, entered into force 19 June 1976) 1015 UNTS 297). The latter sets a standard for the minimum age of employment as no “less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years” (Art. 2(3)). Minimum ages are also set depending on the type of labour. The majority of States apply a minimum age of employment between the ages of 14 and 16. The ILO Convention (No. 138) sets a minimum age at which children can start work depending on nature of the work: 18 (or 16 under strict conditions) for hazardous work; 15 as the basic minimum age; 13–15 for light work.

*See also* [child exploitation](#), [trafficking in persons](#), [worst forms of child labour](#)

## child trafficking

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation.

*Source:* Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(c).

*Note:* Article 3 of the Trafficking Protocol stipulates that: “[t]he recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article” (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(c)). Letter d of the same Article also defines a child as “any person under eighteen years of age” (ibid., Art. 3(d)).

*See also* [child abduction](#), [child labour](#), [exploitation](#), [trafficking in persons](#), [worst forms of child labour](#)

## circular migration

A form of migration in which people repeatedly move back and forth between two or more countries.

*Source:* Adapted from Commission of the European Communities, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Circular Migration and Mobility Partnerships between the European Union and Third Countries (16 May 2007) COM(2007) 248 final, p. 8.

*Note:* Circular migration has been applied in many contexts. It has been used to describe migration that takes place spontaneously (for example in border regions, within regional integration processes such as the European Union, or between two or more countries in which a person has a legal right to reside in more than one country). It has also been promoted by States and development actors through specially designed programmes and schemes assisting migrants to migrate abroad, usually temporarily, with the purpose of taking up an employment and returning back to their country of origin. Particular caution should be exercised in designing programmes of circular migration, however, as this form of migration may not necessarily be the best solution for sectors of the labour market facing long-term structural shortages where more permanent forms of entry and long-term integration may be better suited to the needs of both employers and migrant workers.

Circular migration can also be used as a coping strategy in the context of climate change and environmental degradation. Circular migration schemes can thus be an effective way to help supplement local incomes and build the resilience of communities affected by climate change.

See also *labour migration, migration, temporary migration*

**citizen** Refer to *national*

See also *citizenship, nationality*

**citizenship** Refer to *nationality*

See also *citizen, national*

## **civil and political rights**

Rights and freedoms protecting individuals' physical and mental integrity and civic and political participation against any arbitrary interference.

*Note:* These rights include but are not limited to the rights enshrined in the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) which are to be enjoyed without discrimination and include: the right to life; freedom from torture, cruel, inhuman or degrading treatment or punishment; freedom from slavery and servitude; freedom from arbitrary arrest or detention; freedom of movement within a State; right to liberty and security of the person; equality before the courts; right to a fair and public

hearing by an impartial tribunal in respect of criminal charges; prohibition of retroactive criminal liability; right of privacy of the family, the home or correspondence; freedom of thought, conscience and religion; freedom of expression; right to peaceful assembly; freedom of association and of participation in public affairs; right to vote and to be elected.

These rights were originally conceived as imposing exclusively negative obligations on States, as opposed to economic, social and cultural rights, requiring State action. However, with the development of the interpretation and of the jurisprudence of human rights bodies both at the international and regional levels, today it is undisputed that these rights also impose some positive obligations upon States. An example is the right to life, which does not only oblige States to refrain from arbitrarily killing a person but also to protect the person's life, regardless of whether the threat comes from other individuals, a State organ or even the environment Human Rights Committee, General Comment No. 36: Article 6 (The Right to Life) UN Doc. CCPR/C/GC/36 (30 October 2018) paras. 21 and 26).

See also *economic, social and cultural rights, human rights*

C

**clandestine migration** Refer to *irregular migration*

## climate migration

The movement of a person or groups of persons who, predominantly for reasons of sudden or progressive change in the environment due to climate change, are obliged to leave their habitual place of residence, or choose to do so, either temporarily or permanently, within a State or across an international border.

*Source:* Warsaw International Mechanism, Executive Committee, Action Area 6: Migration, Displacement and Human Mobility - Submission from the International Organization for Migration (IOM, 2016); M. Traore Chazalnoël and D. Ionesco, *Defining Climate Migrants – Beyond Semantics* (IOM weblog, 6 June 2016) (last accessed 23 May 2018).

*Note:* This is a working definition of the International Organization for Migration with an analytic and advocacy purpose which does not have any specific legal value.

Climate migration is a subcategory of environmental migration; it defines a singular type of environmental migration, where the change in the environment is due to climate change. Migration in this context can be associated with greater vulnerability of affected people, particularly if it is forced. Yet, migration can also be a form of adaptation to environmental stressors, helping to build resilience of affected individuals and communities.

See also *environmental migrant, environmental migration, migration*

## climate/environmental refugee Refer to environmental migrant, displaced persons

*Note:* The term “climate/environmental refugee” is used to refer to a category of environmental migrants whose movement is clearly of a forced nature. The term has initially been used by academics, the media and advocacy groups to draw attention to this issue and encourage the development of forms of international protection for persons obliged to leave their habitual homes because of environment or climate change related reasons. The term “climate/environmental refugee” has now largely been accepted as having the potential to be misleading; so, the terms “environmental migrant” or “displaced person” should be used instead.

Indeed, the notion of a “climate refugee” is not a term of art in international law. Individuals forced to leave their country because of environmental or climatic processes or events would not necessarily meet the definition of a refugee under Article 1A(2) of the Convention Relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137). Beyond a few exceptional cases, their government is generally willing to protect them, even if it may be unable to do so, and they are not persecuted on any of the Convention’s grounds. Moreover, most of those who flee environmental degradation or disaster, including when due to climate change, do not cross an international border, which is an additional requirement for the application of the refugee definition (J. McAdam, *From Economic Refugees to Climate Refugees? Review of International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (2009) 31 *Melbourne Journal of International Law* 579).

See also *climate migration*

## coercion

The use of force or threat thereof, and some forms of non-violent or psychological constraint or threat thereof, including but not limited to: (i) Threats of harm or physical restraint of any person; (ii) Any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; (iii) Abuse or any threat linked to the legal status of a person; (iv) Psychological pressure.

*Source:* Adapted from United Nations Office on Drugs and Crime, *Model Law Against Trafficking in Persons* (2009) p. 11 (as found in US State Department, *Model Law to Combat Trafficking in Persons* (2003) p. 11).

*Note:* Coercion is explicitly recognized as one of the means in the definition of trafficking in persons (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a).

*See also forced/compulsory labour, forced migration, trafficking in persons*

## collective expulsion

Any measure compelling non-nationals, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual of the group.

*Source:* Adapted from *Andric v Sweden* App no 45917/99 (ECtHR, 23 February 1999) para. 1.

*Note:* The prohibition of collective expulsion is expressly embodied in several international human rights treaties. At the universal level, Article 22(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3), stipulates that “migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually”. At the regional level, the American Convention on Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123) provides in Article 22(9) that “[t]he collective expulsion of aliens is prohibited”. Article 4 of Protocol No. 4 to the European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221) stipulates that “[c]ollective expulsion of aliens is prohibited”. Similarly, Article 26(2), in fine, of the Arab Charter on Human Rights ((adopted 22 May 2004, entered into force 15 March 2008) in 12 (2005) International Human Rights Reports 893) states that “[c]ollective expulsion is prohibited under all circumstances”. In the African Charter on Human and Peoples’ Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217), the term mass expulsion is used instead of collective expulsion. Article 12(5) of the Charter only prohibits mass expulsions of non-nationals which are aimed at “national, racial, ethnic or religious groups”.

*See also mass expulsion*

## commercial carrier

A legal or a natural person who engages in the transportation of goods or people for commercial gain.

*Source:* Adapted from United Nations Office on Drugs and Crime, Model Law Against Trafficking in Persons (2009) p. 11 (as found in US State Department Model Law to Combat Trafficking in Persons (2003) p. 11).



*Note:* Commercial carriers can play a role in preventing irregular migration by checking the possession or validity of their passengers' travel documents. Under Articles 11(3) of both the Protocols to the United Nations Convention against Transnational Organized Crime on Smuggling and Trafficking, States are required to establish the obligation of commercial carriers to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State (see Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319; and Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507).

See also *carrier, carrier liability, carrier sanctions*

## community of origin

In the migration context, a national or local community of a person or group of persons who have migrated internally or internationally.

See also *home community*

## community stabilization

Community Stabilization (CS) is a process that addresses open or latent drivers of conflict and fragility, which negatively impact on the capacities of communities to co-exist in a mutually beneficial way, with the aim of preventing and resolving displacement and irregular migration related to human-made and/or natural crises. It's a process that restores social cohesion between communities and the social contract between local authorities and the population. It includes creating the conditions for communities to address their grievances and tensions through dialogue, cooperation and mutual support, collaboration with governments, civil society groups and traditional leaders based on trust and confidence, and regaining of both collective and individual agency to recover from crisis and become more resilient to future shocks.

## complementary pathways for refugee admission

As a complement to resettlement, other pathways for the admission of persons with international protection needs that can facilitate access to protection and/or solutions.

*Source:* Adapted from United Nations High Commissioner for Refugees, The Global Compact on Refugees, General Assembly Official Records, UN Doc. A/73/12 (Part II) (13 September 2018) para. 94.

*Note:* Complementary pathways for admission of refugees may include:

- medical evacuations;
- pathways for reuniting a person with international protection needs with a member of his or her family in the third country;
- private or community sponsorship programmes, including community-based programmes promoted through the Global Refugee Sponsorship Initiative (GRSI);
- humanitarian visas, humanitarian corridors and other humanitarian admission programmes;
- educational opportunities for refugees (including women and girls), including through grant of scholarships and student visas, potentially supported by partnerships between governments and academic institutions; and,
- labour mobility opportunities for refugees, including through the identification of refugees with skills that are needed in third countries. (United Nations High Commissioner for Refugees, The Global Compact on Refugees, General Assembly Official Records, UN Doc. A/73/12 (Part II) (13 September 2018) para. 95. See also New York Declaration for Refugees and Migrants, A/RES/71/1, Annex I, para. 14(a)).

*See also complementary protection (international), discretionary forms of protection, humanitarian admission, humanitarian visa, international protection, pathways for migrants in vulnerable situations, regular migration pathways, temporary protection and stay arrangements (TPSAs)*

## complementary protection (international)

Various mechanisms used by States to regularize the stay of persons falling outside the scope of the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, but who are nevertheless in need of international protection.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Resettlement Handbook* (2011) p. 408.

*Note:* Complementary international protection refers to forms of protection, however termed, which are complementary to the refugee status and have been established at the national and regional levels to translate, to a certain extent, the principle of non-refoulement, under international/regional human rights law, into some sort of status. At the regional level, the European Union uses the term “subsidiary protection” to refer to complementary protection granted to persons who are not covered by the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) but are in need of international protection.

Complementary protection is nowadays closely linked to the principle of non-refoulement. Persons who fall under the broader definition of refugees provided for in regional instruments, such as the Convention Governing the Specific Aspects of Refugee Problems in Africa ((adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45) and the Cartagena Declaration on Refugees ((22 November 1984) Colloquium on the International Protection of Refugees in Central America, Mexico and Panama), are refugees and should be referred to as such. While building on the Refugee Convention, these two instruments also extend the category of refugees to persons who have fled their country because of circumstances including generalized violence, external aggression, occupation, foreign domination, internal conflicts, massive violation of human rights or other circumstances seriously disturbing public order.

General Assembly resolutions have recognized that UNHCR’s protection mandate extends to these groups (see, ex multis, United Nations General Assembly, Report of the United Nations High Commissioner for Refugees, UNGA Res 3143 (XXVIII) (14 December 1973)).

Beneficiaries of complementary forms of protection should enjoy a formal legal status with defined rights and obligations, and should be issued with documents certifying that status. The status should extend for a period of time which is long enough to allow the beneficiaries to regain a sense of normalcy in their lives. It should last for as long as protection is required (United Nations High Commissioner for Refugees, *Complementary Forms of Protection: Their Nature and Relationship to the International Refugee Protection Regime* (2000) p. 3).

*See also asylum, asylum seeker, refugee (mandate), refugee (1951 Convention), humanitarian admission, international protection, non-refoulement (principle of), temporary protection or stay arrangements*

## consular protection and assistance (right to)

The right to the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of nationals abroad or to protect their rights against any infringements by the receiving State.



*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Arts 23 and 65.

*Note:* The terms protection and assistance in relation to consular functions are often used interchangeably. However “consular protection” is usually understood as applying to cases concerning a claim against a government or one of its organs for allegedly infringing the rights of a national of another State, whilst “consular assistance” is generally viewed as aimed not at redressing a wrong, but at responding to a state of need in which the migrants find themselves or at providing administrative services that may be necessary when abroad (such as marriage or birth registrations, replacement of documents, etc.) (R. Perruchoud, Consular Protection and Assistance in R. Cholewinski, R. Perruchoud and E. MacDonalds (eds), *International Migration Law: Developing Paradigms and Key Challenges* (TMC Asser Press 2007) pp. 71-85).

Article 65(2) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) stipulates that “State parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families”. The right is also referred to in Article 16(7)(a) and Article 23 of the ICRMW with regard to the cases of detention or expulsion of a migrant worker respectively.

*See also* [consular functions](#), [consular officers](#), [consular registration](#)

## consular functions

Any function entrusted to a consular post or a diplomatic mission by the sending State, listed in Article 5 of the Vienna Convention on Consular Relations, or any other functions which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

*Source:* Adapted from Vienna Convention on Consular Relations (adopted 24 April 1963, entered into force 19 March 1967) 596 UNTS 261) Art. 5.

*Note:* Art. 5 of The Vienna Convention on Consular Relations ((adopted 24 April 1963, entered into force 19 March 1967) 596 UNTS 261) including, among others, protecting the interests of the sending State and its nationals in the receiving State; issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to



the sending State; helping and assisting nationals of the sending State; acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature; and, safeguarding the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons.

*See also consular protection and assistance (right to), consular officers, consular registration*

## consular officers

Any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions.

*Source:* Vienna Convention on Consular Relations (adopted 24 April 1963, entered into force 19 March 1967) 596 UNTS 261) Art. 1(1)(d).

*See also consular protection and assistance (right to), consular functions, consular registration*

## consular registration

Inscription in a consular register of the principal details (identity, family situation, place of residence, etc.) of a national of the State.

*Note:* The object of consular registration is to facilitate the action of the consular mission, particularly the exercise of consular protection.

*See also consular protection and assistance (right to), consular functions, consular officers*

## contiguous zone

A maritime area contiguous to the territorial sea of a coastal State not extending beyond the 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

*Source:* Adapted from United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, Art. 33(2).

*Note:* According to Article 33(1) of the United Nations Convention on the Law of the Sea ((adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3): “in its contiguous zone, a State may exercise the necessary control to (a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea and (b) punish infringement of the above laws and regulations committed within its territory or territorial sea”.

*See also high seas, territorial sea*

**contract worker (temporary)** Refer to *migrant worker*

See also *guest worker, circular migration, labour mobility, migrant worker, project-tied worker, specified-employment worker*

**convention** Refer to *treaty*

See also *agreement (international)*

## **counselling (medical)**

Mandatory process facilitated by a health professional/counsellor that migrants undergo to enhance their understanding of the test procedure itself and its possible ramifications, and enables them to make an informed choice.

*Note:* Counselling can include both pre- and post-test counselling and involves, for instance, the provision of information about medical tests that migrants need to undergo as part of the migration or visa application process.

See also *informed consent (medical)*

## **country of destination**

In the migration context, a country that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly.

*Note:* In the context of movements of internally displaced persons (IDPs) the term “place of destination” should be used.

See also *host country, receiving country, State of employment*

## **country of origin**

In the migration context, a country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly.

See also *home country, State of origin*

## **country of transit**

In the migration context, the country through which a person or a group of persons pass on any journey to the country of destination or from the country of destination to the country of origin or the country of habitual residence.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (adopted

18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 6(c).

*Note:* There is a notion of temporariness in the concept of transit. However, for many migrants, particularly those migrating irregularly, the journey to the intended destination can take months or years. This challenges the very notion of transit and triggers the question on how much time needs to pass for the country of transit to be considered as a destination (United Nations Office of the High Commissioner for Human Rights, *Situation of Migrants in Transit* (2015) p. 5).

See also *State of transit*

## country of usual residence

The country in which a person has his or her usual or habitual residence.

*Note:* The United Nations Department of Economic and Social Affairs (UN DESA) defines a country of usual residence as: “The country in which a person lives, that is to say, the country in which he or she has a place to live where he or she normally spends the daily period of rest” (UN DESA, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 92).

See also *country of origin, habitual residence, residence, usual residence*

## credibility assessment

In adjudicating an application for a visa, refugee status, or other immigration status, assessment aimed at determining whether the information presented by the applicant is consistent and credible.

**crimes, international** Refer to [international crimes](#)

## crimes against humanity

Any of the following acts when committed in time of peace or armed conflict as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collective on political, racial, national, ethnic, cultural, religious, gender (as defined in

paragraph 3 of Article 7), or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; and, other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

*Source:* Adapted from Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3) Art. 7.

*See also* [exclusion clauses](#), [international crimes](#)

## cross-border displacement

The movements of persons who have been forced or obliged to leave their homes or places of habitual residence and move across international borders.

*Source:* Adapted from The Advisory Group on Climate Change and Human Mobility, *Human Mobility in the Context of Climate Change* (Recommendations from the Advisory Group on Climate Change and Human Mobility COP 20 Lima, Peru, (2014)).

*Note:* The term might be correlated with a need for international protection, including refugee status. It is also often used in the context of disasters and the effects of climate change to refer to situations where people flee their impacts.

*See also* [crisis-migration](#), [disaster displacement](#), [displacement](#), [internal displacement](#)

## cross-border health

 Refer to [border health](#)

## cultural diversity

The diversity of forms of culture in a society composed of groups of people from many different cultural backgrounds.

*Source:* European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

## cultural pluralism

A policy aimed at the ensuring of harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together.

*Source:* United Nations Educational, Scientific and Cultural Organization, Universal Declaration on Cultural Diversity (adopted 2 November 2001) Art. 2.

*Note:* As further noted by the UNESCO Universal Declaration on Cultural Diversity: [t]hus defined, cultural pluralism gives policy expression to the reality of cultural diversity. Indissociable from a democratic framework, cultural pluralism is conducive to cultural exchange and to the flourishing of creative capacities that sustain public life” ((adopted 2 November 2001) Art. 2).

**custodial measures** Refer to **detention (migration)**

## customary international law

International law that derives from the general practice of States and is accepted by them as legally binding.

*Source:* Adapted from Statute of the International Court of Justice (adopted 24 October 1945, entered into force 24 October 1945) Art. 38(1)(b); North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands) [1969] ICJ Rep, para. 77.

*Note:* The two principle elements in the process of the formation of customary international law are: a general practice of a number of States acquiesced in by others (*diuturnitas*), and the conviction that the practice is required by or consistent with the prevailing law (*opinio juris*) (P. Grant and J.C. Barker (eds), *Encyclopedic Dictionary of International Law* (2nd edition, Oxford University Press 2004. Concerning the *opinio juris* element, the International Court of Justice ruled that: “Not only must the acts concerned amount to a settled practice, but they must also be such, or be carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it. The need for such a belief, i.e. the existence of a subjective element, is implicit in the very notion of *opinio juris sive necessitatis*. The States concerned must therefore feel that they are conforming to what amounts to a legal obligation” (North Sea Continental Shelf Cases [1969] ICJ Rep, para. 77). Several provisions in the Universal Declaration of Human Rights, including the prohibition against slavery, torture, arbitrary detention and extra-judicial killings, are generally recognized to have become part of customary international law ((adopted 10 December 1948) UNGA Res 217(A)). The right to leave any country including one’s own, the principle of non-discrimination and the principle of non-refoulement, which are particularly relevant in the context of migration, are also commonly considered customary law.

See also *general principles of law*

## D

**data protection**

The systematic application of a set of institutional, technical and physical safeguards that preserve the right to privacy with respect to the collection, storage, use and disclosure of personal data.

*Source:* International Organization for Migration (IOM), IOM Data Protection Manual (2010) p. 13.

**debt bondage**

The status or condition arising from a pledge by a debtor of his [or her] personal services or those of a person under his [or her] control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

*Source:* Adapted from Supplementary Convention on the Abolition of Slavery, the Slave Trade and Abolition of Practices Similar to Slavery (adopted 30 April 1956, entered into force 30 April 1957) 266 UNTS 3, Art. 1(a).

*See also* *exploitation, forced/compulsory labour, servitude, slavery, trafficking in persons, sexual exploitation*

**degrading treatment**

A treatment that humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance.

*Source:* Adapted from, among others, *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016) para. 169.

*Note:* Degrading treatments are one of the forms of ill-treatments proscribed by a number of human rights treaties, including Article 7 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171), Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ((adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85); and, at the regional level, Art. 3 of the European

Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221), Article 5(2) American Convention of Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123), Article 5 of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217), Article 8 of the Arab Charter on Human Rights ((adopted 22 May 2004, entered into force 15 March 2008) in 12 (2005) International Human Rights Reports p. 893).

In its General Comment No. 20, the Human Rights Committee considered unnecessary “to draw up a list of prohibited acts or to establish sharp distinctions between the different kinds of punishment or treatment [which constitutes torture or cruel, inhuman or degrading treatment or punishment]; the distinction depend on the nature, purpose and severity of the treatment applied” Human Rights Committee, General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment (10 March 1992) para. 4, in Compilation of General Comments and Recommendations Adopted by Human Rights Treaty Bodies (1994) UN Doc. HRI/GEN/1/Rev. 1, 30). The European Court of Human Rights has recognized that a treatment can be characterized as degrading and be in breach of the Convention even in the absence of an intention by the author to degrade the victim *Khlaifia and Others v Italy* App no 16483/12 (ECtHR 15 December 2016) para. 160(a).

The risk of degrading treatment in the country of return can trigger the application of the prohibition of *refoulement* (Human Rights Committee, General Comment No. 20, para. 9). The European Court of Human Rights, for example, found a violation of the principle of non-*refoulement* in cases in which asylum seekers had to be sent back to a country in which the living and detention conditions were degrading (*MSS v Belgium and Greece* App no 30696/09 (ECtHR, 21 January 2011) para. 366). In the same case it also clarified that “it may well suffice for the victim to be humiliated in his own eyes, even if not in the eyes of others” (see, among others, *ibid.* para. 220).

See also *inhuman treatment, non-refoulement (principle of), torture*

## dependant

In the migration context, any person who is granted entry into a State for the purpose of family reunification on the basis of being supported by a “sponsor” with whom the individual has a proven family relationship.

*Note:* Normally a spouse or child. In some cases, children above the age of majority, and up to a specified age, who are still dependent on their parents.

See also *members of the family*



## deportation

In the migration context, see *expulsion*.

In international humanitarian law, deportation refers to the forced displacement of civilians which is prohibited in times of occupation and non-international armed conflict except when required for their security or imperative military reasons.

*Source:* Adapted from V. Chetail, The Transfer and Deportation of Civilians in A. Clapham, P. Gaeta and M. Sassòli (eds), *The Geneva Conventions: A Commentary* (Oxford University Press 2015) pp. 1188–1190.

*Note:* Article 49(1) of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War ((adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287) prescribes that, in times of occupation, “Individual or mass forcible transfers, as well as deportation of civilian protected persons from the occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motives”. The definition of deportation and its difference with forcible transfer are not clear under international humanitarian law, although it seems to be that deportation refers to forced displacement across international borders while a transfer takes place within the territory of one State (V. Chetail, The Transfer and Deportation of Civilians in A. Clapham, P. Gaeta and M. Sassoli (eds), *The Geneva Conventions: A Commentary* (Oxford University Press 2015) 1188 and 1189). In any case, both are prohibited in times of occupation by virtue of Article 49(1) of Geneva Convention IV and customary law (see International Committee of the Red Cross, Customary International Humanitarian Law (Vol 1, ICRC and Cambridge University Press, 2005) pp. 457–459). Although not used in provisions relating to non-international armed conflict, deportation is arguably covered in the broader prohibition of forced displacement (V. Chetail, The Transfer and Deportation of Civilians, pp. 1205–1206; see Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609, Art. 17(1) and (2)). The only exception to the prohibition of deportation arises when the civilians’ security or imperative military reasons so require. This last condition nevertheless calls for a significantly high threshold as not any military reasons would qualify as imperative. The violation of this prohibition constitutes a war crime (see Geneva Convention IV, Art. 147; Protocol Additional (I) to the Geneva Conventions of 13 August 1949, and relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3, Art. 85(4)(a); Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art. 8(2)(a)(vii) and (2)(e)(viii)).

In international criminal law, deportation is also an underlying offence of the crime of genocide and of the crime against humanity when committed as part of a widespread or systematic attack against the civilian population with knowledge thereof (see respectively, Rome Statute of the International Criminal Court Arts 6(e), 7(1)(d)).

*See also displacement, evacuation, expulsion, forcible transfer, forced return, removal, war crimes*

## deportation order

An administrative act or a judicial decision ordering the removal or deportation of a non-national.

*See also expulsion order, removal order, war crimes*

## deprivation of liberty

Any form of detention or imprisonment or the placement of a person in a public or private custodial setting, which that person is not permitted to leave at will, by order of any judicial, administrative or other authority.

*Source:* United Nations General Assembly, United Nations Rules for the Protection of Juveniles Deprived of their Liberty (14 December 1990) UN Doc. A/RES/45/113, Annex, para. 11(b); and Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) Art. 4(2).

*Note:* In 1964, a committee established by the former United Nations Commission on Human Rights studied the right of everyone to be free from arbitrary arrest, detention and exile and developed the following definition of “detention”: “The act of confining a person to a certain place, whether or not in continuation of arrest, and under restraints which prevent him from living with his family or carrying out his normal occupational or social activities.” This definition was adopted by the United Nations Working Group on Arbitrary Detention (WGAD) in 2012. Because international instruments do not always use the same terminology to refer to detention, the former United Nations Commission on Human Rights, in Resolution 1997/50, encouraged use of the term “deprivation of liberty” in order to eliminate any differences in interpretation between the various terms. The WGAD has made clear that all forms of deprivation of liberty are “detention” for the purposes of determining whether someone is being arbitrarily detained (United Nations Human Rights Council, Report of the Working Group on Arbitrary Detention (24 December 2012) UN Doc. A/HRC/22/44, para. 55).

*See also administrative detention, custodial measures, detention (migration), restriction of liberty*

## deprivation of nationality

The unilateral act of a State, whether by the decision of administrative authorities or by the operation of law, which deprives an individual of his or her nationality.

*Source:* Adapted from R. Hofmann, Denaturalization and Forced Exile in R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2014).

*Note:* In the past the most common term used to refer to deprivation of nationality was denationalization. Common grounds for deprivation of nationality are: entry into foreign civil or military service or the enrolment to fight with a foreign army or militia, acceptance of foreign distinctions, prolonged residence abroad or conviction of certain crimes. International law prohibits the arbitrary deprivation of nationality (Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A), Art. 15(2); American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123, Art. 20(3); Arab Charter on Human Rights (adopted 22 May 2004, entered into force 15 March 2008) in 12 (2005) International Human Rights Reports 893, Art. 29).

See also *loss of nationality*, *nationality*

## deskilling

In the migration context, the loss or decline of a migrant's skills and/or knowledge after a significant time of unemployment or employment at a lower skill level in the employment market of the new country.

See also *brain waste*

## detained person

Any person deprived of personal liberty.

*Source:* United Nations General Assembly, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) UN Doc. A/RES/43/173.

See also *administrative detention*, *deprivation of liberty*, *detention (migration)*, *restriction of liberty*

## detention (migration)

The deprivation of liberty for migration-related reasons.

*Source:* International Detention Coalition, *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention* (revised edition 2015) p. 79.

*Note:* Detention of migrants occurs as a consequence of both immigration and emigration and the label of the term reflects the use of detention in both occurrences. Within the migration context, detention is ordered by either administrative or judicial authorities, for reasons such as to establish identity, pending the processing of an immigration or asylum claim or for the purpose of enforcing an expulsion order. In some instances, detention is applied without any formal order. International human rights law protects the right to liberty and security of persons, and applies conditions on any deprivation of liberty (see of the International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Arts 9–10). Several international legal instruments stipulate that detention must not be arbitrary or unlawful, must have a legal basis in national law and must be used only when strictly necessary, such as in the case of a risk of absconding or of a conduct by the individual which risks hampering immigration procedures or the enforcement of a removal order. The safeguards set forth in human rights law apply, irrespective of whether or not the measure is considered as detention by the national authorities or under the relevant legislation, every time a person is deprived of his or her liberty. The Working Group on Arbitrary Detention underlines that “immigration detention should gradually be abolished” (United Nations Human Rights Council, Report of the Working Group on Arbitrary Detention (18 January 2010) UN Doc. A/HRC/13/30, para. 58) and “alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention” (United Nations Commission on Human Rights, Report of the Working Group on Arbitrary Detention, Addendum, Report on the Visit of the Working Group to the United Kingdom on the Issue of Immigrants and Asylum Seekers (18 December 1998) UN Doc. E/CN.4/1999/63/Add.3, para. 33). States have also expressed support for alternatives to detention in the New York Declaration for Refugees and Migrants ((adopted 19 September 2016) UN Doc. A/71/L.1, para. 33). Finally, the detention of children is never in their best interests and constitutes a clear violation of their rights (United Nations Committee on the Rights of the Child, Report of the 2012 Day of General Discussion: The Rights of All Children in the Context of International Migration (2012) para. 78; see also the New York Declaration for Refugees and Migrants).

See also *administrative detention, deprivation of liberty, restriction of liberty*

## detention centre (migration)

A specialized facility used for the detention of migrants with the primary purpose of facilitating administrative measures such as identification, processing of a claim or enforcing a removal order.

*Note:* Migrants, irrespective of status, have been documented to be held in detention in a number of physical contexts including,

but not limited to: designated immigration detention facilities; unofficial immigration detention centres; removal or transit centres; closed reception or processing centres; semi-open reception or processing centres; closed refugee camps; criminal prisons, police lockups, or police stations; private security company compounds, airports, ships, etc. Irrespective of the name given to a facility, if a person is deprived of his or her liberty, the safeguards guaranteed by international law apply.

Article 10 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) stipulates that: “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. Migration detention centres should not bear similarities to prison-like facilities. In particular, the authorities in charge of these facilities should not be security forces; the officials working in these types of facilities should be trained in human rights, cultural sensitivity, and age and gender considerations, particularly with respect to the needs of migrants in vulnerable situations; disciplinary rules should be markedly different from those in place in prison facilities; and women should be separated from men.

States are responsible for ensuring humane conditions of detention even in privately-run detention facilities (see United Nations Human Rights Committee, Mr Carlos Cabal and Mr Marco Pasini Bertran v Australia (19 September 2003) UN Doc. CCPR/C/78/D/1020/2001).

*See also deprivation of liberty, detention (migration), holding centre, reception facilities*

## diaspora

Migrants or descendants of migrants whose identity and sense of belonging, either real or symbolic, have been shaped by their migration experience and background. They maintain links with their homelands, and to each other, based on a shared sense of history, identity, or mutual experiences in the destination country.

*Source:* Adapted from International Organization for Migration, IOM’s Strategy to Enable, Engage and Empower Diaspora (n.d.) 1.

*Note:* As further noted in IOM’s Strategy to Enable, Engage and Empower Diaspora ((n.d.) 1), “IOM also refers to diaspora as transnational communities, because in a world of unprecedented global mobility, they comprise people who are connected to more than one country. The transnational nature of diaspora implies that these people are crucial when it comes to connecting countries and communities, because they can call on multiple networks, relate to different identities and share a sense of belonging to more than one community”.



**diplomatic asylum** Refer to **asylum (diplomatic)**

## diplomatic protection

The invocation by a State, through diplomatic action or other means of peaceful settlement, of the responsibility of another State for an injury caused by an internationally wrongful act of that State to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility.

*Source:* International Law Commission, Draft Articles on Diplomatic Protection with commentaries (2006) in UN Doc. A/61/10, Art. 1.

*Note:* Diplomatic protection is traditionally a mechanism designed to secure reparation for injury to the national of a State. Diplomatic protection is thus generally conceived as a right of the State and not of the individual. However, Art. 19 of the Draft Articles on Diplomatic Protection stipulates that States “should give due consideration to the possibility of exercising diplomatic protection, especially when a significant injury has occurred”. The same Article also recommends that States transfer to the injured person any compensation obtained.

Diplomatic protection claims are subject to the rule of exhaustion of domestic remedies, therefore a State cannot submit a claim before the injured person has exhausted all local remedies (International Law Commission, Draft Articles on Diplomatic Protection with commentaries (2006) in UN Doc. A/61/10, Art. 15).

## disaster

A serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts.

*Source:* United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction (1 December 2016) UN Doc. A/71/644, p. 13.

*Note:* The International Law Commission adopted the following alternative definition of disaster, which includes an express reference to mass displacement: “‘disaster’ means a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society” (International Law Commission, Protection of Persons in the Event of Disasters: Titles and Texts of the Preamble and Draft Articles 1 to 18 of the Draft Articles on

the Protection of Persons in the Event of Disasters Adopted, on Second Reading, by the Drafting Committee (27 May 2016) UN Doc. A/CN.4/L.871, Art. 2(a)).

*See also disaster displacement, disaster risk, disaster risk reduction, early warning system (disaster), hazard*

## disaster displacement

The movement of persons who have been forced or obliged to leave their homes or places of habitual residence as a result of a disaster or in order to avoid the impact of an immediate and foreseeable natural hazard.

*Source:* Adapted from The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (Vol. 1, December 2015) p. 16.

*Note:* Such displacement results from the fact that affected persons are (i) exposed to (ii) a natural hazard in a situation where (iii) they are too vulnerable and lack the resilience to withstand the impacts of that hazard. It is the effects of natural hazards, including the adverse impacts of climate change, that may overwhelm the resilience or adaptive capacity of an affected community or society, thus leading to a disaster that potentially results in displacement (The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (Vol. 1, December 2015) p. 4) .

Disaster displacement may take the form of spontaneous flight, an evacuation ordered or enforced by authorities or an involuntary planned relocation process. Such displacement can occur within a country (internal displacement), or across international borders (cross-border disaster displacement) (ibid.).

*See also cross-border displacement, disaster, displacement, internally displaced persons*

## disaster risk

The potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time, determined probabilistically as a function of hazard, exposure, vulnerability and capacity.

*Source:* United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction, UN Doc. A/71/644 (1 December 2016) p. 14.

*Note:* As drivers of disaster risk are typically the same as those of disaster-related displacement risk, measures that reduce disaster risk, build resilience, and diversify the livelihoods of vulnerable populations will also reduce the risk of displacement. The Internal Displacement Monitoring Centre (IDMC) has developed a historical displacement model to estimate disaster-induced displacement risk. Such estimates indicate that disaster-related displacement risk has quadrupled since the 1970s. This increase in displacement risk suggests that exposure has increased more quickly than vulnerability has been reduced. IDMC has also established a Global Displacement Risk Model measuring “the average number of people expected to be displaced each year [by sudden-onset hazards] considering all events that could occur over an extended timeframe” (IDMC, *Global Disaster Displacement Risk: A Baseline for Future Work* (October 2017) p. 10). Emphasizing that the “AAD [Average Annual Displacement] should be considered as an indicator of the potential magnitude of displacement, not as an exact value” (ibid.), IDMC estimated that people living in countries in South and East Asia and Pacific regions have the highest risk of being displaced as a result of the large populations within these countries and their exposure to multiple risks of natural hazards therein (ibid., pp. 12–15).

See also [disaster](#), [disaster displacement](#), [disaster risk reduction](#), [early warning system](#)

## disaster risk reduction

Policy objective to prevent new and reduce existing disaster risk and managing residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.

*Source:* Adapted from United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction, UN Doc. A/71/644 (1 December 2016) p. 16.

*Note:* Effective disaster risk reduction policies and strategies can make vital contributions to helping countries and communities prevent, mitigate or adapt to disaster-related risks that otherwise can result in large-scale unmanaged migration, including displacement. Such policies and strategies also include improving capacities of States and vulnerable communities to anticipate, respond to, and recover from the impacts of disaster and consequent displacement through strengthened disaster preparedness, and to foster resilience through risk-informed recovery, rehabilitation and reconstruction (see International Organization for Migration (IOM), *Migration, Risk and Resilience in the Context of Sudden or Slow-Onset Disaster: Towards Actionable Commitments of the Global Compact for Safe, Orderly and Regular Migration (Draft)* (2017) p. 2).



When living conditions deteriorate as a result of the effects of natural hazards, environmental degradation or climate change, individuals and families may resort to mobility-based strategies to reduce risk and build resilience by seeking alternative opportunities within their country or abroad. Managed properly, circular or temporary migration can be effective in helping people protect life and assets, access assistance and livelihood opportunities and progressively return to normalcy as conditions allow. Migration can also support resilient recovery in communities and countries of origin by allowing migrants to send back remittances and return home with newly acquired knowledge, technology and skills (see The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disaster and Climate Change* (2015) p. 9; IOM, *IOM Compendium of Activities on DRR and Resilience* (2013); IOM, *Outlook on Migration, Environment and Climate Change* (2014); and IOM, *The Atlas of Environmental Migration* (2017)).

See also *build back better, disaster, disaster displacement, disaster risk, early warning system*

D

## discretionary forms of protection

Protection mechanisms granted at the discretion of State authorities to give protection on their territory to a person or a group of persons, either temporarily or more permanently, based on “humanitarian” or “compassionate” grounds.

*Source:* Adapted from International Commission of Jurists, *Migration and International Human Rights Law: Practitioners Guide No. 6* (2011) p. 83.

*Note:* Reasons to grant protection of this kind include serious health risks (when falling below the threshold of States’ obligation of non-refoulement) or risks stemming from extreme poverty in case of return, or natural disasters in the country of origin. Although sometimes inspired by international human rights law, discretionary forms of protection are in general not mandated by it and remain at the discretion of the State, unless the principle of non-refoulement applies. The Executive Committee of the United Nations High Commissioner for Refugees in its Conclusions on the Provision on International Protection Including Through Complementary Forms of Protection (2005) No. 103 (LVI), para. j, noted that “States may decide to allow prolonged stay for compassionate or practical reasons and recognize[d] that such cases must be clearly distinguished from cases where there are protection needs”.

See also *complementary protection (international), humanitarian admission, humanitarian protection, humanitarian visa, international protection, temporary protection or stay arrangements*

## discrimination

Any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

*Source:* Human Rights Committee, General Comment No. 18: Non-Discrimination (10 November 1989) para. 7 in UN Doc. HRI/GEN/1/Rev.1, 26.

*Note:* The principle of non-discrimination is a fundamental principle of human rights guaranteed in all human rights instruments. The CCPR clarified that in some cases States can legitimately treat differently persons or groups of persons who are in a different situation. However, the criteria for such differentiation should be reasonable and objective, the aim of the differential treatment should be legitimate under the Covenant and the measure adopted to achieve such aim be proportionate (Human Rights Committee, General Comment No. 18: Non-Discrimination (10 November 1989) para. 7, UN Doc. HRI/GEN/1/Rev.1, 26, para. 13).

*See also non-discrimination (principle of), racial discrimination, racism, xenophobia*

## disengaged combatant

A person who has assumed any of the responsibilities or carried out any of the activities of a 'combatant', and has laid down or surrendered his/her arms with a view to separating from the armed group.

*Source:* Adapted from United Nations Disarmament, *Demobilization and Reintegration Resource Centre, "ex-combatant", General Integrated Disarmament, Demobilization, and Reintegration Standards, 1.20 Glossary: Terms and Definitions* (1 August 2006) p. 7.

*Note:* As further noted in the definition provided by the United Nations Disarmament and Demobilization and Reintegration Resource Centre (UNDDR): "Former combatant status may be certified through a demobilisation process by a recognized authority. Spontaneously auto-demobilised individuals, such as deserters, may also be considered ex-combatants if proof of non-combatant status over a period of time can be given" (UNDDR, "ex-combatant", *General Integrated Disarmament, Demobilization, and Reintegration Standards, 1.20 Glossary: Terms and Definitions* (1 August 2006) p. 7)). For IOM, it is preferable to use the term spontaneous disengagement, which infers the exit from a sanctioned violent extremist group by one's own volition without the support of States or other international or national assistance.

In traditional DDR, disengagement is a voluntary process, formal or informal, by which one or more individuals cease to be involved in armed forces or other armed groups, giving up their arms. Disengagement is distinct from demobilization which is a formal process by which an individual is recognized through legal procedures and institutions to formally have separated from an armed group.

See also *armed conflict, humanitarian law (international)*

## displaced persons

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, either across an international border or within a State, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters.

*Source:* Adapted from Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2, 5, para. 2 of the introduction.

See also *internally displaced persons, migrant, refugee (mandate), refugee (prima facie), refugee (1951 Convention)*

## displacement

The movement of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters.

*Source:* Adapted from Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2, para. 2 of the introduction.

*Note:* Unlike the Guiding Principles on Internal Displacement, the above definition is meant to cover both internal and cross-border displacement. Principle 6 of the Guiding Principles stipulates the right to be protected against arbitrary displacement. Displacement is considered arbitrary in the following circumstances: "(a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or

racial composition of the affected population; (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand; (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests; (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and (e) When it is used as a collective punishment” (Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2, Principle 6.2). In order not to be arbitrary, displacement shall also last no longer than required by the circumstances (ibid., Principle 6.3).

In international humanitarian law, the (forced) displacement of civilians is prohibited and constitutes a war crime both in times of international and non-international armed conflicts except when required for their security or imperative military reasons (see Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, Art. 49(1); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (Additional Protocol II) Art. 17(1) and (2); Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art. 8(2)(a)(viii) and (e)(viii)). The prohibition of individual or mass displacement is also endorsed by the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (adopted 23 October 2009, entered into force 6 December 2012) Art. 4(4)(b)).

*See also cross-border displacement, deportation, disaster displacement, evacuation, forced migration, forcible transfer, human mobility, internally displaced persons, mass evacuation, migration, protracted displacement*

## documented migrant

A migrant authorized to enter and to stay pursuant to the law of that State or to international agreements to which that State is a party and who is in possession of documents necessary to prove his or her regular status in the country.

*Source:* Adapted from the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5(a).

*Note:* Although regular migrants are usually documented, there may be situations in which a regular migration status does not

correspond to being documented. For example, within regional freedom of movement regimes, migrants, who are authorized to move within the region, may lack the document to prove that they are nationals of one of the Member States of the regional community, and therefore may be undocumented.

*See also documented migrant worker, migrant, regular migration, undocumented migrant*

## documented migrant worker

A migrant worker or members of his or her family authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5(a).

*See also migrant, migrant worker, regular migration*

## domestic remedies (exhaustion of)

In accordance with the principle of subsidiarity, the rule based on which domestic remedies must be exhausted before international proceedings may be instituted.

*Source:* Adapted from J. Grant and J. Barker (eds), *Parry and Grant Encyclopedic Dictionary of International Law* (3rd edition, Oxford University Press, 2009).

*Note:* This rule is grounded on the principle of subsidiarity of international law and applies also to claims before human rights bodies. However, for human rights claims only the remedies that are accessible and effective must be exhausted. For example, Article 5(2)(b) of the Optional Protocol to the International Covenant on Civil and Political Rights states “The Committee shall not consider any communication from an individual unless it has ascertained that: ... The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged” ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171).

## domicile

The place at which a person is physically present and that the person regards as home; a person’s true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere.



Source: B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

See also *habitual residence, residence, usual residence*

## drivers of migration

Complex set of interlinking factors that influence an individual, family or population group's decisions relating to migration, including displacement.

*Note:* The concept of “drivers of migration” is dynamic, reflecting an interaction of personal, social, structural, environmental and circumstantial factors working in tandem with local, national, regional and global level incentives and constraints. Drivers influence the decisions to migrate, whether the migration is internal or international, regular or irregular, and/or temporary or permanent; and they operate along a spectrum between voluntary and involuntary movement. Given a lack of agreed terminology, academics, policy-makers and practitioners often use the terms “drivers” and “root causes” synonymously to describe the underlying conditions or accumulation of grievances that progressively compel movement, including displacement. Drivers can also be understood as a broader term that encompasses “root causes”.

Also often referred to as “determinants of migration”, drivers can include a positive desire for change, entrepreneurship, skills transfer, family reunification, cultural expectations, and filling labour demands abroad, and/or include responding to sudden shocks, slow onset pressures, or chronic hardships, such as those associated with underdevelopment, poverty, food insecurity, poor governance, disasters, climate change, environmental degradation, cultural factors, inequalities, persecution, human rights violations, armed conflicts, violence or serious disturbances of public order, among others.

See also *push-pull factors, root causes*

## dual/multiple nationality

Simultaneous possession of the nationality of two or more countries by the same person.

See also *nationality*

## due process

In its broadest sense, the legal requirement that the State must respect all of the legal rights that are owed to a person. It is the process that is due to be respected by both administrative and

judicial authorities in all procedures, which is based on the law and ensures fairness, reasonableness, absence of arbitrariness and the necessity and proportionality of any limitation imposed on rights of the concerned individual.

*Source:* Adapted from United Nations Office of the High Commissioner for Human Rights, Counter-Terrorism Implementation Task Force (CTITF), *Right to a Fair Trial and Due Process in the Context of Countering Terrorism* (CTITF Publication Series October 2014) 4, para. 5.

*Note:* The right to due process of law and procedural protection is guaranteed to everyone, including non-nationals, in all procedures, including those relating to immigration, emigration, criminal charges, detention, expulsion or deportation. It is enshrined in various instruments of international law including, for example, Arts 9, 13 and 14 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Arts 5(2) and 13 of the European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221); Arts 7 and 8 of the American Convention on Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123); Arts 6, 7 and 26 of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217); and Arts 16, 18 and 83 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3).

*See also fair trial*

## durable solution (refugees)

Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to lead normal lives.

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006).

*Note:* Durable solutions for refugees traditionally include: voluntary repatriation, local integration or resettlement.

*See also integration, refugee (1951 Convention), refugee (mandate), refugee (prima facie), reintegration, resettlement (refugees), sustainable reintegration, voluntary repatriation*

## durable solution (internally displaced persons)

For internally displaced persons, a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their

displacement and can enjoy their human rights without discrimination on account of their displacement.

*Source:* Adapted from United Nations Human Rights Council, Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, Addendum, Framework on Durable Solutions for Internally Displaced Persons (2009) UN Doc. A/HRC/13/21/Add.4, para. 8.

*Note:* Durable solutions for internally displaced persons generally include: sustainable reintegration at the place of origin (also referred to as return); sustainable local integration in areas where internally displaced persons take refuge (local integration); sustainable integration in another part of the country (settlement elsewhere in the country) ( The Brookings Institution – University of Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons* (2010) p. A–1; see also International Organization for Migration, *Progressive Resolution of Displacement Situations: Framework*, 2016).

*See also integration, internally displaced persons, reintegration, settlement elsewhere in the country, sustainable reintegration*



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## E

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### early warning system (disaster)

An integrated system of hazard monitoring, forecasting and prediction, disaster risk assessment, communication and preparedness activities systems and processes that enables individuals, communities, governments, businesses and others to take timely action to reduce disaster risks in advance of hazardous events.

*Source:* United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction, UN Doc. A/71/644 (1 December 2016) p. 18.

*Note:* In the context of migration crisis, early warning systems can be key to helping governments, communities and humanitarian agencies anticipate and prevent disaster and associated displacement, and, in the event a displacement situation still occurs, facilitate more timely and effective delivery of protection and assistance to affected populations. Effective early warning systems facilitate actions that address drivers of risk early on to avert mass displacement, and provide options, such as evacuation or planned relocation assistance, to those who otherwise risk becoming displaced. Early warning systems are also key to enabling governments, communities and humanitarian actors to pre-position shelter, food, medicines and other supplies in areas that are likely to receive large numbers of displaced persons (International Organization for Migration (IOM), IOM Strategic Work Plan on Disaster Risk Reduction 2017-2018 (Draft) (2017) 12).

*See also* [disaster](#), [disaster displacement](#), [disaster risk](#), [disaster risk reduction](#), [hazard](#)

### economic migrant

While not a category in international law, the term is sometimes used to refer to any person who is moving or has moved across an international border or within a State, solely or primarily motivated by economic opportunities.

*Note:* The use of this term should be discouraged for a number of reasons. Firstly, categorizing migrants by a single reason of migration is questionable in light of the complex, and often overlapping, drivers of migration. Secondly, the term “economic migrant” is often juxtaposed to the term refugee to underline the fact that refugees are entitled to a specific protection under

refugee law, whereas States have no obligations towards those migrating to seek better economic opportunities abroad. This is clearly contrary to the prescriptions of international law and overrides the universality of human rights.

For the above-mentioned reasons, the term should be used with caution particularly when describing mixed migration flows. The term “migrant worker”, as defined in the International Convention on the Rights of all Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2.1), is a more neutral term and should be preferred. The term economic migrant should in turn only be used to refer to some very specific categories of migrants who are not covered under the migrant workers definition set forth by the International Convention, such as investors.

*See also migrant worker*

## economic migration

The movement of a person or a group of persons, either across an international border, or within a State motivated solely or primarily by economic opportunities.

*Note:* Economic migration differs from labour migration in that it is not necessarily for the purpose of seeking or entering into employment but may also include economic activities such as investment.

*See also labour migration*

## electronic passport

Also known as e-passport or biometric passport, a passport with an electronic chip which contains the same information that is printed on the passport’s data page (e.g. the holder’s name, date of birth and other biographical information) and a biometric identifier, such as a digital photograph of the holder or a fingerprint.

*See also biometrics, identity document, passport, travel document*

## economic, social and cultural rights

Human rights relating to the workplace, social security, family life, participation in cultural life, and access to housing, food, water, health care and education.

*Source:* United Nations Office of the High Commissioner for Human Rights, *Frequently Asked Questions on Economic, Social and Cultural Rights* (2008) p. 1.

*Note:* At the universal level, these rights are enumerated in the International Covenant on Economic, Social and Cultural Rights ((adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3), as well as other United Nations human rights treaties, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3).

See also *civil and political rights, human rights*

## emigrant

From the perspective of the country of departure, a person who moves from his or her country of nationality or usual residence to another country, so that the country of destination effectively becomes his or her new country of usual residence.

*Source:* Adapted from United Nations Department of Economic and Social Affairs, “long-term migrants”, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 18.

*Note:* This definition is adapted from the one of long-term migrant provided by the Statistics Division of the United Nations Department of Economic and Social Affairs (UN DESA), which reads as follows: “A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence. From the perspective of the country of departure, the person will be a long-term emigrant and from that of the country of arrival, the person will be a long-term immigrant” (UN DESA, *Recommendations on Statistics of International Migration*, Revision 1 (1998) 18). The reference to 12 months as a minimum period of stay has been omitted with a view to covering those who emigrate for a shorter period, if the person has changed his or her usual residence. Given that also short-term emigrants are covered by the definition, and in line with UN DESA understanding of the term short-term migrant, persons who move in cases where the movement to that country is for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage are excluded. Ibid. Whether an emigrant is considered as long-term or short-term depends on the duration of stay in the country of destination. A person who stays away from the country for a period of three to twelve months is considered a short-term emigrant, whereas a person who stays away from the country for a period exceeding twelve months is considered a long-term emigrant. The definition of who is an emigrant can vary from one country to another.

See also *emigration*



## emigration

From the perspective of the country of departure, the act of moving from one's country of nationality or usual residence to another country, so that the country of destination effectively becomes his or her new country of usual residence.

See also *emigrant*

## entry

In the migration context, any crossing of an international border by a non-national to enter into a country, whether such a crossing is voluntary or involuntary, authorized or unauthorized.

See also *admission (into a State)*

## entry ban

An administrative or judicial decision or act preventing entry into and stay in the territory of the issuing State for a specified period, usually accompanying a return decision.

Source: Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

See also *admission ban*

## entry stamp

A mark made by a border official in a person's travel document stating the date and place of that person's entry into the State.

See also *entry, exit stamp, identity document, travel document*

## environmental migrant

A person or group(s) of persons who, predominantly for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are forced to leave their places of habitual residence, or choose to do so, either temporarily or permanently, and who move within or outside their country of origin or habitual residence.

Source: Council of the International Organization for Migration (IOM), Discussion Note: Migration and the Environment (November 2007) MC/INF/288; IOM, International Dialogue on Migration (no. 18) Climate Change, Environmental Degradation and Migration (2012); IOM, Outlook on Migration, Environment and Climate Change (2014).

*Note:* There is no international agreement on a term to be used to describe persons or groups of persons that move for environment related reasons. This definition of environmental migrant is not meant to create any new legal categories. It is a working definition aimed at describing all the various situations in which people move in the context of environmental factors.

See also *climate migration, environmental migration, migrant*

## environmental migration

The movement of persons or groups of persons who, predominantly for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are forced to leave their places of habitual residence, or choose to do so, either temporarily or permanently, and who move within or outside their country of origin or habitual residence.

*Note:* Migration in this context can be associated with greater vulnerability of affected people, particularly if it is forced. Yet, migration can also be a positive response to environmental stressors, helping to adapt to changes in the environment and to build resilience of affected individuals and communities.

See also *climate migration, environmental migrant*

## evacuation

Facilitation or organization of transfer of individuals or groups from one area/locality to another in order to ensure their security, safety and well-being.

*Source:* Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons* (2010) p. 503.

*Note:* Evacuations may take place both in the context of or after a disaster, a situation of violence or an armed conflict. In the context of disasters, an evacuation refers to the act of “[m]oving people and assets temporarily to safer places before, during or after the occurrence of a hazardous event in order to protect them” (United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology relating to Disaster Risk Reduction (1 December 2016) UN Doc. A/71/644, p. 18).

Moreover, [e]vacuations may be:

**Mandatory:** when it is ordered and directed by authorities in cases in which it is judged that the risk to a population is too great to allow them to remain where they are, and where sheltering in place would likely entail a higher level of risk. A mandatory evacuation is

not considered arbitrary or unlawful and thus permissible if it is done in accordance with the law, absolutely necessary under the circumstances to protect life, health or the physical integrity of the affected persons, and to the extent the emergency allows, in proper consultation with the affected population.

**Advised:** when an official evacuation advisory message is issued to enable early response and informed decision-making by the population at risk on whether and when to evacuate.

**Spontaneous:** when people evacuate their current location due to actual or perceived risk using their own means (self-evacuation) and without (or before) being officially advised or directed to do so. This may include people who leave areas outside a designated evacuation zones” (Camp Coordination and Camp Management Cluster, *The MEND Guide: Comprehensive Guide for planning mass evacuations in disasters* (2014) p. 17).

In the context of an armed conflict, evacuation of endangered areas is regulated by international humanitarian law. Article 49(2) of the 1949 Geneva Convention IV relative to the Protection of Civilian Persons in Time of War ((adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287) provides: “The Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand”. Persons evacuated shall be transferred back to their homes as soon as the hostilities in the area in question have ceased. Evacuation is also implicitly foreseen during non-international armed conflicts as an exception to the prohibition of displacement when the security of civilians or imperative military reasons so demand (Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (Additional Protocol II) Art. 17(1); International Committee of the Red Cross *Customary International Humanitarian Law*, (Vol 1, ICRC and Cambridge University Press, 2005) Rule 129B). International humanitarian law also regulates the temporary evacuation of children both in times of international and non-international armed conflicts (see Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3 (Additional Protocol I) Art. 78(1); and Additional Protocol II, Art. 4(3)(e)).

See also *deportation, displacement, forcible transfer, mass evacuation*

## exclusion clauses (international protection)

Legal provisions that deny the benefits of international protection to persons who would otherwise satisfy the criteria for such protection.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006).

*Note:* In the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137), the exclusion clauses refer to Arts 1D, E and F. Arts 1 D and E exclude individuals who are already benefitting from protection either by organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees or by the host State as residents recognized as having the rights and obligations attached to nationality. According to Article 1F of the Refugee Convention persons excluded from the refugee status include: "... any person with respect to whom there are serious reasons for considering that: (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee; (c) he has been guilty of acts contrary to the purposes and principles of the United Nations...". Similar exclusion clauses exist for other forms of international protection, such as complementary protection (see for instance the European Union Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [2011] OJ L 337/9, Art. 17).

*See also international crimes, international protection, complementary protection (international), crimes against humanity, genocide, refugee (1951 Convention), refugee (mandate), refugee status determination, war crimes*

## exit stamp

A mark made by a border official in a person's travel document stating the date and place of that person's exit from the territory of the State.

*See also entry stamp, identity document, travel document*

**exit visa** Refer to [visa](#)

## expatriate

A person who voluntarily renounces his or her nationality.

*Note:* The term is also used colloquially to identify nationals who have taken up residence in a foreign country, such as employees of multinational companies or international civil servants. The definition provided above captures the way the term is used

in some national legislation, where expatriation involves the voluntary renunciation of one's nationality or citizenship and thereby an absolute termination of all civil and political rights provided by such nationality or citizenship as of the date of such an act. Art. 15(2) of the Universal Declaration of Human Rights sets forth the right of everyone to change nationality ((adopted 10 December 1948) UNGA Res 217(A)).

See also *migrant, renunciation of nationality*

## exploitation

The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit.

*Note:* The term "benefit", as it is used in the definition, may encompass not only material, but also any other types of benefit.

Article 3(a) of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319) refers to the following forms of exploitation: prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs and other forms of exploitation defined in national law. This list should not be considered exhaustive.

According to Article 6(3)(b) of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507), States are required to adopt such legislative and other measures as may be necessary to establish as aggravating circumstances those "that entail inhuman or degrading treatment, including for exploitation, of such migrants".

See also *child exploitation, debt bondage, forced/compulsory labour, servitude, slavery, trafficking in persons, sexual exploitation*

## expulsion

A formal act or conduct attributable to a State by which a non-national is compelled to leave the territory of that State.

*Source:* Adapted from United Nations, International Law Commission, Draft Articles on the Expulsion of Aliens, with Commentaries (2014) Art. 2(a).

*Note:* The terminology used at the domestic or international level on expulsion and deportation is not uniform but there is a clear tendency to use the term expulsion to refer to the legal order



to leave the territory of a State, and removal or deportation to refer to the actual implementation of such order in cases where the person concerned does not follow it voluntarily (W. Kälin, 'Aliens, Expulsion and Deportation' in R. Wolfrum (ed) *Max Planck Encyclopedia of Public International Law* (2014).

See also *deportation, expulsion order, forced return, refoulement, removal*

## expulsion order

An administrative act or a judicial decision requiring a non-national to leave its territory.

*Note:* In the domestic law of most States, expulsion is a formal administrative or judicial act by the State since it is a decision by administrative or judicial authorities. It may be contested before the courts of the expelling State (United Nations, International Law Commission, Draft Articles on the Expulsion of Aliens, with Commentaries (2014) p. 4). However, in some cases, expulsion occurs even in the absence of a formal legal act that can be appealed.

Procedural safeguards are set forth in human rights law to ensure the expulsion of non-nationals is not arbitrary. Article 13 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) stipulates, "an alien lawfully in the territory of a State Party ... may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall ... be allowed to submit the reasons against his expulsion and to have his case reviewed". The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 22) extends the scope of application of the right to all migrant workers including those who are in an irregular situation and stipulates some specific safeguards with regard to expulsion that apply to all migrant workers and members of their family including those who are undocumented or in an irregular situation (i.e. adoption of the decision by competent authorities, obligations surrounding communication of the expulsion decision, right to appeal against the decision, right to compensation in case of annulment of the decision after it has been enforced, time to settle any claims for wages and right not to bear the costs of expulsion, except for the travel costs).

See also *deportation order, expulsion, removal order*

## extradition

The process whereby under treaty or upon the basis of reciprocity one State surrenders to another State at its request a person accused or convicted of a criminal offence committed against the laws of the requesting state, such requesting state



being competent to try the offender or to apply the sentence or detention order.

*Source:* Adapted from I.A. Shearer, *Starke's International Law* (Butterworths, 1994) p. 137.

*Note:* The process of extradition is usually based on a combination of national legislation, bilateral treaties or, in some cases, multilateral conventions (see, for example the European Convention on Extradition (adopted 13 December 1957, entered into force 18 April 1960) ETS No 024). The rules surrounding extradition have to respect a number of principles, such as that of double-criminality (whereby the crimes charged must be a crime in the legal framework of both the extraditing State as well as the State where the person is being extradited to), the *ne bis in idem* principle, the speciality rule and, generally outside the scope of application of multilateral conventions, the principle of reciprocity (see, for example, European Convention on Extradition, Arts 2(1), 2(7), 9 and 14).

Persons extradited might be nationals (if not barred by the constitution or another law of the extraditing State), or non-nationals arrested on the State's territory.

All extraditions should also respect the principle of non-refoulement (see, *Soering v The United Kingdom* App no 14038/88 (ECtHR, 7 July 1989) para. 99).

E

## extraterritorial processing

In the context of asylum procedure, the processing of asylum applications outside the territories of the State to which the asylum claim has been made.

*Note:* Also referred to as offshore processing.

*See also* [offshore processing](#)

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**facilitated migration**

Regular migration that has been encouraged or supported by State policies and practices or by the direct assistance of international organizations to make the act of migration and residence easier, more transparent and more convenient.

*Note:* Facilitated migration may, for example, take the form of a streamlined visa application process, government assisted labour migration, or pre-departure orientation programmes.

**fair trial**

A trial by a court or tribunal complying with judicial authority rules (requiring a competent, independent and impartial tribunal established by law) and procedural rights (including equality before the courts and the rights of defence, to fair and public hearing, to a prompt trial, to avoid self-incrimination in a criminal case, to have the decisions published, and to avoid double jeopardy).

*Note:* A fair trial is a fundamental human right and stipulated in various international human rights instruments, such as Article 10 of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)); Article 14(1) of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Article 7(1) of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217); Article 8(1) of the American Convention on Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123), and Article 6(1) of the European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221).

See also *due process*

**family members** Refer to *members of the family*

**family migration**

A general concept covering: 1) family reunification of spouse, parent, children or other relatives; 2) family formation or new marriage of a migrant with permanent residents or citizens; or 3) family accompanying a family member entering at the same time as primary migrant.

*Source:* Adapted from International Organization for Migration, International Dialogue on Migration: Migration and Families (2015) p. 33.

*See also* [family reunification \(right to\)](#)

## family reunification (right to)

The right of non-nationals to enter into and reside in a country where their family members reside lawfully or of which they have the nationality in order to preserve the family unit.

*Source:* Adapted from Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification [2003] OJ L 251/12.

*See also* [family migration](#), [family unity \(right to\)](#)

## family unity (right to)

A family's right to live together and, as a fundamental unit of a society, to receive respect, protection, assistance and support.

*Note:* The right to family unity consists of the right of a family living in a country of which some or all of the family members do not have nationality not to be separated, through for example the expulsion of one of the family members. This right is not limited to nationals living in their own State and is protected by international law. The right is not absolute and can be limited in accordance to national law and international standards.

The right is stipulated in the following instruments: Article 16 of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)); Arts 17 and 23 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Article 10 of the International Covenant on Economic, Social and Cultural Rights ((adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3); Article 10 of the Convention on the Rights of the Child ((adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3); Article 44 of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3); Article 17 of the American Convention on Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123); Article 18 of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217); Article 8, European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221); Article 16, European Social Charter ((adopted 18 October 1961, entered into force 26 February 1965) ETS No 035); Article 16, European Social Charter (revised) ((adopted 3 May 1996, entry into force 1 July 1999) ETS No 163).

*See also* [family reunification \(right to\)](#)

## feminization of migration

The changing nature of women’s migration, reflecting the fact that more women migrate independently rather than as members of a household, and are actively involved in employment.

*Note:* While the proportion of female migrants has not changed greatly in recent decades – the female share of the total number of international migrants has remained between approximately 48–49 per cent from the years 2000 to 2015 (United Nations Department of Economic and Social Affairs, *International Migration Report 2015* (2016) ST/ESA/SER.1/384, p. 8) – the characteristics of migration have changed considerably. More women migrate independently, rather than as members of a household, and they are actively involved in employment. The increasing number of women migrating independently has increased development opportunities but also led to certain gender-specific vulnerabilities such as trafficking of women for the sex industry, domestic work, for forced or servile forms of marriage, and deskilling of high qualified migrant women. Women comprise slightly less than half of all international migrants. This phenomenon also impacts the country of origin where children and elderly left behind need to assume new roles.

## first country of asylum

Within some asylum systems, for a particular applicant for international protection, a State where he or she has already been granted international protection, that remains accessible and effective for the individual concerned.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Legal Considerations on the Return of Asylum seekers and Refugees from Greece to Turkey as Part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the Safe Third Country and First Country of Asylum Concept* (23 March 2016) p. 1.

*Note:* The notion of first country of asylum is sometimes used as grounds for considering an application for international protection inadmissible. As further noted by the United Nations High Commissioner for Refugees (UNHCR), “Application of the concept requires an individual assessment of whether the refugee will be readmitted to that country and granted a right of legal stay and be accorded standards of treatment commensurate with the 1951 Convention related to the Status of Refugees, and its 1967 Protocol, and international human rights standards, including protection from refoulement, as well as timely access to a durable solution. While accession to relevant international and regional instruments is a prerequisite for providing the necessary legal basis for the availability of protection and respect for rights, the actual practice of States and their consistent compliance with their obligations is decisive for determining the availability of such protection.



[...] When a State is considering applying the ‘first country of asylum’ [...] concept ..., the individual asylum seeker must have an opportunity within the procedure to be heard, and to rebut the presumption that she or he will be protected and afforded the relevant standards of treatment, in a previous State based on his or her circumstances” (UNHCR, *Legal Considerations on the Return of Asylum seekers and Refugees from Greece to Turkey as Part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the Safe Third Country and First Country of Asylum Concept* (23 March 2016) p. 2).

In European Union law, the concept of “first country of asylum” refers to the principle that: “Member States may consider an application for international protection as inadmissible ... if: [...] (b) a country which is not a Member State is considered as a first country of asylum for the applicant [...]” (Art. 33(2)(b) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180/60). Article 35 of the Asylum Procedures Directive (recast) further provides that “[a] country can be considered to be a first country of asylum for a particular applicant if: (a) he or she has been recognised in that country as a refugee and he or she can still avail himself/herself of that protection; or (b) he or she enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement, provided [in both cases] that he or she will be readmitted to that country” (ibid). Furthermore, the same Article provides that the applicant concerned “shall be allowed to challenge the application of the first country of asylum concept to his or her particular circumstances” (ibid., Art. 35 in fine).

See also *safe third country*

## fitness for travel

A state of physical and mental health that enables a person to travel safely, with no significant risk of deterioration under normal circumstances and with no risk of jeopardizing the safety of other passengers.

*Note:* Fitness for travel checks may be conducted at any point before and during travel. Health risks associated with the travel or transport of individuals and populations result from an interaction of three factors: (a) the health conditions of the traveller (including age, pre-existing health conditions and social determinants of health and vulnerability); (b) the actual journey (including the duration and mode of transport); and (c) access to health services before and during travel and at the final destination. These three factors influence the nature and likelihood of adverse health outcomes during or after travel. Managing the health of those in movement operations involves the mitigation of risk and the attempt to prevent or minimize adverse outcomes. Risk mitigation

may include referral for additional investigations, stabilization treatment and provision of special arrangements before, during and after travel.

See also *pre-embarkation checks*, *significant medical condition*

## flag State

A State whose flag a ship, having the nationality of that State, is entitled to flag.

*Source:* Adapted from United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, Art. 91(1).

*Note:* Art. 4 of the Geneva Convention of the High Seas ((adopted 29 April 1958, entered into force 30 September 1962) 450 UNTS 11) provides that: “Every State, whether coastal or not, has the right to sail ships under its flag on the high seas”. Article 5 stipulates that: “Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”.

Article 98 of the United Nations Convention on the Law of the Sea ((adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3) sets forth the duty to render assistance to persons in distress: “1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him...”.

**flow (migrant)** Refer to *migrant flow*

## forced/compulsory labour

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.

*Source:* Convention (No 29) concerning Forced or Compulsory Labour (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, Art. 2(1).

*Note:* Forced labour is explicitly recognized as a form of exploitation in the definition of trafficking in persons (Protocol to Prevent,



Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a).

*See also debt bondage, exploitation, servitude, slavery, trafficking in persons, sexual exploitation*

**forced displacement** Refer to **displacement**

## forced eviction

The permanent or temporary removal of individuals, families and/or communities against their will from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

*Source:* The Brookings Institution – University of Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons* (2010) p. 57.

*Note:* The notion of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties. Forced eviction does not automatically mean arbitrary displacement, but can be the first step leading to it.

## forced marriage

Marriage that is entered into without the free and full consent of one or both the intending spouses.

*Source:* Adapted from Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (adopted 7 November 1962, entered into force 9 December 1964) 521 UNTS 231, Art. 1.

*Note:* The practice of forced marriage contravenes Article 16(2) of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)), which provides that: “Marriage shall be entered into only with the free and full consent of the intending spouses”. The right is also stipulated in Article 2 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery ((adopted 7 September 1956, entered into force 30 April 1957) 266 UNTS 3); and, Article 1 of the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage ((adopted 7 November 1962, entered into force 9 December 1964) 521 UNTS 231). The Convention aims to eliminate child marriages and obliges States to take legislative action to specify a minimum age for marriage (Art. 2). Under International Criminal Law forced marriage has also been considered as a crime against humanity



(Prosecutor v Brima, Kamara & Kanu (Judgement) No SCSL 2004-16-A22 Feb. 2008, p. 202). Forced marriage is considered a form of gender-based violence.

See also *exploitation, servitude, slavery*

## forced migration

A migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion.

*Note:* While not an international legal concept, this term has been used to describe the movements of refugees, displaced persons (including those displaced by disasters or development projects), and, in some instances, victims of trafficking. At the international level the use of this term is debated because of the widespread recognition that a continuum of agency exists rather than a voluntary/forced dichotomy and that it might undermine the existing legal international protection regime.

See also *asylum seeker, displacement, drivers of migration, internally displaced persons, refugee (mandate), refugee (1951 Convention), victim of trafficking in human beings*

## forced return

The act of returning an individual, against his or her will, to the country of origin, transit or to a third country that agrees to receive the person, generally carried out on the basis of an administrative or judicial act or decision.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

See also *deportation, expulsion, refoulement, removal*

## forcible transfer

In international humanitarian law, the forcible displacement of civilians which is prohibited in times of occupation and non-international armed conflict except when required for their security or imperative military reasons.

*Source:* Adapted from V. Chetail, The Transfer and Deportation of Civilians in A. Clapham, P. Gaeta and M. Sassòli (eds), *The Geneva Conventions: A Commentary* (Oxford University Press 2015) pp. 1188–1190.

*Note:* Article 49(1) of the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War ((adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287) prescribes that, in times of occupation, “Individual or mass forcible transfers, as well as deportation of civilian protected persons from the occupied

territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motives". The definition of forcible transfer and its difference with forcible deportation are not clear under international humanitarian law, although it seems to be that deportation refers to forced displacement across international borders while a transfer takes place within the territory of one State (V. Chetail, *The Transfer and Deportation of Civilians* in A. Clapham, P. Gaeta and M. Sassòli (eds), *The Geneva Conventions: A Commentary* (Oxford University Press, 2015) pp. 1188–1189). In any case, both are prohibited in times of occupation by virtue of Article 49(1) of Geneva Convention IV and customary law (International Committee of the Red Cross, *Customary International Humanitarian Law* (Vol 1, ICRC and Cambridge University Press, 2005) Rule 129). Although not used in provisions relating to non-international armed conflict, forcible transfer is arguably covered in the broader prohibition of forced displacement (V. Chetail, *The Transfer and Deportation of Civilians*, 1205–1206; see, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (Additional Protocol II), Arts 17(1) and (2)).

The only exception to the prohibition of forcible transfer arises when the civilians' security or imperative military reasons so require. This last condition nevertheless calls for a significantly high threshold as not any military reasons would qualify as imperative. The violation of this prohibition constitutes a war crime and a grave breach in international armed conflicts (See Geneva Convention IV relative to the Protection of Civilian Persons in Time of War, Art. 147; Additional Protocol Additional to the Geneva Conventions of 13 August 1949, and relating to the Protection of Victims of International Armed Conflicts, (adopted 8 June 1977, entered into force 7 December 1979) 1125 UNTS 3 (Additional Protocol I) Art. 85(4)(a); and Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art. 8(2)(a)(vii) and (e)(viii)).

In international criminal law, a forcible transfer is also an underlying offence of the crime of genocide and of the crime against humanity (see respectively, Rome Statute of the International Criminal Court, Arts 6(e) and 7(1)(d)).

*See also deportation, displacement, evacuation, forced displacement*

**foreign worker** Refer to *migrant worker*

**foreigner**

A person in a State of which he is not a citizen or national.

*See also alien, migrant, non-national, third-country national*

## fraud

A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.

*Source:* B.A. Garner, *Black's Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* Fraud is one of the means of coercion mentioned in the definition of trafficking of the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a)).

See also *identity fraud*

## fraudulent document

Any travel or identity document that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or that is being used by a person other than the rightful holder.

*Source:* Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507, Art. 3(c).

*Note:* In a broader migration context, fraudulent documents may also include false education certificates in connection with the recognition of diplomas and qualifications as well as fraudulent documents relating to employment such as curricula vitae (CVs) and reference letters from employers.

## freedom of movement (right to)

In human rights law, a human right comprising three basic elements: freedom of movement within the territory of a country and to choose one's residence, the right to leave any country and the right to return to one's own country.

*Source:* Adapted from Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A), Art. 13.

In the context of free movement agreements, the freedom of entry and residence into another State that is a party to the agreement.

*Note:* Under human rights law the right to freedom of movement does not entail a right to enter and to remain in a State which is not the individual's own country, except when the State has an obligation to admit the person under international law (e.g. in application of the principle of non-refoulement).

Article 12 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) describes this right as follows: "(1) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence; (2) Everyone shall be free to leave any country, including his own; (3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. (4) No one shall be arbitrarily deprived of the right to enter his own country".

As noted in the Human Rights Committee's No. 27: "The wording of article 12, paragraph 4, does not distinguish between nationals and aliens ('no one'). Thus, the persons entitled to exercise this right can be identified only by interpreting the meaning of the phrase 'his own country'. The scope of 'his own country' is broader than the concept 'country of his nationality'. It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien. [...] The language of Article 12, paragraph 4, moreover, permits a broader interpretation that might embrace other categories of long-term residents, including but not limited to stateless persons arbitrarily deprived of the right to acquire the nationality of the country of such residence. Since other factors may in certain circumstances result in the establishment of close and enduring connections between a person and a country, States parties should include in their reports information on the rights of permanent residents to return to their country of residence" (Human Rights Committee, General Comment No. 27: Freedom of Movement (Article 12) (1 November 1999) UN Doc. CCPR/C/21/Rev.1/Add.9, para. 20).

Freedom of movement is also a key right of nationals of States Parties to a regional free movement regime (e.g. European Union, Economic Community of West African States, Mercado Común del Sur (Mercosur) and the Caribbean Community).

See also *restriction of liberty, right to leave, right to return*

## frontier

In international law, that portion of the territory of any country which lies close along the border line of another country, and so "fronts" or faces it.

*Source:* B.A. Garner, Black's Law Dictionary (10th edition, Westlaw, 2014).

*Note:* The term is also commonly used to identify the boundary.

*See also* *borders (international), boundary*

## **frontier worker**

A migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(a).

*See also* *itinerant worker, migrant worker*



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## G

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### gender

The socially constructed roles and relationships, personality traits, attitudes, behaviours, values, relative power and influence that society ascribes to males and females on a differential basis. Gender is relational and refers not simply to women or men, but to the relationship between them.

*Source:* UN Women, Gender Mainstreaming in Development Programming (2014) p. 46.

*Note:* Although notions of gender are deeply rooted in every culture, they are also changeable over time and have wide variations both within and between cultures (Council of the International Organization for Migration, Gender Equality Policy 2015–2019 (19 November 2015) C/106/INF/8/Rev.1, Glossary, p. 12).

### gender-based violence

An umbrella term for any harmful act that is perpetrated against a person's will and is based on socially ascribed (i.e. gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and denial of resources, opportunities or services, forced marriage and other deprivations of liberty. These acts can occur in public or in private.

*Source:* Adapted from Inter-Agency Standing Committee, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery (2015) p. 5.

*Note:* Gender-based violence is often used in the same context as violence against women and girls, however it should be noted that gender-based violence can affect anybody.

*See also* [survivor of gender-based violence](#), [victim of gender-based violence](#), [violence against women](#)

### gender equality

The equal rights, responsibilities and opportunities of all individuals regardless of their gender identity.

*Source:* Adapted from UN Women, Gender Mainstreaming in Development Programming (2014) p. 46.

*Note:* Gender equality does not imply that all individuals are the same, but rather that the interests, needs, capacities and priorities of all are taken into consideration (Council of the International Organization for Migration, Gender Equality Policy 2015–2019 (19 November 2015) C/106/INF/8/Rev.1, Glossary, p. 12).

## gender mainstreaming

The process of assessing the implications for women and men, boys and girls, and people with more complex gender identities of any planned action, including legislation, policies or programmes in all areas and at all levels.

*Source:* Adapted from United Nations Economic and Social Council, Resolution 1997/2: Agreed Conclusions (18 July 1997) in UN Doc. A/52/3/Rev.1.

*Note:* As further notes the United Nations Economic and Social Council (ECOSOC) Resolution, “it is a strategy for making [the] concerns and experiences [of people of any gender] an integral dimension of design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that [all may] benefit equally and inequality is not perpetuated [or exacerbated]. The ultimate goal is to achieve gender equality” (ECOSOC, Resolution 1997/2: Agreed Conclusions (18 July 1997) in UN Doc. A/52/3/Rev.1).

## general principles of law

Source of international law consisting of principles common to different national legal systems that have been transposed into the international legal order.

*Note:* For example, the criminal law principle of *ne bis in idem* which protects an individual from duplicate legal action for the same crime preventing a person from being tried for a crime for which he or she has previously been convicted or acquitted. Other principles of criminal law common to many national systems are considered as general principles of law, such as the two principles of legality: *nullum crimen sine lege* and *nulla poena sine lege*. General principles of law constitute a subsidiary source of international law because they can only be resorted to where there is no applicable norm in treaty law or customary law.

Article 38(1) of the Statute of the International Court of Justice (adopted 24 October 1945, entered into force 24 October 1945) states that the Court, whose function is to decide on disputes under its jurisdiction in accordance with international law, shall apply, *inter alia*, “the general principles of law recognized by



civilized nations”. However, because of its colonial connotation, the term “civilized nations” is no longer acceptable and must be understood as referring to the main national legal systems. Today, general principles of law encompass the principles common to the major legal systems of the world. Their function is thus to fill gaps in the international legal system (V. Chetail, Sources of International Migration Law in B. Opeskin, R. Perruchoud and J. Redpath-Cross (eds), *Foundations of International Migration Law* (Cambridge University Press, 2012) p. 82).

See also *customary international law*, *international law (public)*

## genocide

Any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, such as: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group.

*Source:* Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277, Art. II; and Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art. 6.

*Note:* Although not explicitly mentioned among the underlying acts of the crime of genocide, acts of sexual violence such as rape have been interpreted by the ad hoc international criminal tribunals and the International Criminal Court as measures causing serious bodily or mental harm, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and/or intended to prevent birth within the group (see e.g. The Prosecutor v Jean-Paul Akayesu (Judgment) ICTR-96-4-T (2 September 1998) paras. 508, 706–707, 731; The Prosecutor v Radislav Krstic (Judgment) IT-98-33-T (2 August 2001) para. 513; International Criminal Court, Elements of Crimes (2002) p. 2, fn 3.

See also *exclusion clauses (international protection)*, *international crimes*

## genuine marriage

A marriage that is entered into because the couple intend to create together a durable family unit and to lead an authentic marital life.

*Source:* Adapted from European Commission, Commission Staff Working Document, *Handbook on Addressing the Issue of Alleged Marriages of Convenience between EU Citizens and non-EU Nationals in the Context of EU law on Free Movement of EU Citizens* (26 September 2014) SWD (2014) 284 final, p. 10.

*Note:* A marriage must be determined genuine for decisions on family reunification, access to residence permit and to nationality. In many States, there is a presumption that a couple intended to create a durable family unit and the marriage is genuine unless there is evidence to the contrary.

See also *marriage of convenience*

## global processes on migration

State-led international policy dialogues and decision-making processes on migration at the global level, often facilitated by an intergovernmental organization, and focusing either on overall migration governance at the global level (e.g. International Dialogue on Migration), on specific themes (targeted migration consultations and discussions in global bodies that have specific responsibilities over certain elements of migration through international conventions and protocols), or on the interlinkages between migration and other areas, such as development (e.g. UN High-level Dialogue on International Migration and Development, the Global Forum on Migration and Development).

See also *interregional forums on migration, inter-State consultation mechanisms on migration, and regional consultative processes on migration*

**good faith (applicant)** Refer to *bona fide applicant*

See also *applicant*

## grounds for persecution

Under the terms of the 1951 Convention relating to the Status of Refugees, one of the elements of the refugee definition, referring to the following five grounds: race, religion, nationality, membership of a particular social group or political opinion.

*Note:* The definition of a refugee in the 1951 Convention relating to the Status of Refugees refers to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) Art. 1A(2)). These grounds need to be linked to the act of persecution

but may also be established by the inability or unwillingness of the country of origin to provide protection (United Nations High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 12* (2 December 2016) HCR/GIP/16/12, para. 32). While these grounds may overlap with one another in a particular case, persecution must be at least for one of these reasons for the purposes of formal refugee status determination (see, UNHCR, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (reissued December 2011) paras. 66–67). As the applicant for refugee status “may not be aware of the reasons for the persecution feared... [i]t is for the examiner, when investigating the facts of the case, to ascertain the reason or reasons for the persecution feared and to decide whether the definition in the 1951 Convention is met in this respect” (ibid.). In this respect, the motives or intent of the persecutor is neither decisive nor necessary (UNHCR, *Guidelines on International Protection No. 12*, para. 32).

*See also race, religion, nationality, membership of a particular social group, persecution, political opinion, refugee (mandate), refugee (1951 Convention)*

## grounds of inadmissibility

Criteria set forth in migration law or regulations of reasons for which non-nationals may be prohibited from entering the State. Even where a person is otherwise eligible for a visa or other immigration status, if he or she falls within a ground of inadmissibility, the visa or other status can be denied.

*Note:* Grounds of inadmissibility are typically designed to preclude entry of undesirable non-nationals, such as persons without valid travel documents, persons with criminal convictions, persons who are believed to be a danger to public health or public safety, or persons who have been previously deported. Even if one of these grounds is present States have an obligation to assess the individual situation of the person applying for admission in the State and to verify whether he or she is entitled to international protection as a refugee or on other grounds. Additionally, grounds of inadmissibility should not be applied in a discriminatory manner.

*See also refusal of entry, rejected applicant*

## guarantee

An agreement between a State and guarantor that ensures an individual will comply with immigration procedures or conditions.

*Note:* A guarantee may be demanded of non-nationals seeking entry to a State to depart from the State at the end of their stay.

A guarantee can also be used as an alternative to immigration detention.

*See also bail, bond, surety, affidavit (of support), sponsorship, surety*

**guardian (legal)** Refer to legal guardian

## **guest worker**

Generally considered to be a migrant worker recruited for a restricted time of residence and employment.

*Note:* This term today has generally been replaced by terms such as temporary migrant worker or specified employment worker.

*See also contract worker (temporary), legal guardian, migrant worker, project-tied worker, short-term migrant, specified employment worker*

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## H

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### habitual residence

The place where a person resides on an ongoing and stable basis. Habitual residence is to be understood as stable, factual residence.

*Source:* United Nations High Commissioner for Refugees, *Handbook on Protection of Stateless Persons* (2014) p. 49.

*Note:* The notion of “habitual residence” is often treated as a simple, non-technical concept as decisions on the habitual residence of an individual are usually made in light of the ordinary meaning of the terms “habitual” and “residence” and the facts of the particular case.

*See also* [country of usual residence](#), [domicile](#), [residence](#), [usual residence](#)

### hazard

A process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation.

*Source:* United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction, UN Doc. A/71/644 (1 December 2016) p. 18.

*Note:* Each year millions of people are displaced by the adverse effects of natural hazards, such as floods, tropical storms, earthquakes, landslides, droughts, salt water intrusion, glacial melting, glacial lake outburst floods, and melting permafrost. Of these, the great majority is displaced by weather- and climate-related hazards. The largest increases in displacement resulting from the effects of natural hazards are related to sudden-onset weather and climate-related hazards, and floods in particular. In addition, people are increasingly forced to move because of the slow-onset effects of sea level rise, desertification or environmental degradation. Climate change, combined with people’s increasing exposure and vulnerability, is expected to magnify these trends, as extreme weather events become more frequent and intense in the coming decades (see Internal Displacement Monitoring Centre, *Global Estimates 2015: People Displaced by Disasters* (2015); The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change* (Vol. I, December 2015)).

*See also* [disaster](#), [disaster displacement](#), [early warning system](#), [environmental migration](#)

## health

A state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

*Source:* Constitution of the World Health Organization (adopted 22 July 1946, entered into force 7 April 1948) 14 UNTS 185, Preamble.

*Note:* Health is a positive concept emphasizing social and personal resources, as well as physical capabilities. “Migration is a social determinant of health that can impact the health and well-being of individuals and communities. Migration can improve the health status of migrants and their families by escaping from persecution and violence, by improving socioeconomic status, by offering better education opportunities, and by increasing purchasing power for ‘left behind’ family members thanks to remittances. However, the migration process can also expose migrants to health risks, such as perilous journeys, psychosocial stressors and abuses, nutritional deficiencies and changes in life-style, exposure to infectious diseases, limited access to prevention and quality health care, or interrupted care” (International Organization for Migration, Migration Health Division, Migration Health in the Sustainable Development Goals: “Leave No One Behind” in an Increasingly Mobile Society (Position Paper undated) 1). See also, World Health Organization, *Refugee and Migrant Health* (webpage undated), [www.who.int/migrants/en/](http://www.who.int/migrants/en/).

See also *health assessment*, *migration health*, *social determinants of health*

## health assessment

In the migration context, an evaluation of the physical and mental health status of an individual migrant made either prior to departure or upon arrival, for example, for the purposes of resettlement, obtaining a temporary or permanent visa, international employment, enrolment in educational programmes, or specific migrant assistance programmes such as during emergency related relocation and reintegration.

*Note:* Also referred to as immigration medical examination or medical screening, health assessments usually involve a medical examination and a review of the migrant’s medical history. Related services include preventive and/or curative interventions or referral for treatment, counselling, health education, preparation of the required immigration health forms and travel health assistance.

See also *counselling (medical)*, *informed consent (medical)*

## healthy migrant effect

The observation that immigrants are on average healthier than the native-born, possible due to health screening by recipient

countries, healthy behaviour prior to migration, and immigrant self-selection.

*Source:* Adapted from S. Kennedy, J.T. McDonald and N. Biddle, The Healthy Immigrant Effect and Immigrant Selection: Evidence from Four Countries (2015) 16 *Journal of International Migration and Integration* 2, p. 317.

## high seas

All parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.

*Source:* United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, Art. 86.

*Note:* As stipulated in Article 87 of the United Nations Convention on the Law of the Sea ((adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3): “The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law”. Article 98 of the Convention sets forth the provision of a duty to render assistance on the high seas, by stipulating that: “1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress...; (c) after a collision, to render assistance to the other ship, its crew and its passengers...”.

See also *contiguous zone*, *territorial sea*

H

## highly skilled migrant worker

A migrant worker who has earned, by higher level education or occupational experience, the level of skill or qualifications typically needed to practice a highly skilled occupation.

*Note:* At the national level, States adopt differing criteria for the determination of migrant’s skillset. Typically the skillset of a migrant is delineated by level of education, occupation, income or a combination thereof.

At the international level, there are systems for classifying two of the above criteria – education and occupation. Typically occupations classified at Skill Level 3 and 4 of the International Standard Classification of Occupations 08 (ISCO-08) Skill Level are considered as highly skilled occupations (see International Labour Organization, International Standards Classification of Occupations

(Volume I) ISCO-08, 12-15. The major groups of occupations in these skill levels are managers, professionals, technicians and associate professionals. (ibid., p. 14, table 1).

The knowledge and skills required for performance in occupations at Skill Level 3 and 4 are usually obtained as the result of acquiring levels of education at level 5 (short-cycle tertiary education), 6 (bachelor's or equivalent level), 7 (master's or equivalent level) or 8 (doctoral or equivalent level) of the International Standard Classification of Education 2011 (Organization of Economic Co-operation and Development, European Union and United Nations Educational, Scientific and Cultural Organization's Institute for Statistics, ISCED 2011 Operational Manual: Guidelines for Classifying National Education Programmes and Related Qualifications (2015) p. 17).

*See also [qualified national](#), [skilled migrant worker](#)*

## holding centre

A facility lodging migrants, including asylum seekers or refugees, in an irregular situation on arrival in a receiving country, while their status is determined.

*Note:* The jurisprudence of human rights bodies clarified that, irrespective of the name which is given to it, whenever people are deprived of their liberty in a given facility, they are considered to be detained and the safeguards applicable to detention apply including the prohibition on penalizing asylum seekers and refugees, under certain conditions, for irregular entry or stay.

*See also [deprivation of liberty](#), [detention \(migration\)](#), [detention centre \(migration\)](#), [reception facilities](#)*

**home community** Refer to [community of origin](#)

**home country** Refer to [country of origin](#) and [State of origin](#)

*Note:* While migrants may sometimes refer to their country of origin as their home country, this term should generally not be used as a descriptive label. Migrants may feel more at home in the country of destination and designating their country of origin as their "home country" implies, in an exclusionary way, that this is where they belong.

## host community

A national or local community in which displaced persons temporarily reside.



## **host country** Refer to **country of destination**

*Note:* In the context of returns, the term is used, as opposed to country of origin and as an alternative to country of destination or sending country to provide clarity in the identification the various countries involved. In other contexts, the term “host country” is generally best avoided, as it may imply a particular relationship between migrants (“guests”) and natives (“hosts”) which may be misleading and could undermine the integration of migrants.

## **housing, land and property restitution**

The return or restoration of any housing, land and/or property belonging to refugees and displaced persons of which they were arbitrarily or unlawfully deprived or the compensation for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.

*Source:* Adapted from Principles on Housing and Property Restitution for Refugees and Displaced Persons, Principle 2.1, annex to United Commission on Human Rights, Final Report of the Special Rapporteur, Paulo Sérgio Pinheiro, (28 June 2005) UN Doc. E/CN.4/Sub.2/2005/17.

*Note:* The right to housing, land and property restitution is recognized in Principle 2 of the “Pinheiro Principles” (Principles on Housing and Property Restitution for Refugees and Displaced Persons, annex to United Commission on Human Rights, Final Report of the Special Rapporteur, Paulo Sérgio Pinheiro, (28 June 2005) UN Doc. E/CN.4/Sub.2/2005/17). These Principles represent soft law standards, but they are explicitly based on existing international, regional and national law.

The Pinheiro Principles also apply to internally displaced persons and to other similarly situated displaced persons who fled across national borders but who may not meet the legal definition of refugee, regardless of the nature or circumstances by which displacement occurred (*ibid.*, Principle 1.2).

## **human capital transfer**

Competencies, skills, knowledge, practices and ideas transmitted by migrants both to their country of origin and to the country of destination.

## **human mobility**

A generic term covering all the different forms of movements of persons.

*Note:* The term human mobility reflects a wider range of movements of persons than the term “migration”. The term

is usually understood as also encompassing tourists that are generally considered as not engaging in migration.

As an example of the emergence of this term, the international organization members of the Advisory Group on Climate Change and Human Mobility created in the context of the Conferences of the Parties of the UN Framework Convention on Climate Change have started to use the term human mobility to cover all the broad range of types of movements that can take place in the context of climate change (Advisory Group on Climate Change and Human Mobility, *Human Mobility in the Context of Climate Change UNFCCC - Paris COP21* (2015)).

See also *displacement, migration, internal migration, international migration*

## human rights

Universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity.

*Source:* United Nations Office of the High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006) p. 1.

*Note:* Human rights are rights inherent to all human beings, regardless of sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

Human rights are often expressed and guaranteed by law in the forms of treaties, customary international law, general principles and other sources of international law (United Nations Office of the High Commissioner for Human Rights, *What Are Human Rights?* (undated) [www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx](http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx) (last accessed 2 March 2018)). They are applicable both in times of peace and armed conflict and entail an obligation for States to respect, protect and fulfill individuals' rights. At the universal level these rights are contained in the International Bill of Rights, comprising the Universal Declaration of Human Rights (UDHR) ((adopted 10 December 1948) UNGA Res 217(A)), the International Covenant on Economic, Social and Cultural Rights ((adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3), and the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) and have been developed by other treaties from this core. Fundamental to the concept and realization human rights are human rights principles. These are:

- the principle of universality (Art. 1 of the UDHR) according to which all people everywhere in the world are “born free and equal in dignity and rights” and, therefore, are rights-holders;

- the principle of inalienability, according to which rights are inherent to every human being and can never be taken away;
- the principle of indivisibility and interdependence, according to which there is no hierarchy among rights and the enjoyment of one right is dependent of the enjoyment of another.

See also *civil and political rights, economic, non-derogable human rights, economic, social and cultural rights*

## human security

Concerns the right of people to live in freedom and dignity, free from poverty and despair and promotes the protection of their physical safety, economic and social well-being and human rights. It includes the right of all individuals, vulnerable people in particular, to live free from fear and free from want, with an equal opportunity to enjoy all their rights and fully develop their human potential.

Source: Adapted from United Nations General Assembly, *Follow-up to Paragraph 143 on Human Security of the 2005 World Summit Outcome* (25 October 2012) UN Doc. A/RES/66/290, para. 3(a).

**human smuggling** Refer to *smuggling (of migrants)*

**human trafficker** Refer to *trafficker (human)*

**human trafficking** Refer to *trafficking in persons*

## humanitarian action

Assistance, protection and advocacy in response to humanitarian needs resulting from natural hazards, armed conflict or other causes, or emergency response preparedness. It aims to save lives and reduce suffering in the short term, and in such a way as to preserve people's dignity and open the way to recovery and durable solutions to displacement.

Source: Inter-Agency Standing Committee, *Introduction to Humanitarian Action* (October 2015) p. 8, [https://interagencystandingcommittee.org/system/files/rc\\_guide\\_31\\_october\\_2015\\_webversion\\_final.pdf](https://interagencystandingcommittee.org/system/files/rc_guide_31_october_2015_webversion_final.pdf) (last accessed 27 March 2018).

Note: As explains the Inter-Agency Standing Committee, "Humanitarian action is based on the premise that human suffering should be prevented and alleviated wherever it happens (referred to as the "humanitarian imperative"). While each humanitarian organization may subscribe to a broader set, there are four core and widely accepted humanitarian principles that

guide humanitarian action: [humanity, impartiality, neutrality and independence]" (ibid., pp. 8–9).

Humanitarian action is also referred to as humanitarian aid, assistance or relief, relief assistance or relief action. Concerning humanitarian emergency assistance more specifically, General Assembly Resolution 46/182 indicates that such assistance lays the foundation for recovery, transition and development: "There is a clear relationship between emergency, rehabilitation and development. In order to ensure a smooth transition from relief to rehabilitation and development, emergency assistance should be provided in ways that will be supportive of recovery and long-term development. Thus, emergency measures should be seen as a step towards long-term development" (United Nations General Assembly, *Strengthening of the Coordination of Humanitarian Emergency Assistance to the United Nations* (UN Doc. A/RES/46/182) 19 December 1991, para. 9).

*See also humanitarian principles, humanity (principle of), impartiality (principle of), independence (principle of), neutrality (principle of)*

## humanitarian admission

A process offering a pathway for admission into a country on a temporary or permanent basis to persons or groups of persons with protection needs. Humanitarian admission is often an expedited process used for persons in need of protection, including but not limited to refugees, persons with urgent protection needs, migrants in vulnerable situations, extended family members, or persons in need of medical assistance and care.

*Note:* Humanitarian admission is an expedited process that may be used for an identified population in an extremely insecure or vulnerable situation and in need of urgent protection. Upon admission, the beneficiaries are typically granted a status, which is usually temporary, and the ongoing need for protection is regularly reviewed.

*See also complementary protection (international), complementary pathways for refugee admission, discretionary forms of protection, disengaged combatant, international protection, non-refoulement (principle of), refugee (1951 Convention), pathways for migrants in vulnerable situations, temporary protection or stay arrangements (TPSAs)*

## humanitarian border management

Border operations carried out before, during and after humanitarian crises which trigger mass cross-border migration.

It aims to improve preparedness of border authorities to respond appropriately to cross-border movements arising from both natural and man-made disasters, in a way that protects crisis-affected migrants and guarantees their human rights and interests, while respecting national sovereignty and security.

*Source:* International Organization for Migration, *Internal Guidance Note on Humanitarian Border Management* (internal document, 2014) para. 1.

*Note:* Humanitarian border management is sometimes also referred to as “Crisis Border Management”, “Emergency Border Management” or “Emergency Preparedness” (International Organization for Migration, *Internal Guidance Note on Humanitarian Border Management* (internal document, 2014) para. 3).

**humanitarian law (international)** Refer to international humanitarian law

## humanitarian principles

International standards, based on international human rights and humanitarian law, which guide the action of all humanitarian actors and seek to protect the integrity of humanitarian action.

*Note:* The first explicit statement of humanitarian principles is found in the “Fundamental Principles of the Red Cross and Red Crescent” adopted in 1965. The principles of humanity, neutrality, impartiality, and independence have been endorsed in a number of General Assembly resolutions, including resolution 46/182 (*Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations* (19 December 1991) UN Doc. A/RES/46/182) for the first three principles and resolution 58/114 (*Strengthening of the Coordination of Emergency Humanitarian Assistance of the United Nations* (5 February 2004) UN Doc. A/RES/58/114) for the fourth one. These four principles and their definitions can be found in their respective entries in this Glossary.

*See also* [humanitarian action](#), [humanity \(principle of\)](#), [impartiality \(principle of\)](#), [independence \(principle of\)](#), [neutrality \(principle of\)](#)

**humanitarian protection** Refer to discretionary forms of protection, humanitarian visa

## humanitarian visa

A visa granting access to and temporary stay in the issuing State to a person on humanitarian grounds for a variable duration as



specified in the applicable national or regional law, often aimed at complying with relevant human rights and refugee law.

*Note:* Humanitarian visas can be granted by the visa-issuing authority of the State in the applicant's country of origin or in a country of destination, and exceptionally also at the border of the visa-issuing State or to persons who are already within the State.

Beyond granting legal access to and temporary stay in the State, humanitarian visas rarely provide the person with any further entitlement to protection or services. Normally, the immigration or asylum status of a person with a valid humanitarian visa needs to be established upon arrival in the visa-issuing State, including, where applicable, through asylum procedures or procedures for other statuses.

Humanitarian visas can facilitate the international travel of asylum seekers or other migrants in vulnerable situations, often as a part of, among others, humanitarian admission, humanitarian corridors, family reunification, medical evacuations and other immigration programmes and practices.

While the majority of States issue humanitarian visas on various international protection grounds (refugee status, subsidiary protection status or others), some States also use humanitarian visas to enable immigration or stay within a country to persons in situations of high vulnerability and/or with special/humanitarian protection needs, including but not limited to:

- Victims of violations of human rights in the country of origin (Ley No. 761[2011] (Nicaragua), Art. 220),
- Victims of certain particularly heinous crimes in the country of destination (such as rape, torture, trafficking, female genital mutilation and others, e.g. Immigration and Nationality Act [1965] (United States) 8 U.S.C. Sec. 1101(a)(15)(U), as amended by Victims of Trafficking and Violence Protection Act of 2000, Sec. 1513(a)-(c)); or
- Victims of hate crimes (Código de Extranjería (Spain), Art. 126.1).
- Humanitarian visas can also be issued in case of:
  - Natural disasters (Lei No. 13.445 [2017] (Brazil), Art. 14.III, §3°);
  - Economic hardships in one's country of origin (e.g. Peruvian Visas to Venezuelans, Decreto Supremo Nº 002-2017-IN (Peru));
  - Serious illnesses and lack of adequate treatment in the country of origin (Loi du 15 Décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Belgium), Art. 9ter, para. 1);
  - Individual vulnerabilities (e.g. 5 Decreto No. 37112-G [2012]: Reglamento de Extranjería (Costa Rica), Arts 2, 135 and 136;

and Decreto Ejecutivo No. 320 [2008] (Panama), Arts 171 and 172).

Many other States do not specifically define the grounds to issue humanitarian visas and leave the decision to grant them discretionary, often to ensure compliance with international law obligations or to serve national interests (e.g Regulation (EC) No 810/2009 of the European Parliament and of the Council (European Union), Art. 25, para. 1(a); Aliens Act (2005: 716) (Sweden), Chapter 3, Section 4; Ley de migraciones No. 25.871 [2003] (Argentina), Art. 34).

Generally, the grounds to issue humanitarian visas are very broadly defined in national legislation which leaves a wide discretion to the authorities who are responsible for issuing the visa. This allows for flexibility and enables an individual determination. However, it also limits the possibility of judicial review, and renders the system largely unpredictable.

*See also complementary protection (international), complementary pathways for refugee admission, discretionary forms of protection, international protection, humanitarian admission, pathways for migrants in vulnerable situations, temporary protection and stay arrangements (TPSAs).*

## humanity (principle of)

According to this principle the purpose of humanitarian action should be to protect life and health and ensure respect for the rights and well-being of human beings. Concern to alleviate human suffering and preserve human dignity should be the driving force for humanitarian action.

*Source:* Adapted from International Organization for Migration, IOM's Humanitarian Policy: Principles for Humanitarian Action (12 October 2015) Doc C/106/CRP/20, annex, para. III.1.a.

*See also humanitarian action, humanitarian principles, neutrality (principle of), impartiality (principle of), independence (principle of)*





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## identity document

An official piece of documentation issued by the competent authority of a State designed to prove the identity of the person carrying it.

*Note:* The most common identity documents are national identity cards and passports.

See also *certificate of identity, electronic passport, passport*

## identity fraud

The actual deceptive use of the identity information of another person (living or dead) in connection with various frauds (including for the purpose of issuing identity and travel documents).

*Source:* Adapted from Royal Canadian Mounted Police, *National Identity Crime Strategy: For a Stronger and Safer Canada* (2013) p. 3.

See also *fraud*

## identity management

A system comprising a vision, policy and facilities for the management of identities. The development of such a system is the responsibility of governments.

*Note:* Good identity management includes: a policy (to determine the aim and scope of managing identity in that context); a governance procedure (to set rules and regulations); a sound infrastructure to ensure the security of identity; and, a system that ensures specific levels of quality is maintained and continuously improved.

**illegal alien** Refer to **irregular migrant** and **undocumented migrant**

*Note:* A whole array of terms are used for those migrants who do not have the required legal documentation or authorization to enter and/or reside within a given territory. Terms such as illegal, unauthorized, undocumented, non-compliant, prohibited and irregular are a few terms of commonly used by States in this context.

The international community has, on several occasions, encouraged the use of the terms “undocumented” or “irregular” as an alternative to the term illegal. The United Nations General Assembly Resolution 3449 (Measures to Ensure the Human Rights and Dignity of All Migrant Workers (9 December 1975)) recognized that the term “illegal” should not be used to define migrants in an irregular situation. The term “irregular” is preferable to “illegal” because the latter carries a criminal connotation, is against migrants’ dignity and undermines the respect of the human rights of migrants. Migrants, as any human being, can never be illegal; they can be in an irregular situation, but it is inaccurate to refer to a person as “illegal”.

Concerning the term “alien”, and although it is often used in domestic legal settings, it tends to bear a negative connotation suggesting an artificial distance and sense of “otherness”. For this reason, other terms to label those who are not nationals of a given country should be preferred, such as “non-nationals” or “migrants”.

**illegal entry** Refer to *irregular entry*

See also *unauthorized entry, unlawful entry*

**illegal migrant** Refer to *migrants in an irregular situation and undocumented migrant*

*Note:* A whole array of terms are used for those migrants who do not have the required legal documentation or authorization to enter and/or reside within a given territory. Terms such as illegal, unauthorized, undocumented, non-compliant, prohibited and irregular are a few terms of commonly used by States in this context.

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See also *irregular migrant*

**illegal migration** Refer to *irregular migration*

See also *clandestine migration*

**illegal stay** Refer to **irregular stay**

## **immigrant**

From the perspective of the country of arrival, a person who moves into a country other than that of his or her nationality or usual residence, so that the country of destination effectively becomes his or her new country of usual residence.

*Source:* Adapted from United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 10, definition of “long-term migrants”.

*Note:* This definition is adapted from the one of long-term migrant provided by the Statistics Division of the United Nations Department of Economic and Social Affairs (UN DESA): “A person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence. From the perspective of the country of departure, the person will be a long-term emigrant and from that of the country of arrival, the person will be a long-term immigrant” (UN DESA, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 10). The reference to 12 months as a minimum period of stay has been omitted with a view to covering those who emigrate for a shorter period of time, provided that the person has changed his or her usual residence. Given that also short-term emigrants are covered by the definition, and in line with UN DESA understanding of the term short-term migrant, persons who move in cases where the movement to that country is for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage are excluded (*ibid.*). Whether an emigrant is considered as long-term or short-term depends on the duration of stay in the country of destination. A person who stays away from the country for a period of three to twelve months is considered a short-term emigrant, whereas a person who stays away from the country for a period exceeding twelve months is considered a long-term emigrant. The definition of who is an emigrant can vary from one country to another.

See also *immigration*

## **immigration**

From the perspective of the country of arrival, the act of moving into a country other than one’s country of nationality or usual residence, so that the country of destination effectively becomes his or her new country of usual residence.

See also *immigrant*

## immigration liaison officer

A representative of a State posted abroad with a view to contributing to the prevention of irregular migration and the return of irregular migrants.

*Source:* Adapted from Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network [2004] OJ L 64/1, Art. 1(1).

## immigration quota

A quantitative limit on the number of immigrants admitted into a State during a given period of time overall or under certain visa categories.

*Note:* Many countries establish quotas (or caps) on the number of migrants to be admitted each year. Immigration quotas can be used for overall immigration levels as well as according to specific criteria including nationality, skill level, occupation, or immigration category (i.e. whether one is entering as a migrant worker or as part of refugee resettlement or family reunification programme).

## immigration status

The status of a migrant under the immigration law of the country of destination.

## impartiality (principle of)

In the context of humanitarian action, the principle according to which humanitarian action must be carried out on the basis of needs alone, prioritizing those most in need, without discrimination on the basis of race, nationality, ethnicity, gender, religious belief, class or political opinion.

*Source:* Adapted from International Organization for Migration, IOM's Humanitarian Policy: Principles for Humanitarian Action (12 October 2015) Doc C/106/CRP/20, annex, para. III.1.b.

*See also* *humanitarian action*, *humanitarian principles*, *humanity (principle of)*, *independence (principle of)*, *non-discrimination (principle of)*, *neutrality (principle of)*

## independence (principle of)

In the context of humanitarian action, the principle according to which humanitarian actors must remain independent of the

political, financial or other objectives that any others may have in areas where humanitarian action is being implemented.

*Source:* Adapted from International Organization for Migration, IOM's Humanitarian Policy: Principles for Humanitarian Action (12 October 2015) Doc C/106/CRP/20, annex, para. III.1.d.

*See also humanitarian action, humanitarian principles, humanity (principle of), impartiality (principle of), neutrality (principle of)*

## **informed consent (medical)**

The process of obtaining permission prior to conducting a health intervention on an individual following counselling.

*Note:* The principle of informed consent is based on the moral and legal premise of patient autonomy and the patient's right to make decisions about his or her own health and medical conditions. In the context of migration health, informed consent may concern the individual migrant's consent, for instance, to undergo a migration related health assessment and medical tests obtained following a counselling session.

*See also counselling (medical), health assessment*

## **indigenous people**

People in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

*Source:* Convention (No 169) concerning Indigenous and Tribal Peoples in Independent Countries (adopted 27 June 1989, entry into force 5 September 1991) 1650 UNTS 383, Art. 1(1)(b).

*Note:* According to Article 1(2) of the Convention (No 169) concerning Indigenous and Tribal Peoples in Independent Countries ((adopted 27 June 1989, entry into force 5 September 1991) 1650 UNTS 383), "Self-identification as indigenous shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply".

## **inhuman treatment**

The infliction of severe physical or mental pain or suffering.

*Source:* Adapted from International Criminal Court, *Elements of Crimes* (2002) Art. 8(2)(a)(ii).

*Note:* Besides being recognized as a war crime under Article 8 (2) (a)(ii)(2) of the Rome Statute of the International Criminal Court ((adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3), the prohibition of inhuman treatment is also enshrined in a number of human rights treaties, including Article 7 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ((adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85); and, at the regional level, Article 3 of the European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221); Article 5.2. of the American Convention of Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123); Article 5 of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217); and, Article 8 of the Arab Charter on Human Rights ((adopted 22 May 2004, entered into force 15 March 2008) in 12 (2005) International Human Rights Reports 893).

The European Court of Human Rights has recognized that the distinction between torture and other types of ill-treatment, such as inhuman treatment, is to be made on the basis of “the intensity of the suffering inflicted,” torture entailing the most intense suffering (Ireland v the United Kingdom App no 5310/71 (ECtHR, 18 January 1978) para. 162). The risk of inhuman treatment in the country of return can trigger the application of the prohibition of refoulement.

See also *degrading treatment, non-refoulement (principle of), torture*

## integration

The two-way process of mutual adaptation between migrants and the societies in which they live, whereby migrants are incorporated into the social, economic, cultural and political life of the receiving community. It entails a set of joint responsibilities for migrants and communities, and incorporates other related notions such as social inclusion and social cohesion.

*Note:* Integration does not necessarily imply permanent residence. It does, however, imply consideration of the rights and obligations of migrants and societies of the countries of transit or destination, of access to different kinds of services and the labour market, and of identification and respect for a core set of values that bind migrants and receiving communities in a common purpose.

In the refugee context, however, local integration as a durable solution would imply permanent residence as it refers to refugees' “permanent settlement in a country of first asylum, and eventually being granted nationality of that country” (United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006) p. 14).

See also *assimilation, durable solution (refugees), durable solutions (internally displaced persons), multiculturalism, reintegration, social inclusion, social cohesion*

## interception

Any measure applied by a State, either at its land or sea borders, or on the high seas, territorial waters or borders of another State, to: (i) prevent embarkation of persons on an international journey; (ii) prevent further onward international travel by persons who have commenced their journey; or (iii) assert control of vessels where there are reasonable grounds to believe the vessel is transporting persons contrary to international or national maritime law. In relation to the above, the person or persons do not have the required documentation or valid permission to enter.

*Source:* Adapted from Executive Committee of the United Nations High Commissioner for Refugees, *Conclusion on Protection Safeguards in Interception Measures* (10 October 2003) No 97 (LIV).

## intercountry adoption

The adoption occurring when a child habitually resident in one State (“the State of origin”), has been, is being or is to be moved to another State (“the receiving State”) either after his or her adoption in the State of origin by spouses or a person habitually resident in another State, or for the purposes of such an adoption in the receiving State or in the State of origin.

*Source:* Adapted from Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (adopted 29 May 1993, entry into force 1 May 1995) 1870 UNTS 167, Art. 2.

See also *adoption*

## internal flight

See also *internal flight alternative, internal protection alternative, relocation alternative*

## internal flight alternative

The possibility for refugees to find protection in another specific area of his or her country where there is no risk of a well-founded fear of persecution and where, given the particular circumstances of the case, the individual could reasonably be expected to establish him/herself and live a normal life.

*Source:* United Nations High Commissioner for Refugees, Guidelines on International Protection: “Internal Flight or Relocation Alternative” within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees (23 July 2003) UN Doc. HCR/GIP/03/04, para. 6.

*Note:* The internal flight alternative is also referred to as “internal protection alternative” or “relocation alternative”.

*See also* [internal flight](#), [relocation alternative](#), [internal protection alternative](#)

## internal migrant

Any person who is moving or has moved within a State for the purpose of establishing a new temporary or permanent residence or because of displacement.

*See also* [internally displaced persons](#), [internal migration](#), [migrant](#)

## internal migration

The movement of people within a State involving the establishment of a new temporary or permanent residence.

*Source:* Adapted from International Organization for Migration, *World Migration Report 2015*.

*Note:* Internal migration movements can be temporary or permanent and include those who have been displaced from their habitual place of residence such as internally displaced persons, as well as persons who decide to move to a new place, such as in the case of rural–urban migration. The term also covers both nationals and non-nationals moving within a State, provided that they move away from their place of habitual residence.

*See also* [human mobility](#), [internal migrant](#), [internally displaced persons](#), [migration](#), [rural–rural migration](#), [rural–urban migration](#), [urban–rural migration](#), [urban–urban migration](#), [internally displaced persons](#)

**internal protection alternative** Refer to [internal flight alternative](#)

*See also* [internal flight](#), [relocation alternative](#)

## internally displaced pastoralists

Persons or communities who have lost access to their habitual pastoral living space as a result of or in order to avoid the impacts of conflict, violence, human rights violations, cattle rustling, natural or human-made disasters or similar sudden



onset events as a result of drought, environmental degradation or similar slow onset processes, due to direct intervention by State or private actors, or due to a combination, sequence or accumulation of any of the aforementioned causes, and who have not crossed an international border.

*Source:* Adapted from N. Schrepfer and M. Caterina, *On the Margin: Kenya's Pastoralists* (Internal Displacement Monitoring Centre, 2014) p. 20.

*See also pastoralism*

## internally displaced persons

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

*Source:* Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc E/CN.4/1998/53/Add.2, 6.

*Note:* Whilst the Guiding Principles on Internal Displacement are not binding, they have become an authoritative reference on how States should respond to internal displacement. Adopted by the then Human Rights Commission (Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2), the Guiding Principles have been endorsed by the United Nations General Assembly (2005 World Summit Outcome (20 September 2005) UN Doc. A/60/L.1, para. 132), widely used as an advocacy tool by international organizations and non-governmental organizations, translated into two binding documents at the regional level in Africa (the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (adopted 23 October 2009, entered into force 6 December 2012) and the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons (adopted 30 November 2006, entered into force 21 June 2008)), and incorporated in a number of States' policies or legislation.

*See also cross-border displacement, displaced persons, displacement, durable solution (IDPs), internal migrant, internal migration, forced migration, disaster displacement, migrant*

**international agreement** Refer to [agreement \(international\)](#)

See also *treaty*

## international airport

Airport designated by the State in whose territory it is situated as an airport of entry and departure for international air traffic, where the formalities incident to customs, immigration, public health, animal and plant quarantine and similar procedures are carried out.

*Source:* Convention on International Civil Aviation (adopted 7 December 1944, entered into force 14 April 1947) 15 UNTS 295, Annex 9.

**international borders** Refer to [borders \(international\)](#)

## international crimes

The most serious crimes of international concern, as referred to in particular in the Statute of the International Criminal Court and over which the Court has a jurisdiction which is complementary to national criminal jurisdictions. These crimes comprise: crimes against humanity, war crimes, crimes of aggression and genocide.

*Source:* Adapted from Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, Art. 1.

*Note:* Crimes against humanity, war crimes and crimes of genocide are today considered as having a customary nature. The reason why they are related to migration is because some of them can involve or be a cause of forced movements.

Every State has a duty to prosecute or extradite individuals responsible for the commission of those crimes; individual responsibility for those crimes is also enforceable at the international level.

See also *crimes against humanity, exclusion clauses (international protection), genocide, war crimes*

## international health regulations

Binding international law instrument to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.

*Source:* Adapted from World Health Organization, International Health Regulations (2008) Art. 2.

*Note:* The International Health Regulations have been adopted by 194 countries and entered into force on 15 June 2007. The Regulations provide, among others, for States Parties to set up national surveillance systems (Art. 5) and to notify WHO of events that may constitute a public health emergency of international concern (Art. 6). If the existence of a public health emergency of international concern is confirmed, the Director-General shall issue temporary recommendations which may impact on the ability and/or conditions of persons' movement and which may include to: "require medical examinations; review proof of [and/or require] vaccination or other prophylaxis; ... place suspect persons under public health observation; implement quarantine or other health measures for suspect persons; ... refuse entry of suspect and affected persons; refuse entry of unaffected persons to affected areas; and implement exit screening and/or restrictions on persons from affected areas" (Art. 18(1)).

## international humanitarian law

A body of rules which seeks, for humanitarian reasons, to limit the effects of armed conflicts. It protects persons who are not or are no longer participating in hostilities and restricts the means and methods of warfare of belligerents by prohibiting weapons that make no distinction between combatants and civilians or weapons and methods of warfare which cause unnecessary injury, suffering and/or damage.

*Source:* United Nations Office for the Coordination of Humanitarian Affairs, *Glossary of Humanitarian Terms in Relation to the Protection of Civilians in Armed Conflict* (2003) pp. 16 and 17.

*Note:* International humanitarian law is also known as the law of war, the law of armed conflict or *jus in bello*. It does not regulate whether a State may actually use force; this is governed by important, but distinct, rules of international law on States' recourse to the use of force (*jus ad bellum*) set out in the United Nations Charter. The main sources of international humanitarian law are the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. The Geneva Convention IV relative to the Protection of Civilian Persons in Time of War ((adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287) contains a number of provisions that are specifically applicable to civilian non-nationals (Arts 35–46). For example, Article 4 distinctly defines civilian non-nationals as a group of protected persons within the Convention, and Article 27 stipulates that, as protected persons, civilian non-nationals "are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be

protected especially against all acts of violence or threats thereof and against insults and public curiosity”.

A number of other provisions are also relevant to prevent displacement, such as the prohibition of forcible transfers.

See also *armed conflict, international law (public), war crimes*

## international law (public)

The legal system governing the relationships between nations; in modern usage, the law of international relations, embracing not only States but also such participants as international organizations and individuals.

Source: B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

See also *international humanitarian law, international migration law, international refugee law*

## international migrant

Any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence. The term includes migrants who intend to move permanently or temporarily, and those who move in a regular or documented manner as well as migrants in irregular situations.

Source: Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights at International Borders*, footnote 2 [www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf) (last accessed 14 May 2019).

*Note:* The first part of the definition is also the one used in the Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*, p. 14 [www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf) (last accessed 14 May 2019).

For statistical purposes, the United Nations Department of Economic and Social Affairs (UN DESA) defines an “international migrant” as “any person who changes his or her country of usual residence” (Recommendations on Statistics of International Migration, Revision 1 (1998) para. 32). The UN DESA definition excludes movements that are due to “recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimages” (ibid).

*See also asylum seeker, displaced person, documented migrant, documented migrant worker, environmental migrant, expatriate, international student, intracorporate transferee, long-term migrant, migrant, migrant in an irregular situation, migrants in vulnerable situations, migrant worker, mixed movements, permanent resident, seasonal migrant worker, separated children, short-term migrant, smuggled migrant, victim of trafficking, unaccompanied children, undocumented migrant, undocumented migrant worker*

## international migration

The movement of persons away from their place of usual residence and across an international border to a country of which they are not nationals.

*Note:* Similarly to the above definition, for statistical purposes, the United Nations Department of Economic and Social Affairs (UN DESA) defines an “international migrant” as “any person who changes his or her country of usual residence” (Recommendations on Statistics of International Migration, Revision 1 (1998) para. 32). The UN DESA definition excludes movements that are due to “recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimages” (ibid).

*See also circular migration, climate migration, displacement, economic migration, facilitated migration, family migration, forced migration, human mobility, irregular migration, labour migration, migrant, migration, safe, orderly and regular migration, resettlement, return migration*

## international migration law

The international legal framework governing migration, deriving from various sources of international law that apply to the movement of persons within or between States and regulate States’ competence and obligations, migrants’ status, rights and duties, as well as international cooperation.

*Note:* Rather than an independent legal regime with its own set of rules, International Migration Law is an umbrella term used to describe the various bodies of laws, principles and norms that together regulate migration. The bodies of law that are relevant to migration are, among others: International Human Rights Law, Labour Law, Humanitarian Law, Law of the Sea, Maritime Law, Transnational Criminal Law, Consular Law, Refugee Law and Nationality Law.

*See also international law (public)*

## international protection

The protection that is accorded by the international community to individuals or groups who are outside their own country and are unable to return home because their return would infringe upon the principle of non-refoulement, and their country is unable or unwilling to protect them.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Persons in Need of International Protection* (June 2017).

*Note:* As further underlined by the United Nations High Commissioner for Refugees (UNHCR), “risks that give rise to a need for international protection classically include those of persecution, threats to life, freedom or physical integrity arising from armed conflict, serious public disorder, or different situations of violence” (UNHCR, *Persons in Need of International Protection* (June 2007) p. 1).

*See also* *asylum, complementary pathways (refugees), complementary protection (international), discretionary forms of protection, humanitarian visa, non-refoulement (principle of), refugee (1951 convention), temporary protection or stay arrangements (TPSAs)*

## international refugee law

The body of international treaties and customary international law that establishes standards for refugee protection. The cornerstone of refugee law is the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006) p. 14.

*See also* *international law (public)*

## international surrogacy arrangement

A surrogacy arrangement entered into by intending parent(s) resident in one State and a surrogate resident (or sometimes merely present) in a different State. Such an arrangement may well involve gamete donor(s) in the State where the surrogate resides (or is present), or even in a third State. Such an arrangement may be altruistic or commercial in nature.

*Source:* Adapted from Permanent Bureau of the Hague Conference on International Private Law, *A Preliminary Report on the Issues Arising from International Surrogacy Arrangements* (2012) Annex, i.

*Note:* The question of international surrogacy is not dealt with by an international convention. However, it has been recognized that

it may have an impact on the practical application of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption ((adopted 29 May 1993, entry into force 1 May 1995) 1870 UNTS 167). In particular, some States have raised concerns about the uncertainty surrounding the status of many of the children who are born as a result of international surrogacy arrangements, with regard to both parentage and acquisition of nationality, and the impact that this uncertainty may have on child protection (Hague Conference on Private International Law Bureau, Private International Law Issues Surrounding the Status of Children, including Issues Arising from International Surrogacy Arrangements (March 2011) p. 3).

See also *surrogacy*

## Interregional Forums on Migration (IRFs)

State-led, ongoing, information-sharing and policy dialogues on migration, usually connecting two or more regions, and may either be officially associated with formal interregional institutions, or be informal and non-binding.

See also *global processes on migration, Inter-State Consultation Mechanisms on Migration, Regional Consultative Processes on migration*

## Inter-State Consultation Mechanisms on Migration (ISCM)

State-led, ongoing information-sharing and policy dialogues on the regional, interregional or global level for States with an interest in promoting cooperation in the field of migration.

*Note:* Inter-State Consultation Mechanisms on migration comprise of global processes on migration, interregional forums on migration (bridging two or more regions) and regional consultative processes on migration (covering one region).

See also *global processes on migration, Interregional Forums on Migration, Regional Consultative Processes on migration*

## international student

A person who has moved across an international border away from his or her habitual place of residence for the purpose of undertaking a programme of study.

*Note:* This definition aims to cover all persons who move to another country for study purposes and who enter the country of destination under a study visa or subsequently obtain a study visa when already in the country. The United Nations Educational, Scientific and Cultural Organization, Institute for Statistics (*Glossary* (2014) <http://uis.unesco>).

[org/en/glossary-term/international-or-internationally-mobile-students](https://www.unhcr.org/en/glossary-term/international-or-internationally-mobile-students) (last accessed 12 April 2018)) defines the term more narrowly to identify students who “have crossed a national or territorial border for the purpose of education and are now enrolled outside their country of origin”.

See also *migrant*

## intracorporate transferee

An employee of a firm who is temporarily transferred to an affiliate of that firm (branch, subsidiary, office, etc.) in another country.

## irregular entry

The act of crossing borders without complying with all the legal and administrative requirements for entry into the State.

*Source:* Adapted from Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507, Art. 3(b) on “illegal entry”.

See also *illegal entry, unauthorized entry, unlawful entry*

**irregular migrant** Refer to *migrant in an irregular situation*

**irregular migrant worker** Refer to *undocumented migrant worker*

## irregular migration

Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination.

*Note:* Although a universally accepted definition of irregular migration does not exist, the term is generally used to identify persons moving outside regular migration channels. The fact that they migrate irregularly does not relieve States from the obligation to protect their rights. Moreover, categories of migrants who may not have any other choice but to use irregular migration channels can also include refugees, victims of trafficking, or unaccompanied migrant children. The fact that they use irregular migration pathways does not imply that States are not, in some circumstances, obliged to provide them with some forms of protection under international law, including access to international protection for asylum seekers fleeing persecution, conflicts or generalized violence. In addition, refugees are



protected under international law against being penalized for unauthorized entry or stay if they have travelled from a place where they were at risk (Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, Art. 31(1)).

See also *clandestine migration, illegal migration, migration*

## irregular stay

The presence on the territory of a State, of a non-national who does not fulfil, or no longer fulfils the conditions of entry, stay or residence in the State.

*Source:* Adapted from Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals [2008] OJ L 348/98, Art. 3(2), definition of “*illegal stay*”.

See also *clandestine migration, illegal migration*

## itinerant worker

A migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(e).

See also *frontier worker, migrant worker*





## J

## jus cogens

A peremptory norm of general international law accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

*Source:* Adapted from Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Art. 53.

*Note:* Examples of jus cogens norms derived from human rights instruments that are relevant to migration include: the prohibition of torture and cruel, inhuman or degrading treatment or punishment, including the prohibition of refoulement to risk thereof, and, according to some authors and judicial bodies, the principle of non-discrimination (see, for example, Juridical Condition and Rights of the Undocumented Migrants, Advisory Opinion OC-18, Inter-American Court of Human Rights Series A No 18 (17 September 2003). See also the case note by S.H. Cleveland in (2005) 99 American Journal of International Law 460).

## jurisdiction

A government's general power to exercise authority over all persons and things within its territory.

*Source:* B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* Whilst normally linked to territory, the jurisdiction of a State is not absolutely tied to it and can extend beyond the States' territory in some exceptional circumstances. States have asserted jurisdiction extraterritorially on different grounds, e.g. in the context of the prosecution of crimes, the nationality of the perpetrator or the nationality of victims, irrespective of the territory where the crime was committed. States can also exercise diplomatic protection on their nationals abroad to redress a violation of their rights, upon exhaustion by the individual of domestic remedies.

In the context of human rights law, the extraterritorial scope of State jurisdiction has been recognized, for example, in cases in which the State exercises effective control over an area outside the State territory or over individuals (ex multis, *Al-Skeini and Others v the United Kingdom* App no 55721/07 (ECtHR, 7 July 2011) paras.

130-142; and *Öcalan v Turkey* App no 46221/99 (ECtHR, 12 May 2005), para. 91).

*See also nationality (or active personality) principle, national territory, passive personality principle, personal jurisdiction, territorial sea*

## **jus sanguinis**

A rule defining a person's nationality based on the nationality of his or her parents (or one parent or one particular parent), at the time of the person's birth or at a later point in the person's life.

*Source:* Adapted from European Union Democracy Observatory on Citizenship, *The EUDO Glossary on Citizenship and Nationality* (2015).

*Note:* The concept is used broadly to cover not only automatic acquisition by birth, but also non-automatic acquisition by birth and after birth.

*See also acquisition of nationality, jus soli, nationality*

## **jus soli**

A rule defining a person's nationality based on his or her birth in the territory of the country.

*Note:* The principle of jus soli can cover both automatic and non-automatic acquisitions of nationality. Very few countries have adopted a pure jus soli rule. Usually, the acquisition of nationality by birth in the territory is coupled with a number of other conditions, such as a period of residence of the child in the country after birth or of the person's parents before his or her birth.

*See also acquisition of nationality, jus sanguinis, nationality*

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## K

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### kidnapping

The crime of seizing and taking away a person by force or fraud, often with a demand for ransom.

*Source:* B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* Usually accomplished for the purpose of extorting financial gain or a political benefit from the victim of the kidnapping or from a third party. In the migration context, kidnapping is used as a means by smugglers to extort money from migrants or their families. Kidnapping for the purpose of exploitation could also be considered as one of the constitutive element of the crime of trafficking in persons. Kidnapping is normally subject to the national criminal legislation of individual States; there are, however, certain kidnappings that are sanctioned under international law (e.g. in the context of piracy).

*See also* [abduction](#), [trafficking in persons](#)



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## L

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**labour migrant** Refer to [migrant worker](#)

### labour migration

Movement of persons from one State to another, or within their own country of residence, for the purpose of employment.

*Note:* In line with the definition of migrant, labour migration is defined as covering both migrants moving within the country and across international borders. This choice is also justified by the significant number of persons moving within the same country for work purposes who sometimes face the same barriers or challenges faced by international migrants, such as discrimination and difficulties in integration. Although such challenges may be greater for migrants moving across borders they are not totally absent also for internal migrants.

See also [bilateral labour migration agreements](#), [circular migration](#), [economic migration](#), [migration](#)

### labour mobility

Labour mobility – or mobility of workers – can be either occupational (movement along the occupational ladder) or geographic (movement across geographic locations). In the context of migration, geographic labour mobility is implied.

*Note:* The term “labour mobility” has the same meaning as “labour migration” but is more frequently used nowadays to reflect the dynamic and multi-directional nature of modern migration, indicating that those who move for employment purposes may do so more than once, may move across different countries of destination and that their employment abroad may not necessarily result in settlement in another country, keeping their prime place of residence in their country of origin.

See also [labour migration](#)

### *laissez-passer*

A travel document issued in exceptional circumstances by the consular officials to nationals of the country or to nationals of other States to whom the issuing State has assured protection.

It may also refer to a travel document issued by an international organization to its civil servants.

*Note:* Consular officials might issue a laissez-passer to nationals of the country in cases, for instance, of loss or theft of their passport or of evacuation from a war zone or a disaster. The issuance of laissez-passer to nationals of other States might occur, for example, when the nationals of other States benefit from the consular protection and assistance of the issuing State in the absence of diplomatic representation or consular officials, by virtue of bilateral or multilateral agreements.

The issuance of laissez-passer by the United Nations and the United Nations specialized agencies for their officials is provided respectively in Article VII, Section 24, Convention on the Privileges and Immunities of the United Nations ((adopted 13 February 1946, entered into force 17 September 1946) 1 UNTS 15) and Article VIII, Section 26 of the Convention on the Privileges and Immunities of the Specialized Agencies ((adopted 21 November 1947, entered into force 2 December 1948) 33 UNTS 261).

See also *temporary travel documents*, *travel document*

**lawful admission** Refer to *legal entry*

## legal entry

In the context of migration, the entry of a person into a country of which he or she does not have the nationality, in compliance with the legal requirements of the State.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

See also *lawful admission*

## legal guardian

Someone who has the legal authority and duty to care for another person or another person's property, especially because of the other's infancy, incapacity, or disability. A guardian may be appointed either for all purposes or for a specific purpose.

*Source:* Adapted from B.A. Garner (ed), *Black's Law Dictionary* (10th edition, Westlaw, 2014), "guardian".

*Note:* In the migration context, guardians play a critical role in the protection of unaccompanied or separated migrant children. According to the Committee of the Rights of the Child, "States should appoint a guardian or adviser as soon as the unaccompanied or separated child is identified and maintain such guardianship arrangements until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the State in compliance with the Convention and other international obligations" (Committee on the Rights of the



Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin (1 September 2005) UN Doc. CRC/GC/2005/6, para. 33). Furthermore, with a view to ensuring the respect of the best interests of the child, the guardianship should normally be assigned to an accompanying adult family member or non-primary family caretaker “unless there is an indication that it would not be in the best interests of the child to do so” (ibid., para. 34). The Committee also recognizes that: “In cases where a child is accompanied by a non-family adult or caretaker, suitability for guardianship must be scrutinized more closely” (ibid., para. 34). The legal guardian has to be present in all planning and decision-making processes relating to the child, including immigration and appeal hearings, care arrangements and all efforts to search for a durable solution.

## LGBTI

An acronym for lesbian, gay, bisexual, transgender and intersex persons.

*Note:* LGBTI is sometimes used as a shorthand for persons of diverse sex, sexual orientation and gender identity (SSOGI). Because of perceived sexual orientation and/or gender identity, LGBTI persons might face diverse discriminations and violations of human rights in their country of origin or, as migrants, in countries of transit or destination. Sexual orientation and gender identity are also recognized as grounds for persecution (i.e. under membership of a particular social group) for the purpose of granting refugee status (see e.g. United Nations High Commissioner for Refugees, Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (23 October 2012) UN Doc. HCR/GIP/12/09).

## long-term migrant

A person who moves to a country other than that of his or her usual residence for a period of at least one year, so that the country of destination effectively becomes his or her new country of usual residence.

*Source:* United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 10.

*Note:* Unlike the definition of “migrant” of the International Organization for Migration, the definition of long-term migrant used by the United Nations for statistical purposes only covers international migrants.

See also *migrant*, *permanent resident*



**lookout list** Refer to [watch list](#)

## loss of nationality

Any mode of loss of the status of citizen of a country, voluntarily or involuntarily, automatically or by an act of the public authorities.

*Source:* European Union Democracy Observatory on Citizenship, *The EUDO Glossary on Citizenship and Nationality* (2015).

*Note:* Loss of nationality may follow an act of the individual (expatriation, deliberate renunciation of nationality), the State (deprivation of nationality) or automatic loss of nationality upon acquisition of another nationality. Although acquisition and loss of nationality are in principle considered as falling within the domain of domestic jurisdiction, the States must, however, comply with norms of international law when regulating questions of nationality, such as Article 15(2) of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)): “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”.

See also [deprivation of nationality](#), [nationality](#)

## low-skilled migrant worker

A migrant worker whose level of education, occupational experience, or qualifications make them eligible to practice a typically low skilled occupation only.

*Note:* At the national level, States adopt differing criteria for the determination of migrant’s skills. Typically the skills of a migrant are delineated by level of education, occupation, income or a combination.

At the international level, there are systems for classifying two of the above criteria – education and occupation. Typically occupations classified at Skill Level 1 of the International Standard Classification of Occupations 08 (ISCO-08) Skill Level are considered as low skilled occupations (see ILO’s ISCO-08, 2012, for explanation).

The level of education required for performance in occupations at Skill Level 1 is typically less or equivalent to level 1 (primary level of education) of the International Standard Classification of Education 2011 (Organization of Economic Co-operation and Development, European Union and UNITED Nations Educational, Scientific and Cultural Organization’s Institute for Statistics, *ISCED 2011 Operational Manual: Guidelines for Classifying National Education Programmes and Related Qualifications* (2015) p. 17).

Other definitions are possible notably on the basis of the nature of the occupation held by the individual. The term should be

treated with caution as it does not reflect the alternative ways in which skills can be acquired and the varying levels of skill of migrant workers within this category. Moreover, it is important to distinguish between “low-skilled jobs” and “low-skilled migrant workers” as low-skilled jobs are often performed by skilled migrants which results in their “deskilling”.



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## M

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**main applicant** Refer to [principal applicant](#)

**mandate refugee** Refer to [refugee \(mandate\)](#)

### marriage of convenience

In the migration context, a marriage entered into for the purpose of enabling a person to reside in a country of which that person is not a national and characterized by a lack of intention of the married couple to create a durable family unit and to lead an authentic family life.

*Note:* Also referred to as a “sham marriage” or “fraudulent marriage”.

Article 16(b) of the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ([2003] OJ L 251/12), for example, allows a member State to deny an application for family reunification if shown that the marriage was “contracted for the sole purpose of enabling the person concerned to enter or reside in a Member State”.

See also [genuine marriage](#)

### mass evacuation

The evacuation of whole communities, neighbourhoods or geographical areas.

*Source:* Camp Coordination and Camp Management Cluster, *The Mass Evacuation in Natural Disasters (MEND) Guide: Comprehensive Guide for Planning Mass Evacuations in Disasters* (2014) p. 17.

*Note:* “The scale and complexity of such evacuations creates the potential for emergency response capacity in a given jurisdiction or country to be overwhelmed and the necessity for coordination across one or more jurisdictions to effect the evacuation and sheltering of evacuees” (Camp Coordination and Camp Management Cluster, *The Mass Evacuation in Natural Disasters (MEND) Guide: Comprehensive Guide for Planning Mass Evacuations in Disasters* (2014) pp. 17–18).

See also [displacement](#), [evacuation](#)

## mass expulsion

Any formal act or conduct attributable to a State, aimed discriminatorily at a national, racial, ethnic, religious or other group, that compels the individuals within this group to leave a that State.

*Note:* Article 12(5) of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217) stipulates: "The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups". Unlike the way the term is used in the case-law of the European Court of Human Rights, which finds impermissible collective expulsion when a particular case of a member of the group is not individually assessed (*Andric v Sweden* App no 45917/99 (EctHR, 23 February 1999) para. 1 ) the African Charter prohibits mass expulsions that are motivated by discrimination against a particular group (the grounds of discrimination defined in Article 12(5) are not exhaustive). In its decision on *Institute for Human Rights and Development in Africa v Republic of Angola* (AHRLR 43 (ACHPR, 2008)), the African Commission on Human and Peoples' Rights noted "Mass expulsions of any category of persons, whether on the basis of nationality, religion, ethnic, racial or other considerations, constitute special violation of human rights". The inclusion of "other considerations" broadens the categories for discrimination.

In addition, the deportation of those subject to mass expulsion does not need to take place within a single defined time-frame in order for Article 12(5) to be engaged and can occur over a period of several months (see *ibid.*).

See also *collective expulsion*

## medical escort

A component of travel health assistance services by a health professional with the purpose to assist beneficiary migrants with medical conditions or illnesses in order to ensure that their health needs are attended to during movement and to mitigate health risks that may result from travel.

*Note:* Medical escorts have the responsibility to provide the best possible care to persons moving from their points of departure to their final destinations under the given circumstances. Medical escorts facilitate the hand-over of beneficiaries with significant health conditions to the receiving health providers and/or families.

## members of the family

Persons married to a migrant or a national, or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children or other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned, including when they are not nationals of the State.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 4.

*Note:* International law leaves States latitude to define who they consider a family member of migrants or nationals for the purpose of family reunification, as well as for the purpose of extending rights to which the primary migrant or national is entitled. The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) sets a minimum standard, leaving States free to define the term more broadly in national legislation (for example, extending some benefits also to non-dependent children).

The definition has been adapted to broadening its scope of application beyond family members of migrant workers to cover the family members of migrants in general. The definition also covers both the national or non-national family members of the citizens of the State concerned. The aim of this broadening of the definition is to cover situations in which the identification of the members of the family is relevant in the context of both internal and international migration, as well as with regard to family reunification of the non-national family members of a citizen of the State concerned.

See also *dependant*

## membership of a particular social group

One of the grounds for persecution of the refugee definition provided in the 1951 Convention relating to the Status of Refugees referring to a group that is composed of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity or conscience or the exercise of one's human rights.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees* (7 May 2002) UN Doc. HCR/GIP/02/01, para. 11.

*Note:* “Membership of a particular social group” is one of the five grounds enumerated in Article 1A(2) of the 1951 Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137). The Convention does not include any specific list of social groups, nor does the ratifying history suggest that there is a set of identified groups that might qualify under this ground. According to the United Nations High Commissioner for Refugees’ (UNHCR) *Guidelines on International Protection No. 2, “the term membership of a particular social group should be read in an evolutionary manner, open to the diverse and changing nature of groups in various societies and evolving international human rights norms”* (UNHCR, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees* (7 May 2002) UN Doc. HCR/GIP/02/02, para. 3). Applicants with a well-founded fear of persecution for gender-related reasons have been for instance considered as members of a particular social group, such as women at risk of female genital mutilation in a specific country or persecution on the basis of sexual orientation (see for instance, UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, (7 May 2002) UN Doc. HCR/GIP/02/01, paras. 16 and 28-31).

*See also grounds for persecution, persecution, refugee (mandate), refugee (1951 Convention)*

## migrant

An umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes a number of well-defined legal categories of people, such as migrant workers; persons whose particular types of movements are legally defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students.

*Note:* At the international level, no universally accepted definition for “migrant” exists. The present definition was developed by IOM for its own purposes and it is not meant to imply or create any new legal category.



Two approaches are generally adopted to define the term “migrant”: the inclusivist approach, followed among others by IOM, considers the term “migrant” as an umbrella term covering all forms of movements; the residualist approach excludes from the term “migrant” those who flee wars or persecution (J. Carling, What is the meaning of migrant? [www.meaningofmigrants.org](http://www.meaningofmigrants.org) (last accessed 8 May 2019)).

For the purpose of collecting data on migration, the United Nations Department of Economic and Social Affairs (UN DESA) defines “international migrant” as “any person who changes his or her country of usual residence” (UN DESA, Recommendations on Statistics of International Migration, Revision 1 (1998) para. 32). The UN DESA definition excludes movements that are due to “recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimages” (ibid.). Specific definitions have also been developed by UN DESA to identify short-term and long-term migrants (see relevant entries).

*See also* [asylum seeker](#), [displaced person](#), [documented migrant](#), [documented migrant worker](#), [environmental migrant](#), [expatriate](#), [internal migrant](#), [internally displaced person](#), [international student](#), [international migrant](#), [intracorporate transferee](#), [long-term migrant](#), [migrant in a regular situation](#), [migrant in an irregular situation](#), [migrants in vulnerable situations](#), [migrant worker](#), [migration](#), [mixed movements](#), [permanent resident](#), [seasonal migrant worker](#), [separated children](#), [short-term migrant](#), [smuggled migrant](#), [victim of trafficking](#), [unaccompanied children](#), [undocumented migrant](#), [undocumented migrant worker](#)

## migrant in an irregular situation

A person who moves or has moved across an international border and is not authorized to enter or to stay in a State pursuant to the law of that State and to international agreements to which that State is a party.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5.

*Note:* It is important to note that, even when in an irregular situation, migrants are still entitled to the respect, protection and fulfillment of their human rights (see, for example, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Comment No. 2 on the Rights of Migrant Workers in an Irregular Situation and Members of their Families (28 August 2013) UN Doc. CMW/C/GC/2. Moreover, refugees are to be granted access to international protection and protected against being penalized for unauthorized entry or stay if they have travelled from a place where they were at risk (Convention relating

to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, Art. 31(1)).

*See also illegal alien, illegal migrant, irregular migrant, undocumented migrant*

## migrant in a regular situation

A person who moves or has moved across an international border and is authorized to enter or to stay in a State pursuant to the law of that State and to international agreements to which that State is a party.

*Source: Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5.*

*See also documented migrant, documented migrant worker, migrant, regular migrant, regular migration*

## migrants in vulnerable situations

Migrants who are unable to effectively enjoy their human rights, are at increased risk of violations and abuse and who, accordingly, are entitled to call on a duty bearer's heightened duty of care.

*Source: Adapted from High Commissioner for Human Rights, Principles and Practical Guidance on the Protection of the Human Rights of Migrants in Vulnerable Situations, Report of the United Nations High Commissioner for Human Rights to the Human Rights Council (3 January 2018) UN Doc. A/HRC/37/34, para. 12.*

*Note: The United Nations High Commissioner for Human Rights (HCHR) in its report to the Human Rights Council underlines that: "the vulnerable situations that migrants face can arise from a range of factors that may intersect or coexist simultaneously, influencing and exacerbating each other and also evolving or changing over time as circumstances change" (HCHR, Principles and practical guidance on the protection of the human rights of migrants in vulnerable situations, Report of the United Nations High Commissioner for Human Rights, Addendum (7 February 2018) UN Doc. A/HRC/37/34/Add.1, para. 12). The HCHR further explains that: "[f]actors that generate vulnerability may cause a migrant to leave their country of origin in the first place, may occur during transit or at destination, regardless of whether the original movement was freely chosen, or may be related to a migrant's identity or circumstances. Vulnerability in this context should therefore be understood as both situational and personal" (ibid., para. 13). Finally the High Commissioner report also recalls that: "migrants are not inherently vulnerable, nor do*

they lack resilience and agency. Rather, vulnerability to human rights violations is the result of multiple and intersecting forms of discrimination, inequality and structural and societal dynamics that lead to diminished and unequal levels of power and enjoyment of rights” (ibid.).

See also *vulnerability*, *vulnerable group*

## migrant-friendly health systems

Health systems that consciously and systematically incorporate the needs of migrants into health financing, policy, planning, implementation and evaluation, including such considerations as the epidemiological profiles of migrant populations, relevant cultural, language and socioeconomic factors and the impact of the migration process on the health of migrants.

*Source:* Adapted from World Health Organization, International Organization for Migration, Government of Spain, *Health of Migrants – The Way Forward*, Report of a Global Consultation (3–5 March 2010) p. 14 (building on J. Puebla Fortier, *Migrant-Sensitive Health Systems* (Background Paper for the Global Consultation on the Health of Migrants, March 2010)).

*Note:* A similar term is “migrant-sensitive health systems”.

## migrant flow (international)

The number of international migrants arriving in a country (immigrants) or the number of international migrants departing from a country (emigrants) over the course of a specific period.

*Source:* United Nations Department of Economic and Social Affairs, *Toolkit on International Migration* (2012) p. 3.

*Note:* “Migration flow data are a dynamic measure counting the number of people crossing international borders, possibly including those who cross several times during a given time interval” (United Nations Department of Economic and Social Affairs, *Toolkit on International Migration* (2012) p. 3). Other terms are often used in the media to describe a sudden arrival of non-nationals in large numbers, such as influx, wave or stream. Their usage is discouraged because of the negative perception and alarmist attitudes it conveys with regard to migration.

## migrant smuggling

 Refer to *smuggling (of migrants)*

See also *human smuggling*

## migrant stock (international)

For statistical purposes, the total number of international migrants present in a given country at a particular point in time who have ever changed their country of usual residence.

*Source:* Adapted from United Nations Department of Economic and Social Affairs, *Toolkit on International Migration* (2012) pp. 2–3.

## migrant worker

A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(1).

*Note:* The Convention expressly provides protection to migrant workers and their family members not only when the migrants are actually working in the country of destination, but “during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence” (Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, General Comment No. 1 on Migrant Domestic Workers (23 February 2011) UN Doc. CMW/C/GC/1, 1, quoting the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 1).

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families applies to those that fulfill the definition specified in Article 2(1), from which the following groups are excluded:

“(a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(c) Persons taking up residence in a State different from their State of origin as investors;

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

(e) Students and trainees;

(f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment” (ibid., Art. 3).

Migrant workers are sometimes referred to as “foreign workers” or “(temporary) contractual workers”.

*See also contract worker (temporary), documented migrant worker, economic migrant, frontier worker, guest worker, itinerant worker, labour migrant, migrant, project-tied worker, seafarer, seasonal migrant worker, self-employment worker, specified-employment worker, worker on an offshore installation*

**migrant worker in an irregular situation** Refer to undocumented migrant worker

## migration

The movement of persons away from their place of usual residence, either across an international border or within a State.

*See also circular migration, climate migration, displacement, economic migration, facilitated migration, family migration, forced migration, human mobility, internal migration, international migration, irregular migration, labour migration, migrant, mixed migration, safe, orderly and regular migration, resettlement, return migration*

**migration card** Refer to arrival/departure card

## migration crisis

The complex and often large-scale migration flows and mobility patterns caused by a crisis which typically involve significant vulnerabilities for individuals and affected communities and generate acute and longer-term migration management challenges. A migration crisis may be sudden or slow in onset, can have natural or man-made causes, and can take place internally or across borders.

*Source:* International Organization for Migration, IOM Migration Crisis Operational Framework (15 November 2012) MC/2355, para. 4.

*Note:* As further provided in the IOM Migration Crisis Operational Framework: “The migration crisis approach has been developed to highlight the migration dimensions of crises that are frequently overlooked in crisis response, such as: (a) The patterns of human mobility before, during and after a crisis; (b) The types of consequences that emerge from these patterns, from different perspectives including humanitarian perspectives (e.g. massive humanitarian needs in terms of food security and shelter), migration management perspectives (e.g. needs for large-scale transportation of populations to a safe haven) and peace and development perspectives; (c) The implications of these types of consequences for rapid, inclusive, predictable and accountable responses for the affected population; (d) The needs of vulnerable mobile populations not adequately covered by existing mechanisms, particularly international migrants caught in crises in their destination/transit countries”. (International Organization for Migration, IOM Migration Crisis Operational Framework (15 November 2012) MC/2355, para. 5).

## migration cycle

Stages of the migration process encompassing departure from, in some cases transit through one or more States, immigration in the State of destination and return.

## migration governance

The combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation.

*Source:* Adapted from International Organization for Migration, Migration Governance Framework (2015) C/106/40, 1; Office of the United Nations High Commissioner for Human Rights, *Migration and Human Rights – Improving Human Rights Based Governance of International Migration* (2013) p. 9.

*Note:* The definition provided draws from a definition developed by the Office of the High Commissioner for Human Rights and the one which is provided in the International Organization for Migration (IOM) Migration Governance Framework. This Framework has been endorsed by IOM Member States on 24 November 2015, by Council Resolution no. 1310. IOM’s view is that good migration governance “adheres to international standards and fulfills migrant’s rights; formulates policy using evidence and a ‘whole-of government’ approach; engages with partners to address migration and related issues” (International Organization for Migration, Migration

Governance Framework (2015) C/106/40, p. 6). The objectives of a sound migration governance should be to seek to “advance the socioeconomic well-being of migrants and society; to provide an effective response to the mobility dimension of crises; and to ensure that migration takes place in a safe orderly and dignified manner” (ibid.). States are the primary actors in migration, mobility and nationality issues and have the responsibility to govern migration at the national and international levels. However, other actors – citizens, migrants, international organizations, the private sector, unions, non-governmental organizations, community organizations, religious organizations and academia – also contribute to migration governance (ibid., p. 4). As such, migration governance has both a national and a global dimension. Global governance has been defined as the “norms, rules, principles and decision-making procedures that regulate the behaviour of States (and other transnational actors)” (A. Betts, *Global Migration Governance* (Oxford University Press, 2011) p. 4). According to the Global Commission on International Migration, “in the domain of international migration, governance assumes a variety of forms, including the migration policies and programmes of individual countries, inter-State discussions and agreements, multilateral [forums] and consultative processes, the activities of international organizations, as well as relevant laws and norms” (Global Commission on International Migration, *Migration in an Interconnected World: New Directions for Action* (October 2005) p. 65).

See also *safe, orderly and regular migration*

## migration health

A public health topic which refers to the theory and practice of assessing and addressing migration associated factors that can potentially affect the physical, social and mental well-being of migrants and the public health of host communities.

See also *health, psychosocial support, social determinants of health*

## migration management

The management and implementation of the whole set of activities primarily by States within national systems or through bilateral and multilateral cooperation, concerning all aspects of migration and the mainstreaming of migration considerations into public policies. The term refers to planned approaches to the implementation and operationalization of policy, legislative and administrative frameworks, developed by the institutions in charge of migration.

*Note:* The concept is linked to public administration in the area of migration, which refers to the management and implementation

of the whole set of government activities dealing with the implementation of laws, regulations and decisions of the Government and the management related to the provision of public services (United Nations Development Programme, *Public Administration Reform Practice Note* (2003) p. 2). Given its focus on the organization and operationalization of public policies, migration management is generally understood as a more specific concept than migration governance. Migration management is primarily carried out by States, whereas the term “governance” refers to all the frameworks, institutions and processes, in the development and establishment of which many more actors, than only States, are involved.

See also *migration governance*

## migration profile

An analysis of available accurate and disaggregated data on some or all migration-relevant aspects of a country’s national context, prepared in consultation with a broad range of stakeholders, which can be used to enhance policy coherence, evidence-based policymaking on migration and the mainstreaming of migration into development plans.

*Note:* In Objective 1 of the Global Compact for Migration, States are encouraged to “[d]evelop and use country-specific migration profiles, which include disaggregated data on all migration-relevant aspects in a national context, including those on labour market needs, demand and availability of skills, the economic, environmental and social impacts of migration, remittance transfer costs, health, education, occupation, living and working conditions, wages, and the needs of migrants and receiving communities, in order to develop evidence-based migration policies” (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 1, para. 17 (j)).

See also *migration governance*

## minor Refer to child

*Note:* The term is often used in national legislations, but its meaning varies greatly among States and can sometimes have a negative connotation. The term of “child/children” is thus to be favoured when referring to persons under the age of 18, as most notably done in the Convention on the Rights of the Child ((adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 1989; see also Interagency Working Group on Sexual Exploitation of Children, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse* (2016) p. 8).



## minority

A group numerically inferior to the rest of the population of a State and/or in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

*Source:* Adapted from F. Capotorti, *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minority* (1979) UN Doc. E/CN.4/Sub.2/384/Rev.1, para. 568.

*Note:* Although there is no universally accepted definition of minority in international law, United Nations Office of High Commissioner for Human Rights (OHCHR) stresses that “the existence of a minority is a question of fact and that any definition must include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (including that individuals must identify themselves as members of a minority)” (OHCHR, *Minority Rights: International Standards and Guidance for Implementation* (2010) p. 2). Furthermore, according to OHCHR “some minorities have a strong sense of collective identity and recorded history; others retain only a fragmented notion of their common heritage” (ibid.). As underlined by OHCHR, “the requirement to be in a non-dominant position remains important. In most instances a minority group will be a numerical minority, but in others a numerical majority may also find itself in a minority-like or non-dominant position ... In some situations, a group which constitutes a majority in a State as a whole may be in a non-dominant position within a particular region of the State in question” ibid., 2–3).

The United Nations Declaration on the Rights of Person Belonging to National or Ethnic, Religious and Linguistic Minorities applies exclusively to those who belong to the minorities referred to in its title ((18 December 1992) UN Doc. A/RES/47/135). However, OHCHR recognizes the importance of taking into account that “minorities can be discriminated against on other grounds such as gender, disability or sexual orientation”. Moreover, the nationality criterion has often been challenged (OHCHR, *Minority Rights*, p. 2). This is why the reference to the need for the members of the group to be nationals of the relevant State has been omitted from the definition.

## mixed movements (mixed migration or mixed flows)

A movement in which a number of people are travelling together, generally in an irregular manner, using the same routes and means of transport, but for different reasons. People travelling

as part of mixed movements have varying needs and profiles and may include asylum seekers, refugees, trafficked persons, unaccompanied/separated children, and migrants in an irregular situation.

*Source:* United Nations High Commissioner for Refugees, *The 10-Point Action Plan in Action, 2016 – Glossary* (December 2016) p. 282.

See also *migration*

## multiculturalism

A model of integration policies that welcomes the preservation, expression and sometimes even the celebration of cultural diversity. This approach encourages migrants to become full members of society while retaining their cultural identities. It combines the recognition of varied backgrounds, traditions and ways of seeing the world with certain universalist values, such as the rule of law or gender equality, that override cultural differences and guarantee the same rights for all. The integration relationship is then best captured in the image of a mosaic enabling minority ethnic groupings to live side by side with the majority constituency.

*Source:* Adapted from International Organization for Migration, Migration Research Leaders' Syndicate: Ideas to Inform International Cooperation on Safe, Orderly and Regular Migration (2017) p. 161.

*Note:* As a result of policies based on multiculturalism, some members of a community remain distinguishable through their language, cultural and social differences, without this being understood as jeopardizing national identity. However, like the assimilationist approach, multiculturalism also presumes that the majority culture remains largely intact, engaging little with the diversity around it. Emphasis on respecting and tolerating difference without reaching across it has been criticized as favouring a dynamic of seclusion that does not foster cohesion. Critics accuse proponents of multiculturalism of focusing on showcasing superficial but palatable markers of diversity like food, attire or music, and of avoiding dealing with cultural practices that clash with liberal values, such as arranged [sic] marriages. Understood in this way, multiculturalism also falls short of coming to terms with current realities of migration. Increasingly plural societies require deeper understandings of the dynamics of diversity. Moreover, negotiations of tensions stemming from cultural divergences must be able to go far beyond the notion of tolerance.

See also *assimilation, integration*

## N

**national**

A person having a legal bond with a State.

*Note:* Often used interchangeably with the word “citizen” to denote a person who has the nationality or citizenship of a given State. The International Court of Justice in its landmark *Nottebohm* case defined nationality as the “legal bond having as its basis a social fact of attachment, a genuine connection of existence, interest and sentiments, together with the existence of reciprocal rights and duties” (*Nottebohm case (Liechtenstein v. Guatemala)* [1955] ICJ Rep, 23). However, it has been argued that it is not necessary to have a genuine link to the country which recognizes a person as its national for the nationality to be effective and that the “genuine link theory” only applies in case of double or multiple nationalities for the purpose of diplomatic protection (R. D. Sloane, “Breaking the ‘Genuine Link’: The Contemporary International Legal Regulation of Nationality” (2009) 50 *Harvard International Law Journal* 1).

See also *citizen, citizenship, nationality*

**national territory**

The geographical area belonging to or under the jurisdiction of a State over which the State exercises its sovereignty.

See also *jurisdiction, sovereignty*

**national treatment**

In international law, a standard according to which non-nationals can expect the same (legal) treatment as the one accorded by the State to its own nationals. However, the national standard cannot be used as a means of evading international obligations under the minimum standard of international law.

**nationality**

The legal bond between an individual and a State.

*Source:* Adapted from European Convention on Nationality (adopted 6 November 1997, entered into force 1 March 2000) ETS No 166, Art. 2.

*Note:* The League of Nations Convention on Certain Questions Relating to the Conflict of Nationality Laws stipulates: “it is for each

State to determine under its own laws who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality". (Convention on Certain Questions Relating to the Conflict of Nationality Laws (adopted 12 April 1930, entered into force 1 July 1937) 179 LNTS 89, Art. 1).

The tie of nationality confers rights and imposes duties on both the State and the individual. The State has, for example, the right to protect its nationals abroad (particularly by means of diplomatic and/or consular protection), the duty to accept its nationals onto its territory, and the prohibition to expel them. Nationals of a State have the corresponding rights that are reserved to them to return to and not to be expelled from their country of nationality, among others, as well as a series of duties they need to comply with, including for instance military service or voting in elections.

Although nationality is the term more often used in international law, at the national level, both the terms nationality and citizenship are used, sometimes with different meanings. Some States distinguish between various forms of nationality and citizenship. For example, in the United Kingdom there are six types of nationality or citizenship (Government of the United Kingdom, *Types of British Nationality* [www.gov.uk/types-of-british-nationality](http://www.gov.uk/types-of-british-nationality) (last accessed 5 February 2018)). "British nationals (overseas)" (from Hong Kong, China), differently from "British citizens", although they hold a British passport, they are subject to immigration controls and do not have the automatic right to live or work in the United Kingdom. Some States align nationality to ethnicity, with citizenship not necessarily conferring nationality. For example in the Russian Federation, nationality reflects a person's ethnicity, whilst citizenship is the legal term used to identify the bond between the State and individuals belonging to its permanent population. The term citizenship is also the one most commonly used in many Eastern European States (Council of Europe, *European Convention on Nationality and Explanatory Report* (Council of Europe Publishing 1997) p. 3). Within the EU, as established in Article 9 of the Treaty on European Union (consolidated version [2012] OJ C 326/13), all those who have the nationality of an EU Member State are citizens of the Union.

Nationality is also one of the grounds for persecution in the definition of a refugee. In this respect, it should be broadly interpreted to not only cover citizenship but also "membership of an ethnic or linguistic group" (United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/ENG/Rev. 3, para. 74).

Some authors argue that the terms "nationality" and "citizenship" emphasize two different aspects of the same notion (P. Weiss, *Nationality and Statelessness in International Law* (Springer 1979) pp. 4–5). "Nationality" stresses the international aspect, giving rise to the State personal jurisdiction over the individual and to

the State right to activate diplomatic protection vis-à-vis other States (A. Boll, *Multiple Nationality in International Law* (Brill/Nijhoff 2007) p. 60). In turn, the term “citizenship” emphasizes the municipal aspect and the set of rights and duties that individuals have by virtue of their full membership within a State (ibid.).

See also *citizen, citizenship, national*

N

## **nationality (or active personality) principle**

A principle conferring on States the power to subject their own nationals to judicial and legislative criminal jurisdiction for crimes they have committed abroad.

Source: I. Bantekas, Criminal Jurisdiction of States under International Law in R. Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law* (Oxford University Press, 2011).

See also *jurisdiction, passive personality principle, personal jurisdiction*

## **naturalization**

Any mode of acquisition after birth of a nationality not previously held by the person that requires an application by this person or his or her legal agent as well as an act of granting nationality by a public authority.

This definition does not include automatic acquisition that is not initiated by the individual concerned or his or her legal agent (even in cases where the individual has an option to decline this attribution of nationality) or acquisition of nationality based on a unilateral act by the target person (e.g. acquisition by declaration or option).

Source: European Union Democracy Observatory on Citizenship, *The EUDO Glossary on Citizenship and Nationality* (2015).

*Note:* Largely considered as falling under State jurisdiction, there are a very few rules on naturalization in international instruments. Article 34 of the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) p. 189 UNTS 137) and Article 32 of the Convention relating to the Status of Stateless Persons ((adopted 28 September 1954, entered into force 6 June 1960) p. 360 UNTS 117) require States Parties to facilitate the naturalization of refugees and stateless persons respectively, in particular by expediting naturalization procedures and reducing the charges and costs of such procedures. Access to naturalization should not be discriminatory (Human Rights Committee, Q v Denmark (1 April 2015) UN Doc. CCPR/C/113/D2001/2010).

Finally, with regard to the time required to be naturalized, Article 6(3) of the European Convention on Nationality ((adopted 6

November 1997, entered into force 1 March 2000) ETS No 166) requires States to set a period of lawful and habitual residence in the country not exceeding ten years before the lodging of an application for naturalization.

See also *acquisition of nationality, nationality*

## net migration

Net number of migrants in a given period, that is, the number of immigrants minus the number of emigrants.

*Source:* United Nations Department of Economic and Social Affairs, *Glossary on Demographic Terms, World Population Prospects: The 2015 Revision* (2015) <https://esa.un.org/unpd/wpp/General/GlossaryDemographicTerms.asp> (last accessed 5 February 2018).

## neutrality (principle of)

In the context of humanitarian action, the principle according to which humanitarians must not take sides in hostilities or engage in controversies of an ideological, religious, racial or political nature.

*Source:* Adapted from International Organization for Migration, IOM's Humanitarian Policy: Principles for Humanitarian Action (12 October 2015) C/106/CRP/20, Annex, para. III. 1.d.

See also *humanitarian action, humanitarian principles, humanity (principle of), impartiality (principle of) and independence (principle of)*.

## nomad

Persons without a fixed place of usual residence who move from one site to another, usually according to well-established patterns of geographical mobility.

*Source:* United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration, Revision 1* (1998) p. 94.

## non-admission

The refusal by immigration authorities to permit entry into the State's territory.

*Note:* As a principle of international law, States exercise sovereignty over their territory; accordingly, each State determines who can or cannot enter. However, the right of a State to control admissions onto its territory is limited by international law, including by the

right to seek and enjoy asylum (Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A), Art. 14); the principle non-refoulement (Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, Art. 33; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85, Art. 3); the right of nationals to return to their own country (International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Art. 12(4)), the principle of the best interests of the child (Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Art. 3(1); and the right to family unity (Convention on the Rights of the Child, Art. 10(1); and International Covenant on Civil and Political Rights, Art. 23(1)).

*See also* *refoulement, refusal of entry*

## non-custodial measures

In the context of migration detention, an alternative to detention that includes any decision made by immigration authorities to subject a non-national – pending decisions on his or her right to remain in the State or whilst subject to immigration or emigration control – to measures that do not include the deprivation of liberty.

*Note:* Non-custodial measures might entail a restriction of movement. From the exceptional character of migrants' detention follows an obligation for States to ensure that non-custodial measures are available (see, for example, *Velez Lloor v Panama* Inter-American Court of Human Rights Series C No 218 (10 December 2010) para. 171). Non-custodial measures may for instance include community-based or casework-oriented models, bail, bond and surety options, semi-open centres or reporting requirements.

*See also* *alternatives to detention, bail, bond, surety*

## non-derogable human rights

Human rights the entitlement to which can never be suspended, including in times of public emergency.

*Note:* Article 4(2) of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) establishes the following rights as non-derogable: the right to life (Art. 6); the prohibition of torture, cruel, inhuman and degrading treatment (Art. 7); the prohibition of medical or scientific experimentation without consent (Art. 7); the prohibition of slavery, slave trade and servitude (Art. 8); the

prohibition of imprisonment because of inability to fulfil contractual obligation (Art. 11); the principle of legality in criminal law (Art. 15); the right to be recognized as a person before the law (Art. 16); freedom of thought, conscience and religion (Art. 18). According to the Human Rights Committee, the fact that some provisions of the International Covenant on Civil and Political Rights have been listed in Article 4 as not being subject to derogation does not mean that other Articles in the Covenant may be subjected to derogations at will, even where a threat to the life of the nation exists (Human Rights Committee, General Comment No. 29: States of Emergency (Article 4) (31 August 2001) UN Doc. CCPR/C/21/Rev.1/Add.11, para. 6). Any derogations should be limited to the extent strictly required by the exigencies of the situation, should not be inconsistent with other State obligations under international law and should never involve discrimination on the ground of race, colour, sex, language, religion or social origin (Art. 4).

See also *human rights*

## non-discrimination (principle of)

Principle obliging States not to discriminate against any persons. Discrimination should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

*Source:* Adapted from Human Rights Committee, General Comment No. 18: Non-Discrimination (10 November 1989) para. 7 in (1994) UN Doc. HRI/GEN/1/Rev.1.

*Note:* A widely accepted principle of international customary law, the principle of non-discrimination is established in the Charter of the United Nations ((adopted 26 June 1945, entered into force 24 October 1945) Arts 13(1)(b), 55(c) and 76(c)). The Charter prohibits discrimination based on race, sex, language, or religion. The principle is also enshrined in most human rights treaties as the reverse side of the principle of equality. Article 1 of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)) stipulates that “[a]ll human beings are born free and equal in dignity and rights,” while Article 2 recognizes that: “Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...”. The grounds of discrimination vary from one convention to another. The human rights conventions most recently adopted (including the International Convention for the Protection of the Rights of



All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 7) also list, among these grounds, “nationality”, which is more specific and relevant to migration than the broader term “national origin” used in other human rights treaties (see, for example, International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Art. 2(1)).

Within humanitarian settings, non-discrimination is the underlying principle of impartiality, one of the four humanitarian principles. Assistance should be provided on the basis of needs and in proportion to need (see also humanitarian principles).

*See also discrimination, humanitarian principles, impartiality (principle of), racial discrimination*

**non-documented migrant worker** Refer to undocumented migrant worker

## non-national

A person who is not a national or citizen of a given State.

*See also alien, foreigner, migrant, third-country national*

## non-refoulement (principle of)

The prohibition for States to extradite, deport, expel or otherwise return a person to a country where his or her life or freedom would be threatened, or where there are substantial grounds for believing that he or she would risk being subjected to torture or other cruel, inhuman and degrading treatment or punishment, or would be in danger of being subjected to enforced disappearance, or of suffering another irreparable harm.

*Note:* The principle of non-refoulement is a fundamental principle of international law. It has its origins in international refugee law as found in Article 33 of the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137), which stipulates: “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”. The principle was then developed further in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ((adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85), which prohibits States Parties to:



“expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”. The same Article also specifies that: “For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights”. The principle is also enshrined in the Article 16 of the International Convention for the Protection of All Persons against Enforced Disappearances ((adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3). Other human rights bodies have then interpreted the prohibition of torture and inhuman and degrading treatment as entailing an obligation for States parties to the relevant conventions (notably, at the universal level, the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) not to send persons back to a country where there is a real risk that they are submitted to the proscribed ill-treatments. The reference to “irreparable harm” in the definition has been added to take into consideration the jurisprudence of the Human Rights Committee (Human Rights Committee, General Comment No. 31: The Nature of General Legal Obligation Imposed on States Parties to the Covenant (26 May 2004) UN Doc. CCPR/C/21/Rev.1/Add. 13, para. 12).

Human rights bodies have also clarified that States should avoid any risk of “indirect refoulement” in the cases in which the real risk of ill-treatment would not subsist in the State to which the person is returned in the first place, but in any other country to which the person would risk being subsequently returned by this State (ibid.).

*See also complementary protection (international), degrading treatment, humanitarian admission, inhuman treatment, international protection, refoulement, refugee (mandate), refugee (prima facie), refugee (1951 Convention), torture*



**offshore processing** Refer to [extraterritorial processing](#)

## organized crime

Usually refers to large-scale and complex criminal activities carried out by organized criminal groups and aimed at the establishment, supply and exploitation of illegal markets at the expense of society.

*See also [organized criminal group](#), [smuggling \(migrants\)](#), [trafficking in persons](#), [transnational organized crime](#)*

## organized criminal group

A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences, in order to obtain, directly or indirectly, a financial or other material benefit.

*Source:* Adapted from Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 29 September 2003) UN Doc. A/55/383, Art. 2(a).

*Note:* The Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 29 September 2003) UN Doc. A/55/383) was supplemented with the Protocol against the Smuggling of Migrants by Land, Sea and Air ((adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ((adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319), to deal with these two forms of crimes often committed by criminal groups and that are particularly relevant to migration.

*See also [organized crime](#), [smuggling](#), [trafficking in persons](#), [transnational organized crime](#)*

## overstay

To remain in a country beyond the period for which entry or stay was granted.

*Note:* Unlike what is a common misunderstanding, the majority of migrants in irregular situations have entered their countries of destination in a regular manner and may become irregular

only subsequently, for instance because they overstay their entry or residence permits or visas (United Nations Office of the High Commissioner for Human Rights, *The Economic, Social and Cultural Rights of Migrants in an Irregular situation* (2014) p. 4).

*See also irregular migrant, undocumented migrant*

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## P

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### passive personality principle

The principle according to which a State can exercise jurisdiction over crimes committed on the territory of another State if the victim or victims have the nationality of the former State.

*Source:* Adapted from I. Bantekas, Criminal Jurisdiction of States under International Law in R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2014).

*Note:* “The passive personality principle is generally considered the weakest of all jurisdictional links with the prosecuting State, particularly in the cases where the territorial State is willing to prosecute the accused, and an intervention of the State of nationality of the victim is not justified. However, today the principle is increasingly invoked by States in the context of terrorism” (I. Bantekas, Criminal Jurisdiction of States under International Law in R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2014).

*See also* [jurisdiction, nationality \(or active personality\) principle, personal jurisdiction](#)

### passport

A document issued by the competent authority of a State, valid for international travels, which identifies the holder as a national of the issuing State and constitutes evidence of the holder’s right to return to that State.

*Note:* Passports are an accepted international evidence of nationality, although their evidentiary value is prima facie only. The issuance of a passport facilitates the exercise of the human right to leave any country and to return to one’s own country. States that fail to provide their nationals with passports may breach Article 12(2) of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) which states: “Everyone shall be free to leave any country, including his own” (see Human Rights Committee, General Comment No. 27: Freedom of movement (Article 12) (1 November 1999) UN Doc. CCPR/C/21/Rev.1/Add.9). Pursuant to its Article 12(3), freedom of movement can be restricted insofar as the restriction is provided by law, necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and is consistent with the other rights recognized in the covenant.

*See also* [electronic passport, identity document, travel document, travel documents \(Convention\)](#)

## pastoralism

A livelihood strategy based on moving livestock to seasonal pastures primarily in order to convert grasses, forbs, tree-leaves, or crop residues into human food. The search for feed is however not the only reason for mobility; people and livestock may move to avoid various natural and/or social hazards, to avoid competition with others, or to seek more favorable conditions.

*Source:* Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability* (Fifth Assessment Report, Cambridge University Press, 2014) Annex II, 1770.

*Note:* As a livelihood strategy, pastoralism is shaped by social and ecological factors. The latter often concern uncertainty and variability of precipitation, and low and unpredictable productivity of terrestrial ecosystems (Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability*, (Fifth Assessment Report, Cambridge University Press 2014) Annex II, 1770.

See also *internally displaced pastoralists, transhumance*

## pathways for migrants in vulnerable situations

Pathways for admission to countries of destination, building on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible.

The term may also refer to other solutions for migrants compelled to leave their countries of origin due to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, such as desertification, land degradation, drought and sea level rise, including when based on devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible.

*Source:* Adapted from Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 5, para. 21(g)(h).

*Note:* The term primarily refers to regular migration pathways that can be used for persons compelled to leave their country of origin, who are in vulnerable situations and in need of protection. However, in the Global Compact for Migration, States committed “to adapt options and pathways for regular migration in a manner that ... responds to the need of migrants in situations of vulnerability” (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 5, para. 21). Such situations can arise not only in countries of origin, but also in countries of transit and destination (*ibid.*, Objective 7, para. 23).

Persons in need of these pathways typically include victims of trafficking, victims of torture and other serious human rights violations, unaccompanied migrant children, persons seriously ill or any other person who may find him or herself in a situation of vulnerability, at any point during the migration cycle.

Pathways for migrants in vulnerable situations may include:

- Humanitarian visas and humanitarian admission programmes;
- Private sponsorships programmes;
- Access to education for children, student visas, or other educational opportunities;
- Temporary work permits or other labour mobility schemes;
- Planned relocation for people affected by slow-onset natural disasters, the adverse effects of climate change and environmental degradation;
- Family reunification schemes; and
- Medical evacuations.

*See also complementary pathways for refugee admission, discretionary forms of protection, humanitarian admission, humanitarian visa, migrants in vulnerable situations, regular migration pathways, temporary protection or stay arrangements (TPSAs), vulnerability*

**people smuggling** Refer to [migrant smuggling](#)

*See also human smuggling*

## permanent residence

The right, granted by the authorities of a State of destination to a non-national, to live therein on a permanent (unlimited or indefinite) basis.

*Note:* Residence conditions for permanent residents vary from one State to another.

## permanent resident

A non-national with the right of permanent residence in a State of destination.

See also *long-term migrant*

## permit

In the migration context, documentation, such as a residence or work permit, which is usually issued by a government authority and which evidences the permission a person has to reside and/or carry out a remunerated activity.

See also *residence permit, work permit*

## persecution

A threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group. Other serious violations of human rights for the same reasons also constitute persecution.

Source: Adapted from United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (December 2011) UN Doc. HCR/1P/4/enG/Rev. 3, para. 51.

*Note:* In the refugee context, there is no universally accepted definition of “persecution”. The term was deliberately not defined in the Geneva Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137). The first prong of the above definition is inferred from Article 33 of the Refugee Convention. The second prong builds on States’ jurisprudence which commonly recognizes violations of human rights to constitute persecution when reaching a certain threshold of seriousness. According to the Convention’s definition of a refugee, persecution must be based on one of the following five grounds: race, religion, nationality, membership of a particular social group or political opinion (United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (December 2011) UN Doc. HCR/1P/4/enG/Rev. 3, para. 51).

See also *grounds for persecution, membership of a particular social group, nationality, race, refugee (mandate), refugee (prima facie), refugee (1951 Convention), refugee sur place, religion, well-founded fear (of persecution)*



## person with a migratory background

A person who has: (1) migrated into their present country of residence; (2) previously had a different nationality to that of his/her present country of residence; and/or (3) at least one of his/her parents previously entered the present country of residence as a migrant.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

## personal jurisdiction

In international law, the power of a State to exercise authority over its nationals who are in a foreign country for the purpose of protecting them or of submitting them to judicial and legislative criminal jurisdiction.

*See also* [jurisdiction](#), [nationality \(or active personality\) person](#), [passive personality principle](#)

**place of habitual residence** Refer to [habitual residence](#), [usual residence](#)

## planned relocation

In the context of disasters or environmental degradation, including when due to the effects of climate change, a planned process in which persons or groups of persons move or are assisted to move away from their homes or place of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives.

*Source:* Adapted from The Brookings Institution, Georgetown University Institute for the Study of International Migration and United Nations High Commissioner for Refugees, *Guidance on Protecting People From Disasters and Environmental Change Through Planned Relocation*, (Brookings, 2015) p. 5.

*Note:* The term is generally used to identify relocations that are carried out within national borders under the authority of the State and denotes a long process that lasts until “relocated persons are incorporated into all aspects of life in the new setting and no longer have needs or vulnerabilities stemming from the Planned Relocation” (The Brookings Institution, Georgetown University Institute for the Study of International Migration and United Nations High Commissioner for Refugees, *Guidance on Protecting People From Disasters and Environmental Change Through Planned Relocation*, (Brookings, 2015), p. 6).

The aim of planned relocation should be to protect people from risks and impacts related to disasters and environmental change, including the effects of climate change, and should only be carried out at the individual, household, and/or community levels as a last resort (ibid., 5).

In some exceptional cases, groups of persons may also be relocated to another State. This is typically the case in disappearing Island States.

*See also relocation, relocation (internally displaced persons), settlement elsewhere in the country*

**point of entry** Refer to border control point/crossing point

**point of exit** Refer to border control point/crossing point

## political opinion

One of the grounds for persecution under the 1951 Refugee Convention implying that a person holds and/or is attributed an opinion that either has been expressed or imputed, and has come to the attention of the authorities. This ground is relevant even on the assumption that an opinion, although not yet expressed, will be expressed and will not be tolerated by the authorities when it is expressed.

*Source:* United Nations High Commissioner for Refugees, *UNHCR and International Protection, A Protection Induction Programme* (2006) p. 90.

*Note:* The United Nations High Commissioner for Refugees (UNHCR) clarifies that: “[h]olding political opinions different from those of the government is not in itself a ground for claiming refugee status and an applicant must show that he has a fear of persecution for holding such opinions...” (UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) UN Doc. HCR/1P/4/enG/Rev. 3, para. 80). In addition, it may not always be possible to establish a causal link between the opinions expressed and the persecution. Such measures are only rarely explicitly based on the opinion expressed. Very often the persecution takes the form of a sanction for alleged criminal acts committed by the individual against the ruling power. In such circumstances, “it will, therefore, be necessary to establish the applicant’s political opinion, which is at the root of his behaviour, and the fact that it has led or may lead to the persecution that he claims to fear” (ibid., para. 81).

*See also grounds for persecution, refugee (mandate), refugee (1951 Convention)*

## pre-departure orientation programmes

Courses designed to help prospective migrants, including refugees, acquire the knowledge, skills and attitudes needed to facilitate their integration into the country of destination. They also address expectations and provide a safe and non-threatening environment in which to answer migrants' questions and address concerns.

*Note:* In recent years, pre-departure orientation programmes have expanded from a focus on cultural orientation to include language training, pre-employment training, intercultural competency training, counselling and more. Courses often are tailored to specific demographics and populations.

P

## pre-embarkation checks

A rapid visual check by a doctor or nurse to assess migrants' fitness for travel, usually performed within 24 to 48 hours before departure.

*Note:* The aim is to ensure that the individual is fit for travel and does not pose any health threat to other passengers or to persons encountered during transit or immediately upon arrival in the country of resettlement.

See also *fitness for travel*

## prima facie

Latin expression meaning "at first sight", on first appearance but subject to further evidence or information. It provides sufficient proof to establish a fact or raise a presumption unless disproved or rebutted.

*Source:* B.A. Garner (ed), *Black's Law Dictionary* (10th ed, Westlaw, 2014).

*Note:* In the migration context, an application for immigrant status may undergo preliminary review to determine whether there is a prima facie case showing of all the basic requirements (often as a condition for receiving financial assistance or a work permit).

See also *refugee (prima facie)*

## primary applicant

 Refer to *principal applicant*

See also *main applicant*

## primary inspection

In the context of cross-border movements, the preliminary assessment at a border crossing point of persons seeking admission into a State and of their identity and travel documents aimed at deciding on admission or referral to secondary inspection.

*Note:* A common State practice is that the review of persons seeking entry into a country at border crossing points is divided into “primary” and “secondary” inspection. The vast majority of applicants for admission undergo a short screening at primary inspection points prior to admission. Any applicant about whom the migration official has doubts or who is registered on the State’s watch-list system is referred to secondary inspection, where the applicant undergoes an interview or additional investigation.

See also *secondary inspection*

## principal applicant

In the migration context, the person who applies for refugee or other immigration status and under whose name the application is made; also referred to as main or primary applicant.

*Note:* A common State practice is that dependents (usually including at a minimum the spouse and any minor children) are considered derivative applicants and receive the same status afforded to the principal applicant.

See also *applicant, main applicant, primary applicant, sponsor*

## private international law

Also referred to as “international private law”, a branch of municipal law which deals with cases having a foreign element, i.e. a contact with some system of law other than the domestic system. The central issues for private international law are choice of jurisdiction, i.e. whether a court in State has jurisdiction to deal with a case having a foreign element, and choice of law, i.e. whether the ordinary rules of law of States shall apply to the case, or whether some other system of law shall apply.

*Source:* Adapted from P. Grant and J. Barker (eds), *Parry and Grant Encyclopedic Dictionary of International Law* (Oxford University Press, 2004).

## project-tied worker

A migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(f).

*See also* [contract worker \(temporary\)](#), [guest worker](#), [migrant worker](#), [short-term migrant](#), [specified-employment worker](#)

## protection

All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. Human Rights law, International Humanitarian Law, Refugee law).

*Source:* Inter-Agency Standing Committee, Protection of Internally Displaced Persons: Inter-Agency Standing Committee Policy Paper (December 1999) p. 4.

*Note:* The protection of migrants refers to the “obligation to respect, protect and fulfil the rights of individuals and obligation by States to do so in respect of all individuals on their territory or under their jurisdiction, regardless of their nationality, statelessness or migration status and without discrimination, in order to preserve in particular their safety, physical integrity and dignity. Protection is about securing rights” (International Organization for Migration, IOM Policy on Protection (7 September 2015)C/106/INF/9, 4, para. 12; see also, Inter-Agency Standing Committee, *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (January 2011) pp. 5 and 6).

*See also* [complementary protection \(international\)](#), [international protection](#), [pathways for migrants in vulnerable situations](#), [temporary protection and stay arrangements \(TPSAs\)](#)

## protection mainstreaming

The inclusion of humanitarian protection principles into the crisis response by ensuring that any response is provided in a way that avoids any unintended negative effects (do no harm), is delivered according to needs, prioritizes safety and dignity, is grounded on participation and empowerment of local capacities and ultimately holds humanitarian actors accountable vis-à-vis affected individuals and communities.

*Source:* International Organization for Migration, Guidance Note on How to Mainstream Protection across IOM Crisis Response (20 January 2016) IN/232, Part III, para. 8.

*Note:* Protection mainstreaming addresses “how” the crisis and post-crisis response is performed and is the responsibility of all actors involved in humanitarian responses.

## protracted displacement

A situation in which refugees, internally displaced persons (IDPs) and/or other displaced persons have been unable to return to their habitual residence for three years or more, and where the process for finding durable solutions, such as repatriation, integration in host communities, settlement in third locations or other mobility opportunities, has stalled.

*Source:* N. Crawford, Jo. Cosgrave, S. Haysom and N. Walicki, *Protracted Displacement: Uncertain Paths to Self-Reliance in Exile* (Humanitarian Policy Group Commissioned Report, September 2015) p. 10.

*Note:* As explained by the Humanitarian Policy Group, “This definition includes [individuals] forced to leave their homes to avoid armed conflict, violence, violations of human rights or natural or human-made disasters. It also includes those living in camps or dispersed among host populations”. (ibid., 11). There seems to be no consensus as to when displacement becomes protracted, and so no standard definition of “protracted displacement” exists. Some organizations and authors put the emphasis on the duration of the displacement (12 months, 3 years, 5 years, etc.) as a benchmark. Others regard displacement as protracted as long as people are unable to return to their place of origin, thus using location as the main criteria. Still others identify a continued need for humanitarian action as the key element of protractedness. The above definition covers all situations in which the process of finding solutions has stalled (United Nations Office for the Coordination of Humanitarian Affairs, *Breaking the Impasse: Ending Protracted Internal Displacement Through Collective Outcomes* (March 2017); see also The Brookings-Bern Project on Internal Displacement and the United Nations High Commissioner for Refugees, *Expert Seminar on Protracted IDP Situations* (2007) p. 2). According to UNHCR a major protracted refugee situation is one where more than 25,000 refugees have been in exile for more than five years (United Nations High Commissioner for Refugees, Executive Committee, *Protracted Refugee Situations* (10 June 2004) EC/54/SC/CRP.14, para. 5). OCHA defines protracted internal displacement by reference to “IDPs who are prevented from taking or are unable to take steps for significant periods of time to progressively reduce their vulnerability, impoverishment and marginalization and find a durable solution” (ibid., 4).

See also *displacement, internally displaced persons, refugee (mandate), refugee (prima facie), refugee (1951 Convention)*

## psychosocial support

The term “psychosocial” denotes the inter-connection between psychological and social processes and the fact that each continually interacts with and influences the other. The composite term mental health and psychosocial support (MHPSS) is used to describe any type of local or outside support that aims to protect or promote psychosocial well-being and/or prevent or treat mental disorder.

*Source:* Inter-Agency Standing Committee (IASC), IASC Reference Group for Mental Health and Psychosocial Support in Emergency Settings, *Mental Health and Psychosocial Support in Humanitarian Emergencies: What Should Humanitarian Health Actors Know?* (2010) p. 1.

*Note:* “Migration is a social determinant of health that can impact the health and well-being of individuals and communities. Migration can improve the health status of migrants and their families by escaping from persecution and violence, by improving socioeconomic status, by offering better education opportunities, and by increasing purchasing power for ‘left behind’ family members thanks to remittances. However, the migration process can also expose migrants to health risks, such as perilous journeys, psychosocial stressors and abuses, nutritional deficiencies and changes in life-style, exposure to infectious diseases, limited access to prevention and quality health care, or interrupted care” (International Organization for Migration, Migration Health Division, Migration Health in the Sustainable Development Goals (undated) p. 1; see also World Health Organization, *Refugee and Migrant Health* (webpage undated), [www.who.int/migrants/en/](http://www.who.int/migrants/en/) (last accessed 6 February 2018).

See also *migration health*

## public health emergency of international concern

An extraordinary event which is determined: (i) to constitute a public health risk to other States through the international spread of disease and (ii) to potentially require a coordinated international response.

*Source:* Adapted from World Health Organization, International Health Regulations (2005) (3rd edition, 2016) p. 9.

See also *health, migration health, quarantine*

## push-pull factors

A model categorizing the drivers of migration into push and pull factors, whereby push factors are those which drive people to leave their country and pull factors are those attracting them into the country of destination.

*Note:* The push-pull model refers to a framework within which the decision to migrate is made. Within this framework, a migrant makes his or her mobility decisions according to “plus” and “minus” factors in areas of origin and destination, intervening obstacles, and personal factors (Lee, 1966, in S. Castles, H. de Haas and M.J. Miller, *The Age of Migration: International Population Movements in the Modern World* (5th edition, Palgrave-Macmillan, 2014)). Whilst it provides a useful categorization of reasons for migrating, the “push-pull” model has subsequently been misrepresented in a manner that fails to acknowledge the complexity and interplay of the factors that lead to the decision to migrate.

See also *drivers of migration, root causes of migration*



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## Q

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### qualified national

In the migration context, from the perspective of the country of origin, an emigrant with specific professional skills in demand in that country.

See also *highly skilled migrant worker, skilled migrant worker*

### quarantine

The restriction of activities and/or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination.

*Source:* World Health Organization, International Health Regulations (2005) (3rd edition, 2016) p. 9.

*Note:* Quarantine is one of the oldest measures, dating back to the 14th century, to stem disease spread by restricting the movement of people. A related, but not entirely similar term is “isolation” which separates sick people with a contagious disease from people who are not sick (World Health Organization, International Health Regulations (2005) (3rd edition, 2016) p. 8).

See also *public health emergency of international concern*

**quota** Refer to *immigration quota*





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## R

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### race

One of the grounds for persecution for refugee status under the 1951 Refugee Convention, and a prohibited ground of discrimination under human rights law. Not being a scientifically grounded concept, race is generally understood in its widest sense to include all kinds of ethnic groups that are referred to as ‘races’ in common usage.

*Source:* Adapted from Committee on the Elimination of Racial Discrimination Convention, General Recommendation XXIV Concerning Art. 1 of the Convention (1999) para. 1 in United Nations General Assembly, Report of the Committee on the Elimination of Racial Discrimination (1999) UN Doc. A/54/18, Annex 5, p. 105; and United Nations High Commissioner for Refugees, *Handbook on Procedure and Criteria for Refugee Determination* (2011) HCR/1P/4/ENG/Rev. 3, p. 142.

*See also* [discrimination](#), [grounds for persecution](#), [non-discrimination \(principle of\)](#), [persecution](#), [racial discrimination](#), [racism](#), [refugee \(mandate\)](#), [refugee \(1951 Convention\)](#)

### racial discrimination

Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

*Source:* International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195, Art. 1(1).

*Note:* The Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance adopts a similar definition but makes specific reference to the fact that this type of discrimination can occur both in public and in private life ((adopted 5 June 2013, entered into force 11 November 2017) A-68). Article 1 states that: “Racial discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties”. (ibid.)

See also *discrimination, non-discrimination (principle of), racism, xenophobia*

## racism

Any theory, doctrine, ideology, or sets of ideas that assert a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural, and personality traits, including the false concept of racial superiority.

*Source:* International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195, Art. 1(4).

*Note:* Racism leads to racial inequalities and discrimination contrary to the basic principles of international law (International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195).

See also *discrimination, non-discrimination (principle of), race, racial discrimination, xenophobia*

## R

## ratification

“Acceptance” or “approval” of a treaty. In an international context, ratification is the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty.

*Source:* Adapted from Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Art. 2(1)(b).

*Note:* Instruments of ratification usually take effect either when exchanged between the contracting States, or when deposited with a depositary or notified to the other contracting States or to the depositary of the treaty (Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, Art. 16). In a domestic context, ratification is the process whereby a State puts itself in a position to indicate its acceptance of the obligations contained in a treaty, which based on some constitutions may involve all the procedures which have to be followed before the government can accept a treaty as binding (J.P. Grant and C. Barker (eds), *Parry and Grant Encyclopedic Dictionary of International Law* (3rd edition, Oxford University Press, 2009)).

See also *acceptance and approval, accession, agreement (international), treaty*

## readmission

Act by a State accepting the re-entry of an individual (own national, national of another State – most commonly a person who had previously transited through the country or a permanent resident – or a stateless person).

## readmission agreement

A bilateral or multilateral agreement between States that establishes, in a reciprocal manner, the basis and procedures, for one State to promptly and orderly return non-nationals, who do not or no longer fulfil the conditions for entry or stay on its territory, to their home State or a third State, most commonly a State through which they have transited or a State in which they had permanent residence.

See also *return*

## receiving country

Usually, the country of destination of a migrant. In the case of return or repatriation, also the country of origin or, in the context of resettlement, a country that has accepted to receive a certain number of migrants, including refugees, on a yearly basis by presidential, ministerial or parliamentary decision. In the context of diplomatic or consular relations, the receiving country is the State which has consented to the establishment of consular posts or diplomatic missions of another State on its territory.

See also *country of destination, State of destination*

## reception centre

 Refer to *reception facilities*

## reception facilities

All forms of premises used for the housing of applicants for international protection and other categories of migrants, including refugees, whilst individuals await decisions on applications for admission or on international protection.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

*Note:* The name and functions of such facilities vary among States and include: accommodation centres, identification centres, processing centres, hotspots, and holding or detention centres. Some facilities

may accommodate a particular group of non-nationals only, for example those seeking international protection, whilst others will accommodate additional groups. Facilities may be open, semi-open or closed centres, publicly or privately run. In the use of any closed reception facilities, irrespective of their appellation, States have to respect the individuals' right to liberty and security, as well as all human rights guarantees relating to detention.

*See also deprivation of liberty, detention (migration), detention centres (migration), holding centre, reception centre*

## re-emigration

The movement of a person who, after having returned to his or her country of origin, emigrates again.

*Note:* Also referred to as re-migration.

*See also re-migration*

## refoulement

Refusal of entry or non-admission.

*Note:* The term refoulement is also commonly used as a shorthand for any returns or non-admissions which are in violation of the principle of non-refoulement.

*See also deportation, expulsion, forced return, non-admission, refusal of entry, removal, return, non-refoulement (principle of)*

## refugee (mandate)

A person who qualifies for the protection of the United Nations provided by the High Commissioner for Refugees (UNHCR), in accordance with UNHCR's Statute and, notably, subsequent General Assembly's resolutions clarifying the scope of UNHCR's competency, regardless of whether or not he or she is in a country that is a party to the 1951 Convention or the 1967 Protocol – or a relevant regional refugee instrument – or whether or not he or she has been recognized by his or her host country as a refugee under either of these instruments.

*Source:* Adapted from United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/enG/Rev. 3, 7, para. 16.

*See also complementary protection (international), displaced persons, international protection, international refugee law, refugee (1951 Convention), refugee (prima facie), refugee status determination, refugee sur place*

## refugee (*prima facie*)

Persons recognized as refugees, by a State or the United Nations High Commissioner for Refugees, on the basis of objective criteria related to the circumstances in their country of origin, which justify a presumption that they meet the criteria of the applicable refugee definition.

*Source:* United Nations High Commissioner for Refugees (UNHCR), Master Glossary of Terms (2006) p. 17.

*Note:* “While refugee status must normally be determined on an individual basis, situations have also arisen in which entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees. In such situations the need to provide assistance is often extremely urgent and it may not be possible for purely practical reasons to carry out an individual determination of refugee status for each member of the group. Recourse has therefore been had to so called ‘group determination’ of refugee status, whereby each member of the group is regarded *prima facie* (i.e. in the absence of evidence to the contrary) as a refugee” (United Nations High Commissioner for Refugees, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status (2011) HCR/1P/4/ENG/Rev. 3, para. 44).

*See also* [displaced persons](#), [international refugee law](#), [prima facie](#), [refugee \(1951 convention\)](#), [refugee \(mandate\)](#)

## refugee (1951 Convention)

A person who, owing to a well-founded fear of persecution 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; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

*Source:* Adapted from Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) Art. 1A(2).

*Note:* Under international refugee law, recognition as a refugee is declaratory and not constitutive. “A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee”

(United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/enG/Rev. 3, para. 9). The second part of the definition also covers stateless persons who are outside their country of habitual residence.

Instruments adopted at the regional level complement the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) and build upon its definition, by including specific reference to a number of objective circumstances which may compel a person to leave their country. Article 1(2) of the Convention Governing Specific Aspects of Refugee Problems in Africa ((adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45) includes in the definition of refugees also any person compelled to leave his or her country “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality”. Similarly, the 1984 Cartagena Declaration states that refugees also include persons who flee their country “because their lives, security or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order”.

*See also displaced persons, grounds for persecution, international protection, international refugee law, membership of a particular social group, nationality, persecution, political opinion, race, refugee (mandate), refugee (prima facie), refugee status determination, refugee sur place, religion, well-founded fear of persecution*

## refugee law (international)

*See also international refugee law*

## refugee status determination

Legal and administrative procedures undertaken by States and/or the United Nations High Commissioner for Refugees to determine whether an individual should be recognized as a refugee in accordance with national, regional and international law.

*Source:* United Nations High Commissioner for Refugees, *The 10-Point Plan in Action*, 2016 - Glossary (December 2016) [www.refworld.org/docid/59e99eb94.html](http://www.refworld.org/docid/59e99eb94.html) (last accessed 24 January 2018).

*Note:* Determination of refugee status is a process which takes place in two stages. Firstly, it is necessary to ascertain the relevant facts of the case. Secondly, the definitions in the 1951 Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) and the 1967 Protocol have to be applied to the facts thus ascertained (United Nations High



Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/ENG/Rev. 3, para. 29). Under international refugee law, recognition as a refugee is declaratory and not constitutive. “A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee” (ibid., para. 28).

See also *applicant, exclusion clauses (international protection), refugee (mandate), refugee (1951 Convention)*

## refugee sur place

Person who was not a refugee when he or she left his or her country of origin, but who becomes a refugee at a later date.

Source: Adapted from United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/ENG/Rev. 3, p. 19.

Note: “A person may become a refugee ‘sur place’ as a result of his own actions, such as associating with refugees already recognized, or expressing his political views in his country of residence. Whether such actions are sufficient to justify a well-founded fear of persecution must be determined by a careful examination of the circumstances. Regard should be had in particular to whether such actions may have come to the notice of the authorities of the person’s country of origin and how they are likely to be viewed by those authorities” (United Nations High Commissioner for Refugees, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status* (2011) HCR/1P/4/ENG/Rev. 3, para. 96).

See also *grounds for persecution, international refugee law, persecution, refugee (mandate), refugee (1951 Convention)*

## refusal of entry

Refusal to let a person enter the State when the person does not fulfil all the entry conditions laid down in the national legislation of the country of which entry is requested.

Source: Adapted from European Migration Network, *Asylum and Migration Glossary 3.0* (2014).

See also *grounds of inadmissibility, non-admission, non-refoulement (principle of), refoulement*

## Regional Consultative Processes on migration (RCP)

State-led, ongoing, regional information-sharing and policy dialogues dedicated to discussing specific migration issue(s) in a cooperative manner among States from an agreed (usually geographical) region, and may either be officially associated with formal regional institutions, or be informal and non-binding.

*See also global processes on migration, Interregional Forums on Migration, Inter-State Consultation Mechanisms on Migration*

### registration cards

A card containing basic personal identity information of the holder, usually issued by national, regional or municipal authorities, proving the registration of the person in a database, with a view to enabling the holder to access one or more services and facilitating interaction with authorities. Such card is not a formal identity document and may not be valid for travelling or crossing of international borders, neither does it constitute entitlements to residency or nationality.

*Note:* Registration cards are generally issued to persons having their usual residence in a given place, irrespective of the person's nationality or formal residence status. Examples of registration cards include social security cards, student cards, elderly cards, fiscal registration cards, etc. Such cards are used by certain local authorities to ensure access to services to all persons under their jurisdiction, including irregular migrants. The Global Compact for Migration invites States to "Build upon existing practices at the local level that facilitate participation in community life, such as interaction with authorities and access to relevant services, through the issuance of registration cards to all persons living in a municipality, including migrants, that contain basic personal information, while not constituting entitlements to citizenship or residency" (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 4, para. 20 (g)).

*See also identity document, travel document*

**regular migrant** Refer to *migrant in a regular situation*

*See also documented migrant, documented migrant worker, migrant in a regular situation, regular migration*

## regular migration

Migration that occurs in compliance with the laws of the country of origin, transit and destination.

*See also regular migration pathways, safe, orderly and regular migration*

## regular migration pathways

Migration schemes, programmes or other migration options that allow eligible persons to migrate regularly for various purposes to a concerned country of destination based on conditions and for a duration defined by such country.

*Note:* The final draft of the Global Compact for Migration refers to regular migration pathways in Objective 5, para. 21. In this Objective, States have committed to: “adapt options and pathways for regular migration in a manner that facilitates labour mobility and decent work reflecting demographic and labour market realities, optimizes education opportunities, upholds the right to family life, and responds to the needs of migrants in a situation of vulnerability, with a view to expanding and diversifying availability of pathways for safe, orderly and regular migration” (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 5, para. 21).

*See also complementary pathways for refugee admission, pathways for migrants in vulnerable situations, regular migration, resettlement, safe, orderly and regular migration*

## regularization

Any process or programme by which the authorities of a State allow non-nationals in an irregular situation to stay lawfully in the country, by granting them a regular status.

*Note:* Typical practices include the granting of an amnesty (also known as “legalization”) to non-nationals who have resided in the country in an irregular situation for a given length of time and are not otherwise found inadmissible. In this regard, the Global Compact for Migration calls upon States to “build on existing practices to facilitate access for migrants in an irregular status to an individual assessment that may lead to regular status, on a case by case basis and with clear and transparent criteria, especially in cases where children, youth and families are involved, as an option to reduce vulnerabilities...” (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019) Objective 7, para. 23 (i)).

*See also amnesty*



## reinsertion

A form of short-term transitional assistance to help cover the basic needs of migrants, specific groups (such as displaced persons and former combatants) and their families.

*Source:* Adapted from United Nations General Assembly, *Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations* (Note by the Secretary-General, 2005) UN Doc. A/C.5/59/31, p. 1)

*Note:* Reinsertion assistance can include “transitional safety allowances, food, clothes, shelter, medical services, short-term education, training, employment and tools” (United Nations General Assembly, *Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations* (Note by the Secretary-General, 2005) UN Doc. A/C.5/59/31, p. 1). While reintegration should be understood as a long-term, continuous social and economic process, reinsertion incorporates the provision of short-term material and/or financial assistance to meet immediate needs typically at the outset of a reintegration process (*ibid.*).

See also *reintegration*

## reintegration

A process which enables individuals to re-establish the economic, social and psychosocial relationships needed to maintain life, livelihood and dignity and inclusion in civic life.

*Note:* The various components of reintegration can be described as follows.

Social reintegration implies the access by a returning migrant to public services and infrastructures in his or her country of origin, including access to health, education, housing, justice and social protection schemes.

Psychosocial reintegration is the reinsertion of a returning migrant into personal support networks (friends, relatives, neighbours) and civil society structures (associations, self-help groups and other organizations). This also includes the re-engagement with the values, mores, way of living, language, moral principles, ideology, and traditions of the country of origin’s society.

Economic reintegration is the process by which a returning migrant re-enters the economic life of his or her country of origin and is able to sustain a livelihood.

See also *assisted voluntary return and reintegration, durable solutions, integration, reintegration (ex-combatants), sustainable reintegration, country of origin*

## reintegration (ex-combatants)

Reintegration is essentially a social and economic process with an open time-frame, primarily taking place in communities at the local level. It is part of the general development of a country and a national responsibility, and often necessitates long-term external assistance.

*Source:* United Nations General Assembly, *Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations* (Note by the Secretary-General, 2005) UN Doc. A/C.5/59/31, pp. 1-2.

*See also* [reintegration](#), [sustainable reintegration](#)

## reintegration (social)

In the context of return migration, the reinsertion of a returning migrant into the social structures of his or her country of origin or country of nationality.

*Note:* This includes both the development of a personal network (friends, relatives, neighbours) and the development of civil society structures (associations, self-help groups and other organizations).

*See also* [reintegration](#)

## reintegration (political)

In the context of return migration, the ability of a returning migrant to take part in political processes of that country.

*See also* [reintegration](#)

## rejected applicant

In the migration context, an applicant for admission or asylum refused entry or stay into a State by immigration authorities, or access to refugee status or another form of international protection, because he or she fails to meet the relevant eligibility criteria.

*See also* [admission \(into a State\)](#), [applicant](#), [asylum](#), [grounds of inadmissibility](#), [international protection](#)

## religion

One of the grounds for persecution for refugee status under the 1951 Refugee Convention which may assume various forms, e.g. prohibition of membership of a religious community, of worship in private or in public, of religious instruction, or serious measures

of discrimination imposed on persons because they practise their religion or belong to a particular religious community.

*Source:* Adapted from United Nations High Commissioner for Refugees, Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status (2011) HCR/1P/4/ENG/Rev. 3, para. 72.

*See also grounds for persecution, persecution, refugee (mandate), refugee (1951 Convention)*

## relocation

In the context of humanitarian emergencies, relocations are to be considered as internal humanitarian evacuations and are understood as large-scale movements of civilians, who face an immediate threat to life in a conflict setting, to locations within the same country where they can be more effectively protected.

*Source:* Adapted from International Organization for Migration, IOM Key Principles for Internal Humanitarian Evacuations/Relocations of Civilian Populations in Armed Conflict (undated) [www.iom.int/sites/default/files/Int.%20humanitarian-%20Relocations-%20key%20principles%20IOMFIN.pdf](http://www.iom.int/sites/default/files/Int.%20humanitarian-%20Relocations-%20key%20principles%20IOMFIN.pdf) (last accessed 8 February 2018) (definition adapted from Global Protection Cluster Working Group, *Handbook for the Internally Displaced People* (2010)).

*Note:* Relocation is also among the guarantees laid down in the Guiding Principle on Internal Displacement in case of displacement occurring in situations other than during the emergency stages of armed conflicts and disasters (Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2, Principle 7(3)(b)). These guarantees also provide that “[t]he authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation” (ibid., Principle 7(3)(d)).

In the European context, the term refers to the transfer a) of refugees or subsidiary protection beneficiaries within the meaning of Directive 2011/95/EU, from the EU Member State, which granted them international protection, to another EU Member State, where they will be granted similar protection, and b) of persons having applied for international protection from the EU Member State, which is responsible for examining their application, to another EU Member State, where their applications for international protection will be examined.

*Source:* Adapted from European Migration Network, Asylum and Migration Glossary 3.0 (2014).

*See also* *planned relocation, relocation alternative, relocation (internally displaced persons), resettlement (refugees), settlement elsewhere in the country*

**relocation alternative** Refer to *internal flight alternative*

*See also* *internal flight, internal protection alternative, relocation*

**relocation (internally displaced persons)** Refer to *settlement elsewhere in the country*

*See also* *relocation, relocation alternative, planned relocation, resettlement (refugees)*

## relocation (IDPs)

The transfer and integration of internally displaced persons into another geographical area within the same country as one of the three forms of durable solutions.

*Note:* Although the Guiding Principles on Internal Displacement use the term resettlement (Guiding Principles on Internal Displacement (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2, Section V), the term relocation is currently more commonly used to refer to one of the three durable solution to internal displacement.

*See also* *relocation, relocation alternative, planned relocation, resettlement (refugees)*

## remedy

The legal processes aimed at redressing the violation of a right, as well as the substantive outcome of such a process.

*Note:* Remedies aim at restoring justice, including by providing reparation (United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (21 March 2006) UN Doc. A/RES/60/147, para. 18).

A fundamental principle of the human rights architecture is that everyone should have a right to an effective remedy in the event his or her rights are violated. Migrants, and notably those who are in an irregular situation, are often prevented from accessing effective remedies by various legal and situational barriers.

Remedies are also a critical element of the international legal response to trafficking in persons (Office of the High Commissioner for Human Rights, Draft Basic Principles on the Rights to an Effective Remedy for Victims of Trafficking in Persons (2014)).

*See also* *reparation*

**re-migration** Refer to re-emigration

## remittances (migrant)

Personal monetary transfers, cross border or within the same country, made by migrants to individuals or communities with whom the migrant has links.

*Note:* In this definition, remittances are independent of the sender's source of income (e.g. salary, profits from business, savings, etc.). The International Monetary Fund (IMF) and the World Bank, collect data on remittances within the balance of payment framework. For that purpose, data on remittances includes two items: "compensation of employees" and "personal transfers" (IMF, International Transaction in Remittances, 2009, para. 3.14; World Bank, How do you define remittances?, <https://datahelpdesk.worldbank.org/knowledgebase/articles/114950-how-do-you-define-remittances> (last accessed 28 February 2020)).

A distinction should be made between formal remittances as captured in the above definition and informal remittances. Informal remittances are remittances in cash or in kind that are transferred outside the formal financial system. Statistics on remittances normally only capture formal remittance flows.

Increasingly, the terms "social remittances" or "social capital transfer" are used in the context of transfers of non-monetary value as a result of migration, such as transfer of knowledge, know-how, networking and skills.

See also *social remittances*

## removal

Also referred to as deportation or, sometimes, expulsion, the act, following a deportation, expulsion or removal order by which a State physically removes a non-national from its territory to his or her country of origin or a third country after refusal of admission or termination of permission to remain.

*Note:* The removal of non-nationals is an expression of a State's sovereignty to determine who enters and remains on its territory. A number of principles of international law, and most notably the principle of non-refoulement, limit a State's sovereignty in this regard.

International law also set standards for the way in which removals are carried out. Removals should preserve the dignity of the individual and the use of force should be exceptional, limited to what is reasonably necessary, should never endanger the life or physical integrity of the individual. In particular, any techniques that may have the effect of obstructing partially or wholly the airways of the person should be avoided and any provision of medication



to persons being deported or subject to a deportation order must only be done on the basis of a medical decision and in accordance with medical ethics (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Deportation of Foreign Nationals by Air*, Extract from the 13th General Report of the CPT (20013) CPT/Inf(2003) 35, paras. 36 and 40 in CPT, CPT Standards (Rev. 2015) CPT/Inf/E (2002) 1, pp. 79–80).

*See also collective expulsion, forced return, deportation, expulsion, family unity (right to), non-refoulement (principle of)*

## removal order

In the migration context, an administrative or a judicial decision or act ordering the enforcement of the obligation to return.

*Source:* Adapted from Council Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals [2008] OJ L 348/98.

*Note:* In some States, a removal order may be accompanied by a voluntary period for the individual's departure from the State territory and under certain conditions (e.g. absence of a risk of absconding).

*See also deportation order, expulsion order, family unity (right to), non-refoulement (principle of)*

## renunciation of nationality

The act of voluntarily giving up one's nationality.

*Note:* The voluntary renunciation of nationality by an individual must also be followed by an official act of acceptance on the part of the State. International law prohibits States from denying the right of a person to change nationality (Art. 15 of the Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A); and Art. 20(3) of the American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123) and it restricts the possibility to renounce one's nationality to cases where the person concerned would become stateless (Art. 7(1) of the Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975) 989 UNTS 175; Art. 8(1) European Convention on Nationality (adopted 6 November 1997, entered into force 1 March 2000) ETS No 166).

*See also expatriate, nationality, stateless person, statelessness*

## reparation

Set of measures arising from judicial or administrative decisions, designed and implemented to redress the violation of a right.

*Source:* Adapted from United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (21 March 2006) UN Doc. A/RES/60/147.

*Note:* Reparation can include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (United Nations General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (21 March 2006) UN Doc. A/RES/60/147, para. 18). “Reparation should be proportional to the gravity of the violations and the harm suffered” (ibid., para. 15).

See also *remedy*

## repatriation

The personal right of a prisoner of war, civil detainee, refugee, or of a civilian to return to his or her country of nationality under specific conditions laid down in various international instruments.

*Source:* Adapted from A. de Zayas, “Repatriation in R. Wolfrum (ed),” *The Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2014).

*Note:* The right to repatriation is found in several legal instruments such as the Geneva Conventions (i.e. Geneva Convention III relative to the Treatment of Prisoners of War 8 adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 135; Geneva Convention IV relative to the Protection of Civilian Persons in Time of War ((adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287); and the Regulations Respecting the Laws and Customs of War on Land, Annexed to the Hague Convention IV (adopted 18 October 1907, entered into force 26 January 1910) as well as customary international law. The right and method of repatriation are specifically set out with regard to non-nationals (who are not taking part in the conflict) in Articles 35 and 36 of Geneva Convention IV.

In international humanitarian law, repatriation also entails the obligation of the detaining power to release eligible persons (soldiers and civilians) and the duty of the country of origin to receive its own nationals at the end of hostilities. The term repatriation is commonly used in the context of international humanitarian law. This is why the definition focuses primarily

on categories that are relevant to this area of international law. However, a more general right to return to one's own country is also stipulated in international human rights law and particularly in Article 12 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, Art. 12).

Within refugee law, Article 5 of the Convention Governing the Specific Aspects of Refugee Problems in Africa ((adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45) stipulates that repatriation should always be voluntary and no refugee shall be repatriated against his will. It also imposes an obligation upon the country of asylum to "make adequate arrangements for the safe return of refugees who request repatriation" and on the country of origin to "facilitate their re-settlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations".

The term is also frequently used to refer to the repatriation of diplomatic envoys and international officials in time of international crisis as well as of nationals caught in a crisis or in a disaster while abroad (see Migrants in Countries in Crisis Initiative, Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (2016)).

See also *right to return, return, voluntary repatriation*

## rescue at sea

An operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety.

*Source:* International Convention on Maritime Search and Rescue (SAR) (adopted 27 April 1979, entered into force 22 June 1985) 1405 UNTS 118, Annex 1.3.2.

*Note:* The duty to rescue those in distress at sea is firmly established by both treaty and customary international law. Among others, the United Nations Convention on the Law of the Sea stipulates that: "Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him..." (United Nations Convention on the Law of the Sea (adopted 10 December 1982) 1833 UNTS 3, Art. 98(1)). Coastal States are also required to promote the establishment, operation and maintenance of an adequate and effective search and rescue service and to cooperate with neighbouring States for this purpose (ibid., Art. 98(2)).

The International Convention on Maritime Search and Rescue also specifies that "Parties shall ensure that assistance be provided

to any person in distress at sea. They [the State Parties] shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found” (International Convention on Maritime Search and Rescue (SAR) (adopted 27 April 1979, entered into force 22 June 1985) 1405 UNTS 118, Annex 2.1.10).

## resettlement (refugees)

The transfer of refugees from the country in which they have sought protection to another State that has agreed to admit them – as refugees – with permanent residence status.

*Source:* Adapted from United Nations High Commissioner for Refugees, *UNHCR Resettlement Handbook* (2011) p. 3.

*Note:* Resettled refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to be naturalized.

*See also durable solutions (refugees), relocation*

## R

## residence

The act or fact of living in a given place for some time; the place where one actually lives as distinguished from a domicile. Residence usually means bodily presence as an inhabitant in a given place.

*Source:* Adapted from B.A. Garner (ed), *Black’s Law Dictionary* (10th edition, Westlaw, 2014).

*Note:* Unlike residence, domicile normally requires “an intention to make the place one’s home. A person thus may have more than one residence at a time but only one domicile. Sometimes, though, the two terms are used synonymously” (B.A. Garner (ed), *Black’s Law Dictionary* (10th edition, Westlaw, 2014).

*See also country of usual residence, domicile, habitual residence, usual residence*

## residence permit

A document issued by the competent authorities of a State to a non-national confirming that he or she has the right to reside in the State concerned during the period of validity of the permit.

*See also permit, residence*

## resilience

In the context of humanitarian, development, peacebuilding, and security policies and operations, the ability of individuals, households, communities, cities, institutions, systems, and societies to prevent, resist, absorb, adapt, respond and recover positively, efficiently, and effectively when faced with a wide range of risks, while maintaining an acceptable level of functioning and without compromising long-term prospects for sustainable development, peace and security, human rights and well-being for all.

*Source:* Adapted from United Nations Development Group and Inter-Agency Standing Committee, Joint Letter from UNDG and IASC Chairs on Guiding Principles on Advancing Resilience (2015) p. 3.

In the context of disaster risk reduction, the ability of a system, community or society exposed to hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions through risk management.

*Source:* Adapted from United Nations General Assembly, Report of the Open-Ended Intergovernmental Expert Working Group on Indicators and Terminology Relating to Disaster Risk Reduction (1 December 2016) UN Doc A/71/644, p. 22.

## restriction of liberty

Any restriction imposed on a person's freedom of movement.

*Note:* Restriction of liberty is not synonymous to deprivation of liberty. The European Court of Human Rights has affirmed that: "the difference between deprivation of and restriction upon liberty is merely one of degree or intensity, and not one of nature or substance" (Guzzardi v Italy App no 7367/76 (ECtHR, 6 November 1980) para. 92). As a consequence, "in order to determine whether someone has been 'deprived of his liberty' ... the starting-point must be his concrete situation, and account must be taken of a whole range of criteria such as the type, duration, effects and manner of implementation of the measure in question" (Amuur v France App no 19776/92 (ECtHR, 25 June 1996) para. 42). For instance, restrictions of movement may be placed on a migrant within an international zone in an airport; however, if it is prolonged then a restriction of movement may turn into a deprivation of liberty (ibid., para. 43).

*See also* [deprivation of liberty](#), [detention \(migration\)](#), [freedom of movement \(right to\)](#)

## return

In a general sense, the act or process of going back or being taken back to the point of departure. This could be within the territorial boundaries of a country, as in the case of returning internally displaced persons (IDPs) and demobilized combatants; or between a country of destination or transit and a country of origin, as in the case of migrant workers, refugees or asylum seekers.

*Note:* A number of subcategories of return describe the various ways in which the return is implemented, e.g. voluntary, forced, assisted and spontaneous return; as well as subcategories which describe who is participating in the return, e.g. repatriation (for migrants caught in a crisis).

*See also assisted voluntary return, deportation, expulsion, non-refoulement (principle of), readmission agreement, refoulement, repatriation, spontaneous return, voluntary repatriation, voluntary return*

## return migration

In the context of international migration, the movement of persons returning to their country of origin after having moved away from their place of habitual residence and crossed an international border.

In the context of internal migration, the movement of persons returning to their place of habitual residence after having moved away from it.

*Note:* For statistical purposes, the United Nations Department of Economic and Social Affairs (UN DESA) defines returning migrants as “persons returning to their country of citizenship after having been international migrants (whether short term or long term) in another country and who are intending to stay in the country for at least one year” (UN DESA, *Recommendation on Statistics of International Migration*, Revision 1 (1998) p. 94).

## right to seek and enjoy asylum

The right of individuals to seek and enjoy asylum from persecution in a country other than the person’s State of nationality or habitual residence.

*Note:* As stipulated in Article 14 of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)): “Everyone has the right to seek and to enjoy in other countries asylum from persecution”. The use of the term “enjoy” in the

Declaration has been interpreted as a recognition of a right of States to grant asylum and to allow asylum seekers to enter their territory, notwithstanding the fact that they are protected against refoulement. In some cases, protection from refoulement requires the admission of the person. The only binding document recognizing a right to obtain asylum is the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, Art. 12(3)).

*See also* [asylum](#)

## right to leave

An element of the right to freedom of movement that entails that everyone shall be free to leave any country, including one's own.

*Source:* Adapted from Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A), Art. 13(2).

*Note:* The right to leave is also stipulated in other legal instruments such as Article 12(2) of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171) which states: "Everyone shall be free to leave any country, including his own." This right applies to all persons without distinction. There is, however, no corollary right to enter the territory of another country under international law.

*See also* [freedom of movement \(right to\)](#)

## right to return

An element of the right to freedom of movement entailing that everyone shall be free to return to one's own country.

*Source:* Adapted from Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217(A), Art. 13(2).

*Note:* The right to return is also stipulated in Article 12(4) of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171): "No one shall be arbitrarily deprived of the right to enter his own country". The right of a person to enter his or her own country recognizes the special relation of a person to that country. The wording of Article 12(4) does not distinguish between nationals and non-nationals. According to the Human Rights Committee: "The language of Art. 12, paragraph 4 ... permits a broader interpretation that might embrace other categories of long-term residents, including but not limited to stateless persons arbitrarily deprived of the right to acquire the nationality of the country of such residence" (Human Rights Committee, General Comment No. 27: Freedom of Movement (Article 12) (1 November 1999) UN Doc CCPR/C/21/Rev.1/Add.9, para. 20). The Committee also specified that the right also applies to "nationals of a country who have

there been stripped of their nationality in violation of international law” and to “individuals whose country of nationality has been incorporated in or transferred to another national entity, whose nationality is being denied them” (ibid.).

The Guiding Principles on Internal Displacement also recognize a duty for the competent authorities to “establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity” (Guiding Principles on Internal Displacement, Principle 28, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc E/CN.4/1998/53/Add.2).

*See also freedom of movement (right to), repatriation, voluntary repatriation*

## risk of absconding

In a migration context, the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that a person will abscond from an ongoing immigration procedure or to avoid the outcome thereof.

*Source:* Adapted from E Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals [2008] OJ L 348/98, Art. 3(7).

*Note:* The criteria to determine whether a person is likely to abscond should be defined by law and must not be based upon arbitrary or discriminatory grounds. Those criteria must be sufficiently specific and clear, and must be assessed in the individual case. Finally, the person concerned should have access to court to challenge any restriction to his or her liberty based on the risk of absconding (see, inter alia, C. v Australia (13 November 2002) UN Doc CCPR/C/76/D/900/1999, (2002) paras. 8.2 and 8.3).

*See also absconding*

**root causes of migration** Refer to *drivers of migration*

## rural–rural migration

The movement of people from one rural area to another for the purpose of establishing a new residence.

*See also internal migration*



## rural–urban migration

The movement of people from a rural to an urban area for the purpose of establishing a new residence.

See also *internal migration*, *urbanization*



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### safe country of origin (EU Law)

A country where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

*Source:* Adapted Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection [2013] OJ L180/60, Annex I.

*Note:* The concept of “safe country of origin” has been used by States to accelerate the processing of asylum claims. The concept leads to a presumption, difficult to rebut, that an application for international protection by a national of one of those countries is unfounded.

To ensure compliance with the letter and spirit of the 1951 Convention, when they apply the safe third country concept, States should ensure that “each application is examined fully on its merits in accordance with procedural safeguards; each applicant has an effective opportunity to rebut the presumption of safety of the country of origin in his/her individual circumstances; the burden of proof on the applicant is not increased, and applicants have the right to an effective remedy against a negative decision” (United Nations High Commissioner for Refugees, *Improving Asylum Procedures: Comparative Analysis and Recommendations for Law and Practice - Key Findings and Recommendations* (March 2010) p. 65).

See also *first country of asylum, safe third country*

### safe, orderly and regular migration

Movement of persons in keeping both with the laws and regulations governing exit from, entry and return to and stay in States and with States’ international law obligations, in a manner in which the human dignity and well-being of migrants are upheld, their rights are respected, protected and fulfilled and the risks associated with the movement of people are acknowledged and mitigated.

*Note:* The term is the one used in the title of the Global Compact for Migration (Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195, adopted on 19 December 2018, UN Doc. A/RES/73/195 (19 January 2019)). Some variations are used in other documents. Target 10.7 of the 2030 Agenda for Sustainable Development requires States to: “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies” (United Nations General Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development (21 October 2015) A/RES/70/1). The IOM’s Migration and Governance Framework (MiGOF) also refers to “orderly, safe, regular and responsible migration” in its title, whereas one of the framework’s objectives is about ensuring that “migration takes place in a safe, orderly and dignified manner” (International Organization for Migration, *Migration Governance Framework* (2015) C/106/40, Objective 3).

See also *migration, migration governance, regular migration, regular migration pathways*

## safe third country

A country in which an asylum seeker could have had or has access to an effective asylum regime, or in which he/she had previously made an application for international protection that has not been determined. The concept is typically applied to situations where the individual concerned has some further connection with the country in question, notably where he or she had stayed in that country prior to arriving in the country in which he or she is applying for asylum.

*Source:* Adapted from United Nations High Commissioner for Refugees, Master Glossary of Terms (2006).

*Note:* To ensure that the application of the concept of safe third country is in line with the letter and the spirit of the 1951 Convention, States should have regard to the fact that asylum should not be refused solely on the ground that it could be sought from another State (United Nations High Commissioner for Refugees, Executive Committee, Refugees without an Asylum Country, Conclusion No. 15 (16 October 1979), para. (h)(iv)). Furthermore, for a decision to transfer an asylum seeker to a third country considered safe to be consistent with international refugee law and human rights law a number of safeguards need to be met. Application of the safe third country concept requires assessment, prior to transfer, of whether the State in question will (re)admit the person concerned; grant the person access to a fair and efficient procedure for determination of his or her international protection needs; permit the person to remain pending status determination; and accord the person standards of treatment commensurate with the 1951 Convention and international human rights standards, including protection from

refoulement (United Nations High Commissioner for Refugees, *Legal Considerations on the Return of Asylum seekers and Refugees from Greece to Turkey as Part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the Safe Third Country and First Country of Asylum Concept* (23 March 2016) p. 2). Where the person is entitled to international protection, a right of legal stay and a timely durable solution are also required (*ibid.*). When a State is considering applying a “safe third country” concept, asylum seekers must have an opportunity within the procedure to be heard, and to rebut any presumption that they will be protected and afforded the relevant standards of treatment in another State, on the basis of their particular circumstances (*ibid.*).

According to Article 38(1) of the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection ([2013] OJ L 180/60), EU Member States may apply the safe third country concept only where the competent authorities are satisfied that the following conditions will be fulfilled in respect the treatment of a person seeking international protection: “1. life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; 2. there is no risk of serious harm as defined in Directive 2011/95/EU; 3. the principle of non-refoulement in accordance with the Geneva Convention is respected; 4. the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and 5. the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention”.

*See also first country of asylum, safe country of origin*

## screening process

In the migration context, a preliminary assessment of the identity, individual situation, age and reasons for migration of persons seeking entry in a country, aimed at identifying persons who may be seeking asylum or who may otherwise be in need of some forms of protection or assistance.

*Note:* According to the Principles and Guidelines on Human Rights at International Borders issued by the United Nations Office of the High Commissioner for Human Rights (OHCHR): “Any screening process should ensure that each individual’s situation and reasons for entry are determined and that migrants who may be at particular risk at international borders are identified and appropriately referred” (OHCHR, Principles and Guidelines on Human Rights at International Borders (2014) p. 27). Screening is also a process used in disarmament, demobilization and reintegration (DDR), for the purposes of examining, investigating and establishing the nature of the relationship of an individual to an armed group. In contexts where sanctioned violent extremist groups are involved, screening

is the first step for determining the legal status based on culpability and security risks. This methodical assessment examines individual backgrounds and their role and involvement in a violent extremist group to inform subsequent actions with respect to their treatment and handling. Screening has legal, operational and risk dimensions. Screening is distinct from profiling, registering and vetting.

## seafarer

A migrant worker employed on board a vessel registered in a State of which he or she is not a national.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(c).

*Note:* The term is also used to identify fishermen (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(c)).

See also *migrant worker*

## seasonal migrant worker

A migrant worker whose work, or migration for employment is by its character dependent on seasonal conditions and is performed only during part of the year.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(b).

See also *migrant worker, short-term migrant, temporary migration*

## secondary inspection

In the context of admission into a State, in cases of doubt in the primary inspection during the admission procedure, or if the applicant appears on a lookout system, the additional interview or investigation to which the applicant for admission is submitted.

See also *primary inspection*

## secondary migration/movement

The movement of a migrant from their first country of destination to another country, other than the country in which he or she originally resided and other than the person's country of nationality.

*Note:* In the context of refugee and asylum seeker movements, the term secondary movements is used to characterize the movements of those who seek and/or receive asylum in a country different from the country where they first arrived (see, for example, S.H. Legomsky, *Secondary Refugee Movements and the Return of Asylum Seekers to Third Countries: The Meaning of Effective Protection* (United Nations High Commissioner of Refugees, Legal and Protection Refugee Series, 2003)).

## self-employment worker

A migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 2(2)(h).

See also *migrant worker*

## sending country

In the refugee context, the country from which a refugee is resettled.

In the context of diplomatic or consular relations, the State the interests of which are represented by its diplomatic mission or consular post in the receiving State.

See also *country of origin, State of origin*

## separated children

Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

*Source:* Adapted from Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children outside Their Country of Origin (1 September 2005) UN Doc CRC/GC/2005/6, para. 8.

See also *migrant, unaccompanied children*

## servitude

State of a person deprived of liberty and subservient to another forced to live on the other's property and with an impossibility of changing his status.

*Source:* Siliadin v France App no 73316/01 (ECtHR, 26 July 2005) para. 123.

*Note:* The prohibition of holding someone in servitude is stipulated in international human rights law such as Article 4 of the Universal Declaration of Human Rights ((adopted 10 December 1948) UNGA Res 217(A)); Article 8 of the International Covenant on Civil and Political Rights (ICCPR (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Article 11 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3); and Article 27 of the Convention on the Rights of Persons with Disabilities ((adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3). The Travaux Préparatoires of Article 8 ICCPR on slavery and servitude clarify that, while slavery was narrowly defined, servitude was considered to be applicable to all conceivable forms of dominance and degradation of human beings by human beings.

Servitude is listed as one of the possible forms of exploitation under the definition of trafficking in persons in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a)).

*See also* [slavery](#), [trafficking in persons](#)

## settlement elsewhere in the country

The transfer and integration of internally displaced persons into a geographical area within the same country other than their place of origin or the place where they first arrived when displaced.

*Note:* Although the Guiding Principles on Internal Displacement use the term resettlement (Guiding Principles on Internal Displacement (11 February 1998) UN Doc E/CN.4/1998/53/Add.2, Section V), the term settlement elsewhere is currently more commonly used to refer to one of the three durable solution to internal displacement. The term "relocation" is also sometimes used as an alternative.

*See also* [durable solutions \(internally displaced persons\)](#), [planned relocation](#), [relocation \(internally displaced persons\)](#)



## sexual abuse

The actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

*Source:* United Nations Secretariat, Secretary-General's Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse (2003) UN Doc ST/SGB/2003/13, 1.

## sexual exploitation

Any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another.

*Source:* United Nations Secretariat, Secretary-General's Bulletin Special Measures for Protection from Sexual Exploitation and Sexual Abuse (2003) UN Doc ST/SGB/2003/13, 1.

*Note:* Sexual exploitation is one of the forms of exploitation listed in the definition of trafficking in persons in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a)).

*See also* [exploitation](#), [trafficking in persons](#)

## sexual violence

Sexual violence is a form of gender-based violence and encompasses any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, forced circumcision, castration and forced nudity.

*Source:* United Nations Office of the High Commissioner for Human Rights, *Sexual and Gender-Based Violence in the Context of Transitional Justice* (2014) p. 1.

*See also* [gender-based violence](#)

## short-term migrant

A person who changes his or her place of usual residence for more than three months but less than a year (12 months). Except in cases where the movement to that country is for purposes of recreation, holiday, visits to friends or relatives, business or medical treatment.

*Source:* United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 94.

*Note:* For the purpose of international migration statistics, the country of usual residence of short-term migrants is considered to be the country of destination during the period they spend in it (United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 94).

*See also* *guest worker, project-tied worker, seasonal migrant worker, temporary migration, specified employment worker*

## significant medical condition

A condition, disease or disability of a migrant, which is likely to have an impact on travel or post-arrival assistance: (a) for matters of eligibility (e.g. capacity to decide, in the case of voluntary return); (b) in relation to transportability (e.g. fitness to travel, need for a medical escort) or (c) special arrangements after arrival. Significant medical conditions include mental health conditions that may affect an individual's capacity to make a competent decision; communicable diseases of public health concern; rapidly deteriorating or unstable health conditions that may affect travel; disabilities requiring mobility aids, special accommodations, schooling, vocational training or assistance with activities of daily living, chronic health conditions that need specialized treatment or follow up and pregnancy, among others.

*See also* *fitness for travel*

## skilled migrant worker

A migrant worker who has the appropriate skill level and specialization to carry out the tasks and duties of a given job.

*Note:* Whilst what may constitute a skilled migrant varies between States often determined by a range of factors such as labour market needs, skilled migrants are usually granted preferential treatment

regarding admission to a country (and are therefore subject to fewer restrictions regarding length of stay, change of employment and family reunification).

*See also brain drain, brain gain, highly skilled migrant, low-skilled migrant worker, qualified national*

## slavery

The status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised.

*Source:* Slavery Convention of 25 September 1926, amended by the Protocol (adopted 7 December 1953, entered into force 7 July 1955) 212 UNTS 17, Art. 1.

*Note:* Slavery is identified by an element of ownership or control over another's life, coercion and the restriction of movement and by the fact that someone is not free to leave or to change employer (e.g. traditional chattel slavery, bonded labour, serfdom, forced labour and slavery for ritual or religious purposes). Slavery is explicitly recognized as one of the forms of exploitation in the definition of trafficking in persons (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a)).

*See also servitude, trafficking in persons, worst forms of child labour*

## smuggled migrant

A migrant who is or has been the object of the crime of smuggling, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

*Source:* Adapted from United Nations Office on Drugs and Crime, Model Law Against Smuggling of Migrants, (2010) p. 19.

*Note:* IOM uses the term “irregular entry” as opposed to “illegal entry” as found in Article 3 of the Protocol against Smuggling of Migrants by Land, Sea and Air. According to Article 5 of the Protocol, smuggled migrants shall not become liable to criminal prosecution for the fact of having been the object of smuggling.

*See also migrant, smuggling (of migrants)*

## smuggler (of migrants)

A person who commits or intends to commit the crime of smuggling.

*See also smuggling (of migrants)*

## smuggling (of migrants)

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a person into a State Party of which the person is not a national or a permanent resident.

*Source:* Adapted from Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime ((adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507) Art. 3(a).

*Note:* In the above definition, the term illegal entry used in the Protocol's definition has been replaced by the term irregular entry.

*See also* [human smuggling](#), [migrant smuggling](#), [organized crime](#), [people smuggling](#), [trafficking in persons](#), [transnational organized crime](#)

## social cohesion

While there is no one universal definition, social cohesion is usually associated with such notions as “solidarity”, “togetherness”, “tolerance” and “harmonious co-existence” and refers to a social order in a specific society or community based on a common vision and a sense of belonging for all communities; where the diversity of people’s different backgrounds and circumstances are appreciated and positively valued; those from different backgrounds have similar life opportunities; and strong and positive relationships are being developed between people from different backgrounds in the workplace, in schools and within neighbourhoods.

*Source:* Adapted from N. Demireva, *Immigration Diversity and Social Cohesion* (The Migration Observatory at the University of Oxford, 1 November 2017) citing T. Cattle, *Community Cohesion: A New Framework for Race and Diversity* (Basingstoke: Palgrave Macmillan, 2005) p. 14 [www.migrationobservatory.ox.ac.uk/resources/briefings/immigration-diversity-and-social-cohesion/](http://www.migrationobservatory.ox.ac.uk/resources/briefings/immigration-diversity-and-social-cohesion/) (last accessed 10 April 2018).

*See also* [integration](#)

## social determinants of health

The social determinants of health are the conditions in which people are born, grow, live, work and age and are mostly responsible for health inequities – the unfair and avoidable differences in health status seen within and between countries.

*Source:* Adapted from World Health Organization, *Closing the Gap in a Generation: Health Equity through Action on the Social Determinants of Health*, Final Report of the Commission on Social Determinants of Health (2008).

*Note:* The conditions in which migrants travel, live and work often carry exceptional risks to their physical and mental well-being, and the migration process can therefore be regarded as a social determinant of health for migrants International Organization for Migration, *Health in the Post-2015 Development Agenda: The Importance of Migrants' Health for Sustainable and Equitable Development* (Migration & Health Position Paper Series, 2012).

See also [health](#), [migration health](#)

## social inclusion

The process of improving the ability, opportunity, and dignity of people disadvantaged on the basis of their identity, to take part in society.

*Source:* World Bank, *Inclusion Matters: The Foundation for Shared Prosperity* (2013) p. 4.

*Note:* Among the groups who may be excluded based on their identity, the World Bank notes that with the increase in the movements of people within countries and across borders: “the identity of migrant groups and individuals has come under special scrutiny, especially in developed countries, which are grappling with ways of integrating nonnatives.” (World Bank, *Inclusion Matters: The Foundation for Shared Prosperity* (2013) p. 6. Three interrelated domains constitute both barriers and opportunities for social inclusion: 1. (land, housing, labour and credit) markets, 2. services (e.g. health, education, social protection, transport, water and sanitation, energy or information), and 3. physical spaces which have a social, political and cultural character. (ibid., pp. 8–13).

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## social protection

The set of public and private policies and programmes aimed at preventing, reducing and eliminating economic and social vulnerabilities to poverty and deprivation.

*Source:* United Nations Children’s Fund, *Social Protection Strategic Framework, Integrated Social Protection Systems: Enhancing Equity for Children* (2012) p. 2.

*Note:* This broad definition developed by the United Nations Children’s Fund (UNICEF) encompasses four main components: “(1) social transfers, (2) programmes to ensure access to services, (3) social support and care services, and (4) legislation and policy

reform to remove inequalities in access to services of livelihoods/ economic opportunities” ( United Nations Children’s Fund, *Social Protection Strategic Framework, Integrated Social Protection Systems: Enhancing Equity for Children* (2012) pp. 2 and 6). Noting that the meaning of the term varies among institutions, the International Labour Organization (ILO) understands the “social protection” as an alternative expression to “social security” (ILO, *World Social Protection Report 2014/15* (2014) p. 162).

In the context of migration more specifically, ILO notes that: “Although ‘everyone as a member of society has the right to social security’ [Universal Declaration of Human Rights (1948), Art. 22], in reality, compared to nationals working their entire lives in one country, migrants face huge challenges in exercising their rights to social security. They can be denied access or have limited effective access to social security coverage in their host country because of their status, nationality, or the insufficient duration of their periods of employment and residence. Their access may further be curtailed due to a lack of knowledge about and awareness of their rights and obligations. At the same time, they can lose their entitlements to social security benefits in their country of origin because of their temporary absence” (ILO, *Labour Migration Highlights No. 4: Social Protection for Migrant Workers*, (2015) p. 1). A number of ILO Conventions and Recommendations make provisions for the social security rights of migrant workers and their families, including ILO social security instruments (e.g. the ILO Convention (No. 102) concerning Minimum Standards of Social Security, (adopted 28 June 1952, entered into force 27 April 1955) 210 UNTS 131) or the ILO Recommendation concerning National Floors of Social Protection (RO 202) 30 May 2012) and ILO migrant-specific instruments (e.g. ILO Convention (No. 97) concerning Migration for Employment (Revised 1949) ((adopted 1 July 1949, entered into force 22 January 1952) 120 UNTS 71), ILO Convention (No. 143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers ((adopted 24 June 1975, entered into force 9 December 1978) 1120 UNTS 323) and the ILO Multilateral Framework on Labour Migration (19 April 2006)).

The right to social security is also to be secured, albeit not unconditionally, for migrant workers in Article 27 of the Convention on the Rights of all Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) (See Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Comment No. 2 on the Rights of Migrant Workers in an Irregular Situation and Members of Their Families (18 August 2013) UN Doc. CMW/C/GC/2, paras. 67–71) and for refugees in Article 24 of the Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137).

## social remittances

The transfer of ideas, behaviours, identities and social capital from migrants to their communities of origin.

*Source:* P. Levitt, Social remittances: Migration driven local-level forms of cultural diffusion (1998) 32 *International Migration Review* 4, pp. 926–48.

*See also* [remittances \(migrant\)](#)

## soft law

A phenomenon in international relations covering all those social rules generated by State(s) or other subjects of international law which are not legally binding but which are nevertheless of special legal relevance.

*Source:* Adapted from D. Thürer, “Soft Law” in R. Wolfrum (ed), *Max Planck Encyclopedia of Public International Law* (March 2009) <http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1469?prd=EPIL> (last accessed 11 April 2018).

*Note:* Although there is no commonly recognized definition, soft law is normally used to refer to international instruments developed by States and/or international organizations and which, although not legally binding, set political commitments. Examples of soft law instruments include declarations, recommendations and guidelines.

Compared to treaties, soft law instruments are usually perceived as easier and quicker to negotiate. Moreover, these norms may subsequently evolve into binding law, be it as evidence of new norms of customary international law or through later codification into a binding treaty.

Soft law instruments have been developed in certain areas of international law, such as international economic law, international environmental law, as well as international migration law. Soft law instruments relevant to migration include, for instance: the Guiding Principles on Internal Displacement, annexed to United Nations Commission on Human Rights, Report of the Representative of the Secretary-General, Mr Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum (11 February 1998) UN Doc. E/CN.4/1998/53/Add.2; the ILO Recommendation concerning Migrant Workers (RO151 (24 June 1975)); the ILO Recommendation concerning Migration for Employment (Revised) (RO86 (1 July 1949)); and, among the ones adopted more recently, Global Compact for Safe, Orderly and Regular Migration, in General Assembly Resolution 73/195 UN Doc. A/RES/73/195 (19 January 2019), and the *Nansen Agenda for the protection of cross-border displaced persons in the context of disasters and climate*

*change* (2015); and the Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (2016).

See also *customary international law*

## sovereignty

A concept of international law, sovereignty has three main expressions: external, internal and territorial.

The external aspect of sovereignty is the right of the State freely to determine its relations with other States and other entities without the restraint or control of another State. This aspect of sovereignty is also known as independence.

The internal aspect of sovereignty is the State's exclusive right or competence to determine the character of its own institutions, to enact laws of its own choice and ensure their respect.

The territorial aspect of sovereignty is the existence of rights over territory and the authority which a State exercises over all persons and things found on, under or above its territory.

An aspect of territorial sovereignty relevant in the context of migration, is the sovereign prerogative of a State to determine the admission and exclusion of non-nationals to and from its territory, within the limits imposed by international law.

*Note:* In the context of migration, the prerogative of a State to determine the admission in and exclusion of non-nationals from its territory, which is based on its sovereignty, is subject to limitations imposed by international legal obligations derived from customary and treaty law such as the principle of non-refoulement, human rights, as well as some provisions contained in bilateral or regional agreements (e.g. free movement agreements).

See also *national territory, territorial sea*

## specified-employment worker

A migrant worker: (i) who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or (ii) who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or (iii) who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief; and who is required to depart from the State of employment either



at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work.

*Source:* The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 2.2(g).

*See also* [contract worker \(temporary\)](#), [guest worker](#), [migrant worker](#), [project-tied worker](#), [short-term migrant](#)

## sponsor

In the migration context, a person or entity who undertakes a (legal, financial or personal) engagement, promise or pledge to support the entry and stay of a non-national into the State.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

## sponsorship

The act of promising and evidencing the ability to provide support, in particular financial support, generally for a defined period of time, to a non-national who seeks to enter and stay in the State.

*Note:* Some States require sponsorship or proof of adequate income as a condition of entry for certain categories of migrants as well as visitors. In some States, a system of sponsorship is used to manage temporary and labour migration. Under such systems, in order to obtain work visas and residence permits, foreign workers must be sponsored by a national of the country or a local company. Such a condition makes an individual's rights to work and stay in the country dependent on the employer or sponsor and may increase the risk of trafficking and/or exploitation.

*See also* [guarantee](#)

## spontaneous return

The voluntary, independent return of a migrant or a group of migrants to their country of origin, usually without the support of States or other international or national assistance.

*See also* [assisted voluntary return and reintegration](#), [return](#), [voluntary repatriation](#), [voluntary return](#)

## stabilization programmes

Programmes aimed to prevent, mitigate and reduce the drivers of forced displacement, by creating conditions for the restoration of normal social, economic and political life, contributing to restoration of basic rights, and promoting social cohesion, functioning state governance, non-violent political processes, effective social policy, livelihoods and service delivery.

*Note:* Stabilization programmes comprise locally driven, development-principled programming in crisis or fragile contexts, which aim to mitigate, or prevent the recurrence of, displacement and irregular migration drivers related to state fragility, conflict and violence. Community stabilization projects use multiple sectors to achieve broader stability goals, and stress flexibility and adaptability to evolving needs, with a focus on essential services, community infrastructure, local governance, economic recovery, participation, social cohesion and peacebuilding.

## standard of proof

In the context of an applicant's responsibility to prove facts in support of his/her claim, the term "standard of proof" means the threshold to be met by the applicant in persuading the adjudicator as to the truth of his/her factual assertions.

*Source:* United Nations High Commissioner for Refugees, Note on Burden and Standard of Proof in Refugee Claims (16 December 1998) para. 7.

*Note:* In the refugee context, "well-founded" is a standard of proof when assessing the fear of persecution. It is not necessary for the adjudicator to be fully convinced of the truth of each and every factual assertion made by the applicant. The adjudicator will have to assess the overall credibility of the applicant's claim. United Nations High Commissioner for Refugees, Note on Burden and Standard of Proof in Refugee Claims (16 December 1998) para. 11. Credibility is established "where the applicant has presented a claim which is coherent and plausible, not contradicting generally known facts, and therefore is, on balance, capable of being believed" (ibid.).

In the same way, to claim the application of the principle of non-refoulement, migrants are required to prove that there is a "real risk" of torture or inhuman and degrading treatment or of another irreparable harm in the case they are sent back to their country of origin. The European Court of Human Right has interpreted the standard of proof in this respect as requiring the migrants to prove the existence of substantial grounds for believing that he or she will be submitted to ill-treatment if sent back in the country of origin. Such grounds need to go beyond mere theory or suspicion, but the risk does not have to meet the test of being highly probable (see,

e.g. *Soering v The United Kingdom* App no 14038/88 (ECtHR, 7 July 1989) para. 99; *Saadi v Italy* App no 37201/06 (ECtHR, 28 February 2008), para. 140.

See also *burden of proof, well-founded fear of persecution*

## State of destination

Refer to **country of destination**

See also *receiving country*

## State of employment

A State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 6(b).

See also *country of destination, receiving country*

## State of origin

The State of which the person concerned is a national.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 6(a).

See also *country of origin, home country, sending country*

## State of transit

Any State through which a person passes on any journey to their State of destination or from the State of destination to the State of origin or of habitual residence.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 6(c).

See also *country of transit*

## stateless person

A person who is not considered as a national by any State under the operation of its law.

*Source:* United Nations Convention relating to the Status of Stateless Persons ((adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117) Art. 1.

*Note:* An individual is a stateless person from the moment that the conditions in Article 1.1 of the United Nations Convention relating to the Status of Stateless Persons are met ((adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117). As for the first element of the definition, according to United Nations High Commissioner for Refugees (UNHCR): “[a]n enquiry into whether someone is stateless is limited to the States with which a person enjoys a relevant link, in particular by birth on the territory, descent, marriage, adoption or habitual residence...” (UNHCR, *Handbook on Protection of Stateless Persons under the 1954 Convention Relating to the Status of Stateless Persons*, (2014) p. 12).

The second element of the definition “under the operation of its law” requires an analysis of how a State applies its nationality laws in an individual’s case as well as of any review/appeal decisions that may have had an impact on the individual’s status. UNHCR has clarified that: “This is a mixed question of fact and law. ... [A] State may not in practice follow the letter of the law, even going so far as to ignore its substance. The reference to “law” in the definition of statelessness in Art 1.1 therefore covers situations where the written law is substantially modified when it comes to its implementation in practice” (ibid., pp. 15 and 16).

Article 1.1 applies in both migration and non-migration contexts. A stateless person, for example, may have lived his or her entire life and have never crossed an international border. Nonetheless, statelessness is often considered as both a cause and a consequence of migration. In some cases, a stateless person may also become a refugee if he or she is unable or unwilling to return to his or her place of habitual residence due to fear of persecution on one of the grounds of the refugee definition (United Nations Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) Art. 1(A)(2)).

*See also* [citizenship](#), [loss of nationality](#), [nationality](#), [renunciation of nationality](#), [statelessness](#), [undocumented migrant](#)

## statelessness

The condition of not being considered as a national by any State under the operations of its law.

*Source:* United Nations Convention relating to the Status of Stateless Persons ((adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117) Art. 1.

*Note:* Statelessness may result from a number of causes including conflict of nationality laws, the transfer of territory (i.e. State succession), administrative practices, discrimination, lack of birth registration, arbitrary deprivation of nationality, renunciation of nationality and long-term residence abroad. Statelessness can also be inherited by children from their stateless parents.

See also *citizenship, loss of nationality, nationality, renunciation of nationality*

**stock (migrant)** Refer to migrant stock

## stowaway

A person who is secreted on a ship, or in a cargo which is subsequently loaded on a ship, without the consent of the ship-owner or the master or any other responsible person, and who is detected onboard the ship after it has departed from a port, or in the cargo while unloading it in the port of arrival and is reported as a stowaway by the master to the appropriate authorities.

*Source:* International Maritime Organization, Revised Guidelines on the Prevention of Access by Stowaways and the Allocation of Responsibilities to Seek the Successful Resolution of Stowaways Cases (2010) MSC 88/26/Add/1, para. 2.6.

*Note:* The Revised Guidelines on the Prevention of Access by Stowaways and the Allocation of Responsibilities to Seek the Successful Resolution of Stowaways Cases provide instruction on the steps to be followed in cases of stowaways and the responsibilities of States (International Maritime Organization (2010) MSC 88/26/Add/1). Some of the principles set forth in the Guidelines are an application of human rights standards to stowaways. Principle 1 recognizes that “[s]towaway incidents should be dealt with in a manner consistent with humanitarian principles.” Principle 7 recognizes the right of stowaway to international protection and Principle 9 sets forth their right to return. The same principle also stipulates that: “Where the nationality or citizenship or right of residence cannot be established, the State of the original port of embarkation of a stowaway should accept the return of such a stowaway for examination pending final case disposition” (Principle 10) (*ibid.*, para. 3).

## stranded migrant

Migrants who are unable to return to their country of origin, cannot regularize their status in the country where they reside, and do not have access to legal migration opportunities that would enable them to move on to another State. The term may also refer to migrants who are stranded because of humanitarian or security reasons in the country of destination, transit or origin preventing them to return home while they are also unable to go elsewhere.

*Source:* First sentence adapted from Global Migration Group and United Nations Commissioner for Refugees, *Building partnerships for identifying, protecting, assisting and resolving the situation of stranded and vulnerable migrants*, Practitioners Symposium, Background Paper (Geneva, 27–28 May 2010) p. 1.

*Note:* In the absence of an international definition of stranded migrants, some authors consider that the term can apply to all migrants, regardless of their status, duration and reasons of their stay abroad, with the only commonality being that they cannot move out of the situation in which they find themselves. According to this broad approach, migrants may become stranded during any stage of their migration process and the term can be used to identify situations in which, not only irregular, but also regular migrants find themselves (V. Chetail and M. A. Braeunlich, *Stranded Migrants: Giving Structure to a Multifaceted Notion*, Global Migration Research Papers (no. 5/2013) pp. 14 and 11).

The term is currently also used to identify migrants who are stranded at sea, for example because no State let them land on their shores, or who are expelled and abandoned in no man's land.

See also *migrants in vulnerable situations*

## surety

As an alternative to detention, a surety is a third person who vouches for the appearance of the individual concerned at official appointments or hearings, while his or her case is being processed and agrees to pay a set amount of money if the individual absconds.

*Source:* Amnesty International, *Irregular migrants and asylum seekers: alternatives to immigration detention* (2009) p. 13.

*Note:* Requests for surety are frequently included as part of bail or bond conditions. The person providing surety is sometimes known as a guarantor or bondsperson.

See also *alternatives to detention, bail, bond, guarantee, non-custodial measures*

## surrogacy

A practice whereby a woman (the surrogate mother) carries a child for another person and (usually) that person's partner (the commissioning couple) as the result of an agreement prior to conception that the child should be handed over to them after the birth.

*Source:* Government of the United Kingdom, Surrogacy [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/258243/surrogacy.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258243/surrogacy.pdf) (last accessed 12 February 2018).

*Note:* The surrogate mother may be the genetic mother or she may have had a fertilized embryo implanted in her, in which case she will not be genetically related to the child. The commissioning couple may both be the genetic parents, or just one or neither of them may be genetically related to the child. Legislation regarding the surrogacy agreement, the rights of the surrogate mother and regulation of parentage varies a lot from one country to another. A number of countries also regulate international surrogacy (Government of the United Kingdom, Surrogacy [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/258243/surrogacy.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258243/surrogacy.pdf) (last accessed 12 February 2018)).

*See also* [international surrogacy arrangement](#)

## survivor of gender-based violence

A survivor is a person who has experienced gender-based violence.

*Source:* Inter-Agency Standing Committee, *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action* (2015) p. 326.

*Note:* The terms “victim” and “survivor” are usually used interchangeably. “Victim” is a term often used in the legal and medical sectors. “Survivor” is the term generally preferred in the psychological and social-support sectors because it implies resiliency (UNFPA, *Managing Gender-based Violence Programmes in Emergencies*, E-learning Companion Guide (2012) p. 8).

*See also* [gender-based violence](#), [victim of gender-based violence](#)

## sustainable reintegration

In the context of international return migration, reintegration can be considered sustainable when returnees have reached levels of economic self-sufficiency, social stability within their communities, and psychosocial well-being that allow them to cope with possible (re)migration drivers.

*Source:* Adapted from International Organization for Migration, *Towards an Integrated Approach to Reintegration in the context of return* (IOM 2017), p. 3.

*Note:* Sustainable reintegration implies that returning migrants are able to make further migration decisions a matter of choice, rather than necessity (International Organization for Migration,

Towards an Integrated Approach to Reintegration in the context of return (IOM 2017), p. 3). In the context of internal displacement and return of ex-combatants, reintegration may require specific approaches, that are addressed under the entries for durable solutions and reintegration of ex-combatants.

*See also assisted voluntary return and reintegration, durable solutions (IDPs), durable solutions (refugees), reintegration, reintegration (ex-combatants)*



## T

## temporary migration

Migration for a specific motivation and purpose with the intention to return to the country of origin or habitual residence after a limited period of time or to undertake an onward movement.

*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

*See also* [circular migration](#), [guest worker](#), [seasonal migrant worker](#), [short-term migrant](#)

## temporary protection or stay arrangements (TPSAs)

Arrangements developed by States to offer protection of a temporary nature, without prior individual status determination, to persons arriving in the context of flight from situations of conflict, generalized violence, disasters or other humanitarian crises, including to persons who do not have access to protection under 1951 Convention relating to the Status of Refugees.

*Source:* Adapted United Nations High Commissioner for Refugees (UNHCR), *Master Glossary of Terms* (2006); UNHCR, *Guidelines on Temporary Protection and Stay Arrangements* (2014) p. 1.

*Note:* Temporary protection or stay arrangements (TPSAs) are complementary to the international refugee protection regime, being used at times to fill gaps in that regime as well as in national response systems (United Nations High Commissioner for Refugees, *Guidelines on Temporary Protection and Stay Arrangements* (2014) para. 3). TPSAs may be used, for example, as a protection response to large-scale influxes or complex, mixed population movements. They provide immediate protection from refoulement, as well as minimum standards of treatment.

*See also* [asylum seeker](#), [complementary protection \(international\)](#), [discretionary forms of protection](#), [humanitarian admission](#), [humanitarian visa](#), [international protection](#), [refugee \(1951 Convention\)](#)

## temporary travel documents

Documents issued to individuals, who are most often without passports, to enable them to return to their country of origin. Typically, such documents are issued for a short duration of time and expire upon the owners' entry into their country of origin.

See also *laissez-passer, passport, travel document*

## territorial sea

The maritime area beyond and adjacent to the internal waters over which the sovereignty of the coastal State extends.

*Note:* The United Nations Convention on the Law of the Sea (UNCLOS) stipulates: “The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law” ((adopted 10 December 1982, entered into force 16 November 1994) 1833 1834 1835 UNTS 3, Art. 2). The Convention further stipulates that every State has “the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention” (*ibid.*, Art. 3).

The UNCLOS also states that any vessel traversing these waters has the right of innocent passage; this right is lost however if the passage is considered as non-innocent. In the context of irregular migration, the loading or unloading of persons contrary to the immigration laws and regulations of the coastal State is deemed as non-innocent passage (*ibid.*, Art. 19.2(g)). Consequently, the coastal State can prevent the passage of a vessel suspected of carrying irregular migrants.

See also *contiguous zone, high seas, jurisdiction, sovereignty*

## third-country national

In situations in which two States are concerned, any person who is not a national of either State; or, in the context of regional organizations, nationals of States who are not member States of such organization.

*Note:* For example, in cases of humanitarian evacuations, the term is used to identify non-nationals who are evacuated from a country where they have fled and of which they also do not have the nationality. The term is also used in the context of regional organizations. For example, in the European Union, those who are not citizens of the Union within the meaning of Article 20.1 of the Treaty on the Functioning of the European Union are referred to as third-country nationals (European Union, Consolidated Treaty on the Functioning of the European Union, (2016) OJ C 202/47).

## torture

Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him [or her] or a third person information or a confession, punishing him [or her] for an act he [or she] or a third

person has committed or is suspected of having committed, or intimidating or coercing him [or her] or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

*Source:* Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ((adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85) Art. 1.

*Note:* Torture is prohibited by numerous international agreements such as: Article 5 of the Universal Declaration of Human Rights (United Nations, General Assembly Resolution, 2017 A (10 December 1948)); Article 7 of the International Covenant on Civil and Political Rights ((adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171); Article 2 of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment ((adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85); Article 3 of the European Convention on Human Rights ((adopted 4 November 1950, entered into force 3 September 1953) 213 UNTS 221); Article 5.2. American Convention of Human Rights ((adopted 22 November 1969, entered into force 18 July 1978) 1144 UNTS 123); Article 5 of the African Charter on Human and Peoples' Rights ((adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217); Art. 8 of the Arab Charter on Human Rights ((adopted 22 May 2004, entered into force 15 March 2008) in 12 (2005) International Human Rights Reports 893); and Principle 14 of the Human Rights Declaration Association of Southeast Asian Nations (adopted 18 November 2012).

The prohibition of torture is generally considered as a peremptory norm of international law. It is also the basis of the principle of non-refoulement according to which no one should be sent back to a State where “there are substantial grounds for believing that he would be in danger of being subjected to torture.” (Convention Against Torture, *ibid.*, Art. 3).

Unlike the definition provided by the Convention against Torture (*ibid.*), the condition of an involvement or acquiescence by a public official or a person acting in official capacity is not a requirement for the application of the relevant provision of the European Convention of Human Rights (Art. 3).

The European Court of Human Rights has also clarified that to fall within the scope of application of Article 3 a minimum threshold of severity of the treatment must be met. The assessment of this minimum is done on a case-by-case basis, by taking into account the duration of the treatment, its physical and mental effects, and, in some cases, the sex, age and state of health of the victim. *Ireland v the United Kingdom*, App. No. 5310/71 (European Court of Human Rights (ECtHR), 18 January 1978) para. 162. The distinction between

torture and inhuman treatment is based both on the severity of the suffering (ibid., para. 167) and, under the Convention against Torture, on the existence of a specific purpose for which the suffering is inflicted (as stipulated in Art. 1 of the Convention). However, the determination of which acts amount to torture may evolve with the time. Consequently, acts previously classified as “inhuman and degrading treatment” as opposed to “torture” “could be classified differently in future” *Selmouni v France*, App 25803/94 (ECtHR 28 July 1999) para. 102). The standard for an act to be considered as “torture” is evolving in parallel to the increasingly high standards of human rights protection, which require “greater firmness in assessing breaches of the fundamental values of democratic societies” (ibid.).

*See also degrading treatment, inhuman treatment, non-refoulement (principle of)*

## tourist

A person who does not reside in the country of arrival and is admitted to that country temporarily (under tourist visas if required) for purposes of leisure, recreation, holiday, visits to friends or relatives, health or medical treatment, or religious pilgrimage. A tourist must spend at least a night in a collective or private accommodation in the receiving country and the duration of his or her stay must not surpass 12 months.

*Source:* United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 96.

*Note:* The United Nations Department of Economic and Social Affairs (UN DESA) classifies a visitor as a tourist “if his/her trip includes an overnight stay, or as a same-day visitor (or excursionist) otherwise” UN DESA, *International Recommendations for Tourism Statistics* (2008) para. 2.13.

*See also traveller, visitor*

## trafficker (human)

Any person who commits or attempts to commit the crime of trafficking in persons or any person who participates as an accomplice, organizes, or directs other persons to commit the crime of trafficking in persons.

*See also trafficking in persons, victim of trafficking in human beings*

## trafficking in persons

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

*Source:* Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(a).

*Note:* Article 3 of the Trafficking Protocol also stipulates that: “[t]he consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used” Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, Art. 3(b).

Trafficking can also happen within State borders.

*See also* *child trafficking, coercion, exploitation, human trafficking, organized crime, organized criminal group, servitude, sexual exploitation, smuggling (of migrants), transnational organized crime, worst forms of child labour*

## transhumance

Seasonal movement of people with their livestock between pastures (typically between mountain and lowland pastures) often over long distances, and sometimes across borders. The term is often used as a synonym of pastoralism.

*See also* *internally displaced pastoralists, pastoralism*

## transit

A stopover of passage of varying length while travelling between two or more States.

*See also* *transit passenger, transit visa*

## transitional justice

The full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.

*Source:* United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, Report of the Secretary-General (23 August 2004) UN Doc. S72004/616, para. 8.

*Note:* Transitional justice mechanisms can include: “both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof” (United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, Report of the Secretary-General (23 August 2004) UN Doc. S72004/616, para. 8). Transitional justice mechanisms may also be used to address displacement. Some research studies suggest that “transitional justice mechanisms and grassroots coexistence interventions may foster reconciliation and have a significant positive impact on the accessibility and quality of durable solutions to displacement. However, they also carry a number of risks that may in fact undermine reconciliation and effective solutions to displacement” (M. Bradley, *Displacement, Transitional Justice and Reconciliation: Assumptions, Challenges and Lessons* (April 2012) Forced Migration Policy Briefing 9, Refugee Studies Center, University of Oxford, p. 2).

## transit passenger

A person who arrives by air, land or sea from one State in the airport, border-crossing point, or port of a second State with the sole objective of continuing his or her travel to a third State.

*See also* [transit](#), [transit visa](#)

## transit visa

A visa issued to a non-national passing through the issuing State *en route* to another State authorizing the holder to pass through the territory of the issuing State or to stay there for a very short time, usually 24 or 48 hours.

*See also* [transit](#), [transit passenger](#), [visa](#)

## transnational corporation

Refers to an economic entity operating in more than one country or a cluster of economic entities operating in two or more countries – whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively.

*Source:* United Nations Commission on Human Rights, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003) UN Doc. E/CN.4/Sub.2/2003/12/Rev.2, para. 20.

*Note:* The important role that transnational corporations play in terms of migration is two-fold. On one hand, transnational or diaspora communities may set up businesses that are operational in both their countries of residence and origin, and these entities can make an important economic contribution in both countries. On the other hand, these entities may engage in the employment of migrant workers. In this context, and “within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognized in international as well as national law,” including, among others, the right to equal opportunity and non-discriminatory treatment United Nations Commission on Human Rights, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003) UN Doc. E/CN.4/Sub.2/2003/12/Rev.2, paras. 1 and 2).

## transnational organized crime

An organized crime which has one of the following characteristics: (a) is committed in more than one State; (b) is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) is committed in one State but has substantial effects in another State.

*Source:* Adapted from United Nations Convention on Transnational Organized Crime (adopted 15 November 2000, entered into force 28 January 2004) 2241 UNTS 507, Art. 3.2.

*Note:* The United Nations Convention on Transnational Organized Crime does not specifically define transnational organized crimes, nor provide a list of crimes that may fall under this category ((adopted 15 November 2000, entered into force 28 January 2004)

2241 UNTS 507). This was a conscious choice of the drafters of the Convention to allow for a broader applicability of the Convention to types of crimes given that they rapidly evolve United Nations Office on Drugs and Crime, Organized Crime [www.unodc.org/unodc/en/organized-crime/intro.html#what\\_organized\\_crime](http://www.unodc.org/unodc/en/organized-crime/intro.html#what_organized_crime) (last accessed 12 February 2018).

See also *organized criminal group, smuggling (of migrants), trafficking in persons*

## transnationalism

The concept of transnationalism refers to multiple ties and interactions linking people and institutions across State borders.

Source: S. Vertovec, Conceiving and researching transnationalism, (1999) 22 *Ethnic and Racial Studies* 2, p. 189.

Note: "This definition indicates the close relationship between trans-nationalism and globalisation, which also refers essentially to the rapid expansion of cross-border transactions and networks in all areas of life. At the same time, the concept suggest[s] that boundaries between nation-states are becoming less distinct." United Nations Educational, Scientific and Cultural Organization, *Glossary of Migration Related Terms* [www.unesco.org/shs/migration/glossary](http://www.unesco.org/shs/migration/glossary) (last accessed 14 April 2018).

## trapped populations

Populations who do not migrate, yet are situated in areas under threat, [...] at risk of becoming 'trapped' or having to stay behind, where they will be more vulnerable to environmental shocks and impoverishment.

Source: Adapted from Foresight, *Migration and Global Environmental Change* (2011) p. 25, cited in International Organization for Migration, Migration, Environment and Climate Change: Evidence for Policy (MECLEP), *Glossary* (2014) p. 17.

Note: The notion of trapped populations applies in particular to poorer households who may not have the resources to move and whose livelihoods are affected (International Organization for Migration, Migration, Environment and Climate Change: Evidence for Policy (MECLEP), *Glossary* (2014) p. 17).

## travel document

A document issued by a government or by an international organization which is accepted as a proof of identity for the purpose of crossing international borders.



*Source:* Adapted from European Migration Network, *European Migration Network Asylum and Migration Glossary 3.0* (2014).

*Note:* Passports are the most widely used forms of travel documents. Some States also accept identity cards or other documents such as residence permits. Travel documents are sometimes issued by regional organizations (i.e. Economic Community of West African States (ECOWAS) Passport), and by the United Nations (UN) for its staff (i.e. UN laissez-passer travel document).

International practice is moving towards issuance of machine-readable travel documents, which comply with International Civil Aviation Organization (ICAO) standards, printed on labels with security features.

*See also* [electronic passport](#), [identity document](#), [laissez-passer](#), [passport](#), [temporary travel documents](#), [travel documents \(Convention\)](#)

## travel documents (Convention)

Travel documents issued to refugees or stateless persons in *lieu* of a national passport by a country which is a party to the 1951 Refugee Convention or to the 1954 Convention relating to the status of stateless persons respectively.

*Source:* Adapted from Convention relating to the Status of Refugees ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137) Art. 28.1; Convention relating to the Status of Stateless Persons ((adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117) Art. 28.

*Note:* According to Article 28.1 of the Convention relating to the Status of Refugees: “The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a document to any other refugee in their territory...” ((adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137). Article 28 of the Convention relating to the Status of Stateless Persons also contains a similar provision ((adopted 28 September 1954, entered into force 6 June 1960) 360 UNTS 117).

*See also* [certificate of identity](#), [passport](#)

## travel health

The migration health related topic that concerns the health of individuals during the movement or travel phase of migration.



*Note:* The actual journey can pose health risks to migrants, depending on factors such as the duration and mode of transport, if the travel is regular and organized or forced. Assistance in the context of travel health involves the mitigation of health risks that may occur during or result from travel. Health assessments, pre-embarkation checks and medical escorting typically fall under this umbrella.

## traveller

A person who moves between different geographic locations, for any purpose and any duration.

*Source:* Adapted from United Nations Department of Economic and Social Affairs, *International Recommendations for Tourism Statistics* (2008) para. 2.4.

*See also* [tourist](#), [visitor](#)

## treaty

An international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.

*Source:* Vienna Convention on the Law of Treaties, ((adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331) Art 2.1(a).

*See also* [agreement \(international\)](#)

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## U

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### unaccompanied children

Children, as defined in Article 1 of the Convention on the Right of the Child, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

*Source:* Adapted from Committee on the Rights of the Child, General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin 1 September 2005 CRC/GC/2005/6, para. 7.

*Note:* In the context of migration, children separated from both parents or other caregivers are generally referred to as unaccompanied migrant children (UMC).

*See also* *child, minor, unaccompanied minors, separated children*

### unaccompanied minors

 Refer to [unaccompanied children](#)

*See also* *child, minor, separated children*

### unauthorized entry

 Refer to [irregular entry](#)

*See also* *illegal entry, unlawful entry*

### undocumented migrant

A non-national who enters or stays in a country without the appropriate documentation.

*Note:* Migrants can find themselves as undocumented in one of the following two ways. First, they have documentation that acts as proof of identity but they do not have documentation that proves their right to enter and stay in the country, or such documentation is fraudulent or no longer valid. In this meaning, this expression is used as a synonym of “irregular migrant” (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, Art. 5(b)). Secondly, they do not hold any form of documentation that proves their identity nor do they have any other proof of their right to enter and stay in the country.

Undocumented migrants who lack any identity document usually experience more difficulties in accessing services, in obtaining permits to reside or work, or in returning to their countries of

origin. Undocumented migrants may even, in the long term, be at risk of statelessness if it becomes impossible for them to obtain any evidence of their nationality.

*See also irregular migrant, migrant, migrant in an irregular situation, stateless person*

## undocumented migrant worker

A migrant who is not authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party.

*Source:* Adapted from International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 5(b).

*Note:* Also referred to as a migrant worker in an irregular situation.

## unlawful entry

Refer to *irregular entry*

*See also illegal entry, unauthorized entry*

## urbanization

The occurrence of increasing proportion of a population that is living in urban areas.

*Source:* International Organization for Migration, *World Migration Report* (2015) p. 15.

*Note:* Urbanization in general is attributed to three factors: natural population growth, net rural-to-urban migration, and also the progressive extensions of urban boundaries and creating of new urban centres. The term often refers to a broad rural-to-urban transition involving changes in population, land use, economic activity and culture. International Organization for Migration, *World Migration Report* (2015) p. 202.

*See also internal migration, rural–urban migration, urban–urban migration*

## urban–rural migration

The movement of people from an urban to a rural area for the purpose of establishing a new residence.

*See also internal migration, rural–rural migration, rural–urban migration, urban–urban migration*

## urban–urban migration

The movement of people from one urban area to another urban area for the purpose of establishing a new residence.

*See also* [internal migration](#), [rural–rural migration](#), [rural–urban migration](#), [urban–rural migration](#)

## usual residence

A place within a country where a person lives, that is to say, the place in which he or she has a place to live where he or she normally spends the daily period of rest.

*Source:* Adapted from United Nations Department of Economic and Social Affairs, *Recommendations on Statistics of International Migration*, Revision 1 (1998) p. 92.

*Note:* Temporary travel abroad for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimages does not change a person's place of usual residence (ibid.).

*See also* [country of usual residence](#), [domicile](#), [habitual residence](#), [residence](#)



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## V

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### victim of gender-based violence

A person who has experienced gender-based violence.

*Source:* Inter-Agency Standing Committee, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action (2015) p. 326.

*Note:* The terms “victim” and “survivor” can be used interchangeably. “Victim” is a term often used in the legal and medical sectors. “Survivor” is the term generally preferred in the psychological and social support sectors because it implies resiliency (UNFPA, Managing Gender-based Violence Programmes in Emergencies, E-learning Companion Guide (2012) p. 8).

*See also* [gender-based violence](#), [survivor of gender-based violence](#)

### victim of trafficking in human beings

Any natural person subject to trafficking in human beings, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

*Source:* Adapted from Council of Europe Convention on Action Against Trafficking in Human Beings (adopted 16 May 2005, entered into force 1 February 2008) CETS No. 197, Art. 4(e).

*Note:* The definition provided in the Council of Europe Convention on Action Against Trafficking in Human Beings has been adapted to ensure consistency with the definition of smuggled migrant.

*See also* [forced migration](#), [migrant](#), [trafficker \(human\)](#), [trafficking in persons](#)

### violence against women

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

*Source:* Declaration on the Elimination of Violence against Women (UNGA Res. 48/104, 20 December 1993) UN Doc. A/RES/48/104, Art. 1.

*See also* [gender-based violence](#)

## visa

An endorsement by the competent authorities of a State in a passport or a certificate of identity of a non-national who wishes to enter, leave, or transit through the territory of the State that indicates that the authority, at the time of issuance, considers the holder to fall within a category of non-nationals who can enter, leave or transit the State under the State's laws. A visa establishes the criteria of admission into, transit through or exit from a State.

*Note:* The visa requirements of an individual's travel outside his or her country will depend on the agreements between the State of whom he or she is a passport holder and its international agreements with the transit and destination States. The types of visas that are issued vary from State to State, and may have differing labels, but generally include: student visa, tourist visa, workers visa, marriage visa, visitor visa, business travel visa, and medical visa.

International practice is moving towards issuance of machine-readable visas which comply with International Civil Aviation Organization standards, printed on labels with security features.

See also *exit visa*, *transit visa*

## visa refusal

A decision by the competent national authorities to reject a visa application.

*Note:* Refusal may be *inter alia* attributed to the fact that the applicant does not fall into one of the categories who are authorized to enter the State under its laws, to reasons of public order, public health, or because the applicant has insufficient resources, etc.

## visitor

In the migration context, the term is used in some national legislation to designate a non-national authorized to stay temporarily on the territory of a State without participating in a professional activity.

*Note:* For statistical purposes, the United Nations Department of Economic and Social Affairs (UN DESA) defines a visitor as "a traveller taking a trip to a main destination outside his/her usual environment, for less than a year, for any main purpose (business, leisure or other personal purpose) other than to be employed by a resident entity in the country or place visited" (UN DESA, International Recommendations for Tourism Statistics (2008) para 2.9.

See also *tourist*, *traveller*



## voluntary repatriation

Return to the country of origin based on the refugees' free and informed decision. Voluntary repatriation may be organized, (i.e. when it takes place under the auspices of the concerned governments and UNHCR), or spontaneous (i.e. the refugees return by their own means with UNHCR and governments having little or no direct involvement in the process of return).

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006) p. 23.

*See also* [assisted voluntary return and reintegration](#), [repatriation](#), [spontaneous return](#), [voluntary return](#), [return](#)

## voluntary return

The assisted or independent return to the country of origin, transit or another country based on the voluntary decision of the returnee.

*Source:* Adapted from International Organization for Migration, *Assisted Voluntary Return and Reintegration Handbook* (internal publication, unpublished 2010), p. 10.

*See also* [assisted voluntary return and reintegration](#), [durable solutions \(refugees\)](#), [return](#), [voluntary repatriation](#)

## vulnerability

Within a migration context, vulnerability is the limited capacity to avoid, resist, cope with, or recover from harm. This limited capacity is the result of the unique interaction of individual, household, community, and structural characteristics and conditions.

*Note:* As a concept, vulnerability implies exposure to and susceptibility to some form of harm. There are different forms of harm, meaning that different sectors use the term differently (e.g. vulnerability to food insecurity, vulnerability to hazards, vulnerability to harm and violence and abuse, vulnerability to rights violation).

Vulnerability derives from a range of intersecting and co-existing personal, social, situational, and structural factors. For example, in crisis or disaster affected communities, individuals and groups may have different levels of vulnerability, depending on their exposure to hazards or to risks of neglect, discrimination, abuse and exploitation. The level of exposure is determined by the interplay of many factors: their sociodemographic characteristics,



their capacities (including knowledge, networks, access to resources, access to information and early warnings, etc.), their location (in a camp, in a spontaneous settlement, in a transit center, at the border, etc.) and the crisis induced factors having an impact on them (such as separation, loss and lack of resources and opportunities, discrimination in access to assistance, etc.) (International Organization for Migration, Guidance Note on How to Mainstream Protection across IOM Crisis Response (2016) IN/232, pp. 6–7).

*See also migrants in vulnerable situations, vulnerable group*

## vulnerable group

Depending on the context, any group or sector of society (such as children, the elderly, persons with disabilities, ethnic or religious minorities, migrants, particularly those who are in an irregular situation, or persons of diverse sex, sexual orientation and gender identity (SSOGI)) that is at higher risk of being subjected to discriminatory practices, violence, social disadvantage, or economic hardship than other groups within the State. These groups are also at higher risk in periods of conflict, crisis or disasters.

*See also migrants in vulnerable situations, vulnerability*

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## W

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### war crimes

International crimes that include, in case of an international armed conflict a) grave breaches of the Geneva Conventions of 12 August 1949, b) other serious violations of the laws and customs applicable in international armed conflict within the established framework of international law; in the case of an armed conflict not of an international character, a) serious violations of Article 3 common to the four Geneva Conventions of 12 August 1949 committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause, and b) other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, as listed and defined in the Rome Statute of the International Criminal Court.

*Source:* Adapted from Rome Statute of the International Criminal Court ((adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3) Art. 8.

*Note:* War crimes include, among others, the following conducts involving movements of people in international armed conflicts: the unlawful deportation or transfer or unlawful confinement; the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies; or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory. In case of an armed conflict not of an international character, war crimes encompass: ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand (Rome Statute of the International Criminal Court ((adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3) Arts 8.1 and 8.2).

*See also* [armed conflict](#), [deportation](#), [displacement](#), [exclusion clauses](#), [international crimes](#), [international humanitarian law](#)



## watch list

A list of individuals, groups, or items that require close surveillance.

*Source:* European Boarder and Coast Guard Agency (FRONTEX), Best Practice Technical Guidelines for Automated Border Control (ABC) Systems (2012) p. 12.

*See also* [lookout list](#)

## well-founded fear of persecution

A key element of the 1951 Refugee Convention's definition of a refugee. Well-foundedness of fear contains both a subjective element (fear of persecution) and an objective element (the fear must have an objectively justifiable basis). According to the 1951 Convention, persecution must be linked to any one of the five specified grounds: race, religion, nationality, membership of a particular social group and political opinion.

*Source:* United Nations High Commissioner for Refugees, *Master Glossary of Terms* (2006) p. 23.

*See also* [grounds for persecution](#), [persecution](#), [refugee \(mandate\)](#), [refugee \(1951 Convention\)](#), [standard of proof](#)

## worker on an offshore installation

A migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national.

*Source:* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ((adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3) Art. 2.2(d).

*See also* [migrant worker](#)

## work permit

A legal document issued by a competent authority of a State authorizing a migrant worker to be employed in the country of destination during the period of validity of the permit.

*Note:* In some immigration systems, work permits can initially take the form of visas, allowing the holder to work temporarily. These permits are then normally renewed in the form of a work permit prior to expiration. In some cases, a residence permit also allows the person to work without requiring a separate work permit.

*See also* [applicant](#), [migrant worker](#), [permit](#)

## worst forms of child labour

The term refers to (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

*Source:* International Labour Organization Convention (No. 182) on the Worst Forms of Child Labour ((adopted 17 June 1999, entered into force 19 November 2000) 2133 UNTS 161) Art. 3.

*See also* [child exploitation](#), [child labour](#), [child trafficking](#), [slavery](#), [trafficking in persons](#)







## xenophobia

At the international level, no universally accepted definition of xenophobia exists, though it can be described as attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity.

*Source:* Adapted from declaration on Racism, Discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons (adopted by the Asia-Pacific NGO Meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Teheran, 18 February 2001) [www.hurights.or.jp/wcar/E/tehran/migration.htm](http://www.hurights.or.jp/wcar/E/tehran/migration.htm) (last accessed 12 April 2018).

*Note:* The Declaration on Racism, Racial Discrimination, Xenophobia and Related Intolerance recognizes that: “xenophobia against non-nationals, particularly migrants, refugees and asylum seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices” (Durban Declaration, adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001) para. 16).

See also [discrimination](#), [racial discrimination](#), [racism](#)



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