



The Hague Process  
on Refugees and Migration



United Nations  
Educational, Scientific and  
Cultural Organization



# People on the Move

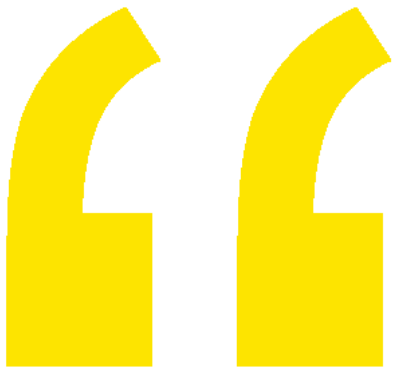
## Handbook of selected terms and concepts

Version 1.0

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Migration has moved high on the international agenda; it is now the focus of sensitive debates and growing media attention in a variety of contexts. Intense interest is shown in specific issues which have only emerged fully in recent years: the situation of internally displaced persons, the dynamics of a 'migration-development nexus', or the consequences of environmental change on human displacement. Meanwhile, the future of international refugee protection and standards of national asylum policies appears fragile and uncertain. An extensive terminology has evolved to cover standing and emerging issues as they also relate to the larger fields of human rights and development.

This handbook takes stock of the present use of some selected terms and concepts. It is designed to be accessible to a general public which may not be familiar with the detailed discussions in the field of refugee and migration policy. Civil society and the business sector play an increasingly important role in migration, and we also hope this handbook may be of use to them. Another intended audience is the media, firstly because many of the current perceptions on migration and refugees are shaped there, and secondly because terms are often incorrectly interpreted in media coverage. Words matter, for labels impact people's views and inform policy responses.





Brief comments are provided to complement the definitions proposed, to cover related terms or to highlight some issues behind the words. For the purpose of clarity, the definitions are listed under the following sections:

**Persons & Statuses** to identify the fundamental distinctions between the various persons concerned.

**Terms and Concepts** to provide insights into the realities of the field and clarify emerging or recurrent topics.

**Concepts of Reference** to frame discussions within a human rights and development perspective.

Besides a thematic index, the following icons are meant to guide the reader and to avoid confusion:

	International legal definition available and recommended as reference
	Term or concept <i>exclusively</i> related to the asylum and refugee field
	Term/concept not consensually defined or not recommended for use
	Cross-reference

Among the reference sources which provided guidance in editing the definitions and comments are:

- Master Glossary of Terms, Office of the UN High Commissioner for Refugees (UNHCR), 2006.
- Glossary on Migration, International Organization for Migration (IOM), 2004.
- Glossary of Humanitarian Terms, UN Office for the Coordination of Humanitarian Affairs (OCHA), 2003.

Other specific references are detailed in the Handbook. We encourage the reader to explore these documents, available online, and to take a critical look at the complex fields covered.

This work, elaborated in cooperation with international experts, is intended to contribute to greater precision and accuracy in language and discourse on the part of all stakeholders. It does not claim to be exhaustive nor definitive. It is in that sense an effort to raise awareness and to facilitate a transparent debate and a step toward consensus, in line with the larger missions of *The Hague Process on Refugees and Migration* (THP Foundation) and UNESCO. Where misrepresentations are detrimental to an adequate international dialogue, it should provide useful orientation.

The Handbook remains work in progress. We welcome your comments and suggestions and hope that this initial edition will be a useful resource for you and/or your organisation.

The Hague / Paris, July 2008

The Hague Process on Refugees and Migration (THP Foundation)

UNESCO Section on International Migration and Multicultural Policies

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International legal definition recommended as reference



Terms and concepts not consensually defined or not recommended for use



Terms and concepts exclusively related to the asylum and refugee field

## ORGANISATIONS & INTERNATIONAL INITIATIVES

UN	United Nations
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNHCR	Office of the United Nations High Commissioner for Refugees
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
ILO	International Labour Organisation
IOM	International Organization for Migration
GCIM	Global Commission on International Migration
GFMD	Global Forum on Migration and Development

## DOCUMENTS

- 1951 UN Refugee Convention  
1951 UN Convention and its 1967 Protocol Relating to the Status of Refugees
- 1990 UN Migrant Workers Convention  
1990 UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- 2000 UN Palermo Protocols  
2000 UN Protocol against the Smuggling of Migrants by Land, Sea or Air ,  
Supplementing the United Nations Convention Against Transnational  
Organized Crime  
2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons,  
Especially Women and Children, Supplementing the United Nations  
Convention against Transnational Organized Crime


# PERSONS & STATUSES

## ASYLUM SEEKER

A person expressing in any manner the wish to seek international protection outside his/her country

### Comments

In countries with individualised procedures, an asylum-seeker may be defined as someone whose claim for refugee status has not yet been finally decided upon by the country in which he or she has submitted it. However the general understanding is broader and reflected in the definition above. A person does not need to have submitted an asylum application and/or be awaiting decision on his or her claim for refugee status under relevant international or national instruments to be considered an asylum-seeker.

Not every asylum-seeker will ultimately be legally recognised as a refugee, but every recognised refugee is initially an asylum-seeker in the sense of the proposed definition. International protection  refers essentially to refugee protection but is arguably broader.

Access to the asylum procedure, protection and assistance for children whether accompanied, unaccompanied or separated, outside their country of origin is covered by the 1989 UN Convention on the Rights of the Child (Article 22) and the General Comment No 6 of the Committee on the Rights of the Child (Treatment of unaccompanied and separated children outside their country of origin, 2005).

-  Asylum
-  Refugee



**Populations outside their country of origin usually sustaining ties and developing links both with that country of origin and across countries of settlement/residence**

### Comments

⚠️ The notion of diaspora is a very elusive one and consensus does not exist at present on a single definition. What usually unites members of a diaspora is the consciousness and the claim of a specific identity, the existence of a political, religious or cultural organization of the dispersed group and the various links, material and/or symbolic, with the territory or country of origin but also between countries of settlement/residence.



From a development-oriented perspective the term diaspora can refer to individuals originating from one country, living outside this country, irrespective of their citizenship or nationality, who, individually or collectively, are or could be willing to contribute to the development of this country (Source: GFMD background documents, Brussels 2007).


In its broadest sense and definition, the term is increasingly being used to refer equally to persons who remain citizens of their country of origin and to those taking on the citizenship of their host country.



A number of definitions are available, so care should be taken to analyse the specifics of each situation. Use of the term should not downplay the diversity of actors it covers and their potentially conflicting interests.


## Person whose migration movement is of a forced nature and decisively induced by an environmental factor

### Comments

 There is no generally accepted definition of the term. It is used as a slightly more neutral alternative to the term **environmental refugee**, also used to describe people displaced through natural and man-made disasters or environmental degradation. Both terms demand to be used with care as they tend to imply a unique cause to the displacement which may be misleading. Although more frequently used, the latter term is particularly problematic. The term “refugee” usually implies the crossing of state borders, whereas movements concerned here may be occurring within the borders of a state. In addition, it poses a significant risk of diluting the concept of “refugee”  as legally defined in the 1951 UN Refugee Convention even though it may rightly point to the forced character of the movement. Use of the term environmental refugee is therefore not recommended, even though it is frequently used.

 The term **climate refugee**, though it refers more specifically to movements induced by climate change, raises similar difficulties.

 The term **environmental migrant** is also used as “persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad” (Source: IOM). However the expression environmental migrant itself may lead to confusion as the term “migrant”  is generally used to cover cases of voluntary migration (unless further specification is introduced i.e “forced migrant”).

 Environmentally Induced Population Movements (EIPM) are receiving growing attention in both political and academic circles.



Person(s) 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: Paragraph 2 of the UN Guiding Principles on Internal Displacement; E/CN.4/1998/53/Add.2, 1998)

### Comments

The two defining characteristics of the concept are *forced movement* and *movement within the borders of a given state*. As stated by OCHA, there is no single international legal instrument that sets out the rights of the internally displaced and the obligations of governments and other actors towards them. However, international human rights and humanitarian law do provide protection for displaced persons and were used as the basis for the “Guiding Principles on Internal Displacement”, adopted by the UN in 1998. The document outlines the rights of the internally displaced at all stages of their displacement, up to their safe return or resettlement ☺, and also covers the prevention of displacement. Although the principles are not as such legally binding, they often represent existing international human rights obligations and provide valuable practical guidance for governments, authorities, international, intergovernmental and non-governmental organizations.

The umbrella term **displaced persons** is used in certain countries to cover both internal and cross-border cases of forced migration ☺.

## Person who changes his/her country of usual residence

- Source: UN Statistics Division, “Recommendations on Statistics of International Migration, Revision 1”, 1998

### Comments

The UN Recommendations define a person’s *country of usual residence* as “that in which the person lives, that is to say, the country in which the person has a place to live where he or she normally spends the daily period of rest. Temporary travel abroad for purposes or recreation, holiday, business, medical treatment or religious pilgrimage does not entail a change in the country of usual residence”. The same recommendations outline categories of migrants according to duration of stay:

A **short-term international migrant** is defined as “a person who moves to a country other than that of his or her usual residence for a period of at least 3 months but less than a year (12 months), except in cases where the movement to that country is for purposes of recreation, holiday, visit to friends and relatives, business, medical treatment or religious pilgrimage”.

A **long-term international migrant** is defined as “a person who moves to a country other than that of his or her usual residence for a period of at least a year, so that the country of destination effectively becomes his or her new country of usual residence.”

The proposed definition of long-term international migrant tends to present international migrant as a fixed or permanent condition beyond the one-year criterion. Strictly following the definition, one can remain and be considered an international migrant for an indefinite period of time. Other definitions restrict the term international migrant to persons who remain non-national or non-citizens of the host country. A number of agencies or institutions will use the foreign-born criterion, also for reasons of data access and international comparability. This complexity suggests further specification as to persons concerned for any sound (policy) discussions in the field.

A person undergoing a (semi-)permanent change of residence which involves a change of his/her social, economic and/or cultural environment

### Comments

⚠ The proposed definition covers both internal and international migration <sup>☺</sup> and has a core *geographic* criteria.


There is in fact no comprehensive or universally accepted definition of the term “migrant”, though it is widely used also in policy circles. Although this is not directly reflected in the proposed definition, the term migrant is commonly understood to concern people whose decision to migrate is/was voluntary, that is taken freely by the individual concerned *for* reasons of 'personal convenience' and without intervention of an external compelling factor, unless specified (e.g. “forced migrant”). This understanding was supported in reference to the 1990 UN Migrant Workers Convention which refers to the term “migrant” in its article 1.1 under the expression migrant worker <sup>☺</sup>.

A valuable recommendation seems therefore to systematically specify persons considered when speaking of “migrant(s)”. Use of the term may otherwise be detrimental to concrete policy discussions.

The proposed definition makes no reference to the point of departure or space of origin. The terms **emigrant** or **immigrant** refer respectively to migrant from the perspective of the country of origin/departure <sup>☺</sup> and the country of destination/settlement <sup>☺</sup>. These terms are generally used in the context of international migration, though not exclusively.

☺ International Migrant


**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: Article 2.1 of the 1990 UN Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families


### Comments

This definition is widely used and accepted, although the 1990 UN Migrant Workers Convention which incorporates it is not universally signed or ratified to this day. The term often implies the existence of a work contract, permit or visa although the definition proposed above is not restrictive in that sense.

The abovementioned Convention identifies several specific categories of migrant workers in Article 2.

 **Seasonal worker** refers to “a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year”.

 **Frontier worker** refers to “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”.

 **Project-tied worker** refers to “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”.

Other specific categories of migrant workers are also listed and defined in the Convention.

The term **economic migrant** is sometimes used to specify the motive for migration, namely economic opportunities, employment or work. Depending on the context, this use can become reductive, if neglecting the importance of other factors in the decision to migrate or other aspects of the migrant’s activity or contribution.

Person entering, traveling through or residing in a country without the necessary documents or permits

### Comments

⚠ The term **irregular migrant** is widely used. The GCIM, in its 2005 Final Report reasonably concurs with the assertion that an individual person cannot be “irregular” or “illegal”, and prefers the expression **migrant with irregular status**. The latter expression rightly underlines the fact that irregularity is not a fixed condition, rather one defined by administrative rules and likely to change over time.

The term **undocumented/non-documented migrant** is self-explanatory but not equivalent to migrant with irregular status. It does not cover situations where migrants overstay their visa or engage in prohibited work or travel with inappropriate or false documents. Hence also a need to distinguish, when appropriate *irregular entry* from *irregular stay*. The 1990 UN Migrant Workers Convention refers to migrant workers “non-documented” or “in an irregular situation” as persons not complying with the conditions to “be 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” (Article 5).

⚠ **Illegal migrant/alien** and **clandestine migrant**, roughly equivalent in use, are normative terms which should be considered inadequate in so far as they blur the distinction between the person and his/her status.

**Stranded migrant** is a general term sometimes used to refer to a person unable to return to his/her previous country of residence or of origin <sup>(h)</sup> and compelled to remain in a country of transit or destination/settlement <sup>(h)</sup>. This situation might be due to circumstances in the country of origin, a position of prolonged detention <sup>(h)</sup> or practical difficulties. Stranded migrants may be individuals whose claim for refugee status has been rejected. They may experience irregularity of status although not systematically.

**A person who does not enjoy the nationality/citizenship of the state in which he/she resides**

### Comments

⚠ The terms **foreigner** or **alien** are sometimes used as synonymous to non-national and non-citizen. They may be used in a legal context but tend in public discourse to bear a negative connotation, suggesting an artificial distance and essential “otherness”. These terms should therefore be used with care.

🔄 Citizenship

🔄 Nationality





Person outside his country of origin who cannot return to this country because he/she has a well-founded fear of persecution or is unable or unwilling to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order

### Comments

✔ The definition most referred to is set out in Article 1 Section A (2) of the 1951 UN Refugee Convention which defines a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable 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."

According to the 1951 UN Refugee Convention, persecution must be discriminatory in order to qualify for refugee status and linked to at least one of the five specified grounds: race, religion, nationality, membership of a particular social group and political opinion.

Regional refugee law instruments have interpreted the term 'refugee' as also encompassing threats arising in situations of conflict and public disorder without having to demonstrate that the criteria of the 1951 UN Refugee Convention are fulfilled. Two usual references in that respect are found in Article I of the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organisation of African Unity and in the non-binding 1984 Cartagena Declaration on Refugees.

**Convention Refugee(s)** is used to refer to persons who qualify for refugee status under the criteria in Article 1 A of the 1951 UN Refugee Convention.

**Mandate Refugee(s)** is used to refer to persons who are recognized as refugees by UNHCR acting under the authority of its Statute and relevant UN General Assembly resolutions. Mandate status is especially significant in states that are not parties to the 1951 UN Refugee Convention or its 1967 Protocol.

**Prima Facie Refugee(s)** is used to refer to persons recognized as refugees, by a state or UNHCR, 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.

**Refugee(s) sur place** is used to refer to persons who were not refugees when they left their countries of origin, but who become refugees at a later date, owing to intervening events. Refugees *sur place* may owe their fear of persecution for example to a change in the country of origin, such as through a *coup d'état*, or to political activities undertaken in the country of refuge.

**Statutory Refugee(s)** is used to refer to persons considered to be refugees under the provisions of international instruments that were in force before the 1951 UN Refugee Convention.

**Returnee(s)** is a term used for refugees who have returned to their country or community of origin. Other stakeholders – including IOM - use the term in a broader sense to refer to returning migrants. Hence a need for specification.

⚠ The common language use of the term **refugee** often simply implies forced migration 🇵🇸 but is not necessarily legally grounded. It therefore differs significantly from the legal and international definitions mentioned above. Its use can raise issues as in the case of the expression **economic refugee** which emerged in the media to suggest that economic reasons for fleeing may be sometimes as compelling as political ones. Under certain conditions the lack of access to economic and social rights can also qualify for refugee status, for example if access to resources is denied on a discriminatory basis. However, in general terms such association of terms may blur necessary distinctions and should therefore be rejected.

🇵🇸 Asylum



## **A person who is not considered as a national by any state under the operation of its law**

✔ Source: 1954 UN Convention Relating to the Status of Stateless Persons, Article 1.1 9 (Excerpt)

### **Comments**

A person may be(come) stateless for a wide variety of reasons, often beyond his or her will or decision. Reasons include restrictions applied to parents in passing on nationality to their children; denial of a woman's ability to pass on nationality; renunciation without having secured another nationality; automatic loss of citizenship from prolonged residence abroad; deprivation of nationality owing to failure to perform military or alternative civil service; loss of nationality due to a person's marriage to an alien or due to a change in nationality of a spouse during marriage; and deprivation of nationality resulting from discriminatory practices. Victims of forced displacement are more at risk to become stateless, notably when their displacement is accompanied or followed by a redrawing of territorial boundaries. Conversely, stateless people have often been obliged to flee their usual place of residence. It is this potential link with refugee situations that led the UN General Assembly to designate the UNHCR as the UN agency responsible for promoting the prevention and reduction of statelessness and the protection of stateless people. (See also UNHCR and Inter-Parliamentary Union, "Nationality and Statelessness, A Handbook for Parliamentarians", 2005). However, the majority of the world's stateless people have not crossed an international border and are not refugees.

The term **de facto stateless person(s)** refers to "person(s) whose nationality is not effective", e.g persons who face difficulties in establishing their nationality eventhough they have one (UNHCR). De facto stateless persons hold the nationality of a given state but do not enjoy the benefits normally associated with it.

Efforts to reduce de jure statelessness include the 1961 UN Convention on the Reduction of Statelessness.





# TERMS & CONCEPTS

## ASYLUM



The grant, by a state, of protection on its territory to (a) person(s) from another state fleeing persecution or serious danger

### Comments

The 1948 Universal Declaration of Human Rights states in its Article 14 (1): “Everyone has the right to seek and to enjoy in another country asylum from persecution.” This reference also appears in a number of national bills of rights or constitutions. Asylum encompasses a variety of elements, including non-refoulement ☹️, permission to remain on the territory of the asylum country, and humane standards of treatment. International standards of reference are spelled out in the 1951 UN Refugee Convention which is the main international instrument defining refugees legally and international human rights law ☹️.

Asylum is a specific form of protection ☹️. The common-language use of the term often blurs the legal requirements for asylum to be granted (reality and nature of the persecution or serious danger) but a defining characteristic of asylum remains the protection being granted by a given state.

**Diplomatic asylum** in the broad sense is used to refer to asylum granted by a state outside its territory, particularly in its diplomatic missions. **Territorial asylum** can be defined as asylum granted within the territorial limits of the state offering asylum. The 1967 UN Declaration on Territorial Asylum outlines a number of principles on which states should base themselves in their practices relating to territorial asylum.

Access to the asylum procedure, protection and assistance for children whether accompanied, unaccompanied or separated, outside their country of origin is covered by the 1989 UN Convention on the Rights of the Child (Article 22) and the General Comment No 6 of the Committee on the Rights of the Child (Treatment of unaccompanied and separated children outside their country of origin, 2005).

**Status of a citizen derived from a legal bond with a state and/or a political community and further defined by a set of attendant duties, rights and privileges**

### Comments

The terms **nationality** ☹ and **citizenship** are often used interchangeably but the two legal statuses may have different implications. There are a number of approaches to citizenship and its definition varies depending on the field of focus. Citizenship usually implies an entitlement to take part in democratic decision making processes, notably through active and passive voting rights. While this legal understanding generally derives its meaning from the state level, it is worth mentioning that it is not limited to it. **Dual /multiple citizenship** refer to the status of an individual who is a citizen of two/ more states. It is a sometimes contested, sometimes accepted feature.

Citizenship is also used to describe a social reality or the expression of social inclusion ☹. This more normative approach, also emphasized in the expression **active citizenship**, implies working towards the betterment of a community through civic and political, economic as well as cultural participation of each of its members. It is from this perspective that the term citizenship is often used with regard to inclusion policies. Here again the community of reference can take several shapes, such as state, city, or region, in all of which citizenship is deemed important for social inclusion.


Access to citizenship is a fundamental related matter notably addressed in the “2004 General Recommendation on Discrimination Against Non-Citizens” of the UN Committee on the Elimination of Racial Discrimination which includes a number of important recommendations (Title IV. Access to Citizenship).

**Country of origin:** A country where a person or a group of persons originate(s), i.e. country of his/her nationality or in the case of stateless persons the country of usual residence


**Country of transit:** A country through which a person or a group of persons travels, possibly involving temporary settlement, on the way to a given country of destination

**Country of destination:** A country that is the destination for a person or group of persons

### Comments

It should be noted that identifying the country of origin, transit or destination of a specific person or group of persons can depend on the perspective one takes. The terms are sometimes also understood to be qualifications of the countries per se, indicating the predominant feature of a country's migration profile. Although this use of the terms remains relevant, their distinction may in practice be slightly arbitrary in the face of the growing complexity of global migration routes and patterns. Research shows that countries are often simultaneously countries of origin, transit and destination. In the context of long term migration , the terms **country of settlement** or **country of residence** are often used as synonymous with country of destination, although the first may refer to an ongoing process.



A person's **country of usual residence** can be defined as "that in which the person lives, that is to say, the country in which the person has a place to live where he or she normally spends the daily period of rest. Temporary travel abroad for purposes or recreation, holiday, business, medical treatment or religious pilgrimage does not entail a change in the country of usual residence" (UN Statistics Division, "Recommendations on Statistics of International Migration, Revision 1", 1998).



 The terms **sending**, **receiving** or **host country/state** should be used carefully. They may occasionally suggest a proactive involvement of national authorities or societies at some point of the migration process which is not always evident. However it is worth noting that these terms sometimes appear in bilateral agreements between countries.



## Restriction on freedom of movement through confinement

### Comments

It is important to distinguish between **criminal detention**, having as a purpose punishment for a crime, and **administrative detention**, guaranteeing that another administrative procedure can be implemented. In many states, migrants with irregular status are subject to administrative detention as they are in contravention immigration laws and regulations. In addition, individuals may also be detained for irregular entry despite the fact that they are applying for asylum  or prior to expulsion  from the national territory.


OHCHR, UNHCR and the wider human rights community maintain serious reservations regarding the administrative detention of migrants  and asylum seekers .


OHCHR holds that “infractions of immigration laws and regulations should not be considered as criminal offences” and “recommends that governments consider the possibility of progressively abolishing the administrative detention of migrants.” (Source: OHCHR, Discussion Paper on Administrative Detention/ Deliberation 5 “Situation regarding immigrants and asylum-seekers”, Working Group on Administrative Detention Standards, 2000).



UNHCR holds that “the detention of asylum-seekers is inherently undesirable” (Source: UNHCR, 1999 Guidelines on applicable Criteria and Standards relating to the Detention of Asylum Seekers). In addition, Article 31 of the 1951 UN Refugee Convention provides certain safeguards in relation to the restriction of freedom of movement for refugees who enter or reside in the country in contravention of its laws.



## Any means by which the situation of refugees can be satisfactorily and permanently resolved



### Comments

As they relate specifically to refugees , durable solutions are defined by UNHCR as follows:

 **Voluntary Repatriation:** Return to the country of origin based on the refugees' free and informed decision. Voluntary repatriation may be organised, (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).

 **Local Integration:** A durable solution to the problem of refugees that involves their permanent settlement in a country of asylum, and eventually being granted nationality  of that country.

 **Resettlement:** The transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. The refugees will usually be granted asylum  or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalised citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. It is also a practical example of international burden- and responsibility-sharing (Source: UNHCR, Master Glossary of Terms 2006).

The notions of durable solutions , integration  or resettlement are sometimes extrapolated beyond the field of refugee concerns. Hence a need to be explicit.

## Removal of a resident from the territory of a state by government authorities

### Comments

While no state may expel its nationals, it is the sovereign prerogative of states to regulate the presence of non-citizens/nationals ☹ on their territory. International human rights law places some restrictions on when and how to exercise this power. With regard to expulsions, three types of protection are available, namely substantive protection against return to face grave violations of human rights, procedural safeguards during deportation procedures, and protection with regard to the methods of expulsions. In addition to the general protection afforded to all non-citizens/nationals ☹, certain categories such as refugees ☹ and migrant workers ☹ may be afforded additional protection against expulsions and/or benefit from additional procedural guarantees (Source: OHCHR Discussion Paper, “Expulsions of aliens in international human rights law”, 2006).

**Deportation** and **removal** are also often used and considered interchangeable with expulsion. In the case of refugees, the 1951 UN Refugee Convention refers to the term “expulsion” in Article 32, and in Article 33 (the prohibition of expulsion or return (“refoulement”)). Under Article 32, which refers to the expulsion of a refugee to a country other than the *country* of origin, national security and public order are the only permissible grounds for expulsion. The procedures by which a decision for expulsion is reached should be fair and just, and the refugee should be allowed a reasonable time to seek admission into another country.

**Collective expulsion** is prohibited by international law ☹ on procedural grounds notably by the 1966 International Covenant on Civil and Political Rights, as it bestows upon all aliens the right to an individual expulsion procedure in accordance with law and the right to submit reasons against an expulsion decision (Art. 13, General Comment 15/27 Article 10). This right is also found in the 1990 UN Migrant Workers Convention (Article 22(1)).

☹ Non-refoulement

The process of bringing together family members, particularly children, spouses and elderly dependents

### Comments

Family reunion/reunification enables persons to exercise their human right to family life outside of their country of origin ☹ (in the context of migration). The right to respect for family life is found in the 1948 Universal Declaration of Human Rights (Article 16). In addition, several international legal instruments, such as the 1966 International Covenant on Civil and Political Rights and the 1990 UN Migrant Workers Convention, stress the importance of family life and encourage family reunification. The 1989 UN Convention on the Rights of the Child advances family reunion as a right, from the perspective of the child's interest. It states that "applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner" (Article 10 par. 1).

From an administrative and policy perspective, family reunification is a ground for allowing immigration of family members to the country where a family member resides. The requirements to be eligible for family reunification vary internationally and may change overtime through legislation.

**Family formation** is sometimes used to refer to situations where relationships are established following migration. It does not imply the pre-existence of a family structure.

☺ Refugee status may be extended to the spouse and dependents of persons who meet the criteria for the status of refugee. If such cases, they then benefit from a so-called **derivative refugee status**.

### Phenomenon of general increase in the relative share, implication and active role of women in migration

#### Comments

The term feminisation is generally used to refer to the fact that an increasing proportion of the world's migrants are women, and that a rising proportion of them migrate independently.

Awareness of feminisation as a key feature of contemporary migration trends has emerged recently as a result of growing data availability. Mainstreaming of the term denotes increasing attention to the previously neglected or underplayed role of women in migration and attendant policy challenges and implications for societies, governments and other stakeholders in the field.

These challenges relate notably to specific protection gaps and situations of forced migration and include cases of exploitation and trafficking of women. Other challenges relate to the overall social and economic impact for countries of origin and settlement and the empowerment of migrant women and their families.

### Migration in which an element of coercion predominates

#### Comments

Forced migration can be conflict-induced, caused by persecution, torture or other human rights violations, poverty, natural or man-made disasters (non exhaustive listing). As repeatedly stated by UNHCR, the distinction between voluntary and forced migration continues to be of relevance. It still constitutes an essential element in the distinction of asylum and immigration policy and the persons they respectively concern.

Migration ☺ as a general phenomenon relates to a variety of situations engaging forced and voluntary decisions. Elements of choice and coercion can be overlapping but in the case of refugees ☺ and other displaced persons ☺, compelling factors are decisive.

The same migration routes are sometimes travelled by persons with different protection needs. The expression **mixed migration** is used in this context to refer to complex movements involving at the same time asylum seekers ☺, refugees ☺, displaced persons ☺ as well as migrants ☺ in general.

⚠The expression **mixed flows** is also used but not recommended as the term “flow” conveys the notion of uncontrolled and uncontrollable movements.

**System of institutions, legal frameworks, mechanisms and practices aimed at regulating migration and protecting migrants.**

### Comments

The governance of migration is widely understood to engage an increasingly wide range of actors, including local, national and international governments, international organisations, businesses and civil society. The term **migration management** will often be used as an equivalent to the governance of migration, although migration management is also sometimes used to refer to the narrow act of regulating cross-border movement at the state level.

Both terms can be interpreted differently, partly because they encompass a plurality of actors, objectives and tools in a complex field where policy and institutional fragmentation is usually a highlighted feature. There is therefore a need for further specification.

**A process designed to allow and achieve the full participation of all in economic, social, political and cultural life of a given community or society.**

### Comments

⚠ There is no commonly agreed definition of inclusion. The term social inclusion is increasingly being used by local authorities and national as well as international bodies. The 1995 UN Social Development Summit referred to the term **social integration**, its aim being “to create a society for all, in which every individual, each with rights and responsibilities, has an active role to play”. It adds reference to a number of benchmarks: “ An *inclusive society* must be based on respect for all human rights and fundamental freedoms, cultural and religious diversity, social justice and the special needs of vulnerable and disadvantaged groups, democratic participation and the rule of law” (Chapter 4, Point 66).

⚠ **Assimilation** refers to the adaptation of one ethnic or social group – usually a minority – to another – usually a majority. The term is however politically loaded but its meaning differs widely depending on the society and context in which it is used.

⚠ The term **integration** is sometimes used as synonymous with assimilation or differently to refer to a process of mutual adaptation engaging all parties. Understanding should be explicit.

**Participation** is – as both means and end – often considered a core dimension of social inclusion. A **participatory approach** is an approach which permits and values the involvement and contribution of all key stakeholders - especially the proposed beneficiaries. Participation should be embedded throughout all stages from analysis and planning to implementation and monitoring of the action or policy.



**A process of moving across an international border or within a state without the necessary documents or permits**

### Comments

Irregular migration refers to a movement that is not in conformity with the regulatory norms of countries of origin, transit and/or destination/settlement ☹️.

It follows from the diversity of situations where this definition may apply that persons engaged in irregular migration should not be considered a homogeneous group.

As stated by the GCIM in its 2005 Final Report, the people concerned “include migrants who enter or remain in a country without authorization, those who are smuggled or trafficked across an international border, unsuccessful asylum seekers ☹️ who fail to observe a deportation order and people who circumvent immigration controls through the arrangement of bogus marriages”.

These and other forms of irregular migration are often clustered together under the alternative though not strictly synonymous headings of **unauthorized, undocumented or illegal migration**.

☹️ Migrant with Irregular Status

## Migration for the main purpose of employment or work

### Comments

Some approaches to labour migration may be focused on international movements. In addition to governing and regulating the entry of migrant workers ☹️, national migration policies may aim to regulate outward labour migration. It is thus necessary to specify the field covered when using the term labour migration – e.g. international, internal, temporary or sector-specific.

⚠️ The term **brain-drain** refers to the negative effects associated with the emigration of individuals whose skills are scarce in their country of origin ☹️. The term underlines negative effects, focusing on the loss of skills and human capital for countries of origin. Such movements and their consequences vary across countries and are often relevant to a specific professional sector (e.g. healthcare, education, engineering). They may however entail other positive effects or opportunities for the country of origin, for instance in the form of remittances ☺️, investments or skill acquisition in the case of migrants ☺️ returning. The term brain drain should therefore be used with care.

⚠️ **Brain-gain** generally refers to the immigration of skilled individuals to a country resulting in a benefit for that country. Yet it is also used in reference to the country of origin, in the case of return from individuals who gained skills abroad through temporary migration ☺️. The term should also be used with care.

⚠️ **Brain circulation** also emerged recently as a term describing the on-going mobility of individuals with skills in demand. It usually implies a shared benefit, in contrast with the terms brain-drain and brain-gain.

⚠️ States' selective immigration policies are often based upon sector or skill-based distinctions. An frequent distinction is the one between **highly-skilled**, **semi-skilled** or **low-skilled** labour migration/migrants although there is no common standard for criteria. Such terms are also essentially related to a utilitarian perspective and should be used with care.

**A process of moving, either across an international border, or within a state which results in a temporary or (semi-) permanent change of residence**

### Comments

Defining migration is difficult, given the complex nature of the phenomenon. In the proposed definition, migration is distinguished from the larger umbrella term of **human geographic mobility**, which encompasses any kind of movement of people, regardless of length, composition and causes. Temporary travel abroad for purposes of recreation, holiday, business, medical treatment or religious pilgrimage, which do not entail a change of residence, are generally not considered as migration movements. One can introduce several distinctions by space, by length of stay or by purpose or circumstances (see also all migration related entries).

**Immigration** and **emigration** respectively describe the move relative to the destination and to the point of departure. Moreover, the term immigration is often used to refer to the process leading to long-term or permanent residence, whereas the term migration may be used to cover both short-term and long-term movements.

**Internal migration** refers specifically to a population movement within the borders of a given space -usually a state- while **international migration** implies border crossing. **Transnational migration** stresses an international migration movement whereby an individual develops ties in more than one country, and engages economically, socially, politically and/or culturally- in both his/her country of origin and residence ☹️.

☹️ Migrant.

☹️ International Migrant.

### A legal bond between a state and an individual implying reciprocal rights and duties

#### Comments

The terms **nationality** and **citizenship** are often used interchangeably but may be distinct attributes from a legal point of view. While both imply a formal community membership conferred by law, use of the former commonly may imply a genuine connection whereas the latter usually emphasises an entitlement to participate in the political life and decision-making processes. The terms 'nationality' and 'citizenship' may in that sense emphasize two different aspects of the same notion.

Although every state has its own citizenship and nationality laws, these generally draw upon one or a combination of two broad principles that allow initial distinction between nationals and non-nationals. In the first one, **jus sanguinis**, the principle of blood, descent and heritage is the pivotal criteria. The second principle, **jus soli**, confers citizenship automatically to the persons born in the state's territory, regardless of the nationality and citizenship of the parents.

Persons to whom the nationality of a state is not ascribed at birth may acquire it later in life through the process of **naturalisation**. Rules governing acquisition and loss of nationality differ from state to state and evolve with relevant legislation.

- Ⓞ Citizenship
- Ⓞ Stateless person(s)
- Ⓞ Non-national/Non-citizen

**Fundamental principle of international law referring to the absence of - or practice or policy of refraining from – unreasonable distinctions, exclusions or preference**

### Comments

**Discrimination** can in turn be defined as a failure to treat all persons equally where no reasonable ground for distinction can be found between those favoured and those not favoured. Discrimination is prohibited by a number of international human rights law provisions such as the Universal Declaration of Human Rights (Article 2) and the 1966 International Covenant on Civil and Political Rights (Article 26).

✔ Article 1(1) of the 1965 UN International Convention on the Elimination of All Forms of Racial Discrimination defines **racial discrimination** as: "... any distinction, exclusion, restriction or preference based on race, colour, descent, national or ethnic origin with the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights in any field of public life, including political, economic, social or cultural life." A number of recommendations of particular relevance to the situation and treatment of non-citizens 🇵🇸 can be found in the "2004 General Recommendation on Discrimination Against Non-Citizens".

✔ Article 1 of the 1979 UN Convention on the Elimination of all Forms of Discrimination Against Women defines **discrimination against women** as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

The ILO refers to discrimination as "any unjustified differential treatment or any other distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, nationality, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation".



**A core principle of international refugee and human rights law that prohibits states to return individuals in any manner whatsoever to countries or territories in which their lives or freedom may be threatened.**

## Comments

✔️ 🌐 The principle of non-refoulement was first laid out in the 1951 UN Refugee Convention, which, in Article 33(1) provides that "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 has also been incorporated in the 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which states that "no party shall expel, return ("refouler") or extradite a person to another state where there are substantial grounds for believing he would be in danger of being subjected to torture" (Article 3). Article 2 of the 1966 International Covenant on Civil and Political Rights requires that State parties respect and ensure the Covenant rights for all persons in their territory and all persons under their control. It entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable damage, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may be subsequently removed" (Source: Human Rights Committee, "General Comment No. 31). Unlike Article 33 of 1951 UN Refugee Convention (exception clause of Article 33(2)), the non-refoulement principles under international human rights law 🌐 are absolute and do not allow for any exceptions. Both are part of customary international law 🌐.

**Refoulement** refers in turn to the expulsion 🌐 of a person in violation of the principle of non-refoulement, and therefore in breach of international refugee and human rights law.

**All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law**

### Comments

Any definition is limited in value by the scope and complexity of the concept of protection. As stated by OCHA, protection involves creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation, restitution and rehabilitation”.

A people-centered and responsibility/action-oriented definition is that of protection as “the norms, processes and institutions required to shield people from critical and pervasive threats. It implies a “top-down” approach” (Source: Human Security Now”, Human Security Commission, 2003). States have the primary responsibility to implement such a protective structure. However, international and regional organizations, civil society and nongovernmental actors, and the business sector can also play a pivotal role in shielding people from threats.

The first aspect of the protection of persons is the internal, **legal protection** which every national may claim from his/her State of nationality under its national law. Under present human rights principles and treaties, internal legal protection is (or should be) afforded by the State to all persons living under its jurisdiction, including asylum seekers and refugees.

⊕ Where refugees are concerned a type of protection normally referred to is **international protection** as mentioned in the Statute of UNHCR. In more general terms, it can be defined as: “the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries” (Source:UNHCR).

Among the categories of persons with specific protection needs are the victims of trafficking ☹️. Their specific needs were acknowledged by the international community and the release of the OHCHR “Recommended Principles and Guidelines on Human Rights and Human Trafficking” in 2002.

Another category is unaccompanied and separated children, whose specific needs are notably covered by the 1989 UN Convention on the Rights of the Child and the General Comment No 6. of the Committee on the Rights of the Child (Treatment of unaccompanied and separated children outside their country of origin, 2005

⊕ **Temporary protection** can be defined as an “arrangement developed by states to offer protection of a temporary nature to groups of persons arriving *en masse* from situations of conflict or generalised violence, without prior individual status determination. It is regarded by UNHCR as “an exceptional emergency measure ... to provide international protection to persons who need it in situations of large-scale influx, noting that it can respond to urgent protection needs.”

⊕ **Subsidiary or complementary protection** is a relatively new term, covering a specific form of protection. It is granted to persons who do not fulfil the conditions for the granting of the refugee status but are outside their country of origin or habitual residence and unable or unwilling to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalised violence or events seriously disturbing public order or who are otherwise protected against refoulement under international human rights instruments.

**Diplomatic/Consular protection** refers to the diplomatic and consular functions and activities aimed at assisting nationals abroad, ensuring the protection of their rights and interests. Consular functions are notably outlined in the 1963 Vienna Convention on Consular Relations (notably Article 5).



**Process by which a person in an irregular situation is allowed to remain or reside in a country in accordance with its laws and regulations**

### Comments

Regularisation - also referred to as **legalisation** - can apply to non-nationals/non-citizens ☹️ who have resided in the country in an irregular situation for a given length of time and are not otherwise found inadmissible.

⚠️ The term **amnesty** is usually used for pardons of offenses of political or criminal nature. It can be defined as a legal guarantee that exempts a person or group of persons from liability for offenses or irregularities. The term should be seen as equally applicable to citizens and non-citizens ☹️, or in fact to any person or group of persons liable for criminal or political offences under a given jurisdiction. In that sense, it is not specifically applicable to persons residing in a country with irregular status although it is often used as synonymous with regularisation.

Occasionally, governments develop structured “amnesty” programs for migrants with irregular status ☹️, coupling the amnesty and a legalisation through specific procedures. The term amnesty might however be slightly misleading by putting forward a one-sided view of responsibility for the previous irregularity of status.

### Earnings and material resources transferred by international migrants or refugees to recipients in their country of origin

#### Comments

Statistically, remittances are often defined as the sum of workers' remittances, compensation of employees, and migrants' transfers. Workers' remittances are current private transfers from migrant workers residing in a given country to recipients in their country of origin. If the migrants live in the country of settlement for a year or longer, they are considered residents, regardless of their immigration status. If the migrants have lived in the country of settlement for less than a year, their entire income in the host country should be classified as compensation of employees. (Source: International Monetary Fund, Balance of Payments Manual).

The measured growth in the volume of remittances is one of the important related features of contemporary (international) migration. The development impact and potential of remittances is receiving growing attention, with available data suggesting that these are now surpassing the volume of Official Development Assistance (ODA) and potentially Foreign Direct Investment (FDI) as well.

### **Movement of a person returning to his/her country of origin or usual residence**

#### **Comments**

We can distinguish between voluntary return migration and involuntary or forced return migration. **Forced return** is a return migration in which an element of coercion predominates. It generally covers, but is not limited to, the policy of expulsion ☹️. **Voluntary return** logically implies that choice to return has been made freely, although it must be noted that the line between the two can be difficult to draw. In the context of labour migration and development, and as a policy, assisted voluntary return is often regarded as a means to increase the positive impact of migration for countries of origin.




**Right to return:** The 1948 Universal Declaration of Human Rights defines in its article 13(2) a right to return: “Everyone has the right to leave any country, including his own, and to return to his country”. A similar provision is found in Article 12 of the 1966 International Covenant on Civil and Political Rights.

**Repatriation** is used for the return of refugees (voluntary repatriation ☺️) and well as in the broader context of migration for assisted return.

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident

✔ Source: 2000 UN Protocol against the Smuggling of Migrants by Land, Sea or Air, Supplementing the United Nations Convention Against Transnational Organized Crime

### Comments

The 2000 UN Palermo Protocols are helpful in introducing a distinction between trafficking  and smuggling. According to the protocols, the term 'trafficking' tends to describe movements of individuals against their will, whereas smuggling implies consent or a transaction. This does not imply, however, that smuggling can be simplistically labelled a *voluntary* process, as reasons to enter such a transaction may be very compelling or forceful. In practice, clearly identifying whether a given individual has been smuggled or trafficked may raise difficulties although the distinction remains important. *Illegal border-crossing* by the smuggled person and reception of a financial or material benefit *by the smuggler*  are two essential defining characteristics of smuggling. Trafficking , in contrast, can be either internal or cross border.

### Competencies, skills, knowledge, practices and ideas transmitted by international migrants to their country of origin

#### Comments

The term **knowledge transfer** is another generic term often used in this context. **Social remittances** is also used as a synonym to social capital transfer and in contrast to the common definition of the term remittances (☹). It refers to the ideas, practices, identities and social capital sent from a country of residence (☹) to a country of origin (☹) by individual migrants (☹) or migrant communities. Social capital transfers tend to be a neglected local-level counterpart to macro-level global monetary flows. Yet, they also contribute to the social transformations brought about by migration movements worldwide.

### A non-permanent migration implying return or onward movement

#### Comments

Such movements concern students, trainees, seasonal workers and other persons who are not granted a long-term or permanent residence permit or do not hold citizenship of the country of the concerned stay.

⚠ **Circular migration** has recently emerged as a popular term in policy debate and is at the cutting edge of the debate on migration and development. The process of “circular migration” implies circularity, that is, a relatively open form of (cross-border) mobility. A proposed development oriented definition is that of the “fluid movement of people between countries, including temporary or more permanent movement which, when it occurs voluntarily and is linked to the labor needs of countries of origin and destination, can be beneficial to all involved” (GFMD background documents, 2007). However this definition is also policy-oriented and does suggest a clear distinction with temporary migration.

**Transit migration**, although it lacks an authoritative definition, can be broadly defined as the movement of people entering a country or region where they have no intention to remain or settle permanently. It is infact an umbrella concept that merges transit and migration and implies a temporary movement. The term is most relevant as a categorisation following movement, as migration intended as temporary may become permanent, and vice versa.



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 or 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: 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime

### Comments

The 2000 UN Palermo Protocols are helpful in introducing a distinction between trafficking and smuggling ☹. According to the protocols, the term 'trafficking' tends to describe movements of individuals against their will, whereas smuggling implies consent or a transaction. *Coercion* and *exploitation* are the two fundamental defining characteristics of trafficking.

The same definition of trafficking was adopted for the "Recommended Principles and Guidelines on Human Rights and Human Trafficking" which were developed by OHCHR in 2002. These provide "practical, rights-based approach policy guidance on the prevention of trafficking and the protection of trafficked persons with a view to facilitating the integration of a human rights perspective into national, regional, and international anti-trafficking laws, policies and interventions". Because trafficking is predominantly a forced process, victims of trafficking can be identified and may be need of international protection. Trafficking, in contrast to smuggling, can be either internal or cross border.







# CONCEPTS OF REFERENCE

## DEVELOPMENT

**A process of expanding the freedoms that people enjoy, [these being] not only the primary ends of development (...) but also among its principal means.**

Source: Amartya Sen, Development as Freedom, 1998

### Comments

This definition proposed is essentially focused on the individual/micro-level. The UN Development Programme (UNDP) defines development as being about “creating an environment for in which people can develop their full potential and lead productive, creative lives in accord with their needs and interests(...). Development is thus about expanding choices people have to lead lives that they value” (UNDP, Human Development Report 2006). A number of recent approaches to development moved away from a strict emphasis on **economic development** measured by growth or income indicators - to encompass the human dimension of the process.

The **Human Development Index** is a comparative measure used by the UNDP combining indicators of life expectancy, educational attainment and income.

From a global and comparative perspective, the term development has been challenged by some scholars and policymakers as normative and value-laden, and **social transformation** is sometimes preferred to it. The latter does not pre-determine objectives nor outcomes, while the first may seem to indicate a positive progression towards (a) pre-fixed goal(s) – which is often implicit in the common-language distinction between *developed* and *developing* countries.

A **Right to Development** has been defined in the Declaration on the Right to Development adopted by the UN General Assembly in 1986 (resolution 41/128) as “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms

can be fully realized” (Article 1). It stresses that “the human person is the central subject of development and should be the active participant and beneficiary of the right to development” (Article 2.1).

⚠️ **Co-development** refers to a development approach and strategy which considers migrants 🗺️ to be a central partner and actor for the development process in their countries of origin. Co-development projects with countries of origin can be set up in any sector but their key characteristic is to involve migrants at one or several stages, from conception, feasibility study to funding, implementation and evaluation. Individual states and governments have put forward their approach, but no consensus has emerged on a definition. The term is increasingly used in policy discourse, but with widely variable and disputed understandings.

The notion of a **migration and development nexus** is receiving growing political interest. It refers to the mutual and complex interrelatedness of the two phenomena. The idea that migration 🗺️ and development 🌱 are interdependent and should be addressed within a coherent policy and institutional framework has gained ground in national and international policy circles in the recent years. The GFMD meets annually since 2007 to explore the existing linkages between migration and development within a policy-oriented perspective. It succeeds to the 2006 UN High-Level Dialogue on International Migration and Development as an intergovernmental process which also engages civil society.

**A process/phenomenon that allows human beings to take greater control over the decisions, assets, policies, processes and institutions that affect their lives.**

### Comments

Empowerment aims at developing the capabilities of individuals and communities to make informed choices and to act on their own behalf (“Human Security Now”, Final Report of the Human Security Commission, 2003). This implies a bottom-up approach, in contrast with protection ☹️ which often implies a top-down approach. Empowerment is often mentioned as a policy goal with respect to migrants, refugees and other displaced persons as these are often considered vulnerable groups.

**Legal empowerment** refers to a process/phenomenon through which people become able to use the law, the legal system and legal services to protect and advance their rights and interests as citizens. (See also: Making the Law Work for Everyone, Report of the Commission on Legal Empowerment of the Poor, 2008)

The notion of **human capital** refers to a person’s skills and abilities or, from a country’s perspective, the stock of such skills and abilities.

A **capability approach** is a conceptual framework developed for evaluating social states in terms of human well-being. It emphasises **functional capabilities** as substantive freedoms people have reason to value such as the ability to engage in economic transactions or participate in political activities. The approach goes beyond a utilitarian approach or a focus limited to access to resources (income, commodities, assets).

**Aid that addresses the immediate needs of individuals affected by crises and is largely provided by states, non-governmental and international organisations**

### Comments

Following the 1991 UN General Assembly Resolution 46/182, humanitarian assistance must be provided in accordance with the **Humanitarian Principles** namely:

**Humanity:** Human suffering must be addressed wherever it is found, with particular attention to the most vulnerable in the population, such as children, women and the elderly. The dignity and rights of all victims must be respected and protected.

**Neutrality:** Humanitarian assistance must be provided without engaging in hostilities or taking sides in controversies of a political, religious or ideological nature.

**Impartiality:** Humanitarian assistance must be provided without discriminating as to ethnic origin, gender, nationality, political opinions, race or religion. Relief of the suffering must be guided solely by needs and priority must be given to the most urgent cases of distress. Adherence to these principles reflects a measure of accountability of the humanitarian community (Source: OCHA).

The last two principles are often considered increasingly difficult to achieve and ensure, notably in the context of military operations where humanitarian organisations find themselves embedded.

### Agreed international standards that recognise and protect the dignity and integrity of every individual

#### Comments

Human rights are stipulated in a variety of regional and international legally binding and non-binding documents generally referred to as **human rights instruments**. The term “instruments” is usually used for legally binding documents and provisions.

**Non-derogable rights** refer to human rights which, notably in accordance with the 1966 International Covenant on Civil and Political Rights (Article 4) and pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment cannot be suspended whatever the circumstances. The right to life and the right not to be subjected to torture, or to cruel, inhuman or degrading treatment or punishment are among these.

⚠ The notion of **fundamental rights** is in common language sometimes used simply as synonymous with or as alternative wording to human rights. In other instances it is used to refer to a set of core rights. It is often used in reference to rights guaranteed in national constitutions. However there is no universally agreed understanding of the relevant scope. Hence a need to be explicit.

Most human rights are independent from status and impose responsibilities for states parties vis-à-vis persons under their jurisdiction. Core international human rights instruments – which a majority of states ratified and committed to implement at the national level- thus also protect migrants and refugees. International standards covering the rights of migrants are listed by the OHCHR and the Special Rapporteur on the Human Rights of Migrants. These include the 1990 UN Migrant Workers Convention.

⚠ Article 13 (2) of the 1948 Universal Declaration of Human Rights states that “Everyone has the right to leave any country, including his own, and to return to his country. A similar provision is found in Article 12 of the 1966 International Covenant on Civil and Political Rights. However, there is no simultaneous affirmation of a right to migrate to /enter another country. There is in that sense no “**right to migration/mobility**” per se.

**Concept concerned with the security of individuals which promotes the protection of individuals' physical safety, economic and social well-being, human dignity, and human rights.**

### Comments

Protection ☺ and empowerment ☺ have been presented as fundamental underpinnings of human security also defined as the protection of “the vital core of all human lives in ways that enhance human freedoms and fulfillment” (Human Security Commission, Final Report “Human Security Now”, 2003). Member States of the United Nations committed themselves during the 2005 World Summit to further explore the notion through the following statement: “We stress the right of people to live in freedom and dignity, free from poverty and despair. We recognize that all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential. To this end, we commit ourselves to discussing and defining the notion of human security in the General Assembly” (point 140).

**Body of legal rules, norms, and standards that apply between sovereign states and other entities legally recognised as international actors.**

### Comments

International law is contained in agreements between states – treaties or conventions – in customary rules, which consist of state practice considered by them as legally binding, and in general principles.

**International Humanitarian Law** is the body of law which can be defined as the principles and rules to limit the effects of armed conflicts, by protecting persons who are not, or are no longer, directly engaged in hostilities and restricting the means and methods of warfare (Source: OCHA). It is also known as “the law of armed conflict”. A major part of international humanitarian law is contained in the four Geneva Conventions of 1949, widely signed and ratified by states. The Conventions have been developed and supplemented by two further agreements: the Additional Protocols of 1977 relating to the protection of victims of armed conflicts. Other agreements prohibit the use of certain weapons and military tactics and protect certain categories of people and goods. (Source: International Committee of the Red Cross)

⚠ **International Refugee Law** is the body of international law that establishes standards for refugee protection. The cornerstone of international refugee law is the 1951 UN Refugee Convention.

⚠ **International Migration Law** can be defined as the set of norms regulating migration. Despite existing bilateral or multilateral agreements, there is no coherent international migration law regime available. Use of the term therefore calls for further specifications.







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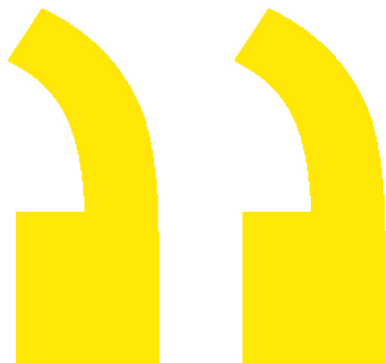
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