

BRIEFING

6 October 2025

REFUGEE AND MIGRANT RIGHTS

The Refugee Convention

The Refugee Convention is the international agreement that sets out who is a refugee and the rights they have. This briefing explains the origins and key aspects of the Convention, and why it remains relevant.

The origins of the Convention

The Refugee Conventionⁱ was developed in the wake of two wars – commonly referred to as the First and Second World Wars.ⁱⁱ International effort to create common rules for providing asylum to refugees was led in significant part by European countries, including the UK. That work began in the wake of the first of these wars. The Convention was created in the wake of the second. It built on the work that had been done before that war.ⁱⁱⁱ Most of the first countries to commit themselves to the Convention in the early 1950s were European, including the UK.

These two wars were largely begun by and fought between European countries. They were largely fought in Europe. Much of their devastation, including gross human rights abuses such as the Holocaust and mass displacement of people, took place in Europe. Moreover, their terrible impact outside of Europe was in large part due to the colonial empires of the European countries engaged in these wars.^{iv}

What has and has not changed since 1951?

The Refugee Convention was agreed in 1951. At that time, it applied to people made refugees by events before 1951. In 1967, the Protocol to the Convention removed this limitation.^v It is important to consider what has changed and what has not.

There were detailed and lengthy discussions about all the provisions of the Refugee Convention by representatives of the various countries, including the UK, that first created it.^{vi} Those discussions included significant focus on how to respond effectively to the reality of being a refugee and the need to find safety in another country. Much the same questions that are now raised in political and public discussion were considered, including concerns about ‘secondary movements’.^{vii}

Clearly, the world remains blighted by war and oppressive regimes.^{viii} These continue to persecute and displace people, some of whom are displaced across borders. However, much of Europe has not experienced war or mass-scale human rights abuses since the wars that led to the Convention being created.^{ix} **The most significant change since 1951, therefore, is that Europeans are generally no longer victims of war and persecution.** The populations of most European countries are, for the most part, now unfamiliar with war, persecution, and the need to seek asylum.

Who is a refugee under the Convention?

The Refugee Convention defines who is a refugee – i.e., it sets out the circumstances in which someone is a refugee for the purposes of the Convention. The definition requires that someone's circumstances meet each of the following conditions:^x

- The person must be **outside their country of nationality** (or if they are stateless, outside the country which has been their home).
- The person must be **at serious risk of suffering persecution** if returned to that country.
- The risk of persecution must relate to **race, religion, nationality, political opinion, or membership of a particular social group** (such as may be constituted by gender or sexual identity).
- The person **cannot rely on that country to provide protection** against that persecution (often though not always because it is the country's authorities that threaten to persecute them).

If someone's circumstances fall within this definition, they are a refugee (and the Convention applies to them). However, **some people are excluded from the Convention** even if their circumstances meet all the above conditions. A person is excluded if there are serious reasons to believe they have committed such acts as war crimes, crimes against humanity, or acts contrary to the principles and purposes of the United Nations (UN).^{xi}

Obligations of countries under the Convention

The Refugee Convention requires countries to recognise the rights of refugees (see below) and to give effect to the following principles and duties:

- The **prohibition on refoulement**.^{xii} It is **not permissible to send a refugee to another country where they would be at risk of being persecuted** or of being sent to where they would be at risk of that. There is an exception to this protection against refoulement. The Convention does not apply this protection to a refugee who is a threat to national security or to a refugee who has been convicted of a particularly serious crime and is a danger to the public.^{xiii} However, other international human rights law prohibits refoulement with no exceptions.^{xiv}
- The **prohibition on penalisation** for arrival or entry for breaches of immigration rules.^{xv} Countries are not permitted to impose penalties on refugees who may be present or have entered their territory without permission. This prohibition does not extend to refugees who do not present themselves to the authorities within a reasonable period after their arrival. It does not apply to refugees who have found safety in another country but chosen to move on thereafter. If a refugee has stopped in another country before their arrival, it would be necessary to consider the length of that stop and the reasons for it.^{xvi} Nonetheless, **as a matter of principle, a refugee may cross multiple borders to seek asylum**. There is no requirement that they must seek asylum in any particular country, however near or far from where they have fled and whatever may be said by others about that country's suitability for providing them safety.^{xvii}
- The general duty to **share responsibility**.^{xviii} Countries are generally required to **share responsibility for providing asylum** to refugees. This is to ensure that responsibility does not fall too heavily or unevenly on one country rather than others. Amnesty's November 2024 briefing on [Responsibility-sharing and the right to asylum](#) says more about this duty.
- The general duty to **encourage refugee integration**.^{xix} Countries that are providing asylum to refugees are expected to help them integrate, including to **enable refugees to naturalise** (i.e., take on the host country's nationality). The final act of those who created the Convention was to make additional recommendations to all countries concerning refugees, including that countries do what is needed to **protect the unity of refugee families**.^{xx}

- The duty to **cooperate with the UN High Commissioner for Refugees (UNHCR)**.^{xxi} Countries are expected to cooperate with UNHCR, including to assist it to supervise the effective application of the Convention for the protection of refugees.
- The **prohibition of discrimination**.^{xxii} Countries must not discriminate between refugees in how or whether they fulfil their obligations to refugees.

Rights of refugees under the Convention

The Refugee Convention establishes various rights of refugees.^{xxiii} These set out how a country in which refugees have sought asylum is required to enable them to live in dignity, including rights to enable refugees to rebuild their lives when granted asylum (i.e., permitted to stay). These rights address when, and to what extent, refugees are entitled to work, receive social assistance, access healthcare, study, and participate in other civil, political, and legal activities and processes.^{xxiv}

The current context

The Refugee Convention remains as relevant as ever. However, political opinion and leadership in many countries is no longer informed by the reality or memory of what causes people to become refugees or the experience of being displaced. This is especially so in much of Europe, which has enjoyed a long and historically unusual period of peace and relative prosperity, free from authoritarianism – including fascism and extreme nationalism. This is clearly a good thing in itself. Nonetheless, it may make it harder for some people to empathise with or understand the situation of people seeking asylum. Similarly, it may make it easier to ignore the much greater degree of responsibility being taken for refugees elsewhere – particularly in many significantly poorer and less stable countries.^{xxv}

That lack of familiarity with what it is like to be a refugee and of war and persecution may even be exploited. Some political actors do this by scapegoating, spreading lies about, and stirring fear and hostility towards refugees.^{xxvi} All of this builds pressure on the laws and practices, including the Refugee Convention, that are designed to protect refugees and enable countries to manage the effects of people being displaced by war and persecution by cooperating with each other and abiding by the agreed rules.

Conclusion

Attacks on the Refugee Convention are increasingly popular.^{xxvii} However, these attacks offer nothing of real value or purpose when they are not grounded in any care or understanding of the reality of war, persecution and the circumstances of people seeking asylum.

Those who make these attacks also ignore that **it is not relatively rich countries in Europe or North America that are now most affected by large numbers of refugees on their territory**. For decades, it has been poorer nations that have been hosting by far the greater proportion of the world's refugees – often with little or inadequate support from their richer counterparts.^{xxviii} Any attempt to renegotiate the Refugee Convention should expect to meet with demands that richer countries take steps to correct this imbalance rather than simply attempt to further limit the responsibilities that fall to them.

Sadly, these attacks generally are not grounded in reality. **Changing the laws that apply when someone is forced to flee war and persecution will not change their need to flee**. It might reduce their chances of finding safety or reduce the prospects that other countries take their responsibilities to provide asylum. If so, that can only encourage more dangerous journeys and more exploitation of the refugees and others who make these journeys.

Notes

ⁱ [1951 Convention relating to the Status of Refugees](#)

ⁱⁱ A [short history of the Convention's origins](#) is set out on UNHCR's website. Information as to [which countries are parties](#) to the Convention and its 1967 Protocol is also available on UNHCR's website.

ⁱⁱⁱ That included the [1933 Convention relating to the International Status of Refugees](#), from which the principle of *non-refoulement* was adopted as one of the key principles to underpin and find expression in the Convention of 1951.

^{iv} The Europe-centric focus in the creation of the Convention was emphasised by its original text both restricting its protection to people made refugees by reason of events prior to 1951 and permitting countries to adopt an interpretation that further restricted that to events in Europe: see Articles 1A(2) and 1B. The [1967 Protocol to the Convention](#) removed this restriction.

^v [1967 Protocol relating to the Status of Refugees](#)

^{vi} UNHCR's website includes a lengthy summary of these discussions ([the travaux préparatoires](#)) and commentary on them.

^{vii} There was extensive discussion of what are sometimes referred to as 'secondary movements', being the movement of a refugee from a country in which they have found safety onto another country, as is reflected in the summary of those discussions hosted on UNHCR's website, *op cit*.

^{viii} Afghanistan, Ukraine, Sudan, and the Israeli Occupied Palestinian Territories have each experienced substantial escalation in conflict and oppression in recent years, while many other sites of war and persecution remain.

^{ix} Neither the UK nor the European Union has experienced conflict on its territory since that time.

^x Article 1A(2) of the Convention

^{xi} Article 1F of the Convention

^{xii} Article 33.1 of the Convention

^{xiii} Article 33.2 of the Convention

^{xiv} e.g., Article 3 of the 1950 European Convention on Human Rights; and it has been widely acknowledged to be a settled principle of international law more generally (known as customary international law).

^{xv} Article 31.1 of the Convention

^{xvi} The meaning of Article 31.1 was considered the High Court in *R (Adimi) v Uxbridge Magistrates Court & Anor* [1999] EWHC 765 (Admin); and subsequently approved by the House of Lords in *R v Asfaw* [2008] UKHL 31 (albeit dissenting judgments of Lord Rodger of Earlsferry and Lord Mance were only in partial agreement).

^{xvii} Article 14 of the 1948 Universal Declaration of Human Rights is also unrestricted in this way.

^{xviii} This is indicated in the Preamble to the Convention in calling for international cooperation to avoid unduly heavy responsibility falling on some countries.

^{xix} Article 34 of the Convention

^{xx} Recommendation B of the [Final Act of the United Nations Conference of Plenipotentiaries](#) on the Status of Refugees and Stateless Persons, July 1951

^{xxi} Article 35 of the Convention and its Preamble recognises the especial importance of such cooperation.

^{xxii} Article 3 of the Convention expressly prohibits discrimination on grounds of race, religion or country of origin in its application.

^{xxiii} Chapters II, III, IV and V of the Convention set out various rights of refugees.

^{xxiv} The rights identify when they are to apply and to what extent – so, for example, some rights apply from the moment a refugee arrives on the territory and others may not apply before the refugee's status is confirmed and asylum granted; and, also for example, some rights may apply on an equal basis to nationals whereas other rights may apply on some lesser or different basis such as at least as favourably as for other migrants.

^{xxv} This is discussed in Amnesty's November 2024 briefing on [Responsibility-sharing and the right to asylum](#).

^{xxvi} Amnesty's June 2025 briefing on [Article 8: Private and Family Life](#) touches on the same issue of misinformation but in relation to claims for permission to stay in the UK based on private and family life in this country.

^{xxvii} Some these attacks come from politicians and others in the UK. However, they come from elsewhere too. Most recently, the USA under President Trump has made proposals to 'reframe the global approach to asylum' in ways that threaten the Convention. [Amnesty International responded](#) to this on 26 September 2025.

^{xxviii} On 18 July 2025, UNHCR warned about the devastating impact of [cuts in funding to support refugees](#). However, the underfunding of refugee crisis has been a critical issue over very many years long before these more recent cuts.

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