

Refugee Children Key Protection Related Terms

In order to have productive and interesting debates, it is extremely important that delegates know the terms below:

Asylum: The grant, by a State, of protection on its territory to persons to persons from another state who are fleeing persecution or serious danger. It encompasses a variety of elements, including *non-refoulement*, permission to remain on the territory of the asylum country, and humane standards of treatment.

Cartagena Declaration on Refugees: A Declaration adopted by a colloquium of experts from the Americas in November 1984. The Declaration enlarges the definition of refugee to include “...*persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order*”. While the Cartagena Declaration is not a treaty, its provisions are respected across Latin America and have been incorporated in some national laws.

Cessation clauses: Legal provisions that indicate when refugee status comes to an end. They are found in Article 1(C) of the 1951 Convention, and Article 1(4) of the 1969 OUA Convention.

Child: Under the Convention on the Rights of the Child (CRC), a “child” is a person who is below the age of eighteen, unless the applicable law sets a lower age. The CRC equates “child” with “minor”. Furthermore, it includes adolescents.

Child soldiers: Although an accurate definition of a child soldier has not yet been elaborated, a general notion of the problem exists, in which international organizations base their work. According to the Coalition to Stop the Use of Child Soldiers, a child soldier is “any person under the age of 18 who is a member of or attached to government armed forces or any other regular or irregular armed force or armed political group, whether or not an armed conflict exists”.

Convention on the Rights of the Child (CRC): A Convention of 1989 that sets comprehensive standards for the protection of the rights of children. Article 2 of the CRC states that the CRC applies to all children without discrimination of any kind. Refugee children are therefore covered by the standards set by the CRC. In addition, article 22 of the CRC stated that

“1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.”

Country of first asylum: A country in which an asylum-seeker has been granted international protection as an asylum-seeker or refugee.

Detention: Restriction on freedom of movement, usually through enforced confinement. In UNHCR's view, detention should not normally be used as a measure to control asylum seekers.

Durable solutions: Any means by which the situation of refugees can be satisfactorily and permanently resolved to enable them to live normal lives. UNHCR traditionally pursues the durable solutions of voluntary repatriation, local integration and resettlement.

Duties of refugees: The obligations refugees must meet in the country of asylum. According to Article 2 of the 1951 Convention, refugees must conform to the laws and regulations of any country in which they find themselves. In particular, they must refrain from any acts that jeopardize the safety, security or public order of communities or countries of asylum.

Exclusion clauses: Legal provisions that deny the benefits of international protection to persons who would otherwise satisfy the criteria for refugee status. In the 1951 Convention, they are found in Articles 1D, 1E and 1F. These clauses apply to the following categories: persons who are receiving protection or assistance from UN agencies other than UNHCR; persons who possess the rights and obligations attached to the possession of nationality of their country of residence; and persons in respect of whom there are serious reasons for considering that they have committed a crime against peace, a war crime, a crime against humanity, a serious non-political crime, or acts contrary to the purposes and principles of the United Nations.

Family Unity Principle: A principle that gives effect to the protection of the family as the natural and fundamental group unit of society. Under this principle, refugee status may be granted to the spouse and dependents of a person who meets the refugee criteria. When spouses and dependents, especially children, acquire refugee status by application of the family unity principle, they are said to enjoy "derivative status".

Family Reunification: Any process by which the family unity principle may be implemented. It has a special application in the context of durable solutions, in general, and resettlement, in particular.

Forced or involuntary repatriation: Repatriation to the country of origin induced by the receiving country by creating circumstances which do not leave any alternative but the return.

Gender-based violence: Gender-based violence is physical, mental or social violence and abuse (including sexual violence) that includes acts (attempted or threatened) carried out with or without force and without the consent of the victim. The violence is directed against a person because of her or his gender or gender role in a society or culture. Forms of gender violence include sexual violence, sexual abuse, sexual harassment, sexual exploitation, early or forced marriage, discrimination, the denial of food, education or freedom, domestic violence, female genital mutilation and incest.

Group determination of refugee status or *prima facie* determination of refugee status: A practice by which all persons forming part of a large-scale influx are regarded as refugees on a *prima facie* basis. Group

determination ensures that protection and assistance needs are met without prior individual status determination.

Income-generating projects: Projects designed to create income for persons of concern to UNHCR, and thus help them become self-supporting.

International humanitarian law: The body of law, regulations and principles that governs situations of international or non-international armed conflict. The core instruments of international humanitarian law are the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977. Virtually every State is a party to the Geneva Conventions of 1949.

International protection of refugees: Actions on behalf of asylum-seekers and refugees to ensure that their rights, security and welfare are recognized and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the principle of *non-refoulement*; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees.

Local integration: A durable solution to the problem of refugees that involves their permanent settlement in a country of first asylum.

Minors: Persons who are below the legal age of majority and are therefore not legally independent. This term includes adolescents.

1951 Convention Relating to the Status of Refugees: The *Convention Relating to the Status of Refugees* is the foundation of international refugee law. The Refugee Convention defines the term refugee and sets minimum standards for the treatment of persons who are found to qualify for refugee status. Because the Convention was drafted in the wake of World War II, its definition of a refugee focuses on persons who are outside their country of origin and are refugees as a result of events occurring in Europe or elsewhere before 1 January 1951. As new refugee crises emerged during the late 1950s and early 1960s, it became necessary to widen both the temporal and geographical scope of the Refugee Convention. Thus, a Protocol to the Convention was drafted and adopted.

1967 Protocol Relating to the Status of Refugees: The 1967 Refugee Protocol is independent of, though integrally related to, the 1951 Convention. The Protocol lifts the time and geographic limits found in the Convention's refugee definition.

Non-refoulement: A core principle of refugee law that prohibits States from forcibly returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. This principle is part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention.

OAU (Organization of African Unity) Convention Governing the Specific Aspects of Refugee Problems in Africa: The regional complement to the 1951 Convention whose refugee definition is broader than that provided in the 1951 Convention. Adopted in 1969, the OAU Convention provides that "*the term 'refugee' applies to those fleeing from external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of the country of origin*".

Persecution: Although there is no consensus on a persecution definition, it generally refers to any severe violation of human rights. In the refugee context, “persecution” refers to any act by which fundamental rights are severely violated for reasons of race, religion, nationality, political opinion or membership of a particular social group.

Persons of concern to UNHCR: A generic term used to describe all persons whose protection and assistance needs are of interest to UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order, returnees, stateless persons, and, in some situations, internally displaced persons. UNHCR’s authority to act on behalf of persons of concern other than refugees is based on General Assembly resolutions.

Refoulement: The removal of a person to a territory where she/he would be at risk of being persecuted, or of being moved to another territory where she/he would face persecution. *Refoulement* constitutes a violation of the principle of *non-refoulement*, and is therefore a breach of refugee law and of customary international law.

Refugee: According to Article 1 of the 1951 Convention, a refugee is a person who “*as a result of events occurring before 1 January 1951 and 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.*” The 1967 Protocol widened the temporal and geographic scope of the term. In addition, the 1984 Cartagena Declaration and the 1969 OAU Convention broadened the term at a regional basis.

Refugee camps: There is no clear definition of exactly what constitutes a refugee camp. The term is used to describe human settlements which vary greatly in size and character. In general, refugee camps are enclosed areas, restricted to refugees and those assisting them, where protection and assistance is provided until it is safe for the refugees to return to their homelands or to be resettled elsewhere. Unlike other types of settlements, refugee camps are not usually self-supporting. Refugee camps are usually intended to be temporary, and are constructed accordingly. In many cases, however, they last for 10 years or more.

Regional refugee instruments: International legal documents relating to refugees adopted by States or intergovernmental organizations within a geographical region or sub-region. Such instruments normally complement the 1951 Convention and reflect the peculiar character of refugee issues within the particular geographical area. Notable examples of regional instruments are the OAU Convention of 1969 and the Cartagena Declaration of 1984.

Reintegration: The process by which refugees or IDPs resume a normal life in their country or place of origin. Ideally, it should follow from the durable solution of voluntary repatriation.

Rejection at the border: In the refugee context, the refusal to allow an asylum-seeker entry into a prospective country of asylum. Rejection at the border may result in a violation of the principle of *non-refoulement*.

Resettlement: The transfer of refugees from the State in which they have sought refuge to another country 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 naturalized citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees.

Resettlement country: A country which offers opportunities for the permanent settlement of refugees from a country of refuge or of first asylum. This would be a country other than the country of origin.

Safe third country: A country in which an asylum-seeker could have found protection as a refugee, and in which he/she has been physically present prior to arriving in the country in which she/he is applying for asylum.

Sexual violence: Sexual violence is any act, attempted or threatened, that is sexual in nature and is done with or without force and without the consent of the victim. This includes acts of forcing another individual (through violence, threats, deception, cultural expectations, weapons, or economic circumstances) to engage in behaviour against his or her will. Forms of sexual violence include rape, attempted rape, sodomy, sexual abuse, sexual harassment, sexual exploitation, incest, statutory rape and forced prostitution. It is a gross violation of fundamental human rights and, when committed in the context of armed conflict, a grave breach of humanitarian law.

Standards of treatment: Standards derived from the 1951 Refugee Convention and other international instruments that set the parameters for the treatment of refugees. The 1951 Convention provides for various standards of treatment, depending on the particular rights in question. These are: treatment not less favorable than that generally accorded to aliens in similar circumstances; the most favorable treatment accorded to nationals of a foreign country in the same circumstances; the same treatment as is granted to nationals; and treatment as favorable as possible.

Stateless person: A person who is not considered a national by any State under the operation of its law.

Statelessness: The condition of not being considered as a national by any State under the operation of its law.

Temporary protection: An arrangement or device developed by States to offer protection of a temporary nature to persons arriving *en masse* (large-scale) from situations of conflict or generalized violence, without prior individual status determination. Temporary protection is premised on the non-refoulement principle through time, and on the enjoyment of basic rights pending a lasting solution. It was applied in some Western European States for the protection of persons fleeing the conflict in the former Yugoslavia in the early 1990s.

Tracing: In the refugee context, efforts to ascertain the whereabouts of family members or close associates of persons of concern to UNHCR. Tracing may be conducted for the purposes of family reunification, in the context of durable solutions, or simply to facilitate contacts between family members. The International Committee of the Red Cross (ICRC) runs a Central Tracing Agency that has special competence in this area.

Unaccompanied and separated children: Unaccompanied children are persons below the legal age of majority who are not in the company of parents, guardians or primary care-givers. However, experience has shown that in emergency situations there are also children who are accompanied by extended family members but have been separated from both parents or from their previous legal or customary caregiver.

Those children face risks similar to those of unaccompanied children. Therefore, the broader concept “separated children” is now widely used to draw attention to the potential protection needs of this group.

Voluntary repatriation: Return to the country of origin on the basis of the freely expressed willingness and informed decision of the refugees and IDPs. It may be organized as spontaneous.

Well-founded fear of persecution: This key phrase in the 1951 Convention’s definition of a refugee contains a subjective element (fear of persecution) as well as an objective element (the fear must have an objectively justifiable basis). According to the 1951 Convention, persecution must be linked to any one of the five specified grounds: race, religion, nationality, membership of a particular social group, and political opinion.

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The International Thesaurus of Refugee Terminology

<http://refugeethesaurus.org/>