



ENSURING THE SAFETY OF ASYLUM SEEKERS

BACKGROUND GUIDE
CHALLENGE TOPIC #1



The MUN Refugee Challenge is an initiative launched by UNHCR, the UN Refugee Agency, to encourage students worldwide to shape solutions for people forced to flee their homes. This guide was drafted to help students prepare for their debates as part of the 2023 edition.

A UNHCR data management associate registers newly arrived refugees at Um Rakuba camp in eastern Sudan. UNHCR collects data to provide them with essential assistance. © UNHCR/Ahmed Kwarte.

THE CHALLENGE



Every day, people are forced to flee their homes due to war, violence or persecution. Once someone crosses an international border, they have the right to “seek asylum” in order to obtain protection in the country where they have found refuge. In practice, this means that they share their stories with local authorities or with a reception center managed by UNHCR who then assess whether they should receive the status of refugee.

Seeking asylum is a human right. Unfortunately, there are many situations in the world where people are restricted from seeking asylum. Asylum seekers might face [pushbacks at borders](#), [discrimination](#), [trafficking](#) and [arbitrary detention](#).



Everyone has the right to seek and to enjoy in other countries asylum from persecution.

– Universal Declaration of Human Rights, Article 14 (1)

WHO ARE WE TALKING ABOUT?

Worldwide there are [32.5 million refugees](#). Refugees are people who have been able to obtain asylum. This means that they have the right to stay and be protected like other citizens in their country of refuge. Before becoming refugees, they were asylum seekers.

There are also [4.6 million asylum seekers](#). Asylum seekers have claimed asylum in a new country and are waiting to hear the result of their claim. If their asylum claim is accepted, they will be recognized as a refugee. If their claim is rejected, they might return to their home country, or obtain another temporary status, to stay in the host country for a shorter time.

WHY IS THIS ISSUE IMPORTANT TO ADDRESS?

The right to seek asylum is key to protecting people forced to flee their homes. It is one of the most basic and important concepts in refugee law. The right to seek asylum also comes with other important rights and obligations for States.



No pushbacks at borders:

Authorities cannot force people to return to a dangerous country.



No discrimination: All entries at the border and asylum claims should be treated fairly.



Safe access: Borders should remain open to all people forced to flee.



Humane treatment: People forced to flee should be treated with respect, receive care and they should not be detained.

HOW IS ASYLUM GRANTED?

Governments are responsible for processing claims for asylum in their country. Sometimes, in emergency situations or if the country is not prepared to process all applications, UNHCR will help register asylum claims. Asylum can be granted in several ways depending on the situation:

1 REFUGEE STATUS DETERMINATION

Individual asylum seekers go through a [Refugee Status Determination](#) procedure. This is where they share their story to help determine whether they fled due to fear of persecution based on their race, religion, nationality, membership of a particular social group, or political opinion. If the answer is yes, they will be granted asylum, meaning that they will be awarded refugee status.



Asylum seekers queue for a meal at a shelter in Tijuana, Mexico in December 2018. © UNHCR/Daniel Dreifuss

Example: Mexico → USA

People traveling through Mexico to the US border have to apply individually for asylum. Many of them flee gang violence in Central America. When they reach the border, they tell the border guards that they would like to seek asylum. They are then interviewed to determine if they have a credible fear of persecution back home, and if so, the case is passed to an immigration judge. This process involves a lot of waiting - waiting for the court date, then afterwards, waiting for a decision - and this can take months to several years. Here's a [video](#) about the right to seek asylum at the Mexico-US border.

2 PRIMA FACIE

In situations where large numbers of people flee at once, like when war breaks out, the government or UNHCR might decide to recognize everyone as “prima facie” refugees. In these cases, the refugee status determination is much faster. The authorities don't need to conduct long interviews because they can confidently say that everyone is fleeing violence.

Example: South Sudan → Uganda

The largest group of refugees in Uganda are those fleeing war from South Sudan. Uganda is home to over 927,000 South Sudanese refugees. Because Uganda considers that the situation in South Sudan means anyone from there is at risk of persecution or violence, South Sudanese refugees have prima facie or group refugee status. Therefore, if someone from South Sudan flees to Uganda, they don't need to prove their individual need for status - they automatically receive it because of the country they fled from.



South Sudanese refugees wait to be registered at a UNHCR collection point in Elego, Uganda. © UNHCR/Will Swanson

3 ALTERNATIVE FORMS OF PROTECTION

There are other types of protection statuses which people might be awarded that are not asylum or refugee status. These are usually applied in emergency cases, and only for citizens of a specific country or countries. The United States, for example, has Temporary Protected Status, which people from countries including Afghanistan, Myanmar, Ukraine, and Venezuela are eligible for.



Example: Ukraine → European Union

When the war started in Ukraine, many traveled to European Union countries. Just like anyone else, Ukrainians have the right to apply for asylum in the EU. However, the EU made Ukrainians eligible for temporary protection, which is a special status that includes a residence permit, access to the labour market and housing, medical assistance, and access to education for children. This allows Ukrainians to stay in the EU for a period of time, but is a separate status from refugee status.

A refugee from Ukraine hugs her son in a reception centre set up in the sports hall of a school in the Polish border town of Medyka. © UNHCR/Valerio Muscella



Refugees entering Poland from Ukraine at the Medyka border crossing point in March 2022. Refugees often arrive exhausted, after travelling by foot, train and car, sometimes for several days. © UNHCR/Chris Melzer

CHALLENGES FACED BY REFUGEES & ASYLUM-SEEKERS

People forced to flee can face many challenges on their journeys to safety. This section covers: 1) pushbacks and forced returns, 2) closed borders, 3) dangerous routes, 4) smuggling and trafficking, 5) detention, 6) discrimination, 7) extended wait times, and 8) restrictive asylum rules.

1 PUSHBACKS

Many countries carry out the dangerous practice of “pushbacks” and forced returns, where they turn asylum seekers away at the border or force them to return to where they came from, without allowing them to apply for refugee status. For example, this could be forcing a boat to turn around before reaching shore, or a border guard forcing someone to turn back. However, according to the [Refugee Convention](#), people can't be forced to return to a country if their life or freedom would be at risk in their country of origin.

One common travel route for asylum seekers is to pass through Türkiye, and travel by boat to Greece. UNHCR reported recording almost 540 incidents of pushbacks by Greece since 2020, according to a note from [February 2022](#).



A young girl shelters with a blanket on the beach on Lesbos, Greece, in March 2020. She had just crossed the Aegean sea from Turkey in a dinghy. © Eurokinissi via ZUMA Wire, Ritzau Scanpix

2 CLOSED BORDERS

It is important to remember that in order to claim their right to seek asylum, people forced to flee must first cross an international border. However, sometimes countries close their borders, so people cannot cross and claim asylum. During the height of the Covid-19 pandemic, many countries [closed their borders](#) and restricted entry for public health reasons, preventing people from seeking asylum.

UNHCR urged governments to follow their obligations in international law while putting in place new health and safety measures. Sometimes, authorities also close safe access points: this forces asylum seekers to take more dangerous routes. This happened in 2015 when [Hungary built a border fence](#).



200 refugees from Mykolaiv in southern Ukraine arrived by bus at the Palanca crossing on Moldova's border with Ukraine. UNHCR, Moldovan officials and partner organisations provided support, information and transportation. © UNHCR/Caroline Bach

3 DANGEROUS ROUTES

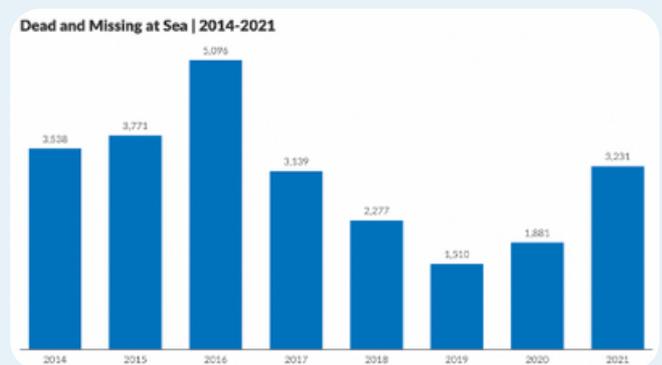
While seeking safety, many asylum seekers go through dangerous routes. A majority stay in a neighboring country, but some travel through several countries, sometimes crossing the desert or the ocean. We often hear in the news about people crossing the Mediterranean sea. Between 2014 and 2021, more than 24,400 people lost their lives or went missing trying to cross the Mediterranean Sea. According to international law, masters of ships have a responsibility to rescue and disembark asylum seekers to a place of safety (you can learn more [here](#)).

When fleeing from danger on such dangerous routes, family separation may occur accidentally, or deliberately when children are given by parents to the care of other individuals, in an attempt to ensure their children's survival.



Refugees and migrants adrift in a wooden boat wait to be rescued near the Italian island of Lampedusa in the Mediterranean Sea, August 2021.

© REUTERS/Juan Medina



Source: [UNHCR Data Portal](#) - Mediterranean situation. While reported numbers of refugees and migrants crossing the Mediterranean to Europe are fewer than in 2015, journeys are becoming more fatal.

4 SMUGGLING AND TRAFFICKING

[Human trafficking](#) means that human beings are abducted and exploited against their will. People who are forced to flee can be an easy target for traffickers who prey on the precariousness of their situations to exploit them. [Smuggling](#) is voluntary, in the sense that people go to smugglers to help them travel to a new place, but it can become trafficking if the victims are exploited, for example by being held for ransom or to pay off a debt through forced labor. The threat of [sexual violence](#) increases significantly for displaced girls.

In July 2021, UN Secretary General Antonio Guterres affirmed that more than [half of the 40.3 million victims](#) of human trafficking globally are migrants and refugees. It is estimated that two of the principal smuggling routes - leading from East, North and West Africa to Europe, and from South America to North America - generate about [\\$6.75 billion a year for criminals](#).



After fleeing Somalia due to violence, 20-year-old Delmar traveled through Yemen and Sudan to Libya. There, he was kidnapped by traffickers, where he was held in a warehouse, and kidnappers demanded money and threatened him with torture, beatings and starvation. With the help of friends and family back home, he managed to collect some money to buy his freedom. © UNHCR/Mohamed Alalem

5 DETENTION

An important part of the right to humane treatment is that countries should not force asylum seekers to stay in detention (or prison-like) facilities only for the reason that they are asylum seekers. Unfortunately, in some countries, asylum seekers are detained for indefinite periods of time, or are forced to stay in prison, in poor conditions, while their case is processed.

In Europe, UNHCR and partner organizations recently released a short [report condemning the detention of migrant and refugee children](#) across 27 European countries.

Australia is known for processing asylum applications in offshore gated facilities that don't allow asylum seekers to leave. Although they closed their facility in Papua New Guinea at the end of 2021, this practice [continues on the island of Nauru](#).

In Libya, the situation is particularly concerning as refugees and migrants are routinely detained in terrible conditions across about [20 official and unofficial facilities](#).



Iranian refugee Armin, now 12, and his father Abouzar Soltani arrived in Hungary in 2018. They spent 553 days in detention on the Hungary-Serbia border. Now living freely in Hungary with refugee status finally granted, they play in a theatre production about refugees. © Abouzar Soltani

6 DISCRIMINATION

People forced to flee should not be discriminated against at borders, and all applications for refugee status must be given fair consideration, regardless of race, religion, gender and country of origin. In the context of Ukraine, [incidents have been reported](#) of people being turned away or detained due to the color of their skin.

Even after crossing the border, discrimination is still a major challenge for asylum seekers. Misinformation about asylum seekers is very common, and sometimes host communities are scared of newcomers. This can lead to host communities being unwelcoming towards asylum seekers, or even worse, cases of harassment or abuse.



“**The war in Ukraine and the devastating humanitarian crisis it has caused also presents challenges and opportunities for continued commitment and diligence in the fight against racism and discrimination.**

– Filippo Grandi,
UN High Commissioner for Refugees

7 EXTENDED WAIT TIMES

In some situations, making an asylum claim is very quick. In others, it can take months or years for asylum seekers to find out if they will be awarded refugee status. This is extremely stressful for asylum seekers.

Most of the time, asylum seekers have the right to move around within the country while they wait. Sometimes, they are forced to wait in a detention center - see section 5. Additionally, during this waiting period, in many countries asylum seekers cannot work, go to school, or access government services.



Moria is a large centre on Greece's Aegean islands. Asylum seekers like Sardar arrive by boats from nearby Türkiye. They live in crowded condition and wait for months, sometimes years to even obtain an asylum interview. © UNHCR/Achilleas Zavallis

8 RESTRICTIVE ASYLUM RULES

Most refugees - 72% - stay in a country neighboring their own country. Others decide to cross several countries because the first country that they arrive in is not safe either, or to find their families or better opportunities to rebuild their lives.

But some countries have created rules which don't allow people to apply for asylum if they have passed through other countries on the way. Countries that put such restrictions on asylum include the [US](#) and the [UK](#). This principle is not found in the Refugee Convention and there is no such requirement under internal law. It also undermines global cooperation as States should instead find solutions to share responsibility.

[Externalization](#) is when countries shift the responsibility for asylum seekers to other countries. For example, in June 2022 the UK announced a plan to send asylum seekers to Rwanda to be processed. These countries may not have everything asylum seekers need and this may also lead to asylum seekers being trapped and isolated in a country they don't want to be in, which is harmful to their mental health.



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UNHCR remains firmly opposed to arrangements that seek to transfer refugees and asylum seekers to third countries in the absence of sufficient safeguards and standards.

– Gillian Triggs,
UNHCR's Assistant High Commissioner for Protection

© UN Website

WHAT IS CURRENTLY BEING DONE TO ADDRESS THIS ISSUE?



- UNHCR encourages States to join the [1951 Refugee Convention](#) and/or [1967 Protocol](#). Accessing the Convention means States agree to uphold the right to asylum.
- UNHCR manages its own [reception centers](#) to support governments that do not have the capacity to absorb asylum claims in their countries. UNHCR also provides guidance to States to build or improve their own asylum systems.
- UNHCR denounces practices that go against international law. For example, [UNHCR opposed the UK plan to export asylum](#) in 2022.
- UNHCR helps organize [evacuation flights](#) for vulnerable asylum seekers. For example, UNHCR has helped organize flights to relocate asylum seekers from Libya to Rwanda or Italy. This includes asylum seekers that were arbitrarily detained or were smuggled.
- UNHCR provides [life-saving information](#) to refugees and asylum seekers, to redirect them to safe places and prevent trafficking. For example, in countries neighboring Ukraine, UNHCR works with UNICEF and governments to create “Blue Dots” which are hubs to tell refugees about travel options and guide them to the right services.



A group of Sudanese refugees recently evacuated from Libya arrive at an emergency transit centre in Timisoara, Romania, in December 2018. © UNHCR/Ioana Epure

GOVERNMENTS



- [Governments can sign the 1951 Refugee Convention](#). Even if they have not signed it, they must respect international law and they need to uphold the right to asylum. They must not conduct pushbacks and keep their borders open to those fleeing danger.
- [Governments can improve their national asylum systems](#) to make them more fair and efficient, allowing them to respond quickly and predictably to refugee influxes. Read more about the elements of a State asylum system [in this document](#).
- [Governments can ensure asylum seekers are hosted in good conditions](#).
 - They must not put asylum seekers in jail and must close down detention-like facilities.
 - They can create emergency shelters at border points to ensure asylum seekers have a safe place to stay temporarily before being redirected to the right services.
 - They can also create reception centers and programs that support asylum seekers in their countries while they wait. For example Finland provides optional [reception centers](#), where asylum seekers get affordable housing and help to buy food.

HOST COMMUNITY AND NGOS



- Many legal nonprofits provide free or [low-cost legal services](#) to asylum seekers. For example, [RAICES](#) is a nonprofit located in Texas, USA, along the Mexican border, that helps asylum seekers with affordable legal advice, represents those who are detained, and guides them if they go to court.
- International human rights watchdogs, like Amnesty and Human Rights Watch, also play a role in [denouncing situations](#) where asylum seekers' rights are being violated.
- Charities like Sea Watch or SOS Méditerranée conduct [rescue at sea operations](#) in the Mediterranean to help people in distress, and disembark them to places of safety where their claims can be considered.



Human rights lawyer and Nansen Award recipient Nikola Kovačević, has represented almost 30% of asylum seekers granted protection in Serbia. He offers free legal assistance, redirects asylum seekers who need it to psychologists, convince landlords to let them rent their place. He also trains young lawyers to follow in his footsteps through his role as assistant law professor at Union University in Belgrade. © UNHCR/Vladimir Zivojinovic

Questions to Guide the Debate

- How to ensure States' respect their obligation to uphold the right to seek asylum?
- How to prevent pushbacks and discrimination at borders?
- How to protect asylum seekers from being smuggled and trafficked?
- How to end the detention of asylum seekers?
- How can countries better share the responsibility of welcoming asylum seekers?
- How to reduce wait times for asylum claims?
- How can host communities better assist asylum seekers?
- How do we ensure that asylum seekers have the legal support that they need?
- How do we ensure that families are not separated when crossing international borders?

Useful Resources

- [Universal Declaration of Human Rights](#)
- [1951 Refugee Convention and 1967 Protocol](#)
- [OHCHR: The Right to Asylum](#)
- [UNHCR: Refugees and Asylum-Seekers, Data](#)
- [International Justice Research Center: Asylum and the Rights of Refugees](#)
- [UNHCR: A Guide to International Refugee Protection and Building State Asylum Systems](#)
- [Rescue at sea: A guide to principles and practice as applied to migrants and refugees](#)
- [The Dublin Regulation: Asylum in Europe](#)

Contact Us

If you have any questions about UNHCR's MUN Refugee Challenge or this background guide, please visit our [webpage](#) or contact hqmunrefugee@unhcr.org.