

Migrants: terms and definitions used in the UK

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Aim

This paper aims to frame and define terms currently used in the UK in relation to the different forms of status of people who have migrated to the UK. It does not make any judgement about the appropriateness or inappropriateness of these terms, nor does it recommend that any particular terms should or should not be used. However, it does emphasise the importance of paying careful attention to the way words are used and understood in this sensitive area.

Migrants typically belong to ethnic groups that differ from those of the country they enter, and may be considered under legislation to belong to different races. We have thus included in an Annex definitions of ethnicity, race and country of birth prepared by Prof Raj Bhopal.

We hope the paper will help those studying or working in this field.

Introduction

At an international level, no universally accepted definition for 'migrant' exists (International Organisation for Migration, 2011). Migrants might be defined by foreign birth, by foreign citizenship, or by their movement into a new country to stay temporarily (sometimes for as little as a year) or to settle for the long-term (Anderson and Blinders, 2014).

The Glossary on Migration (2011) published by the International Organisation for Migration (IOM) says:

“The term migrant is usually understood to cover all cases where the decision to migrate was taken freely by the individual concerned for reasons of ‘personal convenience’ and without intervention of an external compelling factor. This term therefore applies to persons, and family members, moving to another country or region to better their material or social conditions and improve the prospect for themselves or their family.”

This definition suggests that 'migrant' does not apply to those forced to leave their country for example, refugees or asylum seekers. In practice, the term is used loosely and interchangeably and often refers to these and several other groups, each with their own particular experiences and needs. Therefore, it may not be helpful or accurate to talk about migrants as one homogenous group. Given the many different groups that are considered migrants, it may be more useful to think of migrant as an umbrella term.

This paper provides a framework for the words currently used to describe the different groups that may be considered migrants in Scotland. The definition for migrant below is taken from the Migration Policy Toolkit (COSLA, 2015) and

Characteristics of recent and established EEA and non-EEA migrants in Scotland:
Analysis of the 2011 Census (Scottish Government, 2015).

Migrant:

Any person who comes to Scotland from outside the UK. This includes those who were born abroad to UK-born parents.

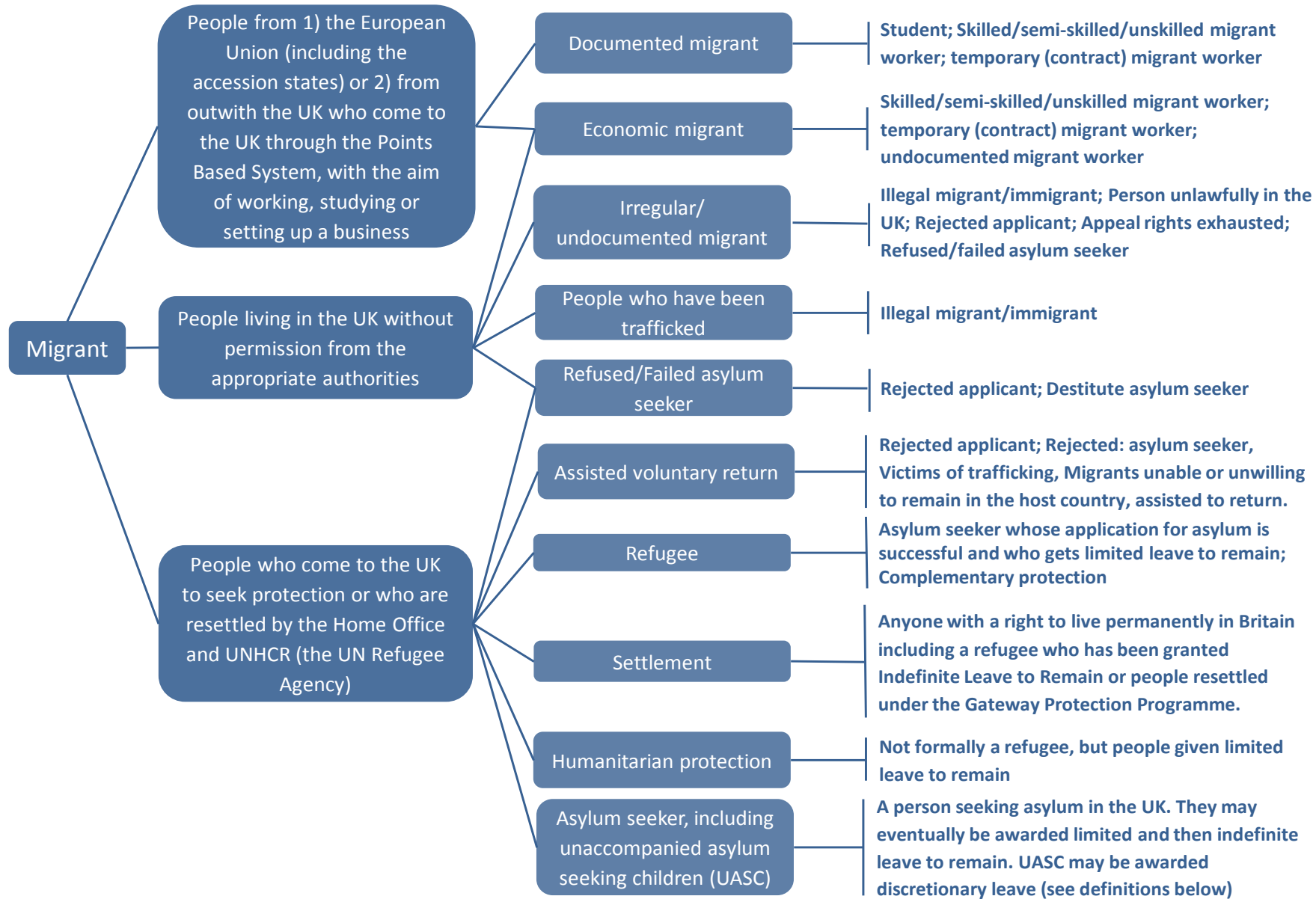
The definition is broken down into those who migrate freely to the UK, those forced to leave their country to seek protection, and undocumented migrants. These are then sub-divided further (although sub-groups could sit within more than one group)¹. Recognising the various migrant groups is important when designing and planning services as it may help the service meet the different needs of these groups.

Framework to show how the different categories link to each other.

Diagram 1 (below) is our attempt to provide an overview of the relationships between the various terms used for migrant subgroups. It is not perfect, but provides a framework to help thinking about the topic. We do not explicitly show family members who come to join earlier migrants. Family members may be granted long term visas on the basis of their family relationship. Nor do we show migrants' dependants who may migrate at the same time or later. It is important to note that global migration is complex and constantly evolving. The definitions are correct as at July 2015.

¹ The migrant groups are taken from the Glossary on Migration (IOM). The sub-groups are taken primarily from the Glossary on Migration, Establishing Migrants' Access to Benefits and Local Authority Services in Scotland (COSLA, 2012) and Migration, Ethnicity, Race, and Health in Multicultural Societies (Bhopal, 2013), but are also informed by other sources.

Diagram 1 - Framework for migrant definitions



Migrant group definitions

(all definitions have been taken directly from the source document, indicated in brackets beside the definition)

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| Appeal rights exhausted (ARE) | <p>This applies to someone who has applied for asylum but has been refused a form of protection by the UK Government and whose case does not attract any further right of appeal. (Scottish Refugee Council)</p> <p>See also Refused asylum seeker.</p> |
| Assisted voluntary return | <p>Administrative, logistical, financial and reintegration support to rejected asylum seekers, victims of trafficking, stranded migrants, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin. (IOM)</p> |
| Asylum seeker | <p>A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In cases of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds. (IOM)</p> |
| British citizen | <p>A person who can live and work in the UK free of any immigration controls.</p> <p>Criteria to become a British citizen include; having lived in the UK for at least the five years before the date of application, having been granted indefinite leave to stay in the UK (permanent residence if an EEA national), having indefinite leave to stay in the UK for the last 12 months (or permanent residence in an EEA national) and having not broken any immigration laws whilst in the UK. (UK Government, 2015)</p> |
| Complementary protection | <p>The protection which States afford people who are at risk of serious human rights violations in their country of origin, but who do not qualify as 'refugees' under the 1951 Refugee Convention (Refugee Convention). In accordance with international and regional human rights treaties and principles of international humanitarian law, states are obligated to provide protection to these persons though they may not fit precisely within the Refugee Convention definition. (UNHCR)</p> |

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| Destitute asylum seeker | <p>A person is destitute if (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs. (UK Government, 1999)</p> <p>An asylum seeker whose claims for asylum have been refused is expected to return voluntarily to their country of origin. An asylum claimant who is unable to return immediately is entitled to a limited form of support known as 'section 4'. Section 4 support entitles someone to accommodation and a card loaded with £35 a week that can only be spent in certain shops. Despite this, many people who lose asylum support do not submit an application for section 4 support because they are fearful of what will happen to them if they return home. As a result, they fall into destitution. (British Red Cross)</p> |
| Discretionary leave | <p>Status awarded to people who have been refused refugee status and who do not fulfil the criteria for humanitarian protection (defined below) but are allowed to stay in the UK for other reasons. It is only awarded in very limited circumstances, primarily to separated young people (unaccompanied minors – under the age of 18 who have made an application for asylum in the UK before they reach 17 years of age). People who receive this status are awarded limited leave to remain for a three-year period in most cases. Recipients are allowed to work and access mainstream welfare benefits. (Scottish Refugee Council)</p> <p>In most cases a person will not become eligible for consideration for settlement until they have completed 120 months (10 years) of discretionary leave. An individual should apply for further leave before their existing leave expires. (UK Government, 2013)</p> |
| Documented migrant | A migrant who entered a country lawfully and remains in the country in accordance with his or her admission criteria. (IOM) |
| Economic migrant | A person leaving his or her habitual place of residence to settle outside his or her country of origin in order to improve his or her quality of life. This term is often loosely used to distinguish from refugees fleeing persecution, and is also similarly used to refer to persons attempting to enter a country without legal permission and/or by using asylum procedures without bona fide [genuine] cause. It may equally be applied to persons leaving their country of origin for the purpose of employment. (IOM) |
| Failed asylum seeker | See Refused asylum seeker |

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| Gateway protection programme | Operated by UK Visas and Immigration in partnership with the United Nations High Commissioner for Refugees (UNHCR). The programme offers a legal route for up to 750 refugees to settle in the UK each year, and is completely separate from the standard procedure for claiming asylum in the UK. Applications for resettlement under this programme are made to the UNHCR, which refers them to UK Visas and Immigration. (UK Government, 2010) |
| Humanitarian protection | A person with humanitarian protection is someone the Home Office recognises has fled serious human rights abuse, but who does not fit the legal definition of 'refugee'. People with humanitarian protection have the same entitlements to benefits and services as refugees. But they are not allowed to backdate any claims to the date of the asylum claim. (COSLA, 2012) |
| Indefinite leave to remain (ILR) | Someone who has Indefinite Leave to Remain in the UK has no conditions attached to their leave and can access benefits if eligible. Indefinite Leave to Remain is sometimes called 'settlement'. (COSLA, 2012) |
| Illegal migrant | See Irregular migrant, Persons unlawfully in the UK and Undocumented migrant. |
| Irregular migrant | A person who, owing to unauthorised entry, breach of a condition of entry, or the expiry of his or her visa, lacks legal status in a transit or host country. The definition covers among other things those persons who have entered a transit or host country lawfully but have stayed for a longer period than authorised or subsequently taken up unauthorised employment (also called clandestine/undocumented migrant or migrant in an irregular situation). The term "irregular" is preferable to "illegal" because the latter carries a criminal connotation and is seen as denying migrants' humanity. (IOM) See also Persons unlawfully in the UK and Undocumented migrant. |
| Limited leave to remain | From August 2005 those granted refugee status or humanitarian protection status are given limited leave to remain for 5 years (previously it was Indefinite Leave to remain). People must apply for Indefinite Leave to Remain one month before their limited leave expires [by submitting an application form the month before their limited leave expires e.g. if their leave expires on 30 th August the application should reach UK Visas and Immigration between 30 th July and 30 th August]. (Scottish Government, 2010) |

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| People who have been trafficked | <p>“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” (<i>Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000</i>). Trafficking in persons can take place within the borders of one State or may have a transnational character. (IOM)</p> <p>Victims of trafficking may be granted discretionary leave to remain if the personal circumstances of the case are so compelling that a grant of leave is considered appropriate. The period of leave will depend on the facts of the case but must not be less than 12 months and one day and normally no more than 30 months (2.5 years). (UK Government, 2013)</p> |
| Persons unlawfully in the UK | <p>Often called ‘illegal immigrants’ but this term has no definition in UK immigration law. Persons unlawfully in the UK include those who have entered the UK illegally (illegal entrants) and those who may have entered the UK legally but whose stay is now outside their conditions of stay (overstayers). (COSLA, 2012).</p> <p>See also Irregular migrant and Undocumented migrant.</p> |
| Refugee | <p>A person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, 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. (<i>Art. 1(A)(2), Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol</i>).</p> <p>In addition to the refugee definition in the 1951 Refugee Convention, <i>Art. 1(2), 1969 Organization of African Unity (OAU) Convention</i> defines a refugee as any person compelled to leave his or her country “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country or origin or nationality.” Similarly, the <i>1984 Cartagena Declaration</i> states that refugees also include persons who flee their country “because their lives, security or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order. (IOM)</p> <p>In the UK a person is a refugee only if granted refugee status. Until then they are an asylum seeker.</p> |

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| Refused asylum seeker | <p>The Scottish Refugee Council prefers to say 'refused' instead of 'failed'. Sometimes known as appeal rights exhausted (ARE), this applies to someone who has applied for asylum but has been refused a form of protection by the UK Government and whose case does not attract any further right of appeal. Refused asylum seekers are expected to return to their country of origin. (Scottish Refugee Council)</p> <p>Refused asylum seekers may be undocumented from their country of origin. They are included in the definition of undocumented migrant (see below)</p> |
| Rejected applicant | An applicant refused by a consulate or embassy, as not meeting the criteria for migration to its country. (IOM) |
| Settlement | See Indefinite leave to remain. Note: settlement is not the same as British citizenship as it does not confer the right to a British passport or to vote in British general elections and is still subject to immigration control |
| Skilled migrant worker | A migrant worker who, because of his or her skills or acquired professional experience, is usually granted preferential treatment regarding admission to a host country (and is therefore subject to fewer restrictions regarding length of stay, change of employment and family reunification). (IOM) |
| Temporary migrant worker | Skilled, semi-skilled or untrained workers who remain in the destination country for definite periods as determined in a work contract with an individual worker or a service contract concluded with an enterprise. Also called contract migrant workers. (IOM) |
| Unaccompanied asylum seeking children (UASC) | A child who is: applying for asylum in their own right; and; separated from both parents and is not being cared for by an adult who by law has responsibility to do so. (UK Government, 2013) |
| Undocumented migrant | <p>A person who is living in a country without permission from the appropriate authorities. This includes individuals brought into the country against their will or by deception (e.g. trafficked persons); entering the country aiming to claim asylum; unsuccessfully claiming asylum and not leaving the country; and students, tourists and temporary workers who remain after their permit to stay expires. (Bhopal. R)</p> <p>See also Persons unlawfully in the UK, Irregular migrant and Refused asylum seeker.</p> |

Glossary

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| Accession states | The latest countries to join the European Union (EU). Citizens of new EU countries normally have restrictions placed on their rights to live and work in other EU member states for up to seven years. |
| COSLA (the Convention of Scottish Local Authorities) | The representative voice of Scottish local government, lobbying on behalf of its members. It promotes and protects the interests of councils in Scotland and the people and communities they serve by representing their views to Scottish, UK and European governments and legislatures, other bodies and the public. |
| European Economic Area (EEA) | Unites the EU member states and the three EEA European Free Trade Association (EFTA) states (Iceland, Liechtenstein and Norway) into an Internal Market governed by the same basic rules. These rules aim to enable goods, services, capital and persons to move freely about the EEA in an open and competitive environment, a concept referred to as the four freedoms. |
| Home Office | The lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police. |
| International Organisation for Migration (IOM) | The leading intergovernmental organisation in the field of migration which works closely with governmental, intergovernmental and non-governmental partners. IOM is dedicated to promoting humane and orderly migration for the benefit of all by providing services and advice to governments and migrants. |
| No recourse to public funds | A term used for people who are subject to immigration control and have no entitlement to welfare benefits, to home office asylum support for asylum seekers or to public housing. The resources included in the term 'public funds' are a range of benefits that people on low income are given as well as housing support. |
| Non-EEA nationals | Those not born in the UK or an EEA country. |
| Points based system | The UK system for managing migration for those non-EEA nationals wishing to enter the UK for the purpose of work or study. |
| Scottish Refugee Council | An independent charity which provides information and advice to people seeking asylum and refugees in Scotland. They campaign for political change, raise awareness about issues that affect refugees and work closely with local communities and organisations. |

United Nations (UN) An international organisation currently with 193 Member States. The UN can take action on the issues confronting humanity in the 21st century, such as peace and security, climate change, human rights, humanitarian and health emergencies and more.

UNHCR The United Nations High Commissioner for Refugees (also known as the UN Refugee Agency) is mandated to lead and coordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and wellbeing of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or resettle in a third country. It also has a mandate to help stateless people.

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Annex

Ethnicity

Ethnicity has been defined as:

"the social group a person belongs to, and either identifies with or is identified with by others, as a result of a mix of cultural and other factors including language, diet, religion, ancestry and physical features traditionally associated with race". (1)

Ethnicity is essentially self-defined and may change over time. Classification of ethnicity is essentially pragmatic, based on categories that include common self-descriptions, are acceptable to respondents and that identify variations that are important for research or policy. There is increasing recognition that people may want to identify themselves with more than one ethnic group, and the "mixed" category introduced in the UK 2001 Census attempts to do this. The standard classification of ethnic group in the UK is that used in the 2011 Census (which was slightly different in each of the four countries of the UK). Ethnicity is different from country of origin, since many countries include more than one ethnic group.

Race

The concept of race is controversial. It is difficult to define a rationale for racial categories and there is no consistent agreement about an objective set of categories. Classifying individuals by their physical appearance and skin colour is unreliable and of questionable validity. Genetic studies have found some evidence of broad "continental" groups which are genetically similar.(2,3) However, there is little evidence that these correspond to commonly perceived racial categories.(4) There is wider genetic variation between individuals within one "racial" group (such as "white") than there is between such "racial" groups (5) - indeed 93% to 95% of genetic variation is within population groups. Despite these difficulties, the term race is still widely used in legal and policy contexts.

Country of birth

Country of birth has been widely used as a proxy for ethnic group and is of more value when the majority of minority ethnic populations are first generation immigrants. However, it is an increasingly unreliable guide to ethnicity in the UK. For example, in Scotland only around 40% of Indians were born in India and just over a third of Pakistanis were born in Pakistan. These proportions are generally even lower among younger people. Furthermore, the population born in India still includes many older people who identify their ethnic group as white, whose families were in business or diplomatic service.

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