



# The Duty to Facilitate Naturalisation

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## STATUS MATTERS: THE REFUGEE CONVENTION

- International treaties are to be interpreted in ‘good faith’ in light of their object and purpose (the VCLT).
- Status at the heart of the CSR: its title, preamble, and structure of entitlement. Preamble: enjoyment of fundamental rights ‘without discrimination’, refugee to enjoy ‘the widest possible exercise of these fundamental rights and freedoms.’
- Two key features: constitutive nature of refugeehood and the structure of entitlement.

CONVENTION  
AND  
PROTOCOL  
RELATING TO THE  
STATUS OF  
REFUGEES

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## PROTECTION AND SOLUTIONS

- UNHCR's Statute: distinguishes between international protection on the one hand, and 'permanent solutions', namely voluntary repatriation or refugees' 'assimilation within new national communities' on the other.
- Refugee Convention does not regulate *solutions*, but does provide a legal framework for them.
- Cessation: end of refugeehood.
- Assimilation: the structure of entitlement, a refugee is 'assimilated' by being granted a wider range of rights.
- Naturalisation: the Convention's 'default pathway'.

## ASSIMILATION AND NATURALISATION

Article 34 provides:

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings

- Demanding standards.
- Taking action.
- Illustrative, not exhaustive.
- Barriers require justification. New barriers in particular.
- Non-discrimination, in Refugee Convention and broader IHRL (CEDAW, Istanbul Convention)....



## THE 'TEMPORARY TURN'

- Residency: UNHCR suggests that while residency requirements of 2-8 years are common, there is a 'general consensus that.... it is in the best interests of refugees and receiving countries to enable them to seek citizenship as early as possible....'
- Language and integration: UNHCR has highlighted the importance of making flexible arrangements including, for example, for older refugees who may face difficulties in acquiring a new language.
- The 'temporary turn' (Marie Sandberg, Jessica Schultz and Katrine Syppli Kohl): a shift from rights and residence to precarity of status and insecurity of residence, particularly marked in Denmark and Norway. Similar practices are being adopted and reproduced by other states.



## WHY DOES STATUS MATTER FOR WOMEN?

- Recognition failures combined with status proliferation: women funnelled into less protective statuses (new protection here with the Istanbul Convention).
- Status precarity and dependency is linked to an increased risk of experiencing gender-based violence and an intensified experience if it.
- Return may in fact be *refoulement*: 'For women and girls, returns are especially difficult, as they return to an environment where their basic rights, including the right to education, to freedom of movement and the right of expression, are being systematically eroded.'
- The 'temporary turn' is gendered, in addition to being racialised....



# STATUS MATTERS IN THE UK: A DANGEROUS JOURNEY

- To naturalise as a British citizen a person must, among other things, be of good character (British Nationality Act 1981, s. 6 and sch 1).
- New caseworker guidance: 'A person who applies for citizenship from 10 February 2025 who has previously arrived without a required valid entry clearance or electronic travel authorisation, having made a dangerous journey will normally be refused citizenship.'
- Discretionary exceptions, legal challenges.
- Contrary to article 34.
- Discrimination (Refugee Convention limitations, ECHR status protections).
- Penalisation?
- Covers those who have been trafficked, disadvantaging women, framing forms of gender-based violence as matter of choice and character.



## SOURCES

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