

“Refugee,” pursuant to the 1951 Convention, refers to people who have fled their country, are still residing outside of it, and are unable or unwilling to return due to a well-founded fear of persecution because of race, religion, nationality, political opinion, or membership in a particular social group (PSG). The Convention does not require States to admit refugees, however they may not *refouler* them either where life or freedom is threatened due to the above. For the US, refugees remain abroad while awaiting permission to resettle. Asylum-seekers, on the other hand, are already here but fall under the Convention definition of “refugee” during adjudication.

The President sets a numerical ceiling each fiscal year for refugees allowed to enter the US. (There is no ceiling for asylum-seekers.) The Secretary of Homeland Security also admits some refugees of special humanitarian concern. Special programs, such as Special Immigrant Visas for Iraqis, are available to certain individuals living as refugees – or in refugee-like situations – who wish to enter the US. All such individuals must be vetted before US entry.

Unlike refugees, asylum-seekers enter through multiple paths and might live in the US for years before seeking asylum. The grant of asylum places great emphasis on country conditions as a basis for continuing credible fear of persecution. Both refugees and asylum-seekers must apply to adjust their status to LPR. Asylum-seekers have a strong incentive to adjust as soon as possible because they risk losing asylum if country conditions change. Refugees do not risk losing their status once granted.

US Coast Guard interdiction practice – which is quite politically dependent – varies from returning all passengers without any shipboard screening to some screening (where people showing credible fear are allowed entry for further adjudication) to complete offshore adjudication inside a detention facility to absolute protection for everyone aboard.