

# Confusion in the debate about migration

- by Ninna Nyberg Sørensen
- <http://www.u-landsnyt.dk/node/135562>
- translated by Émilie Motte.

**Categorizing migrants as illegal is a political and often problematic action which leads us to criminalize those who do not have any other choice than seeking to move.**

The idea we often have about refugees is that they have limited options and it is precisely because they do not have the choice that their movement is legitimate.

On the other hand, the expression “illegal migrants” imply some form of choice, and, therefore, justifies our doubts and our right to prevent the migrants from coming, staying and working in our countries.

The increasingly frequent use of the term “illegal” by spokesmen and by the press reinforce our idea that migrants abuse our systems.

But the words used and the categorizations of migrants as either “legal” or “illegal” are political and closely related to the law and the regulation of migration.

The different names given to the migrants do not necessarily represent different social groups with distinct needs.

## **Impossible to distinguish between voluntary and forced migration**

Even though the Convention relating to the Status of Refugees of 1951 is based on an essential distinction between political and economic migrants, it is in practice impossible to clearly distinguish between voluntary and forced migration.

It is often a mix of social, economic, political and environmental conditions which justifies one’s decision to leave a place.

Refugees and migrants often use the same routes, the same means of transport, the same “middlemen”, and are equally dependent on social networks and relatives from where they arrive.

It is common to find different legal status within the same family:

If the first member arrive in a new country with the status “guest worker”, he/she can, after a certain period of time, apply for a family reunification and be joined by his/her partner.

Their children have then the status of “citizen” of the new country, while other members of the family only arrive after the conflicts break out in their country of origin.

In other cases, civil war was the initial cause of migration, and during peacetime, the movement went on thanks to social networks.

## **Refugees have many names**

Categories of status and the terms we use to talk about refugees have changed over time.

In the past 40 years, we have found many names for migrants in the political debate, such as guest worker, foreign worker, immigrant, asylum seeker, refugee, illegal asylum seeker, illegal migrant and second generation immigrant.

Refugees have many names; but if the refugee is unbidden, his name loses its political innocence.

If there is a debate about the relation between economic and political migrants and their legitimate or illegitimate needs, it is then necessary to say that the categories “illegal migrant” and “illegitimate asylum seeker” are products of changing migration law and foreign policy.

Unlike clear legal definitions, the term “illegality” often has a wide range of possible meanings which are often defined by specific political interpretation and practice, and which have influence on the strategies and the tactics people fleeing from poverty or war have to choose.

## **Criminalizing people who do not have the choice**

In the Oxford Handbook of Refugee and Forced Migration Studies, Stephan Scheel and Vicky Squire analyze the confusion between illegal asylum seekers and illegal migrants by means of three statements:

Many refugees are actually economic migrants who abuse the system and therefore are illegal.

Refugees are more and more considered as illegal because of restrictive migration policies.

Many genuine asylum seekers who could qualify to obtain the status of refugee are forced to become “illegal” – either to avoid being stripped of their right to work or to avoid being placed under detention – because of restrictive migration and asylum laws or border control mechanisms that prevent them from seeking asylum.

Consequently, categorizing migrants as illegal is a political and often problematic action which leads us to criminalize those who do not have any other choice than seeking to move. If a migrant’s asylum application contains ambiguities, it does not directly mean that it is unjustified.

And if, after a thorough examination, the application is unjustified, it can be rejected without influencing the way we currently consider and understand refugees and migrants.

*Ninna Nyberg Sørensen is a senior researcher at the Danish Institute for International Studies, DIIS.*