

## Migration and the Law: Frequently Asked Questions<sup>1</sup>

### 1. What is the *Migration and the Law* project?

The *Migration and the Law* project seeks to benchmark national regulations that facilitate or impede the integration of two completely different migrant categories: (1) economic migrants and (2) refugees. For the purposes of the project, integration is defined as the extent to which economic migrants and refugees are legally provided the same treatment as citizens across four main dimensions of life and work: economic opportunity, health care, housing, and citizenship.

The project surveyed legal experts on integration laws affecting economic migrants in 152 economies and refugees in 134 economies to compare their respective treatment with that of citizens under formal national laws and regulations as of December 31, 2016. Data are provided for 20 indicators across four dimensions: economic opportunities, health care, housing, and political integration. For more information on the construction of the methodology, please see the **Methodology Note**.

### 2. What topics are covered by the *Migration and the Law* database?

The survey covered the dimensions of economic opportunities, health care, housing, and political integration of economic migrants and separately, refugees.

**Economic opportunities:** The indicators measures the ease of (1) accessing formal jobs in the labor market, (2) navigating the labor market, (3) accessing social protection, and (4) exercising the right to join trade unions and freedom of association.

**Health care:** The indicators measures (1) accessing health care services on an equal basis with citizens, and (2) whether laws provide families/dependents of migrants and refugees access to health care services.

**Housing:** The indicator measures (1) the ability of economic migrants and refugees to reside anywhere in the host country free of restrictions, (2) the ability of economic migrants and refugees to rent property in the host country, and (3) the ability of economic migrants and refugees to purchase property.

**Political integration:** The indicators measures (1) whether migrants and refugees can become permanent residents, and (2) whether migrants and refugees can become citizens.

For more information on the classification of the indicators, please see the **Methodology Note**.

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<sup>1</sup> Updated on Dec 15th, 2020.

**3. How is the *Migration and the Law* database different from other integration-focused databases?**

*Migration and the Law* is a global benchmarking database whose indicators complement existing immigration and integration measures such as the Migrant Integration Policy Index (MIPEX), Civic Integration Index (CIVIX), Determinants of International Migration (DEMIG), Determinants of International Migration (DEMIG), Immigration Policies in Comparison Index (IMPIC), International Migration Policy and Law Analysis (IMPALA), International Migrants Bill of Rights Initiative (IMBR), and the Openness to Labor Migration Index. These databases have focused largely on high-income OECD countries with limited coverage of developing economies that now receive the greatest number of migrants and refugees.

The *Migration and the Law* database, by contrast, uniquely examines the integration efforts of developed as well as developing economies. The project surveyed experts on integration laws affecting economic migrants in 152 economies and separately, refugees in 134 economies. To date, this is the largest coverage of integration policies affecting immigrants.

**4. How accurate is the *Migration and the Law* database?**

The *Migration and the Law* initiative relies mostly on the responses/legal judgments of survey respondents as legal statutes are rarely self-evident and must be read in context. Additional legal research was undertaken when conflicting responses were received from multiple survey respondents on a question/topic. The *Migration and the Law* team welcomes additional insights and suggestions on how to improve the data. If you find an error, please alert us at [migrationandremittances@worldbank.org](mailto:migrationandremittances@worldbank.org).

**5. Does the *Migration and the Law* project make a distinction between legal constraints and mandatory legal requirements/obligations?**

As the *Migration and the Law* study compares the treatment of migrants with that of citizens under formal national laws, legal constraints and mandatory legal requirements can be both recognized as legal obstacles if they exclusively target migrants/refugees (non-citizens). In both cases, the answer will be classified as “Conditions,” indicating that migrants’ enjoyment of a right is conditioned or partially limited. Unlike legal constraints (e.g., inability to buy a property in certain locations), legal requirements (e.g., minimum residency period requirement) can be fulfilled, implying that migrants can overcome these legal barriers.

If legal constraints completely prevent migrants/refugees from enjoying certain rights, the answer will be classified as “No,” indicating that migrants/refugees are deprived of certain rights and entitlements.

**6. Does the absence or lack of legal requirements imply better legal protection and an easier path to integration for economic migrants/refugees?**

Not necessarily. The absence of legal requirements or lack thereof does not automatically imply better legal protection. Lack of mandatory legal requirements may indicate that a country has not developed a system that would enable realization of the rights guaranteed under international treaties/national legal framework. A system of rules, legal requirements, and procedures can help reduce legal uncertainties. Otherwise, national laws run the risk of becoming inoperative.

**7. What happens if a country has no legislation dedicated exclusively to the protection of migrants/refugees?**

While not ideal, even in the absence of specific legislations that addresses migrants, the latter may still enjoy a certain level of legal protection under a nation's general laws and regulations (as described in a country's constitution, labor laws, social security acts, etc.) or even international agreements (especially when international treaties become legally binding immediately upon ratification, without legislative action at the national level).

**8. Does the *Migration and the Law* project measure the effectiveness or implementation of national laws?**

The current study does not measure effectiveness of laws nor does it make any assessment with respect to realization of the rights guaranteed under national laws. If incoherence in national laws and regulations results in no real protection for economic migrants/refugees, such outcome will not be captured by this study.

**9. Is it possible for nationals of certain countries to enjoy more favorable treatment in a host country compared to other migrants?**

The *Migration and the Law* project acknowledges that migrants originating from certain countries may enjoy preferential treatment in a host country, especially if the country of origin and the host country belong to the same regional economic/trade bloc (e.g., MERCOSUR, EU). Still, the study focuses on the legal treatment of economic migrants/refugees in general, disregarding regional or bilateral agreements.

**10. Based on the *Migration and the Law* data, all surveyed countries offer some route to citizenship for economic migrants. Does this refer exclusively to residency-based naturalization processes?**

In some cases, survey respondents did not make a clear distinction between residency-based naturalization process and other avenues for obtaining citizenship (e.g., descent, marriage, investment). None of the surveyed countries impose an outright prohibition on obtaining citizenship through residency-based naturalization. Still, numerous countries greatly limit migrants' ability to apply for citizenship through a variety of conditions and requirements, rendering it virtually impossible.

**11. Why is a job requirement categorized as a legal obstacle to accessing a labor market?**

The *Migration and the Law* database reveals that admissions policies and labor market integration policies are highly interwoven and cannot be easily separated. Different work visa categories allow different level of access to private sector jobs. At the same time, the visa category itself is often determined by a specific job offer or limited to workers with a particular set of skills. Hence, while a job offer is more related to the admission/visa status of a potential economic migrant, it cannot be removed from a discussion of labor market openness. A migrant who is applying for employment authorization is often required to hold a certain visa/immigration status.