



Canadian Council for Refugees Conseil canadien pour les réfugiés

State of Refugees: An Introduction to refugee and immigration issues in Canada

Canada, like other countries, is struggling to live up to its obligations towards refugees, a task in which it sometimes excels, sometimes fails.

Internationally, Canada has a reputation for taking human rights seriously and for offering a generous welcome to refugees. This reputation is in part deserved and something for all Canadians to be proud of.

But Canada also fails refugees and other non-citizens in many ways. If we are regarded as among the best in the world, it is not because we are perfect, but because refugees are treated so poorly everywhere. The basic rights of refugees are being violated every day in countless places around the world. Refugees make easy scapegoats: they are by definition foreigners in their country of asylum, they have no home to go back to, perhaps as many as half of them are children. Perversely, refugees who are virtually powerless are regarded as a threat by the powerful. Rich countries say they don't want refugees coming there; poor countries say, if the rich won't take in refugees, how can we be expected to?



Staff and residents at Matthew House, Toronto, a member organization of the Canadian Council for Refugees —some of the many people across Canada working to protect refugees.

“My experience in Canada has made me strongly believe that the life of any refugee in Canada, including my own, is only possible because of the long and active life of the CCR in particular and Canadian civil society in general, and because of their efforts to defend the rights of refugees.”

Francisco Rico-Martinez, first CCR president who has had the experience of being a refugee.

The Canadian Council for Refugees: More than 30 years of building a home of justice for refugees and immigrants.



Fortunately many people, inside and outside of government, continue to work to make the ideal of refugee protection real. Many of them came to Canada as refugees or are descendants of refugees. They know the value of offering asylum to refugees and they show that we are richer as a country when we welcome refugees.

Refugees

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

- Article 14 (1), *Universal Declaration of Human Rights*

Refugees are people who are forced to leave their home countries because of serious human rights abuses. The right to asylum from persecution is an international human right. The main legal instrument articulating this right is the 1951 Convention relating to the Status of Refugees (also referred to as the “Geneva Convention” or the “Refugee Convention”). According to this Convention, a refugee is a person:

who is outside his or her home country and who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.

A person who meets the definition in the Geneva Convention is called a “Convention refugee”.

The Convention also contains the core obligation of states towards refugees, known as the principle of non-refoulement. This means that no state should “expel or return (“refouler”) a refugee in any manner whatsoever” to any country where the refugee faces persecution.

The refugee definition can be – and is – interpreted in many different ways. The more narrowly it is interpreted, the fewer people benefit from protection as refugees.

Interpretation also changes over time. For example, in 1993 Canada became the first country to formally recognize that women can be persecuted because of their gender and that the Convention can and should be interpreted to include this persecution. Since then other countries have moved in a similar direction.

Refugees need:

- > **protection** (from refoulement, or forced return to persecution, as well as of their basic rights).
- > a **durable solution** (a permanent home). There are three durable solutions recognized:
 - > voluntary repatriation
 - > local integration
 - > resettlement

Canada offers local integration to refugees who arrive as claimants, and resettlement to other refugees.

DID YOU KNOW? The vast majority of the world’s refugees are in the Global South. Only a tiny minority of refugees are found in Canada and the rest of the wealthiest countries.



Passengers aboard the SS St Louis in 1939. The ship, carrying more than 900 Jewish refugees, was turned back to Europe from North America. Almost all passengers later died in Nazi concentration camps. Credit: Keystone/Getty Images.

The 1951 Refugee Convention was developed in the aftermath of the Second World War. People were determined not to repeat the mistakes that occurred during the Holocaust, when many countries failed to offer asylum to Jewish refugees, contributing to the death toll in the genocide (Canada was one of the worst offenders).

Canada did not sign the Convention until 1969.



WANT TO KNOW MORE?

Visit the website of the Office of the United Nations High Commissioner for Refugees (UNHCR):

www.unhcr.org

Canada and Refugees

Refugees can find protection and a permanent home in Canada through one of two ways:

- > **resettlement** (where refugees who are outside Canada are selected overseas and then travel to Canada).
- > the **refugee claim process** (where refugees who are inside Canada or at Canada's borders have their claim to refugee status determined in Canada).

DID YOU KNOW? A person who has been resettled to Canada as a refugee or determined to be a refugee in Canada has the status of "protected person" under the *Immigration and Refugee Protection Act*. This status gives them certain rights in Canada. Most importantly, a protected person cannot be removed to a country where they risk persecution (although there are exceptions in cases of serious criminality or where the person is considered a security risk).



Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

- Section 7, *The Canadian Charter of Rights and Freedoms*

... the refugee program is in the first instance about saving lives and offering protection to the displaced and persecuted...

- Paragraph 3 (2)(a), Objectives, *Immigration and Refugee Protection Act*



ABOVE: Participants in Montreal matching program for refugee claimants. Credit: Action Réfugiés Montréal.

LEFT: Burundian refugees resettled in Canada. Credit: UNHCR.

Canada and non-citizen rights

Basic human rights belong to all people, regardless of their citizenship (or statelessness). This is reflected in the international human rights instruments which guarantee most rights to "everyone", not just to citizens of a particular country. The same is true of the Canadian Charter.

Despite this we often take it for granted that Canadian citizens and permanent residents will be treated differently from those with little or no status, even when basic rights are at issue.

The language used to describe some non-citizens contributes to this dehumanization. People are not illegal: on the contrary, the law should protect their rights as human beings.

Combatting negative perceptions is an important part of working for the rights of refugees and immigrants.

Most human rights instruments have a non-discriminatory clause. Here is the one in the International Covenant on Economic, Social and Cultural Rights:

"[...] the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

WANT TO KNOW MORE?

See CCR's 'Talking about Refugees and Immigrants: A Glossary of Terms' and other documents available from the Public Education page at: www.ccrweb.ca



Resettlement

For many refugees around the world, there are no imminent prospects of safe return to their home country and they cannot build a stable life where they currently are. They may be living in a refugee camp or trying to survive in a country where they have no status and few, if any, rights. They may even be in detention or facing a risk of forced return to persecution. For them, resettlement to a third country such as Canada represents the only available solution.

The Canadian resettlement program is composed of two categories:

- > **Government-assisted refugees**, who receive support on their arrival from the government.
- > **Privately sponsored refugees**, who receive support from private groups.

Private sponsorship groups may be faith communities, ethnic associations, unions or any other group of individuals that decides to help to offer a new home to a refugee family.

In 2008, the UNHCR dramatically increased its estimate of refugees around the world in need of resettlement to 560,000. Canada has yet to respond.

To qualify for resettlement in Canada, a refugee must be:

- > Eligible (i.e. be a refugee or in a similar situation)
- > Admissible (not barred on grounds of criminality, security risk, or danger to health)
- > Considered capable of becoming “successfully established” in Canada
- > Without reasonable prospect of a durable solution (voluntary repatriation, local integration or resettlement to another country.)
- > Supported financially, either by the government or by a private group.

Average annual numbers of refugees resettled to Canada (approx.)			
	Government assisted	Privately sponsored	Total resettled
In the 1980s	12,400	9,000	21,400
In the 1990s	8,000	6,600	14,600
2000-2007	8,000	3,200	11,200

For refugees, as for their sponsors, the process overseas is often painfully long. Many cases take more than two years. And when the decision comes, it sometimes seems unfair. Officers work under pressure and have few resources available to help them make a difficult decision. For refugees who are refused, there is no right of appeal.

DID YOU KNOW? In most parts of the world it is not possible for refugees to simply apply to a Canadian Embassy for resettlement. They must be referred by the UNHCR or privately sponsored.



Palestinian refugees at Jordan's Ruwashed camp after fleeing Iraq. Refugees such as these desperately need resettlement. Credit: UNHCR.

The CCR is calling on the government to increase significantly the numbers of refugees resettled each year, to allow a better response to Iraqi and other refugees without a durable solution.



WANT TO KNOW MORE?

Visit <http://www.cic.gc.ca/english/refugees/outside/index.asp> and

<http://www.ccrweb.ca/iraq.htm>

Refugee Claim Process

A person fleeing persecution who is at Canada’s borders or within the country can make a refugee claim. The claim process has two main steps:

Eligibility

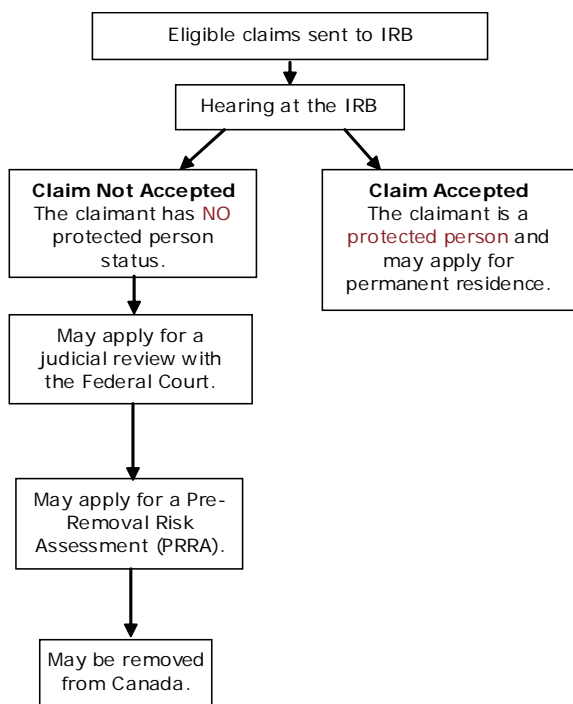
A claim is not eligible if the claimant:

- > made a previous refugee claim in Canada.
- > has refugee status in another country.
- > arrived through a “safe third country”
- > is inadmissible on certain security and criminality grounds.

Refugee determination

Eligible claims are referred to the Immigration and Refugee Board (IRB), which determines whether the claimant:

- > is a Convention refugee; or
- > faces a danger of torture, or
- > faces a risk to their life or of cruel and unusual treatment or punishment (and the risk is not generally faced by others and is not caused by inadequate health care).



If the IRB accepts the claim, the claimant becomes a Protected Person and can apply for permanent residence (and can include on the application immediate family members overseas).

A claimant who is refused by the IRB, can apply for judicial review to the Federal Court (a much more restricted form of review than an appeal on the merits). Unless a Federal Court application is successful, the refused claimant faces the prospect of removal. Before removal, the claimant may apply for a Pre-Removal Risk Assessment (PRRA), but may only bring forward information that is new since the hearing at the IRB.

In December 2004, Canada designated the US as a “safe third country”, closing the US-Canada border to most refugee claimants. The CCR and others have challenged this designation in the courts, submitting extensive evidence that the US is not safe for all refugees.

The Convention Against Torture, to which Canada is signatory, prohibits the return of anyone to a country “where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

On 4 April 1985 the Supreme Court of Canada rendered the Singh decision, recognizing that the Canadian Charter guarantees refugee claimants’ right to a fair refugee hearing. April 4th is celebrated each year as Refugee Rights Day.

Refused claimants have no appeal on the merits, even though the Immigration and Refugee Protection Act provides for such an appeal. However, in 2002 the government implemented the law without the appeal. As a result, refugee claimants have their fate determined by a single decision maker, without right of appeal.



WANT TO KNOW MORE?

On the claim process: <http://www.cic.gc.ca/english/refugees/inside/index.asp> and

<http://tinyurl.com/66olo5> (IRB)

On the lack of appeal: <http://www.ccrweb.ca/RADpage.htm>

On safe third country: <http://www.ccrweb.ca/S3C.htm>



Family Reunification

Canada has long recognized that reuniting families through the immigration program is good policy, both for the families that are reunited and for society as a whole. When children are involved, family reunification is also a basic human right.

Families may be able to reunite in Canada in one of a number of ways:

- > People who make a successful refugee claim in Canada can include in their application for permanent residence their immediate family members (spouse and children) whether in Canada or overseas.
- > Permanent residents and citizens can sponsor immediate family members as well as some other relatives in the Family Class.
- > Refugees may be able to apply through the “One year window of opportunity” for family reunification with immediate family members whose whereabouts was unknown when the refugee became a permanent resident.



Refugees often wait years to be reunited with spouse and children overseas, because of delays in processing. According to a father waiting over five years to reunite with his two teenager daughters (shown below) who were separated from the rest of their family, “It’s more than a nightmare.”



These two girls were separated from their parents for more than 5 years.



“... applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.”

- Convention on the Rights of the Child, Article 10(1)

Immigration and Refugee Protection Act, Objectives, 3(1)(d): “to see that families are reunited in Canada”.

DID YOU KNOW?: Since 2002, the law allows reunification with same-sex as well as opposite-sex partners.



CONTRARY TO POPULAR BELIEF... You cannot sponsor all your extended family. In fact, the law permits reunification with only a very limited range of family members. You cannot even sponsor your brother or sister (unless they are orphaned).

There are serious gaps in Canada’s family reunification provisions:

- > There are no provisions for refugee children in Canada to apply for reunification with their parents and siblings.
- > The law creates a category of “excluded family members” – persons who were not examined by an immigration officer when the sponsor immigrated to Canada (Regulation 117(9)(d)). The bar on sponsoring these family members is life-long and absolute, no matter what the explanation.
- > A person who is receiving social assistance cannot sponsor a family member, even a child.



All of these people have been affected by Regulation 117(9)(d).

The only recourse for people in such situations is to apply for humanitarian and compassionate consideration, where the decision is left to the discretion of the individual immigration officers.



WANT TO KNOW MORE?

Visit the CCR’s webpage on family reunification:

www.reunification.ca

Settlement and Integration

All newcomers to Canada go through a process, often long and painful, to adapt to their new home and become an integral part of our society. The process is a continuum, beginning with settlement, when newcomers make the basic adjustments to life in a new country, and moving through to integration, when newcomers become full and equal participants in all dimensions of society in the long-term.

Settlement needs include orientation on arrival, language learning, finding out about access to employment, enrolling children in schools. Many refugees also have more specific needs as a direct result of their persecution: a significant percentage of refugees are survivors of torture and have to live with its physical, psychological and emotional consequences. One of the biggest settlement challenges is in reuniting with family members. Refugees are often separated from their families when fleeing and bringing the family back together is a top priority. Unfortunately, the long delays in family reunification processing make it difficult for refugees to settle.

Integration is a two-way street and being made welcome is a part of belonging. Most newcomers to Canada must struggle against deeply-rooted racism in Canadian society. It affects employment prospects, searches for housing, how contributions are valued and how comfortable they feel. Public opinion about refugees and other newcomers also has a direct impact on refugees' integration. Negative comments and portrayals by politicians, in the media or between members of the public are hurtful to refugees and immigrants and undermine their efforts to integrate into Canadian society.

Lives on Hold



One of the biggest barriers to integration is lack of permanent status in Canada. There are thousands of people living in limbo, unable to get on with their lives, denied many rights and services. Many of those affected are children. People living in limbo include nationals of moratoria countries: countries to which Canada has halted deportations, due to the generalized insecurity there. Most such nationals will likely end up receiving permanent residence, but meanwhile, their lives are on hold, in some cases for more than 10 years – an unspeakable waste not only for them and their families, but also for Canada.



Students learning English at the Mennonite New Life Centre of Toronto (a CCR member organization).
Credit: Ariel Bonilla/MNLCT.

‘What is integration like?’ Some Somali women answered:

It feels as though I am getting on to a moving bus. I want to take a seat but I can't reach an empty seat because the bus is travelling too fast.

People think they know us when they describe what they see of us on the outside – black skin, Somali, veils. How can they think they know us when they have no idea what is happening to us inside?

I can't speak English but I can read the expressions on faces. A smiling face is welcome to me but why do you give me a look that hurts so much and says “Go away”?

Temporary workers

Recently Canada has dramatically increased the use of temporary work visas, as opposed to granting workers permanent status. This shift leaves people more vulnerable to exploitation and prevents Canada from benefitting from their full potential as participants in society.

WANT TO KNOW MORE?

CCR's Best Settlement Practices, available from www.ccrweb.ca

Lives on Hold: <http://www.ccrweb.ca/livesonhold.htm>



Protection of trafficked persons



Trafficking happens in Canada, but Canadian law **does not protect** trafficked persons. Currently, women, children and men who are trafficked into or within Canada often fall between the cracks in the system. Detained and deported, they may be treated more as criminals than as victims of a crime.

Legislative amendment is needed to bring a permanent and fundamental change in policy so that trafficked persons in Canada are protected. The Canadian Council for Refugees has developed a proposal to amend the Immigration and Refugee Protection Act. The proposal would provide temporary and permanent protection to trafficked persons.

PROTECTION?



WANT TO KNOW MORE?

Visit the CCR's webpage on trafficking:
www.trafficking.ca

The Canadian Council for Refugees



Created in 1978, the CCR is a non-profit umbrella organization committed to the rights and protection of refugees in Canada and around the world and to the settlement of refugees and immigrants in Canada.

The CCR celebrates 30 years in 2008



Since 1978 the CCR has been working together on behalf of refugees and immigrants in Canada. It has established itself as a key advocate for refugee and immigrant rights in Canada, educating the public and putting issues onto the national agenda.



WANT TO KNOW MORE?

Visit the CCR's website: www.ccrweb.ca

Canadian Council for Refugees

Security for whom?

The *Immigration and Refugee Protection Act* defines a very broad category of people as inadmissible on security grounds, including many people who are not alleged to represent any security threat.

The process for determining someone to be inadmissible on security grounds involves many aspects that are unfair to those affected. The most notorious is the use of secret evidence, not only for those subject to a security certificate, but also in other cases.

The potential consequences of being inadmissible on security grounds are dramatic:

- > Loss of permanent residence.
- > Threat of deportation to risk of torture (even though this is contrary to international law).
- > Denial of right to have a refugee claim heard.



Opponents of security certificates at the Supreme Court hearings in Ottawa. Credit: Darren Ell.

We need your support

You can support the CCR in its efforts to make Canada a welcoming place for refugees and newcomers by:

- > Joining the "Friends of the CCR", our monthly giving program. Application forms are available at: www.ccrweb.ca (under Donate).
- > Making a donation to the CCR by credit card online through CanadaHelps (www.canadahelps.org)
- > Making a donation to the CCR by mail or telephone (see contact information below). You will receive a receipt for income tax purposes for all donations over \$20, or on request.

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