



Canada's Asylum System

Overview



Immigration, Refugees
and Citizenship Canada

Immigration, Réfugiés
et Citoyenneté Canada

Canada 

Introduction

Canada's asylum system reflects our obligations to the principle of *non-refoulement*:

- Persons should not be removed to a country where they would be at risk of persecution, torture, risk to life or risk of cruel and unusual treatment or punishment.

International Conventions

- *Refugee Convention*
- *Convention Against Torture*

Domestic Law

- *Charter of Rights and Freedoms*
- *Immigration and Refugee Protection Act*

Refugee Convention Grounds

Fear of persecutions on the basis of:

- *Race*
- *Religion*
- *Nationality*
- *Political opinion*
- *Membership in a particular social group*

Refugee Programs

Resettlement

Offers protection to **refugees overseas** found to be in need of protection

Refugees are referred by the UNHCR, a designated referral organization, or private sponsorship group

Refugees are assessed by Canadian officials for admissibility/eligibility, undergo security and medical checks before a visa is issued to come to Canada

Resettled refugees arrive in Canada as Permanent Residents

Targeted number of refugees are admitted under Immigration Levels Plan

Asylum

Protection granted based on claims for refugee protection made by people **inside Canada**

All claimants undergo thorough security screening and are assessed by Canadian officials to ensure their claim is eligible to be heard

Claims are adjudicated by the Immigration and Refugee Board. Claimants remain in Canada while waiting for a decision

Claimants with a positive decision are protected persons who may apply for permanent residence

Asylum claims are not part of the Immigration Levels Plan, intake cannot be directly controlled

Who Seeks Asylum in Canada?



Global instability and flows of temporary migrants to Canada contribute to **more people needing protection and more asylum claims.**

Canada is geographically isolated from major flows of migrants.

But, foreign nationals can come to Canada temporarily in many ways:

- **Visitors** (with or without a visa)
- **Temporary Foreign Workers**
- **International Students**
- **Undocumented Migrants**

Once in Canada, any foreign national can make a claim for asylum.

Overview

- People make asylum claims at a port of entry or inland in Canada.
- Eligibility is determined by the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada based on security concerns, criminality, previous protection claims in Canada, or having received protection from another country.
- Claims are referred for a hearing to the Immigration and Refugee Board of Canada, an independent administrative tribunal.
- Those whose cases are approved become protected persons and may apply for permanent resident status and eventually citizenship.
- Those whose cases are refused have access to at least one other appeal or recourse measure (ex: Refugee Appeal Division and Pre-Removal Risk Assessment).
- Failed claimants have 30 days to voluntarily depart or are removed by the Canada Border Services Agency as soon as possible.

Benefits to Claimants

- While they await a decision, asylum claimants may live in Canada with access to the following benefits from different levels of government:

Federal

- Interim Federal Health Program
- Temporary Work Permit

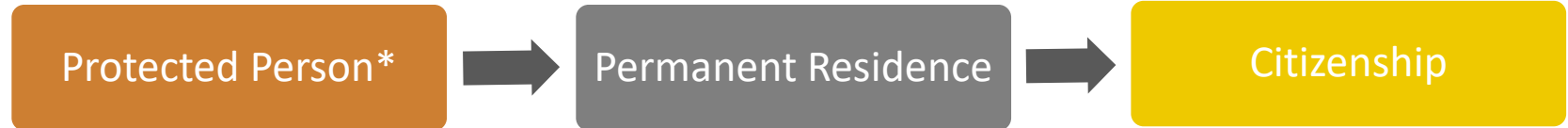
Provincial or Territorial

- Social Assistance
- Education
- Legal Aid

Cities and Non-Governmental Organizations

- Emergency Shelter
- Low-income Housing

Permanent Status and Benefits once Recognized as Refugee



Settlement Services:

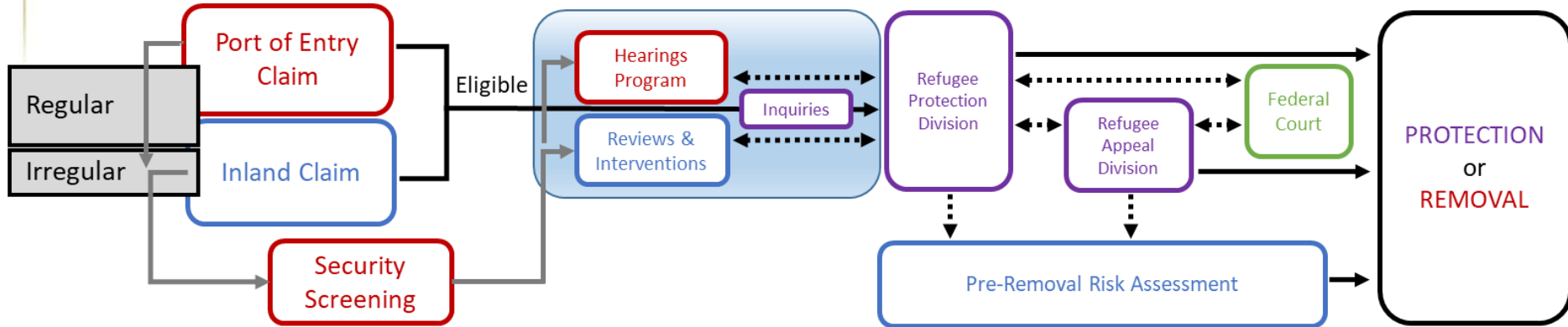
- Language training in English or French
- Labour market integration support
- Needs assessment and referral services
- Information and orientation
- Community Connections

Refugee Travel Document and consular support when abroad.

- Right to vote
- Canadian Passport and consular support when abroad

**Protected person is the status granted following a positive decision on an asylum claim made in Canada*

Process Overview



LEGEND	
—	IRCC
—	CBSA
—	IRB
—	Federal Court
—	ICAC Pilot



Annexes

Key Federal Partners

Employment and Social Development Canada

- Conducts Labour Market Impact Assessments
- Leads federal foreign credential recognition efforts
- Administers the Job Bank

Global Affairs Canada

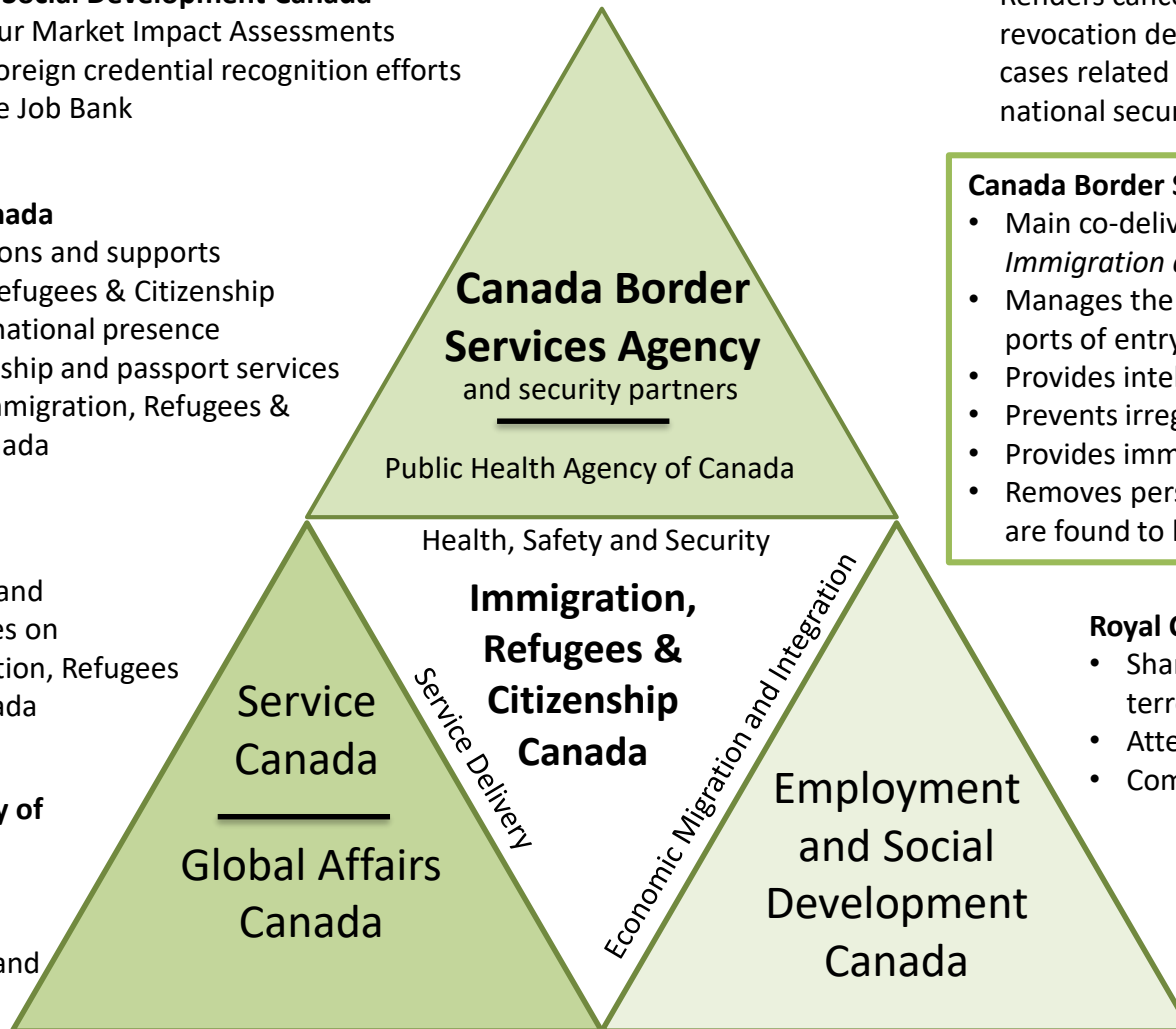
- Operates missions and supports Immigration, Refugees & Citizenship Canada's international presence
- Delivers citizenship and passport services on behalf of Immigration, Refugees & Citizenship Canada

Service Canada

- Delivers passport and integration services on behalf of Immigration, Refugees & Citizenship Canada

Public Health Agency of Canada

- Administers the Quarantine Act
- Health screening and monitoring



Public Safety Canada

- Renders cancellation, refusal and revocation decisions for passport cases related to terrorism and national security

Canada Border Services Agency

- Main co-delivery partner for the *Immigration and Refugee Protection Act*
- Manages the flow of travelers at Canadian ports of entry
- Provides intelligence
- Prevents irregular migration
- Provides immigration enforcement
- Removes persons who are in Canada and are found to be inadmissible

Royal Canadian Mounted Police

- Shares information to combat terrorism and organized crime
- Attends citizenship ceremonies
- Combats human trafficking

Canadian Security and Intelligence Service

- Conducts security screening
- Shares information to combat terrorism

The Immigration and Refugee Board of Canada

The Immigration and Refugee Board of Canada is an independent, arm's length, administrative tribunal which resolves immigration and refugee cases. The Immigration and Refugee Board of Canada is divided into four divisions: the Immigration Division, the Immigration Appeals Division, the Refugee Protection Division and the Refugee Appeals Division.

Refugee Protection Division

- Decides claims for refugee protection;
- Decides applications for vacation of refugee protection;
- Decides applications for cessation of refugee protection;

Refugee Appeal Division

- Decides appeals from some decisions of the Refugee Protection Division allowing or rejecting claims for refugee protection.

Immigration Division

- Conducts admissibility hearings for foreign nationals or permanent residents who seek entry into Canada, or who are already in Canada and are alleged to be inadmissible;
- Conducts detention reviews for foreign nationals or permanent residents who are detained for immigration reasons.

Immigration Appeal Division

- Decides appeals of family sponsorship applications refused by Immigration, Refugees & Citizenship Canada;
- Decides appeals from certain removal orders made against permanent residents, Convention refugees and other protected persons, and holders of permanent resident visas.
- Decides appeals by permanent residents in which an Immigration, Refugees & Citizenship Canada officer outside Canada has decided that they have not fulfilled their residency obligation.
- Decides appeals by the Minister of Public Safety and Emergency Preparedness of Immigration Division decisions at admissibility hearings.

Eligibility to Make a Claim for Refugee Protection

Foreign nationals can make an asylum claim at a port of entry or inland in Canada

CBSA or IRCC officers interview the claimant to assess:

- their admissibility to Canada (CBSA)
- their eligibility to make an asylum claim (CBSA + IRCC)

Ineligibility Grounds

A person may be found ineligible to make an asylum claim if they:

- Have already been granted protection in Canada or in another country to which they can be returned
- Have previously been refused protection in Canada or have withdrawn or abandoned their previous claim
- Have previously made a claim that was determined ineligible for referral to IRB, or was rejected by IRB
- Came to Canada through a designated safe third country where a claim for protection could have been made (The United States is the only country designated)
- Are inadmissible on grounds of security, violating human or international rights, or serious or organized criminality
- Are found to have made a claim for refugee protection in another country, with which Canada has an information sharing agreement, before making a claim for refugee protection in Canada

Once a claim is determined eligible, it is referred to the Immigration and Refugee Board (IRB) for determination – 97-98% of claims are found to be eligible

Security Screening

Asylum claimants undergo robust screening to:

- Verify their identity
- Detect asylum claimants who may pose a risk to Canada by assessing their admissibility
- Detect false or fraudulent claims
- Identify whether there are exclusions under articles 1E or 1F of the Refugee Convention

- CBSA conducts security screening, in collaboration with the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP)
- Screening is intended to be completed prior to claimant's refugee hearing
- All asylum claimants 14 years of age or older must provide biometrics (fingerprints and digital photographs) during intake procedures
 - Fingerprints are screened against criminal databases, past deportees, and previous immigration applicants
- Biographic information is shared with Canadian security agencies, who may liaise with international law enforcement agencies (e.g. Interpol)
- The claimant and their family members also undergo a medical examination for health and safety reasons

Reviews & Interventions Program

Canada reviews, intervenes and appeals on asylum claims in order to:

1. ensure that IRB decision-makers have full information when adjudicating asylum claims
2. challenge unfounded claims, deter abuse, and maintain the integrity of the asylum system

Triage: Eligible claims are triaged by CBSA and IRCC to identify if the file should be transferred to CBSA or IRCC for review, investigation and possible intervention based on departmental mandates:

- IRCC: credibility, program integrity, or Refugee Convention Article 1E exclusions
- CBSA: : Refugee Convention Article 1F exclusions (war crimes, crimes against humanity, security, criminality)

Review: Investigate and gather evidence to determine whether there are grounds for intervention (fraud, credibility and program integrity, 1E exclusion)

Intervention: Officers may intervene in writing or in person at a hearing to argue/defend the Minister's position by filing evidence, making submissions and cross-examining the claimant

Appeals and Interventions at the Refugee Appeal Division: Review IRB decisions, intervene when a claimant appeals, or file an appeal of the IRB's decision

Claim Determination – Immigration and Refugee Board

- Minors (under age 18) and persons unable to appreciate the nature of the proceedings are provided a designated representative by the IRB
- A claimant may be represented by legal or other counsel, at their own expense or funded through provincial legal aid
- **First level decision:**
 - The IRB conducts a hearing to determine whether the claimant is a Convention refugee or a person in need of protection (Convention Against Torture grounds)
- **Appeal:**
 - A decision of the IRB may be appealed - a verification that no error was made
 - Appeals can be filed by the Minister or the claimant and can be based on errors of fact, law or both

If a **positive decision** is issued: claimant becomes a Protected Person

If a **negative decision** is issued: claimant is required to depart or becomes subject to removal

Removal

- CBSA removes persons who are not entitled to remain in Canada
- CBSA places the highest priority on cases involving national security, organized crime, crimes against humanity, and criminals. Removal of failed refugee claimants and individuals with other immigration violations are also necessary to maintain the integrity of Canada's immigration system
- Once a person is found not to be a refugee, they have 30 days to leave Canada under a departure order
 - By respecting Canadian laws and leaving the country, the person can apply to return to Canada at a later time
- If the person does not leave Canada within 30 days, the departure order becomes a deportation order and the CBSA will remove the person
 - A deportation order prevents the person from returning to Canada unless prior permission from the Minister of IRCC is obtained

Pre-Removal Risk Assessment

- Prior to the removal, a PRRA evaluates whether a person would face persecution, torture, risk to life or risk of cruel and unusual treatment or punishment, if returned to his or her country of origin
- In some cases, people who are not eligible to have their claim referred to the IRB (e.g. those who claimed protection in another country, with which Canada has an information sharing agreement) will receive a PRRA to assess their risk upon return
- The PRRA is not an appeal of a negative refugee claim decision, and is restricted to new evidence which was not reasonably available at the time the claim was heard
- Most individuals are barred from accessing a PRRA for a one-year period following the last decision on their claim (including a Federal Court decision)
 - However, when circumstances arise that warrant a new risk assessment, legislation allows for an exemption to the bar on access to the PRRA
- Generally, if a person's PRRA is approved (unless they are serious criminals), they become a protected person, who may apply for permanent residence
- If a PRRA application is rejected, the removal order comes back into effect