

# Immigration 101: Refugee Claimants

## Who are refugee claimants?

These are individuals who make a claim that they are refugees at the Canadian border. Their claim is processed by the Immigration Refugee Board (IRB) using Canadian law and international conventions to which Canada is a signatory. IRB will determine if they can stay as a Protected Person.

## How does Canada determine claims?

A claimant is determined to be a Convention refugee if they're not able to return to their country of origin because of a well-founded fear of persecution based on race, religion, political opinion, nationality or being part of a social group, such as women or people of a particular sexual orientation.

A claimant may be determined to be a person in need of protection. They can't return to their home country safely. They may face danger of torture, risk to their life or risk of cruel and unusual treatment or punishment.

## What happens if IRB determines a person is a Convention refugee or a person in need of protection?

If both cases, their claim is accepted. They become a Protected Person. They can apply for permanent residence and include immediate family members overseas on their application.

## What happens if their claim is denied?

Individuals can appeal the decision to the Refugee Appeal Division of the IRB. Once they have exhausted all legal avenues, they must leave Canada or be removed by the Canada Border Service Agency (CBSA).

## Terminology

Labels like "individuals who entered Canada illegally" or "illegal migrants" are inaccurate and misleading. A person can make a refugee claim either at the border when arriving in Canada at an official port of entry, or once already in the country, as an inland claim. The government will not prosecute those who cross at irregular border points and make a refugee claim.

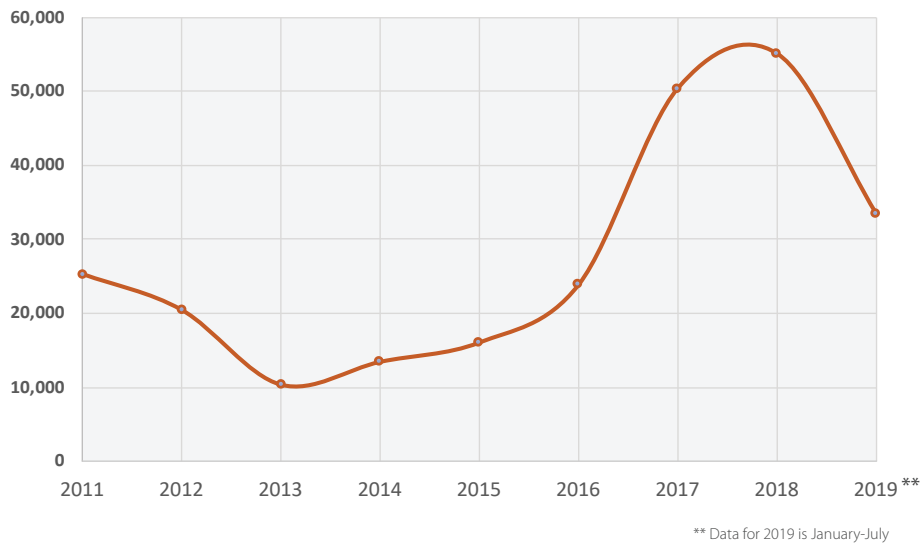
Omitting the term "refugee" can reinforce misperceptions that refugee claimants are not refugees or are less deserving of Canada's protection.

We do not know whether a claimant is a refugee or not until their case has been decided. Most refugee claimants are refugees, as we find out through the refugee determination process: they don't become refugees because we say they are – they already are refugees before we find it out.

## Security screening

Claimants are rigorously security screened by Canadian Security Intelligence Service (CSIS) and the RCMP. They are interviewed and fingerprinted.

## Asylum claims processed by Canada (2011-2019)\*



## Legal Provisions

### Canada-U.S. Safe Third Country Agreement

This agreement states that if an individual first arrives in the United States and then seeks entry to Canada as a refugee claimant they will be denied entry to Canada and must make their claim in the US.

### 1951 UN Convention Relating to the Status of Refugees

This convention, of which Canada is a signatory, specifies who is a Convention refugee and how they must be treated.

Canada cannot penalize refugees for how they enter Canada as long as they present themselves "without delay" to authorities and show "good cause" for their presence (Article 31).

Canada is obliged to protect persons in Canada who have a well-founded fear of persecution based on race, religion, nationality, membership in a social group or political opinion.

### Immigration and Refugee Protection Act (IRPA)

Under IRPA, when entering Canada anywhere other than at a port of entry, persons must check in "without delay" at a border point. Claimants waiting for a hearing, or accepted as a refugee, can't be charged for failing to comply to this law. If their claim is denied, they may be charged however, most individuals leave Canada or are deported. (Section 133 and Regulation 27(a))

### Interception

Not all refugee claimants come through an official border point. An individual who crosses the border at an unofficial point will be apprehended by the RCMP. They may still make a refugee claim.

\* For additional information visit:

[www.canada.ca/en/immigration-refugees-citizenship/services/refugees/asylum-claims/processed-claims.html](http://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/asylum-claims/processed-claims.html)

[www.irb-cisr.gc.ca](http://www.irb-cisr.gc.ca)