



Refugee claims

Eligibility requirements and
admissibility issues

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Refugee Claims

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A scenic landscape featuring a calm lake in the foreground, a dense forest of evergreen and deciduous trees in the middle ground, and majestic mountains with patches of snow in the background under a clear blue sky.

Who is a Refugee?

Refugees are people who have fled war, violence, conflict or persecution and have crossed an international border to find safety in another country.

*Services/Resources

*Recent Claim from Afghanistan

Who CANNOT make a refugee claim?

- a. Those with serious criminality
- b. Terrorists
- c. Human rights violators
- d. Security risks



Who is NOT Eligible?

- a. are recognized as a Convention refugee by another country that you can return to
- b. were granted protected person status in Canada
- c. arrived via the Canada–United States border
- d. have made a refugee claim in another country, as confirmed through information-sharing
- e. are not admissible to Canada on security grounds or because of criminal activity or human rights violations
- f. made a previous refugee claim that was not found eligible
- g. made a previous refugee claim that was rejected by the IRB
- h. abandoned or withdrew a previous refugee claim



IRB

The IRB decides on who is a Convention Refugee or a Person In Need of Protection

Convention Refugees

- a. Convention refugees are outside their home country or the country they normally live in. They're not able to return because of a well-founded fear of persecution based on
 - i. race
 - ii. religion
 - iii. political opinion
 - iv. nationality
 - v. being part of a social group, such as women or people of a particular sexual orientation

A Person In Need of Protection

- a. A person in need of protection is a person in Canada who can't return to their home country safely.
- b. This is because, if they return, they may face
 - i. danger of torture
 - ii. risk to their life
 - iii. risk of cruel and unusual treatment or punishment

Who can Make a Claim?

- a. Must be in Canada
- b. Can't be subject to a removal order

Can you make a Claim from Outside of Canada?

YES!!

i. Resettle in Canada as a refugee

1. To come to Canada as a refugee you must be referred
2. The United Nations Refugee Agency (UNHCR), a designated referral organization, or a private sponsorship group can refer you. You cannot apply directly.
3. To be referred must fall into one of the 2 refugee classes
 - a. Convention refugee abroad class
 - b. Country of asylum class

ii. Immigrate to Canada through a program

1. You may be in this class if you:
 - a. are outside your home country, or the country where you normally live, and
 - b. have been seriously affected by civil war or armed conflict, or
 - c. have been denied basic human rights on an ongoing basis.
2. Country of asylum class refugees can be privately sponsored. You can also be in this class if you have the funds you need to support yourself and your family after you arrive in Canada. You will still need the UNHCR, a referral organization, or a private sponsorship group to refer you.

How to initiate a Claim?

- a. Can submit a claim by using the Canadian Refugee Protection Portal
- b. Inland offices
- c. Port of entry
 - i. Made at CBSA upon arrival at a land border crossing, airport or seaport
 - ii. POE officers are Not allowed to send a person back if refugee claim is made upon arrival
- d. If you came to Canada through the USA, you may need to consider the Safe Third Country Agreement between the U.S. and Canada and how this system works. A common exception is when someone has family residing in Canada, so it's important to keep in mind that you must have close relatives in Canada if you like to apply at US/Canada land border.

Importance of Basis of Claim

- a. Become a sworn statement which is crucial to the claim
- b. It's not a matter of just getting it done
- c. 15 days to fill out and submit the form

Claim's Requirements

- a. Canada offers refugee protection to some people in Canada who fear persecution or who would be in danger if they had to leave. Some dangers they may face include
 - i. torture
 - ii. risk to their life
 - iii. risk of cruel and unusual treatment or punishment
- b. If you feel you could face one of these risks if you go back to your home country or the country where you normally live, you may be able to seek protection in Canada as a refugee.

Credibility

- a. Hearing Preparation
- b. Hearing, questioned are asked to the claimant to assess credibility
- c. Important to know basis of claim and dates etc

1. Evidence

- a. Support the claim with objective and subjective evidence
 - i. Objective-NDP
 - ii. Subjective-affidavit, letters, witnesses
 - iii. The evidence needs to be submitted no later than 10 days before the hearing

Work Permit

- a. Get a work permit
 - i. If you make your claim at the port of entry
 - ii. You can request to apply for a work permit while you're with the border services officer. You won't get your work permit while at the port of entry. If you're eligible for one, you'll receive it after you complete your medical exam.
- b. If you submit your refugee claim online
 - i. You can request a work permit in your online application. We'll only issue you a work permit if we decide your claim is eligible to be referred to the IRB and you completed your medical exam
- c. Get a study permit
 - i. You can't request to apply for a study permit when you submit your refugee claim. You must apply for a study permit separately.
- d. Grey area once refugee claim is denied-ppl continue to work

Withdrawing a Claim

- a. Such a discontinuation is not considered a withdrawal for the purposes of paragraph 101(1)(c) of the Immigration and Refugee Protection Act (IRPA). This means that if the person concerned makes a refugee claim at a later date, it cannot be determined ineligible under paragraph A101(1)(c).
- b. Clients must complete all required documentation as requested by the processing office and complete and sign the Withdrawal of a Claim for Refugee Protection Prior to Referral to the Refugee Protection Division form IMM 5317B.

IFA & Result

- Approved=>>>>PR
- Can't go back & PR
- Denied=Enforceable Removal Order



RAD

- a. First, you may be able to appeal to the Refugee Appeal Division (RAD) at the IRB. You must file a Notice of Appeal with the RAD within 15 days of receiving your refugee refusal. You have 30 days from receiving your refugee refusal to explain to the RAD why the refusal is wrong.
- b. The Refugee Appeal Division:
 - i. gives most claimants a chance to prove that the Refugee Protection Division decision was wrong in fact or law or both, and
 - ii. lets new evidence be introduced that was not reasonably available at the time of the Refugee Protection Division process.
- c. The appeal is paper-based, with oral hearings in exceptional cases.
- d. The appeal process will be done by Governor in Council (GIC) appointees.

RAD

- e. Failed refugee claimants who are not eligible to appeal to the Refugee Appeal Division include:
 - i. those with a manifestly unfounded claim as decided by the IRB
 - ii. those with claims with no credible basis as decided by the IRB
 - iii. claimants who are subject to an exception to the Safe Third Country Agreement
 - iv. claims referred to the IRB before the new asylum system comes into force and re-hearings of those claims as a result of review by the Federal Court
 - v. individuals who arrive as part of a designated irregular arrival
 - vi. individuals who withdrew or abandoned their refugee claims
 - vii. those cases in which the Refugee Protection Division at the IRB has allowed the Minister's application to vacate or cease their refugee protection
 - viii. those with claims deemed rejected because of an order of surrender under the Extradition Act
 - ix. those with decisions on PRRA applications
- f. All failed claimants can still ask the Federal Court to review a negative decision.

Federal Court-FC

- Judicial Review of refusal of RAD
- 15 days for Inside Canada Decisions
- Legal Aid Coverage
- Withdrawing Refugee Claim

Other useful resources on this topic:

- Legal Aid BC refugees & immigrants resources
 - <https://legalaid.bc.ca/publications/subject/10>
- Legal information sources for refugees curated by Courthouse Libraries of BC
 - <https://www.courthouselibrary.ca/how-we-can-help/our-library-services/lawmatters-public-libraries/legal-information-sources-refugees>