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Refugee Protection in Canada

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(IRB)

How Claims are Made in Canada

- Must be in Canada and not subject to a removal order
- At a port of entry (land border, airport, seaport) - Canada Border Service Agency (CBSA)
- At an inland office/online - Immigration, Refugees and Citizenship Canada (IRCC)
- CBSA and IRCC determine if an individual is **eligible** to make a claim and **admissible** to Canada

Claims Referred to IRB unless...

Individual is Ineligible

- Recognized as a Convention refugee by another country
- Already granted protected person status in Canada
- Subject to Safe Third Country Agreement with USA
- Made a refugee claim in another country, as confirmed through information-sharing
- Made a previous refugee claim and found to be ineligible
- Made a previous refugee claim that was rejected by the IRB
- Abandoned or withdrew a previous refugee claim

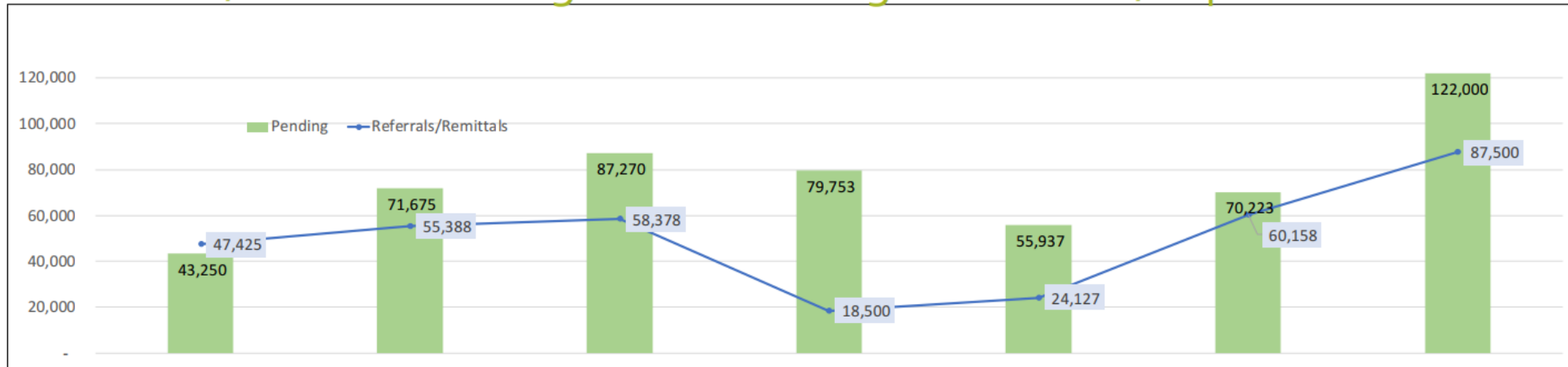
Individual is Inadmissible

- Security reasons
- Human/international rights violations
- Criminality

If an individual is found to be admissible and eligible, their claim is referred to the Refugee Protection Division (RPD) of the IRB for adjudication.

Refugee Claims Made and Pending

Referrals/Remittals during Year & Pending at Year-End/Top Countries



Calendar year	2017	2018	2019	2020	2021	2022	2023 (to 19Sept2023 only)
Claims (total, new system) REFERRED or REMITTED during year (National)	47,425	55,388	58,378	18,500	24,127	60,158	87,500
Claims (total, new system) PENDING at year-end (National)	43,250	71,675	87,270	79,753	55,937	70,223	122,000
Top countries referred or remitted (National)	Haiti	Nigeria	India	Mexico	Mexico	Haiti	Mexico
	Nigeria	India	Mexico	India	India	Mexico	Haiti
	Turkey	Mexico	Iran	Iran	Iran	Türkiye	Türkiye
	Pakistan	Colombia	Nigeria	Haiti	Colombia	Colombia	Colombia

Pakistan: Ahmadi, Shia, Christian, Kashmiri, victim of radical groups, no nexus (vendetta/feud), SOGIESC

Haiti: no nexus (crime, feud, generalized risk), anti-gov, Lavalas, NGO, domestic violence, SOGIESC

Nigeria: SOGIESC, FGM, domestic Violence, forced marriage, no nexus (feud, crime) Christian, Chieftaincy, traditional practices

India: no nexus (victim of state agents, land dispute, feud, crime), domestic violence, Sikh politics (Akali Dal, militants), Muslim, Inter-faith marriage, caste, SOGIESC

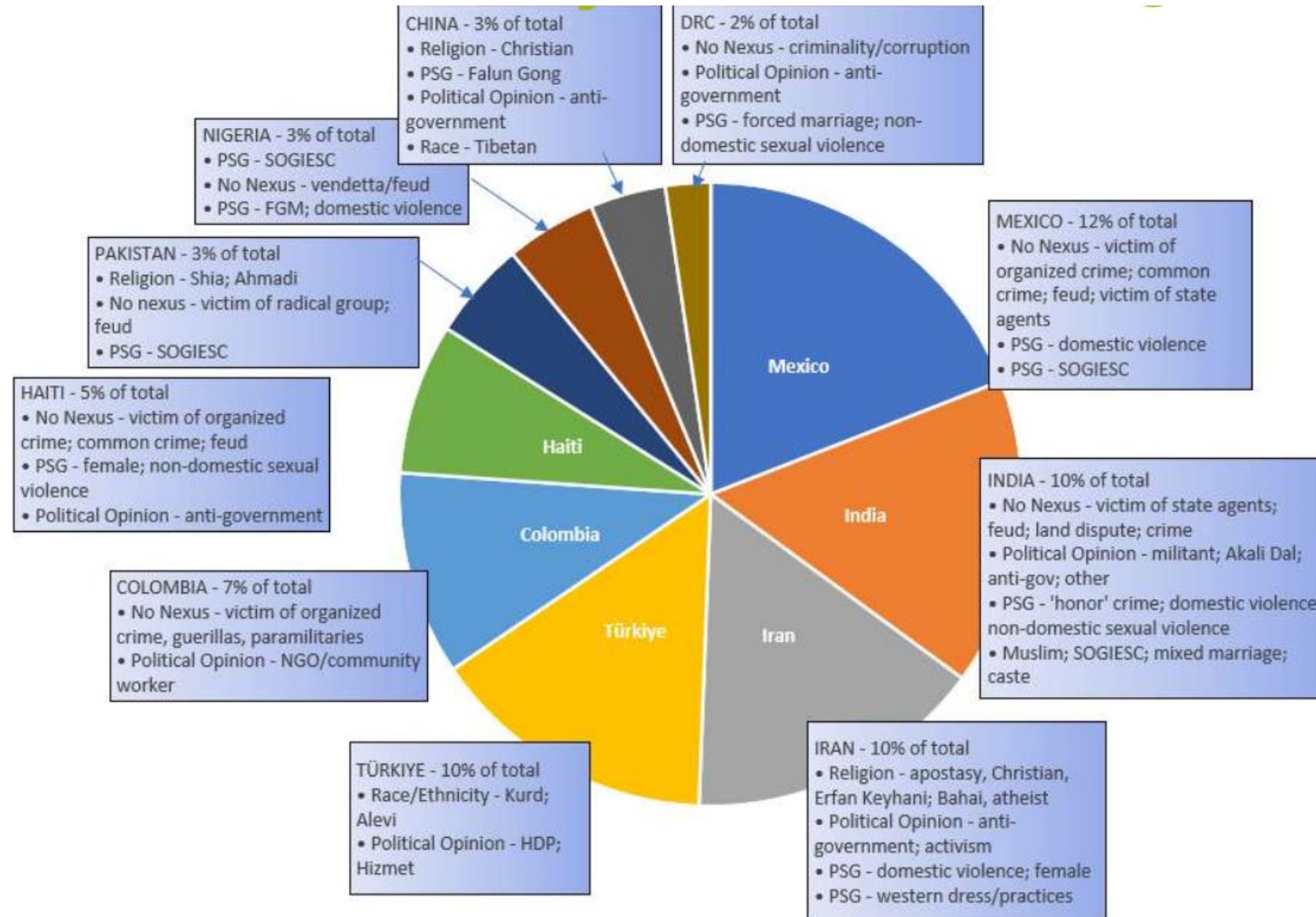
Iran: Apostasy, Christian, Bahai, anti-government, domestic violence, SOGIESC, western practices

Colombia: No nexus (victim of rebels, paramilitary, crime), NGO, domestic violence


Türkiye: Hizmet, Kurd, Alevi, anti-gov, SOGIESC

Mexico: no nexus (crime, feud), domestic violence, SOGIESC

Nature of Refugee Claims in Canada



Adjudication by RPD

- **Quasi-judicial Hearing**
 - In person or virtual
 - Non-adversarial or adversarial (intervention by the Minister)
 - **File Review Process**
 - Claim accepted *without* a hearing based on the evidence
 - **Right of Appeal**
 - Refugee Protection Division ↓
 - Refugee Appeal Division (RAD) of IRB ↓
 - Normally no hearing
 - Substitute decision or refer back to RPD
 - Federal Court ↓
 - Federal Court of Appeal ↓
 - Supreme Court of Canada
- 
- A flowchart illustrating the right of appeal process. It starts with the Refugee Protection Division, which leads to the Refugee Appeal Division (RAD) of the Immigration and Refugee Board (IRB). From the RAD, the process can go to the Federal Court, then the Federal Court of Appeal, and finally the Supreme Court of Canada. A curved arrow on the left side of the flowchart indicates a return path from the Federal Court of Appeal back to the Refugee Protection Division.

A Claimant Must Establish...

Convention Refugee

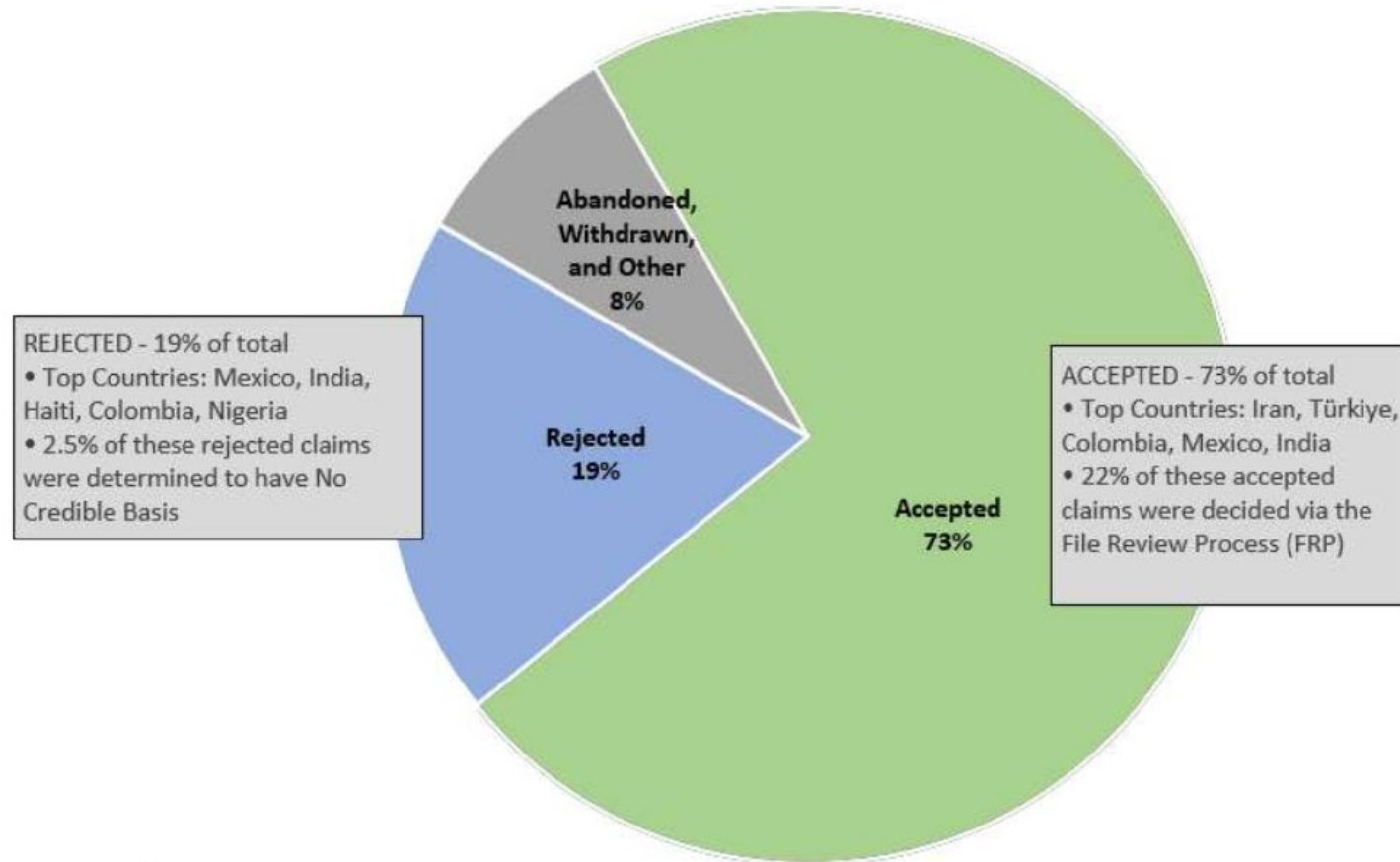
- A well-founded fear of persecution based on a Convention ground
 - race
 - religion
 - nationality
 - political opinion
 - membership in a particular social group

OR

Person in Need of Protection

- A personal risk
 - to life, or
 - of cruel and unusual treatment or punishment, or
 - danger of torture

Outcome of Claims (2023 YTD)



Based on outcomes of approx. 35K s. 100 refugee claim finalizations in calendar year 2023 (to 19Sep2023 only).

RPD Member Tools

- Training

- ~8 weeks of initial training for new members
- Monthly professional development sessions, ex.:
 - Update on jurisprudence
 - Credibility assessment
 - Natural justice-related topics
 - Update on conditions in a particular country
- 9 days of gender-related training
 - Trauma-informed adjudication
 - Gender-Related Task Force
- *Ad hoc* training

- RPD Quality Centre

- Monitors and analyzes trends to identify and address areas that will improve adjudicative quality and consistency, through training, mentorship, performance management, and adjudicative strategies

- Reference Papers, ex.:

- Interpretation of Convention refugee in the Caselaw
- Assessment of credibility

Policy Instruments

- **Chairperson's Guidelines**

- Guiding principles for adjudicating and managing cases, ex.:
 - Proceedings involving minors
 - Gender considerations in proceedings
 - Accessibility to IRB proceedings
 - Proceedings involving sexual orientation, gender identity/expression, sex characteristics

- **Chairperson's Instructions**

- Direction to IRB employees - what to do or not to do in certain situations, ex.:
 - Solicitor-client privilege
 - Streaming of less complex claims
 - Disclosure

- **Jurisprudential Guides**

- Decisions that IRB Chairperson has selected as good examples for other decision-makers to promote consistency and fairness in decision-making, ex.:
 - Gang-related targeting, generalized risk
 - Allegations of risk in an article 1(E) country
 - Ahmadis in Pakistan – state protection and internal flight alternative
 - Status of North Korean nationals in South Korea

Program & Policy Reviews

- Evaluations

- Process for making a complaint about a member
- Asylum system reforms
- Member training

- Reviews

- Access to justice associated with virtual hearings
- Implementation of Guideline 9
- Quality performance in the RPD
 - Proceeding readiness
 - Respectful proceedings
 - Focused proceedings
 - Decisions state conclusions on all determinative issues
 - Decisions provide findings and analysis necessary to justify conclusions
 - 2.6 Reasons are transparent and intelligible