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Refugee Protection in Canada

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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

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

Haiti: no nexus (crime, feud, generalized risk), anti-gov, Lavals, NGO, domestic violence, Sogiesc
Pakistan: Ahmadi, Shia, Christian, Kashmiri, victim of radical groups, no nexus (vendetta/feud), SOGIESC
Nigeria: SOGIESC, FGM, domestic violence, forced marriage, no nexus (feud, crime) Christian, Chibok, traditional practices
India: no nexus (victim of state agents, land dispute, feud, crime), domestic violence, Sils politics (Akal, Dal, militancy), Muslim, Inter-faith marriage, caste, SOGIESC
Iran: Apostasy, Christian, Bahai, anti-government, domestic violence, SOGIESC, western practices
Turkey: Hizmet, Kurd, Alevi, anti-gov, SOGIESC
Mexico: no nexus (crime, feud, domestic violence, SOGIESC)
Nature of Refugee Claims in Canada

- **China**: 3% of total
  - Religion - Christian
  - PSG - Falun Gong
  - Political Opinion - anti-government
  - Race - Tibetan

- **DRC**: 2% of total
  - No Nexus - criminality/corruption
  - Political Opinion - anti-government
  - PSG - forced marriage; non-domestic sexual violence

- **Nigeria**: 3% of total
  - PSG - SOGIESC
  - No Nexus - vendetta/feud
  - PSG - FGM; domestic violence

- **Pakistan**: 3% of total
  - Religion - Shia; Ahmadi
  - No nexus - victim of radical group; feud
  - PSG - SOGIESC

- **Haiti**: 5% of total
  - No Nexus - victim of organized crime; common crime; feud
  - PSG - female; non-domestic sexual violence
  - Political Opinion - anti-government

- **Colombia**: 7% of total
  - No Nexus - victim of organized crime, guerrillas, paramilitaries
  - Political Opinion - NGO/community worker

- **Turkey**: 10% of total
  - Race/Ethnicity - Kurd; Alevi
  - Political Opinion - HDP; Hizmet

- **Iran**: 10% of total
  - Religion - apostasy, Christian, Erfan Keyhani; Bahai, atheist
  - Political Opinion - anti-government; activism
  - PSG - domestic violence; female
  - PSG - western dress/practices

- **Mexico**: 12% of total
  - No Nexus - victim of organized crime; common crime; feud; victim of state agents
  - PSG - domestic violence
  - PSG - SOGIESC

- **India**: 10% of total
  - No Nexus - victim of state agents; feud; land dispute; crime
  - Political Opinion - militant; Akali Dal; anti-gov; other
  - PSG - 'honor' crime; domestic violence; non-domestic sexual violence
  - Muslim; SOGIESC; mixed marriage; caste
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 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

**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)

- Accepted - 73% of total
  - Top Countries: Iran, Türkiye, Colombia, Mexico, India
  - 22% of these accepted claims were decided via the File Review Process (FRP)

- Rejected - 19% of total
  - Top Countries: Mexico, India, Haiti, Colombia, Nigeria
  - 2.5% of these rejected claims were determined to have No Credible Basis

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

• **Reference Papers, ex.:**
  - Interpretation of Convention refugee in the Caselaw
  - Assessment of credibility

• **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
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