

The Impact of COVID-19 on Canada's Immigration and Asylum Systems

Policy Brief

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Introduction

Many migrants have struggled with the slow and complicated immigration processes prior to the pandemic. The Immigration, Refugees and Citizenship Canada (IRCC) website is often difficult to navigate and the information is not presented clearly. The COVID-19 pandemic has exacerbated the existing issues in Canada's immigration and asylum systems, endangering already-vulnerable international students, migrant workers, and their families. The immigration system came to a sudden halt at the start of the pandemic as it has been reliant on papers and in-person processes, which has stranded people due to their falling out of status.

Canada's refugee claim system does not adjust in a timely fashion to shifts in the number of claims, or to sudden changes in policy. Figure 1 shows the historical lag between refugee claims and the necessary decisions at the Immigration and Refugee Board (IRB) to process them. In the figure, the number of refugee claims (blue line) rises and falls, while the number of decisions (orange line) struggles to catch up until 2-3 years have passed. Figure 2 shows how this is directly related to fluctuating staff complements at the IRB being insufficient to address sudden changes. Data on IRB funding, adjusted for inflation, shows how this may be linked to changes in the IRB's budget being backward-facing on the previous fiscal year's refugee claims, rather than anticipating the possibility of future claims. The result is delayed justice for refugee claimants, and an associated uncertainty about their future in Canada and ability to make long-term plans.

The pandemic has worsened these delays. While data on current IRB decisions has shown a drop in the recent backlog of pending refugee claims, this does not tell the whole story. IRB does not record new refugee claims until they are referred to them by IRCC or the Canada Border Services Agency (CBSA). Since the start of the pandemic, the timeliness of IRCC and CBSA referrals has slowed to a crawl, creating its own backlog of new refugee claims that has not yet made it to the IRB. We show this delay in figure 3 below, "IRCC Intake-to-Referred, Oct 16-Sep 20." From March 2020 to September 2020, IRCC has referred only 43% of new refugee claims to the IRBB, down from 88% during the same period last year. The result is almost 6000 refugee claimants unable to make it to the next step.

Figure 1: Asylum claim processing, 1996-2020

Source: Departmental Results Reports, IRB 1996-2020; "Recent Trends," IRB 2020; author's compilations

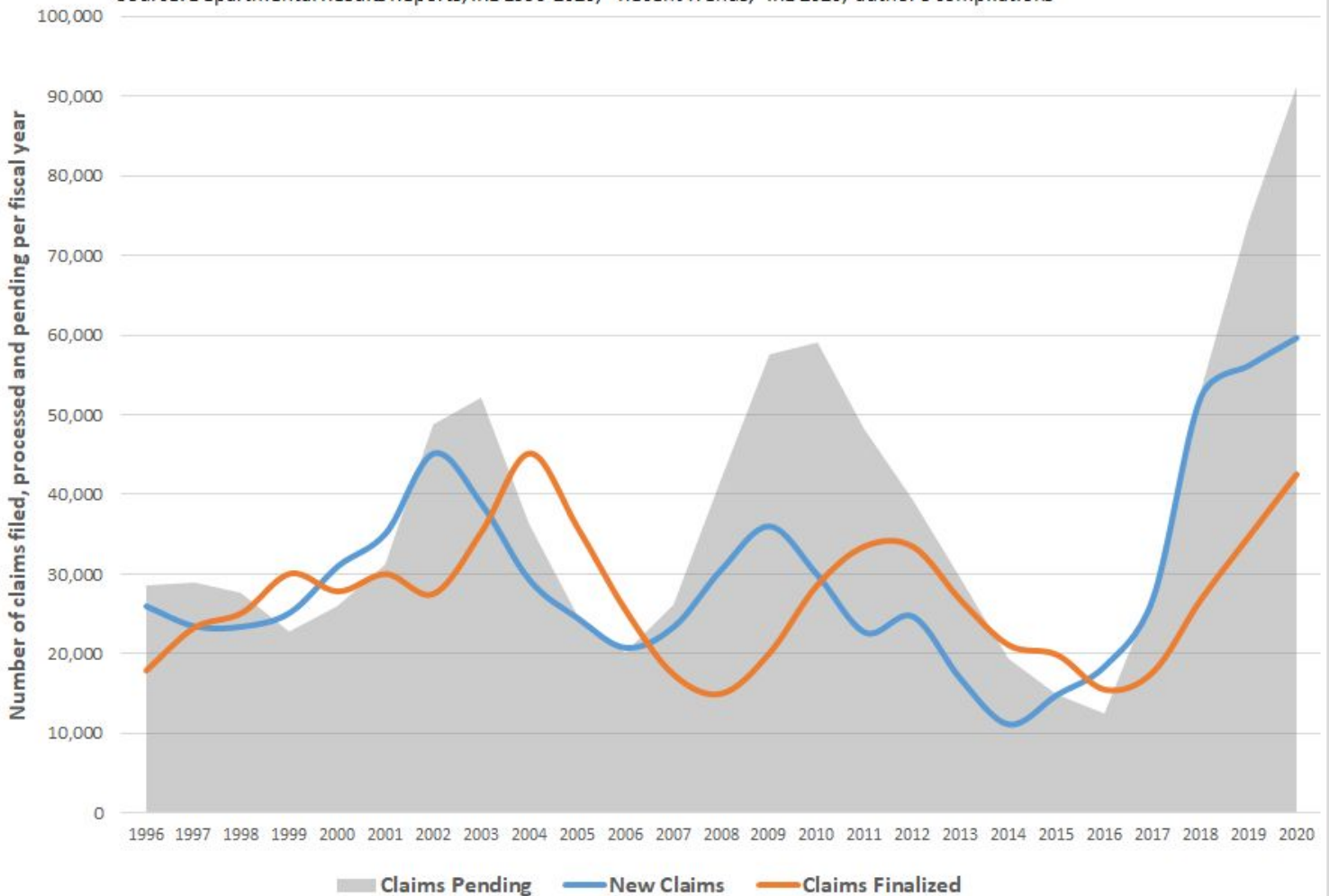


Figure 1: Asylum Claims Processing, 1996 ~ 2020

Until a refugee claimant is found eligible and referred to the IRB, they may not be able to access important documents necessary to legally work in Canada to support themselves, or access important social services at the provincial level. In speaking with immigration and refugee lawyers, some refugee claimants, including Hong Kongers, are waiting over 5 months before having their case referred to the IRB. Many asylum seekers from Hong Kong who arrived before COVID-19, have sustained themselves by relying on their savings and the support of the community. These delays place additional stress on asylum seekers, who are already marginalized by their circumstances, but also placing financial burden on municipalities and provincial/territorial services.

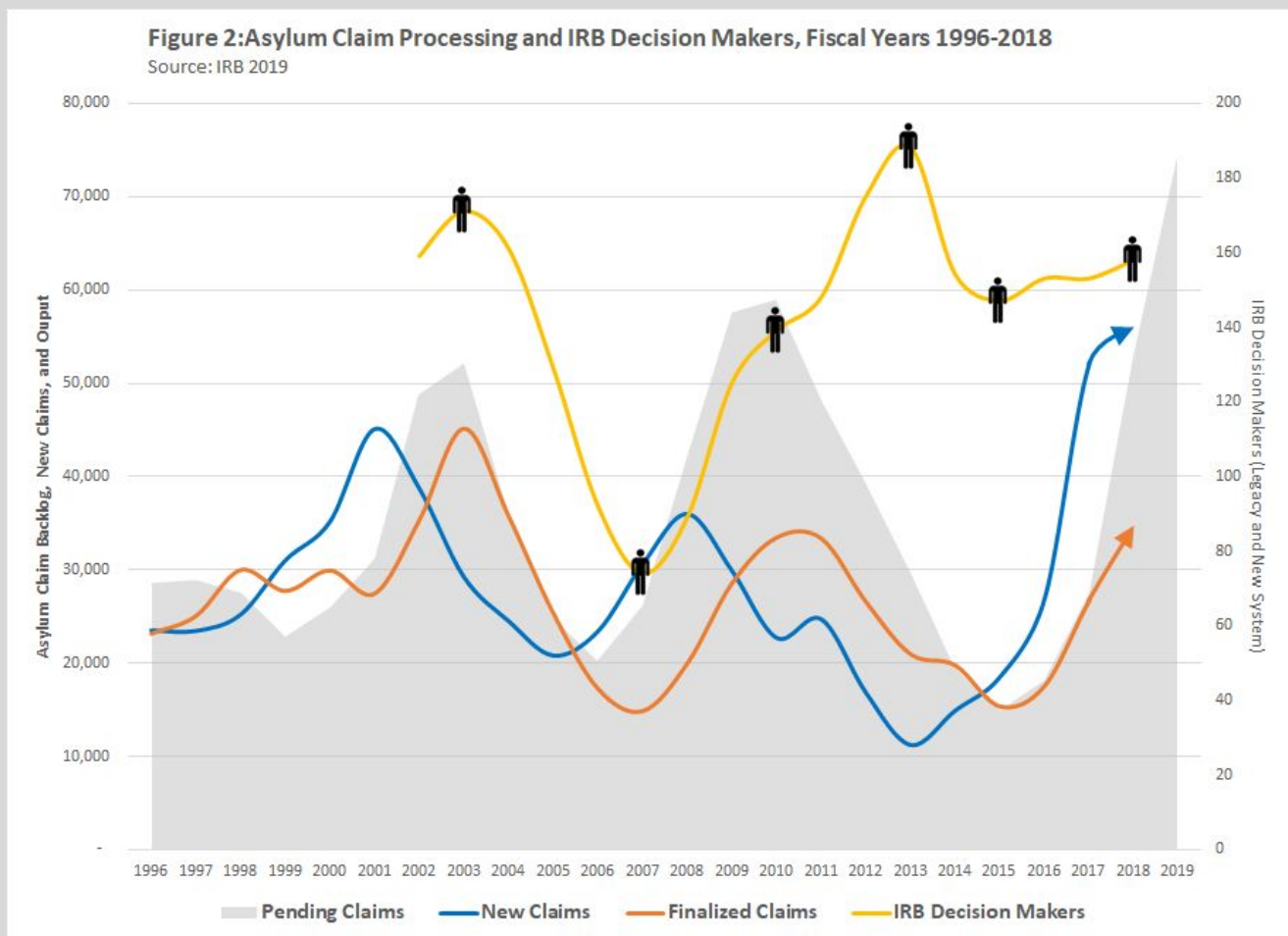


Figure 2: Asylum Claim Processing & IRB Decision Makers, Fiscal Years 1996 ~ 2018

Hong Kongers are in a particularly precarious position as the city is faced with unprecedented state suppression and persecution of political dissidents. Due to the travel restrictions, non-conventional refugees cannot enter Canada. As a result, Hong Kongers who planned to claim asylum in Canada are barred from the country.

Many Hong Kongers in Canada who participated in protests are worried about persecution and the potential impact on their families back home. ACHK published a [detailed report](#) about Hong Kong activists in Canada who are [surveyed and harassed for their activism](#). During these rallies, many activists have had their photos taken by pro-Beijing supporters. It is highly likely that these photos and other evidence of democratic activism will be sent back to Hong Kong and Chinese authorities, thus putting them at risk were they to return to Hong Kong. Though Minister Mendicino has assured Hong Kongers that their involvement in “peaceful protests” will not disqualify them from accessing a permit or residency, there is still confusion over what the Hong Kong government has termed riots or infractions of the National Security Law.

While the government of Canada has released new immigration measures for students from Hong Kong, there are further steps to be taken to enhance the immigration and asylum systems - particularly for the many Hong Kongers who would not be eligible for the recently-announced measures. Economic pathways may prove insufficient unless Hong Konger international students and post-graduate workers can find skilled employment, something which has proven difficult under the current economic circumstances. Hong Kongers on the post graduate work permit (PGWP) may have otherwise accumulated the sufficient number of points to qualify for the Canadian Experience Class or a provincial nomination, but they instead face unemployment and expiration of their permits through no fault of their own. Family reunification may also prove insufficient for Hong Kongers and their family members if it is limited to immediate family, to the exclusion of cousins, aunts, uncles, and other family members who were involved in Hong Kong activism and protest.

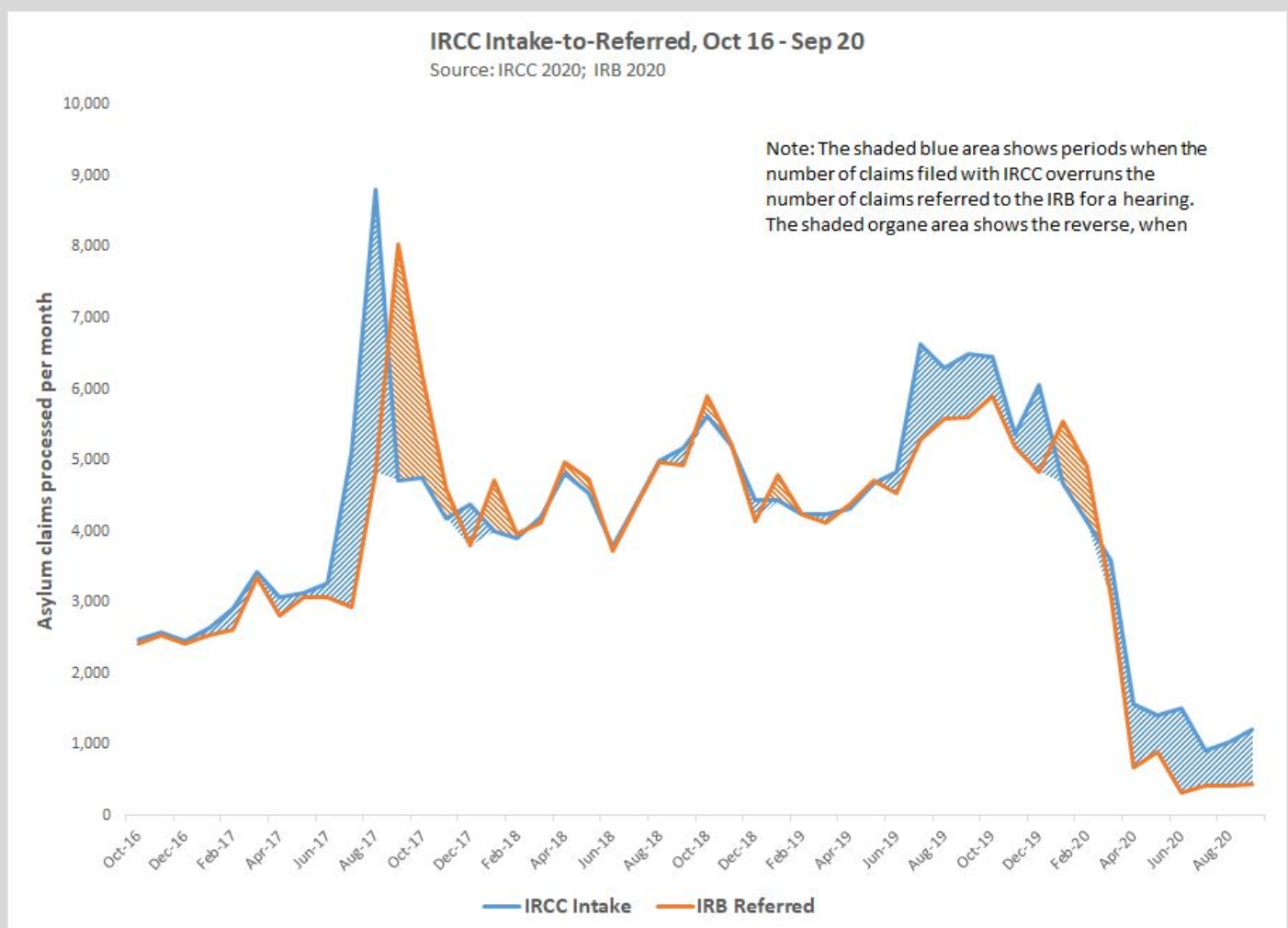


Figure 3: IRCC Intake-to-Referred, Oct 16 ~ Sept 20

Recommendations

ACHK urges the consideration of the following changes to improve the immigration and asylum system in Canada. Some are aimed at mending the gaps created by COVID-19, while the others would address the existing barriers that have been aggravated by the pandemic.

1. Amnesty for all migrants

The government should give an automatic 6 month extension to those who have applied to extend or change their status, modeled after New Zealand's [interim visa program](#). In addition, IRCC should grant a one-time restoration of status for workers, students, and visitors who are physically present in Canada.

2. Create an universal humanitarian pathway for international students

Targeted for international students whose safety is not guaranteed in their home countries, Canada should allow graduates to apply or extend a 5 years Post-Graduate Work Permit, modeled after [recent changes](#) by the government of Australia.

3. Expanding family sponsorship and reunification measures

Expand the existing sponsorship and reunification measures based on humanitarian needs to ensure that extended family members have access to work and study permits. This would be retrospective rather than innovative, building on older programs like the assisted relative program that enabled Canadian citizens and permanent residents help their extended family come to Canada.

4. Reform study permits to include co-op and full time work permits

International student visas should cover the co-op placements and full time work permits, which would consolidate applications and lessen the burden on the system.

5. Modernizing the immigration & asylum systems

We recommend allowing electronic document submissions and implementing virtual meetings to meet current travel and COVID restrictions.

6. Expediting the asylum application processes

We urge the Canadian government to address the backlog in the IRCC referral process, and to overstaff the Immigration and Refugee Board (IRB) and IRCC to prevent future backlogs. Reallocation of staff may be reconsidered after addressing the backlog of new claims and pending claims. We urge the government to consolidate access to work permits and social security under the Refugee Protection Claimant Document. We also recommend removing the 12 months wait for the pre-removal risk assessment (PRRA) and ensure no asylum seekers can be deported without a PRRA. For applicants from Hong Kong and China, they should be classified for "less complex" claims, which will expedite asylum application processes for Hong Kongers, Tibetans, Uyghurs, and other communities that are threatened by the Chinese Communist Party.