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ASYLUM-SEEKERS AT CANADA'S BORDER

Report of the Standing Committee on Citizenship and
Immigration

Salma Zahid, Chair

MAY 2023
44th PARLIAMENT, 1st SESSION

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**Salma Zahid
Chair**

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Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

has the honour to present its

SIXTEENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied the conditions faced by asylum-seekers and has agreed to report the following:

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SUMMARY

Immigration, Refugee and Citizenship Canada projects that, throughout 2022, a potentially record-setting 50,000 asylum-seekers will have crossed irregularly into Canada, bypassing points of entry at the border to file a refugee claim. Following migratory trends observed by the Royal Canadian Mounted Police in the last five years, 95% of these irregular refugees will have crossed at Roxham Road, into the province of Quebec. Not only is the situation at Roxham Road highlighting the need for a modernized approach to responsibility sharing at the border, but it also confronts Canadians to the vulnerability inherent to international humanitarian migration, in a very tangible way.

This report examines the impacts of Canadian legislation, related administrative processes, and the Safe Third Country Agreement (STCA) on the conditions that refugee claimants face to seek protection in Canada, specifically for those who cross at Roxham Road. It follows a study by the House of Commons Standing Committee on Citizenship and Immigration on the conditions faced by asylum-seekers conducted from 15 November 2022 to 25 November 2022.

The report is broken down in three chapters: Chapter 1 examines Canada's role and legal obligations towards migrants seeking protection from persecution, explains the genesis of the STCA and implications of this bilateral agreement with the U.S., and details the roles played by Canadian governmental bodies in processing migrants that cross at Roxham Road. Chapter 2 paints a portrait of the situation at Roxham Road statistically, details the trauma inherent to irregular migration, discusses the merits and consequences of suspending the STCA, the potential changes and modernization plans that could be brought to expand the STCA, and questions whether the U.S. is a safe country for refugee claimants. Chapter 3 studies the current challenges and solutions being implemented to deal with the situation at Roxham Road, notably the turn towards technological solutions, the consequences of administrative backlogs on the delivery of key documentation for asylum-seekers, and the accessibility of social services in the province of Québec. The chapter concludes with stories of success despite hardships faced by migrants.

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Discourage Irregular Border Crossing

Recommendation 1

That the Government of Canada actively work to discourage irregular border crossings at Roxham Road and other irregular border crossings with online public statements, social media, travelling to major source countries to speak in their media to discourage such irregular border crossing while encouraging regular immigration through the many channels available to would-be newcomers..... 11

Funding for the Royal Canadian Mounted Police

Recommendation 2

That the Government of Canada adequately fund the C Division of the Royal Canadian Mounted Police to attend to its duties in the province of Quebec as well as its ongoing operational duties at Roxham Road until the Government can reduce the rapidly increasing irregular crossings of people at that location..... 13

Investigate Human Trafficking at the Canada-United States Border

Recommendation 3

That the Royal Canadian Mounted Police leverage its long-term relationship with Interpol, the Federal Bureau of Investigation, and various state and local law enforcement agencies in the United States of America to investigate and, if appropriate, to bring charges against human trafficking criminal organizations that operate across the Canada-United States border..... 22

Affirm that the United States is a Safe Third Country

Recommendation 4

That the Government of Canada publicly affirm that the United States of America is a safe third country, that is, refugee claimants who have arrived in the United States should be required to request refugee protection in the United States as opposed to Canada..... 27

Assertion that the United States is a Safe Third Country in Relevant Court Proceedings

Recommendation 5

That the Government of Canada shall continue to take a posture which asserts that the United States of America is a safe third country in any relevant court proceedings..... 28

The Future of the Safe Third Country Agreement

Recommendation 6

That the Government of Canada work with the United States of America to modernize the Safe Third Country Agreement. 33

Public Interest Exception to Gender-based Claims

Recommendation 7

That the Government of Canada expand exemptions provided in the Safe Third Country Agreement to include gender-based claims as a public interest exception, and restore the exemption for claimants from moratorium countries. 33

Cease Issuance of Entry for Further Examination Documents

Recommendation 8

That the Canada Border Services Agency cease issuance of the Entry for Further Examination document to irregular asylum-seekers..... 40

Issuance of Work Permit and Refugee Protection Claimant Document upon Arrival

Recommendation 9

That Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency work in tandem to issue Work Permits and Refugee Protection Claimant Documents to all eligible asylum-seekers upon arrival, whether regular or irregular, at the Canadian border..... 42

Extension of the Refugee Protection Claimant Document Period of Validity

Recommendation 10

That the Immigration, Refugees and Citizenship Canada extend automatically the validity period of the Refugee Protection Claimant Document if the final Immigration and Refugee Board determination is not made before the document’s expiry..... 42

Additional Resources at the Border

Recommendation 11

That the Government of Canada ensure that additional resources be allocated to the Royal Canadian Mounted Police, the Canada Border Services Agency and all relevant agencies at the border to continue to adequately and humanely manage the number of asylum-seekers at Roxham Road and other irregular points of entry, to support faster processes for asylum-seekers and to ensure safer working conditions for government officials..... 43

Additional Resources to Settlement Organizations

Recommendation 12

That the Government of Canada provide resources to settlement organizations that assist asylum-seekers who pass through Roxham Road and other irregular points of entry to facilitate their integration in Quebec and Canada..... 46

Awareness of the Interim Federal Health Program

Recommendation 13

That the Government of Canada work with the provinces and territories to raise awareness of the Interim Federal Health Program with health care workers while respecting the jurisdiction of Quebec and the provinces..... 47



ASYLUM-SEEKERS AT CANADA'S BORDER

INTRODUCTION

Every day, regardless of the season, individuals and families are crossing into Canada from the United States on foot, to seek asylum. The vast majority do so in Quebec, at Roxham Road, a stone's throw away from the official port of entry of Saint-Bernard-de-Lacolle. Following a motion on 28 October 2022,¹ the House of Commons Standing Committee on Citizenship and Immigration (the Committee) studied the conditions faced by asylum-seekers with a focus on those arriving at Roxham Road. Between 15 November 2022 and 25 November 2022, the Committee heard from 27 witnesses and received two written submissions.

Chapter 1 of this report describes in broad strokes the legislative framework and the processes at the Canada-United States border. Chapter 2 discusses the future of the Canada–United States (U.S.) Safe Third Country Agreement, beginning with statistics and information concerning human smuggling. Chapter 3 highlights the impact of delays on asylum-seekers and the strain on the welcoming community, while providing success stories of refugee claimants and protected persons in Canada and their contributions as members of our society.

CHAPTER 1: LEGISLATIVE FRAMEWORK AND PROCESSES AT THE BORDER

This chapter briefly lays out Canada's legislation that affect migrant flows at the border: the *Immigration and Refugee Protection Act* (IRPA),² the Canada–U.S. Safe Third Country Agreement (STCA) and the *Quarantine Act*. It also provides an overview of the processes that the Royal Canadian Mounted Police (RCMP) and the Canada Border Services Agency (CBSA) have developed as they encounter and inspect asylum-seekers at the border. Immigration, Refugees and Citizenship Canada (IRCC), and the Immigration and Refugee Board of Canada (IRB) also have responsibilities that arise with respect to asylum-seekers.

1 House of Commons, Standing Committee on Citizenship and Immigration (CIMM), *Minutes of Proceedings*, 28 October 2022.

2 *Immigration and Refugee Protection Act* (IRPA), S.C. 2001, c.27.



Canada's Legislative Framework Surrounding Asylum-Seekers

Canada, a signatory to the United Nations' 1951 Convention relating to the Status of Refugees and its 1967 Protocol,³ has integrated its international obligations into its domestic legislation, IRPA.⁴ As Rema Jamous Imseis, Representative to Canada, United Nations High Commissioner for Refugees (UNHCR), told the Committee:

Ensuring safe and unimpeded access to asylum is a legal obligation that Canada, along with 148 other states, has committed to honouring. We understand that there are always challenges in receiving asylum-seekers and ensuring that these critical rights are safeguarded.⁵

The in-Canada asylum system is an entirely separate program from the resettlement program that concerns refugees living outside Canada.⁶ The objectives of IRPA are explicit with respect to asylum-seekers,

- (c) to grant, as a fundamental expression of Canada's humanitarian ideals, fair consideration to those who come to Canada claiming persecution;
- (d) to offer safe haven to persons with a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment.⁷

Foreign nationals who make an asylum claim upon entering Canada are examined at their point of entry by CBSA officers who are designated immigration officers.⁸ These officers must establish if the claim is eligible to be referred to the Refugee Protection

3 United Nations, The UN Refugee Agency, *The 1951 Refugee Convention*, "1951 Convention relating to the Status of Refugees" and "1967 Protocol relating to the Status of Refugees."

4 IRPA refers to asylum-seekers as refugee claimants. This report uses the term "asylum-seeker."

5 CIMM, *Evidence*, 15 November 2022, 1645 (Rema Jamous Imseis, Representative to Canada, United Nations High Commissioner for Refugees).

6 CIMM, *Evidence*, 18 November 2022, 1305 (Christiane Fox, Deputy Minister, Immigration, Refugees and Citizenship Canada).

7 IRPA, ss. 3(c) and 3(d).

8 Immigration, Refugees and Citizenship Canada (IRCC), *CIMM 42.6 Pre-2004 asylum process, IRCC's response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

Division (RPD) of the IRB.⁹ Section 101(1) of IRPA lists seven reasons why a claim may be ineligible to be referred to the IRB—these relate to the individual's admissibility to Canada,¹⁰ their history of claims in Canada¹¹ or their history of claims in another country. As of December 2004, section 101(1)(e) of IRPA renders a claim ineligible if the person came to Canada through the United States without making a claim there first. Asylum-seekers can not be prosecuted for not having the proper documentation or for the way they enter Canada while their claim is pending.¹²

Asylum-seeker claims are heard before the IRB. Should their claim be successful, they become protected persons. If their claim is rejected, and they have exhausted all recourses, Canada has the obligation not to return such individuals to a country where they are at risk of persecution, a concept called "*non-refoulement*," and must offer a pre-removal risk assessment.¹³ The CBSA is responsible for the removal of failed claimants.¹⁴

The Canada–United States Safe Third Country Agreement

The *Agreement between the Government of Canada and the Government of the United States of America: For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries* (The Safe Third Country Agreement or STCA) was signed on 5 December 2002¹⁵ and came into force on 29 December 2004.¹⁶ It reaffirms that asylum-seekers should make their claim in the first country where they can. This means that at an official border crossing known as a port of entry, asylum-seekers coming in from the U.S. cannot make a claim and will not be admitted into Canada unless they fit into an exception, for example for if they are an unaccompanied minor, or persons with family in Canada. As Richard Wex, Chairperson and Chief Executive Officer, IRB, recalled: "one of the reasons why the [STCA] was put in place was the security

9 IRPA, ss. 99(3) and 100. In 2019, IRPA was amended to direct officers to examine the eligibility of a claim before referring it to the Refugee Protection Division of the Immigration and Refugee Board of Canada (IRB), removing a three-day deadline for these referrals (*Budget Implementation Act, 2019, No. 1*, S.C. 2019, c. 29).

10 Inadmissibility as it relates to ineligibility to have a claim referred to the IRB, is based on specific grounds: security, violating human or international rights, serious criminality or organized criminality.

11 Previous claims in Canada can lead to ineligibility of a claim being referred to the IRB if that previous claim was approved, rejected, withdrawn or abandoned, or if the person was found to be ineligible.

12 IRPA, s. 133.

13 IRPA, ss. 112 and 115.

14 CIMM, *Evidence*, 18 November 2022, 1305 (Christiane Fox).

15 Immigration, Refugees and Citizenship Canada (IRCC), *Final text of the Safe Third Country Agreement*.

16 IRCC, *Canada–U.S. Safe Third Country Agreement*.



perimeter negotiations taking place between Canada and the United States. Those took on more force after 9/11.”¹⁷ The United States is the only country that has been designated in the *Immigration and Refugee Protection Regulations (IRPR)*¹⁸ per the required factors listed in section 102 of IRPA, such as being a signatory to the 1951 Refugee Convention and the 1984 Convention Against Torture, with policies and practices that respect the obligations derived from these conventions.¹⁹

Aaron McCrorie, Vice-President, Intelligence and Enforcement, CBSA, explained to the Committee that the STCA “applies to those making refugee claims at designated ports of entry, but does not apply to asylum-seekers entering Canada outside of official border crossings. ... [T]he CBSA cannot deny entry to asylum-seekers arriving from the United States at Roxham Road.”²⁰

In 2017, asylum-seekers started crossing the border outside official ports of entry in large numbers noticeably in Quebec, Manitoba and British Columbia, prompting the Committee to study the issue in 2017 and 2018.²¹ First captured in statistics in 2017, these individuals are referred to as irregular border crossers, in contrast to persons who make asylum claims directly at official border crossings, at an airport or at an inland office.

In response to this influx, in 2017, IRCC launched a major information campaign in the U.S. to dispel myths about the Canadian immigration system.²² Christiane Fox of IRCC told the Committee that the then Minister of Immigration, Refugees and Citizenship, Hon. Ahmed Hussen travelled to Nigeria, and Hon. Pablo Rodriguez and Member of Parliament Emmanuel Dubourg went to the U. S. to inform various communities about

17 CIMM, *Evidence*, 25 November 2022, 1335 (Richard Wex, Chairperson and Chief Executive Officer, Immigration and Refugee Board).

18 *Immigration and Refugee Protection Regulations (IRPR)*, SOR/2002-227, s. 159.1. See *Regulatory Impact Analysis Statement* accompanying *Regulations Amending the Immigration and Refugee Protection Regulations*, SOR/2004-217, pp. 1622–1627.

19 IRPA, s. 102(2).

20 CIMM, *Evidence*, 25 November 2022, 1315 (Aaron McCrorie, Vice-President, Intelligence and Enforcement, Canada Border Services Agency).

21 CIMM heard witnesses about the influx of asylum-seekers at the Canada–U.S. border [28 September 2017](#), [3 October 2017](#) and [5 October 2017](#). The Committee returned to the issue in May 2018 ([3 May 2018](#) and [29 May 2018](#)) and after an emergency meeting on 16 July 2018, met for three meetings on 24 July 2018, (meetings number [117](#), [118](#) and [119](#)).

22 IRCC, *CIMM 42.3 IRCC documents on irregular migration flow, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

Canada's asylum system.²³ IRCC notes that there was a decrease in irregular claim volumes in 2018 and 2019.²⁴

As such, the Committee recommends:

Discourage Irregular Border Crossing

Recommendation 1

That the Government of Canada actively work to discourage irregular border crossings at Roxham Road and other irregular border crossings with online public statements, social media, travelling to major source countries to speak in their media to discourage such irregular border crossing while encouraging regular immigration through the many channels available to would-be newcomers.

The *Quarantine Act*: A Closed Border (2020–2021)

Mass arrivals at Roxham Road then plummeted in 2020 and 2021²⁵ when the border was closed to foreign nationals under the Quarantine Act in light of the COVID-19 pandemic.²⁶ Prohibited from entry, foreign nationals from the U.S. who wished to make an asylum claim were directed back to the U.S.²⁷ An Order in Council to this effect was renewed on a monthly basis until November 2021.²⁸

When the COVID-19 restrictions were eased at Roxham Road in November 2021, the number of asylum-seekers skyrocketed. To compare, in the month of October 2021, 96

23 CIMM, *Evidence*, 18 November 2022, 1310 (Christiane Fox).

24 IRCC, *CIMM 42.3 IRCC documents on irregular migration flow, IRCC's response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

25 The prohibition on making an asylum claim did not apply to a U.S. citizen or stateless habitual resident of the U.S. making a claim against the U.S., unaccompanied minors making a claim against the U.S. and parents (or legal guardians) of a U.S. minor citizen that is claiming asylum against the U.S.

26 *Quarantine Act*, S.C. 2005, c. 20, s. 58.

27 *Regulations Amending the Immigration and Refugee Protection Regulations*, *SOR/2020-55*, s. 41.

28 The first Order in Council is dated 20 March 2020, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*, P.C. 2020-0161. The last Order in Council was *P.C. 2021-0961*.



irregular border crossers had made asylum claims. In November 2021, the number of claimants reached 832 and increased to 2,778 claimants in December 2021.²⁹

Processes at Roxham Road and at Saint-Bernard-de-Lacolle

When looking at events worldwide, the high volume of asylum-seekers at the border is not unique to Canada. In countries throughout the world, the absence of meaningful political action to address the root causes of displacement, along with increased conflict, insecurity and the effects of climate change, means that this trend is unlikely to be reversed soon. It requires an approach that responds to competing priorities on the part of authorities such as keeping Canada safe but doing so in a way that is sensitive to the realities of a vulnerable population. Deputy Commissioner Michael Duheme, Federal Policing, RCMP, told the Committee:

Canada, like other western countries, is faced with the task of managing increasing irregular migration flows, which involves addressing humanitarian needs while also ensuring that those who could pose a public safety or security threat are not admitted into Canada.³⁰

Rema Jamous Imseis of the UNHCR told the Committee that she was struck by “the humane and dignified approach of authorities and the organized fashion in which Canada processes these claims.”³¹ Eva-Gazelle Rududura, Vice-President, Unis pour une Intégration Consciente au Canada, told the Committee how surprised she was “[T]here were no complaints from people who suffered from using [Roxham] road. ... Everyone was grateful for the Canadian reception.”³² Roxham Road and its proximity to the official border crossing, Saint-Bernard-de-Lacolle, can be seen on the map in Appendix A.

The Royal Canadian Mounted Police

The Committee learned that the RCMP has up to 800 officers in the Quebec region, and approximately 120 of them are dedicated at the moment in the Roxham Road area

29 IRCC, *Asylum claims by year—2021*, “RCMP Interceptions.” The number of “RCMP interceptions” refers to asylum-seekers apprehended between the ports of entry and does not reflect other border crossings.

30 CIMM, *Evidence*, 25 November 2022, 1320 (Michael Duheme, Deputy Commissioner, Federal Policing, Royal Canadian Mounted Police).

31 CIMM, *Evidence*, 15 November 2022, 1645 (Rema Jamous Imseis).

32 CIMM, *Evidence*, 22 November 2022, 1620 (Eva-Gazelle Rududura, Vice-President, Unis pour une Intégration Consciente au Canada).

patrolling the border.³³ Deputy Commissioner Michael Duheme told the Committee that the RCMP's complex mandate normally prioritized serious and organized crime, financial crime and national security.³⁴

When an individual is intercepted by the RCMP entering illegally between the ports of entry, they are arrested under section 11(1) of the *Customs Act*.³⁵ A preliminary risk assessment is then conducted within 24 hours, to determine if there is any threat posed to Canada or Canadians. The risk assessment includes an interview, reviewing personal documents and searching belongings to confirm identity. Background checks are undertaken to see if there has been any prior involvement in illegal activities, including, for example, drug trafficking, connections to organized crime, or links to terrorism.³⁶ Superintendent Martin Roach, Acting Criminal Operations Officer, C Division, RCMP, told the Committee that among those intercepted at Roxham Road, some criminality had been found, such as child pornography or organized crime, as well as individuals with warrants against them in the U.S. for other criminal offences.³⁷ If there are no elements of criminality, then the asylum-seekers are transferred over to the CBSA.³⁸

The Committee recommends:

Funding for the Royal Canadian Mounted Police

Recommendation 2

That the Government of Canada adequately fund the C Division of the Royal Canadian Mounted Police to attend to its duties in the province of Quebec as well as its ongoing operational duties at Roxham Road until the Government can reduce the rapidly increasing irregular crossings of people at that location.

33 CIMM, *Evidence*, 25 November 2022, 1325 (Michael Duheme); CIMM, *Evidence*, 25 November 2022, 1325 (Martin Roach, Superintendent, Acting Criminal Operations Officer, C Division, Royal Canadian Mounted Police).

34 CIMM, *Evidence*, 25 November 2022, 1330 (Michael Duheme).

35 *Customs Act*, R.S.C. 1985, c.1 (2nd Supp), s. 11 (1). Every person arriving in Canada shall...enter Canada only at a customs office designated for that purpose and without delay present themselves to an officer and answer truthfully any questions asked by the officer in the performance of their duties.

36 CIMM, *Evidence*, 25 November 2022, 1320 (Michael Duheme).

37 CIMM, *Evidence*, 25 November 2022, 1340 (Martin Roach).

38 *Ibid.*, 1325.



The Canada Border Services Agency at the Port of Entry

Once the RCMP transfers the asylum-seekers to the CBSA, they are processed at Saint-Bernard-de-Lacolle. This is a port of entry that operates 24 hours a day, seven days a week, and the CBSA must determine the asylum-seeker's admissibility into Canada and the eligibility of their claim under IRPA. Before asylum-seekers "can leave the port of entry, they first undergo robust health and security screening. This includes biographic and biometric checks, as well as the initiation of security and criminality checks."³⁹ Security screening looks at an individual's criminality and if they may be a security risk to Canada or Canadians. At the border, CBSA officers must also decide if a claim is eligible to be referred to the IRB for a hearing. Three main factors determine this decision: if the individual has committed a serious crime, made a previous claim in Canada or has received protection in another country.

Aaron McCrorie informed the Committee how long it took for officers at the port of entry to process a claim and why: "[I]t can take four to six hours to process a claim in person."⁴⁰ He explained that the timeframe "depends on several factors such as the amount of detailed information supplied by the claimant, the availability of additional information, and whether or not further research is required."⁴¹

The CBSA has invested in short-term accommodations for the asylum-seekers to have an appropriate waiting space while their claim is being processed: there are beds, showers, meals, and medical care.⁴² Appolonie Simbizi, Secretary General, Alliance des Burundais du Canada, told the Committee that her organization "applaud[s] the efforts of the federal government, which has established basic infrastructure just off Roxham Road to care for these asylum-seekers."⁴³

Due to the volume of asylum-seekers, the CBSA has adapted its processes. This meant asylum-seekers left the border with documents entitled: an "Entry for Further Examination" and an "Acknowledgment of Claim."⁴⁴ The Acknowledgement of Claim gives the holder access to the Interim Federal Health Program. Christiane Fox of IRCC told

39 CIMM, [Evidence](#), 25 November 2022, 1315 (Aaron McCrorie). Biometrics include fingerprints and photographs.

40 Ibid., 1345.

41 Ibid., 1315.

42 Ibid.

43 CIMM, [Evidence](#), 15 November 2022, 1650 (Appolonie Simbizi, Secretary General, Alliance des Burundais du Canada).

44 The Refugee Centre, [Brief](#), 14 November 2022, p. 1.

the Committee that the IRB, the CBSA and IRCC share the mandate for the asylum system.⁴⁵ At the asylum-seeker's request, the CBSA provides them a blank paper basis of claim form to fill out. Richard Wex informed the Committee that the IRB extended the timelines for filing, and that for the region of Quebec created a "bridge" with the bare minimum information on the basis of claim to be filled out within 15 days of referral.⁴⁶ IRCC is responsible for claims made within Canada, at an IRCC office. For asylum-seekers at the border, Christiane Fox explained that during the government's quarantine measures, "given the public health risk [due to COVID-19] there was a decision made for the government to pay for the hotels, and just given the levels that we're seeing now, the government has agreed to continue to pay."⁴⁷

CHAPTER 2: CONCERNS AT ROXHAM ROAD AND THE FUTURE OF THE SAFE THIRD COUNTRY AGREEMENT

The main concerns that the Committee heard about Roxham Road are the volume of irregular migrants arriving at the border, the trauma experienced by refugees throughout the process, and the possibility of human smuggling. This chapter also provides a discussion on the future of the STCA, and a discussion about whether the U.S. is a safe country for refugees.

Irregular Crossing in Numbers

The Scale of the Irregular Migration Across the Globe

According to UNHCR statistics, an unprecedented 103 million people around the globe were forcibly displaced from their homes because of persecution, conflict, and violence in the first six months of 2022. Of that number, 4.9 million migrants have filed an asylum claim, left with no other option than to formally seek protection in another country. Of that 4.9 million, Canada receives less than 1% of the world's total refugee claims.⁴⁸ In

45 CIMM, [Evidence](#), 18 November 2022, 1305 (Christiane Fox).

46 CIMM, [Evidence](#), 25 November 2022, 1355 (Richard Wex); IRB, [UPDATE—Temporary Procedures regarding the Submission of the Basis of Claim Form in Quebec Extended Until Further Notice](#), 29 March 2018; IRB, [Practice Notice: Revised Temporary Procedures for providing the Basis of Claim Form in Quebec](#), 22 September 2017.

47 CIMM, [Evidence](#), 18 November 2022, 1340 (Christiane Fox).

48 CIMM, [Evidence](#), 15 November 2022, 1645 (Rema Jamous Imseis).



fact, while the total influx of migrants has risen over the years, Canada's proportional contribution to global humanitarian migration has decreased.⁴⁹

Canada's geographical location is key in understanding why it welcomes a small portion of refugees around the world. Physical access to the territory is limited, as it is surrounded by three oceans, to the north, west, and east, and it is only bordered by the U.S., to the south.⁵⁰ Despite its relative remoteness, Canada has not shied away from its international obligations in regard to humanitarian migration, in particular, by opening up administrative pathways to foreign nationals seeking shelter from international crises (i.e. Syria, Afghanistan, Ukraine).⁵¹ In those instances, measures and programs were put in motion to regularize and document migrants before they arrived in Canada. Nevertheless, although it does not compare with alarming migratory patterns observed in the Mediterranean Sea or at the U.S.–Mexican border, irregular migration through Roxham Road has exerted considerable pressure on Canada's existing structures and systems.⁵²

The Scale of the Irregular Migration in Canada

In late November 2022, IRCC projected that 84,000 to 94,000 refugees would make an asylum claim in Canada in 2022, and of that number, 45,000 to 50,000 refugees would enter the country irregularly.⁵³ This far exceeds the last record set for irregular entries in Canada dating from 2017, when 18,836 asylum claimants entered Canada illegally.⁵⁴ According to the IRCC, these numbers justify the need for engaged discussions with the U.S. administration regarding the STCA.⁵⁵

49 CIMM, [Evidence](#), 25 November 2022, 1430 (Yannick Boucher, Director, Strategic Development and Research, Accueil liaison pour arrivants).

50 CIMM, [Evidence](#), 18 November 2022, 1305 (Hon. Sean Fraser).

51 CIMM, [Evidence](#), 22 November 2022, 1600 (Abdulla Daoud, Executive Director, The Refugee Centre).

52 CIMM, [Evidence](#), 22 November 2022, 1705 (Stephan Reichhold, Director General, Table de concertation des organismes au service des personnes réfugiées et immigrantes).

53 CIMM, [Evidence](#), 18 November 2022, 1315, 1350 (Christiane Fox); CIMM, [Evidence](#), 25 November 2022, 1350 (Richard Wex).

54 CIMM, [Evidence](#), 25 November 2022, 1410 (Stéphane Handfield, Lawyer, Handfield et Associés, Avocats, As an individual).

55 CIMM, [Evidence](#), 18 November 2022, 1330 (Christiane Fox).

Although these projections are valuable for the IRCC, the distinction between regular and irregular is not relevant from an IRB-perspective in the context of the refugee claim processes. As noted by Richard Wex:

Just to be very clear, the board does not make any distinction in the adjudication of claims between regular claimants and irregular border crossers. It's of no consequence from an adjudicative perspective.⁵⁶

As such, an irregular migrant will benefit from the same level of procedural fairness as a regular one, and the fact that there was an irregular crossing will not be factored-in when the IRB assesses the credibility of a refugee claimant. Nonetheless, the influx of refugees arriving at Roxham Road has had direct consequences on delays of processing files, and on the integrity and quality of work conducted within the IRB.⁵⁷

The UNHCR reported that 61% of irregular, but admissible, asylum-seekers are successful in their claim and accepted as designated protected persons in Canada.⁵⁸ Furthermore, one-third of irregular refugee claimants who file for appeal are successful upon review by the Refugee Appeal Division of the IRB.⁵⁹ Put in comparison, the average acceptance rate for all admissible refugee claimants seeking protection in Canada is 66%.⁶⁰ According to the UNHCR, these numbers illustrate the merit of claims presented by irregular migrants, as well as to the robustness and sophistication of Canada's asylum system.

Although the surge in irregular migrants is observed elsewhere in Canada,⁶¹ the vast majority of irregular crossings to Canada take place at Roxham Road, in the province of Quebec. IRCC has held that 90% of all irregular entries to Canada are made by crossing at that location.⁶² The RCMP supported that finding, and shared that, between 2017 and 2021, 95% of RCMP interceptions after illegal crossings have occurred at Roxham Road.⁶³

56 CIMM, [Evidence](#), 25 November 2022, 1335 (Richard Wex).

57 CIMM, [Evidence](#), 25 November 2022, 1440 (Stéphane Handfield).

58 CIMM, [Evidence](#), 15 November 2022, 1645 (Rema Jamous Imseis).

59 CIMM, [Evidence](#), 15 November 2022, 1720 (Azadeh Tamjeedi, Senior Legal Officer and Head of Protection Unit, United Nations High Commissioner for Refugees).

60 CIMM, [Evidence](#), 22 November 2022, 1655 (Maureen Silcoff, Lawyer and Past President, Canadian Association of Refugee Lawyers).

61 CIMM, [Evidence](#), 25 November 2022, 1420 (Marzieh Nezakat, Manager, Refugee Settlement and Integration Program, Multilingual Orientation Service Association for Immigrant Communities).

62 CIMM, [Evidence](#), 18 November 2022, 1325 (Christiane Fox).

63 CIMM, [Evidence](#), 25 November 2022, 1320 (Michael Duheme).



These observations have led IRCC to recognize the importance of reallocating resources from other regions into Quebec, and sharing the workload appropriately with their provincial partners,⁶⁴ as will be discussed in Chapter 3.

Trauma of Asylum-Seekers and Impact of Human Smuggling

Traumatic Experiences of Asylum-Seekers Crossing Irregularly to Canada

Although numbers may shed light on the issue at hand, they fall short of illustrating the distress experienced by migrants crossing irregularly into Canada. Witnesses who appeared before the Committee were able to open a window into those traumatic experiences. Whether sharing personal accounts of their most recent visits to Roxham Road or narratives of migrants they encountered in the context of their work, witnesses have shared heart-breaking stories with the Committee for the purpose of this study. This section will discuss trauma, in some places with detail that may be triggering to some readers.

Frantz André, Spokesperson and Coordinator, Comité d'action des personnes sans statut, as a member of the Haitian Canadian community, shared the experiences of Haitian refugee claimants arriving in Canada via Roxham Road, as a large portion of migrants arriving there are of Haitian origin:

Their arrival via Roxham Road is described as “irregular.” What must be described as not only irregular, but also tragic, is the fact that these Haitian migrants have had to transit numerous countries, travelling through forests or areas where they were targeted by robbers, when they were not being attacked by wild animals. Some migrant women in particular have suffered sexual violence along the way.⁶⁵

Marzieh Nezakat, Manager, Refugee Settlement and Integration Program, Multilingual Orientation Service Association for Immigrant Communities (MOSAIC), testified about the struggles by families and children in their journeys to Canada:

The amount of trauma these families with their young kids have gone through is beyond expression, considering the fact that many of these individuals might have been subject to human [smuggling] to make their way to Canada. Not having any status, the guilt and

64 CIMM, *Evidence*, 25 November 2022, 1315 (Aaron McCrorie).

65 CIMM, *Evidence*, 22 November 2022, 1555 (Frantz André, Spokesperson and Coordinator, Comité d'action des personnes sans statut).

shame of having crossed the border irregularly, and having been denied a refugee claim, has had a toll on these refugee claimants.⁶⁶

Maureen Silcoff, Lawyer and Past President of the Canadian Association of Refugee Lawyers, offered a story of a woman who was fleeing gender-based violence in her home country. As she was barred from seeking protection in the U.S., and in order to make it to Canada, she hung on to the back of a freight train with her two minor children “because she knew that if she stayed in the United States, there was a strong likelihood that she would be deported to face renewed gender-based harm.”⁶⁷ She was granted refugee status.

Janet McFetridge, Mayor of Champlain, the small American town adjacent to Roxham Road, witnesses every day migrants taking their last steps in the U.S. before they enter Canada as asylum-seekers. Migrants she has spoken with are often consumed by fear and are caught off guard by the northern climate. They have no other option than to cross irregularly and to follow the tracks left by many vulnerable individuals that have crossed to Canada before them. Although they might have been persecuted at the hand of state authorities in their former country, they still head into Canada knowing they will be apprehended by the RCMP. Janet McFetridge remarked that Roxham Road has become well-known, even gaining a compelling reputation in certain international communities that seek protection.⁶⁸

Eva-Gazelle Rududura spoke on behalf of the Burundian community. She maintained that although Roxham Road was known to migrants who wished to enter Canada, she did not believe that this had any weight in the decision they made when they considered fleeing from Burundi.⁶⁹ For her part, Appolonie Simbizi of Alliance des Burundais du Canada reiterated that: “These people are at an impasse. ... If these people are risking their lives by going through these roads even in winter when the conditions are harsh, it is because they have no other choice.”⁷⁰

The UNHCR reminded the Committee that refugees arriving at Roxham Road carry baggage of trauma, devastation, and loss. Refugees may be grateful for the welcome, but they are above all exercising their right to claim Canada’s protection from the causes

66 CIMM, [Evidence](#), 25 November 2022, 1420 (Marzieh Nezakat).

67 CIMM, [Evidence](#), 22 November 2022, 1655, 1735 (Maureen Silcoff).

68 CIMM, [Evidence](#), 15 November 2022, 1655 (Janet McFetridge, Mayor of Champlain, New York, Plattsburgh Cares).

69 CIMM, [Evidence](#), 22 November 2022, 1620 (Eva-Gazelle Rududura).

70 CIMM, [Evidence](#), 15 November 2022, 1715 (Appolonie Simbizi).



that have led to their displacement.⁷¹ The UNCHR's sentiment was also echoed by Minister Fraser, who highlighted the fact that no one "decides to risk everything to cross the border," leaving all that they know "to live in limbo with an uncertain future."⁷² Drawing from firsthand encounters with displaced people, the Minister recognized that these individuals and families had no other choice to save their own lives and well-being, than to cross irregularly. Witnesses who testified before the Committee shared some eye-opening stories, which exemplified the perilous journey that refugees are willing to embark on to reach Canada, desperate and down to their last resort.⁷³

Human Smuggling at Roxham Road

Unfortunately for the RCMP, it is difficult to apprehend criminals that take advantage of the precariousness of migrants, and compound the trauma experienced by asylum-seekers outside of the Canadian jurisdiction. As the Deputy Commissioner of the RCMP explained, it is a challenge to have migrants talk about their experience once they are on Canadian soil, as they have reached their goal and do not wish to compromise themselves.⁷⁴ And yet, human smuggling circuits are amongst the structures that are suspected to cause further harm to vulnerable migrants. Telltale signs of human smuggling are observed daily at Roxham Road and have raised increasing concern for the well-being of migrants crossing irregularly to Canada.⁷⁵ Groups of migrants often arrive in "van-loads" with sometimes up to 50 individuals crossing simultaneously to the Canadian side.⁷⁶

The RCMP is well-aware of human smuggling at Roxham Road. The vulnerability of displaced people makes them "easy prey for smuggling networks, which are made up of transnational organized crime groups known to engage in violence, including criminal activity."⁷⁷ Deputy Commissioner Michael Duheme confirmed the existence of coordinated efforts for human smuggling, the scale of which can vary from national to transnational.⁷⁸ Many cases of smuggling have led to charges being laid by the RCMP for groups established in Canada and the U.S. However, enforcement of criminal law outside

71 CIMM, [Evidence](#), 15 November 2022, 1645 (Rema Jamous Imseis).

72 CIMM, [Evidence](#), 18 November 2022, 1405 (Hon. Sean Fraser).

73 CIMM, [Evidence](#), 15 November 2022, 1650 (Appolonie Simbizi).

74 CIMM, [Evidence](#), 25 November 2022, 1330 (Michael Duheme).

75 CIMM, [Evidence](#), 15 November 2022, 1720 (Janet McFetridge).

76 *Ibid.*, 1655.

77 CIMM, [Evidence](#), 25 November 2022, 1320 (Michael Duheme).

78 *Ibid.*, 1330.

of Canada is complicated, as the American authorities do not consider these activities as constitutive of a “human smuggling” infraction.⁷⁹

As human smuggling has progressively become more flagrant,⁸⁰ media scrutiny has increasingly shifted its attention towards this dangerous trend. Frantz André indicated he had participated in a broadcast news story for “*Enquête*” at *Radio-Canada*, which investigated human smuggling activities in Florida. Frantz André quoted “unbelievable amounts,” from \$8,000 to \$12,000, and mentioned one woman he knew of who had been refouled to Chile three times had spent \$37,000 in attempting to arrive at her destination.⁸¹ The story highlighted the fact that up to \$12,000 was extorted from migrants well before they had reached the southern shores of the U.S. Claimants then have to spend an additional ten thousand dollars to deal with smugglers, and be driven to Roxham Road.⁸² He noted that migrants are ready to sacrifice everything, including their entire livelihood, in order to reach their destination. Smugglers are aware of the desperation of migrants trying to reach safer shores, and do not hesitate to take advantage of their precariousness.⁸³

Marzieh Nezakat explained that the majority of families and individuals who cross the Canadian border have “exhausted their financial resources” making it from their country of origin to transitory countries in South America, then through the U.S. and finally to Canada.⁸⁴ As explained by Marzieh Nezakat, human smuggling has a direct effect on Canada’s capacity to integrate and regularize refugees. Their trauma is not only compounded by the fact that they have been subjected to human smuggling to make their way to Canada, but they are also forced to exhaust all of their financial resources to make their way via transitory countries. Upon their arrival, having to wait significant time before they are granted a work permit, “they are left with seeking aid [from] the community, agencies or working illegally as their last resort which [exposes them] to discrimination, stigmatization, and all sorts of potential abuse by employers.”⁸⁵

79 CIMM, [Evidence](#), 25 November 2022, 1355 (Martin Roach).

80 CIMM, [Evidence](#), 25 November 2022, 1340 (Michael Duheme).

81 CIMM, [Evidence](#), 22 November 2022, 1625 (Frantz André).

82 CIMM, [Evidence](#), 25 November 2022, 1435 (Stéphane Handfield).

83 Ibid.

84 CIMM, [Evidence](#), 25 November 2022, 1420 (Marzieh Nezakat).

85 Ibid.



Investigate Human Trafficking at the Canada-United States Border

Recommendation 3

That the Royal Canadian Mounted Police leverage its long-term relationship with Interpol, the Federal Bureau of Investigation, and various state and local law enforcement agencies in the United States of America to investigate and, if appropriate, to bring charges against human trafficking criminal organizations that operate across the Canada-United States border.

Safe Third Country Agreement: Proposals for the Future

Benefits and Consequences of the Agreement

Despite the overwhelming trauma and insecurity faced by migrants resorting to cross to Canada irregularly, numbers of irregular migrants have inexorably increased at Roxham Road. Many reasons can explain this surge in numbers, such as administrative decisions made in the U.S. which affect refugee rights on American soil. In 2017 a surge in numbers was observed in Canada after the White House cut back on the Temporary Protected Status designation for certain foreign nationals, and Haitians were threatened of being massively deported back to their country of origin.⁸⁶ But underlying all reasons that may explain increased irregular entry to Canada, the issue remains how the application of the STCA regulates the border.

Witnesses who work with irregular migrants have made a strong case against the STCA as it currently functions in Canada, noting how it pushes many claimants to use unofficial ports of entry like Roxham Road, and the ensuing socio-economic consequences it has on refugee claimants. IRCC officials admitted that the asylum system should strive to work in favour of the most vulnerable:

When we look at the asylum claimants, you're absolutely right: People are taking great risks to cross either at Roxham or at other border crossings. I think that Canada has to think about how we organize ourselves to protect the most vulnerable. Our view is that the points of entry are the safest way in which a person can make an asylum claim in this country and, as such, we need to build a system that can respond to that.⁸⁷

Minister Fraser also argued that the STCA should be maintained as it complements the overarching objectives of Canada's immigration policies and directives. In coming to the

86 CIMM, [Evidence](#), 22 November 2022, 1610 (Frantz André).

87 CIMM, [Evidence](#), 18 November 2022, 1345 (Christiane Fox).

defence of the STCA, he indicated that “there is no logical inconsistency with promoting regular migration pathways and still demonstrating compassion towards some of the world’s most vulnerable people who are coming to our country.”⁸⁸ The Minister made the argument that the STCA is the appropriate tool to strike an equitable balance between these two overarching objectives.

According to the UNHCR, bilateral and multilateral agreements like the STCA may carry some benefits when they help states to uphold their international legal obligations.⁸⁹ An agreement of this type can ensure there is responsibility sharing between signatory parties through regional approaches, and may contribute to the improvement of protection and asylum systems.⁹⁰ The IRB indicated that the STCA was indeed created for such a purpose: to promote safety, and international responsibility sharing.⁹¹ The UNHCR stated that such agreements should guarantee at minimum that safe and efficient asylum systems are maintained in each signatory state, and that neither country will remove failed refugees into situations of danger.⁹² Representatives of the UNHCR did agree that the U.S. meets the criteria of a safe third country, and in reference to the U.S. in particular, Rema Jamous Imseis said: “UNHCR would not refer refugees to be resettled in a country that is determined to be unsafe.”⁹³

Nevertheless, Maureen Silcoff emphasized that “the deleterious effects of the STCA ... clearly outweigh its benefits.”⁹⁴ The following organizations that testified before the Committee agreed that it would be preferable to suspend the STCA:

- a) The Refugee Centre,⁹⁵ whose representatives concluded that suspending the STCA would be beneficial for both the public administration of claims and for settlement services helping refugees;⁹⁶

88 CIMM, [Evidence](#), 18 November 2022, 1440 (Hon. Sean Fraser).

89 CIMM, [Evidence](#), 15 November 2022, 1725 (Rema Jamous Imseis).

90 *Ibid.*, 1710.

91 CIMM, [Evidence](#), 25 November 2022, 1335 (Richard Wex).

92 CIMM, [Evidence](#), 15 November 2022, 1710 (Rema Jamous Imseis).

93 *Ibid.*, 1705.

94 CIMM, [Evidence](#), 22 November 2022, 1655 (Maureen Silcoff).

95 CIMM, [Evidence](#), 22 November 2022, 1630 (Pierre-Luc Bouchard, Refugee Lawyer and Head of Legal Department, The Refugee Centre).

96 CIMM, [Evidence](#), 22 November 2022, 1630 (Abdulla Daoud).



- b) The Comité d'action des personnes sans statut, whose representative reiterated that eliminating the STCA would prevent migrants from taking unsafe routes to reach Canada, and enable them to enter in a dignified manner;⁹⁷
- c) The Quebec Immigration Lawyers Association, which indicated that without the STCA, there would be a better distribution of refugee claimants across Canada, leading to better accessibility to social and legal services.⁹⁸ Suspension of the STCA would also release some of the pressure applied on the CBSA and the IRB's divisions in Quebec;⁹⁹
- d) The Table de concertation des organismes au service des personnes réfugiées et immigrantes, which agreed that suspending the STCA would bring order and control to the border, and could help relieve the pressure on Quebec's social services for newcomer assistance and legal aid.¹⁰⁰

Stéphane Handfield, Lawyer, Handfield et Associés, also recommended that the STCA be suspended, and that refugee claims be filed at official ports of entry on the entire Canadian border, as it was the case prior to the agreement coming into force in 2004.¹⁰¹ He told the Committee that article 10 of the STCA provides signatory states with the power to unilaterally suspend the application of the agreement:

Each of the parties can, by written notice given to the other, suspend the application of the current agreement for a maximum of three months. Such a suspension may be renewed for additional periods to a maximum of three months.¹⁰²

Using this mechanism to temporarily suspend the STCA could act as a test for Canada to measure if returning to the conditions pre-STCA would be opportune for Canada's asylum system.¹⁰³

97 CIMM, [Evidence](#), 22 November 2022, 1635 (Frantz André).

98 CIMM, [Evidence](#), 22 November 2022, 1700 (Vincent Desbiens, Lawyer, Quebec Immigration Lawyers Association).

99 CIMM, [Evidence](#), 22 November 2022, 1725 (Perla Abou-Jaoudé, Lawyer, Quebec Immigration Lawyers Association).

100 CIMM, [Evidence](#), 22 November 2022, 1720 (Stephan Reichhold).

101 CIMM, [Evidence](#), 25 November 2022, 1425 (Stéphane Handfield).

102 *Ibid.*, 1410.

103 *Ibid.*, 1435.

It is important to note that Minister Sean Fraser did not agree that suspending the STCA would be the best solution. The Minister pushed back on the assertion that suspending the STCA would be advisable for migrants' overall safety. He foresaw the suspension of the STCA as a potential "pull factor" that would cause "thousand[s] upon thousand[s] of people ... to put themselves in danger" across their migration journey.¹⁰⁴ The Minister also highlighted there would be a possibility that human smuggling may be exacerbated by the suspension of the agreement.¹⁰⁵

Minister Fraser favours an approach to border control that promotes regular migration pathways through official ports of entry,¹⁰⁶ but that also abides by domestic and international legal obligations owed to those who are seeking to escape vulnerable circumstances.¹⁰⁷ The Minister stated that "we need to ... remain compassionate towards people who are fleeing vulnerable circumstances, but not necessarily as a strategy to pursue economic growth."¹⁰⁸ Instead, the Minister believes that the focus should be on facilitating and incentivizing access to regular migratory pathways for foreign nationals who wish to immigrate for genuine economic reasons, and tailoring these programs to meet key gaps in the labour force,¹⁰⁹ notably through international cooperation platforms.¹¹⁰

In Minister Fraser's view, the STCA encourages people to make an asylum claim in the first place where they are safe. In the case of those crossing at Roxham Road into Canada, the first safe country would be the U.S., instead of extending their perilous journey to get to Canada.¹¹¹ Furthermore, the Minister argued that the current asylum system would suffer from an influx provided by suspending the agreement: "the suspension of the STCA could cause a large number of people to come across, in both irregular and regular fashions, in different parts of the country in ways that we are not currently prepared to be dealing with."¹¹²

104 CIMM, *Evidence*, 18 November 2022, 1500 (Hon. Sean Fraser).

105 *Ibid.*, 1455.

106 *Ibid.*, 1335.

107 *Ibid.*, 1505.

108 *Ibid.*, 1420.

109 *Ibid.*, 1415.

110 *Ibid.*

111 *Ibid.*, 1435.

112 *Ibid.*, 1430.



On the other hand, other witnesses cast a doubt on Minister Fraser’s suggestion that the suspension of the STCA would ultimately lead to increased migration towards Canada. Maureen Silcoff explained that such evidence was submitted by the CBSA to the Federal Court, where the Canadian Council for Refugees challenged the constitutionality of the STCA (which will be discussed in the next section), but that it was not accepted as admissible proof during trial.¹¹³ Instead, she pointed to comments made by a senior IRCC official which suggested that, on the contrary, suspending the STCA would help the current situation at Roxham Road as “people could cross at ... different ports of entry” to enter into Canada.¹¹⁴ As such, Maureen Silcoff argued in favour of the suspension of the agreement, stating that it would help “disperse people from coast to coast and eliminate the funnel to Quebec,” improving access to settlement services.¹¹⁵

Stéphane Handfield was also not aware of any projected statistics that would suggest an increase in new asylum claims made in Canada upon suspension of the STCA.¹¹⁶ Furthermore, he argued that the message currently sent by the Canadian government is that nothing concretely prevents asylum claimants from entering the country to file their claim in Canada by crossing irregularly.¹¹⁷ If the agreement was suspended, the message sent to migrants who sought protection in Canada would remain ostensibly the same. However, instead of having to deal with smugglers to reach their goal, migrants would have their right to asylum (including right of appeal) integrally recognized when they reached a designated point of entry.¹¹⁸

IRCC officials did allude to activities with respect to potential modernization of the STCA, however, any analysis developed for the purpose of these ongoing negotiations was considered to be protected information, and as such, IRCC was not willing to share it with the Committee.¹¹⁹ Christiane Fox was also careful not to reveal the content of negotiations:

113 CIMM, [Evidence](#), 22 November 2022, 1710 (Maureen Silcoff).

114 Ibid., 1655.

115 Ibid.

116 CIMM, [Evidence](#), 25 November 2022, 1435 (Stéphane Handfield).

117 Ibid., 1425.

118 Ibid., 1410.

119 IRCC, *CIMM 42.2 Safe Third Country Agreement reports and analyses, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022.*

I don't want to get into what could be or could not be put on the table. I think what I can say is that we're looking at all elements to improve the STCA, but I wouldn't want to get into specifics just in light of the bilateral conversations that are taking place.¹²⁰

Minister Sean Fraser also agreed that the STCA needed to be “improved and modernized” and that the Canadian and American governments “have been working together to identify a path forward for several year[s].”¹²¹ He noted that “having an agreement that is imperfect is far better than not having an agreement at all, but we should constantly be searching for ways to better the quality of the agreements that we have with our international partners.”¹²²

The Committee recommends:

Affirm that the United States is a Safe Third Country

Recommendation 4

That the Government of Canada publicly affirm that the United States of America is a safe third country, that is, refugee claimants who have arrived in the United States should be required to request refugee protection in the United States as opposed to Canada.

The United States as a Safe Country and Related Supreme Court Litigation

A Charter challenge was brought before the Supreme Court of Canada regarding the constitutionality of the STCA.¹²³ The court's decision will have a determining influence on the future of the agreement. The STCA was first struck down by Federal Court, but the Crown appealed the decision, and the agreement was ultimately upheld by the Federal Court of Appeal. The Supreme Court of Canada granted leave to appeal to the Canadian Council for Refugees in 2021, and the issue was heard before them in October 2022. At the time of writing, a decision is expected shortly.

120 CIMM, *Evidence*, 18 November 2022, 1330 (Christiane Fox).

121 CIMM, *Evidence*, 18 November 2022, 1450 (Hon. Sean Fraser).

122 Ibid.

123 The Canadian Council for Refugees argued that the U.S. is an unsafe country for refugees, and that the STCA contravenes Section 7 of the Canadian Charter of Rights and Freedoms, the right to life, liberty and security of the person.



Throughout this litigation, the Government of Canada’s position remained consistent—the United States of America is a safe country for refugees to make their refugee claims,¹²⁴ and the STCA is constitutional.¹²⁵ Minister Fraser told the Committee that Canada is “obliged under the agreement to monitor” a number of factors “on an ongoing basis,” including “whether [the U.S. is] party to certain treaties, their policies and practices, and whether they have a functioning asylum system that allows people to have their claim fairly adjudicated.”¹²⁶

The IRCC has undertaken contingency planning in anticipation of various potential decisions that could be made by the Supreme Court, although it could not share the contents of this plan with the Committee, as it is considered privileged information. The Crown, as respondents to this case, has sought a one-year grace period from the court in case of an adverse ruling. According to the IRCC, “if granted,” this would “provide the necessary time to develop a plan that would mitigate any risks with respect to public safety, operations at the border, or the functioning of the in-Canada asylum system, as well as to address the Court’s concerns.”¹²⁷

Assertion that the United States is a Safe Third Country in Relevant Court Proceedings

Recommendation 5

That the Government of Canada shall continue to take a posture which asserts that the United States of America is a safe third country in any relevant court proceedings.

As noted above, the UNHCR deferred to the signatory parties to make a determination as to what qualifies as a safe country under the STCA, as each party to the Agreement is contracted to conduct periodic reviews to make sure that the agreement upholds the basic legal standards that are applicable in international refugee law.¹²⁸ The UNHCR did appreciate the fact that “there are improvements in the system related to gender-based violence claims and gang-based violence claims in the U.S.”¹²⁹ notably since *Matter A-B-* was vacated by Executive order in June 2021, and since President Biden pledged to

124 CIMM, [Evidence](#), 18 November 2022, 1310 (Christiane Fox).

125 CIMM, [Evidence](#), 18 November 2022, 1410 (Hon. Sean Fraser).

126 Ibid.

127 IRCC, *CIMM 42.2 Safe Third Country Agreement reports and analyses, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

128 CIMM, [Evidence](#), 15 November 2022, 1705 (Rema Jamous Imseis).

129 CIMM, [Evidence](#), 15 November 2022, 1725 (Azadeh Tamjeedi).

restore asylum for those fleeing gang brutality.¹³⁰ According to Minister Fraser, these most recent developments in the U.S. would “move the needle towards satisfying the standard that we would require” for the U.S. to be qualified as safe.¹³¹

When asked by Committee members, several witnesses sided with the Canadian Council for Refugees’ claim before the Supreme Court of Canada, that the U.S. is not a safe country for refugee claimants. Janet McFetridge, Mayor of Champlain and American citizen, for one, expressed the view that the American asylum system was “extremely broken,” in consideration of the situation at the American southern border and the ensuing “pipeline” of migrants coming into Canada.¹³²

Frantz André, representative for the Comité d’action des personnes sans statut, suspected that the U.S. was circumventing the STCA by rejecting refugee claims that should be admitted in their country, and that the Canada-U.S. agreement was discriminatory.¹³³ He noted that 28,000 Haitians were deported from the U.S. without having an opportunity to have their cases heard.¹³⁴ He also reported that mistreatment and racism were commonplace for migrants in the U.S., and that the American rigid approach to humanitarian migration was leading to the irregular migration at Roxham Road.¹³⁵ On this point, Frantz André provided the Committee with disconcerting descriptions of the American system reported in the media.¹³⁶ He noted that although the U.S. had extended temporary protected status in November for Haitian nationals who are making asylum claims, the Haitian diaspora was anxious and uncertain about their status in that country.¹³⁷

Appolonie Simbizi of Alliance des Burundais du Canada, agreed that the degradation of the situation in Roxham Road “stems from the protection system for asylum-seekers in the United States, which has been broken for a number of years.”¹³⁸ According to

130 *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018) In *Matter A-B-*, Jeff Sessions, the U.S. Attorney General for the Trump administration, had reversed a decision made by the Board of Immigration Appeals, rendering domestic-violence survivors ineligible claimants for the purpose of refugee protection.

131 CIMM, *Evidence*, 18 November 2022, 1410 (Hon. Sean Fraser).

132 CIMM, *Evidence*, 15 November 2022, 1710 (Janet McFetridge).

133 CIMM, *Evidence*, 22 November 2022, 1615 (Frantz André).

134 *Ibid.*, 1555.

135 *Ibid.*, 1625.

136 *Ibid.*, 1555.

137 *Ibid.*, 1610.

138 CIMM, *Evidence*, 15 November 2022, 1650 (Appolonie Simbizi).



Appolonie Simbizi, the “uncertainty of the protection system” and delays in processing of refugee claims in the U.S. have left many migrants to live in “limbo,”¹³⁹ separated from their families, while awaiting an ultimate decision on their lives to be made. She also noted that claimants that are rejected at designated ports of entry to Canada are often at risk of being detained in the U.S.

In particular, Maureen Silcoff explained that the U.S. was not a safe country for refugees, because the law is so restrictive that it creates unfairness for classes or groups of people asking protection from persecution.¹⁴⁰ She gave the example of asylum-seekers who are filing gender-based persecution claims as being overwhelmingly affected by the overall restrictiveness of the system, and specifically by the stringency of the one-year filing deadline rule,¹⁴¹ as many of them are coming forward late because of trauma and cultural shame.¹⁴²

Maureen Silcoff also pointed to the fact that the U.S. treats detention “as an immigration management tool,”¹⁴³ in contrast with how the UNHCR specifies that it should be used, and how it is handled in Canada—that is, detention as a last resort and temporary solution. Stéphane Handfield agreed with this assertion, and informed the Committee that in the U.S., “migrants seeking asylum who are detained are held in common law prisons with criminals—in some cases hardened criminals,” while in Canada, migrants are held “in purpose-built immigration detention centres that house women, children and families.”¹⁴⁴

To illustrate, Pierre-Luc Bouchard, Refugee Lawyer and Head of Legal Department for The Refugee Centre shared the following story:

Personally, I met someone just this morning from the LGBTQ+ community who came from Sierra Leone. As probably a number of migrants do, this person went south to Ecuador, because it was the only place they were able to go, and then came back up to Canada. When the person arrived in the United States, they were detained for months. In order for them to be released, a community organization in Florida, the LGBTQ Freedom Fund, had to provide \$5,000 to pay for their bond. Once the person was

139 Ibid.

140 CIMM, [Evidence](#), 22 November 2022, 1725 (Maureen Silcoff).

141 United States, *Immigration and Naturalization Act* (INA) §208(a)(2)(B) An asylum applicant must demonstrate “by clear and convincing evidence that the applicant has been filed within 1 year after the date of the [applicant’s] arrival in the United States.”

142 CIMM, [Evidence](#), 22 November 2022, 1730 (Maureen Silcoff).

143 Ibid.

144 CIMM, [Evidence](#), 25 November 2022, 1440 (Stéphane Handfield).

released, they were fitted with an electronic ankle bracelet. When their chains had been removed, the person came to Canada via Roxham Road, and the refugee claim process then started.¹⁴⁵

Exceptions in the Safe Third Country Agreement

Many witnesses provided the Committee with recommendations as to how to modernize the STCA. Frantz André, for one, indicated that “the discretionary power that border services officers have to turn certain people back has to be revised somewhat.”¹⁴⁶ Failing the suspension of the agreement, many witnesses also recommended that exceptions to the agreement be revised. Currently, the STCA applies at all ports of entry and requires that asylum-seekers request protection in the first country they arrive in, unless they qualify for an exception. As it stands, existing exceptions are limited to considerations for family unity (family member exceptions), the best interests of children (unaccompanied minors exception) and public interest (public interest exception).¹⁴⁷

In 2009, Canada removed an exemption to the STCA that permitted refugee claims to be filed at the Canadian border by foreign nationals from “moratorium countries.”¹⁴⁸ These include countries to which Canada does not deport failed refugee claimants.¹⁴⁹ Abdulla Daoud, Executive Director from The Refugee Centre,¹⁵⁰ Frantz André from Comité d'action des personnes sans statut,¹⁵¹ Eva-Gazelle Rududura from Unis pour une integration consciente au Canada,¹⁵² and Maureen Silcoff, all recommended that the exemption for moratorium countries be reinstated, failing the suspension of the STCA.

Article 6 of the STCA provides that “either Party may at its own discretion examine any refugee status claim made to that Party where it determines that it is in its public interest to do so.” To date, Canada has only exercised their discretionary power to

145 CIMM, *Evidence*, 22 November 2022, 1630 (Pierre-Luc Bouchard).

146 CIMM, *Evidence*, 22 November 2022, 1615 (Frantz André).

147 CIMM, *Evidence*, 18 November 2022, 1405 (Hon. Sean Fraser).

148 *Regulation Amending the Immigration and Refugee Protection Regulations*, SOR/2009-210, see accompanying Regulatory Impact Analysis Statement, pp. 1470–1475.

149 CIMM, *Evidence*, 22 November 2022, 1655 (Maureen Silcoff).

150 CIMM, *Evidence*, 22 November 2022, 1645 (Abdulla Daoud).

151 CIMM, *Evidence*, 22 November 2022, 1645 (Frantz André).

152 CIMM, *Evidence*, 22 November 2022, 1645 (Eva-Gazelle Rududura).



exempt refugee claimants facing the death penalty.¹⁵³ Maureen Silcoff recommended that the flexibility provided by this provision be used to expand the STCA, and exempt refugees making gender-based claims. She also pointed out that the UNCHR had already made a recommendation in that sense in 2002.¹⁵⁴ Although pathways to protection for refugee survivors of gender-based violence and gang brutality were restored in the U.S. in 2021, following the vacation of *Matter A-B-* by the Biden administration, there is still concern regarding the viability of gender-based claims made on American soil.

Maureen Silcoff also recommended that the public policy exemption be expanded to exempt refugees who are in danger of being incarcerated in detention centres,¹⁵⁵ as well as for individuals barred from making a claim inside the U.S. because of the one-year threshold. These could address some of the issues that make the U.S. an unsafe country for some asylum claimants.

Many witnesses also made recommendations with respect to what changes should be avoided in future modernization of the STCA. To illustrate, The Refugee Centre condemned the government expanding the application of the STCA into IRPA through Budget Bill C-97,¹⁵⁶ by rendering ineligible to a hearing at the IRB asylum-seekers who had their claim denied in the U.S.¹⁵⁷ Maureen Silcoff also cautioned that the modernization of the STCA should not expand the application of the agreement to irregular entries between ports of entry, as this would only “drive more people to enter irregularly, undetected and without any kind of screening, and of course it will put more lives at risk.”¹⁵⁸ After having heard all of the above testimony in regard to the STCA, the Committee recommends:

153 CIMM, [Evidence](#), 22 November 2022, 1655 (Maureen Silcoff).

154 Ibid.

155 Ibid., 1735.

156 Bill C-97 of the 42nd Parliament 1st session was also known as the [Budget Implementation Act, 2019, No.1](#). Frantz André warned that expanding the STCA agreement just like Bill C-97 affected individuals coming after claiming in a Five-Eyes member (Australia, New-Zealand, United Kingdom and United States) would cause more distress for migrants seeking protection in Canada. CIMM, [Evidence](#), 22 November 2022, 1635 (Frantz André).

157 CIMM, [Evidence](#), 22 November 2022, 1635 (Abdulla Daoud).

158 CIMM, [Evidence](#), 22 November 2022, 1655 (Maureen Silcoff).

The Future of the Safe Third Country Agreement

Recommendation 6

That the Government of Canada work with the United States of America to modernize the Safe Third Country Agreement.

Public Interest Exception to Gender-based Claims

Recommendation 7

That the Government of Canada expand exemptions provided in the Safe Third Country Agreement to include gender-based claims as a public interest exception, and restore the exemption for claimants from moratorium countries.

Imperative to Not Physically Close Roxham Road

At the very least, there was a consensus amongst witnesses that physically closing Roxham Road by barricading the road was not a viable option. According to Vincent Desbiens, Lawyer and member of Quebec Immigration Lawyers Association,

simply closing Roxham Road would be even more devastating than the status quo if we kept the safe third country agreement. ... Closing Roxham Road would not stop refugee claimants from coming to Canada, but if they crossed the border just anywhere, that would reduce the government's capacity to identify them quickly, as it can now do using their fingerprints and identity papers.¹⁵⁹

Closing the road would only lead to greater risks for asylum-seekers, who would most likely go around any blockades, and instead follow unsafe alternative routes to Canada.¹⁶⁰ IRCC officials also agreed that closing Roxham Road was not in the folds right now, and that immediate action should be working on improving the existing infrastructure:

We are not closing Roxham Road right now. We need to efficiently deal with what we're seeing right now, which is the reality on the ground every day of a hundred or more who are crossing. Therefore, we have the systems in place. We're working with our partners at the RCMP and the CBSA. You're absolutely right that these are very desperate people

159 CIMM, *Evidence*, 22 November 2022, 1700 (Vincent Desbiens).

160 CIMM, *Evidence*, 22 November 2022, 1720 (Stephan Reichhold).



coming through, so we try to provide those supports, and that's what we'll continue to do.¹⁶¹

CHAPTER 3: CURRENT PROCESSING CHALLENGES FOR ASYLUM-SEEKERS IN CANADA AND THEIR IMPACTS IN QUEBEC

This chapter details the recent developments in technology used at the IRB and the CBSA to deal with the substantial processing challenges at both governmental bodies; the current situation in Quebec is discussed, highlighting the issues affecting resources and supports for refugee claimants; and the stories of success for asylum-seekers and protected persons despite the hardships they have faced.

Adoption of Technology in Meeting Processing Challenges

This section discusses the adoption of technology at the IRB and the CBSA to deal with the significant backlogs that create substantial wait times for asylum claimants. These technologies include virtual hearings at the IRB and a digital portal at the CBSA.

Recurrent Processing Challenges at the Immigration and Refugee Board

The IRB has experienced significant strain, and substantial change in the last six years. These pressures are the result of multiple factors, including the noteworthy increase of refugee claimants in Canada who are waiting for their claim to be adjudicated, as well as repercussions due to the pandemic. The significant numbers of new claimants have added onto a backlog that began long before the pandemic, while the spread of COVID-19 in March 2020 halted IRB hearings altogether for anyone whose process was underway.

In 2017 and 2018, the numbers of refugee claims through regular and irregular crossing increased significantly and, according to Richard Wex, “far outstripped” the processing capacity for the IRB, creating “the largest backlog and the longest wait times in the board’s 30-year history.”¹⁶² This put the IRB processing system under extreme strain; Richard Wex explains:

At the time, our assessment was that without interventions the backlog would reach well over 200,000 claims with wait times in excess of six years for a first-level refugee determination by [2022–2023]. The system, in our view, at that time was on the brink of

161 CIMM, *Evidence*, 18 November 2022, 1345 (Christiane Fox).

162 CIMM, *Evidence*, 25 November 2022, 1305 (Richard Wex).

collapse. As a result, in 2018–19 the IRB responded with developing an ambitious growth and transformation agenda.¹⁶³

To help manage the backlog, the IRB received temporary investments through multiple federal budgets, doubling the output on processing claims. Then, Budget 2022 made permanent the funding that had been provided on a temporary basis, allowing the IRB to continue processing at heightened capacity. Specifically, the IRB will receive \$600 million in funding over four years and \$150 million ongoing.¹⁶⁴ To complement this funding, the IRB will “receive additional funds over two years to process additional claims.”¹⁶⁵

Internal calculations indicate that the IRB has a current processing capacity of 50,000 claims per year, and for every 10,000 claims the intake is above the processing capacity, the IRB requires an additional \$45 to \$50 million per year. As of November 2022, there was a delta of over 10,000 claims in the system, and the IRB’s estimate for total intake of claims for 2022 was 75,000.¹⁶⁶ The IRB’s current claims inventory as of November 2022 was 65,000. Of these claims, one-third were unactionable due to pending documentation or security screenings.¹⁶⁷

The IRB has also created a task force to rapidly process what they have defined as “less complex claims.” Richard Wex provided detail on the task force:

This is a group of individuals, members of the refugee protection division. ... 10% of the complement are currently dedicated to this group. Over the past four years or so, since this group was established, they have finalized about 20% of the hearings.

What this does is increase access to justice more quickly for those individuals in our inventory and better utilizes our resources. That is one example of many where we have tried to instill and initiate new ideas and new approaches to expedite processing times with good effect.¹⁶⁸

Perla Abou-Jaoudé, a lawyer representing the Quebec Immigration Lawyers Association, explained that her clients have previously had to wait approximately two years for their claims to be processed at the IRB once they have received their Refugee Protection

163 Ibid.

164 IRCC, *CIMM 42.8 funding dedicated to IRB wait times, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

165 CIMM, *Evidence*, 25 November 2022, 1310 (Richard Wex).

166 Ibid., 1400.

167 Ibid., 1330.

168 Ibid.



Claimant Document from IRCC, which has itself taken at least a year, according to other witnesses.¹⁶⁹ However, Perla Abou-Jaoudé clarifies that the IRB has been moving faster more recently. In a response from IRCC tabled with the Committee, the recurrent processing delays at the IRB are broken down as follows:

The average age of claims awaiting a decision at the Refugee Protection Division (RPD) as of October 31, 2022 was 13 months.

The average processing time for claims finalized to date in 2022 (January to October) was 23 months.

As of November 2022, and based on the current RPD capacity, the projected wait time for new claims received is 16 months. The projected wait time for refugee claims already in inventory is 20 months.¹⁷⁰

However, Perla Abou-Jaoudé argues that it is not the waiting time at the IRB that is the problem, but a lack of access to a lawyer for refugee claimants that poses the biggest issue.¹⁷¹ This will be explored below in the “Access to Lawyers” sub-section of “Quebec Under Pressure: Temporary Shelter and Supports for Asylum-Seekers.”

Richard Wex testified before the Committee that, despite “hard-won gains” for processing times of applicants’ claims during the pandemic, the numbers of asylum claimants entering Canada, the vast majority of whom enter at Roxham Road, is once again putting the IRB under significant strain. He explains:

[T]he pending eligibility inventory at IRCC and CBSA is growing quickly. Their intake this year is projected to be some 90,000-plus claims, well beyond the system’s and IRB’s annual processing capacity of up to 50,000. Referrals to the board are now outpacing our annual processing capacity, leading once again to growing inventories and wait times.¹⁷²

These recurrent processing delays are reflective of the unpredictable nature of the waves of asylum claimants arriving in Canada, but they are also demonstrative of other

169 Richard Wex explains that there is a six to 12-month lag between when the asylum claimant is being processed by the Canada Border Services Agency (CBSA) and the IRCC and when their claim is being processed by the IRB. Abdulla Daoud also testified that the wait time to obtain the Refugee Protection Claimant Document can be longer than 12 months. CIMM, [Evidence](#), 25 November 2022, 1355 (Richard Wex); CIMM, [Evidence](#), 22 November 2022, 1645 (Abdulla Daoud) ; CIMM, [Evidence](#), 22 November 2022, 1715 (Perla Abou-Jaoudé).

170 IRCC, CIMM 42.12—*Top countries of origin of refused asylum claims, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*, p. 1.

171 CIMM, [Evidence](#), 22 November 2022, 1715 (Perla Abou-Jaoudé).

172 CIMM, [Evidence](#), 25 November 2022, 1310 (Richard Wex).

factors at play, including working through the backlogs prior to the COVID-19 pandemic, backlogs relating to COVID-19 processing delays, and the IRB's digital transition, including the transition to virtual hearings.

Immigration and Refugee Board Virtual Hearings

Richard Wex provided the Committee with more context about the IRB's digital transition:

[T]he board moved to a paperless and virtual hearings operating model. All files have since been digitized. Adjudicators now work almost entirely with digital files. An electronic portal has been built and is well adopted by the [counsel] community and over 98% of [IRB] hearings are now held virtually.¹⁷³

Richard Wex told the Committee that transitioning to virtual hearings was key to keeping the IRB's inventories and wait times within reason. He cited a UNHCR global trends report indicating that Canada was one of four countries that was able to reduce by a significant margin its asylum inventory at the refugee determination stage over the previous year.¹⁷⁴

The transition to the vast majority of hearings being held virtually raises many questions and concerns for witnesses, including access to justice or whether being virtual suggests more disconnect between the claimant and those determining to validity of the claim.¹⁷⁵ One witness, Frantz André, said that he believed the virtual hearings are "completely devoid of humanity, particularly when a refugee claimant is not sitting beside their lawyer or has a wi-fi connection that doesn't work."¹⁷⁶

Canada Border Services Agency Processing Delays for Eligibility of Claim

The CBSA has experienced processing delays in determining the eligibility of claims. For every asylum claimant at the border, a CBSA officer must determine the admissibility of the person before they assess the eligibility of their claim in Canada.

However, due to the staggering numbers of entrants at Roxham Road at Saint-Bernard-de-Lacolle, CBSA officers are unable to conduct all eligibility screenings upon arrival in

173 Ibid.

174 Ibid.

175 CIMM, *Evidence*, 22 November 2022, 1715 (Perla Abou-Jaoudé); CIMM, *Evidence*, 22 November 2022, 1645 (Frantz André).

176 CIMM, *Evidence*, 22 November 2022, 1645 (Frantz André).



Canada.¹⁷⁷ Aaron McCrorie explained that “[i]nitially we were processing in two parts. We did an initial assessment upon arrival, and then we adjourned the claim for a later date to be finalized in an eligibility interview at the urban processing centre.”¹⁷⁸

This created a backlog that as of November 2022 would delay an asylum-seeker 18 months for the eligibility interview.¹⁷⁹ The IRCC informed the Committee that as of 30 September 2022, 80% of eligibility decisions made for irregular claims during the eight-week period leading up to 30 September 2022 were finalized within 202 days or less.¹⁸⁰ Solutions to address the surge in volumes of asylum-claimants include the reallocation of resources from other regions to support the CBSA in Quebec, sharing the workload with IRCC officials and the creation of a digital portal.¹⁸¹

The Canadian Refugee Protection Portal

Created by IRCC during the pandemic,¹⁸² the CBSA officers at the border have been encouraging asylum-seekers to use the Canadian Refugee Protection portal. Aaron McCrorie of the CBSA told the Committee that the portal is “more user friendly,” uses plain language and is more accurate.¹⁸³ On 1 November 2022, the CBSA began a new process referred to as the “One Touch Process” that allows for asylum-seekers with full documentation (a passport and a valid e-mail) to be entirely assessed upon arrival and admitted to Canada, leaving the border with the Refugee Protection Claimant Document (or Brown Paper). These asylum-seekers must complete their claim within 45 days through the Canadian refugee protection portal.¹⁸⁴

However, witnesses raised concerns about requiring asylum-seekers to have and use computers and internet in order to process their claim, as not all claimants have access to personal computers or stable internet. Pierre-Luc Bouchard said, “there are a lot of

177 Saint-Bernard-de-Lacolle is the only CBSA office in Canada that uses temporary structures to accommodate refugee claimants. CIMM, *Evidence*, 25 November 2022, 1315 (Aaron McCrorie).

178 Ibid., 1345.

179 Ibid., 1305, 1315, 1345.

180 IRCC, *CIMM 42.1 Processing timelines for irregular asylum-seekers, IRCC’s response to a request for information made by the Standing Committee on Citizenship and Immigration on November 18, 2022*.

181 CIMM, *Evidence*, 25 November 2022, 1315 (Aaron McCrorie).

182 IRCC, *Guide 0174—Application Guide for Inland Refugee Claims Submitted through the IRCC Portal*.

183 CIMM, *Evidence*, 25 November 2022, 1350 (Aaron McCrorie). Generally when users enter their own information online, it skips a step where someone else enters the information from paper forms and may input errors, such as a spelling mistake or wrong date of birth.

184 Ibid.

administrative formalities. ... [Some asylum-seekers] have a lot of trouble with computers.”¹⁸⁵ Frantz André told the Committee that the government portal is not intuitive: “The government portal, which should make it possible for people to find information or send documents, is very difficult to use.”¹⁸⁶ Additionally, Frantz André explained a common struggle for asylum claimants from certain communities: “One of the problems at present is that people are poorly prepared. Applications are so badly put together, when people get to the hearing, there are more members of certain communities who are denied and deported.”¹⁸⁷

Additional Documentation Prior to Obtaining the Refugee Protection Claimant Document

When asylum-seekers arrive in Canada, one of the first documents they must obtain is the Refugee Protection Claimant Document, commonly known as the “Brown Paper,” that is valid for two years. The Refugee Centre submitted a brief to the Committee detailing the importance of this document for an asylum seeker:

The Brown Paper allows individuals social and economic stability through: Work permit eligibility; Study permit eligibility; Welfare support; Federal healthcare; Subsidised [*sic*] daycare; Refugee-oriented housing options.

Not being able to access these opportunities further pushes a reliance on social assistance rather than giving asylum-seekers the ability to work in a market that is facing extreme labour shortages.¹⁸⁸

It was common practice to issue the Refugee Protection Claimant Document (or Brown Paper) upon arrival in Canada, however, as the numbers of claimants became less and less manageable, what The Refugee Centre describes as a “deterioration in the bureaucratic processes and promises” that the Canadian government made to asylum-seekers occurred, and another document, the Acknowledgment of Claim, has been often issued instead of the Refugee Protection Claimant Document.

The Acknowledgement of Claim document does not afford the refugee claimant the same rights as the Refugee Protection Claimant Document—no work permit or photo identification—instead, it provides a date for a future appointment when the claimant can obtain their Refugee Protection Claimant Document. The Acknowledgement of

185 CIMM, *Evidence*, 22 November 2022, 1630 (Pierre-Luc Bouchard).

186 Ibid., 1555.

187 CIMM, *Evidence*, 22 November 2022, 1615 (Frantz André).

188 The Refugee Centre, *Brief*, 14 November 2022, p. 3.



Claim document does, however, give the claimant access to the Interim Federal Health Program. The Refugee Centre testified that over 90% of the 312 asylum-seekers they have worked with since the Acknowledgement of Claim started being issued received an Acknowledgement of Claim with a date in the future to obtain their Refugee Protection Claimant Document.¹⁸⁹ The wait times for an appointment to obtain the Refugee Protection Claimant Document began at three to six weeks, but more recently, the new appointment dates average 16–18 months from the date of issue.¹⁹⁰ Additionally, Abdulla Daoud told the Committee that from entry, an asylum claimant can wait up to four years to gain safety in Canada.¹⁹¹

Entry for Further Examination Document

The Entry for Further Examination document is yet another document that the CBSA issues which postpones the claimant from making their claim by providing a future date for the claimant to return in order to initiate their process. Abdulla Daoud confirmed that this document further delays an asylum seeker from obtaining their Refugee Protection Claimant Document for an additional 12 to 24 months.¹⁹² This document is specifically issued to asylum claimants who cross irregularly, and not to inland asylum claimants.

Due to the increased processing times created by these new documents, the Committee recommends:

Cease Issuance of Entry for Further Examination Documents

Recommendation 8

That the Canada Border Services Agency cease issuance of the Entry for Further Examination document to irregular asylum-seekers.

Implications for Asylum-Seekers

Many witnesses highlighted that without a Refugee Protection Claimant Document (or Brown Paper) being issued immediately, asylum-seekers are unable to legally work as

189 CIMM, *Evidence*, 22 November 2022, 1600 (Abdulla Daoud).

190 The Refugee Centre, *Brief*, 14 November 2022, p. 2.

191 CIMM, *Evidence*, 22 November 2022, 1600 (Abdulla Daoud).

192 *Ibid.*, 1635.

they cannot obtain a work permit, altogether inhibiting asylum-seekers from gaining legal employment.¹⁹³ Frantz André described the issue well:

[T]he “brown paper,” that allows the holder to obtain a work permit, it requires other preliminary documents to be completed and submitted electronically in order for the claim to be analysed. However, since some migrants do not have the technical skills or the ability to write in one of the two official languages, some migrants send the documents in late, so there is a long waiting period before they obtain a work permit. This means that they have no choice but to continue receiving last resort assistance, which is insufficient to meet their basic needs and keeps them in a precarious situation. ... Some choose to work under the table and are then at the mercy of employment agencies that do not abide by labour standards or employers who subject them to abusive working conditions.¹⁹⁴

There are many unintended consequences that flow from asylum-seekers not being able to work legally, including that they cannot support themselves. This forces asylum-seekers “into a cycle of systemic poverty”¹⁹⁵ and adds to “the stereotype that ‘refugees are only coming to take advantage of our social security system.’”¹⁹⁶ It can also force asylum-seekers into even more precarious situations. Witnesses emphasized that not being able to support yourself through legal employment is a vulnerability that asylum-seekers should not be carrying with them in Canada. Countless witnesses called for the rapid issuance of work permits for asylum-seekers, if not on the day of arrival.

Another unintended consequence of not issuing the Refugee Protection Claimant Document to asylum claimants is that they lack photo identification, creating further vulnerability in regard to housing, employment, education and healthcare. To resolve this problem, The Refugee Centre suggested the establishment of a temporary federal photo ID card when a Refugee Protection Claimant Document cannot be issued, as well as the extension of validity for the document from two to four years.¹⁹⁷

Taking into consideration the negative impacts of asylum-seekers not having access to legal employment and photo identification, the Committee recommends:

193 CIMM, *Evidence*, 25 November 2022, 1415 (Yannick Boucher); CIMM, *Evidence*, 22 November 2022, 1700 (Vincent Desbiens); The Refugee Centre, *Brief*, 14 November 2022, pp. 1–2; CIMM, *Evidence*, 22 November 2022, 1625 (Frantz André); CIMM, *Evidence*, 15 November 2022, 1645 (Rema Jamous Imseis); CIMM, *Evidence*, 25 November 2022, 1420 (Marzieh Nezatkat).

194 CIMM, *Evidence*, 22 November 2022, 1555 (Frantz André).

195 CIMM, *Evidence*, 22 November 2022, 1600 (Abdulla Daoud).

196 The Refugee Centre, *Brief*, 14 November 2022, pp. 6–7.

197 *Ibid.*, pp. 6–7, 12.



Issuance of Work Permit and Refugee Protection Claimant Document upon Arrival

Recommendation 9

That Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency work in tandem to issue Work Permits and Refugee Protection Claimant Documents to all eligible asylum-seekers upon arrival, whether regular or irregular, at the Canadian border.

Extension of the Refugee Protection Claimant Document Period of Validity

Recommendation 10

That the Immigration, Refugees and Citizenship Canada extend automatically the validity period of the Refugee Protection Claimant Document if the final Immigration and Refugee Board determination is not made before the document's expiry.

New Policy on Obtention of Work Permits Prior to Eligibility Determination

The significant delays in asylum-seekers access to work permits sparked a new public policy that IRCC implemented on 16 November 2022 to reduce the wait time for a work permit to one month, while also allowing an asylum-seeker to obtain a work permit prior to receiving their eligibility decision, which has also seen delays.¹⁹⁸ The new policy is meant to assist both people who would arrive at the border from now on, and those that are already in the system.¹⁹⁹

The Minister of IRCC told the Committee:

[W]e need to continue to make investments to speed up the process [for refugee protection claimant documents and open work permits]. We put \$1.3 billion towards the asylum system in the last federal budget. We recently made a change to expedite the timelines on which a person can receive a work permit by allowing them to make it prior to receiving an eligibility decision, and we also have the ability for individuals to access services upon the document acknowledging their claim, which happens much earlier in the process.

198 IRCC, *Temporary public policy to exempt refugee claimants, in Canada, from certain requirements for open work permit issuance*.

199 CIMM, *Evidence*, 18 November 2022, 1350 (Christiane Fox).

It is imperfect. We need to speed things up, but we are already taking steps to try to improve the quality of some of these circumstances you've raised.²⁰⁰

Eva-Gazelle Rududura told the Committee: "In general, the people who spoke [to her organization] said they had received good guidance regarding how the administrative formalities would proceed, as well as help in navigating to obtain the support services they needed."²⁰¹ Rema Jamous Imseis reminded the Committee how important it was to continue to strengthen triaging and processing efficiencies to enable flexibility in the face of this increase in claims.²⁰² The Alliance des Burundais du Canada, proposed that more resources should be allocated to the RCMP, the CBSA and all relevant agencies to support more effective and safe work.²⁰³

Additional Resources at the Border

Recommendation 11

That the Government of Canada ensure that additional resources be allocated to the Royal Canadian Mounted Police, the Canada Border Services Agency and all relevant agencies at the border to continue to adequately and humanely manage the number of asylum-seekers at Roxham Road and other irregular points of entry, to support faster processes for asylum-seekers and to ensure safer working conditions for government officials.

Quebec Under Pressure: Temporary Shelter and Supports for Asylum-Seekers

Refugee claimants that enter Canada are entitled to a work permit and essential services, like basic medical coverage. But often, it can take months and even years for claimants to be able to access these supports, as was discussed above. Refugee claimants arriving at the Canadian border are also highly concentrated in Quebec, as Roxham Road is the location on the border between Canada and the U.S. that over 90% of asylum-seekers traverse. Vincent Desbiens explained to the Committee that once a refugee claimant is processed in Quebec, it can be nearly impossible to move to another province:

200 CIMM, *Evidence*, 18 November 2022, 1455 (Hon. Sean Fraser).

201 CIMM, *Evidence*, 22 November 2022, 1605 (Eva-Gazelle Rududura).

202 CIMM, *Evidence*, 15 November 2022, 1645 (Rema Jamous Imseis).

203 CIMM, *Evidence*, 15 November 2022, 1650 (Appolonie Simbizi).



Some people will say that while refugee claimants arrive in Quebec, they can quickly move elsewhere in Canada. In reality, the situation [is] quite different. First, their mobility is limited, because they have to wait for their work permit in the mail, to be able to support themselves as soon as possible. They are living in a financially precarious state, when it is already difficult to access housing and the price of food is constantly going up. During this time, all of the social services available to help them integrate start in Quebec, in both legal and social terms. Once claimants have found a lawyer, rented a place to live and enrolled their children in school, it becomes a lot more difficult for them to go and live somewhere else.²⁰⁴

Since January 2022, Quebec had received nearly 45,000 out of the 72,000 refugee claimants, whether regular or irregular, who have arrived in Canada up to November 2022, which is “a distinction that no one makes when it comes to services or housing,” according to Stephan Reichhold, Director General, Table de concertation des organismes au service des personnes réfugiées et immigrantes.²⁰⁵ This leaves a heavier burden on Quebec than any other province or territory with respect to housing, social services, and other supports.

When the Minister of IRCC testified before the Committee, he spoke to the contributions that the federal government makes to Quebec’s system:

There are very real challenges for our provincial partners in Quebec, in this instance, and for municipal partners. That’s why we’ve actually developed programs to cover the cost of health care and to contribute to the cost of housing. We’ve set up facilities through leasing arrangements with temporary accommodations on site, and we continue to work with communities at a provincial and municipal level to ensure that the capacity of their shelter system, for example, is not overrun.

We need to make sure that we continue to treat people with compassion to uphold our reputation as a welcoming and compassionate country in the world, but also to make sure that we don’t have the costs of this very real-world challenge simply downloaded onto provincial and local levels of government. These are not easy challenges to sort through, but it’s our responsibility as a government to meet the domestic and international legal obligations that we have.²⁰⁶

Stephan Reichhold described the relationship between Quebec and Canada on the issue of refugee claimants as divorced parents, “who can’t agree on custody of the kids. Each one volleys the ball back to the other and they both argue all the time, so the children are left on their own.”²⁰⁷ Despite this description of the federal-provincial relationship,

204 CIMM, [Evidence](#), 22 November 2022, 1700 (Vincent Desbiens).

205 CIMM, [Evidence](#), 22 November 2022, 1705 (Stephan Reichhold).

206 CIMM, [Evidence](#), 18 November 2022, 1445 (Hon. Sean Fraser).

207 CIMM, [Evidence](#), 22 November 2022, 1710 (Stephan Reichhold).

the federal government has provided temporary accommodations to asylum-seekers in Ontario and Quebec since the pandemic, and has stated intention to continue to do so. Additionally, the Temporary Interim Housing Assistance Program has also provided support to provinces and municipalities to reimburse some of the costs for the provinces to house asylum claimants.²⁰⁸

As of November 2022, approximately 5,000 people were residing in temporary accommodation, both federally and in Quebec. On average, they stay in this housing for three to four weeks, then they are “left on their own.”²⁰⁹ Stephan Reichhold describes the precariousness of their circumstances:

With a cheque of \$750 per adult, they can't find housing or feed a family. There are a lot of children among that number. We are also seeing a significant rise in the number of pregnant women, who are unable to see a doctor.

I call that a humanitarian emergency. ... Governments have to take responsibility and put resources in place, as they do in the case of natural disasters.²¹⁰

Many witnesses are worried about the level of care asylum-seekers are receiving and the fact that services made available to them are diminishing in part due to the influx of migrants, and their concentration in Montréal.²¹¹ Frantz André and Vincent Desbiens highlighted a very serious issue in the transfer of some asylum claimants to Ontario from Quebec without their full knowledge that they were going to another province and/or without their consent. Vincent Desbiens explained: “They really had no desire to go and live in Ontario and go through another migratory journey, having already suffered enough to get to Canada.”²¹² Frantz André elaborated on the issue, saying that some claimants were given the option of either, on short notice, finding accommodation in Quebec or going to a different facility.²¹³ It should be mentioned that not all asylum-seekers in Quebec are given this option, it is seemingly random and families can be separated.

208 CIMM, [Evidence](#), 18 November 2022, 1305 (Christiane Fox).

209 CIMM, [Evidence](#), 22 November 2022, 1730 (Stephan Reichhold).

210 Ibid.

211 CIMM, [Evidence](#), 22 November 2022, 1640 (Frantz André), CIMM, [Evidence](#), 22 November 2022, 1705 (Stephan Reichhold), CIMM, *Brief*, Mireille Paquet, Research Chair on the Politics of Immigration, Concordia University, 2 December 2022, p. 4.

212 CIMM, [Evidence](#), 22 November 2022, 1700 (Vincent Desbiens).

213 CIMM, [Evidence](#), 22 November 2022, 1555 (Frantz André).



Witnesses had various recommendations to deal with these issues, including: strengthening intake capacities where people are going to cross the border to avoid humanitarian problems;²¹⁴ solidifying the “norms and institutions of intergovernmental relations related to asylum,” including working-level collaboration between federal-provincial working groups; including “asylum” as an issue for the Forum of Ministers Responsible for Immigration and creating a shared federal-provincial-territorial vision for humanitarian immigration; and, regularizing federal funding arrangements.²¹⁵ Mireille Paquet, Research Chair on the Politics of Immigration, Concordia University, argued that following up on such recommendations would “increase trust and predictability for provincial and territorial governments, ensuring their willingness to remain participants in the asylum system.”²¹⁶ She also recommended the negotiation of a shared responsibility plan for housing asylum-seekers who are awaiting their status determination and the creation of a dedicated federal-provincial-municipal forum on migration, “including but not restricted to asylum and border crossings,” as the role of municipalities in Canadian immigration has grown overtime and is currently underestimated.²¹⁷ As such, the Committee recommends:

Additional Resources to Settlement Organizations

Recommendation 12

That the Government of Canada provide resources to settlement organizations that assist asylum-seekers who pass through Roxham Road and other irregular points of entry to facilitate their integration in Quebec and Canada.

Lack of Resources and Access to Supports

Access to Healthcare

Regarding issues to access of healthcare and health insurance for asylum-seekers, a federal health care program, the Interim Federal Health Program (similar to the RAMQ in Quebec) is available to asylum-seekers; but according to Yannick Boucher, Director, Strategic Development and Research, Accueil liaison pour arrivants, there is a serious lack of awareness of this program, including among first line health care workers.²¹⁸

214 CIMM, *Evidence*, 22 November 2022, 1620 (Eva-Gazelle Rududura).

215 CIMM, *Brief*, Mireille Paquet, 2 December 2022, p. 4.

216 Ibid.

217 Ibid.

218 CIMM, *Evidence*, 25 November 2022, 1435 (Yannick Boucher).

Because claimants are not eligible for RAMQ, but there is unawareness of the federal program, refugee claimants can be turned away from access to services or required to pay for any services received. Yannick Boucher's recommendation to address this issue is an awareness campaign for health care workers, and the creation of a list of employees who have undergone such training so that when claimants arrive in need of care, they can be treated expeditiously.²¹⁹ The Refugee Centre also recommended updating training programs to cover racial and cultural sensitivity when working with patients.²²⁰

Due to this critical issue of health care workers requiring racial and cultural sensitivity when dealing with asylum-seekers, the Committee recommends:

Awareness of the Interim Federal Health Program

Recommendation 13

That the Government of Canada work with the provinces and territories to raise awareness of the Interim Federal Health Program with health care workers while respecting the jurisdiction of Quebec and the provinces.

Access to Lawyers

Access to lawyers was raised by multiple witnesses as another significant issue for asylum claimants arriving in Quebec from Roxham Road. Specifically, Perla Abou-Jaoudé argued that the long wait times for a claimant to come before the IRB was not the issue in itself, but lack of access to justice and to lawyers. Richard Wex corroborated this testimony by explaining that the IRB had extended the timelines for asylum claimants to fill out their basis of claim form, the main form that is used, "recognizing that there is so much pressure at Roxham Road, it is difficult for many of these claimants to have access to counsel in as timely a manner as they used to."²²¹ Frantz André described the difficulty for an asylum seeker to find an immigration lawyer, whether through legal aid or a private practice, as "a major challenge."²²²

Vincent Desbiens noted that when a refugee claimant cannot find a lawyer, it interferes with their ability to make their claim and therefore also obtain the security they need in the long term: "Obviously, the inability to gain access to justice causes great

219 Ibid.

220 The Refugee Centre, *Brief*, 14 November 2022, p. 12.

221 CIMM, *Evidence*, 25 November 2022, 1355 (Richard Wex).

222 CIMM, *Evidence*, 22 November 2022, 1555 (Frantz André).



psychological and emotional distress for these newcomers, in the short and medium terms.”²²³

Stories of Success Despite Hardships

Throughout this study, the Committee heard from many witnesses who detailed the harrowing journeys of many asylum-seekers who have come to Canada. These stories are tragic, heartbreaking, beautiful and empowering. For some, “these migratory journeys leave scars and trauma.”²²⁴ For others, their journeys are the beginning of a new chapter. Rema Jamous Imseis described the success of Canadian refugees for the Committee:

For those refugees who are able to find a solution in Canada, research demonstrates that they make several contributions to this rich and vibrant multicultural society. Census data provides strong empirical support for the claim that Canada’s investment in refugees pays off. For instance, after 20 years in Canada, refugees contribute more to income tax than they receive in social supports. Other key metrics, including home ownership, job creation and educational achievements, all point to the conclusion that refugees make substantial contributions to Canada.²²⁵

Appolonie Simbizi also told the Committee about the successful integration of refugee claimants into Canadian society: “[T]here is evidence that claimants who have come through Roxham Road and have been well accommodated as refugees are integrating well into society and actively participating in the advancement of our country in the same way as other citizens.”²²⁶

Eva-Gazelle Rududura provided a touching story of a Burundian woman who arrived alone at Roxham Road when she was pregnant. She was greeted in French, which offered her comfort both because it was her mother tongue and because of the warmth of the person greeting her. Upon completing forms, she was guided to a bus stop to go to the downtown Montreal YMCA, where she would stay temporarily. A woman at the YMCA told her to go to the immigration office so she could state her intention to join her uncle in Ottawa. Eva-Gazelle Rududura then revealed that this woman is the wife of the current president of Unis pour une Intégration Consciente au Canada, Corneille

223 CIMM, [Evidence](#), 22 November 2022, 1700 (Vincent Desbiens).

224 CIMM, [Evidence](#), 22 November 2022, 1555 (Frantz André).

225 CIMM, [Evidence](#), 15 November 2022, 1645 (Rema Jamous Imseis).

226 CIMM, [Evidence](#), 15 November 2022, 1655 (Appolonie Simbizi).

Nibaruta, who joined her in Canada several years later and that they now both work for the Royal Canadian Mounted Police.²²⁷

Eva-Gazelle Rududura went on to detail the success of the Burundian community in Canada, most of whom “were first granted protected person status” in Canada. She said, the community is made up of public servants, healthcare workers, successful entrepreneurs creating jobs in Canada and experienced engineers, including a Burundi-Canadian woman who is working on the Canadarm and bringing Internet to the North Pole. She also highlighted that Burundi-Canadians are a large contributor to Canada’s Francophonie.²²⁸

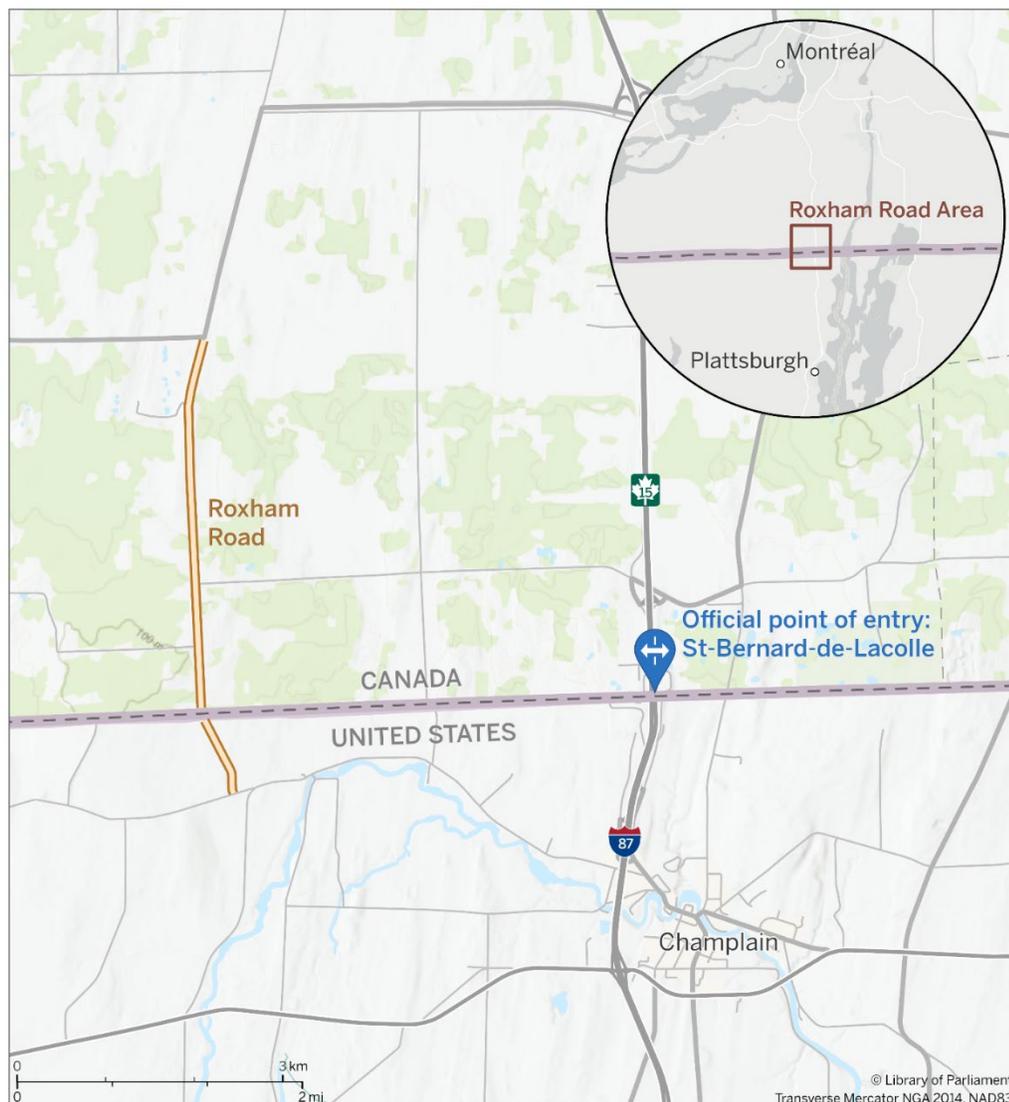
As many witnesses eloquently noted, asylum-seekers’ and refugees’ contributions to Canada far surpass what they receive upon arrival in Canada, regardless of whether they arrive regularly or irregularly. The Committee recognizes how indispensable such migrants are in Canadian society and thanks all those who shared their stories for this report.

227 CIMM, [Evidence](#), 22 November 2022, 1605 (Eva-Gazelle Rududura).

228 Ibid.

APPENDIX A: MAP OF ROXHAM ROAD AREA AT THE CANADA-UNITED STATES BORDER

Figure 1—Map of Roxham Road Area at the Canada-United States Border



Source: Map prepared by the Library of Parliament, Ottawa, 2022, using data from Canada Border Services Agency (CBSA), *Directory of CBSA Offices and Services*, accessed 9 November 2022. The *World Topographic Canadian Style* and *Light Gray Canvas* layers are the intellectual property of Esri and is used under licence, © 2022 Esri and its licensors. All rights reserved. The following software was used: Esri, ArcGIS Pro, version 3.0.2.

APPENDIX B LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

| Organizations and Individuals | Date | Meeting |
|--|-------------|----------------|
| Alliance des Burundais du Canada Appolonie Simbizi, Secretary General | 2022/11/15 | 41 |
| Plattsburgh Cares Janet McFetridge, Mayor of Champlain, New York | 2022/11/15 | 41 |
| United Nations High Commissioner for Refugees Rema Jamous Imseis, Representative to Canada Azadeh Tamjeedi, Senior Legal Officer and Head of Protection Unit | 2022/11/15 | 41 |
| Department of Citizenship and Immigration Christiane Fox, Deputy Minister Hon. Sean Fraser, P.C., M.P., Minister of Immigration, Refugees and Citizenship Scott Harris, Associate Deputy Minister Jason Hollmann, Acting Director General, Asylum Policy Michèle Kingsley, Assistant Deputy Minister, Operations | 2022/11/18 | 42 |
| Canadian Association of Refugee Lawyers Maureen Silcoff, Lawyer and Past President | 2022/11/22 | 43 |
| Comité d’action des personnes sans statut Frantz André, Spokesperson and Coordinator | 2022/11/22 | 43 |
| Quebec Immigration Lawyers Association Perla Abou-Jaoudé, Lawyer Vincent Desbiens, Lawyer | 2022/11/22 | 43 |

| Organizations and Individuals | Date | Meeting |
|--|-------------|----------------|
| Table de concertation des organismes au service des personnes réfugiées et immigrantes Stephan Reichhold, Director General | 2022/11/22 | 43 |
| The Refugee Centre Pierre-Luc Bouchard, Refugee Lawyer and Head of Legal Department Abdulla Daoud, Executive Director | 2022/11/22 | 43 |
| Unis pour une Intégration Consciente au Canada Eva-Gazelle Rududura, Vice-President | 2022/11/22 | 43 |
| Accueil liaison pour arrivants Yannick Boucher, Director, Strategic Development and Research | 2022/11/25 | 44 |
| As an individual Stéphane Handfield, Lawyer, Handfield et associés, avocats | 2022/11/25 | 44 |
| Canada Border Services Agency Carl Desmarais, Director General, Enforcement Aaron McCrorie, Vice-President, Intelligence and Enforcement | 2022/11/25 | 44 |
| Immigration and Refugee Board Gary Dukeshire, Senior Counsel Roula Eatrides, Deputy Chairperson, Refugee Protection Division Richard Wex, Chairperson and Chief Executive Officer | 2022/11/25 | 44 |
| Multilingual Orientation Service Association for Immigrant Communities Marzieh Nezakat, Manager, Refugee Settlement and Integration Program | 2022/11/25 | 44 |
| Royal Canadian Mounted Police Michael Duheme, Deputy Commissioner, Federal Policing Supt Martin Roach, Acting Criminal Operations Officer, C Division | 2022/11/25 | 44 |

APPENDIX C LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

The Refugee Centre

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 41 to 44, 46, 50 to 53 and 60](#)) is tabled.

Respectfully submitted,

Salma Zahid
Chair

Supplementary Opinion to the Report
Conservative Party of Canada
May 15, 2023

Introduction and Context

Conservative Members of Parliament were pleased to participate in the study of irregular border crossings at the Roxham Road location near St. Bernard de Lacolle, Québec. Conservatives support legal, orderly and a compassionate immigration system through existing lawful processes. There exists many legal and safe means for newcomers and immigrants to establish themselves in Canada and make important contributions to our society and the Canadian economy.

The Liberal government created the problem of unlawful crossings at Roxham Road. Large scale, systemic irregular border crossings at Roxham Road began in earnest with Justin Trudeau's January 2017 tweet: "To those fleeing persecution, terror & war, Canadians will welcome you, regardless of your faith. Diversity is our strength #WelcomeToCanada." Trudeau's irresponsible tweet was widely reported as sending a clear signal that Canada would stop effective border enforcement of its laws and would allow criminal human trafficking networks to profit from the desperation and misery of people fleeing conflict, poor economic conditions and persecution in other countries. Canada had an orderly and welcoming system that was well designed to provide a place of refuge for decades until this irresponsible tweet. Since that time, the Liberal government has spent more than \$500 million setting up facilities and accommodations and addressing other needs of the Roxham Road migrants. In the 2023/24 Budget, an addition \$1 billion is provided for these tasks.

Eight years of the Trudeau Liberals have brought more people than ever crossing our border outside lawful points of entry. When Justin Trudeau formed government, asylum seekers intercepted by the RCMP were measured in hundreds. Last year alone, nearly 40,000 asylum seekers crossed the border, with more than 100,000 arriving since 2017. Roxham Road will cost Canadian taxpayers over a billion and a half dollars, putting enormous strains on services in our provinces and cities.

The Safe Third Country Agreement

The Safe Third Country Agreement (STCA), as the committee heard during witness testimony, is the treaty signed by the governments of the United States and Canada by a previous Liberal government. The agreement specifies that where an asylum seeker first lands is where they must make their refugee claim. However, at the time that the committee undertook its study the STCA only applied to official ports of entry, and not irregular crossings such as Roxham Road. The designation of safe third countries is consistent with international law and countries such as the United States of America, its with vibrant, liberal democracy is indeed a safe country for refugees as noted by the Minister of Immigration, Refugees and Citizenship as well as government lawyers before the federal courts.

During the hearings, Conservative MPs consistently called for the Trudeau Government to enforce the SCTA equally across Canada's entire land border. Multiple times, the Minister of Immigration, Refugees, and Citizenship Sean Fraser, argued that the government was engaged in negotiations with the United States but would not agree to Conservative demands to apply the STCA equally across all of Canada.

On March 24, 2023, the President of the United States, Joseph R. Biden, made an official visit to Canada and delivered a speech to the House of Commons. At that time, it was revealed by the US Federal Register that the Canadian and American governments had indeed signed an "Additional Protocol" to the STCA in March of 2022; Minister Fraser signed the agreement on behalf of Canada. Effective, 12:00am the following day on March 25th, the updated STCA began applying equally to the entirety of Canada's land border, as Conservative MPs had called for. In fact, on February 21, 2023, the Leader of the Official Opposition, the Honourable Pierre Poilievre, called for the Roxham Road border crossing to be closed within 30 days. Prime Minister Trudeau and other cabinet ministers claimed it was not so easy, too simplistic and offered other excuses when they already knew the border was to be closed having agreed to the "Additional Protocol" nearly a year before.

Official Opposition Shadow Minister of Immigration, Refugees, and Citizenship Tom Kmiec tabled a motion to have Minister Fraser reappear at the committee and explain the discrepancy between his remarks and the fact that he had signed the new STCA months earlier. The motion read:

That, pursuant to Standing Order 108(2), the Minister of Immigration, Refugees, and Citizenship and department officials be invited to appear before the Committee to update it on the 2022 Additional Protocol to the 2002 Canada-U.S. Safe Third Country Agreement signed by the Government of Canada on March 29, 2022, by the Government of the United States of America on April 15, 2022, with a coming into effect on March 25, 2023.

Unfortunately, due to the NDP-Liberal coalition this motion did not proceed, and the committee was unable to get the answers needed.

Recommendations

Conservative Members make the following recommendation:

- 1) That the Minister of Immigration, Refugees, and Citizenship provide a written update to the Committee on the 2022 Additional Protocol to the 2002 Canada-U.S. Safe Third Country Agreement signed by the Government of Canada on March 29, 2022, by the Government of the United States of America on April 15, 2022, with a coming into effect on March 25, 2023.**

Additionally, Conservative Members of Parliament wish to state that they agree with all recommendations put forward in the main report except for recommendation nine. While

Conservatives believe that it is incumbent upon the Department of Immigration, Refugees and Citizenship to deliver government services in a timely and efficient manner it is not necessary to create new processes such as deputizing the Canada Border Services Agency to act on their behalf as a paper delivery service.

Conclusion

Conservative Members are disappointed with the Trudeau Government's handling of irregular border crossings at Roxham Road. It is clear that Justin Trudeau had the ability to shut down Roxham Road at any time, as was done during COVID restrictions. The agreement to close Roxham Road was signed a year ago. This means there was nothing stopping Justin Trudeau from closing Roxham Road anytime in the last year. Instead, he chose to allow the chaos at our borders to continue.

**Bloc Québécois's Complementary Report of the report entitled:
"Asylum Seekers at the Canada's Border".
Submitted by MP Alexis Brunelle-Duceppe to the CIMM on May 15, 2023**

Bloc Québécois MP Alexis Brunelle-Duceppe hereby intends to table a supplementary report to the report of the Standing Committee on Citizenship and Immigration (CIMM) adopted on April 24, 2023. The Bloc Québécois is partially in agreement with this report. However, it preferred the first version (draft) of the report, written by the analysts, entitled "Conditions Faced by Asylum-Seekers" and presented to the committee on January 31, 2023. This first version was more faithful to the testimony heard during the Roxham Road study.

TITLE

The Bloc Québécois wishes to change the title (and the heading of the following sections) to " Conditions Faced by Asylum-Seekers at Roxham Road" as partially drafted in the first version (draft) of the report entitled "Conditions for Asylum Seekers" and presented to the committee on January 31, 2023 at 12:20 p.m.

SUMMARY

The Bloc Québécois fully agrees with the summary of the first version (draft) of the report entitled "Conditions Faced by Asylum-Seekers" presented to the committee on January 31, 2023 at 12:20 pm.

The summary of the first version of the report entitled "Conditions Faced by Asylum-Seekers" is as follows:

1. Immigration, Refugee and Citizenship Canada projects that, throughout 2022, a potentially record-setting 50,000 asylum-seekers will have crossed irregularly into Canada, bypassing points of entry at the border to file a refugee claim. Following migratory trends observed by the Royal Canadian Mounted Police in the last five years, 95% of these irregular refugees will have crossed at Roxham Road, into the province of Quebec. Not only is the situation at Roxham Road highlighting the need for a modernized approach to responsibility sharing at the border, but it also confronts Canadians to the vulnerability inherent to international humanitarian migration, in a very tangible way.
2. This report examines the impacts of Canadian legislation, related administrative processes, and the Safe Third Country Agreement (STCA) on the conditions that refugee claimants face to seek protection in Canada, specifically for those who cross at Roxham Road. It follows a study by the House of Commons Standing Committee on Citizenship and Immigration on the conditions faced by asylum-seekers conducted from 15 November 2022 to 25 November 2022.

3. The report is broken down in three chapters: Chapter 1 examines Canada's role and legal obligations towards migrants seeking protection from persecution, explains the genesis of the STCA and implications of this bilateral agreement with the U.S., and details the roles played by Canadian governmental bodies in processing migrants that cross at Roxham Road. Chapter 2 paints a portrait of the situation at Roxham Road statistically, details the trauma inherent to irregular migration, discusses the merits and consequences of suspending the STCA, the potential changes and modernization plans that could be brought to expand the STCA, and questions whether the U.S. is a safe country for refugee claimants. Chapter 3 studies the current challenges and solutions being implemented to deal with the situation at Roxham Road, notably the turn towards technological solutions, the consequences of administrative backlogs on the delivery of key documentation for asylum-seekers, and the accessibility of social services in the province of Québec. The chapter concludes with stories of success despite hardships faced by migrants.

RECOMMENDATIONS

The Bloc Québécois would like to see Recommendation 1 of the first draft of the report entitled "Conditions Faced by Asylum-Seekers" presented to the committee on January 31, 2023 at 12:20 p.m., amended as follows to be read:

The Future of the Safe Third Country Agreement

Recommendation 1

That the Government of Canada suspend the Safe Third Country Agreement, pending completion of its negotiations to modernize the Agreement, with the United States government.

This amendment to provide for the dignified reception of asylum seekers through official channels was tabled by the Bloc Québécois in committee on February 15, 2023, but was rejected by a majority of members for a vote.

The Bloc Québécois wishes to retain all of recommendations 2 to 6 of the first version of the report entitled "Conditions Faced by Asylum-Seekers" and which are found in part in the report entitled "Asylum Seekers at the Canada's Border" to be read:

Cease issuance of Entry for Further Examination documents

Recommendation 2 That the Canada Border Services Agency cease issuance of the Entry for Further Examination document to irregular asylum-seekers

Issuance of Work Permit and Refugee Protection Claimant Document upon Arrival

Recommendation 3 That Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency work in tandem to issue Work Permits and Refugee Protection

Claimant Documents to all eligible asylum-seekers upon arrival, whether regular or irregular, at the Canadian border

Extension of the Refugee Protection Claimant Document Period of Validity

Recommendation 4 That the Immigration, Refugees and Citizenship Canada extend the validity period of the Refugee Protection Claimant Document from two years to four years

Additional Resources at the Border

Recommendation 5 That the Government of Canada ensure that additional resources be allocated to the Royal Canadian Mounted Police, the Canada Border Services Agency and all relevant agencies at the border to support faster processes for asylum seekers and safer working conditions for government officials.

Develop Training on the Interim Federal Health Program

Recommendation 6 That the Government of Canada create a training program for health care workers to raise their awareness of the Interim Federal Health Program and how health care workers play an active role in serving asylum-seekers through this program.

BODY OF THE TEXT

The Bloc Québécois agrees with the entire body of the text of the first version (draft) of the report entitled "Conditions Faced by Asylum-Seekers" presented to the committee on January 31, 2023 at 12:20 p.m., the chapters and sub-headings of which are found in part in the report entitled "Asylum-Seekers at the Canada's Border" and which are entitled respectively:

Introduction; Chapter 1: Legislative Framework and Processes at the Border; Canada's Legislative Framework Surrounding Asylum-Seekers; The Canada–United States Safe Third Country Agreement; The Quarantine Act: A Closed Border (2020–2021); Processes at Roxham Road and at Saint-Bernard-de-Lacolle; The Royal Canadian Mounted Police; The Canada Border Services Agency at the Port of Entry; Chapter 2: Concerns at Roxham Road and the Future of the Safe Third Country Agreement; Irregular Crossing in Numbers; The Scale of the Irregular Migration Across the Globe; The Scale of the Irregular Migration in Canada; Trauma of Asylum-Seekers and Impact of Human Smuggling; Traumatic Experiences of Asylum-Seekers Crossing Irregularly to Canada; Smuggling at Roxham Road; Safe Third Country Agreement: Proposals for the Future; Benefits and Consequences of the Agreement; The United States as a Safe Country and Related Supreme Court litigation; Exceptions in the Safe Third Country Agreement; Imperative to Not Physically Close Roxham Road; Chapter 3: Current Processing Challenges for Asylum-Seekers in Canada and Their Impacts in Quebec; Adoption of Technology in Meeting Processing Challenges; Recurrent Processing Challenges at the Immigration and Refugee Board; Immigration and Refugee Board Virtual Hearings; Canada Border Services Agency Processing Delays for Eligibility of Claim; The Canadian Refugee Protection Portal; 51 Additional Documentation Prior to Obtaining the Refugee Protection Claimant Document; 52 Entry for Further Examination

Document; Implications for Asylum-Seekers; New Policy on Obtention of Work Permits Prior to Eligibility Determination; Quebec Under Pressure: Temporary Shelter and Supports for Asylum-Seekers; Lack of Resources and Access to Supports; Access to Healthcare; Access to Lawyers; Stories of Success Despite Hardships; APPENDIX A: MAP OF ROXHAM ROAD AREA AT THE CANADA–UNITED STATES BORDER.

WITNESSES

The Bloc Québécois would like to remind you that many witnesses spoke in committee for supporting of suspending the Safe Third Country Agreement and improving the reception conditions for asylum seekers who find themselves without official documents issued by Canada allowing them to find a job or study upon their arrival on Quebec territory, thus putting too much pressure on Quebec and organizations in the Montreal region.

The following paragraphs report on these evidences:

Conditions for asylum seekers

The main concerns that the Committee heard about Roxham Road are the volume of irregular migrants arriving at the border, the trauma experienced by refugees throughout the process, and the possibility of human smuggling. This chapter also provides a discussion on the future of the STCA, and a discussion about whether U.S. is safe country for refugees. [...]

[Paragraph 22; page 16]

The RCMP is well-aware of human smuggling at Roxham Road. The vulnerability of displaced people makes them “easy prey for smuggling networks, which are made up of transnational organized crime groups known to engage in violence, including criminal activity.” Deputy Commissioner Michael Duheme confirmed the existence of coordinated efforts for human smuggling, which scale can vary from national to transnational. Many cases of smuggling have led to charges being laid by the RCMP for groups established in Canada and the U.S. However, enforcement of criminal law outside of Canada is complicated, as the American authorities do not consider these activities as constitutive of a “human smuggling” infraction.

Notes: CIMM, Evidence, 25 November 2022, 1320 (Michael Duheme); CIMM, Evidence, 25 November 2022, 1330 (Michael Duheme); CIMM, Evidence, 25 November 2022, 1355 (Martin Roach).

[Paragraph 38; pages 24 & 25]

As human smuggling has progressively become more flagrant, media scrutiny has increasingly shifted its attention towards this dangerous trend. Frantz André indicated he had participated in a broadcast news story for “Enquête” at Radio-Canada, which

investigated human smuggling activities in Florida. Frantz André quoted “unbelievable amounts” from \$8,000 to \$12,000, and mentioned one woman he knew of who had been refouled to Chile three times had spent \$37,000 in attempting to arrive to her destination. The story highlighted the fact that up to \$12,000 were extorted from migrants well before they had reached the southern shores of the U.S. Claimants then have to spend an additional ten thousand dollars to deal with smugglers, and be driven to Roxham Road. He noted that migrants are ready to sacrifice everything, including their entire livelihood, in order to reach their destination. Smugglers are aware of the desperation of migrants trying to reach safer shores, and do not hesitate to take advantage of their precariousness.

Notes: CIMM, Evidence, 25 November 2022, 1340 (Michael Duheme); CIMM, Evidence, 22 November 2022, 1625 (Frantz André); CIMM, Evidence, 25 November 2022, 1435 (Stéphane Handfield).

[Paragraph 39; page25]

Marzieh Nezakat explained that the majority of families and individuals who cross the Canadian border have “exhausted their financial resources” making it from their country of origin to transitory countries in South America, then through the U.S. and finally to Canada. As explained by Marzieh Nezakat, human smuggling has a direct effect on the Canada’s capacity to integrate and regularize refugees. Their trauma is compounded by the fact that they have been subjected to human smuggling to make their way to Canada, but they are also forced to exhaust all of their financial resources to make their way via transitory countries. Upon their arrival, having to wait significant time before they are granted a work permit, “they are left with seeking aid [from] the community, agencies or working illegally as their last resort which [exposes them] to discrimination, stigmatization, and all sorts of potential abuse by employers.”

Notes: CIMM, Evidence, 25 November 2022, 1420 (Marzieh Nezakat); CIMM, Evidence, 25 November 2022, 1420 (Marzieh Nezakat).

[Paragraph 40; pages 25 & 26]

STCA’s suspension

Nevertheless, Maureen Silcoff emphasized that “the deleterious effects of the STCA [...] clearly outweigh its benefits.” The following organizations that testified before the Committee agreed that it would be preferable to suspend the STCA:

- a) The Refugee Centre, whose representatives concluded that suspending the STCA would be beneficial for both the public administration of claims and for settlement services helping refugees;*
- b) The Comité d’action des personnes sans statut, whose representative reiterated that eliminating the STCA would prevent migrants from taking unsafe routes to reach Canada, and enable them to enter in a dignified manner;*
- c) The Quebec Immigration Lawyers Association, which indicated that without the STCA, there would be a better distribution of refugee claimants across Canada,*

leading to better accessibility to social and legal services.⁹⁷ Suspension of the STCA would also release some of the pressure applied on the CBSA and the IRB's divisions in Quebec;

d) The Table de concertation des organismes au service des personnes réfugiées et immigrantes, which agreed that suspending the STCA would bring order and control to the border, and could help relieve the pressure on Quebec's social services for newcomer assistance and legal aid.

Notes : CIMM, Evidence, 22 November 2022, 1630 (Pierre-Luc Bouchard, Refugee Lawyer and Head of Legal Department, The Refugee Centre) ; CIMM, Evidence, 22 November 2022, 1630 (Abdulla Daoud) ; CIMM, Evidence, 22 November 2022, 1635 (Frantz André) ; CIMM, Evidence, 22 November 2022, 1700 (Vincent Desbiens, Lawyer, Quebec Immigration Lawyers Association) ; CIMM, Evidence, 22 November 2022, 1725 (Perla Abou-Jaoudé, Lawyer, Quebec Immigration Lawyers Association) ; CIMM, Evidence, 22 November 2022, 1720 (Stephan Reichhold).

[Paragraph 45 and its subparagraphs; pages 28 to 30]

Stéphane Handfield, Lawyer, Handfield et Associés, also recommended that the STCA be suspended, and that refugee claims be filed at official points of entry on the entire Canadian border, as it was the case prior to the agreement coming into force in 2004. He told the Committee that article 10 of the STCA provides signatory states with the power to unilaterally suspend the application of the agreement:

Each of the parties can, by written notice given to the other, suspend the application of the current agreement for a maximum of three months. Such a suspension may be renewed for additional periods to a maximum of three months.*

Notes: CIMM, Evidence, 25 November 2022, 1425 (Stéphane Handfield); CIMM, Evidence, 25 November 2022, 1410 (Stéphane Handfield).

[Paragraph 46; page 30]

Using this mechanism to temporarily suspend the STCA could act as a test for Canada to measure if returning to the conditions pre-STCA would be opportune for Canada's asylum system.

Note: CIMM, Evidence, 25 November 2022, 1435 (Stéphane Handfield).

[Paragraph 47; page 30]

On the other hand, many witnesses cast a doubt on Minister Fraser's suggestion that the suspension of the STCA would ultimately lead to increased migration towards Canada. Maureen Silcoff explained that such evidence was submitted by the CBSA to the Federal Court, where the Canadian Council for Refugees challenged the constitutionality of the STCA (which will be discussed in the next section), but that it was not accepted as

admissible proof during trial. Instead, she pointed to comments made by a senior IRCC official which suggested that, on the contrary, suspending the STCA would help the current situation at Roxham Road as “people could cross at [at] different ports of entry” to enter into Canada. As such, Maureen Silcoff argued in favour of the suspension of the agreement, stating that it would help “disperse people from coast to coast and eliminate the funnel to Quebec,” improving access to settlement services.

Notes: CIMM, c, 22 November 2022, 1710 (Maureen Silcoff); CIMM, Evidence, 22 November 2022, 1655 (Maureen Silcoff).
[Paragraph 52; page 32 & 33]

When asked by Committee members, most witnesses sided with the Canadian Council for Refugees’ claim before the Supreme Court of Canada, that the U.S. is not a safe country for refugee claimants. Janet McFetridge, Mayor of Champlain and American citizen, for one, expressed the view that the American asylum system was “extremely broken,” in consideration of the situation at the American southern border and the ensuing “pipeline” of migrants coming into Canada.

Note: CIMM, Evidence, 15 November 2022, 1710 (Janet McFetridge).
[Paragraph 60; page 36]

Frantz André, representative for the Comité d’action des personnes sans statut, suspected that the U.S. was circumventing the STCA by rejecting refugee claims that should be admitted in their country, and that the Canada-U.S. agreement was discriminatory. He noted that 28,000 Haitians were deported from the U.S. without having an opportunity to have their cases heard. He also reported that mistreatment and racism were commonplace for migrants in the U.S., and that the American rigid approach to humanitarian migration was leading to the irregular migration at Roxham Road. On this point, Frantz André provided the Committee with disconcerting descriptions of the American system reported in the media: “American border agents on horseback chasing migrants toward a river, lassos in hand, as if it was a slave hunt.” He noted that although the U.S. had extended temporary protected status in November for Haitian nationals who are making asylum claims, the Haitian diaspora was anxious and uncertain about their status in that country.

Notes: CIMM, Evidence, 22 November 2022, 1615 (Frantz André); CIMM, Evidence, 22 November 2022, 1555 (Frantz André); CIMM, Evidence, 22 November 2022, 1625 (Frantz André); CIMM, Evidence, 22 November 2022, 1555 (Frantz André); CIMM, Evidence, 22 November 2022, 1610 (Frantz André).
[Paragraph 61; pages 37 & 38]

Quebec Under Pressure

It was common practice to issue the Refugee Protection Claimant Document (or Brown Paper) upon arrival in Canada, however, as the numbers of claimants became less and less

manageable, what The Refugee Centre describes as a “deterioration in the bureaucratic processes and promises” that the Canadian government has made to asylum-seekers occurred, and another document, the Acknowledgment of Claim, has been often issued instead of the Refugee Protection Claimant Document.

The Acknowledgement of Claim document does not afford the refugee claimant the same rights as the Refugee Protection Claimant Document—no work permit or photo identification—instead, it provides a date for a future appointment when the claimant obtain their Refugee Protection Claimant Document. The Refugee Centre testified that over 90% of the 312 asylum-seekers they have worked with since the Acknowledgement of Claim started being issued received an Acknowledgement of Claim with a date in the future to obtain their Refugee Protection Claimant Document. The wait times for an appointment to obtain this document began at a three to six weeks, but more recently, the new appointment dates average 16–18 months from the date of issue. Additionally, Abdulla Daoud told the Committee that from entry, an asylum claimant can wait up to four years to gain safety in Canada.

Notes: CIMM, Evidence, 22 November 2022, 1600 (Abdulla Daoud); The Refugee Centre, Brief, 14 November 2022, p. 2; CIMM, Evidence, 22 November 2022, 1600 (Abdulla Daoud).

[Paragraphs 93 & 94; pages 53 & 64]

In 2017, asylum-seekers started crossing the border outside official ports of entry in large numbers noticeably in Quebec, Manitoba and British Columbia, prompting the Committee to study the issue in 2017 and 2018 [...].

The Committee learned that the RCMP has up to 800 officers in the Quebec region, and approximately 120 of them are dedicated at the moment in the Roxham Road area patrolling the border. Deputy Commissioner Michael Duheme told the Committee that the RCMP’s complex mandate normally prioritized serious and organized crime, financial crime and national security.

Note: CIMM, Evidence, 25 November 2022, 1325 (Michael Duheme); CIMM, Evidence, 25 November 2022, 1325 (Martin Roach, Superintendent, Acting Criminal Operations Officer, C Division, Royal Canadian Mounted Police); CIMM, Evidence, 25 November 2022, 1330 (Michael Duheme).

[Paragraph 16; page 13]

Although the surge in irregular migrants is observed elsewhere in Canada, the vast majority of irregular crossings to Canada take place at Roxham Road, in the province of Quebec. IRCC has held that 90% of all irregular entries to Canada are made by crossing at that location. The RCMP supported that finding, and shared that, between 2017 and 2021, 95% of RCMP interceptions after illegal crossings have occurred at Roxham Road. These observations have led IRCC to recognize the importance of reallocating resources from

other regions into Quebec, and appropriately share the workload with their provincial partner, as will be discussed in Chapter 3.

Note: CIMM, Evidence, 25 November 2022, 1420 (Marzieh Nezakat, Manager, Refugee Settlement and Integration Program, Multilingual Orientation Service Association for Immigrant Communities); CIMM, Evidence, 18 November 2022, 1325 (Christiane Fox); CIMM, Evidence, 25 November 2022, 1320 (Michael Duheme); CIMM, Evidence, 25 November 2022, 1315 (Aaron McCrorie).
[Paragraph 29; pages 19 & 20]

Refugee claimants that enter Canada are entitled to a work permit and essential services, like basic medical coverage. But often, it can take months and even years for claimants to be able to access these supports, as was discussed above. Refugee claimants arriving at the Canadian border are also highly concentrated in Quebec, as Roxham Road is the location on the border between Canada and the U.S. that over 90% of asylum-seekers traverse. Vincent Desbiens explained to the Committee that once a refugee claimant is processed in Quebec, it can be nearly impossible to move to another province:

Some people will say that while refugee claimants arrive in Quebec, they can quickly move elsewhere in Canada. In reality, the situation [is] quite different. First, their mobility is limited, because they have to wait for their work permit in the mail, to be able to support themselves as soon as possible. They are living in a financially precarious state, when it is already difficult to access housing and the price of food is constantly going up. During this time, all of the social services available to help them integrate [...] in Quebec, in both legal and social terms. Once claimants have found a lawyer, rented a place to live and enrolled their children in school, it becomes a lot more difficult for them to go and live somewhere else.

Note: CIMM, Evidence, 22 November 2022, 1700 (Vincent Desbiens)
[Paragraph 104; pages 59 & 60]

Since January 2022, Quebec had received nearly 45,000 out of the 72,000 refugee claimants, whether regular or irregular, who have arrived in Canada up to November 2022, which is “a distinction that no one makes when it comes to services or housing,” according to Stephan Reichhold, Director General, Table de concertation des organismes au service des personnes réfugiées et immigrantes. This leaves a heavier burden on Quebec than any other province or territory with respect to housing, social services, and other supports.

Note: CIMM, Evidence, 22 November 2022, 1705 (Stephan Reichhold)
[Paragraph 105; page 60]

Many witnesses are worried about the level of care asylum-seekers are receiving and the fact that services made available to them are diminishing in part due to the influx of migrants, and their concentration in Montréal.²¹¹ Frantz André and Vincent Desbiens highlighted a very serious issue in the transfer of some asylum claimants to Ontario from

Quebec without their full knowledge that they were going to another province and/or without their consent. Vincent Desbiens explained: “They really had no desire to go and live in Ontario and go through another migratory journey, having already suffered enough to get to Canada.”²¹² Frantz André elaborated on the issue, saying that some claimants were given the option of either, on short notice, finding accommodation in Quebec or going to a different facility.²¹³ It should be mentioned that not all asylum-seekers in Quebec are given this option, it is seemingly random and families can be separated.

Notes: CIMM, Evidence, 22 November 2022, 1640 (Frantz André), CIMM, Evidence, 22 November 2022, 1705 (Stephan Reichhold), CIMM, Brief, Mireille Paquet, Research Chair on the Politics of Immigration, Concordia University, 2 December 2022, p. 4; CIMM, Evidence, 22 November 2022, 1700 (Vincent Desbiens); CIMM, Evidence, 22 November 2022, 1555 (Frantz André).

[Paragraph 109; page 62]

Dissenting Report of the New Democratic Party

Preamble

Globally, there are 89.3 million forcibly displaced persons as a result of persecution, conflict, and human rights violations. 21.3 million are UN registered refugees. 53.2 million are internally displaced. 4.6 million are asylum seekers. The majority are in neighbouring countries relative to their country of origin. The top five countries hosting the largest refugee populations are: Türkiye, Colombia, Uganda, Pakistan and Germany.¹

Due to Canada's geographical position and given the global context, Canada is seeing an increase in asylum seekers in search of safety through our land borders with the United States. Meanwhile, anti-refugee and anti-immigrant sentiment has risen globally since the Syrian refugee crisis.

In 2017, with the anti-immigrant rhetoric from the Trump administration, Canada saw a large volume of people crossing irregularly into Canada through the Canada-US land border in search of safety. While the Covid-19 pandemic slowed the flow somewhat, with the reopening of the border in November 2021, the volume has once again picked up, especially in Quebec, through Roxham Road.

Currently, the three provinces with the most RCMP interceptions are Quebec, British Columbia, and Manitoba.²

Introduction

On October 28, 2022, the House of Commons Standing Committee on Citizenship and Immigration (CIMM) decided to study the conditions faced by asylum-seekers using the irregular administrative path maintained by the Safe Third Country Agreement (STCA), and consider the safety, security and health of people and families of migrants, with particular attention to the Canada-United States border at Roxham Road.

The committee heard from 27 witnesses. Witnesses who presented to CIMM overwhelmingly called for the Government of Canada to suspend the STCA. Advocates, lawyers, and academics strongly believe that the STCA contravenes the Canadian Charter of Rights and Freedoms by putting the lives of asylum seekers at risk. This was also the opinion of the federal court in 2020.

In addition, numerous witnesses provided compelling testimony on how the STCA places asylum seekers in highly dangerous and precarious situations by denying them entry at official border crossings. Furthermore, witnesses also disputed claims that removing the STCA would

¹ "Figures at a Glance" retrieved from <https://www.unhcr.org/figures-at-a-glance.html>.

² Immigration, Refugees and Citizenship Canada (IRCC), *CIMM, RCMP Interceptions January 2023, IRCC's responses to a request for information made by the Standing Committee on Citizenship and Immigration on November 15, 2022*.

result in a large rise in individuals seeking asylum citing a lack of evidence. Many witnesses stated that removal of the agreement would more evenly distribute claims across the country in a more orderly fashion at official ports of entry.

Those who work directly with asylum seekers also raised serious concerns with recent increases in processing delays of refugee claimant identity documents and work permits.

This dissenting opinion is necessary to ensure the recommendations proposed by expert witnesses are accurately reflected to the Government of Canada.

A. Rationale to Suspend the Safe Third Country Agreement

1. Safety Risks Faced by Asylum Seekers Through Irregular Migration Pathways

The Safe Third Country Agreement denies asylum seekers the ability to enter into Canada from the United States through official ports of entry. As a result, many resort to highly dangerous irregular migration pathways, risking life and limb in their desperate attempt to get to safety.

In the wake of the anti-immigrant, anti-refugee sentiments of the Trump administration in 2017, there were many media reports of asylum seekers who feared persecution and violence if deported back to their country of origin, and who risked their lives to walk to Canada in freezing cold temperatures. Mr. Seidu Mohammed, a LGBTQ claimant from Ghana crossed the Canada–U.S. border in Manitoba in the dead of winter and lost most of his fingers to frostbite.³ His asylum claim in Canada was later determined to be valid by the Immigration Refugee Board. The average acceptance rate for all admissible refugee claimants seeking protection in Canada of 66% is very similar to the acceptance rate of 61% for irregular, but admissible, asylum-seekers.⁴ One-third of irregular refugee claimants who file for appeal on the merits of their claim are successful upon review by the Refugee Appeal Division of the IRB.⁵ According to IRCC, 90% of irregular crossings in Canada occur at the Roxham Road border.⁶

Refugees deserve a humane and safe process to enter Canada where their lives are not endangered. Abdulla Daoud, Executive Director of the Refugee Centre explained that:

Basically, we're forcing asylum seekers to go onto terrain that's very dangerous. We've already established that these are legitimate claims and that what they're going through

³ CBC News, *'I'm finally home': Frostbitten asylum seeker wins case to stay in Canada*

<https://www.cbc.ca/news/canada/manitoba/seidu-mohammed-asylum-seeker-frostbitten-refugee-manitoba-1.4121034>

⁴ CIMM, Evidence, 22 November 2022, 1655 (Maureen Silcoff, Lawyer and past President of the Canadian Association of Refugee Lawyers).

⁵ CIMM, Evidence, 15 November 2022, 1720 (Azadeh Tamjeedi, Senior Legal Officer and Head of Protection Unit, United Nations High Commissioner for Refugees).

⁶ CIMM, Evidence, 18 November 2022, 1325 (Christiane Fox, Deputy Minister, Immigration, Refugees and Citizenship Canada).

is very unfortunate. In order to regulate the matter and ensure that the government and community organizations can service them correctly we need to suspend it [the STCA].⁷

This sentiment was also echoed by Frantz André, Spokesperson and Coordinator, Comité d'action des personnes sans statut:

I think people would be much less afraid of migrating, knowing they are able to enter at a port of entry whose role it is to admit people with dignity. Taking a route where you are told that if you continue, you will be arrested, means enduring more stress and a form of aggression after being refoiled by so many countries. That is why I strongly suggest that the safe third country agreement be eliminated.⁸

Marzieh Nezakat, Manager, Refugee Settlement and Integration Program, Multilingual Orientation Service Association for Immigrant Communities, also spoke of the need for a dignified claims process for asylum seekers through official ports of entry:

As a settlement agency that provides services, we would really support a dignified claim process for refugee claimants. We all know that when they try to cross irregularly, it is contrary to being dignified...

They would not really risk their lives going through the forests and putting themselves and their families in danger, as we see today. There has to be this certainty or reassurance to these people that if you cross regularly through the official ports of entry you are not going to be returned, you are not going to be deported [if you are found eligible], so do what is safer for you and your families and with a bit more dignity.⁹

2. Undermining the Premise that The United States is a Safe Country

The Safe Third Country agreement was predicated upon the notion that Canada and the United States have comparable policies and “that the United States was a reliable partner for sharing responsibilities regarding refugees...But we know now that the problems associated with it [STCA] outweigh any benefits.”¹⁰ For many migrants, the United States simply does not provide safe refuge. Mr. Frantz André clearly stated that the United States is not a safe country and that the STCA “is discriminatory.”¹¹

Maureen Silcoff pointed to specific problems and deficiencies in the United States asylum system which creates unsafe and vulnerable situations for many people seeking asylum:

⁷ CIMM, Evidence, 22 November 2022, 1630 (Abdulla Daoud, Executive Director, The Refugee Centre).

⁸ (CIMM, Evidence, 22 November 2022, 1635 (Frantz André, Spokesperson and Coordinator, Comité d'action des personnes sans statut).

⁹ CIMM, Evidence, 25 November 2022, 1420 (Marzieh Nezakat, Manager, Refugee Settlement and Integration Program, Multilingual Orientation Service Association for Immigrant Communities).

¹⁰ CIMM, Evidence, 22 November 2022, 1715 (Maureen Silcoff).

¹¹ CIMM, Evidence, 22 November 2022, 1615 (Frantz André).

I think it's really useful to look at the very specific categories or classes of people who are experiencing lack of safety and serious deficiencies in the system. If the system doesn't function properly, people are at risk of refoulement, which means that they would be sent back to their country of origin to experience further persecution...

People who don't make an asylum claim right away can't enter into the asylum system. There are lots of reasons why people may not come forward—because they're traumatized, because they're ashamed, because of cultural reasons—so this particularly impacts gender-based claims.

We know that people may not come forward with their claim, and then if they turn up at the border and they're rejected because of the STCA, then they really have a problem in the U.S. because ... they can't access the U.S. asylum system.¹²

She also went on to describe differences in immigration detention practices as a key difference between the US and Canadian immigration systems:

In Canada, detention is seen, both according to the case law and the policies, as a last resort. The UNHCR specifies that people seeking protection should only be detained as a last resort. The United States sees detention very differently. They see it as an immigration management tool... When somebody is in jail in the U.S., they're experiencing very serious difficulties, and that's very different from Canada, so that's another category of people who are vulnerable.¹³

3. Disputing claims that numbers of asylum seekers will increase

Minister Sean Fraser claimed that “A simple suspension of the safe third country agreement ... would lead to a potentially significant number of people making claims in a different and perhaps less organized way.”¹⁴ According to the government the STCA “needs to be improved and modernized.”¹⁵ Details were not provided regarding what modernization would look like.

However, witnesses disputed claims that suspension of the Safe Third Country agreement would result in drastic increases in refugee claims.

Maureen Silcoff noted that:

There's concern about the increase in numbers [of asylum seekers if the STCA is scrapped], but I think we have to separate what we know from what we're just fearing. What we know is that there has been no evidence to show there will in fact be an increase.

¹² CIMM, Evidence, 22 November 2022, 1735 (Maureen Silcoff).

¹³ Ibid

¹⁴ CIMM, Evidence, 18 November 2022, 1425 (Hon. Sean Fraser).

¹⁵ CIMM, Evidence, 18 November 2022, 1450 (Hon. Sean Fraser).

There was evidence provided through CBSA to the Federal Court in the safe third country agreement challenge, but there was no evidence. The court found that there was actually no evidence that there would be an increase, that there had not been statistics provided about that. I know that case is on appeal, but actually that point itself has not been appealed.¹⁶

On the contrary, witnesses claimed that the removal of the STCA would address chaos at the border and more evenly distribute claims throughout the country.

This sentiment was expressed by Perla Abou-Jaoudé:

We think that suspending the safe third country agreement would result in a better distribution of claims throughout the country, and one result would be to enable claimants to have access to an Association lawyer. That factor is very important for them to be well represented and for them to be recognized as credible by the judge.

In addition, that would give claimants better access to housing, food, and various services, including interpretation. By relieving the pressure on Quebec's system, it would facilitate better access to all these services.¹⁷

Stéphane Handfield, immigration lawyer, pointed to comparisons of inflows before and after implementation of the Safe Third Country Agreement as evidence to counter the argument that its suspension would drastically increase inflows:

You have to look at what was happening at the time, before the Safe Third Country Agreement went into effect. We were not getting disproportionate streams of asylum seekers. It was pretty much the same from year to year. So I don't see how suspending the agreement would worsen the situation, quite the contrary.

I would remind members that, so far in 2022, 99.3% of asylum seekers who enter Canada irregularly have done so through Roxham Road... If the agreement were suspended, asylum seekers would no longer converge there... Instead, asylum seekers could simply show up at any checkpoint and be properly handled by Canadian authorities, the way it used to be done.¹⁸

4. Closing the Border at Roxham Road is Not a Solution

Witnesses rejected claims that closing the border at Roxham road is a viable solution:

¹⁶ CIMM, Evidence, 22 November 2022, 1715 (Maureen Silcoff).

¹⁷ CIMM, Evidence, 22 November 2022, 1730 (Perla Abou-Jaoudé, Lawyer, Quebec Immigration Lawyers Association)

¹⁸ CIMM, Evidence, 25 November 2022, 1435, Stéphane Handfield, Lawyer, Handfield et Associés, Avocats, As an individual)

According to Stephan Reichold, Director General, Table de concertation des organismes au service des personnes réfugiées et immigrant:

It [closing Roxham Road] would lead to indescribable chaos. People would try to find other roads, roads much less safe than Roxham Road. That would not benefit anyone—not refugees, not Canada's security, not the provinces'. It's an idea that looks good but isn't.¹⁹

Ms. Appolonie Simbizi, Secretary General, Alliance des Burundais du Canada stated that :

If Canada were to close Roxham Road without a tangible alternative to address the problem of asylum seekers at an impasse, it would be using its geographic location to partially escape its responsibilities to protect asylum seekers.²⁰

Therefore, the NDP makes the following recommendation regarding the Safe Third Country Agreement.

Recommendation 1:

That the government of Canada suspend the Safe Third Country Agreement.

B. Public policy exemptions to the Safe-Third Country Agreement

In the absence of suspension or removal of the STCA, the government must at the very minimum, issue public policy exemptions for vulnerable individuals.

Maureen Silcoff explained that public policy exemptions are another tool to protect vulnerable groups:

One option... is to end or suspend the STCA, but there's an alternative. Article 6 of the STCA allows Canada to exempt classes of people or individuals on public policy grounds.

Canada now uses only one public policy exemption. That's for individuals facing the death penalty. There used to be a second one, as mentioned earlier, for people who are on Canada's list of countries to which we don't deport. That was ended in 2009.

Options at this point could include expanding exemptions and allowing for gender-based claims... In fact, the UNHCR recommended using public policy exemptions when it

¹⁹ CIMM, Evidence, 22 November 2022, 1725 (Stephan Reichold, Director General, Table de concertation des organismes au service des personnes réfugiées et immigrantes)

²⁰ CIMM, Evidence, 15 November 2022, 1655 (Appolonie Simbizi, Secretary General, Alliance des Burundais du Canada)

commented on Canada's draft regulations back in 2002, and this included for gender-based claims.

As well, exemptions could be created for vulnerable people who are turned around at the border and put into U.S. jails. Of course, the images of kids in cages offer a horrific window into the system that jails vulnerable people when they're simply seeking safety.²¹

Several other witnesses agreed that at the very least, the government of Canada should exempt individuals from the Safe Third Country Agreement who are faced with a return to their home country when it is not safe to do so.^{22 2324}

Therefore, the NDP makes the following recommendation.

Recommendation 2:

If the Government of Canada fails to suspend the Safe Third Country Agreement, then the Government of Canada should undertake to expand exemptions provided in the Agreement to include gender-based claims as a public interest exception, and restore the exemption for claimants from moratorium countries.

C. Delays in issuing the Refugee Protection Claimant Protection Document and Work Permits

The Refugee Protection Claimant Document, or the "Brown Paper," is an essential document issued by the government to asylum seekers and refugee claimants upon their arrival, which affords them eligibility to access federal healthcare, obtain a work or study permit and access housing options.

Abdulla Daoud, executive Director of the Refugee Centre explained that:

Typically, as soon as an individual makes an asylum claim in Canada, whether it be an inland claim, a border claim or an irregular crossing claim, they are instantly given the refugee protection claimant document, famously known as the brown paper. As soon as they are granted this document, they are given 45 days to submit their paperwork and initialize their claim.²⁵

However, according to the Refugee Centre, there has been a recent "deterioration in the bureaucratic processes and promises made to asylum seekers by the Canadian government." The government has introduced an "Acknowledgement of Claim"

²¹ CIMM, Evidence, 22 November 2022, 1655 (Maureen Silcoff).

²² CIMM, Evidence, 22 November 2022, 1645 (Eva-Gazelle Rududura, Vice-President, Unis pour une Intégration Consciente au Canada)

²³ CIMM, Evidence, 22 November 2022, 1645 (Frantz André).

²⁴ CIMM, Evidence, 22 November 2022, 1645 (Abudlla Daoud).

²⁵ CIMM, Evidence, 22 November 2022, 1600 (Abdulla Daoud).

document issued in temporary lieu of the brown paper in tandem with an "Entry for Further Examination Document" which "signifies that the CBSA agent does not have the capacity to assess the claim until an arbitrary date."²⁶

The Refugee Centre first encountered these documents in January 2022 which Mr. Daoud describes as a "bureaucratic tool to delay granting the refugee claimant the brown paper, while stripping them of certain rights that the brown paper affords them."²⁷

Further, the brown paper delays have recently become much lengthier and normalized according to Mr. Daoud:

At first, it provided an appointment dated three to six weeks from the refugee claimant's time of entry for them to acquire their brown paper and become eligible to apply for asylum in Canada. However, as time progressed, appointment times for both documents lengthened to 12 to 24 months... In one instance, our legal clinic saw an appointment given 16 months from the time of entry and the appointment was on a Sunday, when the IRCC offices are closed... From our internal statistics, from September 1 until today, over 90% of the 312 asylum seekers we have worked with have received an acknowledgement of claim with a date in the future for a brown paper.²⁸

Witnesses such as Marzieh Nezakat, highlighted that these delays worsen the economic vulnerability of asylum seekers:

When making a claim inland, the claim process takes months longer [compared to claims at official ports of entry] and claimants are left with no income assistance and delayed work permits of up to 18 months, which makes earning a living nearly impossible.²⁹

Therefore, the NDP makes the following recommendations related to processing of documents.

Recommendation 3:

That Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency work in tandem to issue Work Permits and Refugee Protection Claimant Documents, without delay, to all eligible asylum-seekers upon arrival, whether regular or irregular, at the Canadian border.

Recommendation 4:

That Immigration, Refugees and Citizenship Canada and the Canadian Border Services Agency increase processing capacity to clear the current processing backlog for asylum seekers and issue them Refugee Protection Claimant Documents as soon as possible.

²⁶ The Refugee Centre, Brief, 14 November 2022.

²⁷ CIMM, Evidence, 22 November 2022, 1600 (Abdulla Daoud).

²⁸ Ibid.

²⁹ CIMM, Evidence, 25 November 2022, 1420 (Marzieh Nezakat).

Recommendation 5:

That the Government of Canada ensure sufficient resources are allocated to the Royal Canadian Mounted Police, the Canada Border Services Agency and all relevant agencies at the border to support expeditious processing of asylum-seekers and safer working conditions for government officials.

Recommendation 6:

That IRCC issue a Refugee Protection Claimant Document that is valid until the final IRB determination is made.

D. Access to Resettlement and Other Support Services

Witnesses also spoke about the difficulties faced by asylum seekers in accessing housing upon their arrival to Canada.

Stephan Reichhold spoke to the urgent need for housing resources:

We are proposing, and we are asking the federal government to establish, a system of longer-term accommodation... at least during the winter and especially for the most vulnerable families. Given the housing crisis, it is virtually impossible to find a place to live. The occupancy rate at shelters for homeless people is therefore rising, something we absolutely want to avoid.³⁰

Marzieh Nezakat echoed concerns about the lack of funding from the federal government:

There is only one federally funded program [in British Columbia] which is called Reaching Home by IRCC and it is only for some of the transitional houses. We do not have many transitional houses for refugee claimants in B.C.... I would say nearly all the funding is provided by the provincial government and not by IRCC.³¹

Therefore, the NDP makes the following recommendation.

Recommendation 7:

That the Government of Canada provide increased funding for resettlement services and establish a system of transitional housing for refugee claimants.

Recommendation 8:

That the Government of Canada create and fund a training program for health care workers to raise their awareness of the Interim Federal Health Program and how health care workers play an active role in serving asylum-seekers through this program.

³⁰ CIMM, Evidence, 22 November 2022, 1710 (Stephan Reichhold).

³¹ CIMM, Evidence, 25 November 2022, 1445 (Marzieh Nezakat).

E. Conclusion

The NDP strongly agrees with committee witnesses who offered their expertise and recommendations through a practical and human rights-based lens.

The testimony from witnesses clearly indicated that the Government of Canada must suspend the STCA as a step towards building a more just and humane asylum system, in line with international human rights obligations. Not only will this minimize the grave danger that asylum seekers are exposed to in an effort to find safety, it would also ensure orderly crossings, improve safety and security throughout Canada's border communities, and provide the respect and dignity that human beings fleeing violence are entitled to under Canadian and International Law.

The failure of the Committee's report to reflect this recommendation is a clear demonstration of the pre-existing bias of the majority of the committee members.

With respect to the concerns and recommendations raised around processing delays for asylum seekers to obtain their refugee claimant identity documents and work permits and the need to ensure adequate supports are in place to ensure they succeed in their resettlement in Canada, the NDP is in full agreement with the witnesses' perspective. This delay exacerbates the vulnerability and economic precarity of asylum seekers when they arrive in Canada. The Government of Canada should endeavor to issue Work Permits and Refugee Protection Claimant Documents to all eligible asylum-seekers upon arrival, whether regular or irregular, at the Canadian border. Given that many of the asylum seekers have gone through traumatic and arduous journeys before they arrived in Canada, it would be critical that they are provided adequate resettlement support upon their arrival to Canada.

Addendum

An expanded Safe Third Country Agreement came into effect on March 25, 2023 at 12:01am EDT. By applying the STCA beyond official ports of entry, to the entire length of the Canada-US border including internal waterways, the new policy further pushes asylum seekers to highly dangerous irregular migration pathways, risking life and limb in their desperate attempt to get to safety. This deal between Canada and the US was signed in secret, back in Ottawa on March 29, 2022, without any public consultation, while the constitutionality of the STCA is being challenged in the Supreme Court of Canada.

The government's own internal analysis indicates that the expanded agreement may lead to increased dangers for asylum seekers, including risks of human trafficking and sexual violence, with disproportionate impact on migrant women, girls and LGBTQI+ individuals. The government moved ahead with this policy despite knowledge of the devastating human rights implications. The NDP condemns this policy and calls on the government to immediately suspend the STCA.