

MAD Socials 9: Assignment 4b

What is the Responsibility of Canada to Asylum Seekers?

November 5, 2018

Resources: Read the article below on immigrants crossing into Canada

Assignment: Write a passionate response to the key question: **What is the responsibility of Canada to asylum seekers?**

Length: three paragraphs

Format: We are not checking for spelling, or grammar, at this time. This is written as a opinion piece, and does not require fact-checking, or source material. This is your own response to the question.

Required elements: this is a new feature in our assignments, and it is used as a checklist of elements, I would look for in your work.

- _ Mention how we have immigration into Canada
- _ The effects on our country
- _ How you feel about letting more people in

* This can be a typed, or handwritten response.

* It should be double-spaced for feedback

Are asylum seekers crossing into Canada illegally? A look at facts behind the controversy

[Tavia Grant](#)

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Aug. 4, 2017: Asylum seekers raise their hands as they approach RCMP officers while crossing the Canadian border in Champlain, N.Y.

Ryan Remiorz/The Canadian Press

The issue of asylum seekers who are crossing into Canada between border points has sparked fiery political debates this summer.

In special hearings of the House of Commons immigration committee, the opposition Conservatives accused the federal government of mismanaging the refugee file and driving up costs for provinces and cities such as Toronto and Montreal. The federal government says it is dealing with a “challenge, but it is not a crisis,” and that it is fulfilling its international obligations. Both sides accuse each other of using language of “fear and division.”

Beyond the war of words in Ottawa is the global context: A record number of people around the world are fleeing war, persecution and armed conflict. The vast majority of them are displaced internally, or leave for neighbouring countries.

Canada too has seen recent increases – though in the global context, this country has experienced far smaller inflows. Last year, Canada received less than 0.2 per cent of the overall refugee population in the world, according to the United Nations High Commissioner for Refugees (UNHCR).

The majority of refugee claimants arrived this year and last through regular entry points, such as an airport. Since the start of 2017, however, an influx of people has come by land, crossing the border from the United States between official entry points.

Most of these crossings occurred in Quebec, with 1,179 arrivals in June. Although these numbers have subsided – in June they fell to a one-year low – since the start of last year more than 31,000 people have crossed into Canada this way. Their arrival corresponds with the election of U.S. President Donald Trump, whose approach to refugees differs markedly from Canada's. Under the Canada-U.S. Safe Third Country Agreement, refugee claimants who first arrive in the United States and then seek entry to Canada will likely be denied. A growing chorus of Canadians are calling for the suspension of the agreement, which they say would diminish the need to cross at unofficial border points.

This influx has caused concerns over costs. In July, the premiers of Ontario, Quebec and Manitoba jointly called on the federal government to review its policies on border crossings outside of regular ports of entry, "fully compensate" the provinces for impacts to services from the recent increase and "make the necessary investments" to ensure that hearings are adjudicated in a timely way.

Ontario Premier Doug Ford's government has formally requested \$200-million from the federal government to cover the costs of resettling thousands of asylum seekers now in the province, who crossed between ports of entry.

Toronto estimates the direct costs to the city budget this year for housing refugee claimants in motels and college dorms, food and other support services at about \$72-million.

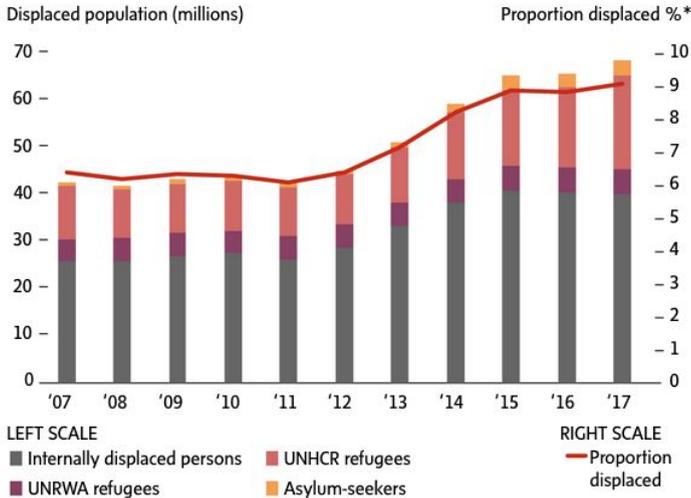
Under growing pressure, Prime Minister Justin Trudeau also shuffled his cabinet in July, putting former Toronto police chief Bill Blair in charge of both border security and the "irregular migration" file.

The issue of refugee claimants has become divisive for politicians and confusing for many Canadians. Here are some facts:

Is this situation unprecedented?

Globally, the refugee population rose to 25.4 million at the end of last year, the highest level since at least the Second World War, according to the UN refugee agency. About half of this population comprise of children. The number of people who became refugees last year grew by about 2.9 million people, the biggest annual increase on record.

GROWTH OF FORCIBLY DISPLACED PERSONS WORLDWIDE



*Number displaced per 1,000 world population

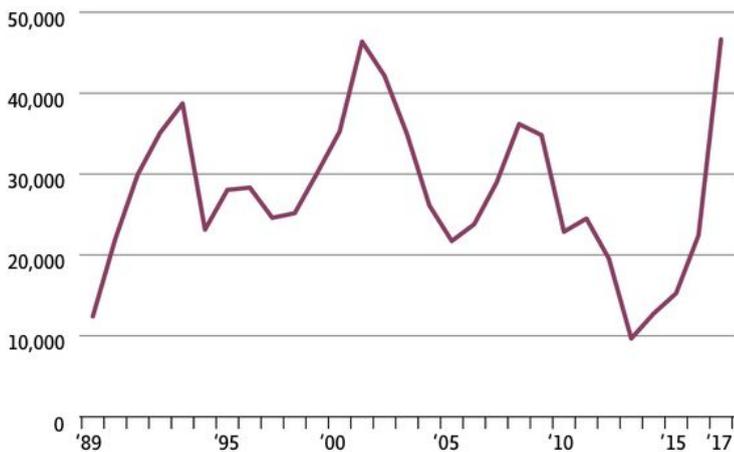
Canada received about 50,000 refugee claimants last year. Though that is about double 2016 levels, by way of context, “this is literally one day in Cox’s Bazar, Bangladesh, during the peak of the Rohingya crisis,” said the UNHCR’s Canada representative Jean-Nicolas Beuze.

“When we’re speaking about a crisis, a crisis of refugees does exist – but it’s not in Canada, it’s not in the U.S., and it’s not in Europe. The big numbers remain in the developing world, whether it’s Bangladesh, Uganda, Lebanon – those are the countries that are facing a refugee crisis.”

Movements of people typically happen in waves, depending on geopolitical conditions. In Canada, the number of new claims for refugee status recorded by the Immigration and Refugee Board (IRB) last year was the highest number since record-keeping began in 1989, though it’s very similar to 2001 levels.

REFUGEE PROTECTION CLAIM REFERRALS IN CANADA

By year of referral, Refugee Protection Division

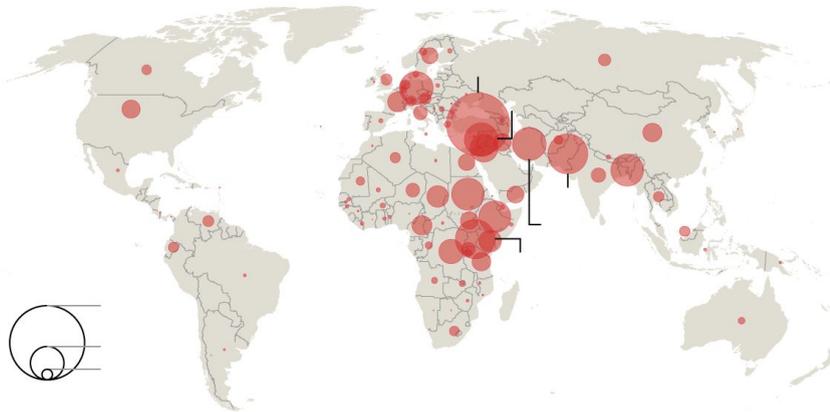


As for border crossings between ports of entry, though Immigration, Refugees and Citizenship Canada (IRCC) said comparable data isn’t available before 2017, a senior government official said the number of irregular border crossers last year was the highest in at least six years.

On a monthly basis, the recent peak was in August, 2017, with an average of 184 asylum seekers a day. The average is now 42 people a day.

Does Canada have an outsized refugee population?

On a per capita basis, Canada doesn't crack the top 10. The countries with the highest number of refugees per 1,000 inhabitants, as of the end of last year, were Lebanon, Jordan and Turkey, according to the UNHCR's global trends report for 2017. Syria is still the main country of origin for refugees worldwide, at 6.3 million people.



Including persons in a refugee-like situation

- Turkey
- Lebanon
- Pakistan
- Iran
- Uganda

In global movements of refugees last year, 99.8 percent of people went to countries other than Canada, the UNHCR says.

And in proportion to Canada's overall population, incoming refugees represented 0.13 percent of this country's total population last year, the agency says.

The situation is different for some European countries. In Sweden, for example, asylum claims reached 169,000, or 1.7 percent of its population, in 2015, noted [an April report](#) by former Canadian immigration deputy minister Neil Yeates. "Translated into the Canadian context it would be akin to a surge of more than 600,000 claims – double total current immigration levels and more than a tenfold increase in 2017 refugee claims."

Where are people crossing?

The majority of people making refugee claims in Canada are using the regular channels, such as making a port-of-entry claim at an airport.

Last year, the IRCC recorded 50,445 refugee claims. Fewer than half of these – 20,593 – were "interceptions" or asylum seekers crossing the border at unofficial points who were apprehended by the RCMP.

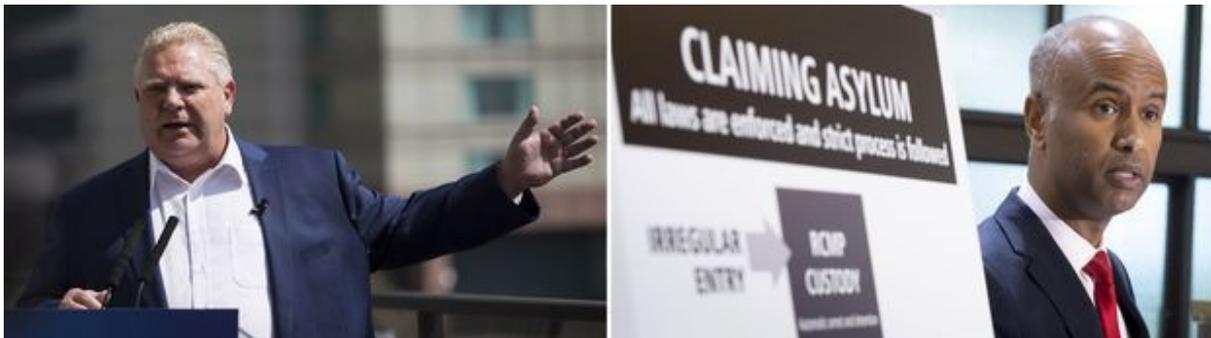
So far this year, 12,378 people have crossed this way (fewer than half of total claims, which totalled 25,710 in the first half of the year). These numbers declined in May and June, to the lowest level in a year, but [rose slightly](#) in July, when the border saw an average 50 to 55 crossings a day. In recent

months, most people crossing this way were from Nigeria, followed by Congo, Haiti and Colombia, according to the federal government.

Still, movements can ebb and flow, it's difficult to tell whether the recent decline is a lasting trend or a temporary blip.

As for outcomes, nearly half of claimants who crossed this way and whose cases were finalized were granted refugee status. Of the [finalized IRB decisions](#) on people who crossed between ports of entry last year and early this year, 47 per cent were accepted, 36 per cent of claims were rejected (some of whom may appeal the decision) and the rest withdrawn or abandoned. (For context, of these claims, there were 3,462 finalized cases between January, 2017, and March, 2018, and 20,116 claims still pending.)

Are they illegal?



Ontario Premier Doug Ford and federal Immigration Minister Ahmed Hussen don't see eye-to-eye on how to characterize migrants crossing the border, whom Mr. Ford has called 'illegal border crossers.'

A political debate has raged over language and whether asylum seekers crossing between official points are entering Canada illegally. The term "irregular" is viewed by some as vague jargon and a euphemism. The use of "illegal" (Ontario Premier Doug Ford calls them "illegal border crossers") is seen by others as inflammatory and dehumanizing.

Legal experts say Canada's immigration laws are clear: "They're not illegal border crossers," said James Hathaway, founding director of the University of Michigan's program in refugee and asylum law, who is Canadian, and a leading global authority on refugee law.

Internationally, Canada is signatory to the 1951 UN Convention Relating to the Status of Refugees. Within Canada, the Immigration and Refugee Protection Act (IRPA) is the legislation that governs the flow of people – i.e., non-citizens who enter Canada. The legislation that governs the flow of goods into Canada is the Customs Act, which applies to everyone, citizens and non-citizens.

Article 31 of the UN refugee convention says receiving countries may not penalize refugees for how they enter a country, as long as they present themselves "without delay" to authorities and show "good cause" for their presence.

In line with international practice, Canadian law under the Immigration and Refugee Protection Act, Section 133, says that someone who has claimed refugee protection, and is either waiting for a hearing or has been accepted as a refugee, can't be charged under the IRPA with an offence over how they came to Canada.

Illegal entry is not an offence in Canada's Criminal Code. But the Immigration and Refugee Protection Regulations 27 (2) says anyone who does not enter at a port of entry must check in "without delay" at a border point.

Many of Ontario's new arrivals came via the U.S.-Quebec border, crossing at places other than a designated port of entry. If they promptly go to, or are taken to, a port of entry after they arrive, they have not breached immigration law, said Audrey Macklin, a professor and chair in human-rights law and director of the Centre for Criminology and Sociolegal Studies at the University of Toronto. In any case, if they file a refugee claim after they arrive, and are recognized as refugees, the manner by which they entered Canada doesn't legally matter.

"If someone a) comes forward voluntarily, and b) explains that the reason they crossed the border illegally was they were looking for protection, it's clear as a bell: You may not under any circumstance penalize them" for how they arrive, said Prof. Hathaway, who is also a professor at the university's law school.

In other words, the laws recognize that someone fleeing for their lives may not have the time or ability to collect documents or their passport, or to apply and wait for travel visas, and that desperate people may need to take desperate measures to escape life-threatening situations. And once they seek protection in another country, that country is obliged to hear their claim to refugee status and make a determination on that claim.

There are ways that the mode of entry can breach the Immigration and Refugee Act. If someone crosses at an unofficial border point, doesn't promptly go to a port of entry and doesn't file a refugee claim, that entry violates the IRPA. If a person is rejected as a refugee, their manner of entry could be in breach of the Immigration Act and they could be charged. In practice, however, this is rarely carried out as it's more efficient for Canada if they leave or are deported.

Otherwise if someone enters Canada and files a claim, and while that claim is pending, there is nothing illegal about them. "What they're doing is what the governments that drafted the treaty said they can do," said Prof. Hathaway.

Government of Canada signs at unofficial border crossings say it is illegal to cross the border here. This, said Prof. Macklin, refers to the Customs Act, not the IRPA. The Customs Act stipulates that everyone arriving in Canada enter only at a customs office. This act, however, is intended for regulating imported goods, and for those who cross-border shop, not for asylum seekers. Three experts in refugee law told The Globe and Mail they are not aware of any time that refugee claimants who crossed at unofficial crossings have been charged with violating this act.

The blanket term "illegal border crossers" is "inaccurate and misleading," said Prof. Macklin, as it stigmatizes people as lawbreakers when their conduct is either not unlawful or its legality cannot be determined at the moment of entry, she said. People who cross between border points and are taken directly to a port of entry are not in breach of immigration law.

"It's important to acknowledge that using the term 'illegal' is not just a good-faith disagreement about terminology," she added. "The use of 'illegal' is deliberately pejorative. It is intended to encourage the public to criminalize people who seek asylum and to portray them as a menace, so that we forget that refugees are people fleeing persecution who are asking Canada to fulfill its legal undertaking to protect them."

Since decisions on refugee status can't be made immediately, it's only later that it can be determined whether the border crossing was unlawful or not. So the lawfulness of the act of crossing by someone seeking refugee protection cannot be determined until after a claim has been decided. And a claimant's manner of entry to Canada is irrelevant in assessing the merits of their claim.

The Immigration and Refugee Board – an independent tribunal – uses the term "[irregular](#)" border crossers.

The RCMP uses the term "interceptions."

Prof. Macklin prefers irregular. “The use of the term ‘irregular’ acknowledges that we cannot know the legal significance of their entry at the moment of entry because their claim to refugee protection will not be determined until later.” It also acknowledges “that this is not what is understood to be the typical, usual, routine way of crossing the border.”

The language is so charged that Calgary-based lawyer Raj Sharma prefers the term “border crossers” without any modifiers. He compares the situation to a marriage that is annulled. “It’s like the law is scrubbed,” said Mr. Sharma, who formerly worked at the IRB. Ultimately, he says “irregular” is a more appropriate term, given the nuances in the laws.

Why can’t Canada just turn people away at the border?

In many cases, Canada does turn people away at the border. Under the Safe Third Country Agreement (STCA) between Canada and the United States, in effect since 2004 as a way to address pressures on asylum systems from global migration growth, they must ask for protection in the first safe country they arrive in. This means if they come from the United States and present themselves to a Canadian border agent at a land-border port of entry as a refugee claimant, they are generally denied and sent back.

The agreement does not, however, apply to some groups, such as unaccompanied minors, nor to those who cross into Canada other than at an official border post and make an in-land claim. This is precisely why many of those seeking protection have crossed at non-designated points, rather than at an official crossing where they would be automatically directed back into the United States. In Manitoba, and especially in winter and at night, this has posed safety risks for both claimants and patrol officers who conduct search and rescue.

This agreement is being challenged in the Federal Court of Canada, as lawyers argue that the United States under President Donald Trump can no longer be considered safe, and that the agreement violates parts of the Canadian Charter of Rights and Freedoms.

It’s not just refugee advocates saying so. The agreement “should be suspended right away,” said Chris Alexander, former Conservative immigration minister. “No Canadian who believes in upholding our obligations under international humanitarian law can say, in all good conscience, that the U.S. is a safe country.”

This would reduce the need to risk crossing at unofficial places, and let asylum seekers make claims “safely and efficiently” at official points of entry. Though this would cause an increase in claims initially, he said, “it would restore order to our rules-based system.”

If the STCA were suspended, “irregular migration would evaporate tomorrow,” said Prof. Macklin. “People would just go to a regular port of entry ... and show up in an orderly fashion, and ask for protection.”

As for simply closing the door to asylum seekers, “we cannot and should not do this,” Mr. Alexander said. “Asylum seekers have the right to make claims, especially given the additional barriers erected by the Trump administration. We should ensure they are able to make claims safely and efficiently at points of entry, while resourcing the IRB properly so that it can rapidly come to grips with its growing backlog.”