

# Reclaiming Protection

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ADVOCATING FOR AN END TO THE CANADA-U.S.  
SAFE THIRD COUNTRY AGREEMENT

CITIZENS FOR  
PUBLIC JUSTICE 

# Background



- The Safe Third Country Agreement is a policy shared by Canada and the United States that applies to refugees who arrive at an official land border in search of protection.
- Since December 2004, the STCA has allowed the Canada Border Services Agency to return refugee claimants to the U.S. under the premise that refugees should make their claim in the first "safe" country in which they arrive.<sup>1</sup>
- In signing the agreement, Canada maintained that the U.S. could share the responsibility of refugee protection because they had an adequate system for handling refugee claims. In practice however, the policy has served to largely shift the responsibility of refugee protection and restrict access to protection.
- A 2010 joint assessment by Canada and U.S. border agencies confirmed that from the start, **Canada intended for the STCA to limit the "northbound movement of people from the United States who wished to access the Canadian refugee determination system."**<sup>2</sup>
- In effect, the STCA was designed to restrict access to Canada's refugee system. The policy denies claimants their right to be assessed on an individual case-by-case basis and fails to acknowledge inadequacies in the U.S. asylum process.
- Recently, the mistreatment of migrants by the current U.S. Administration has drawn increased criticism over the integrity of the agreement. The agreement has also contributed to an influx in irregular border crossings from the U.S., which has led to the mischaracterization of refugee claimants as "illegals" by certain media outlets and members of government.
- Canada's Minister of Immigration, Refugees, and Citizenship, Ahmed Hussen, has repeatedly insisted that the STCA remains an effective mechanism for handling refugee claims. However, **allowing refugees access to regular channels would more appropriately manage refugee flows** and uphold our humanitarian obligations.

# STCA FAQs

For more info, visit [cpj.ca/stca](http://cpj.ca/stca)

1

## WHY ARE PEOPLE FLEEING THE U.S. TO GET TO CANADA?

Individuals flee the United States for a number of reasons. Most recently, certain policy changes and anti-immigration sentiments have caused select groups to feel that their lives could be at risk if they remain in the United States. For some, this is a result of a fear of deportation to a country they believe is unsafe, dangers posed by gang or domestic violence, the expiration of resident status, and so on. Recently, the end of select Temporary Protected Status designations, which allowed nationals from certain countries to reside in the United States, has prompted thousands to seek safety in Canada.

In general, refugees fear that the U.S. will fail to provide them with adequate protection and therefore turn to Canada for help.

2

## IS IT ILLEGAL TO CROSS INTO CANADA AT AN UNOFFICIAL BORDER POINT?

**No.** Under Canadian and International refugee law, an individual in search of protection may bypass borders in order to seek asylum. The 1951 UN Refugee Convention, along with Canada's Immigration and Refugee Protection Act, state that refugees attempting to enter Canada and gain protection must not be penalized in the process.

Because of the STCA, a majority of refugees are not permitted to make their claim at the border, and are instead forced to enter Canada through alternate means. While some politicians and journalists have referred to this process as "illegal," when an individual has a well-founded fear of persecution, this movement is not in fact illegal, but is appropriately referred to as "irregular".

3

## DO IRREGULAR BORDER CROSSERS SLOW DOWN THE RESETTLEMENT PROCESS FOR OTHER REFUGEES?

**No.** Canada has two refugee streams: the Refugee and Humanitarian Resettlement Program and the In-Canada Asylum Program. Those who arrive as Government-Assisted Refugees, Privately-Sponsored Refugees, or Blended-Visa Office Referred Refugees are identified for resettlement by the UNHCR and/or private sponsors and are processed through the resettlement program. Those who make claims from within Canada or upon arrival go through a separate and independent process in Canada.

# Towards Just Policies

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The world is facing a crisis unparalleled in modern times. At present, there are 25.4 million refugees across the globe.<sup>18</sup> Nations can no longer pass off refugee protection to other countries.

The Safe Third Country Agreement fails to consider the needs of individual refugees and, more broadly, the current realities of mass waves of displacement worldwide. While originally envisioned as a responsibility-sharing program, the policy has now become one of responsibility-shifting. But above and beyond the protocols set out in the STCA, **Canada has international obligations to promote, protect, and uphold the human rights of refugees.**

These obligations must be respected. Canada shouldn't continue to subject refugees to danger out of fear of being returned to the U.S. We should assure refugees that their cases will be carried out in a timely manner. Those that are eligible should know that they will promptly receive needed protections, and those whose claims are unfounded should not have their denials prolonged. Canada must pursue policies that will restore orderly and compassionate refugee processing at the border, uphold international law and ultimately curb irregular border crossings.

**Public justice** calls each of us to work towards a society that upholds the rights of all, especially those on the margins. Citizens and governments must act collaboratively to ensure that refugees receive the protections they are due.

In light of pressures from some to further restrict access to refugee protection, it is essential to remind the government that people in Canada support refugees. To remain true to Canada's legacy as a welcoming country, **Canada should end the STCA with the U.S.** and implement robust and proactive solutions for the handling of refugee claims. In doing so, we can continue to do our part to provide protection to refugees in need of care.



According to the Government of Canada:

*"Only countries that respect human rights and offer a high degree of protection to asylum seekers may be designated as safe third countries."*

**Join us in calling for an end to the STCA!**



# Take Action!

## ADVOCATE FOR AN END TO THE CANADA-U.S. SAFE THIRD COUNTRY AGREEMENT

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As citizens, it's important we let our government know when policies fail to provide justice for all.

On the following pages, you'll find a draft letter addressed to the Minister of Border Security and Organized Crime Reduction and briefing notes that you can use in face-to-face meetings with your Member of Parliament. **Edit these templates to make your concerns about the STCA known** to your elected officials.

*Call on the federal government to live up to Canada's international obligations and:*

1

**REFUSE TO MISCHARACTERIZE  
REFUGEE CLAIMANTS AS  
"ILLEGAL" BORDER CROSSERS.**

2

**RESTORE ACCESS TO REFUGEE  
PROTECTION AT THE CANADA-  
U.S. BORDER.**

3

**RESCIND THE SAFE THIRD  
COUNTRY AGREEMENT WITH  
THE U.S.**

September 1, 2018

The Honourable Bill Blair, P.C., M.P.  
Minister of Border Security and Organized Crime Reduction  
House of Commons  
Ottawa, Ontario K1A 0A6

Dear Minister Blair,

The Safe Third Country Agreement is an unjust policy for refugees seeking protection in Canada. All refugees have a right to receive due process, and the STCA denies refugees arriving from the United States this basic right.

With the current U.S. Administration's harsh stance against refugees and immigrants, the U.S. is not a safe place for many refugees. When refugees are returned to the U.S., they are at a high risk of being detained and returned to countries where they may be subject to harm or persecution upon arrival.

As someone living on Indigenous lands, in a country made up of immigrants, I am happy to welcome refugees. I am proud of Canada's rich tradition of providing protection for many of the world's displaced and marginalized people. I am saddened to think that while we readily receive resettled refugees from abroad, in contrast, we often reject those who arrive at our border.

I am concerned that in the process of coming to Canada, many refugees embark on dangerous journeys. Some refugees have risked life and limb while crossing the border during the winter months. Many others have turned to smuggling networks that put them in harm's way. Much of this could be avoided with proactive policies that put the dignity and safety of refugee claimants first.

It is with all this in mind that I ask the government to live up to Canada's international obligations for refugee protection and:

1. Refuse to mischaracterize refugee claims as "illegal" border crossers.
2. Restore access to refugee protection at the Canada-U.S. border.
3. Rescind the Safe Third Country Agreement with the U.S.

Canada should pursue a robust alternative to the STCA that promotes and protects the human rights and fundamental freedoms of refugees, restores security at the Canada-U.S. border, employs up-to-date technologies for the sake of timely processing of refugee claims, and removes any incentives for irregular border crossing and associated harms.

Thank you for your commitment to creating a more just and inclusive Canada. Now, would you stand with refugees and rescind the STCA? I look forward to your response.

Sincerely,

Name Name  
321 Justice St.  
Ottawa, ON K1S 5B7

cc: other MPs, ministers, and organizations who also received the letter.