



# Canada: Immigration and Refugee Policies

April 2010

LL File No. 2010-04082  
LRA-D-PUB-000281

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### CANADA

#### Immigration and Refugee Policies

##### *Executive Summary*

*The following is an overview of Canadian Immigration and Refugee Policies requested by Carl Ek, Specialist in International Relations in the Foreign Affairs and National Defense Division of the Congressional Research Service. This report will be included in the annual briefing book on “Canada-U.S. Relations” prepared in anticipation of the United States-Canada Interparliamentary Meeting. The CRS briefing book does not contain footnotes so as to make it more concise and reviewable by Members of Congress. The 2009 report is attached to show what was done previously.*

## IMMIGRATION AND REFUGEE POLICIES<sup>1</sup>

### Issue Definition

Should the United States be concerned that Canada’s immigration and refugee laws and policies pose a threat to its national security?

### Background and Analysis

Although Canada does not have country or worldwide immigration quotas, the government does establish annual targets. Between 2004 and 2008, Canada accepted between 235,000 and 262,000 new permanent residents annually. In this same period, an average of between 90,000 and 100,000 persons were accepted annually as temporary workers. New arrivals as permanent and temporary residents total more than 1% of the entire Canadian population. Asian countries, such as China, India, Pakistan, and the Philippines, are heavily represented at the top of the list of countries from which Canada’s immigrants come, but no one nation dominates. Iran is the only country adjacent to the Middle East that recently has been in the top ten. Security checks are conducted by federal authorities. Because Quebec, however, has an agreement with the federal government that allows it to select immigrants intending to settle in that province, Quebec’s system adds a second screening process for its applicants. Quebec also has addressed security concerns by adjusting its programs for recruiting immigrants. The federal government and Quebec use point systems for assessing independent applicants that were changed ten years ago to attract more highly skilled and educated immigrants, regardless of whether they had arranged employment or not. Under this system, Canada has long accepted a much higher percentage of independent immigrants and a much lower percentage of family class immigrants than the United States. A decision to give priority to the processing of certain applicants who have arranged employment drove the balance of the

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<sup>1</sup> Prepared by Stephen F. Clarke, Senior Foreign Law Specialist, Western Law Division, Law Library of Congress, May 2008.

skilled worker category even higher relative to family class immigrants, to a ratio of approximately 2.3:1 in 2008.

One notable feature of Canadian immigration is that nearly three-quarters of the persons accepted settle in the three largest cities: Toronto, Montreal, and Vancouver. This tendency, combined with the high rate of immigration, has raised some concerns about destructive “diaspora nationalism” emerging in these concentrated communities. The 2006 arrests of a group of Muslims who had been raised in Canada and had planned attacks in southern Ontario fueled this concern. However, this problem is not unique to Canada and opposition to immigration has not been voiced nearly as loudly or as forcefully in Canada as it recently has been in parts of Western Europe. In fact, immigration is still generally viewed as an opportunity for growth in what would otherwise be a declining population.

The Canadian policy for asylum applicants is a far more contentious issue within the country than immigration, not so much for its negative effects within Canada, but because it generally is believed to invite fraud and abuse. Between 1998 and 2004, refugee claims began at around 25,000, rose to a high of about 45,000, and ended back down at approximately 25,000. In 2007, the number of refugee claims was approximately 29,500, but it rose again to nearly 38,000 in 2008. The acceptance rate has consistently been somewhat higher than in the United States. In 2006, 47% of the refugee applications processed were accepted. In 2008, it reportedly rose to 58%. Of particular concern to Canadian officials prior to 2005 was the fact that approximately 40% of the overall total claimants and some 70% of port-of-entry claimants had entered Canada through the United States. Canada is attractive to asylum applicants because it detains few undocumented refugee claimants pending independent identification and because the federal and provincial governments grant immediate assistance to applicants who have yet to substantiate their claims. The result has been that the majority of Canada’s refugee claimants arrive in Canada without any documents and are allowed free entry into the country, even though it is clear that many disposed of the documents they had before coming to Canada. Canada is also attractive to refugee claimants because it does not often detain undocumented arrivals.

Several U.S. television programs that have portrayed the Canadian refugee system as extremely liberal have received considerable attention in Canada. Most of these segments have mentioned cases of terrorists from the Middle East who did or may have entered Canada as refugees with the intention of launching attacks against U.S. targets. The most prominent of these cases is that of the “millennium bomber.” Ahmed Ressaam was captured in 1999 while crossing the border with explosives that he planned to set off at Los Angeles International Airport on January 1, 2000. Also highlighted have been the cases of suspected terrorists who have remained in the country for many years while fighting their way through a very lengthy appeal process. In 2002, the Supreme Court of Canada ruled that two persons linked to terrorist organizations could be deported to countries where they might face torture, when security concerns so require. One of these individuals was returned to Iran fairly quickly, but the other continued fighting his extradition to Sri Lanka.

Media coverage of the Canadian refugee system has elicited a wide range of responses. While a number of Canadian commentators agree that the United States has good reason to fear that Canada’s refugee policies can be easily employed by terrorists to enter North America, others contend that terrorists are more likely to use other means to enter both Canada and the United States. Many analysts point out that the refugee system essentially has been used for “queue jumping” by enterprising persons who might not qualify under Canada’s immigration laws. Proponents of this view are exasperated by repetitions of the well-refuted myth that the September 11 hijackers came from Canada and question how great the security risk to the United States can be if a significant number of claimants are coming to Canada from this country.

In December 2002, the United States and Canada signed a Safe Third Country Agreement to allow immigration officials in both countries to require most persons seeking asylum at a border crossing to go back and present the claims in their respective countries. This type of agreement had been called for in the Action Plan to the Smart Border Declaration signed in the aftermath of the September 11 attacks in the United States. Implementation of the Agreement was delayed by the lengthy and complicated process for drafting and approving appropriate regulations in the United States, but it finally went into force at the beginning of 2005. In 2007, a judge of the Federal Court of Canada held that the law implementing the Agreement was unconstitutional, based on his finding that the United States does not fully comply with international conventions on refugees. However, in 2008, the Federal Court of Appeals upheld the Safe Third Country Agreement, in a decision the Supreme Court of Canada decided not to review in February 2009.

Although the Safe Third Country Agreement aims to limit asylum shopping and the filing of multiple claims, it is limited in scope and subject to several major exceptions. One major limitation is that it only covers the presentation of claims at land border crossings. Airport and marine facilities are not covered except in very limited circumstances. The Agreement also contains broad exceptions for relatives, including relatives of other asylum seekers, and it allows the parties to “examine any refugee status claim made to that party where it determines that it is in the public interest to do so.” Statistics show that the number of refugee claims presented at border crossings in Canada declined by approximately 40% in the first half of 2005, and fewer than 20,000 total claims were filed for the entire year. Although the data would suggest that the Safe Third Country Agreement had a dramatic immediate impact, it also has been noted that claims presented at airports, which are not subject to the Agreement, initially were down about 25%. Thus, the Safe Third Country Agreement appears to have gone into effect during a period in which the number of refugee claims already was declining. Since then, refugee claims have increased again.

## **Status of the Issue**

One longstanding problem in Canada is that deportation is a very complicated and lengthy process. The number of persons deported has been growing, but Canada’s Auditor-General found in May 2008 that the government did not know the whereabouts of approximately two-thirds of the over 60,000 persons who were subject to deportation or removal orders. Included in this group are persons who were found to be inadmissible on the grounds of criminality. While the Auditor-General was critical of the situation, she did not find that the missing persons constituted a clear national security risk.

At the end of March 2010, the Minister of Citizenship, Immigration, and Multiculturalism declared that “Canada’s asylum system is broken” and announced plans to reform it. The Government aims to reduce the 19 months it now takes to process the average refugee claim and the 4.5 years it now takes to remove the average failed refugee claimant. The goals are to have refugee claims heard within 60 days of being presented and removals of persons found not to be entitled to refugee protection to less than one year. This is not the first time such intentions have been announced. Over the past thirty years, every Canadian Government has announced plans to address shortcomings in the country’s refugee laws. Some reforms have been enacted, but the problem of abuse has continued to grow.

## **Questions**

1. Could the Safe Third Country Agreement have had a broader application and apply to persons making applications for refugee status within the country?

2. Are the reported cases of terrorists and high-risk persons entering North America through legal means a sign of a potentially much greater threat?

3. Why do Canadian and U.S. officials maintain different detention policies in the case of undocumented refugee claimants?

4. What steps does the Canadian government intend to take to keep track of persons subject to deportation or removal orders?

5. Why does the Government believe its current efforts to “fix” Canada’s “broken” asylum system will succeed when so many previous efforts over the past thirty years have failed?

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April 2010