

## **Border Rights for Refugees 難民在邊境的權利**

***A know your rights guide for non-US citizens coming to Canada from the United States to make a refugee claim. 明白你作為一個自美國進入加拿大境內，打算申請成為難民的非美籍人士的權利。***

You have the right to seek safety for yourself and your family. This guide is to provide you with information to support your decisions. It is general information and not legal advice. There are many specific details that you need to consider in addition to the information provided here, so please consult a lawyer if possible. 你有權為你和家人尋求安全的庇護。這份指引可提供資料，助你作出決定。但請明白這祇是一般性資料，並非法律意見。你還有很多細節需要考慮，所以應盡可能尋求律師的幫助。

The guide is produced by the Immigration Legal Committee of the Law Union of Ontario and No One Is Illegal. Supported by the African-Canadian Legal Clinic. 這指引由「安省法律公會的移民合法性委員會」(Immigration Legal Committee of the Law Union of Ontario)及「沒有人是不合法」(No One Is Illegal)組織提供，並得到「非洲-加拿大法律診所」(African-Canadian Legal Clinic)協助。

### **Coming by a Port of Entry由陸路入境口進入**

A *port of entry* is a place where you can legally enter Canada. A **land port of entry** is where pedestrians, buses, cyclists, trains and cars enter Canada from the United States. Other ports of entry are Airports and Marine ports. 「入境口」是指你可以合法進入加拿大的入境處。一個**陸路入境口**包括可供行人、公車、單車族、火車和汽車，由美國進入加拿大的關口。還有航空及海岸入境口

Canada and the United States have signed an agreement called the **Safe Third Country Agreement (STCA) that stops many people from claiming refugee status in Canada if they arrive at any legal land port of entry.** 加拿大和美國簽訂了一紙協議，稱為《安全的第三國家協議》，簡稱 **STCA**。這協議阻止很多由合法入境口進入加拿大的人士申請成為難民。

**There are three main exceptions to this ban .** Under these three circumstances, even if you arrive at a land port of entry you may be eligible to make a refugee claim. **這禁令有三個例外情況，讓入境者仍然可申請成為難民：**

1) You may be eligible to make a refugee claim if you arrive at a land port of entry if you **have family in Canada** , such as same or opposite sex spouse, common-law partner, legal guardian (if claimant is under 18 years of age), child, parent, sibling, grandparent, grandchild, uncle or aunt, nephew or niece. Not all family members qualify.

**1) 如果你有家人在加拿大** - 這包括異性或同性伴侶、同居配偶、合法監護人 (如果申請人未滿18歲)、孩子、父母、兄弟姊妹、祖父母、孫兒女、叔叔或阿姨、姪女或姪子。但不是所有家庭成員都合符資格。

You must prove to the immigration officer when you arrive that your family member is **physically in the country** when you arrive at the border and that they **have immigration status** in Canada. Immigration status in Canada means that they have won their refugee claim or Pre-removal Risk Assessment, are a permanent resident, a Canadian citizen or a person whose removal order has been stayed (stopped), a person who has a work permit or study permit, or a person who has made a refugee claim that is still being processed. You will need to have contact information for your family member (the officer may call your family member and ask them questions). You may need documents confirming your relationship to them, and their status in Canada.

你必須向移民部執法人員證明，當你進入加拿大境內時，你的家庭成員是**身在加國境內**，而他們具有合法移民資格。具備合法移民資格是指他們申請難民身份成功或通過了風險評估 (Pre-removal Risk Assessment)，是永久居民，是加國公民或遣返令已被終止人士，擁有工作證或讀書許可證，或難民身份在審中的人士。你需要持有家人的聯絡資料 (執法人員或會致電他們問問題)。你或需要提供證明雙方是家屬關係的文件，以及證明他們在加拿大合法居留的文件。

2) You may also be eligible to make a refugee claim if you arrive at a land port of entry if you are an **unaccompanied minor** . This means you are under 18, unmarried and not coming into Canada with a parent or a legal guardian, and don't have a parent or legal guardian in Canada or the U.S.

**2) 如果你是沒人陪同的未成年兒童** – 即是你未滿十八歲、未婚，並且沒有家長或監護人陪同入境加拿大，以沒有家長或監護人在加拿大或美國。

3) You may also be eligible to make a refugee claim if you arrive at a land port of entry if you have a **valid visa or travel document** allowing you to come to Canada or a valid work or study permit; or you are from a country where you do not need a visa to enter Canada.

**3) 如果你有有效的簽證或旅遊證件** – 即是你有前來加拿大工作或讀書的有效簽證或旅遊證件，或來自一個不需要簽證就能進入加拿大的國家。

If you come by **plane or boat you will not be excluded under the STCA** and may be able to start your application for refugee status at the port *unless* you have been refused refugee status in the U.S. and are transiting through Canada after being deported from the United States. **如果你乘飛機或船進入，你不會受STCA限制**，並可以在機場或港口提出難民申請，**除非**你的難民申請已被美國拒絕，而是在離開美國的途中停留加拿大。

## **Making a refugee claim at a Port of Entry 在入境口提出難民申請**

If you are allowed into Canada because of the STCA exceptions or because you arrived at an Airport or Marine Port, you will be **interviewed by an officer** at the port of entry who will decide if you can start applying for refugee status (eligible to make a **refugee claim**). 如果你屬 STCA 的例外個案，或乘飛機或船進入加拿大，**執法人員會在入境口向你查問**，決定你是否符合資格申請**成為難民**。

The officer may allow you to make a refugee claim immediately, or allow you to enter into Canada and ask you to return for an interview on another day. The officer may also place you in detention (jail) to gather more information. **執法人員或會要求你馬上作出難民申請，或讓你先進入境，日後才進行查問。執法人員也有可能把你拘留，以搜集更多資料。**

Some reasons that you may not be allowed to make a refugee claim are (1) if you have refugee status in another country you can return to or (2) you already made a refugee claim in Canada and it was refused, withdrawn or abandoned, or not allowed to proceed, or (3) you are considered 'inadmissible' and are found to be a security threat or to have committed serious crimes. 一些情況下你不能申請**成為難民**：(1) 你在另一個國家已經申請**成為難民**，而你是可以回去該國家的；(2) 你已經在加拿大申請**成為難民**而被拒、被放棄，或被終止；(3) 政府基於國家安全理由或你過往的嚴重罪行，把你定為「不能接受」。

If the officer allows you to make to make a refugee claim, you will be given a **Refugee Protection Claimant Document** that you can use to get healthcare and/or welfare, and you may also be able to apply for a work permit. 如果執法人員准許你提出難民申請，你會收到一份**難民保護申請人證件**，這樣你便可以獲得醫療保健及/或福利，以及可以申請工作證。

You will also be given an important form called the **Basis of Claim**. Be prepared. You will need to fill out this form and ensure it is delivered to the Immigration and Refugee Board **within 15 days**. Get help if you can to complete it, and make sure that you include all the information about your claim. 你也將獲得一份名為**難民申請理由**的重要表格。你需要在**15天內**填寫此表格並寄至移民難民委員會。你應請別人幫你一起填寫此表格，並把所有關於你申請的資料填寫在內。

## **Entering Canada somewhere other than at a regular port of entry 從一般入境口以外的其它途徑進入加拿大**

Many people come to Canada over land but not at a port of entry or official border crossing. **This is not "illegal", but you may be detained.** If you end up in the custody of police or Canadian immigration enforcement after coming into Canada tell them immediately if you are in danger in your country of origin. 很多人會從非入境口的陸路進入加拿大。**這不算是「非法」，但你或會被拘留。**如果你

被警察或入境處執法人員拘捕，告訴他你在原居地有生命危險。

Once you are in Canada, you can legally make a refugee claim to any officer of the Canada Border Services Agency or at any Immigration, Refugees, and Citizenship Canada office ( [www.cic.gc.ca](http://www.cic.gc.ca) ). You will be given a bundle of forms at this office. Until you come back to the office with these forms filled out, you cannot get health care or social services or apply for a work permit. **This is called an in-land claim.** Prepare carefully as these forms become the basis of your claim and will be seen by the decision-maker who will be deciding your refugee claim. 一旦你進入加拿大，你可以合法地向加拿大邊境服務局的任何一位執法人員，或到任何加拿大移民、難民及公民部（查詢：[cic.gc.ca](http://cic.gc.ca)）提出難民申請。你會需要填寫很多文件；在填寫及交還文件之前，你不能獲得醫療保健或福利，也不能申請工作證。**這是叫「在境申請」**。請小心填寫這些文件，因為它會成為申請決策人審核你的難民申請的依據。

### **Protecting yourself保護自己**

Whatever you say to immigration enforcement (Canada Border Services Agency) officers, and possibly police, will become part of your refugee claim file and you could be asked questions at your refugee hearing later. Try to include as many details about why you are afraid to go back to your country of origin. Providing information that is found to be false or leaving things out of your answers can affect whether your story will be believed later.

你向移民部(邊境服務處)執法人員，甚至警察說的任何內容，將成為你難民申請文件的一部分，而你也有可能在你的難民聽證會上再度被詢問先前的對話和內容。盡可能詳細地說明你為甚麼害怕回到你的國家。提供不實資料或故意遺漏資料，或會影響你說話的可信性。

You should get counsel (a lawyer or licensed immigration consultant) to help you complete your forms and your refugee application. There are lawyers and immigration consultants who act in a bad manner so try to get names of counsel from trusted sources or a community agency. You should try to speak to a lawyer before your travel. You may also be eligible for free legal assistance once you are in Canada, through a program called Legal Aid.

你應請顧問（律師或持有執照的移民顧問）幫你一起填寫這些文件。有些律師和移民顧問的行為舉止都較無禮，因此請從可靠的途徑或社區服務機構那裡取得律師或顧問的聯絡資料。你應該在抵達加拿大前先諮詢律師意見。到達加拿大後你或可以向法律援助 (Legal Aid) 計劃取得免費法律援助。

If the person helping you cross is being paid for their assistance, they can face criminal or immigration related charges. Those providing assistance to people crossing the border need to ensure that they are doing so on a purely humanitarian basis with no “material benefit” to themselves. If you are assisting

refugees to come to Canada, get legal advice.

如果有人協助你過境而收取費用，他們或已觸犯刑事或移民法。這些人士必需明白，他祇可以基於人道立場提供幫助，但不能為自己拿取「物質好處」。如果你想協助難民進入加拿大，請先取得法律意見。

You may be left in Canada in a place that is very isolated with no maps, housing, or support. It is very possible in the winter (October to April in some parts of Canada) to suffer serious health problems if you are outside for any period of time. Bring many warm clothes, food, water and hand and feet warmers. Bring your cell phone but make sure it will be able to do calls in roaming areas. In most cases of emergency you can call 911 in Canada, but this may mean police will come as well.

來到加拿大，你或許會發現自己置身一處沒有地圖，沒有房屋或支援的城方。加拿大的冬天可以很寒冷（由十月開始，在加拿大某些地區甚至延至四月）你如果長時間被困在室外，可能會出現健康問題。請帶保暖衣物、食物、水、手套和手機，並確保你的手機在海外依然能撥打電話。在大多數緊急情況下，你可以在加拿大撥打911，但這意味著警察會前來協助，並同時調查你。

Get more information on the refugee process in Canada here:

<http://refugee.cleo.on.ca/en/refugee-claim-flowchart>

欲得到更多關於加拿大難民申請程序的資料，請瀏覽：

<http://refugee.cleo.on.ca/en/refugee-claim-flowchart>

Download and repost widely. Questions? Please email [nooneisillegal@riseup.net](mailto:nooneisillegal@riseup.net). This legal guide is limited to Canadian refugee law, which is the dominant legal system that refugee claimants deal with. We urge newcomers to understand that Canada is all Indigenous lands.

還有疑問？請電郵：[nooneisillegal@riseup.net](mailto:nooneisillegal@riseup.net)。

這份法律指引祇涉及加拿大的難民法律，就是本國難民申請人主要要面對的法例。我們想提醒所有新移民，整個加拿大其實都是原住民土地。