

# Canada/US Safe Third Country Agreement

Acuerdo de Terceros Países Seguros (STCA)

l'Entente sur les tiers pays sûrs (ETPS)

**Alex Vernon,  
Detroit Mercy Law, Immigration Clinic  
313-444-9222**

**[vernonag@udmercy.edu](mailto:vernonag@udmercy.edu)**

**taxi313@yahoo.com**

**<https://www.udmercy.edu/about/people/university/law/alex-vernon.php>**

# Safe Third Country Agreement and Exceptions

## Canada-U.S. Safe Third Country Agreement

### Safe Third Country Agreement remains in effect

The [STCA continues to be in effect](#). Individuals entering Canada at a land port of entry continue to be ineligible to make a refugee claim, and will be returned to the U.S. unless they meet one of the relevant exceptions under the STCA.

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>

# Where the Agreement is in effect

The Safe Third Country Agreement applies to refugee claimants who are seeking entry to Canada from the U.S.:

- at Canada-U.S. land border crossings
- after crossing between ports of entry and making a claim for refugee protection less than 14 days after the day of entry into Canada
- by train, or
- at airports, **only if** the person seeking refugee protection in Canada has been refused refugee status in the US and is in transit through Canada after being deported from the US.

# Exceptions to the Agreement

Exceptions to the Agreement consider the importance of family unity, the best interests of children and the public interest.

There are four types of exceptions:

- Family member exceptions
- Unaccompanied minors exception
- Document holder exceptions
- Public interest exceptions

# Family member exceptions

## Family member exceptions

Refugee claimants may qualify under this category of exceptions if they have a family member who:

- is a Canadian citizen
- is a permanent resident of Canada
- is a protected person under Canadian immigration legislation
- has made a claim for refugee status in Canada that has been accepted by the Immigration and Refugee Board of Canada (IRB)
- has had his or her removal order stayed on humanitarian and compassionate grounds
- holds a valid Canadian work permit
- holds a valid Canadian study permit, or
- is over 18 years old and has a claim for refugee protection that has been referred to the IRB for determination. (This claim must not have been withdrawn by the family member, declared abandoned or rejected by the IRB or found ineligible for referral to the IRB.)

## Family member

## Family member

The Safe Third Country Agreement recognizes a family member as the following:

- spouse
- legal guardian
- child
- father or mother
- sister or brother
- grandfather or grandmother
- grandchild
- uncle or aunt
- nephew or niece
- common-law partner
- same-sex spouse

## **Unaccompanied minors exception**

## **Unaccompanied minors exception**

Refugee claimants may qualify under this category of exceptions if they are minors (under the age of 18) who:

- are not accompanied by their mother, father or legal guardian
- have neither a spouse nor a common-law partner, and
- do not have a mother, a father or a legal guardian in Canada or the United States.



## Document holder exceptions

Refugee claimants may qualify under this category of exceptions if they:

- hold a valid Canadian visa (other than a transit visa)
- hold a valid work permit
- hold a valid study permit
- hold a travel document (for permanent residents or refugees) or other valid admission document issued by Canada, or
- are not required (exempt) to get a temporary resident visa to enter Canada but require a U.S.–issued visa to enter the U.S.

Visa exemptions (R159.5(g))

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A person who does not require a visa to travel to Canada, but who required a visa to enter the U.S.A., meets an STCA exception. If a claimant does not require a visa to enter Canada or the U.S.A., the Agreement applies.

For more information:

- Countries whose citizens require a visa to travel to Canada
- Countries in the U.S.A. Visa Waiver Program (USWVP)

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/canada/processing-claims-protection-safe-third-country-agreement.html>

# Mexican citizens currently meet exception to STCA

Mexican citizens do not need a visa to enter Canada (they do require an electronic travel authorization, or ETA to fly in) but they do need a visa to enter the USA.

Mexican citizens are therefore exceptions to the STCA and can make refugee claims at a port of entry (or get an ETA and fly in).

Public interest (Article 6 of the Agreement)

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Article 6 of the Agreement provides that either Canada or the U.S.A. may decide to adjudicate any claim where to do so would be in the public interest.

Section [R159.6](#) states that a claimant will not be returned to the U.S.A., if the claimant:

- Has, in the U.S.A. or another country, been charged with or convicted of an offence that is punishable by the death penalty.

The burden of proof is on the claimant to prove that they would be subject to the death penalty.

Such claimants are still subject to the normal ineligibility criteria, including [A101\(1\)\(f\)](#).

Back in the old days...oh so long ago



## Campaign to oppose the criminalization of assistance to refugees

**The “Proud to aid and abet refugees” campaign aims to end the threat of prosecutions against refugee workers.**

The arrest in September of refugee worker Janet Hinshaw-Thomas, charged with people-smuggling, has caused shock waves through the refugee-serving community, as people realize that they too could be prosecuted for their work helping refugees. Although the charges against Ms Hinshaw-Thomas were dropped, the threat of such charges will continue to hang over the heads of those who help refugees, until the law is changed. In December 2007, another humanitarian worker, Margaret de Rivera, was threatened with prosecution if she accompanied further refugees to the border.



On 26 September 2007 Janet Hinshaw-Thomas was arrested at the Lacolle (Québec) border point. Ms Hinshaw-Thomas is the director of PRIME - Ecumenical Commitment to Refugees, a US church based refugee-serving organization. She had come to the border to accompany 12 Haitians who wanted to make a refugee claim in Canada. She was not acting clandestinely, nor was she acting for profit. She was detained overnight and charged the next day in court under section 117 of the *Immigration and Refugee Protection Act*.

S. 117 states that “No person shall knowingly organize, induce, aid or abet the coming into Canada of one or more persons who are not in possession of a visa, passport or other document required by this Act.”

# Irregular Crossings at “Roxham Road”

[Roxham Road Crossing Open](https://bit.ly/3CKsft0)

<https://bit.ly/3CKsft0>

Canada is no longer directing back refugees who arrive at Roxham Road or other places in between official points of entry.

Refugees previously directed back to the United States, from an irregular crossing at Roxham Road or elsewhere, may now return to Canada at an official port of entry to resume their refugee claim.

<https://www.cbsa-asfc.gc.ca/refugee-asile-covid-eng.html>

Refugees who arrive at official land ports of entry will be sent back to the USA unless they meet an exception to the "[Safe Third Country Agreement](https://bit.ly/3FuDtU0)" <https://bit.ly/3FuDtU0>

Contact a Canadian immigration lawyer to discuss your situation.

Alex Vernon 313-444-9222

Detroit Mercy Law Immigration Clinic



# Roxham Road Reopens after Pandemic ban



# Roxham Road Reopens after Pandemic ban

“Asylum seekers hoping to cross the border at unauthorized border points, such as Quebec's Roxham Road, will once again be allowed to enter the country to make a claim.

The federal government lifted the ban on Sunday, citing the improving public health situation and the re-opening of the land border with the United States. The ban, which has been in place since [late March of last year](#), saw would-be refugees denied at the border and returned to the United States.

Now, those crossing at unofficial crossings will once again be allowed to enter the country to claim asylum and remain in Canada.

Janet Dench, the executive director of the Canadian Council for Refugees, said the border should never have been closed to refugees in the first place, but was pleased to see it re-opened.”

<https://www.cbc.ca/news/canada/montreal/roxham-road-reopen-1.6257868>

[www.RoxhamRoad.ca](http://www.RoxhamRoad.ca) (Site in progress)

These are organizations that can give you information and assistance

<https://plattsburghcares.org/>

<http://www.bridgesnotborders.ca/>

<https://peacebridgenewcomercentre.ca/>

<https://sanctuarycanada.ca/>

<https://ccrweb.ca/en>

<https://www.jrchc.org/vive2/>

<https://freedomhousedetroit.org/>

## CROSSING AT ROXHAM ROAD

<http://www.bridgesnotborders.ca/info-for-asylum-seekers.html>

Here is information about crossing at **Roxham Road** USA in order to claim asylum in Canada. **Bridges Not Borders - Créons des Ponts** is group of volunteers living in the area near Roxham Road in Canada. ***We can't advise you about what to do, but we want to offer information to help you decide.***

### HELP IN THE USA

- **We work closely with Plattsburgh Cares**, a volunteer organization in Plattsburgh (New York State), which gives information and support to people wanting to leave the US to seek asylum in Canada. Their refugee support page is here: [Plattsburgh Cares Refugee Support](#). You can contact them for support at: [support@plattsburghcares.org](mailto:support@plattsburghcares.org) or call them at 518-243-8292 or 518-240-8866.
- **Plattsburgh Cares volunteers visit the border at Roxham Road, USA most afternoons a week and give out free warm things in winter.**
- **If you are in or near to Plattsburgh, NY** you can contact **Diane Noiseux of the Office for New Americans in Plattsburgh** for emergency shelter if needed (for 24-48 hours) on **518-420-7210**.
- **Free legal advice:** NYS Office of New Americans Immigration Hotline: 1-800-566-7636 (many languages)

## CRUZANDO LA FRONTERA POR EL CAMINO ROXHAM

Bienvenidos a nuestra página de información para cruzar via **Roxham Road**, USA para solicitar asilo en Canadá. Bridges Not Borders - Créons des Ponts (literalmente "Puentes, no Fronteras ") es un grupo de voluntarios que viven cerca de Roxham Road en Canadá. ***No podemos aconsejarles sobre qué hacer, pero queremos ofrecerles información.***

### AYUDA EN ESTADOS UNIDOS

- **Nuestro grupo trabaja en estrecha coordinación con "Plattsburgh Cares"**, una organización de voluntarios que brinda información y apoyo a la gente buscando salir de Estados Unidos y buscar asilo en Canadá. Su página de apoyo destinada a los refugiados es [Plattsburgh Cares Refugee Support](https://www.plattsburghcares.org). El contacto para solicitar apoyo es a través de [support@plattsburghcares.org](mailto:support@plattsburghcares.org) o por teléfono al 518-243-8292 o 518-240-8866.
- **Los voluntarios Plattsburgh Care se desplazan al punto fronterizo situado al final del camino Roxham** la mayoría de las tardes de la semana y en invierno distribuyen gratuitamente ropa caliente.
- **Si se encuentra en o cerca de Plattsburgh, NY** puede contactar con **Diane Noiseux, de la Oficina para Nuevos Americanos en Plattsburgh**, para obtener refugio de emergencia (24-48 horas) en el **518-420-7210**.
- **Para consejos legales gratuitos:** "NYS Office of New Americans Immigration" (Oficina de Nuevos Americanos del estado de Nueva York) hotline: 1-800-566-7636.

<http://www.bridgesnotborders.ca/cruzar-via-roxham-road.html>

## CROSSING AT ROXHAM ROAD

**Taxis in Plattsburgh should charge you a maximum of \$90 for the trip** to take you from the Plattsburgh bus station, airport or train station to the Canadian border (there are still no trains to Plattsburgh as of December 7, 2021).

**When you arrive at the border at Roxham Road, wait on the US side until the Canadian police officer speaks to you and asks if you understand.**

**Police officers will say these three things to asylum seekers:**

1. It is illegal to cross here.
2. If you want to cross legally into Canada you can go to the official Port of Entry at St Bernard de Lacolle **(\*\*Important - See below)**
3. If you cross here you will be arrested.

**Note:** Officers should say these three things only and should not add personal remarks or questions.

**After having listened to the officer, you can cross.**

Although you will be arrested when you cross into Canada at Roxham Road, this is **temporary**. Because you are seeking asylum, you will not be charged with illegal entry.

## CRUZANDO LA FRONTERA POR EL CAMINO ROXHAM

**Taxis en Plattsburgh no pueden cobrar mas de 90 \$ por carrera** de la estación de buses, del aeropuerto o de la estación de tren de Plattsburgh a la frontera Canadiense, pero todavía hasta la fecha (7 de diciembre, 2021) no hay servicio de tren a Plattsburgh.

**Cuando llega a la frontera por el camino Roxham, espere del lado americano de la frontera hasta que un oficial de policía canadiense le dirija la palabra y le pregunte si entiende.**

**Los oficiales de policía tienen instrucción de indicar tres cosas a los buscadores de asilo:**

1. Es ilegal cruzan la frontera donde se encuentran.
2. Si quieren cruzar legalmente la frontera a Canadá tienen que ir al punto fronterizo oficial de Saint Benoît de Lacolle. **(Importante. Vea abajo)**
3. Si cruzan la frontera aquí los van a arrestar.

\*Los oficiales tienes por misión mencionar esas tres cosas y sólo estas tres cosas sin añadir ningún comentario personal.

**Solo entonces, podrá cruzar a Canadá.**

**Puede que los arresten al cruzar la frontera canadiense, por el camino Roxham, pero esto es temporal**, ya que si está buscando asilo no lo pueden acusar de entrada ilegal. Así lo indica la legislación canadiense y la internacional.



**\*\* IMPORTANT: If you go to the official Port of Entry at Lacolle - it is very likely that you will not be able to enter Canada because of the Safe Third Country Agreement (STCA). If you are refused entry you can never apply for asylum in Canada, and you may be transferred to the custody of US border officials who may detain you. See information about the STCA [HERE](#).**

**Despite the police directive, according to the UN Refugee Agency and Canadian legal experts it is not illegal to cross into Canada this way. See more here: <http://www.bridgesnotborders.ca/myths-and-facts-2.html>**

**Importante: Si se presenta al puerto de entrada oficial en Lacolle, es muy probable que no logre entrada a Canadá debido al Acuerdo de Terceros Países Seguros (STCA). Si se le niega la entrada, nunca podrá solicitar asilo en Canadá y podrá ser transferido a la custodia de los agentes fronterizos de EE UU que podrán detenerle. Ver mas sobre el STCA [AQUI](#) (pronto estará disponible una traducción al español).**

**Contrariamente a lo que indican las directivas policiales, según la Agencia para los Refugiados de las Naciones Unidas y expertos legales Canadiense, no es ilegal cruzar la frontera de esta manera. Ver más en: <http://www.bridgesnotborders.ca/myths-and-facts-2.html>**



# Approaching the Border on the US Side



USA

|

CANADA



The Canadian Police will tell you to stop





The white pillar marks the border, you stop there to let the police speak to you. Then you can cross.



They will take you on a bus for immigration processing.



# STCA Challenge Taken Up by Supreme Court of Canada

## **Supreme Court decision to hear Safe Third Country Agreement appeal is a promising step for refugee rights**

Amnesty International, The Canadian Council of Churches, and The Canadian Council for Refugees are welcoming the Supreme Court of Canada's decision to review the constitutionality of the Safe Third Country Agreement (STCA).

This decision follows a long history of legal challenges to the Agreement, including two recent court rulings. In July 2020, the Federal Court found that the STCA violates the fundamental human rights of refugee claimants and is therefore unconstitutional. The Federal Court of Appeal overturned that decision in April 2021 – not on substantive grounds, but on the basis of how the arguments were framed.

The organizations presented extensive evidence showing that the STCA has particularly negative impacts on women fleeing gender-based persecution, in violation of section 15 of the Canadian Charter of Rights and Freedoms. The organizations hope that these arguments will now be thoroughly considered by the Supreme Court of Canada through this appeal.

<https://ccrweb.ca/en/media/supreme-court-decision-stca-dec-2021>

# Changes to the Safe Third Country Agreement

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>

On March 24, 2023, Canada and the United States announced the expansion of the STCA across the entire land border, including internal waterways. The expansion takes effect as of 12:01 a.m. EDT on March 25, 2023. If you crossed the border to make an asylum (refugee) claim and don't meet one of the Agreement's exceptions, you'll be returned to the U.S.





Asylum seekers try to beat the deadline to cross the border at Roxham Road from New York into Canada Friday March 24, 2023 in Champlain, NY.. The irregular border crossing will be closed permanently tonight at midnight. **THE CANADIAN PRESS/Ryan Remiorz**



# After immigrant deaths at border, calls to end U.S-Canada asylum pact grow louder

By Molly Cone

April 5, 2023 8:47 AM EDT · Updated 3 months ago



[1/5] Protesters gather for Refugee Rights Day in front of Public Safety Minister Marco Mendicino's constituency in Toronto, Ontario, Canada, April 4, 2023. REUTERS/Kyaw Soe Oo



# After immigrant deaths at border, calls to end U.S-Canada asylum pact grow louder

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April 5, 2023 8:47 AM EDT · Updated 3 months ago



[3/5] An activist tapes pictures of victims who died while crossing the border between Canada and the United States during a demonstration for Refugee Rights Day in front of Public Safety Minister Marco Mendicino's constituency in Toronto, Ontario, Canada, April 4, 2023. REUTERS/Kyaw Soe Oo



Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

Canadian Council for Refugees

Amnesty International Canada

The Canadian Council of Churches

Media release

June 16, 2023

Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee  
Rights, but Offers Some Hope

## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

The Supreme Court of Canada's decision today on the Safe Third Country Agreement (STCA) is a complex result that ultimately fails refugees. The Supreme Court has allowed the appeal in part, sending the equality rights issue at stake back to the Federal Court, and keeping alive the possibility of the agreement being declared unconstitutional. But the Canadian Council for Refugees, Amnesty International Canada, and The Canadian Council of Churches are disappointed that the Supreme Court of Canada failed to decisively rule that the Safe Third Country Agreement violates refugees' rights, exposing refugee claimants to further harms while awaiting another legal challenge.

## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

“Today’s decision is partly disappointing in the sense that the STCA continues to be in effect and folks who show up at our borders will continue to be sent back to the US to face deportation, detention and solitary confinement,” said Aleks Dughman-Manzur, President of the Canadian Council for Refugees. “On the other hand, the Supreme Court did not find the STCA to be constitutional. On the contrary, the Supreme Court upheld the importance of section 15 and instructed the Federal Court to weigh in on equality rights. The Court did not consider the US to be a safe country for refugees, and though it understood that there are safety valves in place at the border, we know in practice those safety valves are not accessible. We continue to call on the Federal government to suspend the application of the STCA.”

## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

Under the STCA, most refugee claimants who arrive at the U.S.-Canada land and water border seeking protection in Canada are denied entry and turned back to the U.S. In March 2023, the agreement was expanded to apply not only at official border crossings, but also in between border points if the person makes a refugee claim within 14 days of arrival – forcing people to make more irregular, dangerous, and underground crossings just to seek protection in Canada.

The Court acknowledged that refugees sent to the US face risks of rights violations, but noted that there were “safety valves” available for people to be exempted from return to the US if they are at risk. Although these mechanisms exist in law, in practice they are not accessible to people making a refugee claim at the border.

## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

“No matter how they enter Canada, people fleeing danger and persecution have an internationally protected right to seek safety and to have their refugee claims assessed fairly,” said Ketty Nivyabandi, Secretary General of Amnesty International Canada’s English-speaking section. “Now even more than when we first took up this challenge, the Safe Third Country Agreement puts those rights – and crucially, those rights-holders – at serious risk. Our hearts go out to the people endangered by the STCA, and despite today’s decision, we call on the government to withdraw from the pact without delay.”



## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

“Canadian faith communities have long advocated for Canada to welcome and respond to people in need of safety who are fleeing from violence, discrimination, persecution, and war. While the Safe Third Country Agreement remains in effect, the court also found that its implementation is unsafe. It will always be essential that people at a port of entry to Canada have full and equal access to the fundamental principles of justice in the Charter of Rights and Freedoms that would give them a fair hearing in Canada,” said Pastor Peter Noteboom, General Secretary of The Canadian Council of Churches.

## Supreme Court decision on Safe Third Country Agreement Misses the Mark on Refugee Rights, but Offers Some Hope

Unlike the lower courts, the Supreme Court considered issues related to gender-based discrimination, about which the organizations presented extensive evidence. Throughout the life of the Safe Third Country Agreement, the US has denied refugee status to many people fleeing gender-based persecution, in violation of section 15 of the Canadian Charter of Rights and Freedoms. By sending the section 15 challenge to the lower courts, the Supreme Court offers some hope amid a disappointing decision.

The three organizations maintain that the STCA is counter to Canadian values, in breach of international obligations, and stands in stark contrast to the overwhelming public support for refugees. Canada's identity as a compassionate and welcoming nation is tarnished by this shameful agreement.

Today's decision does not change the fundamental rights of refugees, nor does it absolve Canada from its international obligations under the Geneva Convention. It does not change our call for suspension of the agreement, recently extended across the entire shared border with the United States.

Montreal

## Federal document says Roxham Road deal 'challenging' to enforce, will cost more than \$60M



Increased pressure on police, more risks to asylum seekers, government publication acknowledges



Verity Stevenson · CBC News · Posted: Apr 18, 2023 12:18 PM EDT | Last Updated: April 18



A man from Cameroon was among the several migrants who decided to attempt to get into Canada via Roxham Road a day after changes were made to the Safe Third Country Agreement between the U.S. and Canada. (Carlos Osorio/REUTERS)

The agreement restricting entry of asylum claimants into Canada from the U.S., effectively closing Roxham Road in Quebec, will be challenging for law enforcement to implement and could lead asylum seekers to face increased dangers, according to a government analysis.

The document, prepared by the federal government as part of the regulatory changes to the Safe Third Country Agreement (STCA), provides new details on the deal's objectives, including reducing pressure on Canada's immigration system, its costs, and potential impacts.

It also states that "public confidence in Canada's ability to manage the border" was a key motivation behind the changes to the agreement, announced three weeks ago during U.S. President Joe Biden's visit to Ottawa.

The amendments will cost \$61.5 million over 10 years to Immigration, Refugees and Citizenship Canada as well as the Canadian Border Services Agency and could lead asylum seekers to "face increased danger" in trying to evade detection while crossing into Canada — now that turning themselves into immigration services immediately after entering outside of an official crossing is no longer an option.

"They may also face risks from exposure to extreme weather conditions if they cross at remote locations or fail to secure access to shelter," says the document published last week in the [Canada Gazette](#) government publication, and [first reported](#) on by Montreal-based newspaper *Le Devoir*.

It also says the changes could increase risks of human trafficking and sexual violence "often disproportionately targeted at migrant women, girls and LGBTQI individuals."

# Why human smuggling attempts are on the rise on the U.S.-Canada border



By **Ashleigh Stewart** · Global News

Posted May 19, 2023 7:00 am · Updated May 19, 2023 10:07 am



A police boat searches the area in Akwesasne, Que., Friday, March 31, 2023, after the bodies of eight migrants were found after a failed human smuggling attempt. THE CANADIAN PRESS/Ryan Remiorz. **ryr**

Experts have differing ideas on what Canada should do to secure its land borders....  
But all agree on one point. With an increasing number of migrants heading for the border, and the recent closure of Quebec's Roxham Road – once a key route for people hoping to apply for political asylum in Canada – people will put themselves in increasing danger for a shot at a better life.





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and Intelligence  
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**STUDY OF THE  
GOVERNMENT OF  
CANADA'S USE OF  
BIOMETRICS IN THE  
BORDER CONTINUUM**

<https://nsira-ossnr.gc.ca/study-of-the-government-of-canadas-use-of-biometrics-in-the-border-continuum>