

BILL C-12 AND THE TRANSFORMATION OF CANADA'S REFUGEE DETERMINATION SYSTEM

**EFFICIENCY, ADJUDICATION, AND THE ACCESS
TO PROTECTION**

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LAND ACKNOWLEDGEMENT

AAISA acknowledges that we are gathered on Treaty 6 territory – the traditional lands of diverse Indigenous Peoples, including the Nêhiyaw, Dene, Anishinaabe, Nakota Isga, and Niitsitapi peoples. We also acknowledge this as the Métis’ homeland and the home of one of the largest communities of Inuit south of the 60th parallel. We acknowledge the many First Nations, Métis, and Inuit Peoples who have lived in and cared for these lands since time immemorial. We are grateful for the Indigenous Knowledge Keepers and Elders who are with us today and those who have gone before us. As we support newcomers, we recognize that our work in the immigration and settlement sector is inseparable from the land on which we live and serve. The systems that enable welcoming newcomers exist within ongoing histories and realities of colonization, including broken treaties and continued disruptions to Indigenous ways of life. We acknowledge the need to address these harms and commit to doing better by supporting Indigenous sovereignty and self-determination, centring Indigenous voices, and using our roles to create space for meaningful relationships and Indigenous resurgence.

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INTRODUCTION

Refugee protection systems operate at the intersection of administrative efficiency and procedural fairness. Managing claims requires balancing system capacity with meaningful access to protection. In Canada, this balance has historically been reflected in a refugee determination system centred on independent adjudication, including oral hearings and internal appeal mechanisms within the Immigration and Refugee Board (IRB) (Rehaag, 2024). Bill C-12, the *Strengthening Canada's Immigration System and Borders Act*, is introduced as a response to system pressures, including backlogs and increasing claim volumes (IRCC, 2026). Government framing presents the bill as improving efficiency, strengthening system integrity, and maintaining fairness in the processing of claims (IRCC, 2026).

The central issue, however, is not whether efficiency is pursued. It is how system performance is achieved. As developed in this paper, the changes associated with Bill C-12 rely on limiting access to adjudicative processes designed to ensure substantive assessment and error correction. These changes raise broader legal and operational considerations. The paper examines the pre C-12 system, the structural changes introduced by the legislation, their implications for system re-design, legal obligations, and claimant outcomes.

THE PRE C-12 REFUGEE DETERMINATION FRAMEWORK

Bill C-12 cannot be meaningfully assessed without first understanding how Canada's refugee system operated prior to its introduction (Rehaag, 2024; Wallace, 2025). Canada's refugee determination system was centred around the Immigration and Refugee Board (IRB), an independent administrative tribunal established following a Supreme Court decision recognising the right of asylum seekers to an oral hearing under the Canadian Charter of Rights and Freedoms (IRB, 2019). The IRB operated independently from Immigration, Refugees and Citizenship Canada (IRCC), which was responsible for immigration administration and policy (Wallace, 2025). Within the IRB, the Refugee Protection Division (RPD), introduced in 2002, conducted oral hearings, and made determinations on refugee protection claims (IRB, 2019; Rehaag, 2024). In 2012, the Refugee Appeal Division (RAD) was introduced as a separate division within the IRB to allow for the review of RPD decisions and correction of errors before cases proceeded further (IRB, 2019). The creation of the RAD provided an internal appeal mechanism intended to reduce reliance on the Federal Court by resolving issues within the tribunal system (Wallace, 2025). Together, the RPD and RAD formed a multi-stage adjudicative system with built-in review mechanisms designed to improve fairness and consistency in decision making (Rehaag, 2024; Wallace, 2025). The pre-C-12 system was therefore structured as an adjudicative process centred on independent decision making rather than administrative screening (Wallace, 2025).

Within this structure, refugee claims followed a defined procedural pathway through the system. Individuals could claim refugee protection either at a port of entry through the Canada Border Services Agency (CBSA) or from within Canada by submitting a claim directly (IRCC, 2024). Claims made at the border were first processed by CBSA officers before being referred to the IRB for determination (Wallace, 2025). Once referred, claims entered a formal refugee determination process focused on assessing protection needs and risk. The Refugee Protection Division (RPD) conducted oral hearings and made initial decisions on refugee status (Rehaag, 2024). Where claims were refused, decisions could be appealed to the Refugee Appeal Division (RAD), which reviewed errors in fact and law (Rehaag, 2024). This sequential process ensured that claims were assessed through multiple stages of independent adjudication before any further legal recourse was pursued.

The effectiveness of this system depended on the interaction of distinct institutions with clearly defined roles. Immigration, Refugees and Citizenship Canada (IRCC) administered immigration programs, processed applications for permanent and temporary residence, managed refugee resettlement, and integration initiatives, and developed immigration and asylum policy (Wallace, 2025). While IRCC played a central administrative and policy role, it did not adjudicate refugee claims through oral hearings, which remained within the mandate of the IRB (Wallace, 2025). The Canada Border Services Agency (CBSA) was responsible for enforcement, including border screening, monitoring individuals entering Canada, and carrying out removals (IRCC, 2024). The IRB, as an independent tribunal, was responsible for adjudicating refugee claims through the RPD and RAD, ensuring separation between immigration administration, enforcement, and decision making (Government of Canada, 2020). Beyond this adjudicative structure, however, it is also important to understand the role of Pre Removal Risk Assessment (PRRA) in this system, as Bill C-12 seeks to significantly expand its function.

In contrast to the IRB's multi-stage adjudicative process, the Pre Removal Risk Assessment (PRRA) functioned as a final, administrative safeguard in the process (Parliament of Canada, 2020). The PRRA was triggered only after a removal order came into effect, meaning it operated once deportation proceedings were already underway (Rehaag, 2024). This gave individuals 15 days to leave Canada, after which they were subject to enforced removal (IRB, 2019). In practice, submitting a PRRA application became the primary mechanism to temporarily halt deportation while their risk was reassessed upon return to their country of origin (IRCC, 2024). This written administrative assessment focused on whether the individual would face persecution, life threatening risk, or materially changed conditions if returned to their country of origin (Wallace, 2025). Unlike the IRB processes, conducted with an independent tribunal, PRRA was conducted by Immigration, Refugees and Citizenship Canada (IRCC) (Parliament of Canada, 2020). As a result, the process was administrative in nature, relying primarily on written submissions without a general right to an oral hearing (Parliament of Canada, 2020). PRRA therefore occurred only after the completion of the full adjudicative process through the RPD

and, where applicable, the RAD (Parliament of Canada, 2020). Because earlier IRB processes were presumed to have assessed protection needs, PRRA acceptance rates were typically low, with most applications refused and removal orders proceeding after this stage (Wallace, 2025). The process could take several months to complete, ranging from approximately 3 to 10 months (Parliament of Canada, 2020). Taken together, these features meant that PRRA served a limited, final screening function and was not designed to replace the IRB's full adjudicative process (CCR, 2026).

A significant shift under Bill C-12: Most notably, the PRRA transitions from a final administrative safeguard to the cornerstone of a more administrative approach, replacing hearing and appeal pathways for affected claimants.

On paper, Bill C-12 introduces targeted procedural changes to the refugee system, but each of these changes directly dismantles core components of the adjudicative structure described above. First, the introduction of new eligibility and ineligibility rules allows certain claims to be excluded and filters out a substantial number of people before they are formally assessed on their merits (Government of Canada, 2025; Wallace, 2025; IRCC, 2026). This effectively removes access to the Refugee Protection Division (RPD). These criteria include a one-year limit on filing claims after entry to Canada and strict timelines following irregular entry from the United States, where claimants must file within 14 days (IRCC, 2026). Second, the shift toward early procedural screening limits the number of claims that proceed through full hearings. In practice, this effectively removes access to adjudicative review for most applicants (Wallace, 2025). Third, by preventing claims from reaching or proceeding through the RPD, access to the Refugee Appeal Division (RAD) is also removed. This eliminates the system's internal mechanism for correcting errors before cases reach the Federal Court. Fourth, in place of these adjudicative stages, affected individuals are redirected toward the Pre Removal Risk Assessment (PRRA) process - which, as outlined above, is triggered in accordance with removal orders (Government of Canada, 2025; IRCC, 2026; Wallace, 2025). As outlined earlier, this replaces a multi-stage, independent tribunal system with a single, administrative screening mechanism conducted at the end of the process. Taken together, these changes do not merely limit access to the refugee system but effectively remove the RPD and RAD as functional components for affected claimants, fundamentally restructuring the system toward administrative decision making.

DISMANTLING AN EFFECTIVE SYSTEM

Bill C-12 reverses earlier reforms to Canada's refugee system that were introduced by the Harper government in 2012 through the *Protecting Canada's Immigration System Act*, which aimed to improve processing efficiency while preserving core adjudicative safeguards (Purkey et al., 2024; Wallace, 2025). These reforms introduced stricter timelines for refugee claims, contributing to reduced backlogs and faster decision making within the Immigration and Refugee

Board (IRB) (Roth, 2026; Wallace, 2025). The Act also first introduced the Refugee Appeal Division (RAD); by enabling internal review of decisions, this allowed errors to be corrected within the system rather than through costly Federal Court challenges (Wallace, 2025). Together, these changes reduced system backlogs, lowered costs, and improved overall efficiency within the refugee determination system while maintaining access to hearings and appeal (Rehaag, 2024; Wallace, 2025). This demonstrates that an effective system was already in place and that Bill C-12 has aimed to dismantle it.

The adjudicative safeguards removed under Bill C-12 are not only procedural but are directly tied to rights protected under the Canadian Charter of Rights and Freedoms. Section 7 of the Charter guarantees the rights to life, liberty, and security of the person, and requires that any deprivation of these rights occur in accordance with principles of fundamental justice (Government of Canada, 2024). This includes a meaningful opportunity for claimants to have their cases heard. By limiting access to oral hearings and appeal mechanisms, Bill C-12 restricts that opportunity (Government of Canada, 2025; Shory, 2026), thereby undermining due process for individuals facing potential removal.

Additional Charter implications arise under Section 15, where expanded discretionary authority enables the government to suspend or refuse applications on a broad “public interest” basis (Government of Canada, 2025), creating the potential for unequal treatment across groups without individualised assessment. Further implications arise under Sections 8 and 24 (search, enforcement, and privacy) (Government of Canada, 2024). Expanded enforcement and data sharing powers increase state access to personal information and allow for broader information sharing across jurisdictions (Government of Canada, 2025), resulting in warrantless access, reduced oversight, and decreased protection of sensitive personal data. Taken together, these changes indicate that Bill C-12 does not simply alter system structure but undermines the Charter-protected safeguards that govern fair and lawful refugee determination in Canada.

GOVERNMENT FRAMING AND POLICY NARRATIVE

Government communications frame Bill C-12 as improving efficiency, strengthening the immigration system, and ensuring fairness in refugee processing (Government of Canada, 2025; IRCC, 2026). The bill is presented as a response to backlogs and system pressures while maintaining humanitarian commitments and system integrity (Government of Canada, 2025; IRCC, 2026). Within this framing, efficiency is defined in terms of processing speed and the management of claim volumes. These claims must be assessed against the structural changes outlined above. If efficiency were being improved within the system, one would expect enhanced processing within existing adjudicative structures. Accordingly, rather than improving efficiency within an adjudicative framework, Bill C-12 reduces the number of claims entering that framework by introducing stricter eligibility rules and expanded procedural screening. In this

respect, efficiency is achieved through the reduction of access to adjudication, rather than through improvements to the system itself.

Moreover, government communications also present Bill C-12 as ensuring fairness in refugee processing (Government of Canada, 2025; IRCC, 2026). This assertion defines fairness in procedural terms, prioritising system manageability, consistency, and compliance with administrative requirements. For fairness to be maintained under this model, claimants would still be expected to have meaningful access to independent review of their claims. This contrasts with a substantive understanding of fairness, which requires meaningful access to independent adjudication and full assessment of protection needs. As aforementioned, Bill C-12 restricts access to hearings and appeal mechanisms, narrowing the circumstances in which claims are fully assessed. As a result, procedural compliance is prioritised over substantive review, limiting meaningful access to protection. Taken together, Bill C-12 does not maintain fairness within the system but redefines it in administrative terms.

Lastly, the government's Charter Statement characterises these limitations as reasonable and proportionate (Government of Canada, 2025). For these limitations to be considered reasonable and proportionate, the system would need to preserve adequate procedural safeguards and ensure meaningful access to due process. This claim once again is not supported by the structural changes highlighted previously, which remove core adjudicative safeguards without providing appropriate alternatives. Instead, these changes constrain Charter-protected rights, particularly under Sections 7, 15, and 8, where access to due process, equality before the law, and protections against state intrusion are implicated. Therefore, when rights are limited through the exclusion of claims and the removal of access to full hearings, those limits cannot be considered reasonable. The government's justification fails, as it replaces substantive Charter protections with procedural compliance.

SYSTEM-LEVEL CONSEQUENCES

Taken together, these structural changes further generate broader legal and system-level consequences. Excluding claims without substantive assessment increases the risk of returning individuals to harm, raising concerns under the 1951 Refugee Convention, the 1967 Protocol, and the principle of non-refoulement (UNHCR, n.d.; CCR, 2026). These obligations require meaningful assessment before removal, limiting the extent to which procedural objectives can justify restrictions (CCR, 2026; Shory, 2026). As a result, these changes generate outcomes that place increased legal and procedural strain on the system. At the same time, they increase the likelihood that decisions will be challenged in Federal Court (Wallace, 2025). This introduces further tension, as reduced reliance on tribunal processes may lead to greater complexity and delay downstream. These dynamics indicate that any efficiency gains are achieved by shifting, rather than reducing, system pressures. Overall, the government's framing of Bill C-12 obscures

how it reallocates system pressure while increasing legal and procedural risks for claimants. The bill has nonetheless been enacted and is being implemented despite incomplete operational guidance, reinforcing the gap between its stated objectives and practical effects.

Furthermore, Bill C-12 is presented as a measure to improve system performance, but its structural changes shift pressure away from the IRB and onto the Federal Court system. The Refugee Appeal Division (RAD) was originally designed to correct errors within the refugee system and reduce the need for Federal Court intervention (Wallace, 2025). By limiting access to the RPD and eliminating recourse to the RAD, the bill removes this internal error-correction mechanism and redirects more cases toward judicial review. As a result, a greater number of decisions are likely to be contested at the Federal Court level, where proceedings are significantly more resource-intensive than IRB reviews (Wallace, 2025). Federal Court processes require more judicial time, involve higher operational costs, and increase the complexity of case management compared to tribunal-based adjudication (Wallace, 2025). This shift may also place additional pressure on judges, reducing the time available per case and affecting the consistency and quality of decision-making. In addition, individuals refused through PRRA may face removal while seeking judicial review, often requiring urgent stay applications that further increase court workload (Wallace, 2025). Empirical findings indicate that cases processed through PRRA and limited adjudicative pathways generate significantly more Federal Court activity than those reviewed through the RAD (Refugee Law Lab, 2026; Wallace, 2025). Taken together, these dynamics suggest that the removal of internal adjudicative safeguards does not reduce system burden but redistributes it to a more costly and constrained judicial forum. Rather than improving efficiency and fairness, Bill C-12 increases litigation, delays, and system costs while reducing the procedural protections available to refugee claimants.

HUMAN IMPACT AND LIVED CONSEQUENCES

In context, these system-level changes have direct consequences for many individuals navigating the refugee process. The case of Al Hindi illustrates how Bill C-12's eligibility rules operate in practice, as reported by CTV News (Trinh, 2026). On paper, he is deemed ineligible to make a refugee claim because he had previously been in Canada two years prior, which under the logic of the new regulations constitutes a valid basis for exclusion (Baxter, 2026; Trinh, 2026). However, his earlier visit occurred under exceptional circumstances, as he travelled to donate a kidney to his sister who was suffering from kidney failure (Baxter, 2026). He did not seek asylum at the time because he needed to return to Gaza to support his wife and children (Baxter, 2026). Following his return, conditions in Gaza deteriorated significantly, leading to repeated displacement of his family due to ongoing conflict and bombardment (Trinh, 2026). Despite still recovering from surgery, he fled with his family, eventually making his way back to safety with his wife and young children (Baxter, 2026; Trinh, 2026). Having returned to Canada in 2025 to seek protection, as of writing this, his claim has been deemed ineligible based on past presence

rather than current risk (Trinh, 2026). This illustrates how rules that appear coherent in isolation may fail to account for changing conditions and lived realities. This results in the exclusion of individuals whose need for protection has emerged over time. It also highlights how the application of procedural criteria can override substantive assessment, leaving individuals without access to the processes designed to evaluate their risk.

SYNTHESIS AND FORWARD-LOOKING IMPLICATIONS

In this context, settlement and newcomer serving organisations - particularly those working directly with refugee claimants through frontline services such as housing assistance, employment, case workers and language support - have an important role to play. These organisations are well positioned to establish a baseline of case volumes and identify how patterns shift under Bill C-12. This includes tracking indicators such as the issuance of PRRA notification letters, the number of PRRA referrals/outcomes, and, where feasible, whether Federal Court proceedings are being initiated in affected cases. Monitoring these indicators on a rolling basis allows organisations to identify changes in claimant pathways and detect emerging trends as they develop.

These data can then be shared in a structured and consistent manner with AAISA, alongside legal and advocacy organisations such as the Canadian Council for Refugees, the Canadian Association of Refugee Lawyers, Canadian Immigration Lawyers Association, Calgary Legal Guidance, and other relevant national or regional legal actors. This could take the form of periodic reporting cycles, such as quarterly submissions, alongside short analytical briefs highlighting emerging trends and divergences from baseline patterns. Furthermore, this can be supported by aggregated reporting that compares these figures to baseline trends and includes short analytical briefs highlighting emerging patterns, inconsistencies, or shifts in how the legislation is being applied. This combined approach ensures that both aggregated sector-level insights and case-level evidence are available to support coordinated legal challenges, inform policy discussions, and assess how the legislation is being applied in practice.

If implemented, these measures would begin to generate observable shifts within six to twelve months. Patterns in PRRA usage, eligibility exclusions, and legal challenges would become clearer, allowing for more targeted legal strategies and more informed policy responses. Over the longer term, these insights would contribute to sustained legal and public scrutiny, particularly as Federal Court caseloads grow and system pressures become more visible. This, in turn, would support more substantive debate around the structure and impacts of the legislation, while improving the sector's ability to respond to emerging issues and assess whether access to protection is being further constrained over time.

REFERENCES

- Baxter, D. (2026, April 12). *Palestinian man who donated a kidney in 2023 may be ineligible for refugee claim*. Toronto Star. https://www.thestar.com/politics/federal/palestinian-man-who-donated-a-kidney-in-2023-may-be-ineligible-for-refugee-claim/article_2f12367a-39c9-59ed-9e5e-9ec6803436b7.html
- Canadian Council for Refugees. (2026). *Passing of Bill C-12 is an Attack on Refugee and Migrant Rights in Canada* | Canadian Council for Refugees. Ccrweb.ca. <https://ccrweb.ca/en/denounce-passing-bill-c-12>
- Government of Canada. (2020, February 14). *Immigration and Refugee Board of Canada*. Aem. <https://www.canada.ca/en/immigration-refugee.html>
- Government of Canada. (2024, August 2). *Guide to the Canadian Charter of Rights and Freedoms*. Government of Canada; Government of Canada. <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>
- Government of Canada. (2025). *Bill C-12: An Act respecting certain measures relating to the security of Canada's borders and the integrity of the Canadian immigration system and respecting other related security measures*. Justice.gc.ca. https://www.justice.gc.ca/eng/csj-sjc/pl/charter-charte/c12_3.html
- Immigration and Refugee Board of Canada. (2019, May 16). *The Immigration and Refugee Board of Canada celebrates 30 years*. Wwww.irb-Cisr.gc.ca. <https://www.irb-cisr.gc.ca/en/stay-connected/Pages/30-years-irb.aspx>
- IRCC. (2024). *ARCHIVED – Backgrounder — Summary of Changes to Canada's Refugee System in the Protecting Canada's Immigration System Act - Canada.ca*. Canada.ca. <https://www.canada.ca/en/immigration-refugees-citizenship/news/archives/backgrounders-2012/summary-changes-canada-refugee-system-protecting-canada-immigration-system-act.html>
- IRCC. (2026, March 26). *New immigration and asylum measures from Bill C-12 (the Strengthening Canada's Immigration System and Border...)*. Canada.ca; Government of Canada. <https://www.canada.ca/en/immigration-refugees-citizenship/news/2026/03/new-immigration-and-asylum-measures-from-bill-c-12-the-strengthening-canadas-immigration-system-and-borders-act-have-become-law.html>
- LEGISinfo. (2025). *C-12 (45-1) - Parliament of Canada*. Parl.ca; LEGISinfo. <https://www.parl.ca/legisinfo/en/bill/45-1/c-12>
- Parliament of Canada. (2020, July 30). *Refugee Protection in Canada*. Lop.parl.ca. https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/202050E
- Purkey, A., Nakache, D., Yousuf, B., & Sagay, C. (2024). Accommodating Vulnerable Claimants in the Refugee Hearing: The Canadian Example. *IMISCOE Research Series*, 189–209. https://doi.org/10.1007/978-3-031-69808-8_9

- Refugee Law Lab. (2026). *Refugee Law Lab Portal*. Rllp.ca. <https://rllp.ca/immigration-refugee-board>
- Rehaag, S. (2024). Claim Types in Canada's Refugee Determination System. *Refuge Canada S Journal on Refuge*, 40(1), 1–29. <https://doi.org/10.25071/1920-7336.41139>
- Roth, S. (2026, May 20). *Bill C-12 and the Erosion of Refugee Rights in Canada*. Spheres of Influence. <https://spheresofinfluence.ca/bill-c-12-and-the-erosion-of-refugee-rights-in-canada/>
- Shory, J. (2026). *Bill C-12 — Strengthening Canada's Immigration System and Borders Act*. Cba.org. <https://cba.org/Our-Impact/Submissions/Bill-C-12-Strengthening-Canada-s-Immigration-System-and-Borders-Act>
- Trinh, J. (2026, April 10). *Immigration official says asylum seekers from Gaza in danger of being denied under new law*. CTVNews. <https://www.ctvnews.ca/politics/article/immigration-official-says-asylum-seekers-from-gaza-in-danger-of-being-denied-under-new-law/>
- UNHCR. (n.d.). *The 1951 Refugee Convention*. UNHCR. <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>
- Wallace, S. (2025). Getting It Right the First Time: Exploring the False Economy of Bill C-12's Refugee Process Shortcuts [Working paper]. *Toronto Metropolitan University*.