

Irregular vs. Illegal. What's In A Name?

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Irregular vs. Illegal. What's In A Name?

Written by [Andy Semotiuk](#)

There is an argument over whether Canada should be using the words "irregular" or "illegal" when it comes to people crossing the border illegally.

Canadian Immigration Minister Hussen has been walking a tightrope this week, declaring that people who "cross the border illegally," are *not* illegal, because once they step over the border, they are asylum seekers. Hussen knows that this could be alleviated by closing the [Safe Third Country loophole](#) but, for whatever reason, he and the rest of the government have decided not to do that. Until they do, the problem will continue.

Tweets And Consequences

The trouble stems from the fact that no one ever thought the 49th parallel would have a refugee problem. But over the past couple of decades, the US let their illegal immigration problem balloon to the point where roughly 11 million people are now living the US illegally. Then along came 2016 with Trump and his mouth, followed by a "Welcome to Canada" tweet from the Canadian PM. Tens of thousands of people have since crossed the Canadian border illegally, with hundreds more coming each month. That's where we stand today.

While I feel that the impact of Trudeau's original tweet might be slightly overstated, it certainly set the stage and allowed the Canadian government to do....nothing. By spring of 2018, the problem of migrants illegally crossing the border had grown to the point where Canada had more illegal border crossers in the country than the Syrian refugees (25,000) they had accepted only a couple of years prior.

The government's response to this problem is now apparent. It is to declare that there *is* no problem. There have been no policy changes, and the Safe Third Country loophole remains open. The word *irregular* now dominates their language, a word that I as a Canadian and US immigration lawyer with over 30 years of experience had never seen or heard in my lifetime until now.

Labels Matter

Language is important. The use of the term *irregular* as opposed to *illegal* assumes that people entering Canada from the USA are refugees - not economic migrants, not people looking for a better job, not people looking for good health care or a better school for their children - and that as refugees they are entitled, by international law, to flee across the border even if they do not first try to enter at official ports of entry.

This narrative works in countries that are bordered by despotic regimes and countries with backward political systems. In the case of America, however, whatever one feels about Donald Trump, the US has not yet descended into a state where one can

sympathize with individuals who walk across the border knowing full well that they should be entering through ports of entry.

If anything, the use of the word *irregular* is a pretext for pretending that these migrants entering from the USA are indeed fleeing from harm when in fact they have no reason to fear persecution in the United States, at least not yet. Instead, they are using their flight from *foreign shores to the USA* as the argument for why they should be entitled to claim refugee status *in Canada*. Indeed, Minister Hussen's spokesperson admitted as such back in April, when referring to Nigerian refugees who were crossing into Canada via the US:

So far this year, the majority of illegal migrants arriving in Canada are Nigerians who have recently been issued U.S. travel visas.

"It is apparent that they obtained those visas with the express intent to actually go to Canada," said Hursh Jaswal, communications director for Immigration Minister Ahmed Hussen.

As with the word *persecution*, the words *asylum* and *refugee* have become increasingly malleable. The definition of refugee in pop culture and conventional wisdom has now become, "A person who wants to live somewhere else." It has certainly taken on that definition in the press and on social media. It seems the government has gravitated to this definition, as well.

There is an argument to be made for the introduction of a new concept in international immigration law - that of a displaced person seeking status. Such a new concept would have to entail legal sponsorships by citizens of the target country to enable the migrants to enter and settle there. But that is not what is involved here. For this reason, I disagree with the linguistic gymnastics pertaining to "irregular" entrants, and believe it does a disservice to legal immigrants and bona fide refugees around the world.

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