



# CANADA'S PERIODICAL ON REFUGEES REFUGEE

Vol. 12 • No. 6

January 1993

## SPECIAL ISSUE ON HUMANITARIAN AND COMPASSIONATE REVIEWS

### The Review of Rejected Refugee Claims

According to federal government estimates published in December 1992, approximately 9,100 refused refugee claimants' cases were reviewed between January 1989 and October 1992. Of these cases, 8,800 were negative decisions and 300 were positive decisions. These 300 individuals represent 3.2 percent of all cases reviewed. The low acceptance rate at the postclaim review level could be a testament to the accuracy in determination at the board level, or it could indicate a reluctance to find otherwise than predecessors, or a misunderstanding of the substantive criteria of a review. It is not surprising that there was great concern about this informal postclaim review process and that its integrity was questioned. The overriding impression of refugee advocates was that the postclaim review process did not accommodate a situation in which fresh evidence surfaced after a determination was made by the board, or in which a change in country conditions occurred or in which a candid reading of humanitarian and compassionate considerations would be found meritorious.

It was in this environment that the Centre for Refugee Studies, in conjunction with refugee advocates, non-governmental organizations and government representatives, convened to examine the postclaim review process and to determine how it could be made a more transparent and meaningful procedure.

It is obvious that there is great confusion at all levels of representation about the rationale for, limits and objectives of any postclaim review for those refugee claimants who were not determined to meet the Convention refugee definition. The review process at this stage in a person's claim to remain in Canada is seemingly misunderstood by refugee

advocates and government officials alike. It is simultaneously referred to as a humanitarian and compassionate review, a postclaim review and a pre-removal review. Clearly, some definition was needed as to what review options were available to a claimant, their scope and any procedures associated with that review. It is evident that there is always a right for a refugee claimant, among others, to ask for consideration under Section 114(2) of the *Immigration Act*. This section and accompanying policy guidelines indicate that consideration will be given to the enumerated humanitarian and compassionate factors that would lead the minister of Employment and Immigration's repre-

#### Contents:

The Review of Rejected Refugee Claims, <i>Guest Editorial</i> .....	1
Workshop on Review of Rejected Refugee Claims .....	3
Extract from New Immigration Regulations, re Bill C-86 .....	24

