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Citizenship and Immigration Canada



# The PSR QA Project

## Managing Quality Counts

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# The PSR Quality Assurance Project

Citizenship and Immigration Canada (CIC) and the private sponsorship community are, in partnership, advancing efforts to address challenges in the Privately Sponsored Refugee (PSR) program, and reinvigorate Canada's model of civil society engagement in international refugee protection. Among these efforts, a review was completed of the quality of decision making on PSR applications in the Africa-Middle East region.

Excerpt from the 2008 Annual Report to Parliament on Immigration:

## ***The Private Sponsorship of Refugees Program***

*An evaluation of the PSR Program was completed in 2007–2008 and identified a number of challenges, such as low approval rates and long processing times. Extensive consultations to analyse the challenges and find solutions were undertaken with sponsoring groups and key stakeholders, including a major national conference on this program ... Findings from these consultations led to increased training for sponsorship agreement holders and the development of a Quality Assurance Framework for this program, which will be piloted in 2008–2009.*

This report presents the findings of that review. The PSR Quality Assurance (QA) Project was developed through extensive and inclusive stakeholder consultations. It drew on the experience and insight of key domestic and international protection partners, and was anchored by the goal of offering more effective protection to refugees in need of resettlement.

To gather information on overall program quality, the PSR QA Project analyzed a representative sample of PSR case files. A reviewing team of representatives from the International Region, Operational Management and Coordination, and Refugee Affairs Branch conducted a systematic assessment of each sample file.

An advisory committee comprised of directors from the three CIC branches and representatives from a Sponsorship Agreement Holder (SAH) and the United Nations High Commissioner for Refugees (UNHCR) oversaw the file review process and provided guidance. The analysis of the results, the formulation of recommendations, and the writing of this report were contracted to an outside consultant.

Presented here is the Executive Summary and Recommendations excerpted from the report. Enclosed is the complete report which includes, in annex, CIC's management response and an action plan which shows that many of the recommendations made for improving the PSR program have already been, or soon will be, implemented.



# The PSR QA Project

## Executive Summary

CIC and the private sponsorship community are working together to comprehensively address Private Sponsorship of Refugees (PSR) program challenges and reinvigorate Canada's model of civil society engagement in international refugee protection efforts. As part of this effort, CIC senior management made a commitment to the sponsorship community to undertake a review of the quality of PSR decision making. Recognizing the importance of monitoring the quality of decisions and evaluating the fairness and integrity of refugee programs, the PSR Quality Assurance (QA) Project aims to evaluate the quality of the visa officer decision making process in order to assess if decisions have been conducted in accordance with legislative, policy and procedural requirements.

To gather information on overall program quality, the PSR QA project reviewed a statistically valid, random sample of individual PSR case files. The population of interest identified was all PSR selection decisions made in 2007 at missions in the Africa-Middle East region.

This assessment of quality of the files reviewed in this project was based on three key pillars of the decision making process – to evaluate if decisions are: 1) made in accordance with the law and the regulations 2) consistent with policy and operational procedures, and 3) made in accordance with requirements for procedural fairness. The review findings based on these three crosscutting measures are presented in this report in five analytical chapters, each of which addresses a major element of the way in which PSR applications are processed:

- Assessing credibility
- Applying the statutory/regulatory definition
- Decision making by gender
- Documenting the decision
- Communicating with refugees and sponsors

The results of this review demonstrate that PSR decision making is legally complex and procedurally demanding. Among the key findings of this review is our assessment that visa officers ensure that PSR applicants understand the process and verify that they understand their interpreters. Visa officers do not rely on demeanour at interview in making credibility assessments, which is consistent with policy and operational procedures. Visa officers demonstrate strong fact finding skills in refugee decision making. Visa officers very rarely refuse PSR applicants based on their ability to become self-sufficient in Canada, which accords with the legal framework. Officers own their own cases, meaning that “she who hears decides.” Finally, that visa officers do confront PSR applicants with concerns, in keeping with principles of procedural fairness.



The review also found that decision records demonstrate limited use of Country of Origin Information (COI), which has implications for the quality of visa officer assessments of credibility and the regulatory criteria. Refusal decisions tend to be better documented than acceptances, but for both the record does not always clearly indicate which factor is determinative. Other findings relate to the treatment of gender-based protection needs and communications with applicants and sponsors.

Based on these findings, the report makes a number of recommendations for measures that, in our view, would improve the quality of PSR decision making. These recommendations address operational, management and corporate aspects of the PSR program, and include suggestions for new working tools to assist visa officers, greater oversight by managers in the field and enhanced training. Many of these recommendations reflect best practices by other resettlement countries and partners such as the United Nations High Commissioner for Refugees (UNHCR) and the Immigration and Refugee Board of Canada (IRB).

CIC values the ongoing cooperation of our partners in the sponsorship community in realizing improvements in PSR program results – and ultimately – more effectively protecting refugees in need of resettlement.



# The PSR QA Project

## The Recommendations Explained

To better equip and support PSR decision makers, this report makes the following operational recommendations:

### ▪ Officer Working Tools

The results of this review illustrate how legally, factually and procedurally demanding the PSR refugee decision making process is. Interviews are the primary tool for establishing facts and assessing credibility, but PSR interviews often take place under difficult conditions, and always require visa officers to address multiple issues in a limited period of time. The time available to analyze issues and craft sustainable reasons for decisions is also often limited. The analysis and corresponding reasons present procedural challenges quite distinct from most visa officer responsibilities.

To support visa officers in the fact finding, analysis and drafting of protection decisions, we recommend designing and implementing the use of **decision templates**. The templates would serve an *aide memoire* to assist visa officers in establishing the facts of a refugee claim clearly and applying the relevant statutory/regulatory requirements. Templates would support visa officers in working through the relevant legislative, policy and procedural elements of the eligibility determination process, leading to a decision on whether to accept or refuse a protection case. At each stage, the templates would prompt decision makers to support their findings with reasons.

To assist visa officers in PSR interviews, we also recommend the design and implementation of standard **interview templates** to help structure PSR interviews better and to ensure that all the relevant elements of the eligibility decision making process are covered during the interview. It is important that key issues are not forgotten or overlooked, as often it can be quite difficult to request follow-up interviews for logistical reasons.

Many posts and officers use locally developed templates. Standardizing them across posts would support enhanced consistency. In researching protection partner approaches to addressing quality issues, we learned that the use of templates is a key part of decision maker toolkits at the Immigration and Refugee Board of Canada (IRB), U.S. Citizenship and Immigration Services (USCIS- refugees and asylum), UK Home Office (asylum) and the United Nations High Commissioner for Refugees (UNHCR-RSD assessments). These partner innovations helped shape the recommendations above, and could inform future template development work at CIC.



## ▪ **Standard Country of Origin (COI) Packages (IRB model)**

Both the relevance of reliable COI and its very limited use in the present operational environment were key findings of this review. To enable better access to current and reliable COI and related resources, we recommend that the use of **standard COI documentation packages** be explored. Such packages would need to be developed, kept up to date, and made available to visa officers online.

These standard packages, similar to those used by the IRB, UNHCR and USCIS, should include publicly available information from credible third parties.

An example of “best practice” identified during the development of this project is the USCIS “virtual” asylum library – where operational instruction manuals, COI and templates all live together. We recommend CIC pursue the creation of a “one stop” refugee decision making page on the International Region website, with links to the relevant manual chapters, all the links to COI sites (e.g. the IRB research page, as well as select NGO sources), all the working tools and checklists, etc. Links to external sites, such as UNHCR and the IRB, would provide access to legal resources, the Convention, the UNHCR Handbook, CIC gender guidelines, etc.

**Meeting targets on quality, as well as quantity, should be a core goal of the PSR program. To more effectively manage quality in decision making issues, this report makes the following management recommendations:**

## ▪ **Supervisory Review**

In the case of Government-Assisted Refugees (GARs), visa officers have the benefit of UNHCR analysis and research. Convention refugees referred to Canada by the UNHCR and who are found not to meet Canadian program criteria still have recourse to the UNHCR's protection. This may not be the case, however, for persons referred by sponsors who are found not to meet Canadian program criteria but who may still be in need of some form of protection. In light of the possible impacts of visa office decision making, we recommend measures to improve consistency and mitigate against unsupported decisions, including a return to **100% supervisory review of decision records for all refused PSR applications**.

Prior to the implementation of the *Immigration and Refugee Protection Act*, all negative decisions in refugee cases (PSR and GAR) were reviewed by a senior immigration officer. Returning to that practice would be consistent with the approach taken in other jurisdictions, including the U.S. The supervisor's task would be to vet each case file to check that decisions are complete and that the visa officer made supported conclusions based on the facts before them. The cases would be returned to officers if gaps were identified or incomplete analyses were submitted, in terms of legal, policy and/or procedural requirements. If consistent and repetitive gaps were identified with a





particular officer, the supervisor would address the issue with the officer and monitor subsequent progress.

- **Enhancing QA for PSR Decision making**

To improve current QA practices and measure PSR decision making on an ongoing basis, we recommend developing objective **quality measurement forms for supervisory use** in monitoring the quality of PSR interviews and written decisions. Supervisors would observe/review a minimum number of randomly selected interviews and written decisions, and conduct an assessment based on objective criteria set out in a standardized decision assessment form. Again, these forms could be developed by drawing on similar tools currently in use at USCIS.

Both forms would assist supervisors in providing detailed substantive and procedural comments to visa officers, and help identify individual and collective training needs. These would be key tools in improving ongoing QA monitoring of PSR decision making.

- **Processing Volumes**

Individual visa officer's case processing volumes should be kept at reasonable levels and be flexible enough to allow for an appropriate assessment of each and every case. Recognizing the complexity of PSR decision making, we recommend future work to determine an **average processing time** (including mandatory pre-interview preparation, interviewing, and decision analysis and writing) to guide the number of interviews per day and decisions per week an officer is required to complete on PSR cases.

- **Mandatory Interview Preparation**

A main finding of this report is that COI research is infrequently used to support decision making records. To ensure officers have sufficient time to prepare for PSR interviews, review case files, and conduct appropriate COI research, we recommend that a minimum period of **preparation time** be made a standard practice in the visa officer decision making process. To support this recommendation, files should be assigned to officers a reasonable amount of time prior to the interview.

- **Timeliness Targets**

Flowing from findings relating to how quickly decisions are made after interview, and differences noted between negative/positive cases, as well as between cases interviewed during area travel as compared to those interviewed at home missions, we recommend setting **timeliness standards** for all PSR decisions. This recommendation also complements those relating to preparation time and workload standards. The International Region (IR) should set as a goal for operational managers that selection



decisions be made, and reasons documented in case notes, within two weeks of the interview in 80 percent of all cases.

### ▪ **Gender Appropriate Interviewing**

The review found that, while in most cases assessed female applicants were interviewed by female officers, it is not clear that this is the result of conscious management decisions or simply a product of the identity of the officers assigned to the region during the period under review. We recommend that, as a management practice, cases should be sorted by gender before being assigned to visa officers to ensure that female applicants can be interviewed by female officers, with female interpreters, in line with policy instructions.

It is recognized that the implementation of this recommendation is subject to real operational constraints – in some interview locations there will be no female officer or interpreter available. To support this recommendation, therefore, **recruitment of female interpreters** in languages where a current shortage exists should be undertaken at posts.

**To invest in training and guidance in support of quality decision making, this report makes the following corporate recommendations:**

### ▪ **Training**

Enhanced training for officers and managers in issues specific to refugee processing is a key recommendation flowing from the findings of this review. Training issues cut across the factors assessed during the review, from the way in which credibility is assessed, to the analysis of complex regulatory criteria and the application of gender policies. This report draws on the review findings to make recommendations with respect to several distinct aspects of training needs.

All visa officers who have or expect to have responsibility for deciding refugee cases should receive training in refugee specific issues. Although many of the skills employed in the processing of other immigrant and temporary resident applicants have relevance to refugee processing, there are many important elements of the refugee program that require specific attention.

Visa officer training should place substantial emphasis on the assessment of credibility. The review found that credibility findings are frequently determinative. Officers need to be better equipped to make the link between credibility findings and the eligibility decision. There is significant expertise and experience available at the IRB and other protection partners in training decision makers in assessing credibility in a refugee context. The Department of Justice (DOJ) could assist the **development of a credibility training module**. Visa officer training could also be strengthened with



respect to the analysis of regulatory criteria, including greater emphasis on the use of COI, the writing of reasons that will withstand judicial scrutiny and the preparation of refusal letters.

Finally, we suggest that consideration be given to developing **specialized training in the handling of gender-based refugee claims**, for officers and managers. This module could be based on existing departmental gender-based analysis training, but tailored to address gender issues specific to refugee decision making.

#### ▪ **Updating Manuals**

The review found that in a number of areas visa officer practice is not consistent with existing operational guidance, as set out in the manuals. In addition, several recommendations called for specific guidance to be issued or revised, in order to respond to the results of the review. As a general recommendation, the **manuals should be updated** to take into account any measures adopted as a result of this review.

#### ▪ **Redesign of Kits and Forms**

One finding related to credibility assessments was that visa officers frequently give considerable weight to written submissions that accompany PSR applications. In the event that an applicant's testimony at interview contradicts information contained in the written submission, a negative credibility finding may result.

Based on this finding, we recommend that **PSR application forms and supporting information in the kits be reviewed**, and where appropriate revised, so as to make clear to refugees and sponsors exactly what information is required, and what use may be made of that information. The content of the kits should be made as accessible as possible to refugee clients, taking into consideration that PSR applicants may have limited or no support in terms of reliable translation or advice. Forms should also be revised to allow women refugees to request a female interviewer and female interpreter.

In addition, we recommend that **the role of sponsoring organizations be reviewed** in order to determine whether greater responsibility should be taken by sponsors for ensuring that applications are complete and accurate. This role would include making sure that each application is supported by a comprehensive narrative account of the basis for the need for protection and resettlement. Ideally, sponsors would also provide visa officers with their own assessment of the case, explaining the reason why the sponsor has decided to take responsibility for supporting the application. This is much the same role that UNHCR plays in making referrals to visa offices, and although sponsors cannot be expected to bring the same resources and level of expertise to this task as UNHCR, they can reasonably be expected to provide information about their sponsorship rationale.



## ▪ Communicating with Applicants and Sponsors

Recognizing that the vulnerable situation in which many PSR applicants live while in countries of asylum has implications for their ability to effectively communicate with visa offices, and noting the review findings that visa offices do not always meet existing standards for communications with sponsors, we recommend that CIC consider innovative approaches to solving these communications challenges. Instead of relying on traditional modes of communication such as postal delivery, visa offices should, where possible, **use email and other electronic forms of communication** (such as text messages sent via cellular phones) to reach applicants and sponsors. In addition, the results of the ongoing pilot program in Nairobi, in which Sponsorship Agreement Holders (SAHs) communicate with a dedicated unit at post, should be evaluated and, if appropriate, expanded to other offices.





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# The PSR QA Project

## Executive Summary

CIC and the private sponsorship community are working together to comprehensively address Private Sponsorship of Refugees (PSR) program challenges and reinvigorate Canada's model of civil society engagement in international refugee protection efforts. As part of this effort, CIC senior management made a commitment to the sponsorship community to undertake a review of the quality of PSR decision-making. Recognizing the importance of monitoring the quality of decisions and evaluating the fairness and integrity of refugee programs, the PSR Quality Assurance (QA) Project aims to evaluate the quality of the visa officer decision-making process in order to assess if decisions have been conducted in accordance with legislative, policy and procedural requirements.

To gather information on overall program quality, the PSR QA project reviewed a statistically valid, random sample of individual PSR case files. The population of interest identified was all PSR selection decisions made in 2007 at missions in the Africa-Middle East region.

This assessment of quality of the files reviewed in this project was based on three key pillars of the decision-making process – to evaluate if decisions are: 1) made in accordance with the law and the regulations 2) consistent with policy and operational procedures, and 3) made in accordance with requirements for procedural fairness. The review findings based on these three crosscutting measures are presented in this report in five analytical chapters, each of which addresses a major element of the way in which PSR applications are processed:

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- Documenting the decision
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Based on these findings the report makes a number of recommendations for measures that, in our view, would improve the quality of PSR decision-making. These recommendations address operational, management and corporate aspects of the PSR program, and include suggestions for new working tools to assist visa officers, greater oversight by managers in the field and enhanced training. Many of these recommendations reflect best practices by other resettlement countries and partners such as the United Nations High Commissioner for Refugees (UNHCR) and the Immigration and Refugee Board of Canada (IRB).

CIC values the ongoing cooperation of our partners in the sponsorship community in realizing improvements in PSR program results – and ultimately – more effectively protecting refugees in need of resettlement.





## Introduction

### What is the PSR Program?

The Private Sponsorship of Refugees (PSR) program allows groups of Canadians and permanent residents to sponsor refugees from abroad. The Program provides protection to between 3,000 and 5,000 refugees in need of resettlement every year, above and beyond those assisted by the government. Sponsored refugees are assessed by CIC visa officers against the same criteria as applications referred by the United Nations High Commissioner for Refugees (UNHCR), as well as against Humanitarian-protected Person class criteria. Sponsors are generally either Sponsorship Agreement Holders (SAHs) or Groups of Five (G5s). SAHs are mainly faith-based organizations that have regular contact and training with CIC and sponsor dozens to hundreds of cases annually. G5s are ad hoc associations of five (or more) Canadians who jointly sponsor an individual refugee, but who have no ongoing relationship to the PSR program in the way that SAHs do. The PSR program is very popular domestically and respected internationally as a model for civil society engagement in refugee protection.

### What is this Report?

CIC and the private sponsorship community are working together to improve the PSR program and maximize Canada's refugee protection capacity. A key challenge faced by the program is high PSR refusal rates,<sup>1</sup> which impact both sponsors and CIC. Responding to stakeholder concerns, the Deputy Minister made a commitment to look more closely at the issue of decision-making.

Recognizing the importance of monitoring the quality of decisions and evaluating the fairness and integrity of refugee programs, CIC undertook a review of the quality of decision-making on Privately Sponsored Refugee (PSR) applications. The PSR Quality Assurance (QA) Project assessed the visa officer decision-making process with respect to eligibility in order to determine if decisions have been conducted in accordance with legislative, policy, and procedural requirements.

This report is based on the findings of the PSR QA Project. It was prepared by a consultant who analyzed the results of file reviews conducted by a reviewing team guided by an advisory committee made up of representatives from CIC, the UNHCR, and the private sponsorship community. The report consists of five analytical chapters. Each chapter deals with a key element of the PSR decision-making process, including the assessment of credibility, the application of the law and regulations, decision-making from a gender perspective, documenting the decision, and communicating with refugees and sponsors. These chapters present the review findings and conclude with a set of recommendations. The recommendations are explored in depth in the

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<sup>1</sup> The global approval rate for the PSR program has been approximately 50% on average since 1998, in contrast to an 80% approval rate for UNHCR-referred government assisted refugees (GARs).



penultimate chapter. The conclusion of the PSR QA Project report is found in the final chapter.

## Overview of the PSR QA Project

In partnership, CIC and the private sponsorship community are advancing efforts to comprehensively address PSR program challenges and reinvigorate Canada's model of civil society engagement in international refugee protection. In response to stakeholder concerns, CIC senior management made a commitment to the sponsorship community in late 2006 to undertake a review of the quality of PSR decision-making. The review complements overarching departmental objectives outlined in the CIC Quality Assurance (QA) Framework, as recommended by the Auditor General.<sup>2</sup>

Recognizing the importance of monitoring the quality of decisions and evaluating the fairness and integrity of refugee programs, the PSR QA Project aims to evaluate the quality of the visa officer decision-making process with respect to eligibility<sup>3</sup> in order to assess if decisions have been made in accordance with legislative, policy, and procedural requirements. The eligibility decision is based on an interview with the applicant, supporting documentation submitted by the applicant and sponsoring group, and additional information available to the officer (such as country condition updates). It should be emphasized that this review did not assess decisions related to admissibility considerations.

## Defining Quality in PSR Decision-making

In order to measure quality, it must first be defined. Here, the assessment of quality is guided by three key pillars of the decision-making process – to evaluate if decisions are: 1) made in accordance with the law and the regulations 2) consistent with policy and operational procedures, and 3) made in accordance with requirements for procedural fairness. These key pillars are the foundation upon which visa officers build a quality PSR protection decision. For the purposes of this review, the main components of the eligibility decision-making process are:

- Assessing credibility
- Applying the statutory/regulatory eligibility criteria

In addition, this review considered three related aspects of the way in which PSR applications are handled. These are:

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<sup>2</sup> The Auditor General's 2000 report on CIC recommended that the department adopt a QA framework. Based on the AG recommendations, CIC identified "quality and consistency of decision-making" as one of three main areas for Quality Assurance activities. CIC's commitment to developing a QA framework was included in the 2008 Annual Report to Parliament on Immigration:  
<http://www.cic.gc.ca/English//resources/publications/annual-report2008/section4.asp>

<sup>3</sup> As defined in IRP Regulations Part 8



- Decision-making by gender\*
- Documenting the decision
- Communicating with refugees and sponsors

Recognizing CIC's commitment to Gender-Based Analysis (GBA), the report includes a dedicated section on the quality of refugee decision-making from a gender perspective.

It should be noted that the review did not consider whether a different decision maker could have come to a different decision when applying the regulatory definition to the facts of the case. This was not an appeal or judicial review process to reopen cases or overturn decisions.

## Measuring Quality – Project Methodology

To gather information on overall program quality, the PSR QA project reviewed a statistically valid, stratified random sample of individual PSR case files. The sample of 209 file records<sup>4</sup> included both accepted and refused cases as quality decision-making is imperative for both.

The population of interest identified was all PSR selection decisions made in 2007 at missions in the Africa-Middle East.<sup>5</sup> The decision was made to focus the review on decisions made in this region because it includes three of the four largest PSR posts,<sup>6</sup> has high stakeholder investment, and processes approximately 70 percent of all PSR cases globally.

A Quality Assurance evaluation tool, in the form of a checklist, was developed to guide the file review. For a copy of the QA Checklist please see Annex A. The QA Checklist is based on the main elements of the decision-making process as outlined in the CIC Overseas Processing Manual, chapter 5.<sup>7</sup>

In summer 2008, a reviewing team comprised of representatives from the International Region and Refugees Branch completed the checklist for each sample file. An advisory committee made up of International Region, Operational Management and Coordination

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<sup>4</sup> The complete file records included case notes, all documents on the paper file including correspondence related to the case, and refusal letters as applicable. Copies of all sample files were made at post and sent to NHQ for review in summer 2008.

<sup>5</sup> Posts in the region include Abidjan, Accra, Cairo, Damascus, Nairobi, Pretoria and Abu Dhabi. Rabat and Tel Aviv were not included in the sample as no PSR selection decisions were made at either post in 2007.

<sup>6</sup> Nairobi, Cairo, and Damascus processed 500+ PSR decisions in 2007.

<sup>7</sup> OP 5 – Overseas Selection and Processing of Convention Refugees Abroad Class and Members of the Humanitarian-protected Persons Abroad Class.



and Refugees Branch managers, UNHCR and a SAH representative<sup>8</sup> oversaw the file review process and provided guidance to the reviewing team as required.

For additional information on study methods, please see Annex B.

## PSR QA Project Consultations

Throughout the project's development phase, extensive internal and external consultations were conducted. In winter 2007, formal stakeholder consultations with the Canadian Council for Refugees (CCR) and Sponsorship Agreement Holders (SAHs) provided a forum for constructive and open dialogue, and demonstrated strong partner support for the initiative. This issue was also discussed at the Regional Immigration Program Managers Conference in Nairobi in spring 2007 and again in Manila in the fall of 2007. Intra-departmentally, consultations were held with Refugees Branch, Operational Management and Cooperation Branch, Litigation Management, Legal Services, Research and Evaluation, International Region Training, and a number of visa officers and Immigration Program Managers (IPMs).

In addition, the best practices of protection partners including the UNHCR, the Immigration and Refugee Board of Canada (IRB), and US Citizenship and Immigration Services (USCIS) Refugees and Asylum divisions informed the development of the project. These partner consultations revealed that organizations responsible for adjudicating protection decisions share many similar challenges, though in very different contexts, when it comes to addressing quality in refugee decision-making issues.

From the outset of the project and throughout the consultations, the inherent limitations of a QA review based entirely on the record have been raised and are acknowledged here. File records alone do not represent a complete picture of the visa officer eligibility decision-making process. The live, in person interaction that takes place between PSR applicants and visa officers is only partially captured in forms, notes, and records, so the situation specific human environment in which this challenging work is done is represented in outline rather than colour.

## Project Scope and Constraints

The PSR QA Project provides an in-depth, statistically sound analysis of the quality of the record of the PSR decision-making process. The value therein lies in moving away from anecdote-based program assumptions towards a more comprehensive understanding of how PSR selection decisions are being made, in order to address more effectively those areas identified for improvement. Developed through extensive and inclusive consultations, the project draws on the experience and insight of key domestic and international protection partners and stakeholders, and is anchored by the ultimate goal: to protect refugees in need of resettlement more effectively.

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<sup>8</sup> The SAH representative was nominated by the SAH community, as agreed during formal consultations with SAHs and CCR.



Some key aspects fall outside the scope of this review. For example, the review did not observe or assess visa officer interviews with PSR applicants. Related to interviewing, the project did not address interpretation standards. It also did not assess the quality of the written application submitted to CIC by refugees and sponsors. As these elements are crucial to PSR decision-making, they are areas recommended for future Quality Assurance.



# The Analysis

## 1. Assessing Credibility

The evaluation of the credibility of a refugee applicant's testimony is fundamental to the evaluation of eligibility. An independent credibility judgment needs to be made in every refugee case, whether the applicant is ultimately accepted or refused.

Many refugees may not be able to produce conclusive proof of the reason for their flight. The circumstances that forced them to flee often leave refugees without even basic civil status or identity documents. This requires visa officers to rely on an assessment of the applicant's **credibility** in deciding whether or not the refugee applicant can be accepted. As refugee applicants may face difficulties in providing corroborating evidence for their claims, the visa officer shares a responsibility to uncover the facts. The UNHCR Handbook states, "the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner" (UNHCR 196<sup>9</sup>).

In assessing the credibility of a refugee applicant, guidance instructs decision makers to start from the presumption that the applicant is being truthful. "If the applicant's account appears credible, he should, unless there are good reasons to the contrary, be given the benefit of the doubt" (UNHCR 196). Recognizing that decision makers may doubt certain statements or aspects of a claim, it is however acknowledged that untrue statements by themselves are not a reason for refusal of refugee protection and it is the decision makers responsibility to evaluate such statements in light of all of the circumstances of the case (OP Manual; UNHCR Handbook).

Assessing credibility means deciding whether the account presented by the refugee is trustworthy. Important considerations include: the consistency of the story, both internally at interview and with past statements or similar accounts; the level of detail with which the story is told; and the plausibility of the account. This assessment of credibility is a challenging task, and can be made more difficult when dealing with refugees suffering from past trauma, who may distrust officials, as well as by communications barriers related to culture, language, or gender.

Because of the importance of a decision affecting refugee applicants who could face possible return to persecution or torture, it is important that visa officers make credibility assessments that are procedurally fair. Negative decisions must be based on concerns that are relevant to the issues being decided, and applicants must be given a chance to know why the officer has concerns, and respond to them, before a final decision is made.

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<sup>9</sup> <http://www.unhcr.org/publ/PUBL/3d58e13b4.pdf> as referenced in OP 5



## Review Findings

In this chapter the results of the following research questions are reported:

- What types of credibility findings were made?
- What credibility indicators were most frequently identified?
- How did negative credibility determinations score on key quality measures?
- Overall are both positive and negative credibility decisions supported by the record?

### 1.1. Categories of Credibility Findings

In eligibility decision-making, the decision maker begins by establishing the facts of the case and determining if the applicant's account of those facts is credible. Noting that a credibility finding is made in every refugee case, reviewers classified the credibility findings of all 209 sample cases into three categories. The first type of finding is positive: the applicant's story was found to be truthful and the visa officer accepted it as presented.<sup>10</sup> The second type is also positive: in these cases some credibility issues arose but they were either explained or resolved at interview, or determined to be immaterial to the basis of the refugee claim. The third type is negative: the applicant's story was found to lack credibility and an adverse finding was made.

#### ▪ Categories separated by decision outcome

For positive decisions, 78 percent of records noted that the basis of claim was found to be credible as presented (type 1), with the remainder identifying some credibility concerns that were either resolved after putting the inconsistencies to the applicant for explanation and/or found to be not material to the basis of claim (type 2). No case in the sample was accepted despite an adverse credibility finding (type 3).

For negative decisions, 73 percent of records noted adverse credibility findings (type 3), with the remainder of refusals turning on issues not related to credibility.

These results indicate that where an applicant's testimony is found to be credible, the application will most likely be accepted; and where the applicant's testimony is not found credible, a refusal will be the result. Both findings illustrate the significance of credibility assessments in visa officer decision-making and the importance of making those assessments fairly and effectively.

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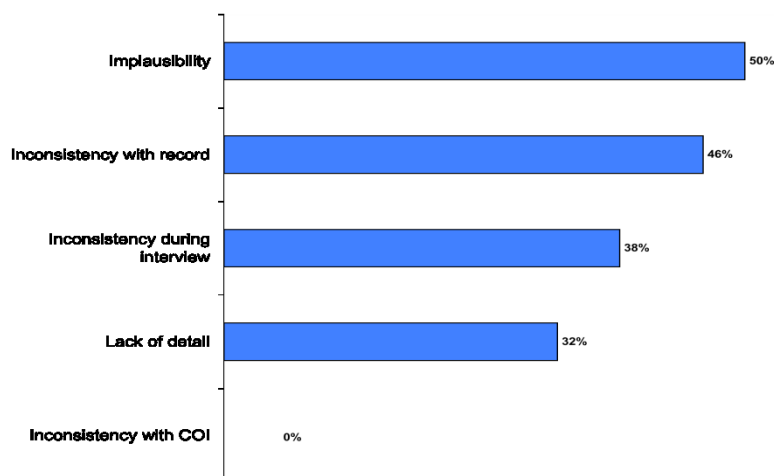
<sup>10</sup> Decision records where no credibility issues were identified or assessed were classified as type one: positive with no issues, even where the positive credibility finding is not explicitly noted in the CAIPS analysis.



## 1.2. Credibility Indicators Identified in Negative Decisions

It is widely accepted that the most important factors to consider when evaluating credibility are plausibility, consistency, and detail. Overall, out of 209 cases, 76 negative credibility findings were made (36% of cases). The reviewers identified the frequency of each of the indicators cited in all negative credibility determinations in order to demonstrate which indicators visa officers rely on most often in assessing an applicant's credibility.<sup>11</sup>

**Figure A: Indicators of credibility cited in negative decisions**



The results show that implausibility is the most frequently cited credibility indicator in negative findings. Inconsistency with Country of Origin Information (COI) is the least frequently cited credibility indicator, noted only once in the sample. In refugee decision-making, plausibility often comes down to whether or not the refugee's story makes sense to the visa officer in the context of what is known about conditions in the country of origin, so these findings are presented together.

Inconsistency with other evidence on the record was the second most frequently cited credibility indicator. This "other evidence," in most cases, is the application and written accounts submitted by the applicant to the visa office. Reviewers noted that the information provided in the written applications varied considerably in terms of level of detail, clarity, completeness, and translation quality. The impact of this variation on decision-making quality is beyond the scope of this review, but this observation is flagged for attention.

Inconsistency internal to the interview is the third most frequently cited credibility indicator, while lack of detail in that testimony is fourth. These indicators relate to the direct interaction between the applicant and the decision maker. The relative infrequency in which records note these two latter indicators is notable given that almost

<sup>11</sup> In records, often more than one credibility indicator is identified. For example, oral testimony could be found to be both inconsistent with the written record and lacking in detail.



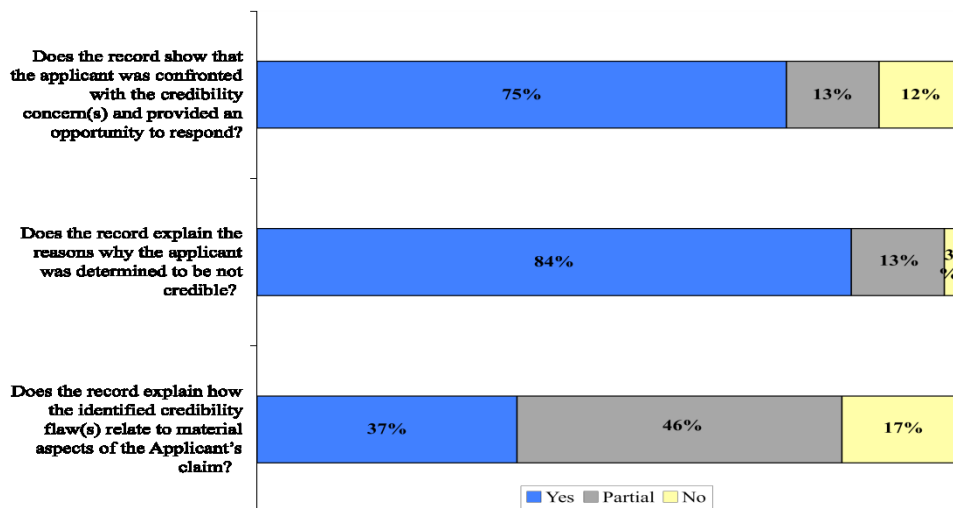
all refugee applicants are interviewed. Because documentary evidence is often unavailable in PSR cases, emphasis is placed on direct examination. This is in contrast to many other immigration proceedings.

The results show that in 95 percent of cases, there was no indication on record that visa officers relied on an applicant’s demeanor in making a negative credibility assessment. This finding demonstrates that, consistent with operational instructions, unreliable cues such as body language and eye contact are not relied upon by visa officers in making credibility assessments.

### 1.3. The Importance of Credibility Findings as a Factor in Refusals

As noted above, 73 percent of all refusals were based, at least in part, on an adverse credibility finding.<sup>12</sup> This section takes a closer look at those cases in which an adverse credibility finding was a factor in the negative decision. The graph below illustrates the findings for the quality indicators assessed.

**Figure B: Quality indicators for negative credibility findings**



In terms of procedural fairness, 75 percent of records showed that the applicant was confronted with the credibility concern(s) and provided an opportunity to respond. In terms of providing reasons, 84 percent of records explained why the applicant was determined to not be credible. In 37 percent of cases, the record explained how the identified credibility concern(s) related to material aspects of the applicant’s protection claim.

In general, the results demonstrate that visa officers do a very good job of identifying what the credibility concerns are, of confronting applicants with the perceived inconsistencies or discrepancies and providing a chance to respond, and of explaining

<sup>12</sup> 36 percent of all refused cases were refused solely on credibility grounds.



the reasons why the applicant was determined to be not credible. The review finds that visa officers exercise due diligence and procedural fairness in making credibility determinations.

However, in 63 percent of cases, the record did not clearly indicate how the identified credibility issues relate to material aspects of the refugee claim, as illustrated in the example below

**Case Notes** “I find unreasonable PA’s explanation of [his] detention/release. I am not satisfied that PA speaks enough FUR to communicate with local people in Darfur or that they would facilitate the escape of a Darfuri soldier fighting for the central government. As I do not find PA credible, I am not satisfied that he meets the RA definition. Refused.”

In this example, the officer properly identifies the point which seems implausible but does not explicitly connect the lack of credibility on this specific point to the relevant portion of the regulatory criteria. One may infer from this example that the visa officer did not believe the applicant had actually been detained, and therefore rejected the claim to have been seriously and personally affected by human rights violations, but it is not clearly articulated on the record.

#### 1.4. Special Issues

In the course of the file review, the reviewing team found some interesting cases which illustrate both best practices and challenges.<sup>13</sup> The following are two such examples.

- **Assessing the totality of circumstances**

The example below cites a case where significant credibility issues were raised, but the decision was ultimately positive because, in assessing all the facts of the case, the applicants were found to meet the Convention definition.

**Case Notes** “PA later admits that he fabricated the existence [and death] of a fictional son. States friends told him to make up this story to gain our sympathy. PA’s fabrication does not go to his eligibility as a CR. I am satisfied that applicants have a well-founded fear of persecution [based on stated] Convention ground. I am also satisfied that they do not have another durable solution available to them – APPLICATION APPROVED.”

This demonstrates that visa officers distinguish effectively between material and non-material credibility issues and make eligibility decisions based on an assessment of the totality of circumstances.

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<sup>13</sup> Statistical data on the percentage of cases that these examples represent is not available.



## ▪ Decisions based on non-material issues

In this example, an adverse credibility finding was based on non-material issues.

**Case Notes** “Subject is not credible in that she has added another child to her application...In her statement with UNHCR, she never mentioned this child which I find very unusual for a mother not to declare a child. Refusal - not credible.”

**Refusal letter** “After carefully assessing all factors relative to your application, I am not satisfied that you are a member of any of the classes prescribed because there were substantive inconsistencies during your interview which did not relate to the [written] refugee claim that you initially submitted. Therefore, you do not meet the requirements of this paragraph.”

While family composition fraud is a real issue in resettlement, in isolation, it is not in itself material to a finding that the applicant is not a member of the Convention Refugee (CR) or Country of Asylum (RA) class.

### 1.5. Overall, how well does the record support credibility assessments?

A general assessment of how well the record supports the credibility finding was made twice during the course of the review: first while conducting a detailed analysis of credibility findings and again as part of a final wrap-up assessment of each file.<sup>14</sup> The overall assessment holistically considered the quality indicators addressed in the sections above. The results were quite consistent between the two findings: overall, the credibility assessment was supported by the record in a majority of cases.

**Table A: Percentage of records where credibility finding is supported by the record**

QA Checklist Question	Total Sample	Negative Cases	Positive Cases
Q. 70	57%	62%	52%
Q. 174	59%	75%	43%

Notably, reviewers found that negative credibility assessments were consistently better documented than positive assessments.

### 1.6. Recommendations

#### Recommendations - Operational

A number of the findings in this chapter suggest that visa officers may benefit from having new tools made available to assist them in assessing credibility. For example, the review showed that the quality of the record differs between positive and negative

<sup>14</sup> Q. 70 is “Based on the record, is the credibility finding supported by [reference to] evidence on the record? “; and Q. 174 which is “Overall, the credibility assessment on record is well supported?”



credibility assessments (S.1.5). The review findings also suggest that making greater use of COI could help improve credibility assessments (S.1.2).

### ▪ **Working tools**

- To assist officers in assessing credibility and documenting their findings, standard interview and decision templates should be developed;
- These templates, similar to tools used by U.S. asylum and refugee officers, would provide a structure and guidance to officers during interviews and in the course of writing reasons.

### ▪ **Standard Country of Origin Information (COI) packages**

- To facilitate access to reliable COI, standard packages should be developed, maintained and made available online for use by visa officers;
- These packages, similar to those used by the IRB and U.S. asylum and refugee officers, should include publicly available information from credible third parties.

## **Recommendations - Management**

Findings showing inconsistency with respect to the completeness and quality of credibility assessments (S.1.3 and S.1.5) suggest that a regular program of Quality Assurance reviews may be warranted. The importance of interviews as a forum for assessing credibility (S.1.2 and S.1.3) further suggests that QA by operational supervisors could usefully include the regular observation of visa officer interviews. The finding that credibility concerns may be the decisive factor in a negative decision, and that in some cases a single incident, or a non-material issue, is the basis for a negative credibility assessment (S.1.3 and S.1.4) supports the recommendation for supervisory review of visa officer refusals.

### ▪ **Regular Quality Assurance**

- To address the finding of significant differences in the rigour with which credibility assessments are documented between positive and negative cases, ongoing Quality Assurance by operational managers should be implemented which would include periodic observation of interviews as part of the QA process.

### ▪ **Supervisory Review of Negative Decisions**

- To improve consistency and mitigate against unsustainable decisions, visa officers should be required to seek the concurrence of a senior officer before refusing PSR applications.



## Recommendations - Corporate

A number of the findings in this chapter support the recommendation for enhanced training in assessing credibility. In particular, the fact that a large proportion of refused cases turned on a negative credibility finding (S. 1.3) underlines the importance of rigorous credibility assessments. The frequency with which credibility assessments are based on inconsistency between written submissions and statements at interview (S. 1.2) supports the need to review the role of sponsors and the design of application kits and forms.

### ▪ Training

- The need for enhanced training in the assessment of credibility and in the documenting of credibility decisions is a cross-cutting finding of this review;
- Additional emphasis on credibility assessment should be included in International Region's refugee processing course. IR should also consider a specialized course to support managers responsible for refugee programs.

### ▪ Redesign of Kits and Forms

- PSR application kits, and supporting information for applicants and sponsors, should be redesigned in order to more clearly spell out what information should be provided to visa officers in advance of interviews;
- This recommendation should be implemented in partnership with sponsoring organizations, which should be encouraged to assist in the preparation of applications by their clients.



## 2. Assessing the Regulatory Criteria

Canada's commitment to the principles of the 1951 *Convention on the Status of Refugees* (the Convention) is evidenced by the inclusion in the *Immigration and Refugee Protection Regulations* (IRPR) of the definition of a refugee drawn from the Convention.<sup>15</sup> This means that visa officers must determine whether applicants for resettlement are persons who are “outside of their country of nationality ... and unable or unwilling to return by reason of a well-founded fear of persecution ...” on one of the five listed grounds, including political opinion or membership in a particular social group. In the case of privately sponsored refugees, moreover, this determination is often made without the benefit of a prior refugee status determination by the UNHCR. Canada has also recognized that there are legitimate protection needs that fall outside the Convention, and addresses these through the Humanitarian-protected Persons Abroad regulations.

This means, with respect to (CR) determinations, that visa officers must independently decide whether or not the applicant has a **forward looking fear**; whether what the applicant fears amounts to **persecution**; and whether the feared persecution is because of the applicant's connection to one of **the five Convention grounds**. The difficulties inherent in this determination are evident, and Canadian courts have established a considerable body of jurisprudence around refugee status determination, which makes the work of visa officers even more complex.

In addition to determining whether or not an applicant has a well-founded fear of persecution on a Convention ground, visa officers must also assess several other regulatory criteria, including those that reflect policy considerations relating to the appropriate use of resettlement. These regulatory criteria are:

- For applicants who do not meet CR requirements, visa officers must assess the applicant against the Country of Asylum (RA) class definition (part of the Humanitarian-protected Persons Abroad Class regulations). This means an applicant must be outside of his or her own country and must have been seriously and personally affected by events there, such as civil war or serious human rights abuses, IRPR S. 147 (a)(b);
- Visa officers must assess whether or not there is a reasonable prospect of another durable solution before accepting an applicant for resettlement. This reflects the policy goal of using resettlement strategically, so that it complements rather than undercuts the other durable solutions (local integration or voluntary repatriation), IRPR S. 139 (1)(d)(i)(ii);
- Finally, visa officers are required to consider whether refugee applicants have the potential to successfully establish themselves in Canada, reflecting the policy goals of maintaining public support for refugee resettlement, IRPR S. 139 (1)(g)(i)(ii)(iii)(iv).

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<sup>15</sup> IRPR S. 145



## Review Findings

In this chapter the results of the following research questions are reported:

- How well did the record support findings related to the regulatory criteria?
- Which elements of the regulatory criteria are most frequently determinative, including those elements of the CR and RA definitions which applied to applicants?
- Have all family members had their protection needs assessed?

### 2.1. How well does the record support findings related to the regulatory criteria?

As noted above, the regulatory criteria applicable to PSR applicants are complex, spanning two distinct classes and include both “protection” related elements (for example, the Convention Refugee definition) and other factors like settlement potential. Well-supported decisions address in the record those elements of the applicant’s account which are material to the regulatory criteria.

#### ▪ Positive decisions

The review found that of all 105 positive decisions, 49 percent were selected as Convention Refugees; and 41 percent of records included a determination with respect to CR regulatory criteria. 30 percent of cases were selected as Country of Asylum cases, and 29 percent of records included some sort of RA regulatory assessment. In 21 percent of all positive decisions, it was not clear from the record which criteria were being assessed. An example of this is shown in the following excerpts:

**Case Notes** “PA’s story is plausible although unable to substantiate. Nevertheless I am prepared to give benefit of doubt. Application approved.”

**Case Notes** “PA and family meet requirements.”

#### ▪ Negative decisions

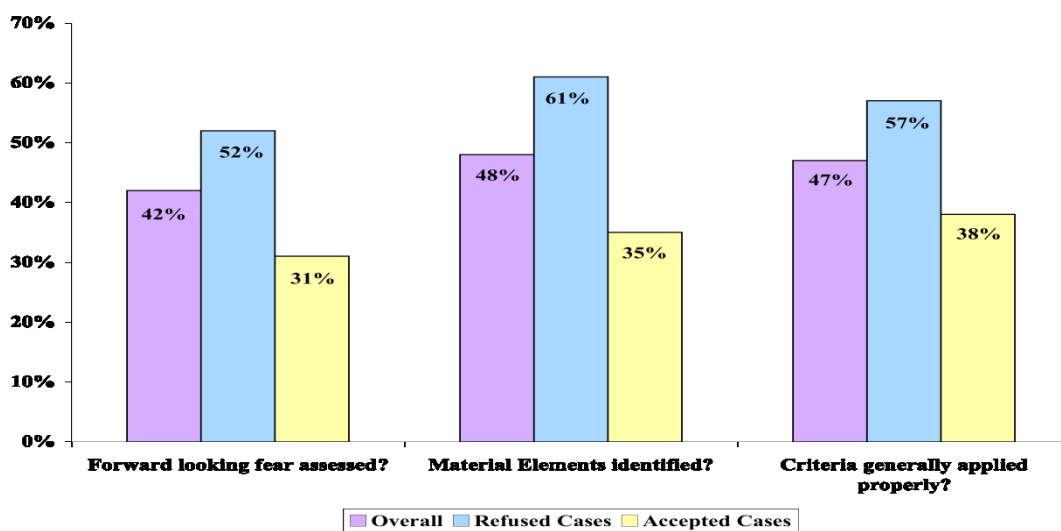
Of 104 refused cases, 62 percent included some assessment of the CR regulatory criteria. Applications that do not meet the CR criteria must be assessed against RA class factors. While 59 percent of refused cases did refer to RA criteria, only 19 percent provided a separate analysis, distinct from findings related to the CR criteria. It should be noted that facts, which would be material to a CR assessment, may not necessarily be relevant to a RA determination. In particular, issues such as an individualized fear, the identity of an agent of persecution, the availability of state protection and the motivation for the ill treatment or risk are not relevant to an assessment with respect to the RA definition.



Thirty-four percent of cases were refused solely on the basis of a negative credibility finding, with no further analysis relating to the regulatory criteria on the record. There were also a small number of cases (from a single post) in which only RA criteria were assessed, contrary to standing instructions.

The analysis contained in the record was assessed in several different ways during the review. For example, reviewers determined whether or not the record addressed the issue of the applicant’s “forward looking fear”, consistent with the CR definition. Reviewers also considered whether or not the analysis was based on matters material to the regulatory criteria. Finally, reviewers made a general finding with respect to how well the regulatory criteria were assessed, based on the record as a whole.

**Table B: The record of the regulatory criteria assessment by outcome**



For these three factors, the record in between 52 and 61 percent of the negative cases included an assessment of the issues, while for positive cases the scores ranged between 31 and 38 percent. The lowest results, for both positive and negative cases, relate to whether visa offices are addressing the issue of a forward-looking fear, which is a central element of the CR definition.

## 2.2. Applying the Regulatory Criteria

Regardless of whether an applicant is being assessed as a member of the CR class or the RA class, the regulatory criteria that are assessed can be divided between “protection” criteria and “non-protection” criteria. The former are based on definitions that define membership in the CR or RA classes based on feared persecution or past experience of ill treatment; the latter relate to policy considerations such as settlement potential and the appropriate use of resettlement in conjunction with other durable solutions. Taken together, the regulatory criteria consist of:





- Whether the applicant meets the definition of a Convention Refugee or the Country of Asylum Class – each definition consisting of a number of sub elements; IRPR 139 (1)(e)
- Whether the applicant has any reasonable prospect of another durable solution; IRPR 139 (1)(d)
- Whether the applicant will be able to successfully establish him or herself in Canada; IRPR 139 (1)(g)

For positive decisions, the review assessed if the records demonstrate that the applicant met each of the required elements of the regulatory criteria above. For negative decisions, the review assessed if records clearly demonstrate how the applicant does not meet the relevant regulatory criteria, as per manual instructions.

## **Protection Criteria**

The review found that the record did not always clearly indicate how an application either met or failed to meet the regulatory criteria. For cases that were ultimately approved, certain aspects of the protection criteria were more commonly addressed. These include, in CR assessments, that the applicant is outside of her country of nationality; that his or her fear is well founded; and that an agent of persecution can be identified. Less commonly, the nexus to a specific Convention ground is identified. For cases approved based on RA criteria, the record seldom identified the actual nature of the harm suffered by the applicant.

Most refusals were based on a negative finding related to the protection criteria or some aspect of the protection criteria. Aside from a general finding that the applicant lacked credibility, which should be considered in the context of previous findings with respect to the quality of credibility assessments (see chapter 3.1), the most common protection issues cited in refusals were “lack of a well founded fear” in CR assessments and “not seriously and personally affected ...” for RA assessments. Both these findings should be considered in relation to findings with respect to limited references to Country of Origin Information. Determining whether or not a fear is well founded, or whether an applicant has been seriously and personally affected by events, relates directly to an objective understanding of conditions in the country of alleged persecution. There is, in addition, a subjective element to an assessment of alleged fear. This aspect is cited in some decisions, where for example the applicant’s behaviour in the country of asylum is scrutinized in order to consider whether it is consistent with a fear of return, as illustrated by the following case.



**Case Notes** - “Told PA that I find it peculiar that he hasn’t registered with the UNHCR or any other NGO if he considers himself a refugee. He claims he doesn’t consider getting assistance from NGOs important.”

**Refusal Letter** – “After carefully assessing all factors relative to your application, I am not satisfied that you are a member of any of the classes prescribed because you were not able to establish that you have credible reasons for claiming [refugee] protection. You were unable to substantiate your fear of persecution during the interview and you were also unable to provide evidence that you had registered as a refugee with the UNHCR.”

Again, an assessment of an applicant’s subjective fear needs to take into account the specific conditions in the country of asylum. For example, in the above example were there barriers to accessing UNHCR? Did registration with UNHCR provide any substantive benefits?

### **Non-Protection Criteria**

Of refusals where a non-protection issue was determinative, the availability of another durable solution was by far the most significant factor, cited in 34 percent of all refused cases. The most frequently cited alternate solution was voluntary repatriation (29 percent) with local integration rarely found to be reasonably available (5 percent).

Settlement potential was cited in less than 5 percent of refused cases, showing that visa officers are well aware of the humanitarian basis for the program.

### **2.3. Assessing Family Members**

Operational procedures require visa officers to not only assess the principal applicant but also other family members included in the application. OP 5 S. 13.3 states, “If the principal applicant does not qualify as a member of the Convention refugee abroad class, the officer must assess the eligibility and admissibility of the spouse, common-law partner and of any family members. It cannot be assumed that a spouse, common-law partner or a child, particularly an older one, does not have his or her own story to tell. Each family member must be given the opportunity to tell their story; and visa officers must explore all possibilities.”

While not relevant in cases where the application is accepted – as when any one family member qualifies, the status applies to all other family members – in cases where the application is refused, the record should clearly document whether any family member could have met the regulatory criteria. In 21 percent of all cases that were ultimately refused, the record shows that more than one member of the family should have been assessed; but in only 36 percent of these cases does the record show that a comprehensive individual analysis was conducted for the other family members.



## 2.4 Recommendations

### Recommendations - Operational

A number of the findings in this chapter suggest that visa officers would benefit from having new tools made available to assist them in preparing for and conducting interviews, and in documenting their analysis and decisions. For example, the review found that the quality of the record differs between negative and positive cases (S. 2.1); that visa officers do not always distinguish between the requirements applicable to CR and RA criteria (S. 2.1); and that there is seldom any indication of how COI is used (S. 2.2).

#### ▪ Working Tools

- To assist officers in assessing the regulatory criteria and documenting their findings, standard interview and decision templates should be developed;
- These templates, similar to tools used by U.S. Asylum and Refugee officers, would provide a structure and guidance to officers during interviews and in the course of writing reasons.

#### ▪ Standard Country of Origin Information (COI) Packages

- To facilitate access to reliable COI, standard packages should be developed, maintained and made available online for use by visa officers;
- These packages, similar to those used by the IRB and U.S. asylum and refugee officers, should include publicly available information from credible third parties.

### Recommendations - Management

A number of findings in this chapter suggest that greater management oversight would contribute to improving the quality of visa officer decision-making. For example, the fact that the quality and completeness of the record was found to differ between positive and negative cases (S. 2.1), and the determination that findings of fact were better documented than regulatory analysis both suggest that regular QA by operational managers would be appropriate. In the same vein, the finding that not all family members are always assessed before refusal (S. 2.3) suggests that supervisory review of negative decisions may be appropriate.

#### ▪ Regular Quality Assurance

- To address the finding of significant differences in the rigour with which the assessment of regulatory criteria is documented between positive and negative cases, ongoing QA by operational managers should be implemented.



## ▪ Supervisory Review of Negative Decisions

- To improve consistency and mitigate against unsustainable decisions, visa officers should be required to seek the concurrence of a senior officer before refusing PSR applications.

## Recommendations - Corporate

Recognizing the complexity of the regulatory criteria, including relevant Canadian jurisprudence, and the importance of Country of Origin Information (COI) (S. 2.1, S. 2.2), the results of this review support efforts to review and enhance training for visa officers. Efforts should also be made to clarify and update operational guidelines contained in the manuals.

### ▪ Training

- The need for enhanced training in the assessment of the regulatory criteria and in the documenting of decisions is a cross-cutting finding of this review.
- Additional emphasis on researching COI and legal analysis/refugee law issues should be included in International Region's refugee processing course. IR should also consider a specialized course to support managers responsible for refugee programs.

### ▪ Operational Procedures

- Manual chapters should be revised and updated to provide clearer guidance on issues relating to the assessment of CR and RA regulatory criteria.

## 3. Gender-Based Protection Issues

The UNHCR estimates that 80 percent of the world's refugees are women and children. Viewing the quality of refugee decision-making through a gender lens serves to shed light on the experiences of the majority of refugees who have long suffered in the shadows of a patriarchal protection paradigm.

It is generally acknowledged that women hold a significantly different position in many societies than men; thus, the experiences that give rise to their fleeing their homelands are often different than the experiences of male refugees. Women may be persecuted on similar grounds as men, but the forms of persecution may be different; moreover, women may be subject to persecution simply because they are women.

Recognizing that women's rights are human rights, CIC issued the *Declaration on Refugee Protection for Women* in 1994.<sup>16</sup> The Declaration affirms that CIC is committed

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<sup>16</sup> See Appendix B in OP Manual 5



to the inclusive interpretation of the Convention definition and the gender-sensitive approach contained in the Immigration and Refugee Board Guidelines in assessing applications for resettlement from abroad by refugee women.

For visa officers, the ability to question with sensitivity, awareness of the signs of gender-related persecution, and knowledge of conditions affecting women in source countries, is required. CIC recognizes that refugee claims by women may be jeopardized because they do not tell of experiences of sexual violence, they may be unwilling to speak of such experiences in front of their husbands, or they may be intimidated by the presence of male officials or interpreters. Wherever operationally feasible, CIC committed to ensure that women making refugee claims have the option of being interviewed by female officers, with the assistance of trained female interpreters (Declaration on Refugee Protection for Women).

In light of this commitment, the QA review aimed to assess if decision-making is being performed in a gender appropriate manner, from a policy, procedural, and legal perspective.<sup>17</sup>

## Review Findings

In this section, the findings for the following research questions are reported:

- What proportion of PSR principal applicants are women?
- What factors distinguish them from male principal applicants?
- Are gender sensitive policies and procedures followed in the decision-making process?
- Are gender-based protection issues properly addressed?

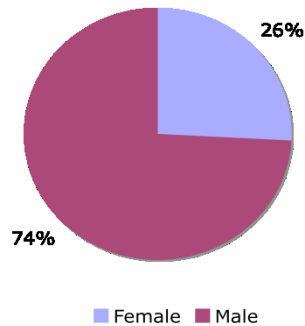
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<sup>17</sup> A comprehensive QA assessment of all decisions across all quality indicators by gender was not conducted in this phase of the report; however, this is an area recommended for further study.



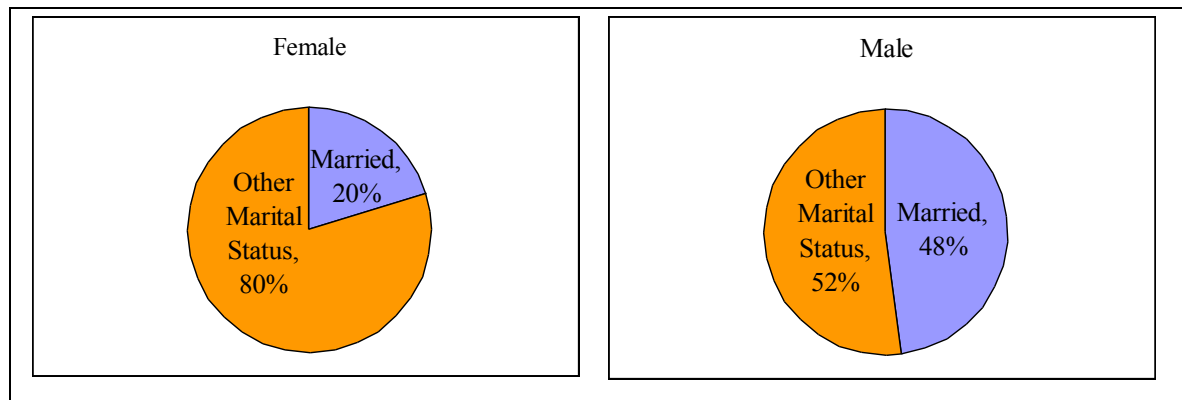
### 3.1 Snapshot of Sample Composition by Gender

Figure C: Percentage of principal applicants by gender



The results show that 26 percent (54 cases) of the sample population had a female principal applicant.<sup>18</sup> Decision outcomes for male and female principal applicants were roughly equivalent: a 52 percent acceptance rate for women, and a 50 percent acceptance rate for men, which reflects similar outcomes for the general population.

Figure D: Marital status of principal applicant by gender



Of female principal applicants, 20 percent were married; the remaining 80 percent were single, widowed or divorced. Conversely, 48 percent of male principal applicants were married, and 52 percent were either single or widowed.

It is more common for married couples to identify the husband as the principal applicant. In light of this, and considering how infrequently dependants are interviewed individually

<sup>18</sup> This is roughly equivalent to the 30% female PAs in the general population. The sample is not exactly representative because it was not specifically weighted for distribution by gender, though the samples from each mission are representative of overall gender distribution.



and separately, the stories of refugee women are less commonly heard by visa officers than those of men.

Among the cases reviewed, applications on which a woman is the principal applicant were, in the vast majority, made by women without accompanying adult male relatives. Such refugee women are often more vulnerable in the country of asylum. In addition, 46 percent of female principal applicants had no dependants listed on the application while the remaining 54 percent listed at least one dependant, and 35 percent listed more than one, showing that the majority of woman principal applicants are caring for dependants in the country of asylum.

### **3.2 Do female officers interview female refugees? Do female interpreters interpret?**

It is generally accepted that women refugees are more likely to disclose experiences of gender-based persecution to female interviewers than to male interviewers, especially in situations where the power dynamics are clearly pronounced, such as with government officials or other authorities. For this reason, CIC made a commitment that, if at all possible, women making refugee applications have the option of being interviewed by female officers, with the assistance of trained female interpreters.<sup>19</sup>

The data shows that in 90 percent of cases with a female principle applicant, the interviewing officer was female.

It was not possible to capture the gender of the interpreter for each case; however, for claims that were gender-based, this information was noted. A complete interpreter list from Nairobi was not available, and as a result, overall interpreter results by gender are inconclusive. However, it is noteworthy that the interpreter list provided by Damascus has 10 interpreters listed, and only one is male. From Cairo, the list has 26 interpreters listed, and only one is female. Consistent with operational guidance, an appropriate gender balance for interpreters should be pursued at all posts.

### **3.3 Female Applicants with Gender-Based Claims**

The claims of women refugees often differ from those of men in several respects. First, women often suffer harms which are either unique to their gender, such as female genital mutilation or forced abortion, or which are more commonly inflicted upon women than men, such as rape or domestic violence. Second, women's claims differ from those of men in that they may suffer harms solely or exclusively because they are women, i.e., as a result of their gender (such as the policies of the Taliban in Afghanistan). And third, women often suffer harm at the hands of private individuals (such as family members

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<sup>19</sup> See OP 5 - Appendix B. This commitment reflects UNHCR's Procedural Standards and own guidance on interviewing which states "if at all possible women refugee claimants should be interviewed by a female staff member and female interpreter" (UNHCR Interviewing Applicants for Refugee Status, 1995).



who threaten them with "honor killings" or abusive spouses or family members who batter them), rather than governmental actors.<sup>20</sup> Women may also not have proper or equal access to state protection or the ability to travel or relocate internally. In addition, women and children refugees are particularly vulnerable to abuse and exploitation, in both urban and camp environments.

## Overall Results on Gender-Based Protection Issues

The file review captured 15 cases<sup>21</sup> where gender-based protection issues were specifically raised, meaning that reviewers noted indications of gender-based persecution on the record, either in the written application or in the interview notes. In these instances, reviewers completed a dedicated section of the QA grid specific to the assessment of gender-based claims.

Of the 54 female principal applicants in the population of cases reviewed, 22 percent raised issues of gender-based persecution. Of the 15 cases with gender-based issues clearly indicated on the record, 80 percent had a female principal applicant. The actual rate of gender-based persecution experienced by women principal applicants is likely under-represented for reasons including: lack of detailed analysis of the basis for the claim; incomplete records; limited familiarity of decision makers with CIC's gender policy; as well as the fact that women may be reluctant to disclose, either in writing or at interview, experiences of such persecution. Further, many women may experience gender-based persecution *in addition to* other forms of persecution, and those other forms may provide the basis of the decision.

Further, this review has elsewhere shown that women who are dependants on the applications of male spouses or relatives are rarely interviewed individually so their stories are often not separately told – especially if the application is accepted.

## Forms of Gender-Based Persecution

The results show that rape was by far the most frequently cited form of sexual and gender-based persecution in the sample (53 percent of cases), followed by forced marriage (13 percent of cases), domestic violence (13 percent of cases), and forced abortion (7 percent of cases). This finding could usefully support additional training on gender-sensitive interviewing, and interviewing survivors of sexual trauma or torture.

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<sup>20</sup> Backgrounder on Gender and Refugee Issues <http://cgrs.uchastings.edu/background.php>

<sup>21</sup> Of those 15 cases, 7 were accepted, and 8 were refused. By mission - Damascus 6 (3 positive, 3 negative), Nairobi 6 (3 positive, 3 negative), Cairo (2 negative), Pretoria (1 positive) so sample is balanced in distribution across posts.





## Policy

The results show that no record in this sub-sample made reference to CIC's policy on assessing gender-based claims or the IRB gender guidelines.

## Procedures in Cases with Identified Gender-Based Protection Issues

The results show that, of the cases in the sample that had identified gender-based claims, 100 percent were interviewed by a female officer. Sixty-six percent of the time, the interview was conducted with a gender appropriate interpreter. Sixty percent of the time, appropriate measures were taken during the interview to create a gender sensitive environment by interviewing the applicant privately.

Overall, the results indicate that in the majority of cases, the interview process was conducted in a gender sensitive and appropriate manner. Examples of indicators where it was not included: not interviewing the applicant individually, not having a female interpreter, or not considering the gender-based aspects of the claim in the decision analysis (especially where the case was refused).

## In Closing

In light of the implications of these findings both in relation to the nature of the persecution suffered in the country of origin and the applicant's security situation in the country of asylum, the results confirm that female headed claims, and gender-based claims in particular, raise unique issues that warrant attention to gender-sensitive training, procedures and processing. This, of course, does not mean that women included on the application of a male relative do not also require gender sensitive processing.

The results further underline the importance of CIC continuing to deliver on its public commitment to the development of training and direction for all officers abroad, for other staff, and for interpreters, to promote gender sensitivity, awareness and knowledge.

In addition to ensuring that gender policy issues receive appropriate treatment in visa officer training, it may be useful to consider the development of a specialized course on gender-based analysis for officers with specific responsibility for refugee programs. Coupled with previous recommendations for QA and supervisory review of negative assessments, this would help ensure that CIC's policies are being applied consistently and implemented properly.



## 3.4 Recommendations

### Recommendations - Operational

Among the gender-relevant findings of this review is the fact that the number of cases where gender issues were specifically identified likely under-represents the actual incidence of gender-specific persecution (S. 3.3). This supports the need to ensure that visa officers are well prepared for interviews, including by providing them with time for pre-interview preparation.

#### ▪ Interview Preparation

- To ensure the officer is well prepared, files should be assigned a reasonable amount of time prior to the interview;
- Pre-interview preparation should be made a mandatory step in case processing;
- Pre-interview preparation should include:
  - A thorough review of the applicant's file, in order to identify material aspects of the claim, as well as any missing information;
  - Relevant COI research, including gender issues.

### Recommendations - Management

Taking into account findings with respect to the potential under-reporting of gender issues (S. 3.3), the inconsistent availability of female interpreters (S. 3.2), and the lack of reference to CIC's gender policy in decisions, this review has made recommendations for greater management attention to issues such as interview scheduling and Quality Assurance.

#### ▪ Interview Scheduling

- To ensure officers and interpreters are appropriate when setting interview schedules both at the mission and for area trips, visa offices should identify and sort, in advance, cases with women principal applicants, and/or where gender-based protection issues are raised;
- To facilitate the recommendation above, any shortages of female interpreters for specific languages should be identified and appropriate recruitment should be conducted;
- To allow adequate time for spouses to be separately interviewed, as required, scheduled interview timeslots should be longer for applications with more than one person on the file.

#### ▪ Supervision

- As part of a broader supervisory review, a QA assessment of women's



applications should be conducted with a view to monitoring both the overall quality and gender-appropriateness of decisions. This needs to be based on an objective assessment grid – with feedback provided to officers;

- To complement the findings of this report, a QA review of interviewing should be initiated.

## **Recommendations - Corporate**

The findings in this chapter relate to the way in which visa officers assess gender-based protection issues (S. 3.3) and suggest the need for specialized training in gender issues, including gender-sensitive interview techniques. In addition, to help ensure claims with gender elements are properly handled, it is suggested that PSR kits and forms be revised to allow applicants to identify the need for gender-specific interviewers and interpreters.

### **▪ Training**

- To complement the standard refugee processing abroad course, a specialized course on gender-based protection issues (and other vulnerable cases) should be designed and implemented;
- The course should cover:
  - How to identify and correctly assess gender issues in PSR applications
  - Key refugee law concepts and gender inclusive legal interpretation
  - Targeted COI research skills
  - Gender appropriate interviewing techniques

### **▪ Forms**

- PSR application forms should be revised to include a section where applicants may specifically request gender appropriate interviewers and interpreters.

## **4. Documenting Decisions**

Visa officer decisions are relatively informal, non-adversarial administrative procedures, quite different from judicial or quasi-judicial proceedings before the courts or tribunals like the Immigration and Refugee Board. In addition, interviews are often conducted outside of Canadian government facilities: in refugee camps or the offices of partner organizations like UNHCR or IOM.

Nevertheless, because of the important issues at stake, both management and clients must be able to understand why a particular decision was made. Clients have a right to know why their application was rejected. Management has a duty to ensure that both positive and negative decisions are made correctly, so as to safeguard the integrity of the program. In addition, because decisions are subject to judicial review before the Federal Court, reliable, objective records must be available.



A well documented decision makes clear the evidence upon which the visa officer relied and the connection between that evidence and the regulatory requirements.<sup>22</sup> From a procedural fairness perspective, he who hears should decide. Finally, decisions should be made in a timely fashion, whereby the analysis is done and the selection decision is made as soon after the interview as is practicable.

## Review Findings

In this chapter the results of the following research questions are reported:

- Are decision records focused, clear and supported?
- Is objective Country of Origin Information cited to support decisions?
- Was the officer who heard the officer who decided?
- Are selection decisions made in a timely fashion?

### 4.1 Are decision records focused, clear and supported?

The decision record typically includes the officer's interview notes and concludes with the summary of reasons for the decision taken. The interview is a fact-finding exercise, during which the visa officer establishes the material basis of the claim. A material fact goes to the core of a claim and is fundamental to why an individual fears persecution (CR); or has been seriously and personally affected (RA). Examples of material facts include an applicant's membership of a political party, religion, or a particular social group, incidences of arrests and periods of detention, locations or episodes of violence.

In 90 percent of cases, the records clearly indicated why the applicant left her country of origin, and 56 percent indicated if she is afraid to return, and why.

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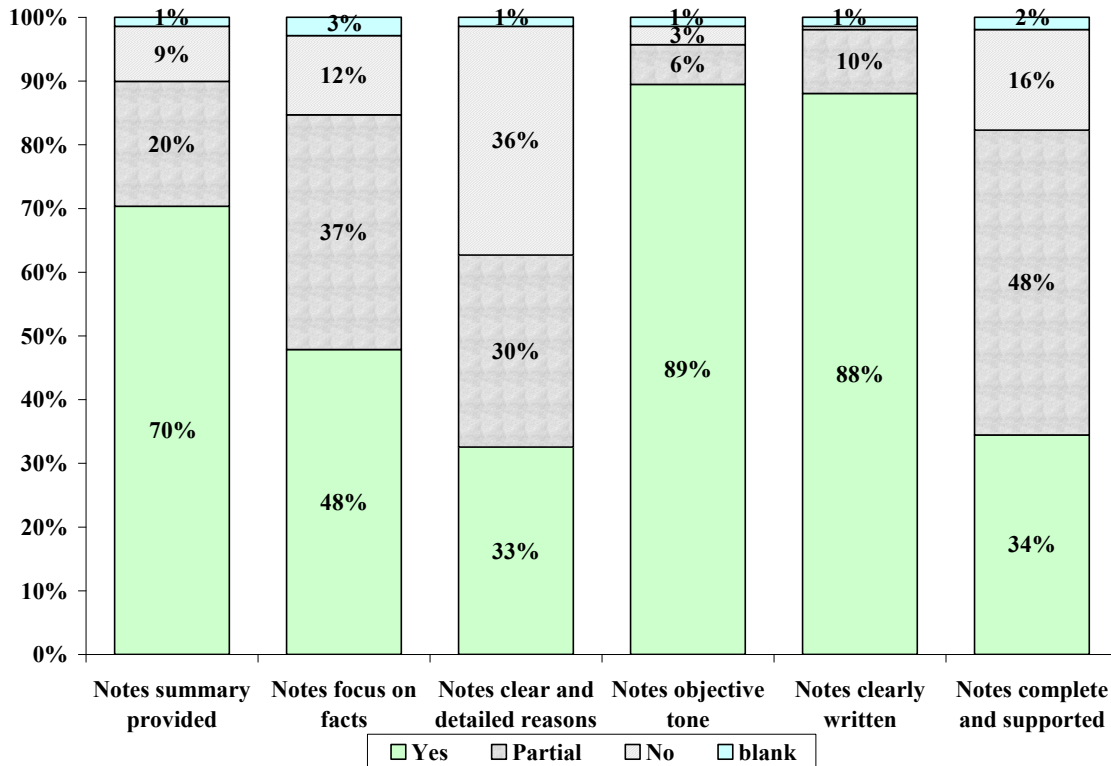
<sup>22</sup> OP 5 sections 8.7 and 27.1 state that "the CAIPS notes must include a conclusion with a summary of the decision and a clear statement of how the applicant does not meet the relevant criteria ... officers should keep detailed notes to support their decisions."



## Documenting the Decision

All eligibility decision records are to include a conclusion with a summary of the reasons for the decision, as per manual instructions.

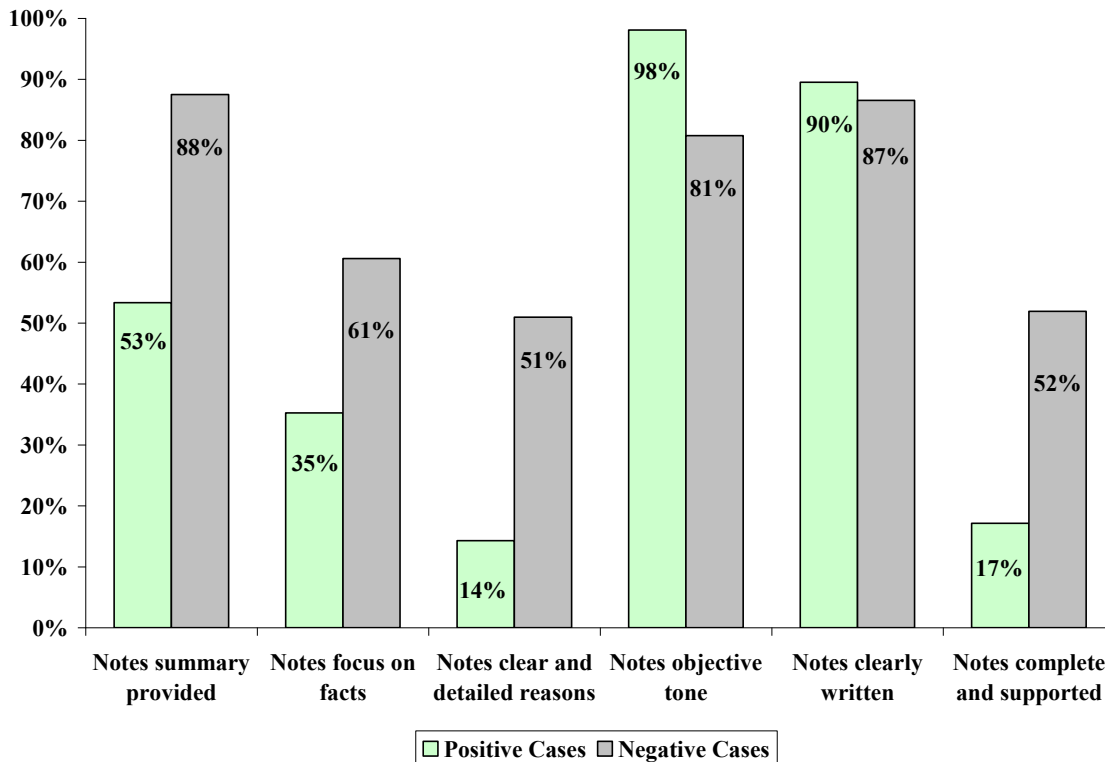
**Table C: Results by quality indicators for documenting decisions**



The results show that overall, 70 percent of the file records reviewed included a conclusion. In 48 percent of cases, the decision summary focused on the material facts of the claim. In 33 percent of cases, the summary provided clear and detailed reasons which explain why the visa officer finds that the applicant does or does not meet each of the relevant regulatory criteria identified. Eighty-nine percent of all records were written in an objective tone and did not include personal opinion. Eighty-eight percent of all records were written in a clear writing style and easy for a reader to understand.



**Table D: Results by outcome on quality indicators for documenting decisions**



These results, which show the same data separated by outcome, demonstrate that negative decisions are more focused, clear, and supported than positive ones.

#### 4.2. Overall, how well do records support eligibility decisions?

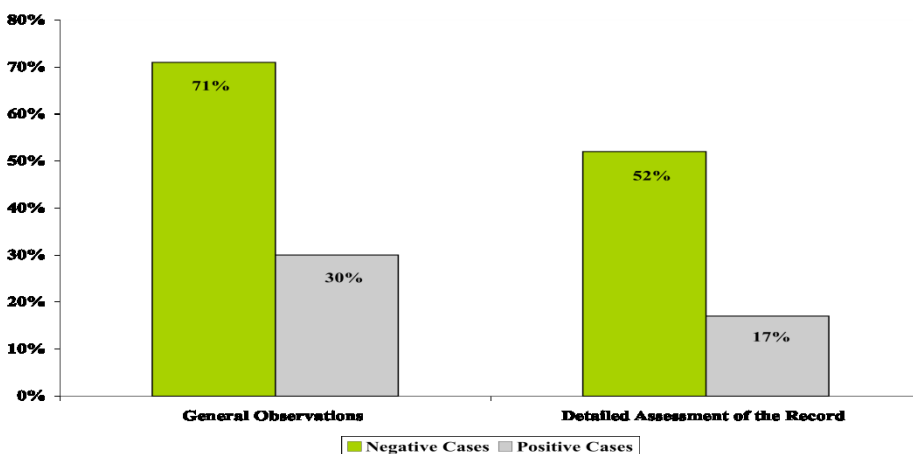
Reviewers assessed how well, overall, the analysis on record supports the eligibility decision in several different instances, including in the section on documenting the analysis and decision in the notes, as well as in the general observations section at the end. Overall, as a general observation, reviewers found that the concluding summary substantively supports the conclusions made by the visa officer in 51 percent of files. However, in the more detailed assessment of the way in which the record documents the analysis, reviewers found that only 34 percent of the files included a decision analysis that was complete and supported. More frequently, the analysis on record was found to only partially support the conclusions.

#### 4.3 Are decisions better documented for accepted or refused cases?

Looking at the data separated by decision outcome, the results show that negative decisions are considerably better documented and supported than positive ones. 88% of refused cases included a conclusion with a summary of reasons for the decision, compared with 53% of accepted cases.



**Figure E: Percentage of records where summary of reasons support decision by outcome**



Further, as shown in the table above, both the general assessment and the detailed review of reasons showed that the record of negative decisions is significantly more likely to be complete and support the decision than is the case for records of positive decisions.

#### **4.4 Is objective country of origin information cited?**

Knowledge of conditions in the applicant’s country of origin is an important element in assessing a protection claim. The results show that the record clearly cited sources of COI to support the decision in 8 percent of cases. An additional 5 percent of cases noted COI in the decision, but did not provide a reference to its source. In the remaining 87 percent of files, no direct reference was made to sources of COI. For refused cases, 16 percent of records had direct or indirect citations for COI.

The review indicates that some cases may require more country research than others; for example, cases that were refused based on the possibility of another durable solution, where the applicant’s story is found to be implausible, or where the alleged fear is deemed to be objectively not well founded.

#### **4.5 Other Decision-Making Issues**

A central element of procedurally fair decision-making is the principle that “he who hears must decide.” The review looked at whether or not the employee who conducted the interview and established the record (the “finder of fact”) was in fact responsible for making the selection decision. In 12 percent of cases reviewed this was not the case: (13 percent of positive decisions and 10 percent of negative decisions). There was a clear explanation for this divided responsibility in 20 percent of those cases. In at least one mission included in the review, it appears to have been a general practice for



interviews to be conducted by a locally engaged employee, whose findings and analysis were then reviewed by a Canadian officer.

## 4.6 Timeliness

Another issue addressed in the review was to determine how soon after the interview the selection decision was made. While some decisions may benefit from a period of reflection or consultations, it is also true that a significant delay before the visa officer turns her mind to the analysis may raise question marks.

Overall the review found that 52 percent of selection decisions were made within 7 days of interview (59 percent accepted, 44 percent refused). Further, 68 percent of selection decisions had been entered by 21 days (77 percent accepted, 63 percent refused).

Seventeen percent of decisions took 40 days or more. In the majority of these cases, the reasons for the delay were explained. Some of the more common reasons cited were 1) requesting an addition or amendment to the sponsorship undertaking, for example, adding a spouse or child who presented at interview; or 2) requesting or verifying documents, for example, with UNHCR. However, some records did not indicate why the file processing was delayed, or did not provide an acceptable reason for such delay.

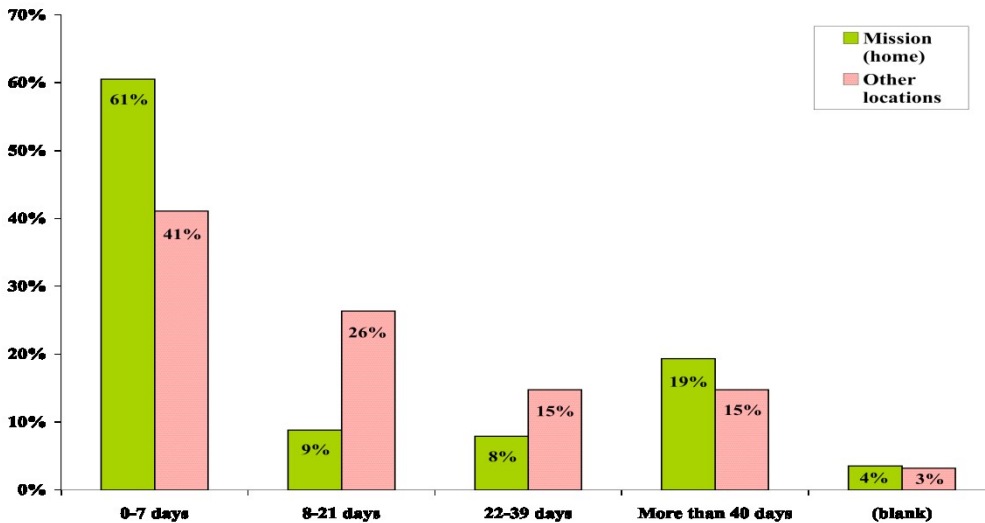
### Timeliness and Interview Location

In terms of interview location, results show that 55 percent of interviews were conducted at the visa office and 45 percent were conducted elsewhere. It is noteworthy that almost half of cases are interviewed on area trips, in other missions, partner facilities or refugee camps.

#### Figure F: Time taken between interview and selection decision by interview location







This has an impact in terms of the timeliness of decision-making. 61 percent of cases conducted at the home mission entered a selection decision within 7 days of interview, whereas only 41 percent of cases conducted away from the home mission had.

Looking at timeliness and location by decision outcome, results show that 53 percent of negative selection decisions were made within 7 days when the interview was conducted at the home mission. This compares to only 39 percent of negative decisions interviewed on area trips. For positive cases, 70 percent of decisions interviewed at the home mission are made within 7 days, whereas only 45 percent interviewed away were made in the same amount of time.

## 4.7 Recommendations

### Recommendations - Operational

A number of the findings in this chapter suggest that visa officers would benefit from having new tools made available to assist them in documenting their analysis and decisions. For example, the review found that the record does not always contain a clear summary of reasons (S. 4.1); that the quality of the record differs between negative and positive cases (S. 4.2); and that there is seldom any indication of how COI is used (S. 4.3).

#### ▪ Working Tools

- To assist officers in documenting their decisions, standard interview and decision templates should be developed;
- These templates, similar to tools used by UNHCR, U.S. asylum and refugee officers, and the IRB, would provide a structure and guidance to officers during interviews and in the course of writing reasons.



## ▪ **Standard Country of Origin Information (COI) Packages**

- To facilitate access to reliable, up-to-date COI, the development of standard packages should be explored;
- These packages, similar to those used by the IRB and U.S. asylum and refugee officers, would be updated regularly and available online for use by visa officers, and would include publicly available information from credible third parties.

## **Recommendations - Management**

A number of findings in this chapter suggest that greater management oversight would contribute to improving the way in which visa officers document their decisions. For example, the fact that the quality and completeness of the record was found to differ between positive and negative cases (S. 4.2), and that findings of fact were better documented than regulatory analysis (S. 4.4), both suggest that regular Quality Assurance by operational managers would be appropriate. Findings with respect to the timeliness of the writing of decisions support the recommendation that clear standards be set and monitored by managers (S. 4.6).

## ▪ **Regular Quality Assurance**

- To address the finding of significant differences in how well decisions are documented between positive and negative cases, ongoing Quality Assurance by operational managers should be implemented.

## ▪ **Case Ownership**

- To support procedurally fair decision-making, particularly as adverse credibility assessments so often factor into PSR decisions, the officer who interviews the PSR applicants should make the eligibility decisions.

## ▪ **Timeliness Standards**

- To ensure that PSR selection decisions are made as soon after the interview as is practicable, clear timeline targets should be set by all posts;
- To support the recommendation above, officers, and in particular officers returning from PSR area trips, should be allotted dedicated work hours to complete decision analysis immediately after interview or upon return to the home mission.



## Recommendations - Corporate

Recognizing the complexity of the issues that are to be included in records of decision, including complex regulatory analysis, relevant Canadian jurisprudence, and the importance of Country of Origin Information (S. 4.2, S. 4.3), the results of this review support efforts to review and enhance training for visa offices.

### ▪ Training

- The need for enhanced training in documenting eligibility determinations is a crosscutting finding of this review;
- Additional emphasis on writing decisions should be included in the IR refugee processing course.

## 5. Communicating with Refugees and Sponsors

Effective communications between visa officers, refugees and sponsors is an important factor in quality decision-making as well as supporting the broader management of the refugee resettlement program. Interactions between applicants and decision makers frequently depend upon third party interpreters and translators. It is important that both refugees and visa officers have confidence in the accuracy and reliability of these services. Applicants have the right to know what is required of them, and to understand the reasons for decisions.

The circumstances in which many sponsored refugees live can make communications with Canadian missions difficult. Sponsors in Canada may have access to alternate means of communication that can assist in maintaining effective communications between applicants and visa officers. In addition, sponsors benefit from understanding how cases they submit are processed, and especially the reasons for decisions. The substantial investment of time and energy involved in making a refugee sponsorship means sponsoring organizations have an interest in focusing their efforts on cases that are likely to meet the IRPR requirements. Having access to clear reasons for the refusal of an application helps sponsors make better choices, which in turn strengthens the privately sponsored refugee program as a whole.

## Review Findings

In this chapter the results of the following research questions are reported:

- Are procedures related to communications at interview followed?
- Are benchmark letters being sent in accordance with operational instructions?
- Do refusal letters explain the reasons for the decision?



## 5.1 Communications at Interview

### Explaining the Purpose of the Interview and Verifying Interpretation

PSR clients need to be advised of what the interview will involve and officers must verify that clients can understand their interpreters. This helps ensure that accurate information is being provided to the decision maker.

The records show that visa officers explained the purpose of the interview to clients 70 percent of the time, and 64 percent of records show that the visa officer verified that the applicant understood the interpreter, in accordance with manual instructions.<sup>23</sup> Sixty-seven percent of records note the name or initials of the interpreter, an important piece of information for quality control purposes.<sup>24</sup>

These results demonstrate that visa officers communicate with applicants effectively when setting the stage for the interview.

## 5.2 Communications throughout the Application Process

### Benchmark Messages

There are two standard messages that visa offices are required to send to applicants and sponsors to provide timely information about the status of PSR applications. The first message is sent when the application is received, and the second is sent when a selection decision has been made.<sup>25</sup> As noted above, including sponsors in regular communications can assist visa officers in maintaining contact with applicants, and also helps sponsors better understand the progress of files at missions.

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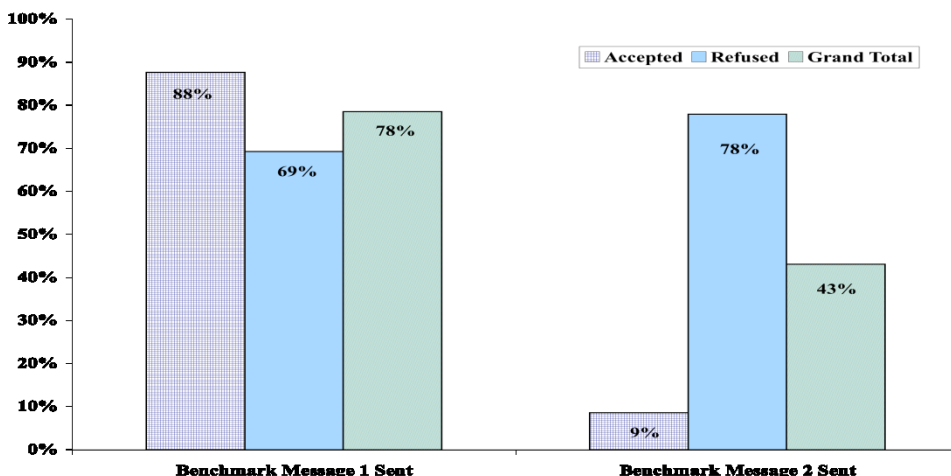
<sup>23</sup> See OP 5 12.1

<sup>24</sup> It is also increasingly relevant to applications for judicial review in which plaintiffs are alleging that poor quality interpretation resulted in unfair refusals.

<sup>25</sup> The **first** message should read “Completed application received by the visa office on X date. An interview is scheduled for X date, or will be scheduled within X months.” The **second** message should read: for a positive decision: “The case has been provisionally approved, statutory requirements must still be completed. The average time to visa issue is X months.” For a negative decision: “The case has been refused. A refusal letter was sent on X date and a copy of the refusal letter is enclosed”. Note, the Acknowledgement of Receipt (AOR) letter was counted as #1 (not the interview letter). The refusal letter was counted as #2 (for negative decisions).



**Figure G: Percentage of records that demonstrate compliance with benchmark procedures**



In 78 percent of all cases, records demonstrated that benchmark message 1 was sent, as per manual instructions. In 43 percent of cases, records showed that benchmark message 2 was sent.

Separated by decision outcome, 78 percent of refused case records showed that benchmark 2 was sent, but only 9 percent of approved case records did so.

These results indicate that procedures with respect to client communications are not always being followed, particularly for approved cases. Refugees whose applications are accepted for further processing can expect further interaction with the mission (for medical processing, etc.). Not updating sponsors on case status, in accordance with instructions, could result in additional correspondence which has resource implications for both missions and sponsors.

## Refusal Letters

For negative decisions, the refusal letter is the means by which the department communicates to the PSR client that their application has not been successful. As per manual instructions, a refusal letter “must explain why the visa officer does not think the applicant meets the regulatory definition and refer to evidence provided by the applicant, and how and why this evidence does not meet the requirements for recognition.”<sup>26</sup>

Refusal letters are based on a standardized CIC template<sup>27</sup>. The template letter sets out the statutory and regulatory requirements applicable to Convention Refugee (CR) and Country of Asylum (RA) class applications and prompts visa officers to include

<sup>26</sup> See OP 5 27.2.

<sup>27</sup> For a copy see Appendix E of OP 5.



additional information specific to the individual application in order to explain how and why the applicant failed to meet the stated requirements.

The results show that 86% percent of all refusal letters provided reasons as to why the case was refused, in addition to the standard information contained in the refusal form letter.

In addition, in 70% of refusal letters, the reasons presented to support the decision provided a substantive explanation as to why the application was refused.

The results also show that in 80% of cases, the reasons identified in the refusal letter directly reflect the issues identified in the officers' analysis in case notes.

These findings are positive; however, as has been explored in previous sections of this report, the analysis and conclusions set out in the case notes do not always adequately address material facts or the relevant regulatory requirements. This means that even with the inclusion in a refusal letter of summary reasons, it is not always possible for the applicant or sponsor to truly understand the basis for the refusal, as those summary reasons as to how and why evidence provided by the applicant does not meet the requirements for recognition under both the regulatory classes are not always explicitly clear.

## **5.3 Recommendations**

### **Recommendations - Operational**

Previous findings that officers would benefit from working tools to assist in documenting their analysis and decisions are also relevant to what this review noted with respect to refusal letters (S.5.2). The better the quality of the record, the more transparent and informative refusal letters will be.

#### **▪ Working Tools**

- To assist officers in conducting interviews and drafting reasons in refusal letters, standard interview and decision templates should be developed;
- These templates, similar to tools used by UNHCR, U.S. Asylum and Refugee officers, and the IRB, would provide a structure and guidance to officers during interviews and in the course of writing reasons.

### **Recommendations - Management**

Again, in keeping with previous findings that support greater management oversight of PSR processing, regular Quality Assurance of visa officer communications with applicants and sponsors is recommended.



## ▪ **Regular Quality Assurance**

- To address the finding in how well refusal letters explain the reasons for refusal, ongoing QA by operational managers should be implemented;
- To ensure interviews are conducted appropriately, a QA on interviewing should be undertaken.

## **Recommendations - Corporate**

Findings in this chapter with respect to inconsistencies in the use of standard benchmark letters and the effectiveness of refusal letters (S. 5.2) suggest that measures such as training and the use of new technologies, including email, should be explored.

### ▪ **Training**

- Additional emphasis on writing refusal letters should be included in the IR refugee processing course. IR should also consider a specialized course to support managers responsible for refugee programs.

### ▪ **Nairobi Communications Pilot Project**

- The Nairobi Communications pilot, in which interview notices and other case-related correspondence are sent by email to CIC offices and sponsors in Canada, should be evaluated. Pending the results of that evaluation, roll out to all posts should be considered.

### ▪ **New Technologies**

- To communicate more effectively with PSR clients and sponsors, email should be considered as the primary the medium of correspondence with applicants and sponsors. Visa offices should also be encouraged to consider alternate communications technologies to mitigate some of the challenges faced in maintaining contact with PSR applicants. Examples could include using SMS messages where cellular phones are widely available.



## The Recommendations Explained

To better equip and support PSR decision makers, this report makes the following operational recommendations:

### ▪ Officer Working Tools

The results of this review illustrate how legally, factually and procedurally demanding the PSR refugee decision-making process is. Interviews are the primary tool for establishing facts and assessing credibility, but PSR interviews often take place under difficult conditions, and always require visa officers to address multiple issues in a limited period of time. The time available to analyze issues and craft sustainable reasons for decisions is also often limited. The analysis and corresponding reasons present procedural challenges quite distinct from most visa officer responsibilities.

To support visa officers in the fact finding, analysis and drafting of protection decisions, we recommend designing and implementing the use of **decision templates**. The templates would serve an *aide memoire* to assist visa officers in establishing the facts of a refugee claim clearly and applying the relevant statutory/regulatory requirements. Templates would support visa officers in working through the relevant legislative, policy and procedural elements of the eligibility determination process, leading to a decision on whether to accept or refuse a protection case. At each stage, the templates would prompt decision makers to support their findings with reasons.

To assist visa officers in PSR interviews, we also recommend the design and implementation of standard **interview templates** to help structure PSR interviews better and to ensure that all the relevant elements of the eligibility decision-making process are covered during the interview. It is important that key issues are not forgotten or overlooked, as often it can be quite difficult to request follow-up interviews for logistical reasons.

Many posts and officers use locally developed templates. Standardizing them across posts would support enhanced consistency. In researching protection partner approaches to addressing quality issues, we learned that the use of templates is a key part of decision maker toolkits at the Immigration and Refugee Board of Canada (IRB), U.S. Citizenship and Immigration Services (USCIS- refugees and asylum), UK Home Office (asylum) and the United Nations High Commissioner for Refugees (UNHCR-RSD assessments). These partner innovations helped shape the recommendations above, and could inform future template development work at CIC.





## ▪ Standard Country of Origin (COI) Packages (IRB model)

Both the relevance of reliable COI and its very limited use in the present operational environment were key findings of this review. To enable better access to current and reliable COI and related resources, we recommend that the use of **standard COI documentation packages** be explored. Such packages would need to be developed, kept up-to-date, and made available to visa officers online.

These standard packages, similar to those used by the IRB, UNHCR and USCIS, should include publicly available information from credible third parties.

An example of “best practice” identified during the development of this project is the USCIS “virtual” asylum library – where operational instruction manuals, COI and templates all live together. We recommend CIC pursue the creation of a “one stop” refugee decision-making page on the International Region website, with links to the relevant manual chapters, all the links to COI sites (e.g. the IRB research page, as well as select NGO sources), all the working tools and checklists, etc. Links to external sites, such as UNHCR and the IRB, would provide access to legal resources, the Convention, the UNHCR Handbook, CIC gender guidelines, etc.

**Meeting targets on quality, as well as quantity, should be a core goal of the PSR program. To more effectively manage quality in decision-making issues, this report makes the following management recommendations:**

### Supervisory Review

In the case of Government-Assisted Refugees (GARs), visa officers have the benefit of UNHCR analysis and research. Convention refugees referred to Canada by the UNHCR and who are found not to meet Canadian program criteria still have recourse to the UNHCR's protection. This may not be the case, however, for persons referred by sponsors who are found not to meet Canadian program criteria but who may still be in need of some form of protection. In light of the possible impacts of visa officer decision-making, we recommend measures to improve consistency and mitigate against unsupported decisions, including a return to 100% supervisory review of decision records for all refused PSR applications.

Prior to the implementation of the *Immigration and Refugee Protection Act*, all negative decisions in refugee cases (PSR and GAR) were reviewed by a senior immigration officer. Returning to that practice would be consistent with the approach taken in other jurisdictions, including the U.S. The supervisor's task would be to vet each case file to check that decisions are complete and that the visa officer made supported conclusions based on the facts before them. The cases would be returned to officers if gaps were identified or incomplete analyses were submitted, in terms of legal, policy and/or



procedural requirements. If consistent and repetitive gaps were identified with a particular officer, the supervisor would address the issue with the officer and monitor subsequent progress.

### ▪ **Enhancing QA for PSR Decision-making**

To improve current QA practices and measure PSR decision-making on an ongoing basis, we recommend developing objective **quality measurement forms for supervisory use** in monitoring the quality of PSR interviews and written decisions. Supervisors would observe/review a minimum number of randomly selected interviews and written decisions, and conduct an assessment based on objective criteria set out in a standardized decision assessment form. Again, these forms could be developed by drawing on similar tools currently in use at USCIS.

Both forms would assist supervisors in providing detailed substantive and procedural comments to visa officers, and help identify individual and collective training needs. These would be key tools in improving ongoing QA monitoring of PSR decision-making.

### ▪ **Processing Volumes**

Individual visa officer's case processing volumes should be kept at reasonable levels and be flexible enough to allow for an appropriate assessment of each and every case. Recognizing the complexity of PSR decision-making, we recommend future work to determine an **average processing time** (including mandatory pre-interview preparation, interviewing, and decision analysis and writing) to guide the number of interviews per day and decisions per week an officer is required to complete on PSR cases.

### ▪ **Mandatory Interview Preparation**

A main finding of this report is that COI research is infrequently used to support decision-making records. To ensure officers have sufficient time to prepare for PSR interviews, review case files, and conduct appropriate COI research, we recommend that a minimum period of **preparation time** be made a standard practice in the visa officer decision-making process. To support this recommendation, files should be assigned to officers a reasonable amount of time prior to the interview.

### ▪ **Timeliness Targets**

Flowing from findings relating to how quickly decisions are made after interview, and differences noted between negative/positive cases, as well as between cases interviewed during area travel as compared to those interviewed at home missions, we recommend setting **timeliness standards** for all PSR decisions. This recommendation also complements those relating to preparation time and workload standards. The International Region (IR) should set as a goal for operational managers that selection



decisions be made, and reasons documented in case notes, within two weeks of the interview in 80 percent of all cases.

### ▪ **Gender Appropriate Interviewing**

The review found that, while in most cases assessed female applicants were interviewed by female officers, it is not clear that this is the result of conscious management decisions or simply a product of the identity of the officers assigned to the region during the period under review. We recommend that, as a management practice, cases should be sorted by gender before being assigned to visa officers to ensure that female applicants can be interviewed by female officers, with female interpreters, in line with policy instructions.

It is recognized that the implementation of this recommendation is subject to real operational constraints – in some interview locations there will be no female officer or interpreter available. To support this recommendation, therefore, **recruitment of female interpreters** in languages where a current shortage exists should be undertaken at posts.

**To invest in training and guidance in support of quality decision-making, this report makes the following corporate recommendations:**

### ▪ **Training**

Enhanced training for officers and managers in issues specific to refugee processing is a key recommendation flowing from the findings of this review. Training issues cut across the factors assessed during the review, from the way in which credibility is assessed, to the analysis of complex regulatory criteria and the application of gender policies. This report draws on the review findings to make recommendations with respect to several distinct aspects of training needs.

All visa officers who have or expect to have responsibility for deciding refugee cases should receive training in refugee specific issues. Although many of the skills employed in the processing of other immigrant and temporary resident applicants have relevance to refugee processing, there are many important elements of the refugee program that require specific attention.

Visa officer training should place substantial emphasis on the assessment of credibility. The review found that credibility findings are frequently determinative. Officers need to be better equipped to make the link between credibility findings and the eligibility decision. There is significant expertise and experience available at the IRB and other protection partners in training decision makers in assessing credibility in a refugee context. The Department of Justice (DOJ) could assist the **development of a credibility training module**. Visa officer training could also be strengthened with



respect to the analysis of regulatory criteria, including greater emphasis on the use of COI, the documenting of decisions, and the preparation of refusal letters.

Finally, we suggest that consideration be given to developing **specialized training in the handling of gender-based refugee claims**, for officers and managers. This module could be based on existing departmental gender-based analysis training, but tailored to address gender issues specific to refugee decision-making.

### ▪ **Updating Manuals**

The review found that in a number of areas, visa officer practice is not consistent with existing operational guidance, as set out in the manuals. In addition, several recommendations called for specific guidance to be issued or revised, in order to respond to the results of the review. As a general recommendation, the **manuals should be updated** to take into account any measures adopted as a result of this review.

### ▪ **Redesign of Kits and Forms**

One finding related to credibility assessments was that visa officers frequently give considerable weight to written submissions that accompany PSR applications. In the event that an applicant's testimony at interview contradicts information contained in the written submission, a negative credibility finding may result.

Based on this finding, we recommend that **PSR application forms and supporting information in the kits be reviewed**, and where appropriate revised, so as to make clear to refugees and sponsors exactly what information is required, and what use may be made of that information. The content of the kits should be made as accessible as possible to refugee clients, taking into consideration that PSR applicants may have limited or no support in terms of reliable translation or advice. Forms should also be revised to allow women refugees to request a female interviewer and female interpreter.

In addition, we recommend that **the role of sponsoring organizations be reviewed** in order to determine whether greater responsibility should be taken by sponsors for ensuring that applications are complete and accurate. This role would include making sure that each application is supported by a comprehensive narrative account of the basis for the need for protection and resettlement. Ideally, sponsors would also provide visa officers with their own assessment of the case, explaining the reason why the sponsor has decided to take responsibility for supporting the application. This is much the same role that UNHCR plays in making referrals to visa offices, and although sponsors cannot be expected to bring the same resources and level of expertise to this task as UNHCR, they can reasonably be expected to provide information about their sponsorship rationale.



## ▪ Communicating with Applicants and Sponsors

Recognizing that the vulnerable situation in which many PSR applicants live while in countries of asylum has implications for their ability to effectively communicate with visa offices, and noting the review findings that visa offices do not always meet existing standards for communications with sponsors, we recommend that CIC consider innovative approaches to solving these communications challenges. Instead of relying on traditional modes of communication such as postal delivery, visa offices should, where possible, **use email and other electronic forms of communication** (such as text messages sent via cellular phones) to reach applicants and sponsors. In addition, the results of the ongoing pilot program in Nairobi, in which Sponsorship Agreement Holders (SAHs) communicate with a dedicated unit at post, should be evaluated and, if appropriate, expanded to other offices.



## Conclusion

In undertaking this review, CIC recognizes that quality in decision-making is integral to the effective protection of refugees in need of resettlement, which is the overarching goal of the Privately Sponsored Refugee Program. Quality requires that decisions be made in accordance with laws, policies and procedures. The completion of this review also demonstrates CIC's recognition of the importance of dialogue with its partners in the sponsorship community. The department takes seriously the concerns that have been expressed by sponsors with respect to program implementation.

Assessing more than 200 PSR files provided an opportunity to appreciate the tremendous challenges faced by visa officers in the field. It reaffirmed the contribution to refugee protection that CIC staff make every day, in countries all around the world. The decisions that visa officers are called upon to make in this program are among the most difficult and the most consequential facing any Canadian public servant. The enduring legacy of the program, the tens of thousands of refugees who have found protection and a durable solution in Canada, is an achievement in which visa officers can take pride.

The findings and recommendations made in this report have as their goal the desire to help decision makers, managers, and policy makers improve PSR resettlement program delivery. We hope that it will, in addition, contribute to broader efforts to collaborate with civil society partners to promote continued success and reinforce Canada's proud tradition of engaging Canadians in international protection efforts to find durable solutions for refugees abroad.

### Many Positive Findings

Overall, the findings demonstrate positive results on a significant number of key quality-of-decision-making indicators.

Results show that visa officers ensure that applicants understand the PSR process and verify that they understand their interpreters. Applicants are provided an opportunity to tell their refugee stories in their own words. Sensitive to cultural communication barriers, officers do not rely on demeanour in assessing an applicant's credibility. Interviewers are respectful, non-adversarial, and gender appropriate. Visa officers demonstrate strong fact-finding skills in refugee decision-making. In negative determinations, officers demonstrate due diligence and procedural fairness in their decision analysis. Officers own their own cases, meaning that "he who hears, decides." Consistent with protection objectives, PSR cases are not being refused on settlement grounds.

### Room for Improvement

The results also reveal some areas of PSR eligibility decision-making where quality could be improved.



In general, positive decisions were found to be considerably less well documented and supported than negative decisions. From a program management and integrity perspective, this is of concern.

Case notes demonstrated limited use of objective Country of Origin Information. This is significant because a refugee protection claim must be assessed in the context of the relevant background situation.

Decision records, both accepted and refused, showed some consistent gaps in applying the complex regulatory criteria to the facts of the case. In positive decisions, case notes were often vague in terms of demonstrating how the applicant met the regulatory definition. In negative decisions, most significantly, gaps occurred in making a full and independent assessment of the Country of Asylum criteria, as separate from an assessment of the Convention definition.

Records of decisions also revealed some recurring issues in documenting credibility assessments.

## **The Way Forward**

To promote improvements to the quality of the decision-making process, the report makes a series of operational, management, and corporate recommendations.

To better support and equip PSR decision makers in the field, this report recommends new officer working tools and COI research resources.

To better manage quality and monitor progress, this report recommends ongoing and enhanced Quality Assurance measures.

To invest in training and guidance in support of quality decision-making, this report recommends improvements to the IR refugee processing training course, updates to relevant manual instructions, and the revision of PSR application forms.

The project team would like to acknowledge the valuable contribution made by SAHs throughout the QA Project. We would also like to thank the UNHCR for their input and expertise. CIC values the cooperation of its partners in realizing improvements in PSR program results – and ultimately – protecting refugees in need of resettlement more effectively.



## Annexes

**PSR QA Checklist – See A**

**Study Methods – See B**

**Management Response to Recommendations – See C**

**Action Plan – See D**

