

LIST OF QUESTIONS CERTIFIED UNDER THE FORMER *IMMIGRATION ACT*

This list contains questions certified under the former *Immigration Act*, R.S.C., 1985, c. I-2, and will not be updated.

Please note that this list is not necessarily exhaustive. Questions that were certified in Orders and that do not appear in Reasons for Order may not appear on this list.

If you have any questions, please contact us at media-fct@fct-cf.gc.ca.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6881-93 Reed J. July 21, 1994	A-384-94 Strayer J.A. (reasons) Décary J.A. Linden J.A. December 30, 1998	<ol style="list-style-type: none"> 1. Whether it is possible for a non-Canadian aboriginal person to establish, with adequate proof, aboriginal rights to enter and to remain in Canada that survived the acquisition or assertion of sovereignty by the British Crown and, if so, whether these rights have been extinguished or limited by statute, at the latest, with the enactment of sections 4 and 5 of the <i>Immigration Act</i>, 1976, S.C. 1976 - 77, c. 52. 2. Whether an adjudicator has jurisdiction to determine if a person who is the subject of an inquiry is a member of the aboriginal peoples of Canada within the meaning of subsection 35(1) of the <i>Constitution Act, 1982</i>, whether an alleged right is an existing aboriginal or treaty right of the aboriginal peoples of Canada within the meaning of subsection 35(1) and whether sections 4 and 5 of the <i>Immigration Act</i> infringe subsection 35(1). 	<p>See reasons of F.C.A.</p> <p>Yes</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-654-93 Rothstein J. December 15, 1994	A-721-94 MacGuigan J.A. (reasons) Robertson J.A. McDonald J.A. June 10, 1997	Is indirect persecution as described in <i>Bhatti v. The Secretary of State</i> , A-89-93, September 14, 1994 (F.C.T.D.) (not yet reported) a basis for a claim to Convention refugee status where there is no evidence of direct persecution against an applicant and if so, is the Convention Refugee Determination Division required to assess whether there is evidence of indirect persecution when an applicant does not raise the issue before it.	No
IMM-3433-94	A-372-95 C.J. Linden J.A. Sexton J.A. June 24, 1997	Whether the adjudicator erred in finding on the basis of the evidence before him that he had reasonable grounds to believe that the applicant had committed outside Canada certain acts or omissions which constituted offenses under the laws of Pakistan within the meaning of subparagraph 19(1)(c.1)(ii) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2, as amended.	No
IMM-166-95 Simpson J. Oct. 23, 1995	A-713-95 Stone J.A. (reasons) Linden J.A. McDonald J.A. March 4, 1997	Does the Federal Court Trial Division have jurisdiction to direct the Convention Refugee Determination Division to declare an applicant to be a Convention refugee pursuant to s. 18.1(3)(b) of the <i>Federal Court Act</i> ?	Yes
IMM-2585-95 Dubé J. Feb. 7/96	A-179-96 Marceau J.A. (reasons) Desjardins J.A. McDonald J.A. February 11, 1997	When an appeal is made by a sponsor to the Immigration Appeal Division ("IAD") prior to July 10, 1995, with respect to a sponsoree who is inadmissible pursuant to s. 19(1)(c), (c.1), (c.2) or (d) of the <u>Immigration Act</u> , and the hearing before the IAD has commenced after July 10, 1995, does the effect of the Minister issuing a "danger to the public" opinion extinguish the sponsor's right of appeal to s. 77(3.01) of the Act and s. 15(3) of Bill C-44 and thereby terminate the jurisdiction of the IAD with respect to the appeal?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
<p>IMM-2008-95 A.C.J. September 27, 1996</p>	<p>A-782-96 Stone J.A. (reasons) Robertson J.A. McDonald J.A. May 27, 1997</p>	<p>1. Was a person “lawfully admitted” to Canada pursuant to the provisions of the <i>Immigration Act</i>, (1950), R.S.C. 1952, c. 145, where that person, (a) was a member of a prohibited class at the time he entered Canada, or (b) was granted entry as a result of fraud or deception?</p> <p>2. If a person was not “lawfully admitted” to Canada could he acquire “domicile” within the meaning of that term in the <i>Immigration Act</i>, (1952) R.S.C. 1952, c.325?</p> <p>3. Did s.19(1)(e)(iv) and (viii) of the <i>Immigration Act</i>, (1952), R.S.C. 1952, c. 325, operate so as to protect from removal a person who (a) was a member of a prohibited class at the time of his admission to Canada, or (b) came to Canada or remains therein with a false or improperly issued passport, visa, medical certificate or other document pertaining to his admission or by reason of any false or misleading information, force, stealth or other fraudulent or improper means, whether exercised or given by himself or by any other person, where that person was not “lawfully admitted” to Canada, and the person has resided in Canada for over five years, from the date of his entry into Canada prior to April 10, 1973?</p>	<p>See reasons of F.C.A. issued May 27, 1997</p>
<p>IMM-550-96 Heald J. Oct. 1/96</p>	<p>A-791-96 Strayer J.A. (reasons) Linden J.A. Robertson J.A. March 1, 1999</p>	<p>Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah v. Minister of Employment and Immigration</i> (1994), 170 N.R. 238., when he or she considers documentary evidence about general country conditions not contained in the applicant’s immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same?</p>	<p>See <i>Nadarajah</i> A-434-96 and <i>Mancia</i> A-75-97</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-3320-95 Reed J. Oct. 29/96	A-855-96 Strayer J.A. (reasons) Robertson J.A. McDonald J.A. April 11, 1997	<p>1. Does subsection 70(5) of the <i>Immigration Act</i>, R.S.C. 1985, c. I-12 engage interests effecting liberty and/or security of the person pursuant to section 7 of the <i>Charter of Rights and Freedoms</i>?</p> <p>2. If yes, is subsection 70(5) inconsistent with the requirements of fundamental justice and of no force or effect as it is unconstitutionally vague and/or does not provide for the rendering of reasons for a determination that a person constitutes a danger to the public in Canada?</p> <p>3. Is the exercise of discretion by the Minister of Citizenship and Immigration to issue an opinion that a person constitutes a danger to the public in Canada pursuant to subsection 70(5), in the context of the procedure being used for that determination, inconsistent with the requirements of fundamental justice and section 7 of the <i>Charter</i> where no reasons are provided for the opinion.</p> <p>4. Does the failure to provide reasons for a determination under subsection 70(5) that a person constitutes a danger to the public in Canada, in the context of the procedure being used, breach the requirements of natural justice or procedural fairness?</p>	<p>1. No</p> <p>2. No</p> <p>3. No</p> <p>4. No</p>
IMM-2721-95 Heald J. Dec. 16/96		<p>Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah v. Minister of Employment and Immigration</i> (1994), 170 N.R. 238., when he or she considers documentary evidence about general country conditions not contained in the applicant's immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same?</p> <p><u>note: question certified in IMM-550-96</u></p>	see IMM-550-96 on p.3
IMM-3294-95 Muldoon J.	A-1038-96 C.J.	Can the Appeal Division of the IRB, in the exercise of its jurisdiction to have "regard to all the circumstances of the case", under the <i>Immigration Act's</i> paragraph 70(1)(b), consider the country (and its conditions) to which the non-	see reasons

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Dec. 18/96	Strayer J.A. Linden J.A.(reasons) December 3, 1998	refugee appellant would, on the balance of probabilities, be removed when assessing whether “the person should not be removed from Canada”; or not, in accordance with the decision of Mr. Justice MacGuigan in a refugee case, <i>Hoang v. Minister of Employment and Immigration</i> , (1990) 120 N.R. 193 at 195; 13 Imm.L.R. (2d) 35 (F.C/A) quoted above herein?	issued Dec. 3/98
IMM-3377-95 Gibson J. Dec. 18/96	A-60-97	Where a visa officer is considering an application for landing in Canada that includes an individual claiming to be the “dependant son” or “dependant daughter” of the principal applicant on the basis that he or she is enrolled in and in attendance as a full-time student in an academic, professional or vocational program at a university, college or other educational institution and has been continuously enrolled and in attendance in such a program, is it open to the visa officer to determine that the individual, while continuously enrolled as a full-time student in an appropriate educational program and institution, has not been “in attendance” at that program and at that institution on the basis of the individual’s inability to describe or discuss what has been taught in various courses in which the individual has been enrolled?	Applicant requested not to pursue matter.
IMM-1136-96 Wetston J. Dec. 20/96	A-1055-96 Stone J.A.(Reasons) Strayer J.A. MacGuigan J.A. September 3, 1997	In the absence of a statutory requirement to give reasons, does the failure of the Minister to give reasons, in rendering a subsection 70(5) danger opinion, violate the principles of procedural fairness and natural justice?	See reasons in <i>Williams v. Canada</i> [1997] FCJ No. 393
IMM-7485-93 McGillis J. January 17, 1997	A-47-95 MacGuigan J.A. (reasons) Marceau J.A.	Whether the adjudicator erred in finding, on the basis of the warrant for arrest and indictment from the United States of America, that he had reasonable grounds to believe that the applicant had committed outside Canada certain acts or omissions which constituted offences under the laws of the United States of America within the meaning of subparagraph 19(1)(c.1)(ii) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2 as amended.	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Desjardins J.A. October 1, 1997		
IMM-860-96 Campbell J. Jan. 22/97	A-64-97	<p>1. Does the phrase “and to any dependant for whom landing is sought in subsection 46.04(3) of the <i>Immigration Act</i> apply only to those dependants for whom landing is sought who do not have a separate right to apply for landing independent of the Applicant?</p> <p>2. Can an immigration officer refuse a Convention refugee’s application for landing pursuant to s. 46.04(1) where a dependant (sic) for whom landing has been sought (by the Applicant) is inadmissible to Canada by reason of being described in an inadmissible class referred to in s. 46.04(3), where that dependant, as a Convention refugee has an independent entitlement under s. 46.04(1), to apply for landing and has concurrently done so?</p>	Discontinued
IMM-1458-96 Dubé J. Jan. 23/97	A-67-97 Robertson J.A. (Reasons) Denault J.A. Linden J.A. September 11, 1998	Under s. 70(5)(c) of the <i>Immigration Act</i> , must an adjudicator specifically find that a person described in paragraph 27(1)(d) is also a person who has been convicted of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed, before s. 70(5)(c) will be effective to remove the Applicant’s appeal to the Immigration Appeal Division, or can this finding be made by the Immigration Appeal Division in the course of determining whether it has jurisdiction to proceed with the appeal?	See reasons dated Sept. 11/98
IMM-714-96 MacKay J. Jan. 31/97	A-75-97 Stone J.A. Décary J.A. (reasons) Robertson J.A. May 1, 1998	Does an immigration officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness, as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she fails to disclose, in advance of determining the matter, documents relied upon from public sources in relation to general country conditions?	See reasons dated May 1/98

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2143-96 Dubé J. Feb. 12, 1997	A-154-97	Is the assessment of an application for landing limited to the specific legislative provision expressly stated when the application is submitted, or does an immigration officer breach the rules of fairness, when considering the application for landing, in failing to consider the applicability of other legislative provisions which are brought to the officer's attention prior to rendering a decision on the application?	Discontinued
IMM-938-96 Campbell J. Feb. 28/97	A-231-97 C.J. Létourneau J.A. Sexton J.A. February 5, 1999	Where a refugee claimant has taken action because of his religious or political beliefs and is in turn attacked and threatened because of that action but not necessarily because of the religious or political beliefs behind that action, does this amount to persecution "by reason of" religion or political opinion and fall within the definition of a convention refugee in s. 2 of the <i>Immigration Act</i> ?	Dismissed for delay
IMM-2292-96 Gibson J. March 18, 1997	A-247-97 Linden J.A. (reasons) Stone J.A. Robertson J.A. June 24, 1997	Must an application for judicial review under the <i>Federal Court Act</i> of a decision of the Immigration Appeal Division of the Immigration and Refugee Board, on a matter arising under section 77 of the <i>Immigration Act</i> with respect to an application to a visa officer, be commenced only with leave of a judge of the Federal Court - Trial Division	Yes
IMM-1505-96 McKeown J. April 17, 1997	A-344-97 Létourneau J.A. Rothstein J.A. (reasons) McDonald J.A. June 24, 1999	Does the identified continuing need for personalized special education constitute a "social service" within the meaning of subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> ?	Yes
IMM-3886-96 McKeown J. May 2, 1997		By virtue of Israel's Law of Return should Israel be considered as a country of reference for all Jewish refugee claimants who apply in Canada for Convention refugee status?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-1264-96 Dubé J. June 6, 1997	A-461-97 Strayer J.A. Linden J.A. Isaac J.A. October 29, 1999	Does the IAD have jurisdiction under subsection 70(1) to entertain the appeal of a person who was landed in reliance of a fraudulent misrepresentation made by that person? In particular, has a person who has been landed on the basis of a fraudulent misrepresentation been given “lawful permission to establish herself within Canada” so as to be a “permanent resident” who can appeal under subsection 70(1) of the <i>Immigration Act</i> ? Does the IAD have jurisdiction under subsection 70(1) to entertain the appeal of a person, whether or not the report on that person was made under paragraph 27(1)(e) or paragraph 27 (2)(g) of the Act?	Yes (on consent)
IMM-2658-96 Gibson J. June 6, 1997		<p>1. Where an individual applies to a Canadian embassy for a determination that he or she is a Convention refugee, within the meaning of the <i>Immigration Act</i>, seeking resettlement in Canada, does the <i>Immigration Act</i>, and more specifically sections 44, 46.02 and 67 of the Act confer sole and exclusive jurisdiction on the Convention Refugee Determination Division of the Immigration and Refugee Board to hear and determine the individual’s claim?</p> <p>2. If the answer to question 1 is “no”, were the applicants in this matter accorded the requisite degree of natural justice and procedural fairness in the determination of their claims to Convention refugee status?</p>	No appeal filed
IMM-2659-96 Gibson J. June 6, 1997		<p>1. Where an individual applies to a Canadian embassy for a determination that he or she is a Convention refugee, within the meaning of the <i>Immigration Act</i>, seeking resettlement in Canada, does the <i>Immigration Act</i>, and more specifically sections 44, 46.02 and 67 of the Act confer sole and exclusive jurisdiction on the Convention Refugee Determination Division of the Immigration and Refugee Board to hear and determine the individual’s claim?</p> <p>2. If the answer to question 1 is “no”, was the applicant in this matter accorded the requisite degree of natural justice and procedural fairness in the determination of his claim to Convention refugee status?</p>	No appeal filed
IMM-3413-96 Cullen J. July 14, 1997		Does the Refugee Division have an obligation in law to consider the application of Section 2(3) of the <i>Immigration Act</i> if the issue is not raised at the hearing by the parties to the hearing or by the Refugee Division? If so, what is the nature and extent of the obligation?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-3235-96 Gibson J. July 17, 1997	A-533-97 Létourneau J.A. (reasons) Rothstein J.A. McDonald J.A. June 23, 1999	Did the applicant who expressed a long term goal to study in Canada satisfy the definition of “visitor” as defined in s. 2 (1) of the <i>Immigration Act</i> ?	C.A. declined to answer the certified question as it did not meet the requirements of s. 83(1) of the <i>Act</i> . The reasons should, however, be read as the Court of Appeal states what the question should be and its response.
IMM-3655-96 Gibson J. July 17, 1997	A-578-97 Strayer J.A. Rothstein J.A. Sexton J.A. November 30, 2000	Does the immigration officer processing an application made pursuant to the DROC regulations have the discretion to extend the time for filing the application, either pursuant to the principles of natural justice or fundamental justice, if an applicant files an application after the 120 day period prescribed by the regulations in reliance on erroneous advice provided to the applicant through a Member of Parliament by an official in the Ministry of Citizenship of Immigration?	No
IMM-705-96 Gibson J. July 21, 1997	A-679-97 Isaac J.A. (reasons) Robertson J.A. Sexton J.A. April 7, 2000	Is the Minister’s opinion that a person constitutes a danger to the public tainted and thereby reversible when that opinion is partly formed on the basis that the person concerned accepts no responsibilities for the crime for which the person was convicted and continues to exercise his legal rights of appeal pursuant to the Criminal Code, appealing the conviction and sentence and continuing to assert his innocence?	Dismissed.
IMM-1180-96	A-614-97	Does consideration by a decision maker of documentary evidence, regarding country information, that has been neither	

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Reed J. Aug. 28, 1997	Rothstein J.A. (Reasons) Décary J.A. Malone J.A. April 11, 2001 2001 FCA 113	specifically identified for nor a copy provided to the convention refugee, who is the subject of a “danger to the public” opinion pursuant to s. 70 (5) of the <i>Immigration Act</i> , offend the principals of natural justice, procedural fairness or fundamental justice?	Yes
IMM-3672-96 Richard J. August 29, 1997		Does an immigration officer processing an application made pursuant to the DROC regulations have the discretion to extend the time for filing the application, either pursuant to the principles of natural justice or fundamental justice, if an applicant files an application after the 120 day period prescribed by the regulations?	No appeal filed
IMM-2890-96 Teitelbaum J. Sept. 2, 1997	A-617-97	Lorsque le juge de la Section de la première instance constate que le tribunal a agi de manière à ce qu’une règle dûment édictée par l’autorité compétente soit transgressée, notamment en entendant deux soeurs de la même famille sans entendre de manière conjointe le mère de celles-ci tel qu’il est prescrit par les règles 10(2) et 10(3) des RÈGLES RÉGISSANT LES TRAVAUX, LA PROCÉDURE ET LA PRATIQUE DE LA SECTION DU STATUT DE RÉFUGIÉ DE LA COMMISSION DE L’IMMIGRATION ET DU STATUT DE RÉFUGIÉ, le juge de première instance a-t-il l’obligation stricte d’intervenir au sens de l’article 18.1 de la <i>Loi sur la Cour fédérale</i> dès qu’il constate ce défaut ou doit-il intervenir uniquement dans le cas où une preuve de préjudice est faite en regard des personnes en cause ou que la décision ne peut tenir valablement à aucun autre égard?	Discontinued
IMM 2761-96 Teitelbaum J. Sept. 6, 1997		<ol style="list-style-type: none"> 1. Is the length of time between an Immigration Officer’s assessment of an application for humanitarian and compassionate relief presented pursuant to subsection 114.(2) of the <i>Immigration Act</i> and the Immigration Officer’s consideration of the opinion of a post claim determination officer on the presence of an alleged danger of return to the Applicant’s country of origin, an indication (a showing) that the Immigration Officer fettered his discretion? 2. (By the Court) Does “giving the parties an opportunity to make a request that the judge certify that a serious question of general importance as contemplated by section 83 of the Act is involved” pursuant to subsection 18(1) of the Federal Court Immigration Rules mean that it is the sole responsibility of the judge hearing the 	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		Does incitement to murder, violence and genocide, in a context in which massacres are committed in a widespread or systematic way, but absent any evidence of a direct or indirect link between the incitement and the murders committed in a widespread or systematic way, constitute in itself a crime against humanity?	
IMM-3427-00 McKeown J. May 9, 2001 2001 FCT 453		Is the applicant persecuted by reason of his actual or imputed political opinion where the pretext for the treatment is political but the underlying motivation is one of extortion?	No appeal filed
IMM-4250-00 Pinard J. May 25, 2001 2001 FCT 515	A-347-01	Under subsection 46.04(8) of the <i>Immigration Act</i> , may an immigration officer refuse to grant landing to an applicant who submits a passport issued by his country of nationality if he believes that the passport was issued on the basis of false or contradictory identity documents or if he has reasonable doubts as to the applicant's identity?	Discontinued
IMM-1332-00 Muldoon J. June 22, 2001 2001 FCT 694	A-403-01 Linden J.A. Evans J.A. (Reasons) Malone J.A. June 21, 2002 2002 FCA 271	<p>1. Is the portion of section 19(1)(a)(ii) of the <i>Immigration Act</i> which provides for inadmissibility on the ground of disability of no force or effect under section 52 of the Charter and should it be severed from the <i>Immigration Act</i>?</p> <p>2. Is "more than normal" a legally acceptable measure of excessive demands under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i>? If so, what are the permissible criteria for the determination of normalcy?</p> <p>Answer: There is no statutory definition of excessive demands. In these circumstances, when cost is the issue, demands are excessive when they reasonably might be expected to exceed by a significant degree the average <i>per capita</i> health care costs incurred by that section of the Canadian population in the same age range as the visa applicant.</p> <p>3. Is an election to have or not to have elective surgery relevant in determining whether or not a medical opinion under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> is reasonable?</p> <p>Answer: Yes. However, a person cannot waive the right to publicly funded medical services that all permanent</p>	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		<p>residents possess. Evidence of an intention not to undergo a particular treatment must be weighed with all other relevant evidence in determining whether the person might reasonably be expected to make excessive demands on health services in Canada.</p> <p>4. Is the duty of fairness breached to a Manitoba sponsor of an immigrant and a Manitoba destined immigrant, when the Manitoba bonding program (if pertinent and applicable), is not disclosed to the sponsor and the applicant in the letter advising the applicant of a negative medical assessment and inviting the applicant to submit further information not already on the file?</p> <p>5. Is the ability to pay relevant or irrelevant to the question of excessive demand under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> when there is a Manitoba sponsor of an immigrant and a Manitoba destined immigrant, in light of the Manitoba bonding program if there be such program which is both accessible and applicable in these circumstances?</p>	<p>No</p> <p>On the facts of this case, no.</p>
<p>IMM-5500-99 Heneghan J. Nov. 22, 2000</p>	<p>A-744-00 Décary J.A. Noël J.A. Sharlow J.A. (Reasons) July 11, 2001 2001 FCA 235</p>	<p>May the Minister form the opinion that a person constitutes a danger to the public in Canada pursuant to subsection 46.01(1) of the <i>Immigration Act</i> at any time before or after a Convention refugee claim is made by that person?</p> <p>(Heard with A-180-01 below)</p>	<p>Yes</p>
<p>IMM-64-00 MacKay J. March 13, 2001</p>	<p>A-180-01 Décary J.A. Noël J.A. Sharlow J.A. (Reasons) July 11, 2001 2001 FCA 235</p>	<p>May the Minister form the opinion that a person constitutes a danger to the public in Canada pursuant to subsection 46.01(1) of the <i>Immigration Act</i> at any time before or after a Convention refugee claim is made by that person?</p> <p>(Heard with A-744-00 above)</p>	<p>Yes</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM- 6500-98 Pelletier J. March 10, 2000	A-197-00 Stone J.A.(Reasons) Rothstein J.A. Sexton J.A. June 06, 2001 2001 FCA 191	Does the analysis developed by the Supreme Court of Canada <i>R. v. Tran supra</i> in relation to the application of s. 14 of the <i>Charter</i> to criminal proceedings apply to proceedings before the CRDD, and in particular: 1. Must the interpretation provided to applicants be continuous, precise, competent, impartial and contemporaneous? 2. Must applicants show they have suffered actual prejudice as a result of a breach of the standard of interpretation before the Court can interfere with the CRDD's decision. 3. Where it is reasonable to expect an applicant to do so, such as when an applicant has difficulty understanding the interpreter, must the applicant object to the quality of interpretation before the CRDD as a condition of being able to raise the quality of interpretation as a ground of judicial review?	Yes No Yes
IMM- 980-97 Teitelbaum J. June 11, 1999	A-651-99 Décary J.A. Létourneau J.A. (Reasons) Noël J.A. May, 14, 2001 2001 FCA 151	En vertu des articles 14 et 15 de la <i>Loi constitutionnelle de 1867</i> , le Gouverneur général peut-il nommer des juges de la Cour suprême qui agiront pour son compte et leur confier ses pouvoirs, attributions et fonctions, dont la faculté de donner la sanction royale?	Oui
IMM-6057-00 Dubé J. Sept. 26, 2001		What is the definition and the scope of the term "religion" used in the Convention refugee definition?	No appeal filed
IMM-5527-00 Muldoon J. August 30, 2001	A-512-01	3. Is the relationship of an adopted child to the natural parents legally relevant to the interpretation and application of "adopted" in <i>Immigration regulation 2(1)</i> ? 5. Is the principle in <i>Baker</i> , that interpretations of a statute which reflect the values of customary international law and	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
2001 FCT 971		treaty law binding on Canada are to be preferred, inapplicable to non-discretionary decisions or to the sponsorship of foreign resident children?	
IMM-4110-00 Teitelbaum J. August 2, 2001 2001 FCT 852		In an application for a student authorization, under what circumstances does the practice of “file stripping” by the visa office done before the delays to launch an application for judicial review constitute a ground for setting aside a decision?	No appeal filed
IMM-5686-00 Blais J. August 30, 2001 2001 FCT 976		Is it wrong for the IAD to consider the nature or circumstances regarding legal impediment when determining on a balance of probabilities whether sufficient humanitarian and compassionate considerations exist to warrant granting special relief pursuant to paragraph 77(3)(b) of the Act?	No appeal filed
IMM-2982-99 MacKay J. Sept. 06, 2001 2001 FCT 997	A-536-01 Linden J.A. Evans J.A. (Reasons) Malone J.A. June 18, 2002 2002 FCA 265	May a CRDD panel, in considering a refugee claim, consider as evidence, despite objection by the claimant, information recorded by a refugee hearing officer at a CRDD Rule 18 preliminary conference that does not result in expedited processing of the claim pursuant to s-s. 69(7) of the <i>Immigration Act</i> , when the information is provided to the panel, but not to the refugee claimant, in advance of the panel’s hearing?	Appeal dismissed. See Reasons. Question not answered
IMM-873-99 Reed J. April 17, 2000	A-288-00 Linden J.A. (Reasons) Noël J.A. Malone J.A. Oct. 11, 2001 2001 FCA 299	Are a visa officer’s notes concerning an interview with an applicant, as entered in CAIPs, evidence of what took place at the interview, in the absence of an affidavit from the visa officer attesting to the truth of what he or she recorded as having been said at the interview?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6573-00 McKeown J. Oct. 3, 2001 2001 FCT 1090	A-613-01	Is a Post Claim Determination Officer assessing an application for membership in the Post-Determination Refugee Claimants in Canada Class under ss. 2(1) and 11.4 of the Immigration Regulations, 1978 required to disclose publicly available country conditions documentation, which are only released after the applicant has made its submission, to the applicant, and provide the applicant with an opportunity to respond to the documentation, prior to making a final decision on the application?	Discontinued
IMM-3424-00 Nadon J. August 20, 2001 2001 FCT 920		Was there an obligation to disclose and share the ministerial opinion report and/or the request for the Minister's opinion to the applicant and give him an opportunity to respond before the Minister's delegate made his decision under paragraph 46.01(1)(e) of the Immigration Act?	No appeal filed
IMM-3751-00 McKeown J. July 03, 2001 2001 FCT 742		<p>1. Is an immigration officer who is deciding a humanitarian and compassionate application entitled to consider the fact that the applicant knew about his uncertain immigration status when he engendered his Canadian-born child, insofar as it relates to the applicant's hardship?</p> <p>2. In light of the Supreme Court of Canada's decision in <i>Baker v. Canada</i> (MCI), [1999] 2 S.C.R. 817, what does it mean to be alert, alive and sensitive to the child's interests, and does this requirement shift the burden and impose a duty on the immigration officer to inquire about the child's interests, beyond what is submitted by the applicant?</p>	No appeal filed
IMM-2747-00 McKeown J. June 08, 2001 2001 FCT 635		Does an Immigration Officer have the authority under subparagraph 2(1)(b)(i) of the <i>Immigration Regulations</i> , 1978 to use quality of attendance as one of the measures of "attendance" when assessing an alleged "dependent son" who claims to have been enrolled and in attendance as a full-time student in a program?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-601-00 Tremblay-Lamer J. Sept. 24, 2001 2001 FCT 1043	A-33-02 Décary J.A. Létourneau J.A. Nadon J.A. (Reasons) April 7, 2003 2003 FCA 178	<p>1. Are the rules laid down by the Federal Court of Appeal in <i>Sivakumar v. Canada (Minister of Citizenship and Immigration)</i>, [1994] 1 F.C. 433, on complicity by association for purposes of implementing Article 1F(a) of the United Nations Convention Relating to the Status of Refugees, applicable for purposes of an exclusion under Article 1F(b) of the said Convention?</p> <p>2. If so, can a refugee status claimant's association with an organization responsible for perpetrating "serious non-political crimes" within the meaning of that expression in Article 1F(b) of the United Nations Convention Relating to the Status of Refugees entail the complicity of the claimant for purposes of applying the said provision simply because he knowingly tolerated such crimes, whether committed during or before his association with the organization in question?</p>	L'appel est rejeté. Voir les motifs du jugement.
IMM-4962-00 Pelletier J. Sept. 21, 2001 2001 FCT 1041	A-595-01 Décary J.A. (Reasons) Rothstein J.A. Evans J.A. November 28, 2002 2002 FCA 475	<p>Is the requirement that the best interests of children be considered when disposing of an application for an exemption pursuant to subsection 114(2), as set out in <i>Baker v. Canada (M.C.I.)</i>, [1999] 2 S.C.R. 817, satisfied by considering whether the removal of the parent will subject the child to unusual, undeserved or disproportionate hardship?</p> <p>Answer: The requirement that the best interests of the child be considered may be satisfied, depending on the circumstances of each case, by considering the degree of hardship to which the removal of a parent exposes the child.</p>	See answer below question.
IMM-6060-00 Dubé J. Sept. 25, 2001 2001 FCT 1047		In section 2.1 of the <i>Immigration Regulations</i> , does the term "genuine relationship of parent and child" refer to the current state of a relationship between an adoptive parent and child when assessed by a visa officer or does it reflect the future state of that relationship?	No appeal filed
IMM-2998-00 Campbell J.	A-3-01 Desjardins J.A.	1. Is it an error in law for the Refugee Division to find that the minor claimant had a well-founded fear of persecution on the grounds that he was a member of particular social group being "minor child of Chinese family who is expected	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
December 19, 2000	(Reasons) Décary J.A. Sexton J.A. October 18, 2001 2001 FCA 306	to provide support for other family members?” 2. If the answer to question #1 is “no”, did the Refugee Division err in law in finding a state’s inability to protect when the minor claimant, alleging persecution by his parents, did not seek state protection?	Not answered
IMM-4390-99 Gibson J. April 12, 2001	A-270-00 Linden J.A. Noël J.A. Malone J.A. (Reasons) October 19, 2001 2001 FCA 312	The Minister of Citizenship and Immigration having published the 1992 Medical Officers’ Handbook and having continued to distribute it on request at all times relevant to the decision that is the subject of this application for judicial review: (a) does the Minister breach the duty of fairness owed by her to the applicant by relying to the detriment of the applicant on material that modifies the content of the Handbook in assessing the medical condition of a dependant of the applicant without publishing or disclosing that material to the applicant where no specific request for any such material is made by or on behalf of the applicant; and (b) does the publication and continued distribution of the Handbook by or on behalf of the Minister give rise to a legitimate or reasonable expectation on the part of the applicant that he can rely on the Handbook as a guideline without making a specific request for any material that might modify it in a manner relevant to the applicant’s application for landing?	(a) No (b) No
IMM-5421-00 McKeown J. October 23, 2001 2001 FCT 1150	A-645-01	When deciding whether a person is a member of the post-determination refugee claimants in Canada class, is a PCDO required, by the principles of procedural fairness, to disclose his reasons for the decision to the person concerned for comment prior to his decision being considered final?	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2788-99 Gibson J. November 2, 2000	A-708-00 Linden J.A. Noël J.A. Malone J.A. (Reasons) October 19, 2001 2001 FCA 313	<p>The Minister of Citizenship and Immigration having published the 1992 Medical Officers' Handbook and having continued to distribute it on request at all times relevant to the decision that is the subject of this application for judicial review:</p> <p>(a) does the Minister breach the duty of fairness owed by her to the applicant by relying to the detriment of the applicant on material that modifies the content of the Handbook in assessing the medical condition of a dependant of the applicant without publishing or disclosing that material to the applicant where no specific request for any such material is made by or on behalf of the applicant; and</p> <p>(b) does the publication and continued distribution of the Handbook by or on behalf of the Minister give rise to a legitimate or reasonable expectation on the part of the applicant that he can rely on the Handbook as a guideline without making a specific request for any material that might modify it in a manner relevant to the applicant's application for landing?</p>	No No
IMM-4856-99 Heneghan J. July 7, 2000	A-457-00 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 14, 2001 2001 FCA 345	<p>Question 1: Should an applicant be given an opportunity to not only provide additional medical evidence but also respond to the conclusion that an applicant will place excessive demands on Canadian social services?</p> <p>Question 2: To what extent must the material on which the conclusion with regard to excessive demands has been based be disclosed to the applicant?</p> <p>Answer to question 2: If a visa applicant is informed of the medical diagnosis, prognosis, and the services likely to be required, and is advised that, in view of the medical condition, admission would impose excessive demands on medical or social services, fairness does not normally require further disclosure, at least where additional information is not requested.</p>	Yes See answer below question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6298-99 Pelletier J. November 14, 2001 2001 FCT 1237	A-678-01	<p>Where the fact that an applicant has applied for convention refugee status has been reported in the media in Canada, and the applicant makes a claim of refugee <i>sur place</i> as a result of that reporting, is it necessary for the applicant to prove</p> <p>a) that the media reports came to the attention of the authorities in the country in respect of whom the applicant alleges a well-founded fear of persecution and</p> <p>b) that the information contained in the media reports was sufficient to allow the authorities to identify the applicant</p> <p>In order to succeed with respect to the refugee <i>sur place</i> claim?</p> <p>Same question certified in: IMM-6299-99; IMM-6300-99 (A-673-01 discontinued); IMM-6301-99; IMM-6302-99 (A-674-01); IMM-6303-99; IMM-6304-99; IMM-6305-99 (A-675-01); IMM-6306-99 (A-676-01); IMM-6307-99 (A-677-01).</p>	Discontinued
IMM-4953-00 McKeown J. November 28, 2001 2001 FCT 1307	A-20-02	What is the scope and/or nature of the discretion of a removals officer in considering a request by a person under a valid removal order for deferral of removal in relation to an outstanding humanitarian and compassionate application?	Discontinued
IMM-6436-00 McKeown J. December 12, 2001 2001 FCT 1366	A-722-01 Stone J.A. Sharlow J.A. (Reasons) Malone J.A. December 10, 2002	<p>Do reasons for a decision of an application under s.114(2) of the <i>Immigration Act</i> have to be made contemporaneously with the decision or can the reasons be made subsequent to the decision?</p> <p>Answer: The reasons for a decision under subsection 114(2) of the <i>Immigration Act</i> do not have to be made contemporaneously with the decision.</p>	See answer below question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	2002 FCA 492		
IMM-2807-00 Gibson J. February 14, 2002 2002 FCT 167	A-141-02 Strayer J.A. Sexton J.A. Pelletier J.A. (Reasons) January 28, 2003 2003 FCA 42	Does the exclusion of a Convention refugee under Article 1F(a) of the <i>Refugee Convention</i> mean it has been established that there are reasonable grounds to believe that the refugee status claimant has committed offences at international law under section 19(1)(j) of the <i>Immigration Act</i> so that an Adjudicator conducting an inquiry into allegations made under section 19(1)(j) of the <i>Act</i> would be bound by the Convention Refugee Determination Division's exclusion under Article 1F(a) of the <i>Convention</i> ?	Appeal dismissed. See Reasons.
IMM-1705-01 Pinard J. March 19, 2002 2002 FCT 1294		In the case of a person or corporation who was declared to be acting as "agent" for a principal (such principal being a "transportation company" within the meaning of subsection 2(1) of the <i>Immigration Act</i>) at the time the "vehicle" (as also defined in subsection 2(1) of the <i>Immigration Act</i>) was brought to Canada, does that agent remain a transportation company, and therefore liable as such under Part V of the <i>Immigration Act</i> , when and from the time his mandate is terminated by reason of bankruptcy, liquidation or receivership of the principal, an agreement between the principal and the agent, or the principal is no longer responding and providing instructions to the agent in respect of his mandate?	No appeal filed
IMM-1092-01 Dawson J. March 27, 2002 2002 FCT 345	A-198-02	Can a refugee claim succeed on the basis of a well founded fear of persecution for reason of membership in a particular social group that is a family, if the family member who is the principal target of the persecution is not subject to persecution for a Convention reason?	Discontinued
IMM-2105-00 Lemieux J. March 21, 2002 2002 FCT 306		Question 1: In the exercise of its discretion under subsection 69.3(5) of the <i>Immigration Act</i> , is the Refugee Division permitted to consider evidence that was not before the original panel that would support the applicant's refugee claim? Question 2: Does the panel of the refugee Division which decides to vacate a previous refugee determination have the power to decline to reconsider the original refugee determination and to leave the claimant, in light of the vacating of the previous decision, as a person without a refugee determination whose claim would be determined by the Board in the normal course?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2240-01 Blanchard J. April 9, 2002 2002 FCT 389		Do the principles of procedural fairness require that the PCDO disclose notes she or he made in relation to her or his risk assessment decision to the person concerned for comment prior to the decision on the PDRCC application being considered final?	No appeal filed
IMM-1959-01 Heneghan J. April 11, 2002 2002 FCT 395		Is it a relevant consideration that the initial capital that an investor-applicant uses to accumulate net worth has to be from the personal endeavours of the investor-applicant?	No appeal filed
IMM-2932-00 Blais J. November 28, 2000	A-104-01 Rothstein J.A. Sexton J.A. Evans J.A. (Reasons) April 26, 2002 2002 FCA 153	<p>In considering whether there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based” under subsection 69.3(5), can the Refugee Division take into account evidence submitted by the Minister under an application to reconsider and vacate under subsection 69.2(2)? If so, can the Refugee Division take into account evidence which the individual whose Convention refugee status is at issue wishes to submit to respond to the Minister’s evidence?</p> <p>Answer: In considering whether there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based” under subsection 69.3(5), the Refugee Division can take into account evidence submitted by the Minister on an application to reconsider and vacate under subsection 69.2(2) for the purpose of identifying and discounting evidence that was tainted by the misrepresentations. The individual concerned may not submit evidence at a vacation hearing that was not before the Board at the determination hearing, for the purpose of establishing under subsection 69.3(5) that there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based”.</p>	See answer below question.
IMM-1087-99 Heneghan J. June 27, 2000	A-223-00 Richard C.J. Evans J.A. (Reasons) Malone J.A.	Should a visa officer’s decision to refuse an application for entry into Canada be quashed where a visa officer made an error in the assessment, but where the error would still not provide the Applicant with sufficient points for a successful application?	See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	February 7, 2002 2002 FCA 55	Answer: When on an application for judicial review of a visa officer's refusal to issue a visa the Court concludes that the officer committed a reviewable error and awarded the applicant too few units of assessment, the Court may in its discretion refuse to set the decision aside if, in its view, the error could have made no difference to the officer's decision because, even after the error was corrected, the applicant still had insufficient points to be issued a visa.	
IMM-2639-99 Dawson J. February 28, 2001 See also: IMM-3997-99 IMM-3998-99	A-173-01 Strayer J.A. Sexton J.A. Sharlow J.A. (Reasons) March 01, 2002 2002 FCA 80	1) Did the definition of "transportation company", prior to its amendment by <i>An Act to amend the Immigration Act and other Acts in consequences thereof</i> , S.C. 1992, c. 49, apply to include companies engaged solely in the transportation of cargo, not passengers? 2) What legal principles govern the determination of whether an entity is an "agent" of a "transportation company" within the meaning of subsection 2(1) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2, as now amended?	No Not answered.
IMM-425-01 Tremblay-Lamer J. May 6, 2002 2002 FCT 512	A-309-02 Décary J.A. (Reasons) Noël J.A. Pelletier J.A. January 27, 2003 2003 FCA 39	1. For the purposes of Article 1F(a) of the United Nations Convention relating to the status of refugees concerning a crime against humanity, can military members or paramilitary members, who were not taking part in hostilities at the time they were persecuted or victims of inhumane acts, be considered a "civilian population" within the meaning of that term in the following provisions: (a) Paragraph 6(c) of the Charter of the International Military Tribunal (following the London Agreement on August 8, 1945); (b) Paragraph II(1)(c) of Law No. 10 dated December 20, 1945, of the Control Council for Germany.	Appeal dismissed. Question not answered.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		<p>(c) Article 5 of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991;</p> <p>(d) Article 3 of the Statute of the International Tribunal For Rwanda;</p> <p>(e) Paragraph 7(1) of the Rome Statute of the International Criminal Court?</p>	
<p>IMM-5951-00 Rothstein J.A. (<i>ex officio</i>) August 22, 2002 2002 FCT 870</p>	<p>A-502-02 Stone J.A. Evans J.A. (Reasons) Sharlow J.A. May 13, 2003 2003 FCA 225</p>	<p>Do the words “the chances of the particular immigrant and his dependants of becoming successfully established in Canada” in subsection 11(3) of the <i>Immigration Regulations, 1978</i> include retirees whose only economic criterion is having sufficient assets to sustain themselves?</p>	No
<p>IMM-6058-99 Pinard J. November 13, 2002 2002 FCT 1165</p>	<p>A-649-02 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 422</p>	<p>Is an applicant’s wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada?</p> <p>Answer: Medical officers are not obliged to consider these factors.</p>	See answer below question.
<p>IMM-4235-01 MacKay J. January 24, 2002 2002 FCT 82</p>	<p>A-642-01 Linden J.A. Noël J.A. (Reasons) Sharlow J.A. November 4, 2002 2002 FCA 426</p>	<p>Is an applicant’s right to apply to the Federal Court for judicial review of a visa officer’s decision a substantive right for which the applicant is entitled to a full hearing by the Court on the merits of the application, without regard to any other rights the applicant may have before the Immigration Appeal Division?</p>	Appeal dismissed for mootness.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-5795-01 Noël J. December 9, 2002 2002 FCT 1274	A-8-03 Linden J.A. Evans J.A. (Reasons) Malone J.A. September 30, 2003 2003 FCA 359	<p>When after the completion of a hearing, a Board determines that a claimant is not a Convention refugee, and provides its reasons orally in chambers, which are later reduced to writing and sent, along with the written notice of decision to the claimant, has the Board complied with ss. 69.1(9) & 69.1(11)(a) of the <i>Immigration Act</i> R.S.C. 1985 c.1-2 and, is the decision final as of the date it is rendered in chambers?</p> <p>Answer: If the Board reserves its decision at the end of a refugee determination hearing, it renders its decision and becomes <i>functus officio</i> when it signs written reasons for decision and transmits them to the registrar.</p>	See answer below question.
IMM-2355-01 Dawson J. December 17, 2002 2002 FCT 1303	A-38-03 Linden J.A. Sexton J.A. (Reasons) Malone J.A. January 30, 2004 2004 FCA 49	<p>1. Is the duty of fairness breached when a visa officer refuses to allow counsel to attend at the interview of an applicant seeking admission to Canada as a Convention refugee seeking resettlement?</p> <p>2. What legal rights or obligations must a Convention refugee possess outside of Canada in order to be considered resettled so as to have a “durable solution”?</p>	<p>Appeal allowed.</p> <p>1) Yes.</p> <p>2) Not answered.</p>
IMM-5340-00 Gibson J. August 8, 2002 2002 FCT 844	A-560-02 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 420	<p>Is an applicant’s wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada and is a determination by medical officers in this regard determinative or is the decision-maker in respect of the applicant’s application for permanent residence in Canada required to consider the reasonableness of the medical officers’ determination regarding “excessive demands” in the light of all the relevant material provided to the respondent by the applicant?</p> <p>Answer: An applicant’s wealth is not a consideration that a medical officer is legally required to consider when determining whether a person’s admission to Canada would cause or might reasonably be expected to cause excessive</p>	See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		demands on social services in Canada.	
<p>IMM-5696-01 Kelen J. November 8, 2003 2002 FCT 1162</p>	<p>A-694-02 Rothstein J.A. (Reasons) Sexton J.A. Malone J.A. December 19, 2003 2003 FCA 482</p>	<p>1. Where the Minister has unsuccessfully engaged a permanent resident in removal proceedings under a particular section of the <i>Immigration Act</i> for more than eight years, is it an abuse of process for the Minister to commence a new removal proceeding against the permanent resident on a ground available to the Minister to use for eight years?</p> <p>2. Does section 27(1)(a) of the <i>Immigration Act</i> permit exposure of a permanent resident to deportation on a ground that did not barr [sic] the person's admission to Canada? (i.e. Can the applicant be deported on the basis of a legislative provision that did not exist at the time of his admission to Canada as a permanent resident.)</p> <p>Answers:</p> <p>1. In the circumstances of this case, even though the Minister has unsuccessfully engaged a permanent resident in inadmissibility proceedings for more than eight years, it is not an abuse of process for the Minister to commence a new proceeding against the permanent resident on a different ground, even though that ground has been available to the Minister since February 1, 1993.</p> <p>2. Under paragraph 27(1)(a) of the <i>Immigration Act</i>, a permanent resident can be found inadmissible to Canada under clause 19(1)(f)(iii)(B) on the grounds that there are reasonable grounds to believe the permanent resident is or was a member of an organization that there are reasonable grounds to believe is or was engaged in terrorism, even if the membership ceased prior to the enactment of clause 19(1)(f)(iii)(B).</p>	<p>Appeal dismissed. See answers below questions.</p>
<p>IMM-1367-02 Beaudry J.</p>	<p>A-91-03</p>	<p>Can the Immigration and Refugee Board ("IRB") through the Chairperson initiate and delegate to a subordinate an inquiry into the conduct and possible discipline of a lawyer or consultant who appears before one of the divisions of the</p>	<p>Discontinued</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
January 21, 2003 2003 FCT 48		IRB?	
IMM-3874-01 Gibson J. January 29, 2003 2003 FCT 94	A-114-03 Strayer J.A. Sexton J.A. Evans J.A. (Reasons) January 26, 2004 2004 FCA 38	Where, as on this matter, a Trial Judge finds a reviewable error on an application for judicial review of a decision engaging the best interests of a child or children, is the Trial Judge obligated to set aside the decision under review and to remit the mater for reconsideration and redetermination on the basis, not merely of the record that was before the decision-maker whose decision is set aside, but on the basis of that record and any new evidence and submissions that the applicant might determine to put before the officer conducting the reconsideration and making the redetermination?	Appeal dismissed. Question not answered.
IMM-330-01 Snider J. April 11, 2003 2003 FCT 426	A-207-03 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 421	Is an applicant's wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada?	Medical officers are not obliged to consider these factors.
IMM-5264-01 Kelen J. April 14, 2003	A-195-03 Strayer J.A. (Judgment) Evans J.A. Pelletier J.A. January 20, 2004	Does paragraph 27(1)(a) of the <i>Immigration Act</i> , R.S.C. 1985, c.I-2 permit exposure of a permanent resident to deportation on a ground that did not bar the person's admission to Canada? (i.e. Can the Applicant be deported on the basis of a legislative provision that did not exist at the time of his admission to Canada as a permanent resident?)	Appeal dismissed on consent.
IMM-377-02 Campbell J. May 21, 2003 2003 FCT 639	A-283-03 Rothstein J.A. Pelletier J.A. (Reasons) Malone J.A. March 4, 2004	1) Does the exclusion of a Convention refugee under Article 1F(a) of the Refugee Convention mean it has been established that there are reasonable grounds to believe that the refugee status claimant has committed offences at international law under section 18(1)(j) of the Immigration Act so that an Adjudicator conducting an inquiry into allegations made under section 19(1)(j) of the Act would be bound by the Convention Refugee Determination Division's exclusion under Article 1F(a) of the Convention?	Questions not answered Appeal allowed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	2004 FCA 89 A-539-04 Létourneau, J.A. (Reasons) Rothstein, J.A. Malone, J.A . September 20, 2005-10-18 2005 FCA 303	2) Does the definition of “crime against humanity”, found at section 4(3) of the Crimes Against Humanity and War Crimes Act, include complicity therein? 3) Can a reviewing Judge apply a Federal Court Trial Division case retroactively to a decision of an Adjudicator which pre-dated the case?	Question #2 recertified by Layden- Stevenson J. Oct. 1/04 Answer #2 yes September 20, 2005 Appeal dismissed
IMM-1304-02 Gibson J. December 17, 2003 2003 FC 1478		Is a Court entitled to give weight to entries in CAIPs notes that form part of a Tribunal Record on an application for judicial review where the entries only speak to the transmission of a correspondence on a particular date where the accuracy of such entries is not attested to by the individuals who made the entries?	No appeal filed.
IMM-4006-01 O’Reilly J. January 28, 2004 2004 FC 134		Are an applicant’s wealth and family support relevant factors in determining whether his or her admission to Canada would place excessive demands on social services?	No appeal filed.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-819-03 Russell J. February 26, 2004 2004 FC 331	A-134-04	Must the Appeal Division always address the genuineness of the parent-child relationship under ss. 2(1) of the <i>Immigration Regulations, 1978</i> , even when the adoption in question is established as lawful in accordance with the laws of the province or country other than Canada?	Discontinued
IMM-3194-02 Mackay J. March 19, 2004 2004 FC 179	A-191-04 Richard C.J. Sharlow J.A. Malone J.A. April 11, 2005 2005 FCA 125	<p>i) In a refugee exclusion case based on Article 1F(b) of international Convention on the Status of Refugees</p> <p>a) where the Minister relies upon interrogation statements produced abroad by foreign government agencies, must the Minister establish those statements were voluntary when made, particularly where there is some evidence of lack of voluntariness of one or more of the statements and evidence of torture sometimes used in obtaining statements from persons detained is included in information on general country conditions?</p> <p>b) is the Minister required to give notice in advance of a hearing, of specific criminal acts alleged against the claimant, or is it sufficient if evidence at the subsequent hearing reveals specifics of criminal acts allegedly committed by the claimant?</p> <p>c) is the Refugee Division required to state in its decision the specifics of criminal acts committed by the claimant?</p> <p>ii) Does the decision of the Supreme Court in <i>Suresh v. M.C.I.</i>, [2002] 1 S.C.R. 3, providing for separate assessment of a foreign state's assurance to avoid torture of returned nationals, apply where there is some evidence of generalized resort to torture in the foreign state, or only where there is evidence reasonably indicating resort to torture in similar cases.</p>	<p>i)</p> <p>a) No.</p> <p>b) No.</p> <p>c) No.</p> <p>ii) Not answered.</p>
IMM-491-99 IMM-488-99 Campbell J. July 27, 2004	A-419-04 A-420-04 Evans J.A. (Reasons) Décary J.A.	Did the IRB have jurisdiction to conduct a "lead case" under the <i>Immigration Act</i> ?	Not necessary to answer the question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
2004 FC 1163 & 2004 FC 1039	Sharlow J.A. March 27, 2006 2006 FCA 124		
IMM-377-02 Layden-Stevenson J. October 1, 2004 2004 FC 1356	A-539-04 Létourneau, J.A. (Reasons) Rothstein, J.A. Malone, J.A. September 20, 2005 2005 FCA 303	Does the definition of “crime against humanity” found at subsection 6(3) of the <i>Crimes Against Humanity and War Crimes Act</i> include complicity therein?	Yes