



LEGAL AID
RESEARCH SERIES

AN ANALYSIS OF
IMMIGRATION AND
REFUGEE LAW SERVICES
IN CANADA



AN ANALYSIS OF IMMIGRATION AND REFUGEE LAW SERVICES IN CANADA

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The views expressed in this report are those of the authors and do not necessarily reflect the views of the Department of Justice Canada.



Table of Contents

Executive Summary	1
Introduction.....	11
Part One: Immigration and Refugee Law Legal Aid	15
British Columbia.....	15
Alberta.....	26
Saskatchewan.....	33
Manitoba	34
Ontario	39
Quebec	51
Nova Scotia.....	56
New Brunswick.....	58
Newfoundland and Labrador	59
Prince Edward Island	64
Part Two: Immigration and Refugee Law Services Provided by Community Organizations.....	67
British Columbia.....	68
Alberta.....	78
Saskatchewan.....	82
Manitoba	87
Ontario	94
Quebec	99
Nova Scotia.....	108
New Brunswick.....	113
Newfoundland and Labrador	118
Prince Edward Island	124
Part Three: The National Picture	129
Summary of Legal Aid Immigration and Refugee Law Services.....	129
Summary of Community Organization Immigration and Refugee Law Services..	134
Appendix One: Legal Aid Plan Contacts.....	141
Appendix Two: Community Organization Contacts	145
Appendix Three: National Profile of Refugees and Immigrants	149



Executive Summary

This report provides a descriptive profile of the legal services available to refugees and immigrants in each of the Canadian provinces. Included in this profile are the services offered through legal aid (Part One) and the services provided by a variety of community organizations serving refugees and immigrants (Part Two). The section on legal aid considers the availability of legal advice and public legal education materials in addition to the provision of formal legal representation. The section on community organizations also focusses on the legal services offered by these groups, although some information on the settlement services available to new arrivals in Canada is also provided.

Methodology of the Study

The information on provincial legal aid plans presented in Part One was collected through a review of annual reports and other relevant literature, a series of interviews with key provincial respondents, and the distribution and collection of data charts. In interviews, legal aid plan representatives were asked about the nature of staffing and service provision, and also about the strengths and weaknesses of available services and key gaps in the system currently in place. Data collection charts were prepared in advance of the interviews and distributed electronically to respondents. However, the results of the data collection process were uneven, for several reasons. Firstly, there are provincial variations in the delivery of legal aid and the tracking of caseload and client data, and legal aid representatives tended to compile data into new charts that accorded more closely with their provincial system. Second, several respondents commented that compiling the amount of data requested would require too great an investment of time. Third, respondents noted that they have received multiple requests for data from a variety of different research projects, and several participants expressed frustration with the apparent lack of co-ordination among these initiatives. In combination, these factors complicated efforts to compare the legal aid data included in the report across provinces.

The information on community organizations serving refugees and immigrants, in Part Two, was collected through key informant interviews and the distribution of data collection charts. Legal aid respondents were initially asked for suggestions of community groups to interview, with further contacts being sought from this first round of organization representatives if necessary. Interview questions covered the services offered by an organization, staffing and funding issues, as well as impressions concerning opportunities and challenges confronting the immigration and refugee law system. As with legal aid, data collection charts were prepared in advance and, in most cases, distributed electronically. However, several expressed frustration with how to classify their clients and/or services into the categories provided. One reason for this frustration is confusion over the kinds of cases that belong in each immigration and refugee law category; a second reason is that community organizations do not tend to view the immigration and refugee law process as a discrete area, and therefore do not capture data separately.

Since the focus of this project is on available *legal* resources in the immigration and refugee law area, the interview process for community organizations focussed on those providing legal assistance. In most provinces, however, some suggested contact groups were either primarily or

entirely settlement service organizations: groups offering services designed to facilitate new arrivals’ transition into Canada from a broader social, economic, employment, and family perspective. Accordingly, information on available settlement services has also been provided where applicable. In addition, it is important to note that, in light of the limited sample of organizations interviewed, the information and data collected from community groups should not be considered comprehensive. While certain trends may emerge, in terms of available services, problem areas, or success stories, it should not be assumed that these trends reflect the experience of all organizations involved in the delivery of assistance to refugees and immigrants at the community level.

Summary of Legal Aid Immigration and Refugee Law Services

This section develops an overview of the services available through legal aid in each of the provinces providing coverage for immigration and refugee law matters. The four provinces that provide no legal aid coverage to refugees and immigrants have been omitted (Saskatchewan, Nova Scotia, New Brunswick and Prince Edward Island).

Types of Immigration and Refugee Legal Aid Services by Province

Type of Service	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
General Advice or Assistance	Yes	Limited	Limited	Yes	Limited	Limited
Legal Advice or Assistance	Yes	Limited	Yes	Yes	Yes	Yes
Legal Representation	Yes	Yes	Yes	Yes	Yes	Yes
Duty Counsel Representation	Yes	No	No	No	No	Limited
Public Legal Education	Yes	No	No	Yes	Yes	Limited
Translation or Language Assistance	Yes	Yes	No	Yes	Yes	Yes

As the above table indicates, all of the provinces that provide legal aid coverage in any form for immigration and refugee law cases offer legal representation to their clients. The table below summarizes the specific immigration and refugee law issues for which legal aid assistance is available in each of these jurisdictions.

The availability of legal advice or assistance is almost as broad as legal representation, although the comprehensiveness of advice programming varies considerably by province. Alberta is the only exception, where legal advice is available only from the Immigrant Services Co-ordinator. All provinces except Manitoba offer translation or other forms of language assistance, typically as a disbursement item. Clients in need of these services in Manitoba are referred to the Interfaith Immigration Council.

General advice or assistance is provided in B.C. and Ontario, with the latter offering the most extensive system for delivering this kind of service through its network of Community Legal Clinics. Duty counsel representation is not an area in which services tend to be available for immigration and refugee law matters. Only B.C. has a system in place for providing duty counsel services in immigration and refugee law matters, and even this system operates only for detention reviews in Vancouver.



Coverage of Immigration and Refugee Law Issues

Stage	Activity	Legal Aid Coverage by Province					
		<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Port of Entry	S. 20 Admissibility Interviews	No	No	No	No	No	No
	Eligibility determinations	No	No	No	Yes	No	No
Inland Claims	S. 27 Inland Violations of the Act	No	Yes*	Yes [§]	No	Yes	Yes [#]
	Eligibility Determinations	No	Yes*	No	Yes	No	No
Convention Refugee Determination	Personal information form preparation	Yes	Yes*	Yes	Yes	Yes	Yes
	Determination Hearings (preparation and attendance)	Yes	Yes*	Yes	Yes	Yes	Yes
	Other Hearings (preparation and attendance)	Yes	Yes*	Yes	Yes	Yes	Yes
Immigration Appeals	Appeals	Yes	Yes*	Yes	Yes [#]	Yes	Yes [#]
Adjudication	Immigration Inquiries	Yes	Yes*	Yes	No	Yes	Yes [#]
	Detention Hearings (first and other instances)	Yes	Yes*	Yes	Yes	Yes	Yes
Humanitarian/Compassionate	Applications	Yes	Yes*	Yes	Yes [#]	No	Yes [#]
PDRCC	Applications	Yes	Yes*	No	No	No	No
Danger Opinions*	Submissions to the Minister	No	Yes*	No	Yes	No	Yes
Federal Court	Judicial Review and Appeals	Yes	Yes*	Yes	Yes	Yes	Yes
Supreme Court	Appeals	Yes	Yes*	Yes	Yes	Yes	Yes
International Tribunals	Appeals	No	Yes*	No	Yes	No	No

* In Alberta, the extension of legal aid coverage in all of these areas is subject to the submission of a favourable legal opinion by the private bar lawyer who is issued the certificate.

§ Coverage is provided only when there is an accompanying criminal charge.

Respondents described the availability of coverage for cases in these areas as “discretionary.”

As indicated in the above table, the most common areas of legal aid coverage for immigration and refugee law matters are Convention Refugee Determination hearings, detention hearings, Federal Court judicial reviews and appeals, and Supreme Court appeals. Of these, legal aid plans provide the greatest amount of service in the area of Convention Refugee Determination hearings. The universal availability of legal aid for Convention Refugee Determination matters dovetails with comments about the importance of making legal services available to refugees, given that they are often in vulnerable situations.

The fact that legal aid is available in all six provinces for detention reviews and Federal and Supreme Court proceedings, in addition to Convention Refugee hearings, suggests that coverage tends to correspond with the more legalistic aspects of the immigration and refugee law process. Legal issues that require appearances in court or before the Immigration and Refugee Board require more specialized legal knowledge and experience. Accordingly, it is arguably more important that refugees and immigrants be able to access assistance.

After Convention Refugee Determination hearings, detention reviews, and Federal and Supreme Court cases, other immigration and refugee law issues for which legal aid tends to be available are Immigration Appeals and Immigration Inquiries. With respect to the former, all of the

provinces except Newfoundland provide coverage; in terms of the latter, Newfoundland and Ontario do not extend coverage.

Port of entry admissibility interviews are not covered by any of the provinces, and only Ontario covers Port of Entry eligibility determinations. Similarly, only Ontario reported regularly providing coverage for Inland claims eligibility determinations. Alberta may extend coverage in this area subject if there is a favourable legal opinion supporting the application. Alberta extends the same discretionary coverage for s. 27 Inland violations of the Act, as does Manitoba, while Quebec is the only province that provides regular coverage in this area. Representatives from Legal Aid Ontario commented that, if eligibility testing becomes more stringent under new immigration legislation, legal aid may consider extending coverage in this area.

Impressions about Legal Aid Coverage

The following tables summarize the problem areas and success stories raised by legal aid plan respondents.

Problem Areas

Thematic Problem Areas	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Approaches to Service Delivery	X	X		X	X	
Funding Issues	X		X	X		X
Range of Coverage			X	X		
Barriers for Refugees	X					
Lack of Language Assistance				X		
Low Demand						X

Approaches to Service Delivery. Respondents from B.C. raised the ongoing question of the relative efficiency of staff lawyers versus private bar lawyer. Similarly, Quebec representatives pointed to the virtual “monopoly” private bar lawyers hold in the immigration and refugee law area, due to the lack of legal aid staff lawyer services. A respondent in Alberta highlighted the fact that private bar lawyers have been unwilling to permit paralegals to be involved in their cases. The concerns raised by legal aid representatives in Ontario include the role played by immigration consultants and the inability of community organizations to play a larger role in the delivery of direct legal assistance, given their lack of legal knowledge and training.

Funding Issues. Respondents from B.C. cited a general lack of funding for immigration and refugee legal aid (and legal aid, generally) as a source of concern. Ontario respondents were also concerned about the lack of funding for immigration and refugee legal aid. The constraints imposed by tariff structures were raised as an issue by respondents in B.C. and Manitoba, while Newfoundland respondents pointed to limited staff resources as a key reason for delays in case processing. Legal aid representatives in B.C. also raised the issue of the federal-provincial jurisdictional debate over funding for immigration and refugee law legal aid (an issue noted by respondents from Nova Scotia and P.E.I. as well).



Range of Coverage. Legal aid representatives in Manitoba indicated that legal aid coverage for immigration and refugee law matters is inconsistent due to difficulties in recruiting private bar lawyers. Respondents from Ontario pointed to gaps in coverage in terms of the issues handled by CLCs and the geographic distribution of CLC services.

Barriers for Refugees. Respondents in B.C. highlighted the fact that the refugee system in this province is overly adversarial.

Lack of Language Assistance. Respondents in Ontario noted that there are not enough resources for language assistance at CLCs.

Low Demand. Respondents in Newfoundland suggested that there is little demand for immigration and refugee law services in this province.

Success Stories

Thematic Success Stories	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Approaches to Service Delivery	X	X		X		X
Collaboration with Community Organizations	X		X			
Range of Coverage		X			X	

As indicated by the above table, far fewer success stories were highlighted by legal aid plan representatives in the provinces providing coverage for immigration and refugee law issues.

Approaches to Service Delivery. Respondents from B.C. highlighted the Immigration and Refugee Clinic as a success story in the province. Specialized paralegals and staff lawyers provide valuable assistance in non-tariff areas as well as a comprehensive body of knowledge about refugee source countries. Similarly, Legal Aid Ontario representatives highlighted the success of both the Refugee Law Office and Community Legal Clinics. Respondents in Newfoundland insisted that staff lawyer services are more cost-efficient, while an Alberta representative suggested that the pilot project position of Immigrant Services Co-ordinator has been a success to date.

Collaboration with Community Organizations. Respondents from both B.C. and Manitoba highlighted collaboration between legal aid and community organizations serving refugees and immigrants as a positive feature of the immigration and refugee law systems in their respective provinces.

Range of Coverage. Legal aid representatives in both Alberta and Quebec suggested that the range of immigration and refugee law issues for which legal aid coverage may be extended in these provinces is comprehensive.

Summary of Community Organization Immigration and Refugee Law Services

This section presents an overview of the legal services offered by refugee and immigrant serving community organizations in all ten provinces.

Type of Community Organization Legal Services by Province

Type of Service	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>P.E.I.</i>	<i>Nfld.</i>
Public Legal Education	Ltd	No	Ltd	Ltd	Yes	Yes	Yes	Ltd	No	No
Referrals	Yes	Yes	Yes	Yes	Yes	Yes	Ltd	Yes	Ltd	Yes
Advice	Yes	Ltd	Yes	Yes	Yes	Yes	Yes	Yes	No	Ltd
Representation	Ltd	No	No	Ltd	Ltd	Ltd	Ltd	Ltd	No	Ltd
Language Assistance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Ltd	No	Yes

As the above table indicates, the community organizations serving refugees and immigrants that were interviewed in the ten provinces are more likely to provide assistance in areas that do not involve specific legal claims. Most notably, these include referrals, advice, and language assistance.

Referrals are a service provided by community organizations interviewed in each of the provinces. In many cases, respondents considered the provision of referrals – the connection of clients with appropriate resources – to be a key part of their services. The referral services available in Nova Scotia, New Brunswick and Prince Edward Island are described in the table as “limited” because respondents in these places noted that there simply are few resources to which to refer people on immigration and refugee law matters.

In terms of providing advice on immigration and refugee law, community organizations’ advice tends to be more general than legal, typically concerning basic legal information, legal processes, and rights and responsibilities. Many agencies emphasized their role as “information providers,” with quite a few respondents making a distinction between delivering information versus providing advice. These groups were uncomfortable with the idea that providing advice meant directing clients on a particular course of action. In addition, many community organizations reported dealing with a wide range of legal issues outside of federal immigration and refugee law. When asked about their legal services, respondents from these agencies often pointed first to their work on general legal issues of relevance to refugees and immigrants – income tax, social services, labour law and employment standards, family law, and so on. This was also the case for public legal education activities.

In terms of legal advice, the activity most often undertaken by community organizations is assistance with the completion of forms, although some groups will also take limited action(s) on a client’s behalf (for example, making a call, writing a letter, accompanying a client to meetings). Assistance with forms is most often extended for Humanitarian and Compassionate applications, Post-Determination Refugee Claimants in Canada Class applications, and Personal Information Forms. Interestingly, respondents typically did not characterize this activity as a kind of legal advice or assistance until they were asked specifically about the form completion.



Language assistance is another area in which community organizations are frequently involved. Many of the groups interviewed have translators and interpreters on staff and/or a bank or network of volunteers with various linguistic skills on whom they rely. In many cases, these staff or volunteers will offer linguistic assistance for legal matters, including meetings with lawyers, preparatory work for hearings, and actual legal proceedings. The only provinces in which no language assistance is available for legal work are New Brunswick and P.E.I.

Overall, legal representation is not an area in which most community organizations are regularly involved. Even when organizations reported that they provide legal representation in some immigration and refugee law matters, this tends not to be a primary area of service delivery. No legal representation is provided by the organizations interviewed in Alberta, Saskatchewan, and P.E.I. In the remaining seven provinces, legal representation is most often provided by community group staff for Convention Refugee Determination, Humanitarian and Compassionate applications, and Post-Determination Refugee Claimants in Canada Class applications. After these three primary immigration and refugee law issues, additional matters for which some community organizations provide legal representation are Immigration Appeals Division cases and Adjudication Division cases.

Impressions about Legal Aid Coverage

The following tables summarize the problem areas and success stories raised by community organization respondents.

Problem Areas

Thematic Problem Areas	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>Nfld.</i>	<i>P.E.I.</i>
Range of Coverage	X		X		X	X	X	X	X	X
Funding Issues	X	X		X		X	X			
Levels of Skill and Expertise	X			X		X		X	X	X
Barriers Confronting Refugees	X	X				X		X		
Language/Cultural Barriers			X		X	X				
Use of Call Centres						X	X			
Lack of Co-ordination									X	

Community agency respondents in the ten provinces identified similar problem areas to those identified by legal aid respondents, although there were some differences in the way these concerns were expressed.

Range of Coverage. The range of immigration and refugee services available was a key concern of many community organizations in eight of the ten provinces. Respondents in B.C., Saskatchewan, Ontario, Quebec, Nova Scotia, New Brunswick, Newfoundland and P.E.I. all pointed to an overall lack of access to comprehensive legal assistance for refugees and immigrants. Respondents in the four provinces without any legal aid coverage for immigration and refugee law (Saskatchewan, Nova Scotia, New Brunswick and P.E.I.) highlighted this as a key reason for the shortage of legal services.

Funding Issues. Inadequate funding for immigration and refugee law services was identified as a problem area by community organization representatives in B.C., Alberta, Manitoba, Quebec and New Brunswick. The respondent from B.C. highlighted past and ongoing provincial government cuts, as well as the impact of the devolution of responsibility for settlement services from the federal government to the province. Organizations in Alberta pointed out that the high cost of legal assistance means that many people simply cannot access services, an issue also raised in Quebec. Organizations in Quebec indicated that a lack of financial support prevents them from providing a sufficiently broad range of services to their clients. Respondents in Manitoba highlighted low remuneration as a key reason why there are not enough immigration and refugee lawyers available. Finally, community groups in New Brunswick noted that insufficient funding means that some organizations have to rely exclusively on volunteers.

Levels of Skill and Expertise. The shortage of lawyers with expertise in immigration and refugee law issues was raised as an area of concern by community groups in B.C., Manitoba, Nova Scotia and P.E.I. A respondent in B.C. further commented that IRB members do not receive sufficient training. Respondents in Nova Scotia indicated that there is a lack of trained translators in the province. A Newfoundland community organization representative suggested that greater consistency in terminology would help ensure greater consistency in service delivery. In Quebec, one respondent suggested that community organization staff who handle immigration and refugee law issues do not receive enough training (although two other respondents expressed the opposite view, as noted below).

Barriers Confronting Refugees. Respondents in B.C. and Nova Scotia both commented that the refugee processing system takes far too long and is subject to unreasonable delays. Insufficient levels of language and employment training services for refugees were also highlighted in B.C. and Quebec, while community organization representatives in Alberta noted that there are no organizations that have an explicit mandate to assist refugees in the province. Quebec respondents pointed out that there are too few services available for refugees. Organizations in Nova Scotia commented that the absence of a local IRB creates additional obstacles for refugee claimants.

Language and Cultural Barriers. Community organization respondents in Saskatchewan indicated that the justice system, overall, is poorly equipped to deal with people whose first language is not English. A Quebec organization suggested that it is too difficult to access services in English in the province, while Ontario agencies commented that legal aid is not sufficiently culturally or linguistically sensitive.

Use of Call Centers. Community organization respondents from Quebec and New Brunswick raised concerns about the use of call centres. They felt that a key weakness of this approach is that callers cannot speak to the same person about their case on subsequent calls.



Lack of Co-ordination. Community organization representatives in Newfoundland said there is a need for more co-ordination among players in the immigration and refugee law system, including governments, legal aid and community groups. More co-ordination would better permit each of these to play the role at which they are best, leading to more efficient and effective client services.

Success Stories

Thematic Success Stories	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>Nfld.</i>	<i>P.E.I.</i>
Approaches to Service Delivery	X			X	X					
Co-operation and Collaboration	X			X	X	X				X
Levels of Skill and Expertise						X				
Online Resources					X					X

As indicated by the above table, far fewer success stories were highlighted by community organizations interviewed in the ten provinces.

Approaches to Service Delivery. Community organization respondents in B.C. pointed to the availability of initial reception services as a positive feature (although this comment pertains more to settlement than legal services). In Manitoba, respondents highlighted the role played by the Interfaith Immigration Council in case file preparation as a success story. In Ontario, a respondent noted that the use of legal aid opinion certificates as a means of establishing merit is working well.

Co-operation and Collaboration. Community organizations in several provinces pointed to co-operation and collaboration between legal and community groups (Manitoba, Ontario) and among community groups themselves (B.C., Quebec, P.E.I.) as a positive feature of the current immigration and refugee law system.

Levels of Skill and Expertise. Two respondents in Quebec indicated that community organization staff are well trained to provide the services they do in the immigration and refugee law area (although as noted above, one organization disagreed with this assessment).

Online Resources. Respondents in Quebec and P.E.I. noted that the availability of online access to documents, forms, and statutes has been a positive development in the immigration and refugee law field.



Introduction

This report provides a descriptive profile of the legal services available to refugees and immigrants in each of the Canadian provinces. Included in this profile are the services offered through legal aid (Part One) and the services provided by a variety of community organizations serving refugees and immigrants (Part Two). The section on legal aid considers the availability of legal advice and public legal education materials in addition to the provision of formal legal representation. The section on community organizations also focusses on the legal services offered by these groups, although some information on the settlement services available to new arrivals in Canada is also provided. Part Three of the report provides a summary of the services offered by both legal aid and community organizations in all jurisdictions, highlighting areas of convergence and divergence.

Methodology

Legal Aid Plans

The information on provincial legal aid plans presented in Part One was collected through a review of annual reports and other relevant literature, a series of interviews with key provincial informants, and the distribution and collection of data charts.

The Web sites of the legal aid plans were the primary source for the literature review. Many of the larger provinces post annual reports, overviews of statistical information, and planning documents on their Web sites, making them a particularly valuable resource (notably those of B.C., Alberta, Ontario and Quebec). Less information was available online for the smaller provinces, and legal aid plan representatives in some of these jurisdictions reported that there is no current annual report available for distribution. Web site materials were, accordingly, supplemented with literature accessed through law libraries and the Canadian Centre for Justice Statistics.

Interviews with legal aid plan representatives focussed both on assembling a more precise description of the kinds of services provided by legal aid in the immigration and refugee law area than is available in annual reports, and on collecting the impressions of legal aid representatives about the adequacy of the current system for delivering these services. Accordingly, respondents were not only asked about the nature of staffing and service provision, but also about the strengths and weaknesses of available services and key gaps in the system currently in place.

The data collection process with legal aid representatives met with only partial success. Data collection charts were prepared in advance of the interviews in the expectation that clearly laying out the categories to be filled in by legal aid respondents would facilitate the data collection process. However, in no case did respondents complete the charts as distributed. They instead tended to compile data into new charts that accorded more closely with the way in which case information is tracked in their province. In combination with the already significant differences

in the way in which legal aid is delivered in each province, this lack of consistent reporting complicates efforts to compare provincial data.

The second key problem area in terms of accessing provincial legal aid data was the difficulty initially connecting with, and subsequently collecting data from, legal aid respondents. All respondents commented on the fact that compiling the amount of data initially requested for this project would require a significant investment of time. When combined with the daily workload of staff, such requests are accordingly difficult to accommodate, particularly in a short time. In addition, respondents commented on the fact that they have received multiple requests for data from a variety of research projects currently under way, with several participants expressing frustration on the apparent lack of co-ordination among these initiatives. As a result of these difficulties, the data collection was sporadic in terms of when information was actually received and the quantity of information that legal aid respondents were willing or able to provide. Resulting inconsistencies in the type and quantity of data provided further undermines the comparability of provincial data.

Community Organizations Serving Refugees and Immigrants

The information on community organizations presented in Part Two was collected through key informant interviews and the distribution of data collection charts. Community organization contacts were found through several channels. Legal aid representatives were asked about other organizations serving refugees and immigrants in their province, and these organizations were contacted and interviewed where possible. If further community organization contacts were still needed in the province, after the contacts suggested by legal aid had been exhausted, organizations' respondents were asked for more suggestions of groups to call or a Web search for additional organizations was performed. In several provinces – particularly those that do not offer any legal aid coverage for immigration or refugee law matters – legal aid respondents were unable to suggest any community organizations to contact at the time of the interviews. Accordingly, the additional methods described above were regularly used.

As with legal aid data collection, a series of charts was prepared in advance to try to facilitate this process. While community organizations typically did complete the charts as delivered, several expressed frustration or confusion about how to classify their clients and/or services into the categories provided. This seemed to be due in large part to confusion over the kinds of cases that belong in each immigration and refugee law category (for example, what kinds of issues are included in category “Immigration Appeals Division”). Most of the community organizations interviewed do not rely on lawyers or other staff with legal training to provide assistance in immigration and refugee law cases, so this confusion may result from a lack of information on the specific sections of the legislation that give rise to particular claims. However, a second reason for confusion on the part of community organization representatives may be that these groups often do not structure their programming around the services needed to address separate and distinct legal issues. Community organizations are more likely to see immigration and refugee issues as a continuum through which clients move, and throughout which staff provide support and assistance.



Since the focus of this project is on available *legal* resources in the immigration and refugee law area, the interview and data collection process for community organizations focussed on those providing some kind of legal assistance (public legal education, advice, representation as legal counsel, or representation as non-legal counsel). However, in most provinces, some of the suggested contact groups were either primarily or entirely settlement service organizations: groups offering services designed to facilitate the transition of new arrivals into Canada from a broader social, economic, employment, and family perspective. Accordingly, information on available settlement services has also been provided where applicable.

The information and data collected from community organizations should not be viewed as a comprehensive overview of the range or quantity of services being offered to refugees and immigrants at the community level. On one hand, not all of the agencies serving refugees and immigrants in each province were contacted. The intention of this project was not to complete an exhaustive set of interviews, but rather to contact a sample of organizations involved in providing services to refugees and immigrants. On the other hand, the organizations that were contacted tended to be those that are more formally established. In most cases, any services offered by more informal groups or networks – including those organized by cultural communities, churches or individuals – have not been captured. Accordingly, while certain trends may emerge in terms of available services, problem areas or success stories, it should not be assumed that these trends reflect the experience of all community organizations involved in the delivery of assistance to refugees and immigrants.



Part One: Immigration and Refugee Law Legal Aid

Part One of this report presents a descriptive account of the immigration and refugee law legal aid services in each of the six provinces that extends coverage in this area: British Columbia, Alberta, Manitoba, Ontario, Quebec, and Newfoundland. The topics addressed in this discussion include the structure of legal aid, eligibility criteria, and the types of services offered (public legal education, advice, legal representation, duty counsel representation, and translation or language assistance). Legal aid respondents were also asked to consider the strengths and weaknesses of the current system for delivering immigration and refugee legal aid services, notably in terms of what is working well about this system (success stories), what is not working well (problem areas), and any outstanding gaps.

In addition to descriptive information, Part One also presents available quantitative data submitted by legal aid plan representatives on the number and type of legal aid cases involving immigration and refugee law, the cost of services in this area, and the characteristics of clients. The amount of data included was determined by what respondents were willing or able to collect for the purposes of this project. For example, some provinces do not break down immigration and refugee law cases by legal issue, while other jurisdictions can provide some detail on the number of cases dealt with by specific matter. The amount of information available on coverage refusals and client characteristics is generally very limited since most provinces do not track such matters. Overall, the data limitations encountered mean that there is considerable inconsistency in what is reported for provinces.

There is no formal legal aid coverage for immigration and refugee law in Saskatchewan, New Brunswick, Nova Scotia and Prince Edward Island. For these provinces, a brief discussion of legal aid structure and eligibility criteria is included, as well as the respondents' impressions concerning the lack of legal aid coverage for immigration and refugee law matters, and whether there is a need for services in this area.

British Columbia

At present, British Columbia has relatively comprehensive legal aid coverage for immigration and refugee law issues. However, the dramatic cuts to legal aid recently made by the provincial government are expected to have a serious impact on this (and all other) areas of legal aid service provision. Most notable in the immigration and refugee law area are the scheduled closure of the Immigration and Refugee Clinic (IRC) as of August 31 2002 and an anticipated 20 percent reduction in the immigration and refugee law tariff. While the provincial government has committed to maintaining some level of legal aid services for refugees and immigrants through a roster of private bar lawyers, the range of available assistance will likely be much more limited.

As a result of the erosion of legal aid funding in B.C., legal aid plan staff members were all very busy with restructuring and service delivery planning. This not only significantly complicated efforts to access data from staff for the purposes of this project, but also influenced the mood of

respondents and the interpretations they provided regarding the strengths and weaknesses of the legal aid system in B.C.

The following discussion provides an overview of the services and coverage available for immigration and refugee law matters in B.C. prior to recent (and ongoing) changes. It is important to highlight that an accurate assessment of the situation confronting refugees and immigrants in B.C. will require further review of the legal aid services that remain after all of the cuts and program changes have been implemented.

Structure of Legal Aid

Delivery of Services

Legal aid is the responsibility of the Legal Services Society (LSS) of B.C. LSS delivers legal aid services through a network of branch offices, community law offices, Native community law offices, and area directors:

- Branch offices are staffed by LSS employees, including lawyers, paralegals, secretaries, and intake legal assistants. These offices ensure ongoing community involvement through local advisory committees and/or public planning days.
- Community law offices and Native community law offices are independent bodies governed by their own boards of directors drawn from the local community.
- Area directors are private bar lawyers who take family and criminal legal aid applications and refer eligible applicants to lawyers.

Both private bar lawyers and staff lawyers employed by LSS are involved in the delivery of legal aid services. In the area of immigration and refugee law, private bar lawyers provide the bulk of the legal services. In the Vancouver area, the Immigration and Refugee Clinic (IRC) also provides representation and advice in immigration and refugee law matters.

Eligibility for Legal Aid. For all areas of legal aid, applicants' net monthly household income and asset levels must be below established limits to be financially eligible for assistance. Intake workers assess an applicant's financial assets and liabilities to determine net household income. Some income sources are excluded (e.g., the Child Tax Benefit), and some expenses are deducted (e.g., child care costs). There are five asset categories: family home, other real property, vehicles, business assets, and personal property.



Monthly Income		Assets
Household Size	All non-criminal cases* (including appeals)	Personal Property exemption (all cases)
1	\$1,002	\$2,000
2	\$1,504	\$4,000
3	\$1,755	\$4,500
4	\$1,941	\$5,000
5	\$2,140	\$5,500
6	\$2,326	\$6,000
7 or more	\$2,486	\$6,000

* Income limits are slightly lower for criminal cases (including appeals).

Source: Legal Services Society 2000-2001 Annual Report.

Applicants who meet the financial eligibility criteria must also have a legal issue for which legal aid coverage is available. In general, legal aid coverage will always be provided if there is a risk of imprisonment, confinement, or removal.

According to respondents, legal aid in B.C. does not automatically require applicants for legal aid coverage in an immigration or refugee law matter to undergo merit screening at the time of application. Merit is considered only for certain Immigration Appeals (referrals for Judicial Review where a formal hearing is held in Federal Court), and for Post-Determination Refugee Claimants in Canada Class.

Types of Service Provided in Immigration and Refugee Law Issues

The following table describes the types of services available for immigration and refugee law matters in B.C.

Type of Service	Provision of this Service
General Advice or Assistance	Yes. This may include referring clients to other organizations or providing them with self-help or educational materials.
Legal Advice or Assistance	Yes. This may include advice on legal processes, rights and responsibilities, or direction on a specific client case.
Legal Representation	Yes. According to estimates from the Immigration and Refugee Clinic, private lawyers handle 90 percent of immigration/refugee cases, with staff lawyers handling the remaining 10 percent.
Duty Counsel Representation	Yes. This service is provided only by private bar lawyers.
Public Legal Education	Yes. Legal aid produces a wide range of public legal education documents.
Translation or Language Assistance	Yes. Translation and/or interpretation services are offered as a disbursement item. ¹ Interpretation at the preparatory stages of a case is also provided by paralegals at the IRC.

Advice

Summary advice and brief services are provided by three staff lawyers, one paralegal and two support staff employed at the IRC on a non-tariff basis. Summary advice covers applicants who are not referred to a lawyer or paralegal, but receive assistance in the form of legal information

¹ 'Disbursement item' refers to an item or service for which a lawyer working on a legal aid certificate can claim expenses on a cost-recovery basis, usually up to certain maximums.

or referral to another agency. Brief service is a form of intake assistance through which people can receive up to three hours of summary legal advice or information. Applicants do not have to be financially eligible to receive this kind of assistance.

NUMBERS OF IMMIGRATION AND REFUGEE LAW APPLICANTS AND SUMMARY ADVICE CLIENTS		
Fiscal Year	Number of Applications Received	Number of Clients Receiving Summary Advice or Information
2000-01	3,559	65
1999-00	4,667	34
1998-99	3,392	-

Source: Legal Services Society 2001 Annual Report.

The IRC representative emphasized the importance of the summary advice and brief service components of the work of IRC staff. Frequently, people who are confused about their situation (for example, with respect to whether or not they have a legal claim) are often referred to the IRC. The IRC is currently housed in the same building as a legal aid intake office, so an effective system of cross-referral has developed. For example, if a person comes to the intake office but does not know enough about their situation to be appropriately processed, intake staff can send the person to the IRC for some initial advice. This system saves time by facilitating the appropriate processing of clients.

With the scheduled closing of the IRC, legal aid respondents in B.C. felt that the services available through legal aid will be much more limited. The concern is that immigration and refugee legal aid will be confined to intake for full representation cases only, with no staff to answer questions or provide advice, given that the IRC is currently the only office to which refugees and immigrants can come for this kind of assistance. At present, the advice function of the IRC is not limited to potential or actual legal aid clients. Staff respondents also noted that they field a lot of requests for information from community organizations. The IRC tries to be as comprehensive as possible in responding to community group inquiries, and will often “go the extra mile” by not only dispensing advice but also collecting and mailing out a package of relevant information.

Interestingly, the program reduction exercise undertaken by LSS suggested that service reductions following the closure of the IRC would not be substantial. In reviewing the IRC, LSS concluded that this office was not only more costly and less effective than the current private bar tariff service, but also that the bulk of the services being provided to refugee claimants through the IRC are in tariff matters – a function that would naturally be absorbed by private bar lawyers (and, perhaps with it, responsibility for providing summary advice). Based on these conclusions, refugee clients would not experience any clear reduction in services with the elimination of the IRC, but rather only a shift in the service provider. The only clear reduction in available services would be to the community organizations and clients who depend on the IRC for legal information, unless this function would be absorbed through the various public legal education service centres operated by LSS. What remains at issue, however, is the fact that private bar lawyers are being asked to do more with less, with possible impacts on the quality of the services provided. Also of concern is the LSS’s intention to stop issuing immigration and refugee legal aid certificates at some point unless federal-provincial jurisdictional problems about legal aid funding are resolved.



Legal Representation

Legal representation is available through both legal aid offices and the IRC. As noted in the above table, private bar lawyers handle the bulk of immigration and refugee law cases on a tariff basis. Clients may request the services of either a staff lawyer at the IRC or a private bar lawyer, and are entitled to representation from the lawyer of their choice. However, if a client does not request a particular lawyer, they are informed of the IRC option. The IRC employs only three staff lawyers, and an estimated 85–90 percent of their work time is spent on tariff-based activities. The remaining 10–15 percent is spent on advice, information requests, and public legal education activities.

There are no formal differences in the legal representation provided by staff and private bar lawyers, since both cover what is included in the immigration and refugee law tariff structure. However, the IRC respondent noted that IRC staff lawyers do not have to adhere as closely to the tariff structure’s restrictions on billable hours of work as private bar lawyers. IRC lawyers generally have more latitude to “work a case as much as it needs,” and thereby have a great deal more flexibility than private bar immigration and refugee lawyers working on a certificate basis.

According to a representative of the immigration subsection of the Canadian Bar Association (CBA), tariff-based time and remuneration limits pose an obstacle for private bar immigration and refugee lawyers. Although an estimated 80 percent of cases are in fact completed within prescribed limits, the coverage available within this structure is basic at best. In the respondent’s view, most lawyers would agree that current tariff levels and hours are insufficient to provide *quality* services to refugees and immigrants. With an estimated 20 percent cut in the immigration tariff expected, the ramifications for what is already minimal coverage will be significant. The CBA respondent also noted that a 20 percent tariff reduction will necessarily impact the services currently available to refugees, since the largest proportion of legal aid work undertaken in immigration and refugee law concerns refugee claimants. Reduced services for refugees is an area of particular concern for two reasons. First, the complexity of determination and review hearings makes the availability of legal counsel particularly pressing; and, second, language and cultural barriers, combined with the psychological stresses created by the difficult circumstances many refugees have fled, undermine their ability to navigate the legal system without assistance.

NUMBER OF IMMIGRATION AND REFUGEE CLIENTS REFERRED TO STAFF AND PRIVATE BAR LAWYERS				
Fiscal Year	Number of Applications Received	Number of Successful Applicants Referred to:		
		Staff lawyers	Private bar lawyers	Total
2000-01	3,559	277	2,769	3,046
1999-00	4,667	464	3,485	3,949
1998-99	3,392	409	2,685	3,094

Source: Legal Services Society Immigration and Refugee Fact Sheets and LSS 2001 Annual Report.

In 2000-2001, 6.0 percent of all legal aid referrals were for immigration and refugee law matters, compared to 7.7 percent in 1999-2001 and 6.0 percent in 1998-1999.

A limited amount of legal representation for immigration and refugee law matters is provided through legal aid duty counsel. The duty counsel services are provided for detention reviews, and are much less formal and structured than those available in criminal and family law, where

lawyers are paid to staff certain courthouses. The immigration section of the CBA organizes the duty counsel service. A select roster of lawyers is on-call. There is an agreement with LSS that certificates are issued retroactively to these lawyers for detention review cases. To help overcome cultural barriers, all client-lawyer contact is face to face. The service provided by the duty counsel lawyer can go beyond strict duty counsel service because, if the client wishes, the same lawyer will do the inquiry to ensure the continuity of counsel.

Public Legal Education

Ensuring that “education, advice and information about law are provided for the people of British Columbia” is an objective in the mandate of the LSS. Accordingly, LSS staff in the Legal Resource Centre, the Public Legal Education and Publishing Programs, and the Native Programs Department, provide a wide variety of services to improve public access to and education about the law. These include the publication and distribution of education and self-help materials, hosting workshops and training sessions, and assisting people with legal questions. LSS notes that the public legal education materials and activities fill a number of key needs: they provide staff with updated legal information and resources to use in the provision of services; they provide the public with information and/or self-help materials to assist with their legal problems; and they help new arrivals in Canada to learn about the legal system and access to legal aid services.

LSS also operates a Public Legal Education (PLE) Program. This program provides small grants to community groups, legal aid offices, and LSS-funded agencies in B.C. to develop projects and materials that explain the law and legal system to community members and client groups. In 2000-2001, the program approved 48 projects, as well as helping another 35 groups to complete projects initiated in previous years. Expenditures on the PLE program in 2000-2001 were \$571,361 – 0.7 percent of the total expenditures of LSS.

Finally, LSS is responsible for running the Law Line, a legal information telephone service provided by law librarians for the general public. In 2000-2001, Law Line personnel responded to 12,615 requests for assistance.

With respect to IRC’s public legal education work done in the immigration and refugee law area in particular, an IRC representative noted that it has occasionally produced written materials in co-operation with other community groups. The IRC also employs one paralegal who participates in networking activities within the broader community, enabling IRC staff to keep up with community needs and concerns, and to share information about legal and policy developments.

Translation or Language Assistance

Translation and interpretation is a disbursement item for which private bar or staff lawyers can bill, up to a certain maximum. In addition, the IRC employs one paralegal with skills in a number of languages. This person is involved in the preparatory stages of case files, where language skills are essential for establishing effective communication with clients. The IRC respondent suggested that the use of a paralegal in this capacity is likely a cost-savings measure:



multilingual preparatory work not only reduces translation and interpretation expenses, but having staff capable of conversing with clients in their own languages often yields better and more complete case files.

Coverage of Immigration and Refugee Law Issues

Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No
	Eligibility Determinations	No
Inland Claims	S. 27 Inland Violations of the Act	No
	Eligibility Determinations	No
Convention Refugee Determination Division	Personal information form preparation	Yes
	Determination Hearings (preparation and attendance)	Yes
	Other Hearings (preparation and attendance)	Yes
Immigration Appeal Division	Appeals	Yes
Adjudication	Immigration Inquiries	Yes
	Detention Hearings (first and other instances)	Yes
Humanitarian/Compassionate	Applications	Yes (but only to a limited extent)
PDRCC	Applications	Yes (but only to a limited extent)
Danger Opinions*	Submissions to the Minister	No
Federal Court	Judicial Review and Appeals	Yes
Supreme Court	Appeals	Yes (although this is very rare)
International Tribunals	Appeals	No.

* Formerly Appeals to Citizenship and Immigration Minister.

Due to the major changes to legal aid currently under way in B.C., the amount of data that LSS staff were willing and/or able to collect for this project was limited. The data system in B.C. would likely permit the collection of separate case counts for each stage of the immigration and refugee law process, although various sub-components of these stages may not be broken out. Some data is also available on the number of cases handled by staff lawyers versus the number handled by private bar lawyers, but there is no specific data for paralegals (though this is a very small component of service delivery). The duty counsel component of immigration and refugee law legal aid services is not tracked separately. For certain stages of immigration and refugee law cases, files can likely be broken down by age, sex, and country of origin.

Despite the fact that separate statistics are kept on most stages of immigration and refugee law cases, the only stages for which data was made available for this project are Convention Refugee Determination Division (CRDD) preparation and hearing attendance, and Immigration Inquiry (II) preparation and hearing attendance. In 2000-2001, the 1,844 cases involving preparation for and attendance at CRDD and II hearings comprised 60.5 percent of all immigration and refugee law cases in B.C. This makes CRDD and II hearings by far the largest component of the work done under legal aid in the immigration and refugee law area.

Private bar lawyers conducted all of the CRDD and II hearing preparation and attendance in 2000-2001. CRDD and II hearings constituted 66 percent of all of the immigration and refugee law cases handled by private bar lawyers in that fiscal year.

CONVENTION REFUGEE DETERMINATION AND IMMIGRATION INQUIRY CASES, 2000-2001						
Total CRDD and II cases	SEX		AGE			Cost
	<i>Women</i>	<i>Men</i>	<i>18 and under</i>	<i>19-39</i>	<i>40 and over</i>	
1,844	662	1,182	57	1,370	531	\$1,129,776

Source: Data collection charts for B.C.

As the table indicates, information was also provided concerning the characteristics of CRDD and II legal aid clients. As reflected above, there were almost twice as many men than women receiving legal aid for CRDD and II matters in 2000-2001, and almost 75 percent of clients in this area were between the ages of 19 and 39. The tables below present data on country of origin for cases involving preparation and attendance at CRDD or II hearings, as well as for all immigration and refugee law cases, in 2000-2001.



PERCENT OF CRDD AND II CLIENTS BY COUNTRY OF ORIGIN, 2000-2001*	
Country of Origin	Percentage of CRDD/II clients
China	15
Mexico	14
Iran	9
Other#	8
Russia	6
Honduras	6
Hungary	4
Pakistan	3
Colombia	3
El Salvador	3
Sri Lanka	2
Afghanistan	2
Turkey	2
India	2
Romania	2
Somalia	2
Czech republic	1
Vietnam	1
Unknown	1
Costa Rica	1
Angola	1
Iraq	1
Ethiopia	1
Malaysia	1
Algeria	1
Guatemala	1
Yugoslavia (former)	1
Bulgaria	1
Peru	1
Nigeria	1

* Countries with 0 percent: Albania, Argentina, Bahamas, Belgium, Bosnia, Brazil, Burma, Chile, Croatia, Cuba, Egypt, Fiji, France, Germany, Ivory Coast, Kenya, Nicaragua, Philippines, Poland, Rwanda, Singapore, Slovak Republic, South Africa, Sudan, Syria, Thailand, Uganda, US, Unknown, Venezuela, Zimbabwe.

"Other" includes countries for which separate data on the number of clients is not tracked.

Source: Data collection charts for B.C.

NUMBER OF IMMIGRATION AND REFUGEE LAW LEGAL AID CLIENTS BY COUNTRY OF ORIGIN, 2000-2001*		
Country of Origin	Number of Referrals	Percentage of All Immigration/Refugee Clients
China	442	14.5
Mexico	367	12.0
Honduras	236	7.7
Iran	212	7.0
Hungary	164	5.4
US	118	3.9
Fiji	100	3.3
El Salvador	90	3.0
Guatemala	68	2.2
Colombia	64	2.1
Russia	59	1.9
Vietnam	59	1.9
India	54	1.8
Sri Lanka	46	1.5
Romania	44	1.4
Pakistan	42	1.4
Other#	881	28.9
TOTAL	3,046	100 %

* The data in this table is for all immigration and refugee law legal aid clients in 2000-2001, not just for clients in the CRDD and II areas.

“Other” includes countries for which separate data on the number of clients is not tracked.

Source: Immigration and Refugee Law Services Fact Sheets, 2000-2001.

Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Funding Levels. One thing on which all respondents agreed – whether from LSS, the IRC or the CBA – is the need for more funding for legal aid in immigration and refugee matters. More funding would not only permit coverage of more issues and more cases, but it would also ensure that the services provided are of high quality. However, the respondents also recognized that the call for more funding is essentially fruitless in the current context, given that overall spending on legal aid is being cut back. Despite this recognition, many of the following comments about aspects of the legal aid system that are or are not functioning effectively hinge on the availability of an appropriate level of funding for these services.

Federal versus Provincial Responsibility for Immigration and Refugee Legal Aid. Some respondents raised the question of where responsibility lies for funding immigration and refugee legal aid. The B.C. Attorney General is arguing that the federal government should assume complete responsibility for funding immigration and refugee legal aid because immigration is an area of federal legislative responsibility. The IRC representative suggested that a positive repercussion of increased federal involvement in this area would be greater continuity in the legal aid coverage provided for immigration and refugee law both within and among the provinces. An LSS representative joined in raising concerns about jurisdictional division over funding, but noted that these “squabbles” are not new when it comes to legal aid funding for



immigration and refugee law (and for other legal areas). In his words, “jurisdictional issues will simply not go away.”

Tariff Limits: Time and Remuneration. As already noted, time and remuneration limits for immigration and refugee law work are considered inadequate from the perspective of delivering high quality legal representation to clients. The majority of cases are completed within established limits only because the services provided are at a very basic level. For those cases that cannot be completed within the tariff structure, the amount of additional work needed varies quite widely. The CBA representative noted that some private bar immigration and refugee lawyers will pass a case that has reached tariff limits to another lawyer or refuse to put in extra time, but the majority do complete the additional (unpaid) work that is needed. In fact, the CBA respondent suggested that this practice is so common that many private bar lawyers are essentially operating pro bono clinics out of their offices. A representative of LSS agreed that many private bar lawyers are doing preparatory work with refugee clients on issues that are not specifically part of the tariff structure.

Staff Lawyer versus Private Bar Lawyer Service Delivery Models. The IRC representative noted that there is ongoing debate within legal aid about the efficacy of the staff lawyer model of service delivery, with particular concern about the cost-effectiveness of this approach. This respondent suggested at the time of the interview that a staff lawyer approach to legal aid has never been subject to a comprehensive evaluation in B.C. due to the expense involved in undertaking such an endeavour. Without such an evaluation, there is no real foundation for the decision that cutting the staff lawyer and paralegal components of legal aid is the best way to achieve additional cost-savings. The respondent suggested that cuts in these areas reflect the fact that too little value is placed on the non-tariff aspects of legal aid services in general, and the provision of advice to clients and prospective clients in particular. However, now that an evaluation of the staff lawyer IRC office has been completed by LSS, it may be valuable to revisit this issue with respondents in future projects.

The IRC representative also noted that an ideal immigration and refugee legal aid system would be one that employs more, not fewer, paralegals for the preparatory stages of the legal process. As noted above, the language skills of current IRC paralegals are invaluable from the perspective of ensuring effective initial communication with clients and comprehensive preparation of case files. From this perspective, the incorporation of more paralegal services in the legal aid process would yield cost savings for the province.

Barriers Confronting Refugee Claimants. A different kind of concern mentioned by one respondent is the “passive hostility” of Canada’s refugee processing system. One respondent suggested that this is a particular problem in B.C., indicating there is a perception in that province that the government tends to discourage admitting refugee claimants. Hostility with the refugee system is particularly difficult for refugees to deal with, given that the majority are already in very precarious situations when they arrive, and do not have sufficient knowledge about or trust in the legal system to navigate it without assistance. In addition, this respondent noted that the unnecessarily adversarial character of the refugee processing system needlessly increases costs to legal aid, as well as increasing the likelihood that genuine refugees will be turned away.

Success Stories

The Immigration and Refugee Clinic Model. As noted in other places, the IRC representative emphasized the importance and value of this office in delivering legal aid to refugees and immigrants in an effective and efficient manner, particularly in terms of providing non-tariff services like advice and public legal education.

Immigration and Refugee Clinic Staff Expertise. IRC staff have developed significant expertise in certain areas of law, as well as an excellent foundation of research on refugee source countries. This knowledge facilitates the operation of the IRC, since cases can be passed on to the IRC staff member with expertise in the relevant area, thereby helping to ensure that files are handled expediently and without duplication of previous work. The IRC representative noted that there is no similar provision within the private bar lawyer referral system to acknowledge or capitalize on particular areas of expertise.

Collaboration with Other Organizations Serving Refugees and Immigrants. The IRC representative noted that the co-operative work that occurs between the IRC and other organizations serving refugees and immigrants is a positive feature of the existing system. At present, there is a good balance between the legal services offered by legal aid and the settlement services provided by other community groups. Once the impact of the legal aid cuts begins to register, however, this equilibrium may change. Organizations serving refugees and immigrants may be forced to take on more responsibility in the area of immigration and refugee law – services for which they are not particularly well suited, given the legal complexities and degree of expertise required.

Alberta

Structure of Legal Aid

Delivery of Services

The Legal Aid Society (LAS) is responsible for the administration of legal aid in Alberta. Legal aid is delivered through a mixed model of service delivery. Private bar lawyers provide the majority of legal aid services in what is termed the “judicare” model: lawyers willing to act for



legal aid recipients are retained on a certificate basis according to established tariff levels.² LAS staff lawyers in Edmonton, Calgary, Red Deer and on the Siksika First Nation also provide legal aid services. For administrative purposes, some staff lawyers complete records identical to legal aid certificates (maintaining shadow accounts based on tariff levels). Others function as full-time duty counsel.

At present, there is only one paralegal employed by the LAS, as part of an immigration and refugee law pilot project. The pilot is designed to test the efficacy of the newly established “Immigrant Services Co-ordinator” paralegal position. The co-ordinator is responsible for providing procedural and administrative assistance to private bar lawyers in order to permit them more time for substantive work on immigration and refugee law cases (within the limits established by the tariff). The co-ordinator also provides assistance to clients on non-tariff matters, including referrals, procedural advice and filling out forms.

Eligibility for Legal Aid

Eligibility for legal aid in Alberta is determined on the basis of financial and substantive (merit) considerations.

Financial eligibility is evaluated on the basis of gross family income (including all monies received by the family before deductions) and accumulated assets. Gross income figures are compared to a fixed set of financial guidelines, as reflected in the table below.

Number of Persons in the Family	Annual Allowable Gross Income	Monthly Allowable Gross Income Contribution Range
1	\$13,900	\$1,158 – 1,792
2	\$16,800	\$1,400 – 2,275
3	\$22,600	\$1,883 – 2,450
4	\$25,200	\$2,100 – 2,717
5	\$28,900	\$2,408 – 2,867
6	\$31,500	\$2,625 – 3,200
7+	\$34,700	\$2,892 – 3,500

Source: Legal Aid Society of Alberta 2001 Annual Report.

Applicants whose family income exceeds the relevant financial eligibility cut-off may be extended coverage on a contributory basis. This means that legal aid coverage may be granted on the condition that the applicant pays a certain portion of his or her fees. In addition, LAS frequently exercises discretion in favour of applicants whose income and/or assets slightly exceed established guidelines if they are unable to retain private counsel.

² See, for example, Ab Currie, *Legal Aid Delivery Models in Canada. Past Experience and Future Directions*, Ottawa: Research and Statistics Division, Department of Justice, April 1999.

If a legal aid applicant is found to be financially eligible, substantive eligibility is considered. LAS provides that applicants

... may be granted legal aid in a civil matter where that matter is subject to the jurisdiction of the Courts, and has merit or a likelihood of success, or both. The case must also be one which a reasonable person of modest means would commence or defend and the circumstances at the time of application must warrant coverage. The legal costs of commencing or defending the action must be reasonable when compared with the relief sought (Legal Aid Society of Alberta 2001 Annual Report).

To assist in the determination of merit or likelihood of success, a legal opinion may be requested. Private bar lawyers are issued opinion certificates for this purpose, usually for three hours of work. If a legal aid applicant is confronted by a pressing deadline (for example, deadlines for the filing of leave to appeal to the Federal Court), an LAS respondent noted that legal aid coverage may be initially extended prior to the determination of substantive eligibility.

Types of Service Provided in Immigration and Refugee Law Issues

The following table describes the types of services available for immigration and refugee law matters in Alberta.

Type of Service	Provision of this Service
General advice or assistance	To a limited degree. May include referrals and the provision of educational materials.
Legal advice or assistance	To a limited degree. May include assistance with forms and the provision of information on immigration and refugee processes.
Legal Representation	Yes. Private bar lawyers provide all legal representation.
Duty Counsel Representation	No. Some assistance may be available at provincial courts.
Public Legal Education	Very little. The majority of this work is done by community organizations serving refugees and immigrants.
Translation or Language Assistance	Yes. Translation and interpretation services are offered as a disbursement item. Some language assistance is also available through volunteer programs.

Advice

Prior to the initiation of the Immigrant Services Co-ordinator pilot project, legal aid was not a resource through which advice was provided. The co-ordinator now provides applicants with both general and procedural advice and/or assistance on issues in the immigration and refugee law area. The kinds of assistance offered include referrals to community organizations (generally for settlement services) and advice on what is involved in filing certain kinds of claims, the steps involved, necessary documentation, and so on. The co-ordinator also assists people with the completion of some forms, such as Post-Determination Refugee Claimants in Canada Class applications. It is important to note that the co-ordinator does not advise people directly on their legal claim.

The Immigrant Services Co-ordinator is a staff position that operates outside of tariff structures. Accordingly, the co-ordinator has more scope to try to assist people through non-tariff channels than private bar lawyers. For example, the co-ordinator can assist persons found ineligible for legal aid by referring them to another organization, or advising them on the measures involved in pursuing their claim elsewhere. While this assistance is limited, the current co-ordinator



suggested that people leave with a more positive outlook than they otherwise would upon being denied legal aid coverage.

Legal Representation

Private bar lawyers provide all legal representation in immigration and refugee cases in Alberta. Accordingly, this work is completed on a certificate basis with the time and remuneration limits established in legal aid tariff guidelines. The responsibilities of the new Immigrant Services Co-ordinator do not include appearances at hearings, but questions have been raised about whether the position should be expanded in the future to include attendance at hearings on eligibility.

The LAS does not employ duty counsel staff lawyers to work specifically in the immigration and refugee law area. However, since duty counsel lawyers are present in Provincial Court, they may provide some assistance in immigration and refugee law matters. For example, refugee claimants or permanent residents confronting criminal issues or deportation may receive duty counsel assistance on their criminal matters at Provincial Court – assistance that may subsequently “spill over” into the area of immigration and refugee law.

Public Legal Education

According to an LAS respondent, legal aid does not provide a great deal of public legal education in immigration and refugee law or in other areas.

Translation and Language Assistance

Private bar lawyers can submit claims for translation and interpretation expenses as a disbursement item in immigration and refugee cases. Since the initiation of the Immigrant Services Co-ordinator pilot program, the co-ordinator is responsible for authorizing expenses in this area. Legal aid clients may be asked to cover some of the cost of translation and interpretation, since this is an area in which legal aid incurs significant expense.

In addition to the disbursement allowance, the Immigrant Services Co-ordinator noted that the Immigrant Aid Society has a language bank – volunteers with a variety of linguistic skills – through which legal aid can access some language assistance. Since the language bank includes only volunteers and not certified translators or interpreters, legal aid cannot rely on them for work with formal documents. However, the bank does provide valuable assistance during informal interview sessions and other preparatory work.

Coverage of Immigration and Refugee Law Issues

The table below summarizes the immigration and refugee law areas for which there is legal aid coverage in Alberta. Unlike some of the other provinces, Alberta’s system for determining what is covered rests largely on the merit testing process. The legal opinions rendered by private bar immigration and refugee lawyers are therefore key to determining whether an applicant will receive coverage. As a representative of LAS explained, the lawyers providing opinions are experts in their field – if they decide there is merit, the case will generally be covered.

Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No
	Eligibility Determinations	No
Inland Claims	S. 27 Inland Violations of the Act	Yes, subject to opinion.
	Eligibility Determinations	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Applicants found eligible will generally be covered for the subsequent refugee claim. ▪ Applicants found ineligible will generally go to a legal opinion.
Convention Refugee Determination Division	Personal information form preparation	Yes, subject to opinion.
	Determination Hearings (preparation and attendance)	Yes, subject to opinion.
	Other Hearings (preparation and attendance)	Yes, subject to opinion.
Immigration Appeals Division	Appeals	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Family sponsorship is generally not covered. ▪ For humanitarian applications, an opinion would be sought.
Adjudication	Immigration Inquiries	Yes, subject to opinion.
	Detention Hearings (first and other instances)	Yes, subject to opinion. Coverage may depend on the stage of the process (e.g., if all that remains is a hearing to determine the date of deportation, legal aid may not become involved).
Humanitarian/Compassionate	Applications	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Cases at this stage have often been covered at previous stages, so coverage may simply be extended.
PDRCC	Applications	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ These applications are often done at the same time as applications to Federal Court. Even if merit has not yet been established, the lawyer who handled the initial IRB hearing will often fill out the PDRCC form, since it is relatively straightforward. The Immigrant Services Co-ordinator will also help complete these forms.
Danger Opinions*	Submissions to the Minister	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Covered in most circumstances.
Federal Court	Judicial Review and Appeals	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Covered in most circumstances.
Supreme Court	Appeals	Yes, subject to opinion. <ul style="list-style-type: none"> ▪ Covered in most circumstances.
Appeals to International Tribunals		Yes, subject to opinion.

* Formerly Appeals to Citizenship and Immigration Minister.

In 2000-2001, Legal Aid Alberta received 45,386 applications for all types of legal aid coverage. Of these, coverage was approved for 74 percent (33,799). The remaining 26 percent (11,587) were denied coverage for various reasons. The vast majority of legal aid cases were handled in Calgary and Edmonton.



In the civil area – which includes certificates for civil immigration issues³ – 9,412 full certificates were issued in 2000-2001 (not including opinion certificates). Civil certificates accounted for 28 percent of all legal aid certificates. Of these certificates, 8,033 were concluded.

Of the 9,412 civil certificates issued in 2000-2001, 293 new certificates were for a civil immigration matter. Accordingly, civil immigration certificates accounted for 3 percent of all civil certificates in 2000-2001, and 0.9 percent of all legal aid certificates. The number of new certificates is not an accurate gauge of the number of immigration and refugee law cases being handled by legal aid in a given fiscal year because there are ongoing cases initiated in previous years. In addition, the length of many cases in the immigration and refugee law area means that more certificates may be concluded than issued in a given fiscal year.

CIVIL IMMIGRATION CERTIFICATES ISSUED AND CONCLUDED				
Case Type	1999-2000 Civil Certificates		2000-2001 Civil Certificates	
	Issued	Concluded	Issued	Concluded
Immigration (civil)	330	337	293	316

Source: Legal Aid Society of Alberta 2000-2001 Annual Report.

Note: Data has been received on the number of certificates issued and paid in Alberta in the 2000-2001 fiscal year. Due to the coding system used in this province, the data has not been sorted by category.

IMMIGRATION CERTIFICATES BY LEGAL ISSUE (WHERE AVAILABLE), 2001-2002		
Immigration/Refugee Law Issue	Number of Legal Opinions	Number of Applicants Granted Coverage
Inland Claims – Eligibility Determinations	44	35
Danger Opinions	1	7
Federal Court – s. 46.01 Danger to the Public (at claim)	3	1
Supreme Court Appeals	0	0

Source: Data collection charts for Alberta.

Private bar lawyers handled all of the cases listed in the above table.

One LAS respondent noted that the availability of separate caseload data for immigration and refugee law stages or issues depends on whether an individual data code has been developed for cases in that area. The range of individual codes is reviewed every two to three years, and any legal area in which there is a significant number of cases may be assigned a separate code at that time. In the immigration and refugee law area, the four areas listed above are, at present, the only legal issues for which data is collected separately. However, the respondent did note that the numbers of Convention Refugee Determination cases and Humanitarian and Compassionate cases are increasing, and that data may be collected separately in these areas in the future. This may also lead to some information being collected on Post-Determination Refugee Claimants in

³ Civil certificate matters include access, administrative tribunal, bankruptcy, child welfare, civil appeals, damage action, dependent adult, divorce, immigration (civil), maintenance, matrimonial property, other civil matters, personal property action, real property action, restraining order, review panel, wills and estates (Legal Aid Society 2001 Annual Report).

Canada Class and Judicial Review cases. Since they are all remedies available to refugee claimants who have been denied status, Judicial Review, Humanitarian and Compassionate applications, and Post-Determination applications are often dealt with simultaneously. In these circumstances, the respondent noted that Humanitarian and Compassionate and Post-Determination coverage tends to be attached to a certificate issued for Judicial Review.

Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Territoriality. According to the Immigrant Services Co-ordinator, private bar immigration and refugee lawyers were initially not open to the involvement of an LAS paralegal in their cases. While some lawyers did provide support and co-operation from the outset, with others there has been a period of adjustment. The co-ordinator suggested that some lawyers still do not recognize the value of the services available through the pilot project, and, in particular, the positive repercussions these services have in terms of supporting the work of lawyers and limiting the amount of preparation time they need to spend with clients.

Success Stories

Immigrant Services Co-ordinator Position. According to the current Immigrant Services Co-ordinator, the establishment of this new position has resulted in better service for legal aid clients. The co-ordinator's involvement in the provision of advice helps to inform clients about legal rights and processes, and generally assists in ensuring that they are prepared with all relevant documentation and information before seeing a lawyer. In addition, the co-ordinator has taken on an important role within the broader community serving refugees and immigrants by participating in networking activities, sharing materials, and co-ordinating initiatives with other organizations. For example, the Immigrant Services Co-ordinator and other agencies are currently exploring options for the establishment of a pilot project that will provide 24-hour assistance to refugees and immigrants facing immediate problems.

Coverage Areas. In the view of one LAS staff member, the coverage available for immigration and refugee law matters in Alberta is fairly comprehensive. The use of private bar lawyers to provide legal opinions on merit leaves room for legal aid coverage to be approved for a wide range of cases. In addition, the private bar lawyers on which legal aid relies have a great deal of expertise in the immigration and refugee law area. To the extent that this expertise ensures that their decisions about merit are valid, the respondent believed that the majority of deserving clients will, in fact, receive legal aid coverage. Overall, the respondent suggested that this system provides for effective legal aid coverage in immigration and refugee law matters.



Saskatchewan

Structure of Legal Aid

Delivery of Services

Legal aid in Saskatchewan is administered by the Legal Aid Commission (LAC). Staff lawyers, along with legal assistants and support staff, deliver the majority of legal aid services. Private bar lawyers may be used where it is determined that private representation would better serve the client.

Eligibility for Legal Aid

Eligibility for legal aid is determined on the basis of three criteria: financial, range of services, and professional merit. Both eligibility officers (non-lawyers) and legal aid staff lawyers are responsible for making eligibility determinations.

Applicants are financially eligible for legal aid if they are receiving social assistance (from the province or the Department of Indian and Northern Affairs), or if their financial resources are equal to or less than what they would be if they were receiving social assistance. Eligibility is also automatic if obtaining private legal representation would reduce an applicant's financial resources to a level at which he or she would qualify for social assistance. Applicants who are not receiving social assistance may be asked to contribute to the cost of their legal representation.

The criterion of range of services pertains to whether or not the legal issue in question is one for which legal aid provides coverage. For example, there is no formal coverage for poverty law or immigration and refugee law issues in Saskatchewan, so applicants with legal issues in these areas would not be considered eligible for legal aid.

With respect to evaluating the professional merit of an applicant's case, some or all of the following factors may be considered:

- i) Whether it is a case that a reasonable person of modest means would commence or defend;
- ii) Whether the legal costs are reasonable compared to relief sought;
- iii) The seriousness of the legal or economic outcomes;
- iv) The potential benefits to the client;
- v) Whether there is a possible defense to the charge;
- vi) Whether there is a reasonable likelihood of success;
- vii) Whether the client has been co-operative (keeping appointments, keeping in touch with the legal aid office after a move, etc.); and
- viii) Whether the client has accepted reasonable professional advice from his or her assigned lawyer.

Evaluation of professional merit continues throughout a case. In other words, consideration is given to some or all of the factors listed above as long as the client is receiving representation

through legal aid. Staff lawyers are the only persons responsible for making decisions about professional merit. Legal aid applicants who initially meet with an eligibility officer may be accepted on the basis of financial and range of service criteria, with merit to be addressed when the client subsequently meets with a lawyer.

Coverage of Immigration and Refugee Law Issues

Saskatchewan does not provide any formal legal aid coverage for immigration and refugee law matters. In addition, a legal aid representative noted that there is no coverage available on an ad hoc or discretionary basis through the legal aid system. If a client who is eligible for legal aid services in criminal law will be facing deportation if convicted of an offence, the lawyer will investigate the options and risks for the accused as part of the representation of the client in order that a client has accurate information on which to base decisions on dealing with charges. Since legal aid in Saskatchewan does cover criminal law, there are some requests for assistance in these circumstances. Since this kind of coverage is not technically a part of the services provided by legal aid, no data is collected on such cases.

According to the LAC respondent, there is not a great demand for legal aid coverage for immigration and refugee law matters in Saskatchewan, given that the province is not a point of first entry into Canada. Even if legal aid coverage were extended into the immigration and refugee law area, it is unlikely that there would be a great number of cases annually.

At the time of the interview, the LAC representative did not know of any community organizations involved in providing services to the refugee and immigrant community, whether of a legal or settlement nature. Accordingly, no suggestions were forthcoming about the strengths or weaknesses of the current “system” for delivering services to refugees and immigrants – essentially, the respondent did not consider there to be any “system.” However, it was acknowledged that there likely are some organizations in Saskatchewan that do provide assistance in immigration and refugee matters.

Manitoba

Structure of Legal Aid

Delivery of Services

In Manitoba, the Legal Aid Services Society (LASS) is responsible for delivering legal aid services to provincial residents through a mixed staff lawyer and private bar lawyer (judicare) model. Both staff and private bar lawyers operate on a certificate basis, and clients are permitted to choose representation from either source. In the immigration and refugee law area, private bar lawyers now provide all legal representation, as staff lawyer services in this area were terminated one year ago.

If a legal aid client does not choose a lawyer, one is appointed by the legal aid area director. Area directors are also responsible for reviewing applications, assessing partial payments, and



issuing legal aid certificates. In addition to certificate-based representation, staff lawyers and paralegals provide informal legal advice and information, particularly in the area of poverty law.

Eligibility for Legal Aid

For certificate cases, eligibility is determined according to financial and merit criteria. There are no eligibility requirements for informal drop-in services.

Financial eligibility guidelines consider family income and household size in the development of income thresholds. However, persons earning more than the guidelines may still be eligible for legal aid based on consideration of other factors. For example, legal aid may extend coverage to persons with income in excess of the financial eligibility guidelines on a deferred repayment basis.

Applicants are eligible for legal aid in one of three ways: without having to pay anything (fully eligible); having to pay an agreed upon amount covering part of the legal aid costs (agreement to pay); or having to pay the full cost of the case and a program fee (expanded eligibility). Some expenses – such as maintenance or child care – are deducted from income. Assets are also considered in the assessment of financial eligibility.

Family Size	Fully Eligible (annual gross)	Agreement to Pay (annual gross)	Expanded Eligibility (annual gross)
1	\$14,000	\$16,000	\$23,000
2	\$18,000	\$20,000	\$27,000
3	\$23,000	\$25,000	\$31,000
4	\$27,000	\$29,000	\$34,000
5	\$31,000	\$33,000	\$37,000
6	\$34,000	\$36,000	\$40,000
More than 6	\$37,000	\$39,000	\$43,000

Source: Legal Aid Manitoba Web site (www.legalaid.mb.ca).

Legal Aid Manitoba notes that the figures in the above table are guidelines only. Each case is considered individually and, in general, legal aid is guided by the goal of providing access to affordable legal services to the working poor.

Since 1997, there is a \$25 processing fee charged to legal aid clients. Several classes of applicants are not required to pay this fee – most notably, social assistance recipients. LASS staff also have the discretion to extend legal representation on a “certificate equivalent” basis if they believe that a client would be eligible for legal aid but do not want this person to have to submit a complete application and incur the processing fee. In 2000-2001, there were 4,753 certificate equivalent cases in Manitoba.

Types of Service Provided in Immigration and Refugee Law Issues

The following table describes the types of services available for immigration and refugee law issues in Manitoba.

Type of Service	Provision of this Service
General advice or assistance	Yes, but only to a limited degree through drop-in consultations of 15 to 30 minutes.
Legal advice or assistance	Yes, but only to a limited degree through legal opinions provided by private bar lawyers.
Legal Representation	Yes. Private bar lawyers provide all legal representation in immigration and refugee law cases.
Duty Counsel Representation	No. Very limited assistance may be available through criminal duty counsel.
Public Legal Education	No. Public legal education is provided through the Community Legal Education Association (CLEA). ⁴
Translation or Language Assistance	No. Clients are referred to the Manitoba Interfaith Immigration Council. ⁵

Advice

Legal aid offers a drop-in service (15–30 minute consultations) through which persons can get very limited basic advice and information on a variety of matters, including immigration and refugee law. Staff lawyers and supervised paralegals are involved in providing this service. In addition to providing information, persons may be referred to other community organizations serving refugees and immigrants, most notably the Manitoba Interfaith Immigration Council in Winnipeg.

Once legal aid has provided clients with basic assistance, they may be referred to a private bar lawyer for a legal opinion. Through this more comprehensive consultation, clients may be given legal advice about their particular case, and what their rights and options are. It is on the basis of a legal opinion that decisions about legal aid coverage are made.

Legal Representation

As noted above, private bar lawyers provide all legal representation for immigration and refugee law cases. Staff lawyers were previously involved in this area, but service was discontinued approximately one year ago. The data included below for cases handled by legal aid staff

⁴ The Community Legal Education Association is a non-profit organization that provides provincial residents with information about the law through several services, including a speakers' bureau, workshops and classes, community legal intermediary training, a law phone in line, and a lawyer referral service. The purpose of the agency is to "educate the general public with respect to the legal system, with the betterment of Manitobans as its ultimate goal, and to increase the ability of individuals (primarily those perceived to have the greatest need) to deal competently with legal issues."

⁵ The Manitoba Interfaith Immigration Council is a voluntary association of faith communities and individuals who welcome and extend hospitality to refugees and immigrants in Manitoba. The services offered by the Council include paralegal assistance for refugee claimants, assistance with family sponsorships, information and advice for refugees overseas, and a complete range of services (reception, settlement) to government- and privately sponsored refugees. Legal Aid Manitoba has a close relationship with the Manitoba Interfaith Immigration Council. When legal aid has been granted to refugee claimants, they are referred to Council staff, who are responsible for the completion of Personal Information Forms. According to legal aid respondents, funding is provided by legal aid to Council staff for this work.



lawyers covers only those cases that are still ongoing since the termination of the staff lawyer service in the immigration and refugee law area.

There are no duty counsel services explicitly directed towards the immigration and refugee law area. If a person has been arrested and is facing a criminal charge, they may receive some limited assistance through the criminal duty counsel program.

Public Legal Education

Legal aid does not offer any public legal education in the area of immigration and refugee law. However, the LASS respondent noted that there is a great deal of information and educational material available through the Community Legal Education Association (CLEA), so applicants are often referred to this organization for assistance. CLEA also runs the lawyer referral service for Manitoba.

Coverage of Immigration and Refugee Law Issues

Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No.
	Eligibility Determinations	No.
Inland Claims	S. 27 Inland Violations of the Act	Coverage is provided if there is a criminal charge that may affect the status of the immigration/refugee claim. Coverage is not provided in instances where there is no accompanying criminal charge.
	Eligibility Determinations	No.
Convention Refugee Determination Division	Personal information form preparation	Yes. The Manitoba Interfaith Immigration Council completes these forms, with the costs being covered by legal aid.
	Determination Hearings (preparation and attendance)	Yes.
	Other Hearings (preparation and attendance)	Yes.
Immigration Appeals Division	Appeals	Yes.
Adjudication	Immigration Inquiries	Yes.
	Detention Hearings (first and other instances)	Yes.
Humanitarian/Compassionate	Applications	Yes.
PDRCC	Applications	No.
Danger Opinions*	Submissions to the Minister	No.
Federal Court	Judicial Review and Appeals	Yes.
Supreme Court	Appeals	Yes.
Appeals to International Tribunals		No.

* Formerly Appeals to Citizenship and Immigration Minister.

Legal Aid Manitoba classifies immigration matters as either Port of Entry (pertaining specifically to Port of Entry eligibility determinations and other matters in this area) or general Immigration

matters (covering all issues outside of Port of Entry, including refugee cases). The following tables outline the number and cost of the cases handled in these areas by private bar, and the remaining cases being handled by staff lawyers. Also included is information on the characteristics of all immigration and refugee law legal aid clients in Manitoba.

PRIVATE BAR CERTIFICATES FOR LEGAL AID								
Fiscal Year	Certificates Issued		Certificates Paid		Total Cost		Cost per Case	
	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>
2001-2002	126	-	75	-	\$39,864	-	\$532	-
2000-2001	75	-	115	-	\$65,298	-	\$568	-
1999-2000	87	-	63	1	\$45,118	\$472*	\$716	\$472
1998-1999	69	-	98	1	\$58,512	\$102*	\$597	\$102

POE = Port of Entry

* Since there is only one Port of Entry case in each of 1999-2000 and 1998-1999, these cost figures reflect the cost of only the single case in each year. As such, the Total Cost and the Cost per Case figures are the same.

Source: Data collection charts for Manitoba.

STAFF LAWYER IMMIGRATION AND REFUGEE SERVICES								
Fiscal Year	Certificates Issued		Certificates Closed		Cost		Cost per Case	
	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>	<i>Imm</i>	<i>POE</i>
2001-2002	0	-	7	1	9,606	624	1,201	624
2000-2001	8	-	22	-	4,497	-	204	-
1999-2000	22	-	46	-	17,867	-	388	-
1998-1999	28	-	22	-	21,118	-	960	-

Source: Data collection charts for Manitoba.

IMMIGRATION LEGAL AID CLIENT CHARACTERISTICS								
Fiscal Year	Sex		Age					
	<i>Women</i>	<i>Men</i>	Under 18		18-35		36 and Over	
			<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>
2001-2002	37*	79	1	1	21	48	14	30
2000-2001	18	60*	-	-	11	31	7	28
1999-2000	30*	78*	3	-	16	43	8	33
1998-1999	23	70*	-	-	13	39	10	30

* The numbers in these boxes do not correspond to the total number of women and men listed in the three age categories presented in this table. The reason for these small discrepancies is unknown.

Source: Data collection charts for Manitoba.



Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Low Tariff Levels. A key problem area in Manitoba is the low tariff levels for immigration and refugee law work: the hourly rate paid by legal aid to private bar lawyers in this province is the lowest in Canada. As a result, it is difficult to find lawyers who are willing to do legal aid work, whether in immigration and refugee law or other areas. This lack of private bar lawyer interest does not directly limit the number of certificates that are issued for immigration and refugee law (or other) matters: provided that clients meet eligibility criteria, a certificate for coverage will be issued. However, a respondent from legal aid in Manitoba noted that finding a private bar lawyer to take on a case can sometimes require “arm-twisting” on the part of staff, and that the lack of lawyers can result in delays in the processing of a case.

Inconsistent Approach to Service Delivery. The LASS respondent noted that the approach to legal aid service delivery in Manitoba is inconsistent, in the sense that two people in the same situation may not receive the same degree of assistance. This raises questions about the equitability of legal aid, as well as the regional distribution of services (e.g., whether more services are available in urban centres than rural regions).

Success Stories

Liaison with Manitoba Interfaith Immigration Council. Although the LASS representative did not feel that there is a great deal that is working well in the current system of delivering legal aid to refugees and immigrants, one positive area is the liaison between legal aid and the Interfaith Immigration Council around the preparation of Personal Information Forms. Not only is the collaboration functioning well, but it was suggested that the forms are actually better prepared by Council staff than when staff or private bar legal aid lawyers are responsible for their completion.

Ontario

Structure of Legal Aid

Delivery of Services

In April 1999, Legal Aid Ontario (LAO) replaced the Law Society of Upper Canada as the administrator of legal aid. Legal aid services are delivered through a network of area offices, private bar lawyers, and community legal clinics. Both private bar lawyers and staff lawyers at area offices (including the Family Law Office and the Refugee Law Office) operate on a certificate basis. Private bar lawyers provide the majority of legal representation in general, and the majority of such work in the immigration and refugee law area in particular.

Ontario has 71 community legal clinics (CLCs) located throughout the province that are specifically designed to address the unique legal needs of low-income people. Accordingly, these clinics deliver the vast majority of poverty law services (including in social assistance,

housing, employment insurance, Canada Pension Plan, employment, workers’ compensation, and human rights cases), but many also provide services in immigration and refugee law issues. As per the recommendations of the 1997 McCamus Legal Aid review, the clinic network is being expanded towards the goal of ensuring that every region of the province has access to these services. Clinics employ staff lawyers and community legal workers to deliver services to low-income Ontarians. Some clinics are affiliated with law schools and rely on students assisting in the provision of services as part of their course work.

Although clinics are funded by legal aid, they are governed by independent, community-based boards. Each board is responsible for deciding the priorities and service areas for its particular clinic – a system that yields some unevenness in coverage across the province. In the Greater Toronto Area, most clinics have recognized the need for immigration and refugee law coverage due to the large refugee and immigrant population.

Each clinic serves a particular geographic area. Clinics generally assist only clients from within their area, although a client from another location may be taken on if there is an opportunity for an interesting test case, or in other unusual circumstances. The exceptions to this system are the fifteen specialty clinics that deal with the laws affecting particular groups of people (e.g., the disabled, the elderly). Specialty clinics serve all members of their particular client group, as well as acting as a resource to other clinics, private bar lawyers, community agencies, and others.

Eligibility for Legal Aid

Eligibility for legal aid is determined on the basis of financial assessment and merit testing. Legal aid applicants are required to undergo a financial assessment, which includes an asset test and an income test. In most cases, clients receiving social assistance or with similarly low incomes are eligible for legal aid, subject to asset limitations.

The income test considers all sources of income for the applicant and spouse, any dependent children, common-law partner, or same-sex partner. “Income” would include workers’ compensation, employment income, employment insurance, pensions, social assistance, commissions, self-employed earnings, child tax benefits, and rental income. In determining net income, payroll deductions, day care, and child support payments can be used against gross income. In evaluating expenses, all necessary household expenditures are included: food, clothing, transportation, telephone, cable service, debts, and personal expenses. A basic allowance – or flat rate of money for an applicant, based on family size and type of shelter – is determined on this basis. Some other expenses may be allowed if legal aid determines that they are necessary for health or well-being.

All liquid assets are considered when assessing eligibility. However, assets valued to predetermined amount are not counted in the assessment of assets and liabilities.

Family Size	Allowable Assets
1	\$1,000
2	\$1,500
3+	\$2,000

Source: Legal Aid Ontario Web site – *Getting Legal Help*.



In the immigration and refugee law area, applicants are interviewed to determine their financial eligibility. During this process they may be asked questions about the nature of their refugee claim to help determine whether there is a basis for their request for assistance.

In Ontario, priority is given to refugee claims because of the significance of the outcome to the individual and the difference that a lawyer is likely to make to the outcome. The merit screening process that is applied to refugee cases is in accordance with guidelines developed with the refugee bar – Legal Aid Ontario does not determine a claimant’s credibility. Information on merit is collected through standard questions during an interview with an area office. This information is passed on to an individual who specializes in making eligibility determinations. Opinion certificates for staff lawyers at the Refugee Law Office (RLO) or private bar lawyers may also be issued to assist in making decisions about merit. Refugee claims are not covered by legal aid in cases where family sponsorship is a realistic alternative.

For refugees from countries with high acceptance rates, there is a more limited merit testing process. In these circumstances, area offices have been instructed to ask a claimant some basic questions to ensure that there is a reasonable basis for the refugee claim. If the answers to these preliminary questions are satisfactory, the matter is not referred to the specialized person for a detailed merit assessment.

Types of Service Provided in Immigration and Refugee Law Issues

The following table describes the types of services available for immigration and refugee law matters in Ontario.

Type of Service	Provision of this Service
General advice or assistance	Yes. Advice is provided mostly through Community Legal Clinics (CLCs), although some advice is also delivered to refugee claimants by Refugee Law Office (RLO) staff.
Legal advice or assistance	Yes. Advice is primarily provided by CLCs and, in some cases, the RLO. This may include advice on legal rights and processes or efforts to access a person's immigration file through Citizenship and Immigration Canada.
Legal Representation	Yes. Cases are handled on a certificate basis through area offices and the Refugee Law Office (RLO), and on a non-certificate basis through CLCs.
Duty Counsel Representation	There is no formal duty counsel program for immigration and refugee law matters in Ontario. However, RLO staff lawyers do provide some informal services in the Greater Toronto Area.
Public Legal Education	Yes. PLE is provided mostly through the CLCs and Community Legal Education Ontario (CLEO).
Translation or Language Assistance	Yes. Translation and/or interpretation services are offered as a disbursement item. The RLO has multilingual staff to provide services in a number of languages.

Advice

As with other areas of legal aid service provision, the majority of advice on immigration and refugee law issues is provided through CLCs, with some persons also going to the RLO for advice on refugee claims. The LAO representative noted that the provision of general advice is not a big component of legal aid services outside of the CLCs in the immigration and refugee

law area. The majority of people come to an area office to obtain a certificate – once they have a certificate they can get advice from their lawyer.

CLCs provide two kinds of advice service: (i) summary advice, including a phone call, referral, or brief interview; and (ii) assisted client self-help or brief services, including summary substantive legal advice, information about procedures, accessing federal immigration files, and assistance with the drafting and filing of letters and forms. Within the CLC context, the volume of advice cases is significant. A representative of Parkdale Community Legal Services⁶ noted that, of the approximately 150 ongoing cases in the immigration and refugee law area, 60 to 70 are brief service cases. In addition, the clinic gets five to six new intake cases each day on immigration and refugee law issues.

Advice is also provided by staff at the Refugee Law Office (RLO). Located in Toronto, the RLO employs four staff lawyers (one part-time), three paralegals and two support staff. RLO staff lawyers and paralegals primarily provide advice through two channels. First, when people who apply for legal aid do not have a lawyer they tend to be referred to the RLO. According to an RLO respondent, many of these cases end up being resolved through the provision of only advice. Second, the RLO fields many calls for general information and/or advice on a specific client case from community agencies serving refugees and immigrants. RLO staff also provide advice on a drop-in basis, but respondents indicated that this is a small percentage of their work.

Legal Representation

Private bar lawyers handle the majority of immigration and refugee law cases on a tariff basis. However, staff lawyers at the RLO and staff lawyers and community legal workers at the CLCs also provide legal representation. According to a representative of the RLO, the majority of refugee claimants apply through this office.

Legal aid applicants are entitled to the lawyer of their choice and requests for particular private bar lawyers are respected. However, if they do not have or know of any particular private bar lawyers, clients are directed to the RLO. One respondent suggested that clients are initially funneled towards the RLO in an attempt to ensure that this office maintains a sufficient caseload. It is more difficult for the RLO to develop its caseload because, with only one office, staff lawyers do not benefit from the connections that develop within particular neighbourhoods and immigrant/refugee communities located in other parts of the Greater Toronto Area and/or the province. The bulk of the certificate cases (estimated at 90 percent) handled by the RLO are in the area of Convention Refugee determination, with approximately 5 to 10 percent of these cases not moving past the opinion stage. The next largest category of certificate cases handled by the RLO is Federal Court judicial reviews.

Paralegals also play a role in the provision of legal representation in immigration and refugee cases. Private bar lawyers may hire paralegals to assist in certificate cases, with the associated expenses covered under a specific legal aid tariff item. As noted above, three paralegals are

⁶ Respondents suggested that Parkdale Community Legal Services would be a good CLC to contact for this project, on the basis that it handles more immigration and refugee cases than many of the other clinics in the Greater Toronto Area.



employed at the RLO and are largely involved in case file preparation, client interviews, and research on refugee source countries. However, paralegals also undertake activities such as the preparation of draft Personal Information Forms for Convention Refugee claimants, representation in expedited Convention Refugee hearings, and representation for Detention Reviews on a non-certificate basis.

Both private bar and staff lawyers provide legal aid coverage for the same range of immigration and refugee law issues. However, the fact that staff lawyer case activity at the RLO is recorded on the same basis as lawyers on certificates, means that their work is tied to established time and remuneration limits of the tariff structure. The legal representation provided through CLCs is not undertaken on a certificate basis, so the overall approach to cases is slightly different. For Parkdale Community Legal Services, it was reported that immigration and refugee cases tend to last longer (frequently over a year) than many other cases in other areas of law. As a result, there is less case turnover on the immigration and refugee front.

There is currently no legal aid duty counsel function in the immigration and refugee law area in Ontario. LAO formerly offered a duty counsel-like service for detention reviews, a function that is now covered on a somewhat informal basis by the RLO. According to an RLO representative, the detention review service is a cross between the functions of duty counsel and staff lawyers. It is similar to duty counsel in that it does not operate on a certificate basis, with the complete financial and merit testing process used in other contexts. However, there is more continuity in this service than with typical duty counsel service, because cases remain with RLO staff for a longer time. Also, detainees are usually interviewed prior to the actual review, so this service is not like criminal duty counsel where lawyers simply show up at court to deal with the cases of the day. RLO staff learn about persons facing detention review informally through contacts with non-governmental and community organizations, private bar lawyers, prison chaplains, and from direct client contacts (detainees often learn about this service from other detainees).

Since there is only one RLO, located in Toronto, the detention review service is not available in the rest of the province. According to two respondents, the geographical limitations of this service increasingly present problems for two reasons. First, it is expected that new attitudes and legislative changes post-September 11th will yield more detentions among the refugee population. Second, provincial immigration authorities are increasingly sending refugee detainees out of Toronto, due to a lack of institutional resources within the city. For the RLO, meeting the needs of detainees outside of the city is difficult, yet a legal aid respondent noted that other parts of the province may not have sufficient private bar lawyers with immigration and refugee expertise to undertake this work. In response to this issue, there has been some discussion of the possibility of expanding the RLO model to other jurisdictions.

Public Legal Education

The LAO representative noted that the bulk of the public legal education work done through legal aid is carried out by CLCs and Community Legal Education Ontario (CLEO).

Since CLCs are the resource through which legal aid applicants and clients can receive summary advice and/or brief services, they are also where self-help and other literature is distributed to

individuals and groups. Clinics are also involved in hosting outreach and educational events in the community, often in co-operation with other organizations serving refugees and immigrants. CLCs also participate in training events for front-line and advocacy workers, and community resource events that bring together a wide variety of service delivery organizations.

CLEO is a CLC that specializes in public legal education. CLEO's staff includes lawyers, editors, support staff, and a part-time librarian. Most of the publications produced through CLEO are targeted to people with low incomes and other disadvantaged groups, but they are also used by CLCs and community organizations. The goal of most materials is to describe the law as simply and clearly as possible to help people understand and exercise their legal rights. The majority of materials are booklets, fact sheets, pamphlets and manuals on topics such as social assistance, landlord/tenant law, immigration and refugee law, workers' rights, family law, elder abuse, consumer rights, women's issues, and law affecting young people. Most publications are available in French, and some are also available in other languages. Many can also be accessed online through the CLEO Web site.

The RLO provides some public legal education, particularly with organizations serving refugees and immigrants in the community. Although this is more limited than what is available through the CLCs, the RLO respondent noted that it is an area in which the office hopes to expand its services in coming years.

Translation/Language Assistance

LAO provides translation and interpretation as a disbursement item for immigration and refugee cases. These services are available for both interviews with clients and for the interpretation of documents. The LAO representative noted that translation and interpretation is a significant expenditure for legal aid.

The RLO attempts to hire people with skills in different languages to assist in the processing and completion of the refugee claims that it handles.



Coverage of Immigration and Refugee Law Issues

Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No
	Eligibility determinations	See explanation below.
Inland Claims	S. 27 Inland Violations of the Act	No
	Eligibility Determinations	See explanation below.
Convention Refugee Determination Division	Personal information form preparation	Yes
	Determination Hearings (preparation and attendance)	Yes
	Other Hearings (preparation and attendance)	Yes
Immigration Appeals Division	Appeals	Yes. Coverage in this area is discretionary.
Adjudication	Immigration Inquiries	No
	Detention Hearings (first and other instances)	Yes
Humanitarian/Compassionate	Applications	Yes. Coverage in this area is discretionary (according to what the grounds are for the application).
PDRCC	Applications	No
Danger Opinions*	Submissions to the Minister	Yes
Federal Court	Judicial Review and Appeals	Yes
Supreme Court	Appeals	Yes
Appeals to International Tribunals		Possibly. The work involved in making a submission has been covered in the past, but expenses associated with attending have not been covered. LAO may consider an issue in this area as a test case.

* Formerly Appeals to Citizenship and Immigration Minister.

Availability of Legal Aid for Eligibility Determinations

According to a representative of LAO, legal aid coverage is technically available for decisions about eligibility (e.g., Port of Entry and Inland Claims determinations), but this coverage is seldom actually used, since the vast majority of refugees and immigrants are found to be eligible. At present, the rare instances in which legal aid is provided include when LAO is (in some manner) made aware of the fact that an immigrant/refugee is likely to be found ineligible, or if there are significant questions around criminality. The LAO respondent noted that the issue of eligibility may become more significant under new, post-September 11th legislation. If more restrictive eligibility requirements result in a greater number of people being found ineligible, legal aid may have to consider extending coverage to include this area.

The following data was provided by legal aid representatives on the services provided in the immigration and refugee law area for the last three fiscal years.

NUMBER AND PROPORTION OF IMMIGRATION AND REFUGEE LAW CERTIFICATES			
Fiscal Year	Total Number of Certificates Issued	Immigration/Refugee Certificates Issued	
		<i>Number of Certificates</i>	<i>Percent of all Certificates</i>
2000-2001	–	11,464	–
1999-2000	107,544	8,727*	8
1998-1999	102,147	7,075	7

* This number is reported as listed in the data collection charts for Ontario, and as 8,731 in the Legal Aid Ontario 2000-2001 Annual Report. The reason for this discrepancy is unknown.

Sources: Data collection charts for Ontario and Legal Aid Ontario 2000-2001 Annual Report.

While overall data on the number of certificates issues is not yet available for the 2000-2001 fiscal year, the above table demonstrates that, in previous years, immigration and refugee law constituted a small percentage of all legal aid certificate cases in Ontario. The table below indicates that Convention Refugee Determination (CRDD) cases constitute by far the largest component of legal aid work on immigration and refugee law matters. This data also suggests that the number of CRDD cases has increased over the last three years, as has the proportion of the legal aid certificate caseload that they comprise.

REFUGEE LAW CERTIFICATES VERSUS IMMIGRATION LAW CERTIFICATES				
Fiscal Year	Convention Refugee Determination Certificates		Other Immigration Certificates*	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent</i>
Apr. 1 2001 – Jan. 31 2002	10,653	94	699	6
2000-2001	10,522	92	942	8
1999-2000	7,874	90	853	10

* This category includes Adjudication Division cases, Humanitarian and Compassionate applications, and Immigration Appeals Division cases.

Source: Data collection charts for Ontario.

Within the “Other Immigration Certificates” category, the only legal issue for which separate data was provided is Detention Review. The category of “Other Immigration Certificates” does not include Federal Court Judicial Review or Appeal cases or Supreme Court Appeal cases. The number of cases covered in these areas is tracked separately across all legal issue areas covered by Legal Aid Ontario. There is no separate recording of Federal Court or Supreme Court cases in the immigration and refugee law area.

NUMBER OF DETENTION REVIEW CERTIFICATES	
Fiscal Year	Number of Detention Review Certificates
2001-2002	129
2000-2001	177
1999-2000	190

Source: Data collection charts for Ontario.

With respect to the legal representation provided by CLCs, the table below summarizes the range of immigration and refugee law services provided by the 27 clinics in the Greater Toronto Area – the area with the greatest concentration of immigration and refugee work in the CLC context.



COMMUNITY LEGAL CLINIC SERVICES FOR IMMIGRATION AND REFUGEE LAW CASES IN THE GREATER TORONTO AREA, 2000-2001

Immigration and Refugee Law Issue	Number and Percentage of Clinics Offering this Type of Service							
	No Services		Summary Advice and Brief Services only		Summary Advice and Legal Representation		Full Services (including Federal Court)	
	<i>Number (total=27)</i>	<i>Percent</i>	<i>Number (total=27)</i>	<i>Percent</i>	<i>Number (total=27)</i>	<i>Percent</i>	<i>Number (total=27)</i>	<i>Percent</i>
Refugee Claims	4	15	10	37	2	7	11	41
PDRCC	4	15	6	22	7	26	10	37
Undocumented Refugee Claims*	7	27	4	15	9	35	6	23
Humanitarian and Compassionate	3	11	2	7	9	33	13	48
Immigration Appeals	13	48	2	7	2	7	10	37
Detention	16	59	5	19	4	15	2	7
Domestic	9	33	5	19	6	22	7	26
Sponsorship	6	22	9	33	2	7	10	37
Cracks#	5	19	9	33	10	37	3	11

* The total number of CLCs providing assistance with Undocumented Refugee Claims adds to 26 (instead of 27, as with the other areas of immigration and refugee law listed in this table). According to a respondent, this is the case because the question of whether assistance is provided in undocumented refugee claims is simply not applicable to the range of services offered by one clinic.

“Cracks” refers to other immigration and refugee law services – dealing with processing delays, tracing files, and so on.

Source: Chart provided by CLC representative.

A limited amount of data is available on the cost of immigration and refugee law cases, and this data pertains only to the cost of certificate cases, not cases handled through CLCs on a non-tariff basis. The table below provides the average cost of Convention Refugee Determination certificate cases and Other Immigration certificate cases that have been completed (the case file has been closed) in the last three fiscal years.

AVERAGE COST OF COMPLETED CERTIFICATE CASES		
Fiscal Year	Average Cost of Completed Cases	
	<i>Completed CRDD cases</i>	<i>Completed Other Immigration cases</i>
Apr. 1 2001 – Jan. 31 2002	\$1,034	\$598
2000-2001	\$1,692	\$1,122
1999-2000	\$1,794	\$1,586

Source: Data collection charts for Ontario.

COMPONENTS OF IMMIGRATION AND REFUGEE CERTIFICATE CASE COSTS, 1999-2000			
Certificate Fees	Disbursements	Administration Fees	Total Cost
9,767,000	1,915,000	313,000	11,995,000

Source: Legal Aid Ontario 2000-2001 Annual Report.

Although data on sex and age are collected, these characteristics are not typically reported on by legal aid. Accordingly, the amount of work involved in accessing the information and breaking it down for immigration and refugee law cases proved prohibitive for respondents. However,

data is available on the country of origin of Convention Refugee Determination clients for the last three fiscal years, as recorded in the following table.

CONVENTION REFUGEE DETERMINATION CERTIFICATES BY COUNTRY OF ORIGIN			
Country of Origin	1999-2000	2000-2001	Apr. 1 2001 – Jan. 31 2002
Afghanistan	174	153	107
Albania	206	326	219
Algeria	38	23	8
Argentina	22	149	151
Bangladesh	70	81	78
Bulgaria	119	168	128
Chile	4	4	14
China	901	1,007	1,062
Congo	200	170	213
Cuba	65	75	64
El Salvador	18	33	34
Ethiopia	70	88	106
Ghana	29	36	19
Guatemala	16	23	10
Hungary	404	649	779
India	6	32	23
Iran	250	250	174
Iraq	143	109	126
Lebanon	87	89	71
Mexico	25	144	178
Nicaragua	2	4	7
Nigeria	71	414	334
Pakistan	446	593	431
Romania	34	34	24
Russia	234	229	116
Somalia	280	384	296
Sri Lanka	1042	1,274	1,030
Sudan	144	186	139
Turkey	167	384	638
Ukraine	136	242	119
Former Yugoslavia	102	68	27
Zimbabwe	10	92	897
Other/Non known	2,359	3,009	3,031
TOTAL	7,874	10,522	10,653*

* Total for the 10 months between April 1, 2001 and January 1, 2002.

Source: Data collection charts for Ontario.

Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Case Volume versus Funding Constraints. The number of cases being handled by legal aid in Ontario has grown exponentially over the last several years, placing increased demands on the current legal aid framework. The LAO representative characterized this increase in demand as reaching “crisis proportions,” particularly when viewed against the fact that the legal aid budget for the province is fixed, and may actually be scaled back in coming years. Ongoing efforts to



develop services in the face of the sheer volume of need in the community raise questions about the ability to maintain current service levels, particularly in light of the expectation that the new immigration legislation will create additional pressure by introducing a new level of appeal. Overall, the situation in Ontario has led some people to question whether the current system of providing legal assistance to low-income people is the best approach to service delivery.

Areas of Coverage. All respondents noted that there are always questions and concerns around the range of issues for which legal aid coverage is available, and the unmet needs that exist in areas for which there is no assistance. For example, there is no coverage for Post-Refugee Determination cases, even though there are many instances of cases with merit, and there is little coverage of Humanitarian and Compassionate applications. The LAO respondent noted that increases in case volume, without corresponding increases in funding, have fostered concerns about a possible reduction of the range of issues covered by legal aid. Community organizations serving refugees and immigrants may be trying to fill some of these gaps, but the lack of legal expertise among their staff members is a limiting factor.

The CLC and RLO respondents also noted pressures around coverage, particularly in terms of gaps created by the unevenness of the services available at clinics. When the geographic limitations of CLC service provision are combined with the fact that not all clinics cover the same range of issues, the result is that people in need sometimes fall through the cracks. While many CLCs do try to assist people from outside of their areas (at least through the provision of summary advice), inconsistency in the availability of services is an ongoing problem. A solution proposed by the CLC representative is the creation of a special certificate category for issues that would typically be covered by a clinic, but for which there is no appropriate clinic available. This certificate would permit a client to see a private bar lawyer in their area for up to two hours of legal advice.

Given the constraints on clinics, two particular areas of concern were noted by the RLO representative: the limited options for people whose cases are found to be without merit, if they cannot afford a private bar lawyer; and the lack of availability of advice on immigration law issues.

Role of Community Organizations. Respondents noted that community organizations serving refugees and immigrants have a wealth of experience and knowledge that is very valuable. However, the complexity of immigration and refugee legal issues makes it difficult for these organizations to become involved in the delivery of legal services in this area. Accordingly, respondents had some concerns about the range of work that community organizations are (or will be) expected to take on – particularly in light of concerns about increasing legal aid case volume and the implications of the new immigration legislation, the Immigration and Refugee Protection Act.

Interpretation Services. The CLC respondent noted that there are not enough language resources available to clinics. Hiring staff with multiple language skills is one part of a language strategy, but staff turnover limits the utility of this strategy, particularly for those clinics affiliated with law schools. Family and friends of clients can sometimes offer assistance, but this

is also uneven and not always reliable. The lack of language assistance available in CLCs was characterized as a major concern.

Immigration Consultants. Some respondents expressed concern about immigration consultants, particularly in terms of their knowledge and honesty in dealing with refugees. The perception is that it is far too easy to become a consultant, given that consultants could be in a position to take advantage of the vulnerability of refugees and immigrants. Examples of such behaviour cited by respondents include charging fees that are far too high, providing inaccurate information, or simply failing to complete the work they agreed to do.

Success Stories

Service Delivery Models: The RLO. Respondents noted that the RLO model is working relatively well in terms of meeting the needs of refugees. The use of paralegals with specialized knowledge of refugee issues was noted as an important factor in the effectiveness of this office. However, it was acknowledged that paralegals tend to be rarely employed in private bar lawyer immigration and refugee law work – a fact that an RLO respondent considered to be typically due to cost considerations. This representative noted that it is unlikely that tariff limits provide private bar lawyers with sufficient income to employ full-time paralegals, particularly within a practice focussed exclusively on refugee law. This RLO respondent went on to note that the involvement of specialized paralegals is of increasing value in light of the formalization of rules and regulations in immigration and refugee law. Such staff members can play a key role in helping to ensure that applications are complete and timely.

Community-Based Approach to Legal Aid. According to two respondents, the community-based approach to the provision of legal aid services, reflected in the network of CLCs, is a successful component of the system for delivering legal assistance to low-income people. The clinic staff's flexible approach to service delivery, and the resulting range of assistance available to clients, goes a long way towards ensuring that people receive the help they need. As reflected in data on the large number of people receiving basic assistance and/or advice, this is a very important aspect of CLC work that is not available through other legal aid structures.

In addition to the delivery of a wider range of services, a positive feature of the clinic system is the fact that they are rooted in the communities they serve. Each CLC is governed by an independent board of directors with representation from the community. This ensures that clinics are able to set priorities consistent with local needs and values, to adapt to changing circumstances in their areas, and to provide direction on future services in a manner that suits community members. Because these boards are composed of volunteers, respondents acknowledged that there can be problems in recruiting new members and ensuring continuity within board operations as membership changes. Overall, however, it was acknowledged that the CLC boards are working in the majority of locations.

Clinic Expansion Program. Related to the above comments concerning the effectiveness of the community-based approach to legal aid are respondent's comments that the expansion of the CLC network that is currently under way in Ontario is a positive development. Developing



clinics in regions of the province that previously lacked such structures will clearly improve access to legal assistance for low-income persons and reduce geographic inequalities of service.

Collaboration between Legal Aid Area Offices and CLCs. Other respondents noted that legal aid area offices, in the past, were not always well informed about CLCs and the services they provide. Both Legal Aid Ontario and local offices have done a considerable amount of work in recent years to overcome this obstacle. According to the respondent, the result has been increased opportunities for collaboration and cross-referral.

Merit Testing for Coverage Decisions. Respondents noted that while there is ongoing debate about whether or not merit should be considered in legal aid coverage decisions, merit screening does help to ensure that funds are focussed on cases where there is genuine need. The elimination of merit testing would likely result in an increase in the number of cases granted coverage, which correspondingly would mean a decrease in the amount of time available for each case.

Conversely, the CLC representative noted that there are instances in which clinics take on – and win – cases that have been rejected on merit grounds. From this perspective, merit testing may actually eliminate some cases that do have merit.

Quebec

Structure of Legal Aid

Delivery of Services

In Quebec, the body responsible for administering legal aid is the *Commission des services juridiques* (CSJ). The CSJ appoints the directors of the eleven regional legal aid centres that coordinate the delivery of legal aid services throughout the province. Regional centres establish legal aid offices throughout their assigned areas (there are over 100 offices in 98 cities across Quebec). They also encourage the creation of committees that advise and/or make recommendations to office managers concerning the needs of the economically disadvantaged in their regions. Applications for legal aid assistance are received and processed at both regional centres and the legal aid offices they establish.

Legal aid services are provided through a mixed staff lawyer and private bar lawyer (judicare) model. In most cases, private lawyers are retained if a regional centre lacks sufficient staff, if the case requires a specific area of competence, or if there is a conflict of interest. Both staff and private bar lawyers work on a certificate basis.

Eligibility for Legal Aid

Financial eligibility is determined on the basis of an evaluation of income and assets (including property, debt, and liquid assets). To obtain legal aid assistance at no cost, the income of the applicants and that of relevant family members must not exceed the amounts set out in the following table.

Household Size	Maximum Annual Income
Single person	\$8,870
Adult and one child	\$12,500
Adult and two or more children	\$15,000
Spouses without children	\$12,500
Spouses with one child	\$15,000
Spouses with two or more children	\$17,500

* Reproduced from materials on the *Commission des services juridiques* Web site (www.csj.qc.ca).

Persons receiving “last resort assistance” – social assistance, employment insurance, or workers’ compensation benefits – are automatically eligible for free legal aid services.

Provided that clients meet financial eligibility guidelines, legal aid is automatically available for a range of issues: family matters, youth protection, representation of young offenders, prosecution of a criminal act, and benefit claims related to income support or employment assistance, automobile insurance, employment insurance, or workers’ compensation. Legal aid may be provided for certain summary procedures or administrative recourses if the legal aid office believes that it is necessary to provide the legal service requested. For summary procedures, the criteria considered are: (i) the probability of imprisonment for the accused; and (ii) the loss of means of subsistence; or (iii) the best interests of justice given the exceptional circumstances involved in the case (notably its gravity or complexity).

In addition to the above guidelines, an application for legal aid may be refused if:

- i) the applicant cannot establish the probable existence of a right to receive coverage;
- ii) the case has little chance of succeeding;
- iii) the costs involved would be unreasonable in relation to the possible gain or loss of the applicant;
- iv) it is unlikely that the judgement sought by the applicant could be executed; or
- v) the applicant refuses a reasonable proposal for settlement of the case.

Types of Service Provided in Immigration and Refugee Law Issues

With respect to immigration and refugee law, the CSJ respondent noted that the role of legal aid is to provide legal representation where there is a risk of a violation of rights (for example, physical and psychological health, detention).

The following table describes the types of services available for immigration and refugee law matters in Quebec.



Type of Service	Provision of this Service
General advice or assistance	See comments below.
Legal advice or assistance	Yes. Legal consultation on particular client cases is provided.
Legal Representation	Yes. Private bar lawyers handle the majority of immigration and refugee law cases. There is only one legal aid office in which staff lawyers provide services in immigration and refugee law.
Duty Counsel Representation	No.
Public Legal Education	Yes. Information sessions with community organizations.
Translation or Language Assistance	Yes. Interpretation and translation are available as a disbursement item.

Advice

With respect to the provision of general advice, the respondent from the CSJ suggested that this is not really a component of the legal aid services they deliver. However, a representative of the *Bureau de l'immigration* at *Aide juridique de Montréal* noted that general advice is in fact provided through this office, particularly in terms of providing referrals to other refugee and immigrant serving organizations in the community. The Bureau representative noted in particular that they refer people to *Service d'aide aux réfugiés et immigrants du Montréal Métropolitain* (SARIMM).⁷

Although the mandate of legal aid in the immigration and refugee law area is to provide legal representation in hearings and in court, staff lawyers will consult with clients on their legal issues. Certificates are not issued to private bar lawyers for consultations, and the legal advice provided does not include assistance with the completion of forms or applications other than the personal information form (PIF) required for the Convention Refugee Determination process. According to the CSJ representative, this kind of assistance is not covered because it is administrative in nature, as opposed to being a legal intervention.

Legal Representation

Although legal aid in Quebec is delivered through a mixed staff lawyer/judicare model, private bar lawyers provide the majority of legal services in the area of immigration and refugee law. There is only one legal aid office in the province in which staff lawyers handle immigration and refugee cases: the *Bureau de l'immigration* in Montreal.

Initially established as a pilot project, the *Bureau de l'immigration* was closed as a result of the 1992-93 round of provincial and federal cutbacks, resulting in the elimination of eleven staff lawyer positions. In the absence of staff lawyer services, the private bar was left with what a Bureau representative characterized as a “monopoly” in immigration and refugee law services.

⁷ SARIMM offers both front-line settlement services as well as more specialized assistance (including some legal services). These services are offered through the Refugee Assistance Service, the mandate of which is “to provide social services to refugees and new arrivals throughout the Montréal area.” SARIMM’s primary clients are refugee status claimants, persons with refugee status, temporary residents experiencing serious problems, and persons with precarious status. The organization also provides services to specific user groups through contracts with various government agencies, including the Immigration and Refugee Board and the Quebec Ministry of Immigration (MRCI – *Ministère des Relations avec les citoyens et de l'immigration*). SARIMM is affiliated with the *Côte des Neiges* CLSC.

When private bar lawyers became increasingly reluctant to cover immigration and refugee cases under established legal aid tariffs, the Bureau was reopened and staffed initially with three lawyers, later with five. More budget cuts in 1999 forced the elimination of two staff lawyer positions, and the office has been operating with three lawyers since that time.

Legal aid clients have a right to choice of counsel, and, accordingly, may request the services of a private bar or staff lawyer. If a client does not have a lawyer and does not explicitly request private counsel, they will usually be directed to a staff lawyer.

Paralegals and other professionals do not provide legal representation in legal aid cases in Quebec. Paralegals are primarily involved in assessments of eligibility for legal aid and in the process of assigning cases to private bar lawyers. Occasionally, paralegals may also act as assistants to staff lawyers, but they never provide legal representation.

There is no duty counsel service in the area of immigration and refugee law in Quebec. Duty counsel coverage is provided only for criminal law matters. Respondents did not highlight any crossover between criminal duty counsel and certain immigration and refugee law cases.

Public Legal Education

The CSJ respondent did not describe the provision of public legal educational materials as a large component of the work of legal aid in Quebec. A representative of the *Bureau de l'immigration* noted that the office runs information sessions for community organizations on immigration and refugee law issues, but that it does not distribute educational materials or brochures other than those describing the services of the Bureau.

Translation and Language Assistance

Translation and interpretation are covered by legal aid as a disbursement item up to certain maximums. The CSJ representative noted that while lawyers must obtain authorization for amounts in excess of established limits, these services are never refused.

The Bureau respondent noted that while the office does not offer any language assistance internally, it will cover the cost of translating documents (for example, birth certificates, personal information forms, marriage certificates) as well as some interpretation. Given the expense involved, however, efforts sometimes have to be made to contain costs in this area by limiting the number of translations and/or the duration of interpretation sessions.

Coverage of Immigration and Refugee Law Issues

According to the CSJ representative, the majority of immigration and refugee law cases for which legal aid is provided concern refugee status matters (estimated at 95 percent), principally for Immigration and Refugee Board hearings or detention hearings and reviews.



Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No.
	Eligibility determinations	No. This is an administrative procedure that is handled by the Ministry of Immigration (<i>Ministère des Relations avec les citoyens et de l'immigration – MRCI</i>).
Inland Claims	S. 27 Inland Violations of the Act	Yes.
	Eligibility Determinations	No.
Convention Refugee Determination Division	Personal information form preparation	Yes.
	Determination Hearings (preparation and attendance)	Yes.
	Other Hearings (preparation and attendance)	Yes.
Immigration Appeals Division	Appeals	Yes.
Adjudication	Immigration Inquiries	Yes.
	Detention Hearings (first and other instances)	Yes.
Humanitarian/ Compassionate	Applications	No. This is considered an administrative proceeding and will not be covered by a certificate.
PDRCC	Applications	No. This is considered an administrative proceeding and will not be covered by a certificate.
Danger Opinions*	Submissions to the Minister	No. This is considered an administrative proceeding and will not be covered by a certificate.
Federal Court	Judicial Review and Appeals	Yes.
Supreme Court	Appeals	Yes. The reasonableness of the case and the chance of success are evaluated. These cases are rare.
Appeals to International Tribunals		No.

* Formerly Appeals to Citizenship and Immigration Minister.

No data has been received to date from the Quebec legal aid representative.

Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Private Bar “Monopoly”. In general, legal aid system representation in Quebec is split fairly evenly between staff and private bar lawyers. In the case of immigration and refugee law, however, the private bar handles 90–95 percent of cases. As a result, the private bar enjoys almost complete control over representation in this area and, when problems arise, they are able to use what the CSJ respondent characterized as “pressure tactics” to try to effect changes. This situation is not ideal, for many reasons. The CSJ respondent noted that legal aid staff worry that private bar lawyers will take advantage of their clients. One example cited is that private bar immigration and refugee lawyers may falsely report to their clients that the legal aid tariff does not cover all of the fees incurred for a case, thereby obliging the client to cover the shortfall.

Lack of Staff Lawyers at the Bureau de l'immigration. The representative of the Bureau de l'immigration noted that the office does not have enough staff lawyers to handle all of the requests for assistance that it gets from people across the province. This causes particular problems in the immigration and refugee law area, given the tight deadlines for many aspects of the process – if a client cannot get an appointment with the Bureau in time, the case has to be referred to a private bar lawyer. This further cements the dominance of this group in the immigration and refugee law area.

Success Stories

Comprehensiveness of Legal Aid Coverage. Both the CSJ and the Bureau de l'immigration respondents commented that, generally speaking, the legal aid system for refugees and immigrants is working well. People arriving in Canada have access to legal representation from the beginning to the end of the immigration or refugee process, and legal aid does not receive many complaints about the coverage that is provided.

Nova Scotia

Structure of Legal Aid

Delivery of Services

The Legal Aid Commission (LAC) is responsible for the administration of legal aid in Nova Scotia. Services are delivered through a network of administrative, regional and local offices.

Legal aid is organized on a staff lawyer service delivery model. Private bar lawyers are retained on a fee-for-service basis only in the event of conflict of interest, or in cases where a person facing life imprisonment chooses to be represented by a private bar lawyer (criminal choice of counsel).

Eligibility for Legal Aid

Legal aid legislation in Nova Scotia does not expressly provide coverage of any particular civil issue, and the Act implies broad coverage of most matters.

Merit is the initial criterion for determining legal aid coverage in Nova Scotia. Provided that a case is considered to have merit, monthly income is also a factor in eligibility. Applicants are eligible for legal aid if:

- i) they receive all or part of their income from social assistance;
- ii) their income is equal to or less than what would be received under social assistance; or
- iii) obtaining legal services would reduce their income to the level of eligibility for social assistance, or cause undue financial hardship (although a client contribution may be required in this circumstance).



In addition to merit and income, there are several additional factors that may be addressed in decisions concerning legal aid coverage in Nova Scotia. These include cost, urgency, an applicant's social milieu, the seriousness of legal or economic outcomes, judicial requests for legal services, the area of law, the nature of the case, the exhaustion of other alternatives, and the potential benefit to the individual.

Coverage of Immigration and Refugee Law Issues

There is no formal legal aid coverage for immigration and refugee law issues in Nova Scotia. In addition, a legal aid representative noted that there is no coverage available on an ad hoc or discretionary basis through the legal aid system. Landed immigrants in custody on criminal grounds may receive some legal aid assistance for the criminal law issue, but this is not coverage that is explicitly directed towards the immigration and refugee law area.

The LAC respondent noted that the primary reason for the absence of legal aid for immigration and refugee matters is lack of funding. Some federal government funding was available in this area in the late 1980s – particularly for cases concerning the Convention Refugee Determination process – but the services available in Nova Scotia ended with this funding. At present, the question of funding is wrapped up in questions about jurisdiction and federal versus provincial responsibility for immigration and refugee law legal aid. The respondent's understanding is that the province of Nova Scotia is unwilling to take on responsibility for funding this service, and current federal funding is insufficient to permit coverage of immigration and refugee law issues. Although the federal position is that civil legal aid is funded through the Canada Health and Social Transfer, Nova Scotia maintains that these funds are entirely used up in the provision of health and education services.

In addition to lack of funding, the LAC representative noted that there is little demand for legal aid in immigration and refugee law matters in Nova Scotia. This may be because it is generally known that legal aid does not provide coverage in this area, so requests for assistance are not directed to legal aid offices. However, it is also the case that there are few international arrivals in Nova Scotia.

The respondent was only aware of one established community resource for legal assistance in immigration and refugee law issues – a private bar lawyer who runs a legal clinic in the Halifax area – but no referrals to this clinic are given by legal aid staff. This representative suggested that people simply do not come to legal aid with immigration and refugee law issues because it is well known that there is no coverage in this area. The respondent did note that there probably are other community groups providing assistance to new arrivals to Nova Scotia. Indeed, it was suggested that refugees and immigrants are more likely to go to members of their community for assistance than to legal aid. At best, however, available services are essentially a “stop gap measure,” particularly since community groups do not have the legal expertise necessary to assist refugees and immigrants with legal questions and processes. Accordingly, legal aid respondents did not consider there to be an established “system” in place in Nova Scotia to handle matters of immigrant and refugee law.

New Brunswick

Structure of Legal Aid

Delivery of Services

Legal aid in New Brunswick is administered by the Legal Aid Committee (LAC), which is composed of members of the Law Society of New Brunswick. Administrative offices in each of the eight regions of the province are responsible for preparing lists of lawyers to serve on legal aid panels and for appointing duty counsel. Private bar lawyers provide all legal aid representation.

The Law Society of New Brunswick is responsible for appointing Area committees of at least six persons: three from the Society and three from the community. These committees act as appeal committees in cases where legal aid certificates have been refused, as well as determining whether certificates will be issued for cases involving Appeal Courts. If a certificate is denied for an appeal court case, the applicant may make a final appeal to the provincial Director of legal aid.

Eligibility for Legal Aid

Legal aid applicants are subject to a financial means test that considers all financial circumstances. The criteria for the means test are flexible, but may include assets, income, and the expenses of the applicant, spouse, and any dependent children.

Coverage of Immigration and Refugee Law Issues

New Brunswick does not provide any formal legal aid coverage for immigration and refugee law issues. In addition, a legal aid representative noted that there is no coverage available on an ad hoc or discretionary basis through the legal aid system.

An LAC respondent noted that there is very little demand for services in the area of immigration and refugee law in New Brunswick. –Legal Aid New Brunswick rarely receives requests for such services and does not receive complaints about the lack of available assistance. This very limited demand is likely because New Brunswick is not a permanent destination for refugees and immigrants, but rather a “stopping spot” on the way to Montreal, Toronto or Vancouver.

This LAC respondent was not familiar with other organizations in the province that provide services to refugees and immigrants, although it was speculated that this is an area in which some of the churches may be involved. This representative also noted that groups that provide these kinds of services may do so on only a short-term or ad hoc basis – for example, in response to a temporary situation or need in a particular community – rather than through a consistent, more formal service delivery model. Since, at the time of the interview, legal aid did not have connections to any community organizations that assist refugees and immigrants, it also lacked any capacity to refer people to such agencies (although the very small number of inquiries received makes this almost a moot point).



At the time of the interview, the respondent was unsure if the provision of legal assistance to refugees and immigrants is a task that could be undertaken by community groups. If there is little demand for these services, however, it was noted that questions about who could best deliver them are not particularly pressing. Accordingly, no suggestions were forthcoming about the strengths or weaknesses of the current “system” for delivering services to refugees and immigrants in New Brunswick. Not only is there is no “system” in place at present but, according to the respondent, there is little need for the development of one.

Newfoundland and Labrador

Structure of Legal Aid

Delivery of Services

Legal aid in Newfoundland is administered by the Legal Aid Commission (LAC). Services are delivered through a network of regional offices and area directors. There are ten regional offices, eight of which have area directors who are responsible for issuing legal aid certificates.

Newfoundland has a mixed staff lawyer and private bar lawyer (judicare) service delivery model, but staff lawyers provide the majority of services in the province. In the early 1990s, legal aid switched from a predominantly private bar lawyer service delivery model to a staff lawyer model (although private bar lawyers are still used occasionally for some cases). According to respondents, the reasons for this shift were primarily economic. It was felt that staff lawyers were able to handle cases more cheaply and efficiently than private bar lawyers, and that less administrative work was required to support the work of staff lawyers. In the immigration and refugee law area, two staff lawyers in St. John’s handle all cases.

Lawyers deliver all legal aid services in Newfoundland. Paralegals or other legal professionals are not involved in either legal representation or the provision of advice, although intake workers process the financial eligibility component of legal aid applications. Applicants who are refused legal aid coverage may appeal the decision to the province’s Legal Aid Director, and then to an Appeal Board composed of LAC members.

Eligibility for Legal Aid

Eligibility for legal aid is based on both financial and merit considerations.

In terms of financial eligibility, persons receiving social assistance are automatically eligible. Other applicants are also considered financially eligible if

- i) they cannot retain private counsel without having to dispose of assets necessary to maintain their livelihood;
- ii) they cannot retain private counsel without impairing their ability to keep themselves and any dependants adequately fed, clothed, sheltered, and living as a family; or
- iii) they are without funds and require immediate legal assistance to preserve their legal rights.

In civil matters, decisions about granting legal aid coverage also consider

- i) the possibility of success;
- ii) the cost of proceeding relative to the anticipated loss or recovery; and
- iii) the likelihood of enforcing the judgment.

Types of Service Provided in Immigration and Refugee Law Issues

The following table describes the types of services available for immigration and refugee law matters in Newfoundland.

Type of Service	Provision of this Service
General advice or assistance	Some advice is provided by staff lawyers, typically concerning immigration matters.
Legal advice or assistance	The two staff lawyers who work on immigration and refugee law cases also review completed forms and answer questions from private bar lawyers.
Legal Representation	Two staff lawyers provide legal representation in immigration and refugee law cases.
Duty Counsel Representation	Some duty counsel assistance may be provided on an informal basis.
Public Legal Education	Little.
Translation or Language Assistance	Legal aid will hire translators/interpreters as needed.

Advice

The two legal aid staff lawyers who deal with immigration and refugee law cases will provide general and legal advice, but there is no established program in this area. The advice that is provided typically concerns immigration issues. Advice is practically a moot point with respect to refugee claims since virtually all applicants are granted coverage for legal representation. The respondent noted that legal aid staff lawyers do get relatively regular calls from private bar lawyers with questions concerning immigration matters, and they try to provide assistance. In addition, although legal aid staff lawyers will not complete Humanitarian and Compassionate or Post-Determination Refugee Claimants in Canada Class applications, they will review completed forms and offer suggestions.

Legal Representation

Two legal aid staff lawyers provide legal representation for immigration and refugee law matters. These lawyers do not work exclusively in the immigration and refugee area, but rather have a mixed practice that also includes criminal, family, and poverty law cases. The respondent estimated that they handle approximately 60–70 immigration and refugee law cases each year. This constitutes a small proportion of the work done by legal aid, as a whole. The number of immigration and refugee law cases was much larger in the early 1990s, but the number of clients declined significantly when the federal government imposed transit fees at Gander Airport.

The majority of immigration and refugee law legal aid cases concern Convention Refugee Determination (estimated by the respondent at 90 percent). Very few applicants for assistance with refugee claims are denied coverage by legal aid. Financial eligibility is typically not a significant issue, since most applicants are receiving social assistance (which entails automatic eligibility). Merit considerations are also addressed for immigration and refugee law cases. The



legal aid representative noted that likelihood of success is a particularly important consideration, and is evaluated by the two staff lawyers, based on their experience with immigration and refugee law cases. Overall, it is very rare that refugee claimants are denied legal aid coverage on a merit basis.

The legal aid respondent noted that many referrals for legal aid assistance in the immigration and refugee law area come from settlement organizations or directly from Immigration Department officers.

Duty Counsel

There is no formal program in place for duty counsel assistance with immigration and refugee law matters, but Citizenship and Immigration Canada officials will occasionally call one of the two legal aid staff lawyers to come down and assist a person in need of legal representation. According to a respondent, this happens so rarely that there is no need for a formal system. However, this representative also noted that if the number of people in need of duty counsel assistance were to increase, a more formal system might have to be worked out. At present, the staff lawyers are known in the community, so Immigration Department officials know whom to call.

Public Legal Education

Legal aid does not provide a great deal of public legal education in the immigration and refugee law area. There is no established program in place, and legal aid does not produce any written materials or publications. However, the two staff lawyers are involved with some community organizations and activities and, in this capacity, have helped to organize conferences and informational or speaking events. Lawyers will also offer to speak at schools, but this is not something that happens very often – immigration and refugee law is not a visible or high priority area in Newfoundland, given the low number of people arriving. Some of the community and educational activities of staff lawyers are provided in a volunteer capacity, but a respondent noted that legal aid is “quite forgiving” about this kind of work.

Language Assistance

At present, legal aid has no translators or interpreters on staff for immigration and refugee law work. In the past there was a staff translator, but the small number of cases handled now means that such a position is no longer warranted. Staff lawyers will hire translators and interpreters as necessary, with Russian being the language currently most needed. The respondent did note that it can be difficult to find local resources for some languages, with the result that they have to rely on telephone conversations with translators/interpreters in Ontario.

COVERAGE OF IMMIGRATION AND REFUGEE LAW ISSUES		
Stage	Activity	Legal Aid Coverage
Port of Entry	S. 20 Admissibility Interviews	No. Legal aid rarely learns about claimants until initial government processing has been completed. In rare circumstances, legal aid lawyers may be involved in the initial processing of claimants.
	Eligibility determinations	No.
Inland Claims	S. 27 Inland Violations of the Act	Yes#.
	Eligibility Determinations	No.
Convention Refugee Determination Division	Personal information form preparation	Yes. CRDD cases as a whole are the primary area for immigration and refugee law work.
	Determination Hearings (preparation and attendance)	Yes.
	Other Hearings (preparation and attendance)	Yes.
Immigration Appeal Division	Appeals	Yes#.
Adjudication	Immigration Inquiries	Yes#.
	Detention Hearings (first and other instances)	Yes, but this is rare because persons are detained very infrequently. There is no detention facility at the local Immigration office, so the provincial penitentiary is the only option. In addition, the respondent noted that it is hard to get off the island, which makes for a different climate than somewhere like Ontario.
Humanitarian/Compassionate	Applications	Yes#.
PDRCC	Applications	No (although a staff lawyer may review completed forms).
Danger Opinions*	Submissions to the Minister	There has never been a case in this area. If one arose, lawyers would consider handling it because cases in this area typically involved important issues around removal.
Federal Court	Judicial Review and Appeals	Yes. This is a small component of the work done by staff lawyers.
Supreme Court	Appeals	There has never been a case in this area. The respondent noted that lawyers would like to cover a case if it arose.
International Tribunals	Appeals	There has never been a case in this area. The respondent noted that it is unclear whether cases in this area would be covered. It was suggested that the arguably limited efficacy of such appeals may not warrant coverage.

* Formerly Appeals to Citizenship and Immigration Minister.

Respondents described the availability of coverage for cases in these areas as “discretionary”.

No data was collected from legal aid representatives in Newfoundland.



Impressions about Legal Aid Coverage and Service Delivery

Problem Areas

Lack of Staff Leading to Delays. One respondent from legal aid in Newfoundland noted that, with only two staff lawyers working in the immigration and refugee law area, time constraints sometimes pose a problem. This representative noted that meritorious cases are not turned down as a result of these constraints, but delays in the processing of cases often occur. Delays are particularly common in the first stage of refugee claims – the completion of the Personal Information Form (PIF). However, the respondent noted that staff lawyers have a good relationship with the IRB in Ottawa (the primary Board that hears refugee claims from Newfoundland) – this Board is familiar with the situation in Newfoundland, and will frequently give legal aid lawyers extensions for the PIFs. According to a respondent, the Montreal IRB also sometimes hears Newfoundland claims.

Low Number of Cases. One respondent from Newfoundland noted that some of the problems of the current immigration and refugee law system arise because only a few cases are received in this area. For example, staff lawyers with a mixed practice find it difficult to fit the large amount of research and preparatory work required by refugee claims into their workload – when they are also juggling criminal, family, and poverty law cases. In addition, the respondent noted that it would be nice to have a translator on staff, as in the past when the immigration and refugee law caseload was higher, although it was acknowledged that current numbers do not warrant such a position. Finally, while this representative pointed out that there is no real need for a sitting IRB in Newfoundland, the absence of such a resource locally means that staff lawyers do not have regular access to the resources available through Board offices (e.g., documentation centre, library).

Success Stories

Staff Lawyer Service Delivery Model. According to one respondent, the greatest strength of the legal aid system in Newfoundland is that it relies almost entirely on staff lawyers. The respondent claimed that staff lawyers are able to provide more efficient and higher quality services at a lower cost than the private bar lawyers previously relied upon in this province. Because staff lawyers are doing regular work in the immigration and refugee law area, they are quickly able to build up research and expertise. This knowledge assists in the provision of quick and high quality services in future cases. Private bar lawyers tend to handle only a few immigration and refugee law cases a year. They are less able to keep up with legislative or country changes, or to develop the kind of experience gained from daily exposure to a set of issues.

Second, the fact that staff lawyers do not operate on a certificate basis means that they can exceed – or not use up – the time allotted to particular legal issues through a tariff system. In essence, staff lawyers can devote the amount of time to a case that it needs. Conversely, private bar lawyers will sometimes bill for the entire tariff amount regardless of the amount of time needed, because of the overhead and support staff costs they must cover. In addition, private bar

lawyers are less likely to put in additional work beyond tariff limits, due to the lack of remuneration.

Overall, the Newfoundland respondent suggested that staff lawyers can complete cases in about half the amount of time a private lawyer would take because they “can concentrate on the law and not on paying the bills.”

Prince Edward Island

Structure of Legal Aid

Delivery of Services

P.E.I. has no legal aid legislation – the Legal Aid Program (LAP) is administered by the provincial Department of Justice. P.E.I. is the only province that administers legal aid directly through a government department.

In the criminal and family areas, four staff lawyers located in two offices provide legal services, including both full representation and summary advice. These lawyers travel to other locations if there are requests for assistance. Private bar lawyers are retained for legal aid cases only in the event of a scheduling problem or a conflict of interest.

Eligibility for Legal Aid

Eligibility for legal aid is determined according to a flexible means test. The test is conducted by staff lawyers, who weigh the seriousness of the legal proceedings and then consider whether an applicant’s present means should be sufficient to obtain private counsel within the time required. Applicants may be considered financially eligible if they are without funds and require immediate assistance to preserve their legal rights, or if they cannot afford a lawyer without impairing their ability to keep themselves and their dependants fed, clothed, sheltered, and living as a family. There is no prescribed procedure for appeals on eligibility issues.

Coverage of Immigration and Refugee Law Issues

P.E.I. does not provide any formal legal aid coverage for immigration and refugee law issues. In addition, an LAP representative noted that there is no coverage available on an ad hoc or discretionary basis through the legal aid system. Legal aid was formerly available for some immigration and refugee law issues – primarily when people were detained or were facing deportation – but this service has not been provided for at least the last five years (the respondent was not sure about the exact date of this change). Coverage was ended in this area because providing assistance in these cases required the province to stretch the provisions of the federal-provincial criminal legal aid cost-sharing agreement to an uncomfortable degree. According to the respondent, the federal government eventually made it clear that immigration and refugee law was not covered by this agreement.



More generally, the respondent suggested that conversation and debate about the terms of the federal-provincial cost-sharing agreement has been virtually continuous over the last two decades. In his words, the agreement has been “continuously renegotiated” since 1973. These discussions primarily turn on the fact that the agreement covers only criminal law, while funding for family law, civil law and other issues is (allegedly) delivered through the Canada Health and Social Transfer (CHST). However, the respondent’s position was that CHST funds are barely sufficient to cover the basic services like health and education, leaving the province to fund programs like non-criminal legal aid in their entirety.

The legal aid program respondent noted that there is little demand for immigration and refugee law legal aid in P.E.I. because the province has no port of entry. With no international airport or seaport, new arrivals have to come through one of the other provinces to access P.E.I.

Accordingly, even if legal aid coverage were extended into the immigration and refugee law area, it is unlikely that there would be a great number of cases annually. At present, legal aid does not receive complaints about the lack of coverage for immigration and refugee law cases.

In the 1980s, the P.E.I. respondent noted, legal aid coverage was provided for some Inland Claims cases concerning the removal and exclusion of inadmissible persons. However, coverage for such matters ended in the 1990s when it became clear in criminal legal aid negotiations with the federal Department of Justice that immigration and refugee law was not a part of the cost-sharing agreement for criminal legal aid. The Department of Justice considered representation for Inland Claims to fall within the category of civil legal aid and, accordingly, within the scope of provincial responsibility. The respondent also recalled discussions with federal immigration officials about the transferral of Port of Entry refugee claimants to Halifax or Montreal for processing. However, these discussions were essentially hypothetical in nature, since P.E.I. has no international port and did not receive any Port of Entry claimants.

Overall, the P.E.I. legal aid representative suggested that there is a very low demand for services in the immigration and refugee law area. Occasional publicity around isolated instances of illegal migration may temporarily raise the profile of (the lack of) refugee and immigrant law services, but there is little ongoing need for these services. As such, the extension of legal aid coverage into the immigration and refugee law area has not been seen as a priority for the P.E.I. legal aid plan. However, the respondent did note that providing services in this area would likely increase in urgency if the number of illegal migrants grew significantly. At present, extending some legal aid coverage to immigration and refugee law issues would not pose a large problem as long as demand for these services remained low. However, if the demand for services grew significantly, while the amount of funding and areas of coverage remained limited, the situation would get much worse.

The legal aid representative did not know of any community organizations involved in providing services to the refugee and immigrant community, whether of a legal or settlement nature. Accordingly, no suggestions were forthcoming about the strengths or weaknesses of the current “system” for delivering services to refugees and immigrants – essentially, there is no system. The respondent did note that, for community organizations to take on the provision of legal

services in the area of immigration and refugee law, they would require some legal training, particularly for issues involving hearings and other more technical legal proceedings.



Part Two: Immigration and Refugee Law Services Provided by Community Organizations

Part Two of this report presents information collected from community organizations that provide services to refugees and immigrants in each of the ten provinces. As noted above, it is important to recognize that the information presented in this section is not an exhaustive account of all the assistance being provided to refugees and immigrants at the community level. The scope of this project permitted only a small sample of organizations to be interviewed. In most provinces, there are numbers of additional groups whose programs, resources, and expertise are not captured in the discussion below. For a complete list of the organizations interviewed, see Appendix Two.

As with legal aid plans, the community organizations interviewed were asked for both descriptive information and data concerning their clientele. The descriptive material collected covers the nature of an organization's services, the types of issues in which it provides assistance, the staff involved in doing this work, and the funding it receives. In addition, respondents were asked to consider the strengths and weaknesses of the current system for delivering services to refugees and immigrants in their province, specifically in terms of what is working well (success stories), what is not working well (problem areas), and any notable gaps. The data collection process was designed to collect information on total numbers of clients, numbers of clients by specific legal issue, programming costs, and client characteristics.

Although the focus of this project was on collecting information about the *legal* services provided by community organizations, in many cases the agencies that were located deal more with the provision of settlement services. Despite the fact that settlement services are technically outside of the focus of the report, in provinces where few (if any) groups were located that provide legal assistance, a brief overview of the range of settlement programs offered has been included. For provinces in which all of the organizations interviewed deliver some form of legal assistance to refugees and immigrants, no information has been included on the settlement area.

While the descriptive component of the interviews yielded much valuable information, the amount of hard data actually collected from community groups serving refugees and immigrants was quite limited. Some groups simply do not keep a great deal of information on the clients they serve, while many others were unable (or in some cases unwilling) to use limited staff hours to provide the requested numbers. In addition, no data was requested from groups that provide only settlement services, since the data collection process pertained specifically to the provision of legal services. For all of these reasons, the data presented in Part Two of the report should not be taken as representative of the number of clients assisted with immigration and refugee law matters by community organizations.

British Columbia

Six organizations serving refugees and immigrants were interviewed in B.C., the majority being located in the Vancouver–Lower Mainland area. The Immigrant Services Society, the United Chinese Community Enrichment Services Society (SUCCESS), the Surrey Delta Immigrant Services Society, and the Victoria Immigrants and Refugee Centre Society are primarily settlement services agencies, serving new refugees and immigrants to B.C. and/or any person not born in Canada. SUCCESS targets its services particularly to the Chinese community. The Multilingual Orientation Services Association for Immigrant Communities (MOSAIC) has both a settlement and a legal assistance component, as well as a large network of language specialists operating on a fee-for-service basis to provide interpretation, translation, typesetting, desktop publishing, and consultation in foreign languages. The Affiliation of Multicultural Societies and Service Agencies is an umbrella organization that provides support to other groups serving refugees and immigrants, and provides leadership in advocacy and education for anti-racism, human rights, and social justice issues.

Legal Services

Available Legal Services	
Public Legal Education and Information	A limited amount of public legal education is available on the immigration and refugee law process (primarily through one organization, although some settlement agencies will tell people about the process and what to expect). More general public legal education on a variety of topics of relevance to refugees and immigrants is widely available.
Referrals	Referrals are given by most of the groups interviewed to legal aid, private bar lawyers, and pro bono legal clinics. A wide range of other referrals –to organizations serving refugees and immigrants, government offices, community groups, and so on – are also provided.
Advice	A limited amount of legal advice is delivered through organizations serving refugees and immigrants. Only one of the groups interviewed had a program that explicitly provided such a service; the others offer legal advice in particular situations, but not as a part of their general mandates. One settlement agency organizes pro bono legal clinics through which clients can get legal advice, but typically deal mostly with family law issues.
Representation	There is only one organization that has a program to provide representation in a variety of areas, and even this is more often as non-legal counsel. Two settlement organizations noted that staff occasionally provide representation for clients at certain proceedings, but that this is not a typical activity (or one that it encourages).
Language Assistance	While all but one of the organizations interviewed have some language assistance component (ESL, interpretation, translation), the focus of these services is not the immigration and refugee law process. They are more often linked to settlement services.

Public Legal Education

The Multilingual Orientation Service Association for Immigrant Communities (MOSAIC) respondent noted that this organization provides workshops and information sessions on a wide variety of topics, as well as having a range of written materials on hand in a variety of languages. The written materials are not produced directly by the organization, but are collected from other sources, including legal aid and the People’s Law School. However, the respondent noted that available literature is not widely used by clients, because refugees often are not literate in their own language and some cultures do not prioritize learning from written texts. The respondent



has found that many clients prefer face-to-face interaction, and the workshops and information sessions tend to be more successful forms of education.

A variety of settlement organizations also provide public legal education in the form of information sessions and workshops on various aspects of Canadian law, one of which is the immigration and refugee law process. The Victoria Immigrant and Refugee Centre Society (VIRCS), in particular, handles a lot of issues related to family reunification.

Referrals

Several organizations noted that while they do not provide legal advice directly, they do refer clients to other services, most notably legal aid. Legal aid was reported to be a key referral resource for five organizations: the United Chinese Community Enrichment Services Society (SUCCESS), MOSAIC, VIRCS, Surrey–Delta Immigrant Services Society (SDISS), and the Immigrant Services Society (ISS). The MOSAIC respondent also noted that clients may be referred to the lawyer referral service, particularly if staff expect they can afford to hire their own lawyer. This organization will also provide clients with instruction on how to “shop for” a private bar lawyer. Only SUCCESS noted that it refers clients to legal clinics, while only VIRCS mentioned private bar lawyers as a referral site.

Advice

Overall, few of the organizations serving refugees and immigrants interviewed in B.C. are involved in the provision of advice, whether of a general or legal nature. Any assistance that is offered in immigration and refugee law by settlement organizations is typically limited to making clients aware of relevant legal processes and procedures, and trying to present them with options (by providing educational materials and referrals). There is no overall service plan or mandate that includes the delivery of legal assistance. SDISS explicitly noted that staff do not provide legal services because of the responsibility and liability involved, while the ISS representative commented that legal assistance is best left to persons with the proper training. However, several respondents also pointed out that anticipated legal aid cutbacks in the immigration and refugee law area will create additional pressures, in terms of the legal assistance available to new arrivals in B.C.

Only MOSAIC operates a regular program for the delivery of direct legal assistance. This program has only one staff member, and the respondent characterized this position as that of an advocate. There is no requirement that the advocate has legal training. Through this program, clients can access general and legal advice on issues related to immigration and refugee law, as well as receive assistance with the completion of forms (for example, sponsorship applications, visa applications, permanent residency applications). The respondent described the provision of advice as a big part of her work, but also noted that this service is not limited to immigration and refugee issues. Advice will also be provided on a wide range of other matters (employment, social assistance, taxation, family matters, criminal law, and so on). All persons who come to this organization seeking advice receive assistance.

VIRCS reported that it sometimes provides information and basic assistance to clients in Inland Claims and Humanitarian and Compassionate cases. Occasionally, some assistance may also be provided in Convention Refugee Determination and Immigration Appeals Division cases (although this is even more rare). The information provided includes an outline of legal processes and the stages involved in making a claim or application, and options for post-hearing remedies. This organization was not able to provide detailed statistics on the types of legal issues in which staff provide assistance. However, the respondent was able to report that, of the services provided by the Settlement department, 24 percent were for legal assistance with immigration and refugee issues, while 8 percent were for legal assistance in issues other than immigration and citizenship. However, this 24 percent figure included a wide range of issues within the immigration and refugee legal process, including family reunification and other assistance with family class applications – an area in which the organization reports doing a lot of work.

SUCCESS runs a pro bono legal clinic (at three different locations, four times each month). Clients attending the clinic can obtain 30 to 45 minutes of legal advice or basic assistance (including a written legal opinion letter). The clinic is staffed by private bar lawyers, the majority of whom have a background in family law. No statistical data is available for the clients assisted at these clinics, but the respondent estimated that at least 75 percent of the cases are in the family law area. There are no immigration lawyers at the clinics, although other lawyers do try to help people even when the issue is outside their area(s) of expertise. If no assistance can be provided, clients are referred to legal aid or to another private bar lawyer. This organization keeps on hand for referral purposes a list of lawyers who work in different areas.

The SDISS respondent noted that occasionally lawyers may refer clients to organization staff for assistance with the completion of forms (for example, the Personal Information Form), using the language skills of staff members. However, this is a service that the organization generally tries to avoid providing because it is outside of its funding mandate, and because of the amount of time involved. Similarly, the ISS representative noted that staff may review completed Personal Information Forms with clients, but pointed out that staff try to stay away from the delivery of legal services. SUCCESS settlement staff also will sometimes assist with the completion of forms.

Representation

As with the availability of legal advice, there are very few resources through which refugees and immigrants can access representation in B.C., whether from legal or non-legal counsel. ISS reported that staff may very occasionally act as non-legal counsel for refugees and immigrants, but this is only in the capacity of offering moral and emotional support and/or language assistance. No direct representation is provided. VIRCS staff have acted as non-legal counsel in one IRB hearing and very occasionally provide representation for Immigration Appeals Division cases. The respondent from this agency insisted that lawyers should generally handle activities of this sort. No statistical information is available.

At present, only MOSAIC has an established Advocacy Program for the provision of legal and lay representation. However, staff resources and experience limit the assistance available



through this program. Typically, the organization actually does not provide legal representation, because there is no requirement or preference for having a lawyer fill the advocate position. The present advocate happens to be a lawyer, and so has chosen to act as legal counsel in some circumstances.

Through the MOSAIC Advocacy Program, representation is provided only for immigration and refugee law issues *not* covered by legal aid. The advocate will act as non-legal counsel in a wider range of cases, including hearings and tribunals where a client has legal representation through legal aid. The respondent noted that the position of this organization is that the complexity of certain kinds of immigration and refugee law cases necessitates the involvement of a lawyer, not an immigration consultant or other kind of counsel. This does mean that there are caps on available coverage for immigration and refugee law cases, however, since legal aid does not cover everything. The respondent noted that a lot of inquiries received by the Advocacy Program concern landing problems for Convention Refugees and Humanitarian and Compassionate applications. No assistance is provided for cases concerning Immigration Appeals, Danger opinions, Federal Court judicial reviews or appeals, Supreme Court appeals, or International Tribunal appeals. These kinds of cases are generally not handled through the Advocacy Program because advocates are not required to have legal training. (Despite being a lawyer, the current advocate has chosen not to take on these kinds of cases, in order to avoid creating service interruptions or confusion about available assistance if subsequent advocates do not have legal training.)

As with legal aid, the Advocacy Program has a financial eligibility component for the provision of actual legal representation, due to the greater amount of work and responsibility involved. In practice, however, the respondent noted that financial considerations do not come up very often. The guidelines are slightly more generous than those used by legal aid. With respect to the provision of advice, the respondent noted that the advocate can make a determination whether to impose financial eligibility criteria. The current advocate has chosen to provide advice to anyone who seeks it. While the services of the Advocacy Program are not targeted to any specific group, the current advocate has what is called an “evolved specialty” in assisting women. Despite this, statistics tend to show that similar proportions of women and men are assisted each year.

Language Assistance

MOSAIC has an interpretation and translation department that operates on a fee-for-service basis. Most of the settlement organizations interviewed also provide interpretation and translation services among normal staff services or on a fee-for-service basis. With respect to language assistance services in legal matters, VIRCS works mostly with documents needed for immigration and refugee proceedings, although it will also do birth, death, and marriage certificates, letters of reference, and other documents. SUCCESS provides volunteer interpreters to legal aid in addition to running a fee-based translation service (including handling documents and accompanying people to meetings). As noted above, SDISS occasionally provides assistance with the completion of Personal Information or other forms, when clients have been referred by their lawyers.

The following statistical information was provided by one organization interviewed in B.C.

NUMBER OF IMMIGRATION CASES, 2000-2001*		
Case Type	Number of Clients ^{\$}	Number of Consultations [#]
Immigration	103	106

* Data applies to the period between September 1, 2000 and August 31, 2001.

^{\$} Refers to clients who receive advice or legal representation on immigration matters.

[#] Refers to the number of calls received on immigration matters from staff in other branches of the organization or from external persons. In these cases, information or advice may be provided to the caller regarding their client's situation.

Source: Organization Data Sheets – Description of Services Provided

The table below shows client characteristics for the one group that submitted data. However, these figures pertain to *all* persons relying on this organization for legal assistance, not just those clients in immigration or refugee law matters.

CLIENT CHARACTERISTICS, 2000-2001		
Characteristic	Number of Clients	
AGE RANGE	Under age 21	6
	Aged 21 to 40	118
	Over age 40	114
	Unknown	2
SEX	Women	121
	Men	119
IMMIGRATION STATUS	Permanent Resident	90
	Citizen	82
	Sponsorship	24
	Convention Refugee	13
	Visitor Visa	10
	Refugee Claimant	8
	H&C Applicant	5
	Work Authorization	4
Without Status	4	

Source: Data Sheets – Description of Services Provided

Staffing and Funding Information

Types of Staff

One advocate delivers direct client services in immigration and refugee law in the organization that primarily provides legal assistance. The person filling the advocate position may have experience or qualifications in a variety of areas, but there is no requirement that this person have legal training (although the current advocate is a lawyer). Volunteers are not used in this program, due to concerns about confidentiality.

The limited legal assistance available through settlement organizations is provided by settlement staff, which can include counsellors, settlement workers, teachers, translators/interpreters, volunteers, and students.



Sources of Funding

Settlement organizations do not receive funding that is targeted to the provision of assistance with immigration and refugee law matters. The organization that regularly provides direct legal assistance to refugees and immigrants is funded exclusively by the B.C. Law Foundation. This funding was characterized as relatively stable, and has been in place for six to seven years. However, the respondent did note that the funding situation would likely have been characterized as less stable prior to the election of the Liberal government. Against the backdrop of the significant cuts implemented and/or planned by the Liberals, the fact that this program has not yet been affected now seems very positive. However, low interest rates do have an impact on the stability of Law Foundation funding, given that the money used to fund the community organization comes from interest on lawyers' trust accounts.

Settlement Services

As noted above, the settlement organizations in B.C. generally do not provide formal legal services to refugees and immigrants. Most do not have lawyers or paralegals on staff to provide legal advice or representation, although they often provide workshops and information sessions on various aspects of Canadian law. Most settlement agencies noted that they refer clients to legal aid if they have a problem that requires legal assistance.

One organization noted that staff do provide a lot of assistance with family reunification cases, both for family class immigrants and for refugees who are applying for their dependants as well as for themselves. In these instances, staff will help clients overcome language barriers in the completion of forms, the compilation of background documents, and other preparatory work. They will also stay in touch with clients throughout the legal process.

Given that settlement assistance is such an important component of the range of services available to refugees and immigrants in B.C., the following discussion briefly describes the nature of these services. It includes a list of the kinds of programs offered by settlement agencies, the staff employed to administer these programs, and the types of funding received.

Types of Settlement Programs

- Co-ordination and support for member settlement organizations
- Facilitation of joint projects and the formation of collaborative relationships
- Provision of advocacy and research on behalf of other settlement organizations
- Accompaniment service (accompany clients to meetings)
- Job coaching program, employment training and assistance
- Counselling and support groups
- Information and orientation sessions, workshops
- Educational programs (including multiculturalism and cross-cultural training programs for professionals, community groups, etc.)
- Language training (ESL), interpretation, and translation (staff-based and fee-for-service)
- Assistance with finding accommodation

- Provision of emergency supplies (food, clothing, medical care, housing)
- Homework support and youth services
- Airport reception service
- Referrals (to legal aid, a wide range of community organizations, provincial and federal government offices, lawyers, notaries)
- Assistance with completing forms and preparing resumes
- One organization offers specific services to Government assisted and Joint assisted refugees (counselling service, temporary accommodation, etc.)

Types of Staff

- Directors (executive, program)
- Administrative/support staff
- Employment and settlement counsellors / settlement practitioners
- Social workers
- Interpreters, translators
- Volunteers (including volunteer psychologist and psychotherapist)
- Immigration consultants (One organization reported that two staff members are currently seeking qualifications as immigration consultants through a new program at the University of British Columbia. The goal of the program is to establish standards for people acting as immigration consultants and an accompanying certification process.)

Sources of Funding

Government funding

Federal⁸

- Citizenship and Immigration Canada (Refugee Sponsorship Training Program: services for government-assisted/Joint assisted refugees, language training, referral, interpretation, translation, airport reception, job finding, and orientation services)
- Refugee Sponsorship training Program; services for government-assisted/Joint assisted refugees)
- Human Resources and Development Canada (employment, training, and job coaching programs)

Provincial

- Ministry of Community, Aboriginal, and Women's Services
- Ministry of Multiculturalism and Immigration
- Ministry of Community Development, Co-operatives, and Volunteers
- Ministry of Human Resources

⁸ Federal funding is provided directly to community organizations that provide settlement services to refugees selected from abroad. This funding is provided for resettled refugees (Convention refugees who have status by the time they enter Canada) under a special federal-provincial funding agreement. These settlement services are not generally available to asylum refugees, although some community organizations may provide services to members of this group on a pro bono basis.



- Ministry of Health
- Ministry Responsible for Seniors

Municipal

- Cities (Victoria, Vancouver)

Other Funding Sources

- B.C. Gaming Commission
- B.C. Equal Opportunity Secretariat
- B.C. Human Rights Commission
- United Way
- Private foundations
- Legal Services Society (project-based funding)
- Law Foundation (project-based funding)
- Vancouver–Richmond Health Board
- Individual donors and fundraising, membership fees
- Local societies and businesses
- Corporate donations
- Fee-for-service programs (e.g., interpretation and translation)

Most of the settlement organizations interviewed in B.C. characterized the funding they receive as increasingly unstable – particularly funding from the provincial government (one respondent used the expression “completely unstable” to describe provincial funding). This shift in perception is in large part due to the governmental change in B.C. The previous NDP government was interested in expanding and professionalizing immigrant and refugee settlement services, so the shift from federal to provincial responsibility for settlement programming was viewed as positive. However, it is not clear what direction the new Liberal government will take in this area, so groups are now more worried about the fact that the province is in control of decisions in this area. Many organizations have already recently experienced funding cuts (with significant implications for the range of services offered), but several respondents noted that they have been told to expect further reductions. In general, settlement agencies are operating in a climate of uncertainty. Two organizations also mentioned that the fact that some grants must be renewed annually contributes to the lack of stability in the funding area, while one highlighted an increasing emphasis on fee-for-service programs over the last several years, due to a concern about lack of stable core funding.

One settlement agency noted that there have been some changes over the last few years in the composition of their funding, due mainly to declining support for multiculturalism and anti-racism activities. Further funding pressures have been created recently by the fact that the provincial government is eliminating core funding for a variety of organizations. The respondent predicted that many organizations will be “hit hard” by this change, since the core funding covers such basic expenses as rent and administrative costs. There is some concern that the province will move to a funding model that relies on evaluations of program outcomes to make decisions about financial support – a difficult model for non-profit organizations, given that the

outcomes they achieve may be longer-term. One worrisome response may be that organizations will be forced to “cherry pick” clients, selecting those who have the greatest likelihood of positive outcomes, in order to secure funding. In addition, one respondent noted that, given the Liberal government’s apparent preference for the delivery of services by private bodies, there is a risk that public sector organizations will be squeezed out of the settlement field altogether.

Impressions about the Services Available to Refugees and Immigrants

Problem Areas

Funding. All of the organizations interviewed were concerned about the level of funding available for refugee and immigrant settlement and legal services. Several commented that the 15 percent funding cut delivered by the province last year has already had a detrimental effect, leading to longer waiting lists, decreased services, declining ESL availability, and greater workloads for organization staff. In the new climate of uncertainty created by the Liberal government’s widespread cost-reductions, many organizations are concerned about the possibility of further cuts.

Related to the concern about funding levels is the impact of the devolution of responsibility for settlement services from the federal to the B.C. government in 1997. Following this change, several settlement representatives pointed out that their organizations did not get access to all of the funds intended to go towards refugee and immigrant settlement – approximately half of the dollars in this area remained in general revenue. Without these funds, settlement agencies have had to deal with an increasing number of immigrants with less funding.

Gaps in Available Services. The organizations interviewed pointed to several gaps in the range of services available to refugees and immigrants in B.C. As one respondent put it, the basic services are in place, but organizations are not able to provide enough of them, and the result is increased waiting lists and need in the community.

Respondents also noted several particular service gaps. Three organizations suggested that there is an insufficient amount of legal support for refugees and immigrants. Legal aid lacks the resources to provide anything more than basic coverage. Tariff levels are too low to allow for good representation; the range of issues covered by legal aid is too limited; and there are too few places for people to receive legal advice, a function that pro bono clinics cannot adequately cover. The recent round of cuts – and the scheduled closure of the Immigration and Refugee Office in particular – will exacerbate this situation. Overall, the impression of these three respondents was that refugees and immigrants who cannot afford to hire their own lawyer are very vulnerable in B.C. Interestingly, another respondent expressed a view quite different from the above negative assessment, arguing that those legal services currently available to refugees and immigrants in B.C. are functioning well. This person noted that few complaints are received about legal services, and that clients are generally aware of the available resources for support.



Lack of Immigration and Refugee Lawyers. One organization noted that there are too few lawyers in the Victoria area with expertise in immigration and refugee law. While other lawyers may be willing to take on such cases, they lack the knowledge to be able to offer services of comparable quality.

The Immigration and Refugee Board. One respondent suggested that members of the Immigration and Refugee Board lack the appropriate training. Examples of problems include a general lack of cultural competence, and a lack of understanding or appreciation of how trauma affects testimony at proceedings. The implications of the latter can be very deleterious. If a claim is rejected on the grounds that the claimant lacks credibility, due to the testimony given, the options for post-hearing remedy are very limited. Overall, the respondent suggested that there are not enough checks and balances in the IRB structure to ensure that the decisions are fair and impartial.

Services for Refugees. One respondent suggested that there is too little support for refugees in B.C., both in services needed immediately following landing and in longer-term services like English language training (there are few ESL programs for refugee claimants without status, but obtaining status can sometimes take two or three years). There is also a lack of consistency in the information that refugees access from different sources.

Related to concerns about the range of services available for refugees was the comment that there are unacceptably long delays in the refugee processing system. One respondent noted that there can be substantial delays in actually acknowledging a refugee claim. This creates problems because the “Acknowledgement of claim” form is needed in order for a refugee claimant to receive benefits, health care coverage, and so on – supports that are particularly crucial if a claimant is not yet entitled to work. Another respondent made the more general claim that the refugee process system, as a whole, is too slow.

Success Stories

Collaboration and Communication among Organizations Serving Refugees and Immigrants. Several respondents noted that there is an effective system in place for collaboration and communication among agencies serving refugees and immigrants in B.C. Organizations work together in various ways on both programs and services, including the formation of partnerships. One organization noted that a particularly effective co-operative venture is the immigrant fair, in which a variety of government and non-profit groups set up booths to provide a one-stop information point for refugees and immigrants. One caveat noted by a respondent is that it is difficult for a group of organizations to collaboratively administer the funds for a given program – this approach would be too difficult to co-ordinate across a variety of agencies.

Initial Reception Services. One respondent noted that the initial reception services available to refugees and immigrants are a positive feature of the system in B.C. They include airport reception and similar programs as well as the services initially offered through the various organizations serving refugees and immigrants. All of these organizations are able to offer some kind of assistance to the people who come to them, even if it is only basic information. As this

respondent noted, it is positive that these new arrivals have somewhere to go. Another respondent commented more specifically that it is positive that there is no automatic, initial detention for refugees arriving in B.C., so these people are allowed to choose a lawyer, to find work, and so on.

Alberta

Three organizations serving refugees and immigrants were interviewed in Alberta. Two of these organizations – the Calgary Immigrant Women’s Association and Changing Together: A Centre for Immigrant Women (Edmonton) – target their settlement services specifically to women, and are largely involved in delivering services of a settlement nature. The Edmonton Immigrant Services Association is also a settlement agency that provides programs and services relating to education, integration, settlement, and adaptation.

Legal Services

Available Legal Services	
Public Legal Education and Information	The organizations interviewed do not offer any public legal education targeted specifically to the immigration and refugee law process, although general information on the law is available through settlement organizations.
Referrals	For legal problems, the organizations interviewed refer clients to private bar lawyers, legal aid, legal clinics, and Calgary Legal Guidance.
Advice	The only source of general or legal advice on immigration and refugee law is weekly legal clinics jointly co-ordinated by one of the organizations interviewed.
Representation	None of the organizations provide any legal representation.
Language Assistance	One organization co-ordinates interpreters for the legal clinics it helps to organize, and one organization will provide language assistance to clients at legal proceedings and in court.

Public Legal Education

Two organizations – the Calgary Immigrant Women’s Association and Changing Together: A Centre for Immigrant Women – organize and run workshops, information, and orientation sessions on a variety of legal (and other) issues of interest to refugees and immigrants. These events do not necessarily concern the immigration and refugee law process in particular, although the Calgary Immigrant Women’s Association does provide information on legal aid eligibility, the application process, and so on. The respondent from this organization reported that this information is particularly valuable for refugees, since there are few resources available for them in Alberta. The Edmonton Immigration Services Association (EISA) also conducts workshops, but these activities primarily concern issues like racism, discrimination, budgeting and financial management.

Referrals

All three organizations interviewed in Alberta report referring clients to private bar lawyers for legal issues. These lawyers provide assistance on a volunteer pro bono basis. Changing Together maintains a list of immigration and refugee lawyers (as well as organizations serving refugees and immigrants, and other relevant agencies) for referral purposes.



Two organizations – Changing Together and Calgary Immigration Women’s Association – reported that they refer clients requiring legal assistance to legal aid, although the Changing Together respondent noted that the assistance available through legal aid is too limited. Only the Calgary Immigrant Women’s Association reported referring clients to legal clinics and to Calgary Legal Guidance, a non-profit organization that provides free legal advice to people who cannot afford a lawyer and who do not qualify for legal aid. However, immigration and refugee law is not one of the areas listed in the description of this organization’s activities.

Advice

The Calgary Immigrant Women’s Association jointly co-ordinates weekly legal clinics with Calgary Legal Guidance to address a variety of legal issues of concern to refugees and immigrants. Women’s Association staff co-ordinate the clinics and introduce clients to the clinic lawyers, but do not provide direct legal services. Eight volunteer lawyers deliver services at the clinics and, according to the Association respondent, these lawyers may provide assistance with any aspect of the immigration and refugee law process. The clinics are open to all persons below a certain income level, but there is no strict process for income testing – generally, they “take people’s word” as to their income. The clinics are targeted to people who cannot afford to obtain private legal counsel, so the only reason for using income thresholds is to ensure that services are available first and foremost to those who need them most. No data is available from the Calgary Immigrant Women’s Association on the kinds of legal issues addressed at the clinics since “the issues discussed are between the lawyer and the client – we don’t get involved.”

A respondent from Changing Together did note that staff sometimes provide general and legal advice (including doing research on an issue to determine the appropriate course or action and assisting with the completion of forms), with the assistance of law students in practicum positions. However, these activities typically do not encompass the immigration and refugee law process – they more often concern other legal issues of relevance to new arrivals. With respect to legal questions or problems in the area of immigration and refugee law, clients are usually referred to lawyers.

Representation

None of the organizations interviewed in Alberta provides legal or lay representation to refugees and immigrants.

Language Assistance

The Calgary Immigrant Women’s Association does not have interpreters or translators on staff, but they will arrange for people with language skills to be at the clinics described above if the need for such services is known in advance. These translators/interpreters are volunteers, but typically have gone through some kind of training with Association staff. The representative of EISA noted that it may provide interpreters/translators for formal hearings or court proceedings if a client is in need of this kind of assistance. Interpretation and translation assistance is also available through this organization for a range of settlement issues.

Staffing and Funding Information

Types of Staff

The only organization in Alberta involved in the delivery of direct client services in immigration and refugee law relies on private bar lawyers, working on a pro bono basis, to actually provide clients with general and legal advice. The two staff members responsible for co-ordinating the services of these lawyers were characterized as general settlement staff, and they are assisted by one volunteer.

Sources of Funding

The provision of direct client services in immigration and refugee law is not an internal responsibility of even the one organization that is involved in the area., and this agency reported that it does not receive any funding targeted to it. Any legal services that are offered to clients come under the general settlement service umbrella – funded by both the federal and provincial governments. Funding guidelines for settlement services dictate that assistance is to be directed to immigrants, not to asylum refugees. However, the respondent from this agency reported that staff do, in fact, assist refugees, despite receiving no monetary support for the work.

Settlement Services

The primary function of all three organizations interviewed in Alberta is to provide settlement assistance to refugees and immigrants. Any legal assistance that is offered by these groups is a part of this general mandate. Given that settlement assistance is the primary component of support available for refugees and immigrants in Alberta, the following discussion briefly outlines the range of settlement services offered. It includes a list of the kinds of programs offered by settlement agencies, the staff employed to administer these programs, and the types of funding received.

Types of Settlement Programs

- Promoting cross-cultural understanding and awareness through educational activities
- Workshops and information sessions, sometime in collaboration with schools and community groups (topics include discrimination, racism, gender inequality, women’s rights, human rights, cross-cultural communication, cultural diversity, leadership, family violence prevention)
- Language assistance – ESL, translation, and interpretation (including for court proceedings)
- Employment mentoring
- Counselling
- Pre-employment services (job-seeking information, writing resumes)
- Discussion groups
- Emergency services (food, clothing, accommodation)
- Assistance with income taxes
- Assistance with accessing government and other services
- Referrals to other organizations, lawyers, legal aid, government offices



-
- Assistance with completion of forms and obtaining documents
 - Matching programs (matching new arrivals with local citizens)

Types of Staff

The types of staff that deliver settlement services include instructors/facilitators (for workshops – usually with some educational qualifications), general settlement staff, notary public, volunteers, and practicum students. None of the organizations employs lawyers or paralegals (although one organization noted that, rather than relying on volunteer lawyers, it would like to have a part-time lawyer on staff).

Sources of Funding

Government Funding

Federal

- Ministry of Citizenship and Immigration
- Department of Canadian Heritage
- Ministry of Health
- Status of Women

Provincial

- Alberta Advanced Education and Career Development
- Alberta Community Development

Municipal

- Cities

Other Sources of Funding

- United Way
- Edmonton Community Lottery Board
- Private foundations
- Edmonton Community Adult Learning Association (ECALA)
- Alberta Family and Social Services
- Alberta Alcohol and Drug Abuse Commission
- Businesses

One organization suggested that the stability of funding is compromised by the fact that funding tends to be renewed on an annual basis. This short renewal term means that securing future funding is always a worry, even though this organization reports that some amount of funding has always come through in the end.

Impressions about the Services Available to Refugees and Immigrants

One of the organizations interviewed in Alberta did not want to answer questions on the strengths, weaknesses, and gaps in the system for delivering services to refugees and immigrants in the province. The respondent did not feel sufficiently expert to offer useful comments on these issues.

Problem Areas

High Cost of Legal Assistance. One organization noted that successful immigration and refugee lawyers are expensive to retain, and not all new arrivals can afford their services. This is particularly the case for women, since they typically have fewer resources than men and are, accordingly, disadvantaged in the legal system. Legal aid provides some relief in this area, but it is also the case that there are not enough legal aid lawyers with expertise in immigration and refugee law.

Impact of September 11. One respondent noted that September 11 has had a deleterious effect on the immigration and refugee law system – in essence, “nothing is working well since September 11.” In particular, the additional security measures that have been implemented mean that everything is taking a longer time to process.

Lack of Services for Refugees. One organization’s respondent highlighted the fact that there are no agencies with a specific mandate to assist asylum refugees or to focus their services on their needs. Given this lack of targeted services, the range of assistance available to asylum refugees in Alberta is uneven and unstable. For example, the respondent noted that while this organization currently provides services to refugees regardless of the fact that it receives no funding for such work, it is uncertain whether future staff will continue to extend services to refugees. In addition, with no co-ordinated or central location for assistance, refugees are obliged to seek “bits and pieces of help” from several locations – and what they are able to find is often simply a matter of luck. The respondent also noted the problem that funding for organizations serving immigrants tends to restrict programs to serving immigrants (and resettled refugees), thereby preventing refugees from accessing the same kinds of services.

Saskatchewan

Three organizations serving refugees and immigrants were interviewed in Saskatchewan: the Prince Albert Multicultural Council, the Regina Open Door Society, and the Saskatoon Open Door Society. All of these organizations primarily provide settlement services.

The Multicultural Council strives to create cultural awareness among different groups in Saskatchewan. The Regina Open Door Society aims to promote the adjustment and participation of immigrants in the Saskatchewan community, through such means as the extension of community services and the establishment of facilities for intercultural, educational, and social activities. The mandate of the Saskatoon Open Door Society is to welcome refugees and



immigrants and help them become informed and effective participants in Canadian society. Its services are offered in five areas: Children's Programming, Employment Development, Language Training, Reception and Outreach, and Community Development.

Legal Services

Available Legal Services	
Public Legal Education and Information	Little public legal education is available on the immigration and refugee law process. A wide range of educational materials, workshops, and information sessions are offered on other legal issues of interest to refugees and immigrants.
Referrals	For legal matters, people are referred to legal aid or, in some instances, to private bar lawyers who do pro bono work. A variety of other referrals are given for other issues.
Advice	One organization will provide both general and specific legal advice to people on immigration and refugee law matters.
Representation	No formal legal representation services. Very limited lay representation.
Language Assistance	Interpretation and translation is available for legal proceedings.

Public Legal Education

There is a limited number of channels through which people can get legal information on immigration and refugee matters in Saskatchewan. The Prince Albert Multicultural Council noted that it does sometimes bring in lawyers and other representatives of the justice system to provide information to clients. The Saskatoon Open Door Society provides information on provincial laws and regulations pertaining to issues like credential recognition, discrimination, housing, and employment standards. In these areas, it will also provide assistance with filling out forms, and employs a notary public to certify documents. However, little assistance is provided in issues under federal jurisdiction, including information on immigration legislation. The Regina Open Door Society has a community participation component through which staff provide outreach and educational activities in the community. These initiatives may relate to a wide range of legal or other issues.

All organizations generally have a wide variety of written materials available on legal and other topics. These materials typically are produced by others, like the office of the Rentalsman or the Public Legal Education Agency. The Prince Albert Multicultural Council organizes workshops and gatherings on a range of topics of interest to the refugee and immigrant community, including creating cultural awareness and education about different cultures. The Saskatoon Open Door Society conducts workshops on issues like rental housing and renter's rights, and works with law students on a pro bono basis to generate research assistance.

Referrals

Referrals are a primary service provided by the three organizations interviewed in Saskatchewan: the Prince Albert Multicultural Council, the Saskatoon Open Door Society, and the Regina Open Door Society. Staff at these agencies refer clients to a wide variety of settlement, cultural, and community service organizations, as well as to private lawyers, members of the provincial and federal legislatures, and the police. Respondents from all of the organizations noted that they do refer people to legal aid even though there is no formal legal aid coverage for immigration and

refugee issues in Saskatchewan. The Saskatoon Open Door Society noted that, in addition to cross-referrals, it often partners with other groups in specific projects to share information and advocate collectively.

Advice

Of the organizations interviewed, only the Prince Albert Multicultural Council offers its clients general advice and limited legal advice about the immigration and refugee law process. These services are offered by staff of the organization as well as by lawyers volunteering their time to work with clients. General advice tends to include the provision of information on the legal process and individuals' rights within it, as well as insight on how to conduct themselves in court, while the legal advice primarily involves assistance with the completion of forms. The areas in which advice is provided typically by staff of the Multicultural Council include Inland Claims, Convention Refugee Determination, Humanitarian and Compassionate applications, and Post-Refugee Determination in Canada Class applications. Some assistance may also be provided for Immigration Appeals Division cases. The quantity of legal advice provided by this organization is quite limited, and is far exceeded by advice that is more general in nature.

Representation

There are no community resources for formal legal representation in immigration and refugee law issues in Saskatchewan. While staff of the Prince Albert Multicultural Council will act as non-legal counsel, this is typically only in a peer support capacity where a staff member accompanies a person to a hearing without providing any representation. This is a very small component of the Multicultural Council's immigration and refugee law work. The legal issues in which staff may act as non-legal counsel are Inland Claims, Convention Refugee Determination, Humanitarian and Compassionate applications, and Post-Refugee Determination in Canada Class applications. Some assistance may also be provided in Immigration Appeals Division cases.

Language Assistance

All of the organizations interviewed provide interpretation and translation services for preparatory work and legal proceedings. This service is either provided free to clients by organization staff or on a fee-for-service basis by outside translators and interpreters, depending on the situation and the language involved. The Saskatoon Open Door Society noted that in most circumstances, staff will put clients in contact with an interpreter/translator from the organization's list. Whether this person then chooses to provide assistance on a volunteer or fee basis is up to them. The Regina Open Door Society has two certified translators on staff who provide services free to organization clients, if the matter is within their areas of language expertise. In other situations, outside translators/interpreters may be retained on a cost basis. The respondents from Regina Open Door and the Prince Albert Multicultural Council noted that staff provide language assistance in court proceedings.

The following data was submitted for the legal services provided by one organization in Saskatchewan for the 2000-2001 fiscal year.



ESTIMATED NUMBER OF CLIENTS BY TYPE OF SERVICE, 2000-2001	
Type of Service	Estimated Number of Clients
Educational or self-help materials	49
General Advice	216
Legal Advice	5
Representation as non-legal counsel	5
Representation as legal counsel	0
Translation or language assistance	48
Other types of assistance	184
All immigration/refugee services	497

Source: Immigration and Refugee Law Services Project data collection charts.

ESTIMATED NUMBER OF CLIENTS BY LEGAL ISSUE, 2000-2001*	
Immigration/Refugee Law Issue	Estimated Number of Cases as a Percentage of All Clients
Inland Claims	0
Convention Refugee Determination	67
Immigration Appeals Division	4
Humanitarian and Compassionate	2
Post-Determination Refugee Claimants	6

* These figures include cases in which advice is provided as well as cases in which staff act as non-legal counsel.

Source: Data collection charts for Saskatchewan.

With respect to the characteristics of the clients served by this organization, the following estimates were provided.

IMMIGRATION AND REFUGEE LAW CLIENT CHARACTERISTICS	
Client Characteristic	Percentage of All Clients in 2000-2001
Female	0.5
Male	35.0
Family	64.5
Age 18 and under	56
Age 19-39	35
Age 40 and over	9

* The numbers in these tables are estimates.

Source: Data collection charts for Saskatchewan.

The key countries of origin identified for the refugees and immigrants seeking assistance in Saskatchewan are Bosnia, Burundi, Cameroon, Croatia, Liberia, Rwanda, Somalia, Sudan, and the former Yugoslavia.

Staffing and Funding Information

Types of Staff

The types of staff employed by organizations providing legal assistance to refugees and immigrants include general staff, support staff, interpreters/translators and, for one group, a notary public. One organization also relies on pro bono lawyers to provide some services, while this group and one other receive some direct and legal research assistance from law students.

Sources of Funding

None of the organizations interviewed said it receives any funding that is specifically targeted to the delivery of legal services. However, the primary funding source for all of the organizations interviewed is Citizenship and Immigration Canada (Human Resources and Development Canada was a second federal funding source for one group, and Health Canada a second source for another). Respondents reported that federal funding is currently in decline as a result of government cutbacks, a trend that has led to greater instability despite the long-term status of the federal government as a funding source. It was also noted by one group that instability comes from the fact that funding decisions are reviewed on an annual basis, which makes long-term planning more difficult. This group would prefer a three-year funding term.

One organization reported receiving very little provincial funding, while the other two listed the province as a source of some financial support. One organization receives funding from the United Way, while a different group listed municipal government and private foundations as additional sources of income.

Settlement Services

The following briefly outlines the range of settlement services available in Saskatchewan, the kinds of programs offered, the staff employed to administer these programs, and the types of funding received.

Types of Settlement Programs

- Employment training and assistance (job searches, skills assessment, resume writing and interview skills, computer access, etc)
- Language training, translation, and interpretation
- Host program
- Airport meeting service (for government-assisted arrivals)
- Resource centre (publications and other materials)
- Counselling, support, and orientation
- Income tax assistance
- Temporary accommodation (for government-assisted arrivals)

Types of Staff

The types of staff that deliver settlement services in Saskatchewan include general settlement staff, teachers, counsellors, social workers, support staff, notary public, volunteers, and students.

Sources of Funding

The majority of funding for all of the organizations interviewed in Saskatchewan comes from the federal government (Citizenship and Immigration, Human Resources and Development, and Health). The settlement organizations receive some money from the province, but another



organization noted that there is very little provincial funding. Other sources of funding for settlement work include municipal government, the United Way, foundations and private donors.

All of the organizations felt that their funding is less secure now than in the past, due to recent cut backs from the federal government.

Impressions about the Services Available to Refugees and Immigrants

Two respondents in Saskatchewan felt that they did not have enough knowledge about available resources in the immigration and refugee law system to respond to questions about their impressions of how this system is working.

Problem Areas

Insufficient Legal Services. Two of the organizations interviewed noted that there are few ways that refugees and immigrants can receive legal assistance in Saskatchewan. Both respondents highlighted the fact that legal aid does not cover immigration and refugee law matters. One of the same two respondents noted that Citizenship and Immigration Canada (CIC) has provided assistance, in terms of legal services for refugees and immigrants, in the absence of other types of support. This person suggested that CIC staff are often better equipped to deal with the justice system than the settlement staff employed by community organizations, and that there is a close and positive working relationship between CIC and the agency this respondent represents.

Language Barriers in the Justice System. One respondent noted that the justice system is, in general, poorly equipped to deal with persons whose first language is not English, and recommended the development of a translation/interpretation service within the system. It is particularly pressing that adequate language assistance is available in the immigration and refugee context, given the serious implications of the wrong facts or information being presented.

Manitoba

Three organizations serving refugees and immigrants were interviewed in Manitoba, all being located in Winnipeg. Two of these groups – the Manitoba Interfaith Immigration Council and Welcome Place – are part of the same organization structure, so information on the activities of these two organizations has been merged. The Interfaith Immigration Council is a voluntary association of faith communities and individuals. It welcomes and extends hospitality to all refugees and immigrants through the provision of paralegal services for refugee claimants, assistance with family sponsorships, information and advice for refugees overseas, and a complete range of services (reception, settlement) to government-sponsored and privately sponsored refugees. The Citizenship Council – International Centre is an immigrant-serving agency dedicated to providing a comprehensive range of services and programs that support and facilitate the integration of immigrants. These include settlement assistance, language assistance, employment services, educational activities, and community outreach.

Legal Services

The Manitoba Interfaith Immigration Council (MIIC) has recently developed a new program to provide legal support services to refugees and immigrants in Manitoba, in addition to settlement services. This project is being piloted with assistance from the Department of Justice. Legal work in immigration and refugee cases was formerly done through other agencies, but, since the initiation of this pilot project, all of this work has been moved to the Immigration Council.

Through its work on this new project, MIIC is able to provide a continuum of assistance to refugees and immigrants, from the first claim upon arrival until the client becomes a permanent resident. MIIC provides assistance at all of the stages involved in this continuum, including legal information, advice, and representation.

Available Legal Services	
Public Legal Education and Information	Public legal education is not a large component of the work done by organizations serving refugees and immigrants in Manitoba, in terms either of the immigration and refugee process or other issues of interest to refugees and immigrants.
Referrals	For legal matters, refugees and immigrants are referred primarily to MIIC.
Advice	Through MIIC.
Representation	Representation in certain areas is provided by paralegals at MIIC. Many issues are referred to legal aid or private bar lawyers.
Language Assistance	Staff and volunteers at the organizations interviewed provide language assistance needed for both preparatory work and legal proceedings.

Public Legal Education

MIIC respondents noted that public legal education is not a large component of the work that they do, although they did note that the role MIIC plays in sponsoring refugees has an educational component since the organization assists people throughout the legal and settlement process. The Citizenship Council has brochures and other written materials available for distribution to its clients.

Referrals

For legal work, MIIC is the primary organization to which refugees and immigrants are referred. The Citizenship Council noted that it refers people to MIIC, as well as to a variety of other organizations and government offices, depending on the particular needs of the client. Overall, the approach of this group is to try to create linkages and connect people with the resources they need.

If staff at MIIC are unable to assist refugee claimants with their legal problems, respondents noted that they may direct clients to legal aid. However, if a person has been refused legal aid coverage, then there are very few other places to refer them.

Advice

MIIC is the only organization that provides general and legal advice to immigrants and refugee claimants, although the majority of their clients (estimated at 95 percent) are asylum refugees.



The immigrants who receive assistance are those who have “fallen through the cracks” of the immigration system. No assistance is provided to independent immigrants.

The bulk of the legal advice provided concerns Inland Claims, Convention Refugee Determination, and Post-Determination Refugee Claimants cases. With respect to the provision of general advice, respondents estimated that inquiries most often concern Port of Entry and Inland Claims issues. Overall, Inland Claims are a significant area of work, but given that these cases tend to span more than one year, keeping accurate numbers is difficult. In addition, one respondent noted that assisting people with Inland Claims tends to involve many other matters (visits to Citizenship and Immigration Canada, medical appointments, mental health referrals, social services referrals, and so on). Providing assistance through all of these components is what is meant by the statement that the organization helps people from the initial claim through the entire process.

In general, the work of MIIC focusses on assisting lawyers with the preparatory stages of a file, including the collection of narrative information and a personal history for the Personal Information form. The completion of this “time-consuming” preparatory work is of key importance, according to one respondent, given the low remuneration available to legal aid lawyers involved in immigration and refugee law cases. Without it, this person felt that many lawyers would simply refuse to work on legal aid cases.

Representation

The pilot project at MIIC arranges for legal representation for refugees, but staff are seldom involved in providing that representation themselves. Occasionally, staff paralegals may act as legal counsel in Convention Refugee Determination cases (expedited hearings), and Adjudication Division cases (for clients with no access to legal aid or other support). Assistance is also provided in Humanitarian and Compassionate and Post-Determination Refugee Claimants in Canada Class applications. The respondent suggested that legal aid is unlikely to fund cases in this area because of the administrative nature of the process, and, for Post-Determination applications, the low success rate. Referrals are the only form of assistance offered in cases in the following areas: Immigration Appeals, Danger Opinions, Federal Court Judicial Review/Appeals, Supreme Court Appeals, and Appeals to International Tribunals.

For the majority of clients, MIIC acts as a processing body. Staff refer clients to lawyers (the Council has connections with local lawyers who do legal aid work on immigration and refugee files), prepare background materials (in particular the Personal Information Form), and generally assist lawyers with immigration and refugee law cases. As the respondent noted, Council paralegals do not replace the work of counsel, but rather “supplement it so that claimants will get adequate services that they might not otherwise get, given the amount of money allotted by legal aid.” In this way, MIIC ensures that persons without access to funding, or persons who “fall between the immigration cracks,” get a reasonable chance to have their claim heard.

Language Assistance

Both organizations interviewed in Manitoba provide assistance with translation and interpretation. The Citizenship Council has a language bank of people whose expertise covers more than 80 languages. The Council representative described its services in this area as “the most comprehensive access to diverse languages” in Manitoba. Language bank members often provide services on a voluntary basis, although the respondent noted that sometimes interpretation or translation is arranged on a fee-for-service basis. Language assistance is provided in court proceedings as well as for the translation of documents.

MIIC settlement counsellors have a variety of linguistic skills that they use in their work with refugees. If staff lack the relevant expertise to deal with particular cases, the organization seeks assistance from outside volunteers.

Under the Justice Canada pilot project at MIIC, specific funding is allotted for translation work. Accordingly, clients do not pay for this service unless they do not qualify under the requirements of the pilot program – MIIC pays translators from the funds allotted for this service. Prior to the initiation of the pilot project, there were no funds specifically earmarked for language assistance.

The following data was submitted by one organization interviewed in Manitoba for the fiscal year of April 2000 to March 2001.

NUMBER OF REFUGEES AND IMMIGRANTS RECEIVING LEGAL ASSISTANCE, 2000-2001					
Immigration/Refugee Law Issue	Number of Clients				
	General Advice	Legal Advice	Non-legal counsel	Legal counsel	Language assistance
Port of Entry	100+				
Inland Claims	85	85			40 ^{\$}
CRDD		62+	5	1	
Adjudication			1		
Humanitarian/Compassionate				5	
PDRCC		18*			
Danger Opinions – Submissions to Minister				3	
Appeals to International Tribunals				2	
All Immigration/ Refugee Law Services	200 ^{\$}	100+ ^{\$}	6	11	40 ^{\$}

* These cases are from previous years.

^{\$} These numbers are estimates.

Source: Data collection charts for Manitoba.

In 2000-2001, 85 new files were opened by organizations providing legal services to refugees in Manitoba. Of these 85 files, the primary client in 41 instances was a female, in 19 cases was male, and in 25 instances was a family (12 of which were single-female-parent families). The respondent estimated that 40 clients were below age 18.



Although 85 new files were opened, these files dealt with a total of 137 people arriving in Canada to claim refugee status. Of these 137 claimants, 95 were adults and 42 were children.

The following table breaks down the total number of new files opened in the 2000-2001 and 1999-2000 fiscal years by source region.

IMMIGRATION AND REFUGEE LAW CLIENTS BY SOURCE REGION				
Source Region	2000-2001 fiscal year		1999-2000 fiscal year	
	Number of Files from Region	Percentage of All Refugee Files	Number of Files from Region	Percentage of All Refugee Files
Africa	23	27	29	24
Americas	26	30	32	26
Asia	5	6	6	5
Europe	15	18	9	7
Former USSR	9	11	36	30
Middle East	7	8	7	6
Other	-	-	2	2
Total Files	85	100	121	100

Source: Data collection charts for Manitoba.

A very limited amount of information was provided on the cost of delivering legal services in immigration and refugee law. A respondent estimated that the cost of delivering public legal education, general advice, and legal advice in 2000-2001 was \$45,000. Another \$5,000 was allotted to translation and language assistance, for a total of \$50,000. For the organization as a whole, this amounted to only 5 percent of the costs incurred in the provision of all services (e.g., settlement, sponsorship).

Staffing and Funding Information

Types of Staff

Paralegals are the primary staff involved in the delivery of legal assistance. There has been some discussion of the possibility of arranging times for lawyers to come in and assist clients (likely on a pro bono basis), but currently there are no lawyers employed by organizations serving refugees and immigrants in Manitoba.

Counsellors also provide some advice, and counsellors, volunteers, and professional interpreters and translators deliver the available translation and language services.

Sources of Funding

The federal and provincial governments are the primary funders of the legal services available to refugees and immigrants in Manitoba. A small amount of funding is derived from the community through fundraising and private donations.

Federal and provincial government funding has been quite long-term according to all respondents. Provincial financial support was characterized as unstable by one representative,

and stable (but not increasing) by the other. Respondents noted that the legal program operated by MIIC is in the pilot stage. It is not yet clear whether current funding will last. This is particularly the case on the provincial front, where amounts of financial support have fluctuated over the life of the program thus far.

Settlement Services

The following briefly outlines the range of settlement services available to immigrants and resettled refugees in Manitoba, the kinds of programs offered, the staff employed to administer these programs, and the types of funding received.

Types of Settlement Programs

- Comprehensive language bank for translation and interpretation (mostly voluntary but also some fee-for-service)
- Sponsorship program
- Employment assistance (orientation, job searching, career planning, career transitions, computer skills)
- Distribution of education materials; information and referrals (housing, support services, parenting)
- Counselling
- Advocacy and cultural bridging programs
- Nutrition services (meal planning, budgeting, nutrition education, dietary assessments, cross-cultural menu planning, community outreach)
- Community liaison and outreach

Types of Staff

Paralegals, general settlement staff, translators/interpreters, and volunteers are involved in delivering settlement services in Manitoba.

Sources of Funding

The principal sources of funding for settlement work are the federal, provincial and municipal governments. Other organizations that contribute money include private foundations, the United Way, and corporations (e.g., American Express). Settlement groups also raise some funds through donations and membership fees.

Although much of the funding must be renewed on an annual basis, respondents felt that several sources were fairly stable. The United Way has reliably provided core funding since the 1980s, and the City of Winnipeg offers three-year contracts. Provincial government funding through the departments responsible for labour and immigration is relatively dependable, even if it has not increased.



Impressions about the Services Available to Refugees and Immigrants

Problem Areas

Low Remuneration for Immigration and Refugee Lawyers. The key gap identified by respondents in Manitoba is a lack of money. This leads to a dearth of paralegals and lawyers working in the immigration and refugee law area.

As noted above, the low remuneration that lawyers receive through legal aid for immigration and refugee law cases is an area of concern for organizations in Manitoba because it limits the number of lawyers who are willing to take on such cases. When there are not enough legal aid lawyers, to do even the work that has merit, there are few other resources to which people can turn. Organizations like MIIC provide a very limited amount of legal representation. Cases that were highlighted as raising particular difficulties are those that involve working with traumatized clients. These cases exact an emotional price on the lawyers involved, which one respondent felt led to “burn out.”

Success Stories

Contribution of Community Organizations to Case File Preparation. Related to the problem of low remuneration for legal aid lawyers is the role that MIIC paralegals play in preparing case files. Respondents felt that this is very valuable to the lawyers involved in immigration and refugee law, since much of the time-consuming initial work is completed and translated before they take on the case. This not only makes it more likely that lawyers will be willing to work for the low rates offered by legal aid, but also that clients have access to a “one-stop shop.” MIIC staff provide legal advice, advocacy, and settlement services as well as refer people to lawyers for legal proceedings. One respondent suggested that the use of skilled paralegals is not only working well, but is actually becoming a necessity in the immigration and refugee law area. The low remuneration that legal aid lawyers receive for immigration and refugee law work means that there are too few lawyers willing to take on cases in this area. In addition, a respondent suggested that there have been problems in the past with emotional “burn out” on the part of legal aid lawyers handling the most difficult and time-consuming cases.

Co-operation with Legal Aid. The initiation of the pilot project has led to more co-operation with legal aid on the part of the MIIC, as Council paralegals work more closely with lawyers in the preparation of case files. Since MIIC staff can now take on the preparatory work, lawyers are now better able to complete a case within the limits established by legal aid. This has created a more positive climate for everyone.

Co-ordination of Services for Refugees. Given the expanded role of MIIC in providing legal advice and working with legal aid in the preparation of case files, other organizations use the Council as the primary referral point for clients in need of legal assistance. In other words, it seems that MIIC has become the focal point for processing refugee claimants. Almost all refugee claimants “go through” the Council to the appropriate service, whether it is formal representation through legal aid or more general assistance delivered by MIIC staff.

Ontario

Four organizations serving refugees and immigrants were interviewed in Ontario. The South Asian Legal Clinic of Ontario is a non-profit organization seeking to establish a legal clinic to respond to the needs of low-income South Asians in Toronto. This group is pursuing funding from sources including the Ontario Law Foundation, Legal Aid Ontario and the United Way to expand the range of services it offers. The mandate of the Ottawa–Carleton Immigrant Services Organization is to enable newcomers to become equal participants in all aspects of Canadian society through the provision of specialized and innovative services. These services are primarily in the settlement area. Both Hamilton House and the St. Joseph’s Refugee Committee provide assistance to refugees, and are affiliated with religious groups.

Legal Services

Available Legal Services	
Public Legal Education and Information	Most of the community organizations interviewed in Ontario provide some kind of public legal education, ranging from information sessions and workshops for clients to law reform workshops and training sessions for organization staff and clients.
Referrals	All of the agencies interviewed refer clients to other organizations for additional legal services that staff are unable to provide. These referrals include to legal aid, private bar immigration and refugee lawyers, and community groups serving refugees and immigrants. One organization’s respondent characterized it as specifically a referral agency.
Advice	Two organizations interviewed provide advice on a variety of immigration and refugee law issues. A third organization noted that its programming will be expanded this year to include the provision of advice.
Representation	Two organizations interviewed provide legal representation in a variety of immigration and refugee law issues. A third organization noted that its programming will be expanded this year to include the provision of legal representation.
Language Assistance	Three organizations offer language assistance, through multilingual seminars or information sessions, and some interpretation and translation services.

Public Legal Education

The South Asian Legal Clinic provides other community agencies with legal information seminars on a variety of immigration and refugee matters and in different languages. According to the respondent, the issues addressed include sponsorship, available community and legal resources, and the process and steps involved in various components of the immigration and refugee process. The Clinic also does some law reform work, providing information on how legislative changes affect certain client populations. The Clinic also distributes and translates written materials produced by other organizations. Hamilton House offers free training in the refugee determination process to interested community organizations and distributes information to clients through its Web site. The respondent from St. Joseph’s Refugee Committee noted that it distributes general legal information materials produced by other organizations.

The Ottawa Carleton Immigration Services Organization provides what respondents characterized as an “extensive range” of workshops and legal information on a variety of issues related to refugees and immigrants. The examples suggested during the interview include refugee sponsorship and applications for landing.



Referrals

Overall, all respondents suggested that referrals are made by organization staff as appropriate to the needs of the client, and based on the expertise of staff and available programs. With respect to legal issues, all organizations noted that they do refer people to legal aid, although the representative of the St. Joseph's Refugee Committee noted that, for the population it tends to serve, legal aid does not often come up. The respondent suggested that the organization is operating "on the street," implying that the services being provided address more immediate needs, such as hunger.

The respondent from the South Asian Legal Clinic explicitly noted that the network of community legal clinics funded by legal aid as a valuable resource for low-income persons. This organization refers people to legal aid community clinics that have appropriate language resources to meet the needs of their clientele, as well as to other community organizations that have ties to the South Asian community. South Asian Legal Clinic staff also refer clients to private bar lawyers and to legal clinics affiliated with law schools. The St. Joseph's Refugee Committee also noted that it has contacts with some private bar lawyers, and that clients may also be directed to community centres.

Respondents from Hamilton House and the Ottawa–Carleton Immigrant Services Organization noted that clients are referred to other legal resources in the community when staff lack the appropriate knowledge to handle a case, or if the case is complex enough to require more specialized legal assistance. However, the Hamilton House representative noted that it will try to meet a client's needs if he or she has been denied legal aid assistance, and if there are no other options available.

Advice

Of the two organizations currently providing advice, Hamilton House handles this service through an intake process similar to the legal aid system. Through this system clients may receive either general assistance (for example, information on what to expect from the immigration and refugee law process, or a referral to another organization) or more specific legal advice pertaining to the circumstances of their particular case. This may include assistance with the completion of forms (such as Personal Information Forms) or other assistance in the areas of Inland Claims, Convention Refugee Determination, Adjudication (although they have not had any cases in this area), Humanitarian and Compassionate applications, Post-Determination Refugee Claimants in Canada Class applications, and International Tribunal appeals. The respondent pointed out that while staff technically do not provide advice in Federal Court cases, since there is a lawyer on staff this might be something they could do. It was also noted that organization staff may be open to providing assistance in other immigration and refugee law issues, depending on the case and the available resources.

According to a respondent from the Ottawa–Carleton Immigrant Services Organization, settlement workers provide an "extensive" amount of legal information and direct legal services to clients in a variety of immigration and refugee issues, including matters of law. The respondent from this organization noted that a high percentage of the questions directed to

settlement workers concern legal matters related to immigrating to Canada – making a refugee claim, visitors visas, temporary work permits, family sponsorship, and so on. The legal information and assistance provided by settlement workers is so comprehensive that the organization considers it tantamount to a paralegal service.

If a legal matter is within the expertise of Ottawa–Carleton staff, they will provide advice or assistance. If the issue is too complex or requires knowledge that staff lack, clients will be referred to another resource. According to the respondent from this organization, the issues in which settlement workers provide assistance are Inland claims, Convention Refugee Determination, and Humanitarian and Compassionate applications. Clients are more often referred to another organization or to legal aid for matters concerning Immigration Appeals, Adjudication, and Post-Determination Refugee Claimants in Canada Class applications. Interestingly, this agency also co-operates with legal aid in running an advice service – once a week, a legal aid staff lawyer comes to the organization to provide assistance to clients. Settlement staff at the organization will arrange appointments for clients, usually 30 minutes in length. The legal aid staff lawyer may review completed forms or applications (for example, permanent residence applications), address a wide range of problems encountered by the client, or refer the client to another organization or to legal aid for further assistance. No legal representation is provided through this service unless the client is referred to legal aid to apply for a certificate.

The South Asian Legal Clinic respondent noted that while this organization currently does not have an advice function, this is part of a planned service expansion that is under way. In the next few months, this organization plans to have the capacity to provide both general and legal advice to clients in immigration and refugee law. At present, clients are generally referred to legal aid or to legal aid community clinics.

Representation

As noted in the above table, two organizations will provide some legal representation in immigration and refugee law. The Ottawa–Carleton Immigrant Services Organization provides legal representation for immigration and refugee law cases, although the respondent noted that this kind of assistance is available only to persons who are not eligible for legal aid. The provision of legal representation is contingent on the availability of sufficient resources. The three staff members who provide both legal advice and representation are in the office only two days a week, so there is a limited amount of time for such cases. If settlement workers are involved in providing legal representation, they always do so under the supervision of a lawyer.

According to the representative of the Ottawa–Carleton Immigrant Services Organization, legal representation is available for matters concerning Inland Claims, Convention Refugee Determination, Adjudication (although it has not had any cases in this area), Humanitarian and Compassionate applications, Post-Determination Refugee Claimants in Canada Class applications, and International Tribunal appeals. However, the respondent suggested that the organization is open to providing assistance in other areas, depending on the issue in question and the resources available. Ottawa–Carleton staff lawyers also do some legal work on a legal aid certificate basis for immigration and refugee law cases.



Hamilton House also will provide legal representation to clients who are unable to access such services through legal aid. This kind of assistance may be provided for cases concerning Convention Refugee Determination, Immigration Appeals Division, Adjudication, Humanitarian and Compassionate applications, Post-Determination Refugee Claimants in Canada Class applications, and International Tribunal appeals. Any legal assistance representation provided by Hamilton House staff is done under the supervision of a staff lawyer.

The South Asian Legal Clinic respondent noted that while this organization currently does not provide legal representation, this is part of a planned service expansion that is under way. At present, clients are generally referred to legal aid or to legal aid community clinics.

Language Assistance

The South Asian Legal Clinic reported that its seminars and information sessions incorporate the provision of translation assistance to those who need it. In addition, some informational materials are available in other languages. These services are particularly available for Asian languages. Hamilton House provides Spanish-English translation only and, as a result, receives many clients who require this kind of assistance. If other language skills are needed, the respondent from this group reported that it will try to find volunteers or rely on clients' friends and relatives. The Ottawa–Carleton Immigrant Services Organization provides interpretation and translation services for preparatory visits and meetings with lawyers. This service is not available for formal legal proceedings.

Staffing and Funding Information

Types of Staff

The two organizations that provide only information and referrals on immigration and refugee law matters rely exclusively on volunteers – they have no paid staff. Due to the planned expansion in the range of services offered by one of these organizations, the respondent noted that it hopes to hire one lawyer and one community legal worker in the future.

One organization providing legal advice and representation employs three community workers and one lawyer, in addition to relying on volunteers. The other organization offering advice and legal representation characterizes its staff members as settlement workers. This organization also relies on both volunteers and students, and legal aid staff do come to this agency once a week to provide legal assistance to clients.

Sources of Funding

Two organizations rely primarily on private funders, with one also receiving funds from municipal government. One of these two organizations expects to receive funding in the future from Legal Aid Ontario and the Law Foundation for an expanded range of legal assistance. This organization characterized its current funding structure as unstable. The other of the two organizations that receives private funding suggested that funding is relatively stable.

A third organization receives funding from churches, community organizations, and donations, with some limited support from the provincial government. The respondent from this group suggested that its funding was relatively stable in terms of the overall amount, but problems arise due to the increasing number of clients using its services without any corresponding increase in financial support. The final organization receives funding from the federal, provincial and municipal governments, as well as from the United Way. This organization characterized its funding as unstable despite the fact that it has been in place for over 20 years.

Settlement Services

Three of the four organizations interviewed in Ontario offer settlement services as well as legal assistance, but none of them are exclusively settlement groups. Since some form of legal assistance is offered by each organization, separate information on settlement services in Ontario has not been included.

Impressions about the Services Available to Refugees and Immigrants

Problem Areas

Insufficient Legal Assistance. Three respondents noted that, while it is good that there is a system in place to allow low-income people to get legal assistance, legal aid in Ontario remains insufficient. One representative suggested that there is a growing number of people who still lack the right kind of support (for example, 10 percent of refugee claimants do not receive legal aid, and not all community legal clinics cover all immigration and refugee law issues). At the same time, the number of immigrants and refugees arriving in Ontario is increasing. For this respondent, organizations serving refugees and immigrants are trying to fill the gap created by the lack of sufficient services and the increasing demand for these services.

A second respondent also suggested that there are too few alternatives for people who have been denied legal aid coverage to receive legal support. This representative suggested that in view of the limited resources of voluntary associations, the situation that results tends to be a kind of “triage” with respect to determining who will and won’t receive assistance.

A third representative argued that there is a “total lack of information” for people who are poor and disadvantaged in some legal areas, but the examples highlighted were administrative law (wills, contracts), and not immigration and refugee law matters. For this respondent, the lack of education about the law is the key gap underlying this problem.

Cultural and Linguistic Sensitivity. One respondent suggested that the services offered by Legal Aid Ontario are not sufficiently culturally and linguistically sensitive. According to the respondent, this would undermine a person’s access to justice, creating a key gap in the assistance available to refugees and immigrants in the province. The respondent argued that it is important to ensure that refugees and immigrants can get help with their legal problems in a comfortable and easy manner.



Success Stories

Legal Aid Support for Community Initiatives. One representative suggested that the number of projects being funded through the legal aid system has increased, and that this is positive for community organizations that have an opportunity to access this funding.

Use of Merit Testing. A different respondent noted that the use of opinion certificates to evaluate the merit of a case is working well. This provides an opportunity for the legal representative in a case to convince legal aid that a certificate is warranted, as well as ensuring that the most deserving cases receive coverage.

Additional Comment

One respondent commented that it does not make sense to divide legal issues affecting low-income people into separate categories (for example, immigration law versus refugee law versus poverty law). This respondent suggested that a more holistic and comprehensive approach to legal issues affecting poor people would be more appropriate and effective.

Quebec

Seven respondents from organizations serving refugees and immigrants were interviewed in Quebec. All of these organizations provide both settlement and legal services to refugees and/or immigrants. One agency – the Centre for Research–Action on Race Relations (CRARR) – works primarily on discrimination issues. *Service d'aide aux réfugiés et immigrants du Montréal Métropolitain* (SARIMM) primarily serves refugee claimants and persons with refugee status, although other persons may be assistance as well. *Accueil liaison pour arrivants* (ALPA) works with the immigrant population in the Montreal area through all stages of the process settlement and integration process.

Representatives of *Centre PRISME* (*promotion, référence, information et services multiethniques*) describe the organization as primarily a reference resource, while the mandate of the *Centre social d'aide aux immigrants* (CSAI) is to welcome and assist refugees and immigrants by offering front-line services to facilitate integration. Both *Carrefour d'aide aux nouveaux arrivants* and the *Centre multi-ethnique de Québec* provide reception and settlement services to refugees and immigrants, with the latter identifying refugees and independent immigrants as their primary client groups.

Legal Services

Available Legal Services	
Public Legal Education and Information	All organizations interviewed in Quebec are involved in the co-ordination or hosting of information sessions and/or workshops on a variety of topics, including the immigration process.
Referrals	All of the organizations interviewed provide referrals to their clients. The places to which people are most frequently referred are legal aid and other community organizations.
Advice	Several organizations (five) provide legal advice in the form of assistance with procedural matters like the completion of forms.
Representation	One organization provides legal representation as a regular service, and the staff of one other organization will occasionally provide some assistance. The majority of organizations (six) do not provide any legal representation in immigration and refugee law matters. Only one organization will act as non-legal counsel for refugees and immigrants.
Language Assistance	All but one of the organizations interviewed in Quebec provide some form of language assistance, including translation/interpretation work for legal proceedings and necessary documents.

Public Legal Education

All of the organizations interviewed in Quebec provide public legal education workshops and materials. These resources pertain to the immigration and refugee law process, as well as to other legal matters related to this process, including refugee status determination, general information on the operation of legal system, and legal rights and responsibilities. The respondent from *Centre PRISME* noted that while this agency organizes workshops that are facilitated by immigration and refugee lawyers, staff are somewhat hesitant about this service because they fear that disreputable lawyers will become involved.

In addition to information sessions and workshops on the immigration and refugee process, most organizations also offer educational services in a variety of other legal issues of relevance to refugees and immigrants. Three organizations – *Service d'aide aux réfugiés et immigrants de Montréal Métropolitain* (SARIMM), the Centre for Research–Action on Race Relations (CRARR), and the *Centre multi-ethnique de Québec* – also noted that they distribute self-help and other educational materials on a wide variety of topics. However, the *Centre multi-ethnique* respondent did suggest that such materials are not disseminated in a systematic way, but rather on an informal basis. The representative of *Accueil liaison pour arrivants* (ALPA) noted that the organization cannot afford to prepare or distribute materials to clients on immigration and refugee law, although clients may be directed to other sources for such information (including Web sites).

Referrals

Five organizations – SARIMM, *Centre PRISME*, *Centre multi-ethnique*, ALPA, and CRARR – refer clients directly to legal aid. Most of these groups suggested that referrals constitute the extent of their co-operation with the legal aid system, although the respondent from CRARR did note that it occasionally develops strategies for community action in co-operation with legal aid. The example offered was when agency staff act as a third party at tribunals where legal aid lawyers provide representation. One respondent commented that legal aid is not open to co-operation with community organizations.



Respondents from *Centre social d'aide aux immigrants* (CSAI) and CRARR noted that they refer clients directly to lawyers, including lawyers who may end up handling a case on a legal aid certificate basis. The *Carrefour d'aide aux nouveaux arrivants* representative commented that the organization does not work with legal aid except in very rare circumstances.

SARIMM, CSAI, *Centre PRISME*, *Centre multi-ethnique*, ALPA, *Carrefour d'aide aux nouveaux arrivants* and CRARR refer clients to other community organizations, depending on the needs of the person. Organizations dealing with violence and trauma issues (sexual assault, rape, torture, etc.) were often mentioned in terms of referrals. Three of the agencies noted that they also work jointly with other community organizations. *Centre multi-ethnique* co-operates with community agencies and works closely with the provincial Ministry of immigration (*Ministère des relations avec les citoyens et de l'immigration* – MRCI). CRARR forges coalitions in complex cases, particularly when the outcome of the case has the potential to affect many people. *Carrefour d'aide aux nouveaux arrivants* characterized the whole approach of the agency as one of “community integration” – working jointly with other groups while respecting each other’s areas of expertise and programming.

Advice

SARIMM, CSAI, *Centre multi-ethnique*, ALPA, *Carrefour d'aide aux nouveaux arrivants* and CRARR all provide general advice and information to clients on immigration and refugee law matters. The respondent from CSAI noted that law students are sometimes involved in the provision of advice, although it was acknowledged that their activities in this area must be closely supervised.

All of these organizations also provide legal advice in addition to general assistance, primarily through such procedural activities as the completion of forms. Respondents from five agencies – SARIMM, CSAI, *Centre multi-ethnique*, ALPA and *Carrefour d'aide aux nouveaux arrivants* – specifically noted that staff assist with Personal Information Forms for refugee claimants. Other areas where this kind of assistance is provided include application letters, sponsorship forms, and permanent residency applications. The SARIMM representative noted that staff try to keep legal advice to a minimum, given that refugee claimants have to see a lawyer to have their Personal Information Forms signed, and that the lawyer can provide further assistance. A respondent from CSAI also expressed caution about providing legal advice suggesting that the organization cannot afford to provide clients with the wrong advice, given the potential for extreme consequences like deportation. The respondent from ALPA noted specifically that the organization provides advice to inland refugee claimants. The work of CRARR is limited to assisting people in issues relating to experiences of discrimination, but staff do not offer any procedural assistance.

The *Centre multi-ethnique* respondent insisted that, as a general rule, staff will not provide legal advice. Clients who require such assistance are referred to the provincial Ministry of Immigration or to legal aid. Other organizations noted that they will refer clients to legal aid or to private bar lawyers when the issue on which a client requires advice is outside of staff expertise (e.g., ALPA).

Representation

CRARR is the only organization interviewed in Quebec in which staff regularly provide legal counsel. The focus of this organization is on cases in which people are subject to discriminatory practices, and staff attempt to choose cases that will affect a large number of people.

The CSAI representatives noted that although this organization generally does not provide legal representation, staff will occasionally provide such services for Humanitarian and Compassionate cases. Staff at *Carrefour d'aide aux nouveaux arrivants* also do not provide representation to clients directly, but they do have a relationship with some private bar lawyers who will offer such assistance on a pro bono basis. These lawyers are not necessarily immigration and refugee law specialists, but tend instead to focus on issues in family and poverty law as they apply to immigration and refugee matters.

Of the six organizations that reported that staff generally do not provide legal representation, respondents from CSAI and ALPA noted that the complexity of the laws and regulations in this area make it difficult and intimidating for non-lawyers to offer legal guidance, particularly when the stakes are so high (e.g., risk of deportation). ALPA in particular noted that it was formerly more willing to provide legal assistance, but now only refers clients to the many specialized immigration and refugee lawyers, due to concerns about the adequacy of the services provided by non-lawyers. This respondent felt that the immigration and refugee law system previously was more straightforward, which made it easier for non-lawyers to play a role in legal processes.

SARIMM is the only organization in which staff act as non-legal counsel. This service is offered only for unaccompanied minors and persons unfit to represent themselves (e.g., those with mental health issues). Lawyers typically carry out this function in other provinces, but in Quebec it is largely done by social workers. SARIMM has a social worker on staff to provide this kind of representation, and this person will remain involved with a client throughout the entire legal and settlement process. The IRB contracts with this agency to provide non-legal representation in the circumstances outlined above. Non-legal counsel services are provided for Inland Claims cases, Immigration Appeals Division cases, and Adjudication Division cases. The respondent noted that, in the wake of September 11, there may also be a need for staff to provide representation to unaccompanied minors and unfit persons at the Port of Entry stage.

Language Assistance

As noted in the table, only one organization interviewed in Quebec (CRARR) does not offer any language assistance. The kinds of activities in which the other six groups provide language assistance include the provision of general information, explanation of forms and documents, and assistance with the completion of Personal Information Forms. ALPA staff will also occasionally accompany clients to legal or other proceedings, generally to provide language assistance. CSAI noted that staff may attend IRB hearings to provide language assistance, but this service is very rare. The respondent from ALPA also explicitly commented that staff will occasionally translate client histories or other documents for lawyers.



Six of the organizations interviewed in Quebec – SARIMM, CSAI, *Centre PRISME*, *Centre multi-ethnique*, ALPA, and *Carrefour d'aide aux nouveaux arrivants* – noted that they rely on staff to provide language assistance (translation and interpretation) to clients. When staff lack the relevant expertise, SARIMM and *Centre multi-ethnique* will hire external persons or seek volunteers from other organizations, with the SARIMM respondent noting that it receives grants for such initiatives. CSAI and *Carrefour d'aide aux nouveaux arrivants* also noted that they will provide service exchanges (providing other work in exchange for language assistance, or vice versa).

The following data was submitted for the legal services provided by two organizations in Quebec in the 2000-2001 fiscal year.

NUMBER OF PERSONS RECEIVING ASSISTANCE, 2000-2001					
Public Legal Education	General Advice	Legal Advice	Representation		Language Assistance
			<i>Legal Counsel</i>	<i>Non-legal Counsel</i>	
1,337	6,476	2,396*	Not applicable	340	3,146

* This number is estimated.

Source: Data collection charts for Quebec.

Among those organizations that submitted data, the provision of general and legal advice was by far the predominant activity carried out by staff in the immigration and refugee law area.

Language assistance was also a significant service, not only combined with legal services, but also attached to the settlement services provided by various organizations.

PROFILE OF IMMIGRATION AND REFUGEE LAW CLIENTS, 2000-2001		
Characteristic		Number of Clients
SEX*		
	Women	1,517
	Men	2,028
AGE		
	Age 18 and under	566
	Age 19-39	2,359
	Age 40 and over	962
COUNTRY OF ORIGIN		
	Africa [§]	1,262
	Middle East	511
	Asia	213
	Europe [#]	637
	North America	83
	Latin America ⁺	602
	Antilles	236

* Although data was requested for a “family” category in addition to “women” and “men”, the reporting organizations did not track their clients in this manner. The “family” category was intended to capture cases in which the primary applicant is not described as a woman or man, but as a couple and/or a family.

[§] Including the Maghreb (Algeria, Morocco, Tunisia, Mauritania).

[#] Including the former Soviet Union and the Balkans.

⁺ Including Mexico, Central America, and South America.

Source: Data collection charts for Quebec.

Among the organizations that submitted data, there was no consistent outcome with respect to the predominance of women or men. For all organizations, the majority of clients were between the ages of 19 and 39, and Africa (including the Maghreb) was the largest client source region. Two organizations explicitly noted that the Maghreb (Algeria, Morocco, Tunisia, Mauritania) is a particularly significant source of refugees and immigrants at present.

A limited amount of information is available on actual amounts of funding. One organization reported that it has received \$170,000 for its Immigrant Assistance and Settlement Program. Another group was able to break its funding down to show the amounts spent on various programs: public legal education, \$30,000; general advice, \$63,000; legal advice, \$68,000; and language assistance, \$60,000.

Staffing and Funding Information

Types of Staff

The organizations interviewed tend to have several types of staff. Many employ persons who work directly with clients as they come in (front-line workers, community workers, community legal workers, reception/settlement agents, administrative staff). Although these employees may come from a variety of backgrounds, some organizations mentioned that on-the-job training is important.

In addition to these front-line staff, several of the organizations that offer some variety of legal services also have a settlement component. Accordingly, they employ counsellors (employment, vocational training, etc.), teachers (computer, language), social workers, and occasionally interpreters and psychologists.

Only one organization has any legal staff (two lawyers). Two groups noted that they sometimes rely on pro bono lawyers to provide services to their clients, although one of these agencies noted that these lawyers rarely deal with immigration and refugee law issues.

Several organizations reported relying on volunteers. For one organization, these volunteers are nuns (based on a former affiliation with a religious organization); the others did not specify a particular source of volunteers. A different group noted that it deliberately tries to avoid using volunteers as much as possible, because it believes work should be remunerated. Some groups also rely on students, and one occasionally uses short-term contract workers.

Sources of Funding

The primary funding source for the organizations interviewed is the provincial government. Some organizations also receive funding from the federal government – Ottawa provides Quebec with a grant under the Canada Quebec Accord, which requires that Quebec provide settlement services to refugees and immigrants in the province. The United Way is an additional source of financial support for several of the organizations.



Government Funding. Federal government sources of funding include Citizenship and Immigration Canada (under the Canada Quebec Accord grant), Human Resources and Development Canada, Heritage Canada (three organizations received funding from Heritage), and Health Canada. On the provincial level, the Ministry of Immigration (MRCI) provides funding to five of the organizations interviewed. For four of these groups, MRCI is the primary funding source. For the fifth agency, the Ministry provides partial funding. One organization is funded entirely by the Ministry of Health and Social Services, while two organizations receive partial funding from the Ministry of Employment (although this funding is principally for settlement services like employment and training programs).

Other Sources of Funding. Three organizations receive funding from the United Way, and one group is partially funded by the Quebec Regional Health Services Board. Other funding sources include private foundations, fundraising, and private donations.

Organizations were divided with respect to opinions on the stability of their funding. Several organizations claimed that the funding they receive is stable, although some also pointed out that this is not necessarily positive, since the amount of money they receive overall remains insufficient. These groups highlighted increasing demands, as a result of greater numbers of refugees and immigrants without any comparable increase in funding dollars, and the small size (and hence budget) of the Quebec Ministry of Immigration as key reasons for inadequate funding levels. Overall, funding from MRCI was viewed to be relatively stable even if available amounts are low – a significant finding given that MRCI is a primary or secondary funding source for the majority of organizations interviewed in Quebec. Funding from the United Way was also considered to be generally stable by the organizations receiving support.

Funding from the federal government was generally viewed to be less stable than funding from the provincial government or from the United Way, although two organizations have had relatively long-term funding relationships with Heritage Canada. One of these organizations noted that the funding it receives from Heritage Canada is actually becoming less stable, more closely monitored, and more difficult to access. This agency reported that its activities are scrutinized more closely, and that the application process is lengthy, particularly given the limited amount of money that is available.

Funding for one organization is tied to the number of refugee status claims, which the respondent reported is increasing in Quebec.

Settlement Services

Several of the organizations interviewed in Quebec offer settlement services as well as legal assistance. Since some form of legal assistance is offered by each organization, separate information on settlement services in Quebec has not been included.

Impressions about the Services Available to Refugees and Immigrants

Two organizations in Quebec were reluctant to answer questions about aspects of the current system of delivering services to refugees and immigrants that are and are not working well. One

group suggested that the only relevant comment on these questions is that there is “an immense void” in terms of the services available to refugees and immigrants in Quebec. A respondent from the second organization did not offer any reason for being unwilling to offer responses to questions in this area. Overall, however, respondents in Quebec were more concerned than respondents in other provinces about the reasons for this project being conducted, and the uses to which the information would be put.

Problem Areas

Lack of Funding. Four organizations pointed to a lack of funding for immigration and refugee services as a significant problem. For two organizations, the limited financial support means that staff cannot always provide clients with the amount of assistance that they think is appropriate. Another respondent raised particular concerns about the impact of recent budget cuts on the quality of services available to refugees and immigrants in Quebec. The fourth agency characterized immigration as an “underdeveloped window of opportunity in Quebec” that is being compromised by inconsistent funding.

Lack of Services for Refugees. Five organizations pointed to the lack of services for refugees as a general problem in Quebec. Different service areas were highlighted as key weaknesses: one organization mentioned both the absence of job search assistance and the lack of French language training/the prioritization of immigrants for the receipt of such services; three different organizations pointed to a lack of targeted support for refugees in general and government sponsored refugees in particular; the fifth group suggested that refugee claimants are generally denied access to services. One of these three respondents also mentioned that the family allowance was lower for refugees than for Quebec citizens.

Several organizations mentioned that the provincial government funding they receive through MRCI limits the services they can offer to refugees to the provision of housing assistance during the resettlement period.⁹ However, respondents noted that they recognize greater needs among the refugee community for other kinds of assistance, and will often try to provide services in other areas. One respondent also suggested that problems arise in terms of services for “political” (government-sponsored) refugee claimants who have already been accepted by the federal government. This representative charged that the federal government does not provide community organizations with any money to assist these refugees, despite the fact that their claims have been approved. The respondent said the result is that organization staff end up assisting these people for free and in secret.

With respect to French language instruction, one organization claimed that priority is given to immigrants because the Quebec government does not consider it a wise investment to spend money on language training for refugees, when many of them will end up being denied status.

⁹ One respondent mentioned that the specific agreement that limits assistance to the housing area is the Gagnon-Tremblay-McDougall Agreement



Organizations Working beyond Their Mandate. Another key concern raised by several different organizations is the fact that they are forced to provide assistance in areas that are outside the range of services for which they are funded, or for which they have a specific mandate to address. For example, many settlement organizations are mandated only to provide assistance with finding housing and meeting other basic needs, but their activities extend into the advocacy area. Some groups report that they provide additional services because they see a need in the community for such assistance – finding accommodation is important, but it is not sufficient. This concern is linked to the comment, above, about extending services to refugees even when they are beyond the funding and/or mandate of the organization.

Geographically based Service Delivery. One respondent noted that service delivery is too focussed on geographic area, so that persons residing in one part of the city cannot access the services available in another part. This approach is too restrictive, particularly when the services available in a particular area are inappropriate or underdeveloped.

Language. Only one respondent raised any concerns about access to services in English. This organization suggested that English-speaking refugees are not able to access services in English, which clearly raises problems in terms of effective communication.

Prejudice against Refugees. One respondent had the impression that some public servants are already prejudiced against refugees and, with the new security concerns post-September 11, this is only likely to get worse. More generally, although many public servants working in the immigration and refugee area are understanding and competent, others are very inflexible.

Success Stories

Co-ordination and Co-operation among Community Organizations. Several organizations pointed to positive and effective relationships among community organizations serving the refugee and immigrant population, and, in some cases, between groups serving refugees and immigrants and other community resources (CLSCs, local employment centres, etc.).

One organization particularly noted that it is important to have a central location for the delivery of services to refugees and immigrants. In the absence of such a structure, each local community service centre (CLSC) would inherit the task of offering these services. The complexity of the immigration and refugee law process would make it difficult for staff to keep up to date with changes in the legal environment. Within an organization dedicated to addressing only immigration and refugee issues, staff can spend more time becoming familiar with the complexities of the system, and better facilitate linkages between refugees and immigrants and the other community services they need.

Types of Staff, Training, and Activities. Two organizations reported that staff are well trained to provide the services offered to refugees and immigrants. In addition, one organization noted that the involvement of social workers in IRB proceedings and throughout the legal and settlement process is a positive feature of the system in Quebec, since these people are able to provide support and assistance outside the legal realm.

On a similar note, one organization pointed out that the work it does with refugees and immigrants is effective because staff keep up to date with the range of programs available as well as the laws and regulations in a wide variety of areas (e.g., employment, health, education). This permits staff to direct clients to the appropriate service and to provide them with useful information. Given the limited budget for refugee and immigrant assistance, it is important to be efficient.

Conversely, a respondent from one organization did claim that the training of people who work with refugees on a daily basis is very deficient. The same organization argued that Quebec lawyers are not well trained in issues concerning the *Charter of Rights*, and may actually not recognize Charter violations – or provide their clients with bad advice on issues pertaining to fundamental rights.

Access to Documents. One respondent noted that the only positive thing about the immigration and refugee law system is that access to documents is easier now that they are all available on the Internet.

Nova Scotia

Four representatives from three organizations serving refugees and immigrants were interviewed in Nova Scotia. Two of these three agencies – the Metropolitan Immigrant Settlement Association (MISA) and the Centre for Diverse Visible Cultures (CDVC) – are primarily settlement groups. MISA assists immigrants who have already been granted landed immigrant status by the Department of Citizenship and Immigration. It provides assistance in accessing training, services, language instruction, and community resources. CDVC strives to promote the participation, accessibility, and self-determination of persons from visible cultures by fostering public awareness of ethnic diversity, providing programs and services to strengthen well-being, and acting as a representative in consultations with government, industry, and other organizations. In addition to the above two settlement groups, the Halifax Refugee Clinic provides pro bono assistance to refugees in need throughout the determination process.

Legal Services

Available Legal Services	
Public Legal Education and Information	Public legal education is not a large component of the work done by organizations that provide legal assistance to refugees and immigrants.
Referrals	Two organizations noted that there are not many places to refer people for legal assistance. Some groups refer clients with legal problems to private bar lawyers.
Advice	Two organizations provide legal advice, although they serve only the refugee community in Nova Scotia.
Representation	Two organizations provide legal representation, but they serve only the refugee community in Nova Scotia.
Language Assistance	A limited amount of language assistance is available in legal matters.



Public Legal Education

The Halifax Refugee Clinic offers training sessions throughout the year at various locations, and is quite active in this capacity in the community. In addition, clinic staff occasionally work with social services, doctors, and educators to inform them about the reality of refugees' situation and the discrimination they face.

The two organizations interviewed that provide exclusively settlement services – the Metropolitan Immigrant Settlement Association (MISA) and the Centre for Diverse Visible Cultures – do offer orientation sessions on Canadian law, although not specifically in terms of the immigration and refugee process.

Referrals

Respondents from the Halifax Refugee Clinic indicated that there are few places to which to refer clients in need of legal assistance. The absence of legal aid coverage for immigration and refugee law issues was highlighted in this context. The Refugee Clinic does refer clients who can afford to retain their own counsel to private bar immigration and refugee lawyers, and persons with other needs to settlement agencies. Clinic respondents did point out that a lot of people are referred to their services by other organizations.

MISA noted that the main place to which clients are referred is the Halifax Refugee Clinic. The Centre for Diverse Visible Cultures also used to be an important resource for referrals, but this is to a lesser extent now. A representative of the Centre for Diverse Visible Cultures noted that it refers clients to private bar lawyers who provide assistance on a pro bono basis. These referrals are not necessarily just for immigration or refugee law work, but the respondent noted that this is a component of its programming that the Centre hopes to expand. At present, the Centre refers to only one private bar lawyer.

Advice

The Halifax Refugee Clinic provides assistance with forms and the preparation of hearing materials, as well as advice on the legal process, legal rights and responsibilities, and available options for action. The areas of the immigration and refugee law process for which these services are provided are Port of Entry (although this is rare), Inland Claims, Convention Refugee Determination, Immigration Appeals, Adjudication, Humanitarian and Compassionate, Post-Determination Refugee Claimants in Canada Class, and Federal Court. Assistance is also provided with other kinds of legal issues, including applications for work permits and permanent residency.

MISA employs crisis outreach workers who deal with legal matters, but these are more often related to domestic disputes or violence – not federal laws concerning the immigration and refugee process. The primary functions of outreach workers are to support the client, make referrals, and write letters attesting the person's need for legal assistance.

Representation

The Halifax Refugee Clinic provides legal representation for refugees at hearings and tribunals throughout the determination process. This service is provided free of charge to those who cannot afford to retain private counsel. The areas where legal representation is provided are Port of Entry, Inland Claims, Convention Refugee Determination, Immigration Appeals, Adjudication, Post-Determination Refugee Claimants in Canada Class, and Federal Court cases. The Refugee Clinic does not currently provide legal counsel for Humanitarian and Compassionate applications, but this service is soon to commence, now that additional funding has been secured. Respondents noted that they have not yet encountered a case involving a Supreme Court or International Tribunal appeal, so it remains an open question as to what assistance would be provided. If the outcome of a case is positive, staff will continue to assist the client with forms and so on. If the outcome is negative, staff will advise on rights and options for further action.

Language Assistance

Only the Halifax Refugee Clinic provides some language assistance. This service is not provided by staff, but by translators retained by the Clinic. However, a respondent noted that the Clinic hopes to eventually create its own roster of interpreters/translators to provide such service in addition to its legal work. On the settlement side, the MISA representative noted that staff occasionally provide translation services for legal documents and in court proceedings.

The following data was provided by one organization offering general and legal advice as well as legal representation in immigration and refugee law matters in Nova Scotia.

NUMBER OF CLIENTS BY TYPE OF SERVICE, 2000-2001*					
Immigration/ Refugee Law Issue	Public Legal Education	General Advice	Legal Advice	Legal Representation	Language Assistance
Port of Entry	10	10	10	2	9
Inland Claims	11	11	150	150	11
Convention Refugee Determination	120	120	150	150	100
Immigration Appeals Division	0	0	0	0	0
Adjudication Division	–	–	15	15	–
Humanitarian and Compassionate	2	5	5	5	1
Post-Determination Refugee Claimants	–	–	35	35	–
Federal Court	1	1	3	3	1
TOTAL	144	147	368	360	122

* The numbers in this table are estimated.

Source: Data collection charts for Nova Scotia.

Four applicants were denied assistance with Convention Refugee Determination matters by this organization on the grounds that the client could afford to retain private counsel, informed the



organization that the claim was fictional, or appeared to be lying or had an unbelievable story. Respondents did not report refusing assistance to clients in other legal matters.

This agency further reported that, in 2000-2001, 17.5 percent of its clients were female and 82.5 percent of its clients were male. No data was provided on age. Country of origin of immigration and refugee law clients was described as follows.

COUNTRY OF ORIGIN OF IMMIGRATION AND REFUGEE LAW CLIENTS, 2000-2001*	
Country of Origin	Percent of All Clients
Russian and Romania	33
Albania	11
Zimbabwe	10
Cuba	8
Other (38 countries)	38

* The percentages in this table are estimated.
Source: Data collection charts for Nova Scotia.

A limited amount of information on the cost of the legal services available to refugee and immigrants in 2000-2001 was provided. Respondents estimated that legal advice and representation services were made available at a total cost of \$25,000, a figure that constitutes 85 percent of the entire budget for the services provided by this organization.

Staffing and Funding Information

Types of Staff

The organization providing legal services has a co-ordinator, one part-time lawyer, and one part-time caseworker on staff, as well as a supervising lawyer as the director. This agency also relies on law students, international development students, volunteer lawyers and other community members to provide services.

Sources of Funding

The Catholic Pastoral Centre funds this organization, and additional funding has recently been received from the Law Foundation of Nova Scotia. This group charges a \$35 administration fee to clients, co-ordinates fundraising activities and solicits donations. The organization does not receive any provincial or federal government funding. Respondents characterized funding as stable.

Settlement Services

Types of Settlement Programs

- Joint initiatives with educational materials (pamphlets)
- Language assistance (fee-for-service translation, staff-based translation and interpretation)
- Referrals to other organizations serving immigrants, Halifax Refugee Clinic, multicultural organizations, and private bar lawyers

- Training and employment programs, job search assistance
- Violence education and prevention

One settlement organization focusses on visible minority immigrant populations and the unique forms of discrimination they face. This organization felt that assistance for visible minorities is particularly important because other organizations in Nova Scotia that assist immigrants often have to demonstrate “results” in order to maintain funding (e.g., job finding and retention by clients). Since it remains easier to find employment for those who are not persons of colour, visible minorities tend to be overlooked or to receive less assistance. The other settlement group noted that it provides services directly only to adults. Children are assisted only as part of the services provided to a family.

Types of Staff

General staff, settlement counsellors, outreach workers, students, translators, and some students on a volunteer or practicum/placement basis. Neither of the settlement organizations has lawyers or paralegals on staff (although one does refer to private bar lawyers who work on a pro bono basis).

Sources of Funding

Funding for the settlement organizations interviewed comes largely from government sources. On the federal level, the main sources are Citizenship and Immigration Canada and the Department of Justice (for work on violence prevention). Some limited funding from the provincial government is also provided. For one organization this funding comes through the Department of Education. Municipal government is also a source of a limited amount of funding, with one organization reporting that this typically is in the form of small grants. In addition to government, one organization noted that private donations and the United Way are additional sources of financial support.

One settlement organization respondent characterized funding as long-term, but unstable. The other respondent, from an organization providing legal assistance, suggested that funding is long-term and stable in the sense that some dollars are received every year, but that the amount of funding is currently in decline.

Impressions about the Services Available to Refugees and immigrants

Problem Areas

Lack of Legal Support. One organization identified the key problem as the overall lack of services in Nova Scotia. Respondents pointed to the fact that there is no legal aid coverage for immigration and refugee law matters, as well as to the lack of community resources. As a result, there are many issues for which no legal assistance is available, despite the fact that there is a need for such services.



Two other organizations interviewed in Nova Scotia also recognized the lack of legal support available to refugees and immigrants, although one did note that the Halifax Refugee Clinic has made a significant contribution towards filling the gaps in this area. Prior to the initiation of this program, the range of available services was described as “pathetic.” However, since the Refugee Clinic deals primarily with refugees, there are still very few resources for assistance for immigrants.

Problems in the Legal System. One respondent noted that the amount of time it takes to process a refugee claim is far too long (it can sometimes take five or six months). This time lag can have drastic consequences for the claimant – in the extreme, the respondent cited cases of attempted suicide. The respondent also noted that IRB members seem to lack sufficient knowledge about refugee cases, often asking inappropriate questions. Finally, the respondent noted that there is no permanent IRB in Nova Scotia, so Board members must periodically come from Ottawa for hearings. When the Board’s members are present, too many hearings are hurried through the IRB process in the short time available. This has negative implications for the quality of the legal presentation. Evidence cannot be fully presented; judges make questionable decisions about the relevance of certain information, and so on. The respondent also noted that there are no IRB members from the Atlantic region.

Two respondents commented that there is a lack of trained, high-quality translators for legal proceedings. Using insufficiently skilled translators tends to exacerbate the legal problems described above. Three respondents noted that Nova Scotia also lacks private bar lawyers with expertise in immigration and refugee issues, and those that do work in this area charge high fees. In general, one organization pointed out that there are few lawyers with language skills or cross-cultural training. Finally, one respondent raised some concerns about immigration consultants, noting that these people often provide their clients with incorrect or bad advice, despite charging high fees.

New Brunswick

Five organizations serving refugees and immigrants were interviewed in New Brunswick – the Multicultural Association of Fredericton, the Multicultural Association of the Greater Moncton Area, the Public Legal Education and Information Service (PLEIS), the Wilmont Church Legal Advice Clinic, and the Refugee Support Centre. The interview with the Refugee Support Centre was not completed.

The Multicultural Association of Fredericton promotes the concept of multiculturalism in the area; assisting new arrivals, and organizing conferences. The primary activities of the Multicultural Association of the Greater Moncton Area are in the protection and promotion of human rights, the creation of cultural awareness, and the provision of settlement assistance to refugees and immigrants. PLEIS is a non-profit organization and charity whose mandate is to develop a variety of bilingual educational products and services about the law for the public to promote access to the legal system. The Wilmont Church Clinic is a service put on by the United Church on a volunteer basis to provide clients with legal advice on a wide range of topics. The Refugee Support Centre provides legal assistance to refugees in New Brunswick throughout the determination process.

Legal Services

Among the organizations contacted in New Brunswick, the legal assistance available for immigration and refugee law matters is relatively limited. Of those groups whose work is not confined to settlement, the legal assistance provided is generally confined to the provision of basic advice, referrals, and information about procedural issues and legal rights. There is an immigration and refugee law pilot project proposal under consideration that, if implemented, would increase the range of legal assistance available to refugees and immigrants.¹⁰

Available Legal Services	
Public Legal Education and Information	Several organizations interviewed in New Brunswick provide some kind of public legal educational services. Some of this assistance specifically concerns the immigration and refugee law process; other groups address a broader range of legal and settlement issues. The explicit purpose of one organization is to provide legal information for public educational purposes.
Referrals	Organizations serving refugees and immigrants refer clients to organizations that provide legal assistance to refugees and immigrants, but this is relatively limited.
Advice	Two organizations provide legal advice to refugees and immigrants in New Brunswick. Other organizations report that some advice is available from pro bono private bar lawyers.
Representation	One organization will actually represent refugees and immigrants in legal proceedings.
Language Assistance	Three of the organizations interviewed provide some kind of language assistance.

The availability of legal assistance for refugees and immigrants depends somewhat on location. Given that there is not a wide range of legal supports, respondents noted that persons in some communities may have to travel to another location to receive assistance. Perhaps the most extreme examples are in refugee cases, since applications for refugee status may be made in New Brunswick but hearings and other proceedings take place in Halifax.

Public Legal Education

The Public Legal Education and Information Service of New Brunswick (PLEIS) engages in educational activities and information sessions, although not all of these pertain specifically to immigration and refugee law. This agency also distributes pamphlets and other written materials around the province. Wilmont Church Legal Advice Clinic also collects and distributes information at twice-monthly legal clinics. The public legal educational activities of the Refugee Support Centre are unknown.

The explicit function of PLEIS is to provide legal information on a variety of topics. The information available is generally quite broad, and is provided both in print form and online. The topics include legal rights and responsibilities, processes involved in pursuing different kinds of claims, and identification of relevant pieces of legislation or regulations. Overall, the goal of this organization is to improve the ability of the general public to deal with legal matters. Its work does not extend to the provision of advice or representation – with limited staff and a large volume of requests, it can help the most people by concentrating on a general information service.

¹⁰ This pilot project proposal has not been approved, due to a lack of federal government funding dollars.



Two settlement agencies – the Multicultural Association of Fredericton and the Multicultural Association of Greater Moncton – organize educational activities that do not specifically concern immigration and refugee law. These agencies may address other general legal issues of relevance to refugees and immigrants (for example, medicare, child tax benefits, income assistance, travel documents, human rights) as well as a variety of other topics in the settlement area. Familiarizing refugees and immigrants with these aspects of the law, and assisting them with applications for these programs, was identified as an important form of legal assistance. Their services include the distribution of written materials.

Referrals

In general, the organizations interviewed in New Brunswick refer clients to free legal clinics, private bar lawyers, settlement and other community agencies, and provincial and federal government offices. None of the organizations refers clients to legal aid for assistance with immigration and refugee (or other civil) law matters, given that there is no coverage for such issues in this province.

Respondents from the Multicultural Association of Fredericton and PLEIS noted that they refer clients to free legal clinics. The approach of the Multicultural Association of Greater Moncton was characterized as one of “striving to refer people to the appropriate legal support.” The representative of this agency commented that this includes referring clients to some private bar lawyers with whom the organization has a relationship and who will do work some work on a pro bono basis. Refugee claimants have also been referred by this organization to a private bar lawyer, Lee Cohen, in Halifax. According to the respondent, legal proceedings for refugees take place in Halifax, so Mr. Cohen is an obvious person to approach for legal assistance.

PLEIS also noted that clients may be referred to private bar lawyers, although not necessarily to lawyers with whom the organization has a particular connection. This organization also refers clients to settlement agencies for issues in that area. The Wilmont Church Clinic representative commented that legal aid refers people to this organization’s free legal clinics for immigration and refugee law, poverty law and other matters, since these issues are not covered by legal aid. Volunteers who staff the clinics may provide clients with suggestions of other community resources to contact for additional assistance. The Refugee Support Centre respondent noted that staff members do not know of other resources for legal assistance for refugees and immigrants, so there is nowhere to refer clients.

Advice

As noted above, two organizations provide advice on immigration and refugee law issues. The Wilmont Church Clinic organizes legal clinics at which private bar lawyers and law students provide general and legal advice on a wide variety of topics. One of these topics is immigration and refugee law, although the clinics also address a range of other legal issues of concern to refugees and immigrants. The clinics operate on a drop-in basis, and are held twice a month. Although provincial legal aid respondents in New Brunswick reported no connections with community organizations delivering services to refugees and immigrants, the Wilmont Church respondent noted that legal aid has referred refugees and immigrants to the clinics.

The other organization that provides legal advice in New Brunswick – the Refugee Support Centre – initially served only the refugee community, but has since expanded its services to include immigrants, refugees, and citizens who need assistance with settlement and immigration matters. Organization staff provide assistance with a wide variety of issues, including immigration and refugee law. This organization has also submitted a proposal for pilot project funding to the federal Department of Justice. The proposed project¹¹ is a paralegal service for refugee claimants in New Brunswick that would provide orientation and information, legal advice (including assistance with the completion of Personal Information Forms, Humanitarian and Compassionate applications, and Post-Determination Refugee Claimants in Canada Class applications), interpretation and translation, preparatory work for hearings, and representation at hearings.

Although the two multicultural associations are essentially settlement groups that do not deliver direct legal services to refugees and immigrants, the Multicultural Association of Greater Moncton respondent did note that there is a municipal government lawyer involved in settlement work who sometimes provides legal advice to refugees and immigrants. This respondent also reported that one private bar firm used to offer pro bono immigration and refugee law advice, but that the lawyer providing this service has now left, and it is not known whether someone else will take on the role. In addition, staff at the Multicultural Association of Fredericton may provide some assistance with a legal issue by speaking to a lawyer on a client's behalf if there is a language issue, and if the legal question is within the range of staff expertise.

Representation

Only the Refugee Support Centre currently provides legal representation for refugees and immigrants. The respondent from this group noted that the majority of the cases it handles concern Convention Refugee Determination. However, staff will assist clients in other areas, depending on needs in the community.

Language Assistance

Of the two organizations that provide legal assistance, the Wilmont Church Clinic does not offer any language assistance, and it is unknown whether the Refugee Support Centre provides such service. PLEIS offers bilingual (English and French) services, but will refer to cultural agencies if assistance is required for clients who speak other languages. Both multicultural associations provide interpreters and translators for documents and essential services if they are needed, although one respondent noted that it is sometimes hard to find people to do this work.

Staffing and Funding Information

Types of Staff

The three organizations that provide a resource for information, advice, or representation in immigration and refugee law matters typically employ lawyers, paralegals, and

¹¹ Supra note 8.



administrative/support staff. One of these groups relies on private bar lawyers and law students to staff legal clinics, and one group works with law schools and Pro Bono Students of Canada.

Sources of Funding

The group that organizes legal clinics does not receive any funding. The persons involved in organizing the clinics are all volunteers, space is donated by local churches, and private bar lawyers and law students donate their time. The funding sources for the other organization that provides legal advice and representation are not known.

Funding for the third organization involved in providing legal information on immigration and refugee law matters comes from the federal government (Department of Justice) and the New Brunswick Law Foundation. The province provides this group with in-kind support in the form of office space. This organization characterized its funding as stable.

Settlement Services

The following briefly outlines the range of settlement services offered by the settlement organizations interviewed in New Brunswick, including the kinds of programs offered, the staff employed to administer the programs, and the types of funding received.

Types of Settlement Programs

- Language training (French and English); translation and interpretation
- Airport meeting service
- Orientation and information sessions
- Peer support and accompaniment
- Assistance with applications and making connections with government services
- Co-ordination of community sponsorship and volunteering
- Assistance with applications for family reunification
- Employment training

Types of Staff

Settlement organizations employ a wide variety of people. Organizations identify their staff as “settlement workers” or “immigration support people.” Teachers are also employed by some of these groups for language training programs, and some also rely on students (typically in nursing and social work).

Sources of Funding

The settlement groups receive the majority of their funding from the federal government (Citizenship and Immigration Canada, Heritage Canada). One organization receives money from the province for employment programs.

One organization described its federal funding as stable, the other suggested that its funding has shrunk significantly. For the latter, funding is contingent on the number of “new arrivals” to New Brunswick.

Impressions about the Services Available to Refugees and immigrants

Problem Areas

Lack of Legal Services. For three organizations, the lack of legal services available in the immigration and refugee law area is a key weakness in New Brunswick. Each of these organizations pointed to the absence of support from legal aid, and the limited number of community organizations, clinics, and private bar lawyers willing and able to take on this work. Concerns were also raised about the distribution of services across the province – since there are no services in certain areas, people have to travel to receive any assistance.

Concern about lack of legal services motivated the application for pilot project funding for a paralegal assistance program for refugees in Saint John. This proposed program would provide legal orientation and information, assistance with forms (including Humanitarian and Compassionate and Post-Determination Refugee Claimants in Canada Class applications), language assistance (interpretation and translation of documents), preparatory and research work on claims and appeals, and attendance at legal proceedings in a support capacity. Legal representation at detention reviews could also be provided through this program.

Lack of Funding. One organization reported that there is not enough funding available for projects that support low-income people. While this group currently functions on an entirely volunteer basis, its initial goal was to hire a paid staff lawyer to provide a more permanent service. However, to date, volunteers have been unable to access funding for such a project. The respondent went on to note that provincial and federal governments are offloading too many support services for low-income people on to volunteers, but these people can only handle so much with the time and resources they have available. However, volunteer-based services are not a viable long-term solution.

Access to Justice Services. One respondent noted that the trend towards making services available through call centres and toll-free phone lines creates problems. Delivering services in this way makes it more difficult for people to access information, particularly when they have an ongoing problem and cannot always speak to the same person about their case.

Newfoundland and Labrador

Three organizations serving refugees and immigrants were interviewed in Newfoundland – the Association for New Canadians, the Refugee Immigrant Advisory Council, and the Public Legal Information Association of Newfoundland (PLIAN). Each group is located in St. John’s.

The Association for New Canadians provides settlement assistance, integration support, counselling, and educational programs for newcomers, with the goal of assisting these people to integrate with Canadian society. The Refugee Immigration Advisory Council provides a range



of services to refugees and immigrants in Newfoundland and Labrador. No particular groups are targeted by this agency. PLIAN is a non-profit organization dedicated to educating the public about legal issues. The mandate of this group is to assist Newfoundlanders and Labradorians in understanding the law and to make the legal system more accessible.

Legal Services

Not many organizations of any kind serving refugees and immigrants were located in Newfoundland. Legal aid representatives were able to offer only one suggestion, and subsequent searching uncovered only two other groups, one of which is a general services organization that does not specifically serve the refugee and immigrant community. One respondent explicitly noted that immigration and refugee law is not a primary issue in Newfoundland.

Available Legal Services	
Public Legal Education and Information	None of the organizations interviewed offer public legal education specifically on the immigration and refugee law process, although organizations do provide information on other legal issues of relevance to refugees and immigrants.
Referrals	Clients are referred to a wide variety of organizations, including legal aid and private bar lawyers.
Advice	One organization provides general and legal advice to clients. Advice may pertain to the immigration and refugee law process, as well as to a variety of other issues.
Representation	One organization will very occasionally act as legal counsel, but will accompany clients to legal proceedings as non-legal counsel.
Language Assistance	Settlement agencies provide translation and interpretation services for court proceedings.

Public Legal Education

The Refugee Immigrant Advisory Council (RIAC) does some legal education work, providing information sessions in response to the needs of the community or particular groups. The Association for New Canadians – essentially a settlement agency – provides legal information to clients on relevant aspects of the law and their rights and responsibilities under it, but this does not include any specific information or advice on how to negotiate immigration and refugee law processes. The respondent from this organization described the service as a general legal orientation.

The explicit purpose of the Public Legal Information Association of Newfoundland (PLIA) is to provide legal information to clients in person and over the phone. Staff cover a wide range of topics, which may include immigration and refugee law or other legal issues related to the immigration process. This organization also distributes a wide range of pamphlets and other written materials.

Referrals

As noted in the above table, all of the organizations interviewed in Newfoundland refer clients to legal aid or private bar lawyers for legal services. For other kinds of assistance, they may be referred to a variety of places – settlement agencies, government offices, clubs, shelters, and so on. All organizations interviewed reported that referrals are an important component of their work.

Advice

RIAC provides general advice to clients on a wide variety of issues of concern to refugees and immigrants – family reunification, sponsorship, employment, community resources, and so on. This kind of advice is provided by volunteers – there are no paid staff at this agency.

RIAC also provides legal advice to clients. Advice may be provided on any immigration and refugee law issue except Supreme Court and International Tribunal appeals, although the areas highlighted in particular by the respondent are Inland Claims, Convention Refugee Determination, Immigration Appeals, Humanitarian and Compassionate, Post-Determination Refugee Claimants in Canada Class, Danger Opinions, and Federal Court cases (although assistance with Federal Court cases is limited and is always provided in consultation with a lawyer). The respondent noted that Immigration Officers usually provide assistance with Port of Entry issues, although volunteers from this organization may get involved when there is a risk of deportation. Volunteers provide assistance in, for example, the completion of forms, compilation of background materials and documentation, and preparation for legal proceedings. The organization also has a relationship with some private bar lawyers who come to the office to provide services to clients directly or answer volunteers' questions about a case so that they can direct a client appropriately. The respondent suggested that volunteers will typically direct a client themselves if they know from experience how to handle the type of issue in question, but will consult with a lawyer when there is a new or particularly complex matter.

PLIA is responsible for running the legal information line as well as the lawyer referral service for Newfoundland. Both of these services provide clients with legal information on a variety of topics, but staff noted that they do not provide any direct advice, whether general or legal. According to the Association for New Canadians, the overarching goal of settlement services is to foster independence and self-sufficiency. As such, the staff of this group tend not to advise clients on a specific course of action. However, an Association respondent also commented that staff will suggest to clients that they seek legal counsel in certain situations, and direct them accordingly.

Representation

There are few resources for direct legal representation other than legal aid. RIAC will occasionally provide some representation for Immigration Appeals Division cases involving minors. This organization will also act as non-legal counsel, accompanying clients to legal proceedings to provide advice and support or assisting clients to get the right kind of legal counsel.

Language Assistance

The respondent from the Association for New Canadians noted that staff will provide translation and interpretation services for court and other legal proceedings. There is no certification for providers of these services. The Association is developing a training program to create a certification program. The respondent from this agency also noted that staff will assist in finding



translators or interpreters from other provinces if the necessary skills are lacking in Newfoundland.

RIAC has volunteers who provide translation and interpretation assistance. At present, one respondent noted, Newfoundland has no certification process for language professionals, but is in the process of developing a training program towards that end. PLIA translates all its materials into French, but does not offer other kinds of language assistance.

The following data was provided by one organization in Newfoundland on the legal services available to refugees and immigrants in 2000-2001.

NUMBER OF CLIENTS BY TYPE OF SERVICE, 2000-2001					
Immigration/ Refugee Law Issue	Education/ Self-help	General Advice	Legal Advice	Representation as Non-legal Counsel	Language Assistance
Inland Claims	3	—*	—	—	—
CRDD	40	35	7	—	—
Immigration Appeals Adjudication	10	5	0	2	—
	2	0	0	0	0
Humanitarian/ Compassionate	—	20	—	3	10
PDRCC	40	25	—	—	15
Danger Opinion	—	2	2	2	1

* “—” indicates that respondents were unable to determine the number of cases handled by organization staff. “0” indicates that the organization provided no assistance in 2000-2001. The respondent noted that it is difficult to separate out activities in each of these areas, given that staff provide services on more of a continuum, moving from one stage to the next. There was also some confusion as to the particular activities that fell into each category. Source: Data collection charts for Newfoundland.

CLIENT CHARACTERISTICS, 2000-2001		
	Characteristic	Number of Clients
AGE RANGE	Under age 18	3
	Age 18-39	45
	Over age 40	10
SEX	Women	22
	Men	24
COUNTRY OF ORIGIN	Family	12
	Former Soviet Union	45*
	China	6
	Sierra Leone	10
	Liberia	5
	Sudan	3

* This number is estimated.

Source: Data collection charts for Newfoundland.

Staffing and Funding Information

Types of Staff

The two organizations in Newfoundland that regularly provide direct legal services to clients have quite different staffing situations. One organization is staffed completely by volunteers and students who donate their time. The respondent from this organization noted that it previously had part-time paid staff, and that some of these people have gone on to jobs with the federal government in the immigration area. The second organization does have one lawyer on staff, and will hire others on a contract basis as needed. However, the respondent from this agency also noted that it also tends to rely heavily on volunteers.

Sources of Funding

One legal service organization receives funding from the Mennonite Central Committee, local churches, and community fundraising events. All of these funding sources were characterized as unstable. The other organization is funded by the federal Department of Justice, the Newfoundland Department of Justice (in-kind funding), and the Law Foundation of Newfoundland. Core funding from the federal government and the Law Foundation was characterized as stable, but difficult to obtain.

Settlement Services

The following describes the range of settlement services offered by the one settlement organization interviewed in Newfoundland.

Types of Settlement Programs

- Orientation and information sessions
- Assistance completing forms and applications
- Language instruction, translation, and interpretation
- Referrals to legal aid, private bar lawyers, police, victims' services, government offices, community groups, cultural organizations, etc.
- Raising public awareness about immigration, racism, and cultural sensitivity through cross-cultural education and information and consultation services
- Employment assistance (resume development, post-secondary access, job search, career planning, computer skills)
- Counselling and support groups
- Volunteer programs

Types of Staff

All employees were described as general settlement workers.



Sources of Funding

Different programs have different sources of funding. The federal government (Citizenship and Immigration Canada) provides funding for settlement services. Work with refugees is funded by Human Resources and Development Canada and by the provincial Department of Human Resources and Employment. Some project-based funding also comes from Heritage Canada.

Funding tends to be reassessed on a yearly basis, so there is never a long-term guarantee. To keep receiving funding, the organization must be accountable for the work it has done.

Impressions about the Services Available to Refugees and immigrants

Problem Areas

Lack of Consistency in Materials. In the opinion of one respondent, the immigration and refugee system would benefit from the development and use of common terminology. This would help ensure that services are delivered more consistently, to the benefit of both staff and clients, in light of ongoing changes in immigration legislation and changes in staff at various departments, organizations, and legal aid. This respondent pointed to the fact that the language used in various manuals, service delivery mandates, and so on, tends to vary between organizations.

Time and Resource Constraints. In Newfoundland, there are only two legal aid lawyers who work in the immigration and refugee law area. Apart from legal aid, there is only one group that provides any kind of legal assistance to refugees and immigrants, and it is a volunteer-based organization. In the face of such limited resources, it is unsurprising that one organization suggested that efforts to collaborate with legal aid are hindered by staffing and time constraints. Although settlement agency representatives regularly refer people to legal aid, and there is one settlement worker who acts as an interpreter for legal aid, the development of other co-operative initiatives was described as “slow going.”

Time and resource constraints are also particularly worrisome in light of the limited availability of legal assistance outside of the legal aid structure. One respondent pointed out that a key weakness in the current system for addressing the legal needs of refugees and immigrants is the simple fact that the disappearance of one organization would be devastating. In other words, there are so few resources to fall back on that there is no room for any decrease in available service levels.

Lack of Co-ordination of Services. One respondent noted that the services currently available in the immigration and refugee law area would benefit from greater co-ordination among settlement groups, lawyers, legal aid, government offices, and the IRB – particularly with respect to sharing information about a client and/or case. When the channels of communication break down, too often the price is exacted from the client, who is left to negotiate a new system on his or her own. This limited range of alternatives for supporting new arrivals was identified as a key gap in the immigration system.

Under the present system, new arrivals – and especially refugees – are too dependent on lawyers as the only source of information and assistance. This is particularly a problem in light of the above comments concerning lawyers’ overwhelming workloads. The system would be improved by broadening the range of individuals involved in the processing of refugee claimants (e.g., someone other than a lawyer could take on responsibility for completing Personal Information Forms).

Ongoing Legislative Changes. One respondent noted that changes in the legislation make it difficult to keep up to date – and, accordingly, to inform their clients – about what to expect. The resulting lack of consistency also has an impact on decisions about service provision. For example, the respondent noted that refugee claimants must wait a longer time before having their claims processed, but once the process is under way, it goes quite quickly. With all of the changes in the system, it is not clear whether or not this is a permanent state of affairs and, accordingly, whether staffing levels, for example, should be adjusted accordingly.

Prince Edward Island

Two community organizations serving refugees and immigrants were interviewed in P.E.I. – the Association for Newcomers and the Community Legal Information Association (CLIA). Both of these groups are located in Charlottetown.

The Association for Newcomers is a settlement agency that support programs that help newcomers feel welcome in the community, and that helps government-sponsored refugees with immediate settlement needs. CLIA is a non-profit corporation and registered charity that provides public legal education. CLIA's goal is to provide residents of P.E.I. with understandable and useful information about laws and the justice system. No community organizations that specifically provide refugees and immigrants with direct legal assistance in the immigration and refugee law process were located in P.E.I.

Legal Services

Organizations contacted in P.E.I. noted that there is little demand for immigration and refugee law services because very few refugees and immigrants come to this province. In addition, respondents noted that P.E.I.’s small population is relatively homogeneous, with few minority communities. For this reason, one respondent noted that even those refugees and immigrants who do arrive in P.E.I. – for example, through government assistance or sponsorship – tend not to stay. The lack of cultural or linguistic communities with which to forge connections and combat isolation prompts people to continue on to other places.

In general, it was suggested that legal services for refugees and immigrants are “noticeably missing” from the range of services available in this area. There are some resources available from the health, employment, and social services perspectives, but very few legal resources for people who do not have enough money to afford a private bar lawyer.



Available Legal Services	
Public Legal Education and Information	There are no public legal education activities specifically concerning the immigration and refugee law process, and a limited number of activities in other issues.
Referrals	There are no places to refer people for legal services other than to the lawyer referral service or private bar lawyers.
Advice	No.
Representation	No.
Language Assistance	No.

Public Legal Education

The limited activities in this area include the hosting of workshops on different issues and the distribution of educational materials. However, these tend to concern general legal issues rather than the immigration and refugee process in particular (for example, landlord-tenant matters, family law, policing and criminal law).

There is some co-operation between settlement agencies and provincial social services. The working relationship was described as positive and they have collaborated on the creation of an immigrant services committee. However, the committee does not deal with the legal aspect of immigration and refugee law issues, focussing instead on dealing with agencies in the health and social services arenas.

Referrals

The Community Legal Information Association (CLIA) runs the lawyer referral service for P.E.I. and, accordingly, refers people to that service for brief consultations. Staff also has contact information for two or three local private bar lawyers who are willing to be called on immigration and refugee law (and other) matters. However, the respondent did not know what degree of assistance these lawyers would provide to the persons referred to them. In addition, CLIA refers clients to a wide range of settlement and other services.

One settlement organization that was interviewed in P.E.I. – the Association for Newcomers – primarily refers clients to CLIA for legal support, and to other community agencies or government offices for other kinds of issues. If a client is reluctant to call the organization to which they have been referred, the Association may make this contact on the client's behalf. The respondent from the Association for Newcomers noted that that it does not receive a lot of requests for legal assistance.

Advice

There is no agency through which refugees and immigrants can receive general or legal advice in P.E.I. CLIA does not provide legal advice, but will refer clients to the lawyer referral service or to a few private bar lawyers who have indicated a willingness to respond to such requests. The Association for Newcomers does not employ lawyers or paralegals and, accordingly, does not deliver advice on legal matters. The Association respondent noted that staff members are generally unable to make recommendations on legal matters. In addition, they are to some extent

unwilling to provide legal direction, given the complex nature of immigration and refugee law, and given concerns about restrictions on who can act in a legal capacity on behalf of a client.

Representation

There is no agency through which refugees and immigrants can receive legal representation. Neither of the organizations interviewed could comment on the extent to which private bar lawyers would handle immigration and refugee law cases (other than on a regular fee basis). A representative of CLIA noted that there are some larger regional law firms in P.E.I. that may be able to use their internal resources to find someone with expertise in a given area if needed (e.g., an associate in another office). Overall, however, there are few lawyers in this province with expertise in the immigration and refugee law area. In the opinion of the CLIA respondent, the closest truly qualified lawyers are located in Halifax.

Language Assistance

Respondents from both CLIA and the Association for Newcomers pointed out that there are no certified translators or interpreters in P.E.I., and neither of the organizations interviewed regularly provides language assistance services. The CLIA respondent noted that CLIA may make use of volunteers to provide needed language assistance, but there is no one to do this work in formal contexts like legal hearings or court proceedings. A representative of the Association pointed out that there is no formal agency in P.E.I. that delivers language assistance.

Staffing and Funding Information

Types of Staff

The staff of CLIA includes neither lawyers nor paralegals. The respondent described the employees simply as “general staff information providers.”

Sources of Funding

Funding for CLIA comes primarily from the federal Department of Justice. This funding was characterized as stable and long-term – the organization has been receiving it since its inception. According to the respondent, the provincial government (Office of the Attorney General) does not provide CLIA with any direct funding, but does offer in-kind support. The P.E.I. Law Foundation is an additional funding source.

Settlement Services

The following briefly outlines the range of settlement services offered by the Association for Newcomers in P.E.I., including the kinds of programs offered, the staff employed to administer these programs, and the types of funding received.



Types of Settlement Programs

- Assistance with forms and applications
- Airport meeting service
- Information and orientation sessions (in the process of developing an educational program)
- Referrals to other agencies, government offices, colleges etc.
- Distribution of basic information (e.g., a brochure about living in P.E.I.) on a drop-in basis
- Employment training and assistance

Unlike the settlement services available in other provinces, language training was not a principal focus of the services available in P.E.I. It was reported that there is no regular programming in this area. However, the Association receives few requests on language issues, even though there is no other resource for language assistance in P.E.I. When requests are received in this area, clients are generally referred to Holland College, which provides language instruction for newcomers to Canada.

Types of Staff

Employees of the Association for Newcomers were described by the respondent simply as general staff.

Sources of Funding

The federal government (Citizenship and Immigration Canada) is the exclusive source of funding for the Association for Newcomers. The organization receives no provincial support. The respondents identified the lack of provincial funding as a source of frustration, but did characterize their federal financial support as stable and long-term. The respondents also pointed out that the funding received by the Association sometimes places constraints on the types of services they are able provide. For example, funding from Human Resources and Development Canada specifies that employment assistance must be directed to immigrants, while other programs are tied to services for government-sponsored refugees.

Impressions about the Services Available to Refugees and immigrants

Although there is essentially no “system” in place to deal with immigration and refugee law issues, respondents did note that this may not be such a problem as it initially would seem, given the low demand for these services. According to one respondent, the lack of resources certainly becomes a problem when new arrivals require assistance, and this can result in some desperate circumstances. However, the underlying issue is that such situations don’t arise very often in a place with no international airport and only limited port access.

Problems Areas

Access to Justice. Despite the limited demand for services for refugees and immigrants, the fact that people who need assistance have few resource options means there are problems when the situation arises. As one respondent put it, access to justice “should not have a price tag.” From the perspective of the availability of legal assistance, the current system was described as “pathetic” for those who cannot afford private counsel.

Lack of Legal Expertise. There is a lack of lawyers in P.E.I. who have sufficient expertise in the immigration and refugee law area. However, one respondent noted that this is unlikely to change. Given the limited demand for such services, lawyers cannot build a practice around immigration and refugee law work, so there is little incentive to expand their knowledge. Accordingly, this representative suggested that the “most appropriate” approach to dealing with immigration and refugee law issues for P.E.I. would be to have this province covered by a larger centre in New Brunswick or Nova Scotia.

Success Stories

Online Resources. One positive step that has been made is the online availability of P.E.I. government statutes. This updated resource provides better access to information about legislation and regulations, but it has done nothing to address the gap in legal representation and advocacy.

Collaboration and Joint Problem Solving. One respondent noted that, given the small size of the province, joint problem solving is possible. Organizations know about the community resources that are available, and can tap into these resources to assist their clients. Staff will make calls and connections on behalf of their clients and try to connect them with the resources and assistance they need. As one respondent put it, they try to do “general problem solving.”



Part Three: The National Picture

Summary of Legal Aid Immigration and Refugee Law Services

This section develops an overview of the services available through legal aid in each of the provinces providing coverage for immigration and refugee law matters. For the purposes of this summary, the four provinces that provide no legal aid coverage to refugees and immigrants – namely Saskatchewan, Nova Scotia, New Brunswick and Prince Edward Island – have been omitted.

TYPES OF IMMIGRATION AND REFUGEE LEGAL AID SERVICES BY PROVINCE						
Type of Service	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
General advice or assistance	Yes	Limited	Limited	Yes	Limited	Limited
Legal advice or assistance	Yes	Limited	Yes	Yes	Yes	Yes
Legal Representation	Yes	Yes	Yes	Yes	Yes	Yes
Duty Counsel Representation	Yes	No	No	No	No	Limited
Public Legal Education	Yes	No	No	Yes	Yes	Limited
Translation or Language Assistance	Yes	Yes	No	Yes	Yes	Yes

As the above table indicates, all of the provinces that provide legal aid coverage for immigration and refugee law cases offer full legal representation to their clients. The table below summarizes the specific immigration and refugee law issues for which legal aid assistance is available in each of these jurisdictions.

Legal advice or assistance is almost as broadly available as legal representation, although the comprehensiveness of advice programming varies considerably by province. For example, legal advice is offered in Newfoundland, but, since there are only two immigration and refugee law staff lawyers in the province, the amount of assistance actually available is much more limited than in provinces like B.C. and Ontario. In Alberta, legal advice is only available through the Immigrant Services Co-ordinator – a pilot project paralegal position staffed by a single person at present.

Translation or other forms of language assistance are also widely available through provincial legal aid plan offices, with Manitoba being the only exception. Clients in need of language assistance in this province are referred to the Manitoba Interfaith Immigration Council. In the other provinces, translation or language assistance is typically offered by legal aid programs on a disbursement basis, although paralegals or other staff in B.C. and Ontario also provide some services in this area. In Newfoundland, legal aid hires interpreters or translators as necessary.

General advice or assistance is provided in B.C. and Ontario, with the latter offering the most extensive system for delivering this kind of service – its network of Community Legal Clinics. In B.C., general advice or assistance in immigration and refugee law cases is primarily delivered through the Immigration and Refugee Clinic, but this office is scheduled for closure in August 2002. A limited amount of general advice or assistance is available in Alberta, Manitoba,

Quebec and Newfoundland, but none of these provinces has an established system for delivering this kind of service in the same sense as B.C. and Ontario.

Duty counsel representation does not tend to be available for immigration and refugee law matters. Only B.C. has a formal system in place for providing duty counsel services in immigration and refugee law matters, and even this system operates on a referral basis and only in Vancouver. Staff lawyers in Newfoundland occasionally provide some duty counsel coverage by virtue of the fact that they are known to Citizenship and Immigration Canada officials, and can, accordingly, be contacted when appropriate. Some duty counsel coverage may be available in Alberta and Manitoba in cases where criminal and immigration and refugee law matters overlap, but this is not an established area of legal aid programming.

COVERAGE OF IMMIGRATION AND REFUGEE LAW ISSUES							
Stage	Activity	Legal Aid Coverage by Province					
		<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Port of Entry	S. 20 Admissibility Interviews	No	No	No	No	No	No
	Eligibility Determinations	No	No	No	Yes	No	No
Inland Claims	S. 27 Inland Violations of the Act	No	Yes*	Yes [§]	No	Yes	Yes [#]
	Eligibility Determinations	No	Yes*	No	Yes	No	No
Convention Refugee Determination	Personal information form preparation	Yes	Yes*	Yes	Yes	Yes	Yes
	Determination Hearings (preparation and attendance)	Yes	Yes*	Yes	Yes	Yes	Yes
	Other Hearings (preparation and attendance)	Yes	Yes*	Yes	Yes	Yes	Yes
Immigration Appeals	Appeals	Yes	Yes*	Yes	Yes [#]	Yes	Yes [#]
Adjudication	Immigration Inquiries	Yes	Yes*	Yes	No	Yes	Yes [#]
	Detention Hearings (first and other instances)	Yes	Yes*	Yes	Yes	Yes	Yes
Humanitarian/Compassionate	Applications	Yes	Yes*	Yes	Yes [#]	No	Yes [#]
PDRCC	Applications	Yes	Yes*	No	No	No	No
Danger Opinions*	Submissions to the Minister	No	Yes*	No	Yes	No	Yes
Federal Court	Judicial Review and Appeals	Yes	Yes*	Yes	Yes	Yes	Yes
Supreme Court	Appeals	Yes	Yes*	Yes	Yes	Yes	Yes
International Tribunals	Appeals	No	Yes*	No	Yes	No	No

* In Alberta, the extension of legal aid coverage in all of these areas is subject to the submission of a favourable legal opinion by a private bar legal aid lawyer.

§ Coverage is provided only when there is an accompanying criminal charge.

Respondents described the availability of coverage for cases in these areas as discretionary.

As indicated in the above table, the most common areas of legal aid coverage for immigration and refugee law matters are Convention Refugee Determination, Detention Hearings, Federal Court Judicial review and appeals, and Supreme Court Appeals. Of these areas, Convention Refugee Determination is the area in which legal aid plans receive and complete the most cases. Detention Hearings happen for only a fraction of the total number of refugees and immigrants, and Federal Court cases and Supreme Court cases are quite rare.



The universal availability of legal aid for Convention Refugee Determination matters dovetails with comments about the importance of making legal services available to refugees. Respondents from several provinces noted that refugees are in a particularly vulnerable position vis-à-vis the legal system, given that they are often arriving with few or no resources, little trust in government or the legal process, and a great deal of psychological and physical stress. In addition, the legalistic nature of Determination hearings and other refugee proceedings makes it particularly difficult for newcomers to Canada to negotiate the system without legal assistance. Accordingly, the availability of legal aid for refugee matters is a crucial element in the immigration and refugee legal aid system.

The fact that legal aid is available in all six provinces for Detention Reviews and Federal and Supreme Court proceedings, in addition to Convention Refugee Determination, suggests that coverage tends to correspond with the more legalistic aspects of the immigration and refugee law process. Legal issues that require appearances in court or before the Immigration and Refugee Board require more specialized legal knowledge and experience. Accordingly, it is arguably more important that refugees and immigrants be able to access assistance in such matters. The importance of legal expertise in certain immigration and refugee law proceedings was acknowledged by several of the community organizations serving refugees and immigrants that were interviewed in provinces both with and without legal aid coverage. As will be discussed further below, respondents from these agencies noted that their staff are more likely to assist clients with procedural matters like the filing of Humanitarian and Compassionate applications or Post-Determination Refugee Claimants in Canada Class applications.¹² In fact, respondents from legal aid in Quebec noted that coverage is not provided in that province for Humanitarian and Compassionate applications, Post-Determination applications or Danger Opinions because they are considered administrative, not legal, processes.

After Convention Refugee Determination, Detention Reviews, and Federal and Supreme Court cases, other immigration and refugee law issues for which legal aid tends to be available are Immigration Appeals and Immigration Inquiries. With respect to the former, all of the provinces except Newfoundland provide coverage in this area; with respect to the latter, Newfoundland and Ontario do not extend coverage.

Port of Entry admissibility interviews are not covered by any of the provinces, and only Ontario covers Port of Entry eligibility determinations. Similarly, only Ontario reported regularly providing coverage for Inland Claims eligibility determinations, although Alberta may extend coverage in this area, subject to a favourable legal opinion. Alberta extends the same discretionary coverage for S. 27 Inland violations of the Act, as does Manitoba. Quebec is the only province that provides regular coverage in this area. Interestingly, representatives from Legal Aid Ontario commented that while coverage is technically available for eligibility determinations, in reality there are few cases because most claimants are found eligible. If eligibility testing becomes more stringent under new immigration legislation, legal aid may consider extending coverage in this area. Legal aid representatives in Newfoundland reported that staff seldom know about immigrants or refugees until they have been through Port of Entry

¹² One possible exception to this is assistance with the preparation of Personal Information Forms, an activity that quite a few organizations would provide (especially in Quebec).

and Inland Claims processes – a key reason why assistance is generally not provided at these early stages.

Coverage for cases in the remaining four immigration and refugee law areas – Humanitarian and Compassionate, Post-Determination Refugee Claimants in Canada Class, Danger Opinions, and International Tribunal appeals – is more varied across the provinces. As noted above, however, Humanitarian and Compassionate applications and Post-Determination applications are areas in which community organizations provide some assistance.

Impressions about Legal Aid Coverage

The following tables summarize the problem areas and success stories mentioned by legal aid plan respondents when asked about things that were working well, things that were not working well, and key gaps in the current system for delivering services to refugees and immigrants in their provinces.

Problem Areas

Thematic Problem Areas	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Approaches to Service Delivery	X	X		X	X	
Funding Issues	X		X	X		X
Range of Coverage			X	X		
Barriers for Refugees	X					
Lack of Language Assistance				X		
Low Demand						X

Approaches to Service Delivery. In terms of problems in approaches to service delivery, several issues were mentioned. Respondents from B.C. raised the ongoing question of whether staff lawyers or private bar lawyers deliver services in a more efficient and effective manner. This issue is of particular concern at present, given that staff positions are being eliminated in B.C., with resulting implications for the availability of advice and public legal education. Similarly, Quebec representatives pointed to the virtual “monopoly” private bar lawyers hold in the immigration and refugee law area, due to the lack of legal aid staff lawyer services.

A respondent in Alberta highlighted the situation in that province in which private bar lawyers have been unwilling to permit legal aid paralegals to be involved in their cases. The concerns raised by legal aid representatives in Ontario include the role played by immigration consultants and the inability of community organizations to play a larger role in the delivery of direct legal assistance, given their lack of legal knowledge and training.

Funding Issues. Respondents from B.C. cited a general lack of funding for immigration and refugee legal aid (and legal aid in general) as a source of concern – and a problem that will be exacerbated by the recent round of cuts implemented by the provincial government. Ontario is also concerned about the lack of funding for immigration and refugee legal aid, particularly in light of the perceived increase in the volume of cases in the province. The constraints imposed by tariff structures were raised as an issue by respondents in B.C. and Manitoba, while



Newfoundland pointed to the limited staff resources available for immigration and refugee law as a key reason for delays in the processing of cases. Legal aid representatives in B.C. also raised the issue of the federal-provincial jurisdictional debate over responsibility for the funding of immigration and refugee legal aid (an issue that was noted by respondents in Nova Scotia and P.E.I. as well).

Range of Coverage. Legal aid representatives in Manitoba indicated that legal aid coverage for immigration and refugee law matters is inconsistent, largely due to the difficulty of recruiting private bar lawyers to handle cases in the province. Respondents from Ontario also pointed to gaps in coverage, in terms of issues for which no legal aid is available, and inconsistencies among Community Legal Clinics in terms of the issues covered and the geographic distribution of services.

Barriers for Refugees. Respondents in B.C. emphasized that refugees often confront an unwelcoming and overly adversarial system upon arrival in the province.

Lack of Language Assistance. Respondents in Ontario noted that there are not enough resources for language assistance at Community Legal Clinics.

Low Demand. Respondents in Newfoundland and Labrador indicated that there is little demand for immigration and refugee law services in the province. Because of the low demand the Legal Aid Commission does not offer certain kinds of services even though they would be advantageous and would improve the quality of the assistance available to clients (e.g., internal capacity for translation and interpretation).

Success Stories

Thematic Success Stories	Province					
	<i>B.C.</i>	<i>Alta.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>Nfld.</i>
Approaches to Service Delivery	X	X		X		X
Collaboration with Community Organizations	X		X			
Range of Coverage		X			X	

As indicated by the above table, far fewer success stories were highlighted by legal aid plan representatives interviewed in the provinces that provide coverage for immigration and refugee law issues.

Approaches to Service Delivery. Respondents from B.C. highlighted the Immigration and Refugee Clinic as a success story in the province. Despite the fact that the IRC is scheduled for closure in August 2002, the specialized paralegals and staff lawyers at this office provide valuable assistance in non-tariff areas, and comprise a comprehensive body of knowledge about refugee source countries that permits more efficient processing of cases. Similarly, respondents in Newfoundland insisted that staff lawyer services are less expensive, given that staff lawyers can focus on providing the amount of work needed on a case without worrying about tariff limits or the income required to cover overhead expenses.

Representatives of legal aid in Ontario highlighted the success of both the Refugee Law Office and Community Legal Clinics, in terms of being effective models for the delivery of legal aid services to refugees and immigrants (noting as well the current expansion of the clinic network). One Ontario respondent also suggested that the use of merit testing is an effective means of ensuring that services are delivered to those who most need assistance.

Respondents in Alberta suggested that the pilot project position of Immigrant Services Co-ordinator has been a success to date. Clients are able to access a new range of services (notably advice, even for those who have been denied legal aid coverage). Private bar legal aid lawyers receive assistance with the preparation of case files, thereby allowing cases to be handled more efficiently within the limits of the tariff structure.

Collaboration with Community Organizations. Respondents from both B.C. and Manitoba highlighted collaboration between legal aid and community organizations serving refugees and immigrants as a positive feature of the immigration and refugee law systems in their respective provinces.

Range of Coverage. Legal aid representatives in both Alberta and Quebec suggested that the range of immigration and refugee law issues for which legal aid coverage may be extended in these provinces is comprehensive.

Summary of Community Organization Immigration and Refugee Law Services

This section presents an overview of the legal services offered by community organizations serving refugees and immigrants, in all ten provinces.

TYPE OF COMMUNITY ORGANIZATION LEGAL SERVICES BY PROVINCE										
Type of Service	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>P.E.I.</i>	<i>Nfld.</i>
Public Legal Education	Ltd	No	Ltd	Ltd	Yes	Yes	Yes	Ltd	No	No
Referrals	Yes	Yes	Yes	Yes	Yes	Yes	Ltd	Yes	Ltd	Yes
Advice	Yes	Ltd	Yes	Yes	Yes	Yes	Yes	Yes	No	Ltd
Representation	Ltd	No	No	Ltd	Ltd	Ltd	Ltd	Ltd	No	Ltd
Language Assistance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Ltd	No	Yes

As the above table indicates, the community organizations serving refugees and immigrants, that were interviewed in the ten provinces, are more likely to provide assistance in areas that do not involve specific legal claims. Most notably, this includes Referrals, Advice, and Language Assistance.

Referrals are a service provided by community organizations interviewed in each of the provinces. In many cases, respondents considered the provision of referrals – the connection of clients with appropriate resources – to be a key part of their services. The referral services available in Nova Scotia, New Brunswick and Prince Edward Island are described in the table as “limited” because respondents in these provinces noted that there simply are few resources to which to refer people on immigration and refugee law matters. In each of these provinces, legal



aid does not provide any coverage for immigration and refugee law, and there is not a wide range of community groups offering services in this area. Respondents from all of the Atlantic provinces, and from Saskatchewan, did report that demand for services in immigration and refugee law is quite limited, since only small numbers of refugees and immigrants actually arrive in these provinces each year.

Providing advice on immigration and refugee law issues is another function played by many of the community organizations interviewed across the provinces. These agencies tend to be more involved in offering general advice than legal advice, typically basic information about the law, legal processes, and rights and responsibilities. Many agencies emphasized their role as “information providers,” with quite a few respondents making a distinction between delivering information and providing advice. For these groups, advice seems to imply that organization staff are directing clients on a particular course of action – a suggestion with which many respondents were uncomfortable.

In terms of the provision of both advice and public legal education, many of the community organizations interviewed reported dealing with a wide range of legal issues outside of federal immigration and refugee law. When asked about their legal services, respondents from these agencies often pointed first to their work on general legal issues of relevance to refugees and immigrants – income tax, social services, labour law and employment standards, family law, and so on. The assistance offered on actual immigration and refugee law matters is generally much more limited.

In terms of legal advice, the activity most often undertaken by community organizations is assistance with the completion of forms, although some groups will also take limited action(s) on a client’s behalf (for example, making a call, writing a letter, accompanying a client to meetings). Assistance with forms is a service provided by a wide range of groups, most often for Humanitarian and Compassionate applications, Post-Determination Refugee Claimants in Canada Class applications, and Personal Information Forms. Interestingly, respondents typically did not characterize such activity as a kind of legal advice or assistance until they were asked specifically about the completion of forms. As noted above, for many groups the phrase “legal advice” implies specific direction on a legal course of action – something that very few organizations considered themselves to be doing.

Language assistance is another area in which community organizations are frequently involved. Many of the groups interviewed have translators and interpreters on staff and/or a bank or network of volunteers with various linguistic skills on whom they rely. In many cases, these staff or volunteers will offer linguistic assistance for legal matters, including meetings with lawyers, preparatory work for hearings, and actual legal proceedings. The only provinces in which no language assistance is available for legal work are New Brunswick and P.E.I.

Overall, legal representation is not an area in which most community organizations are regularly involved. Even when organizations reported that they will provide legal representation in some immigration and refugee law matters, this tends not to be a primary area of service delivery. The few organizations that have an established program or mandate to offer legal representation often have legal staff – whether paralegals or lawyers – either doing or supervising such work.

Organizations in Quebec specifically highlighted the complexity of laws in the immigration and refugee area as a reason why community agencies are not more involved in delivering legal assistance.

No legal representation is provided by the organizations interviewed in Alberta, Saskatchewan and P.E.I. In Saskatchewan, however, one organization does provide non-legal counsel in the form of moral/emotional support for Inland Claims cases, Convention Refugee Determination, Humanitarian and Compassionate applications, and Post-Determination Refugee Claimants in Canada Class applications. In the remaining seven provinces, legal representation is most often provided by community group staff for Convention Refugee Determination, Humanitarian and Compassionate applications, and Post-Determination Refugee Claimants in Canada Class applications. At least one organization in B.C., Manitoba, Ontario, Quebec, Nova Scotia and New Brunswick reported delivering services in one or all of these issues. In Quebec, the only matter for which legal representation is available is Humanitarian and Compassionate applications. In B.C. and New Brunswick, Convention Refugee Determination is the primary area of coverage.

After the three immigration and refugee law issues listed above, additional matters for which some community organizations provide legal representation are Immigration Appeals Division cases and Adjudication Division cases. One organization in Manitoba occasionally covers Adjudication matters; one organization in Newfoundland deals with Immigration Appeals; and one organization in Ontario will provide legal representation for both Immigration Appeals and Adjudication cases. In Nova Scotia, one organization does not cover Immigration Appeals or Adjudication Division cases, but will provide legal representation for Port of Entry, Inland Claims, and Federal Court matters.

Impressions about Legal Aid Coverage

The following tables summarize the problem areas and success stories mentioned by community organization respondents when asked about things that were working well, things that were not working well, and key gaps in the current system for delivering services to refugee and immigrants in their provinces.

Problem Areas

Thematic Problem Areas	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>Nfld.</i>	<i>P.E.I.</i>
Range of Coverage	X		X		X	X	X	X	X	X
Funding Issues	X	X		X		X	X			
Levels of Skill and Expertise	X			X		X		X	X	X
Barriers Confronting Refugees	X	X				X		X		
Language/Cultural Barriers			X		X	X				
Use of Call Centres						X	X			
Lack of Co-ordination									X	

Community agency respondents in the ten provinces identified problem areas similar to those identified by legal aid respondents, although there were some differences in the way these concerns were expressed.



Range of Coverage. The range of immigration and refugee services available was a key concern of many community organizations in eight of the ten provinces. Respondents in B.C., Saskatchewan, Ontario, Quebec, Nova Scotia, New Brunswick, Newfoundland and P.E.I. all pointed to an overall lack of access to comprehensive legal assistance for refugees and immigrants. Respondents in the four provinces without any legal aid coverage for immigration and refugee law (Saskatchewan, Nova Scotia, New Brunswick and P.E.I.) highlighted this as a key reason for the shortage of legal services. Community organization representatives in Quebec also raised the issue of uneven geographic distribution of services, and the gaps that result.

Funding Issues. Inadequate funding for immigration and refugee law services was identified as a problem by community organization representatives in B.C., Alberta, Manitoba, Quebec and New Brunswick. The respondent from B.C. highlighted past and ongoing provincial government cuts to legal aid and community organization funding, as well as the impact of the devolution of responsibility for settlement services from the federal government to the province. Organizations in Alberta pointed out that the high cost of legal assistance means that many people simply cannot access services, a factor that was also raised in Quebec. Organizations in Quebec indicated that a lack of financial support prevents them from providing a broad enough range of services to their clients, and that, as a result, community groups end up working beyond the mandates for which they receive funding. Respondents in Manitoba highlighted the low remuneration lawyers receive as a key reason why there are not enough immigration and refugee lawyers available to handle cases. Finally, community groups in New Brunswick noted that insufficient funding means that some organizations have to rely exclusively on volunteers to deliver services.

Levels of Skill and Expertise. The shortage of lawyers with expertise in immigration and refugee law issues was raised as an area of concern by community groups in B.C., Manitoba, Nova Scotia and P.E.I. A respondent in B.C. further commented that IRB members in that province do not receive sufficient training.

Respondents in Nova Scotia indicated that, in addition to the shortage of immigration and refugee lawyers, there is a lack of trained translators in the province. A Newfoundland community organization representative suggested that greater consistency in the terminology used by government, legal aid, and community organizations would be desirable to ensure greater consistency in the delivery of services to refugees and immigrants. In Quebec, one respondent suggested that community organization staff who handle immigration and refugee law issues do not receive enough training (although two other respondents expressed the opposite view, as noted below).

Barriers Confronting Refugees. Respondents in B.C. and Nova Scotia commented that the refugee processing system takes far too long and is subject to unreasonable delays. At the same time, insufficient levels of language and employment training services for refugees were highlighted in B.C. and Quebec, while community organization representatives in Alberta noted that there are no organizations with an explicit mandate to assist refugees in the province. Quebec respondents pointed out that there are too few services available for refugees, particularly in terms of job search assistance, language instruction, and issues other than housing,

in general. Organizations in Nova Scotia commented that the absence of any local IRB creates additional obstacles for refugee claimants in the province.

Language and Cultural Barriers. Community organization respondents in Saskatchewan indicated that the justice system, overall, is poorly equipped to deal with people whose first language is not English. A Quebec organization suggested that it is too difficult to access services in English in the province, while Ontario community agencies commented that legal aid is not sufficiently culturally or linguistically sensitive.

Use of Call Centers. Community organization respondents from Quebec noted that it is more difficult to access immigration officials through the call centre system that is now in place. A similar concern was raised in New Brunswick with respect to access-to-justice services, generally. Respondents in both provinces felt that a key weakness is the fact that callers cannot speak to the same person about their case on subsequent calls.

Lack of Co-ordination. Community organization representatives in Newfoundland expressed the need for more co-ordination among players in the immigration and refugee law system, including governments, legal aid, and community groups. More co-ordination would permit each of these groups to play better the role at which they are best, leading to more efficient and effective client services.

Success Stories

Thematic Success Stories	Province									
	<i>B.C.</i>	<i>Alta.</i>	<i>Sask.</i>	<i>Man.</i>	<i>Ont.</i>	<i>Que.</i>	<i>N.B.</i>	<i>N.S.</i>	<i>Nfld.</i>	<i>P.E.I.</i>
Approaches to Service Delivery	X			X	X					
Co-operation and Collaboration	X			X	X	X				X
Levels of Skill and Expertise						X				
Online Resources					X					X

As indicated by the above table, far fewer success stories were highlighted by community organizations interviewed in the ten provinces.

Approaches to Service Delivery. Community organization respondents in B.C. pointed to the availability of initial reception services as a positive feature of the existing immigration and refugee system in the province (although this comment pertains more to settlement services than legal services). In Manitoba, respondents highlighted the role played by the Interfaith Immigration Council in case file preparation as a success story. In addition, the ability of the Council to act as a central processing body for refugees has increased co-ordination of services. In Ontario, a respondent noted that the use of legal aid opinion certificates as a means of establishing merit is working well because it gives community organizations an opportunity to demonstrate why legal aid coverage is needed by their client(s).

Co-operation and Collaboration. Community organizations in several provinces pointed to co-operation and collaboration both between legal and community groups (Manitoba, Ontario) and among community groups themselves (B.C., Quebec, P.E.I.) as a positive feature of the current immigration and refugee law system. In Manitoba, the Interfaith Immigration Council was again



highlighted in this capacity, while in Ontario the increased availability of legal aid funding for community initiatives was noted.

Levels of Skill and Expertise. Two respondents in Quebec indicated that community organization staff are well trained to provide their services in the immigration and refugee law area (although, as noted above, one organization disagreed with this assessment).

Online Resources. Respondents in Quebec and P.E.I. noted that the availability of online access to documents, forms, and statutes has been a positive development in the immigration and refugee law field.



Appendix One: Legal Aid Plan Contacts

British Columbia

Legal Services Society of British Columbia
1500 – 1140 West Pender Street
Vancouver, BC
V6E 4G1

Canadian Bar Association, British Columbia
Tenth Floor, 845 Cambie Street
Vancouver, BC
V6B 5T3

Immigration and Refugee Law Clinic
1220 – 605 Robson Street
Vancouver, BC
V6B 5J3

Alberta

Legal Aid Society of Alberta
Calgary Office
#1100, 665 8th Street SW
Calgary, AB
T2P 3K7

Legal Aid Society of Alberta
Edmonton Office
#300, Revillon Bldg.
10320 102nd Avenue
Edmonton, AB
T5J 4A1

Saskatchewan

Legal Aid Commission
#502, 201 21st St. East
Saskatoon, SK
S7K 2H6

Manitoba

Legal Aid Manitoba
Administrative and Winnipeg Area Office
#402 – 294 Portage Avenue
Winnipeg, MB
R3C 0B9

Ontario

Legal Aid Ontario
375 University Avenue
Suite 404
Toronto, ON
M5G 2G1

Parkdale Community Legal Services
1266 Queen Street West
Toronto, ON
M6K 1L3

Refugee Law Office
375 University Avenue
Suite 206
Toronto, ON
M5G 2G1

Quebec

Commission des services juridiques
2, Complexe Desjardins,
#1404 East Tower,
Montreal, QB
H5B 1B3

Bureau de l'immigration de Montréal
800, boul. de Maisonneuve Est
8e étage
Montréal, QB
H2L 4M7



New Brunswick

Mailing Address

Legal Aid New Brunswick
P.O. Box 20026
Saint John, NB
E2L 5B2

Location Address

Legal Aid New Brunswick
28 – 32 King Street
Saint John, NB
E2L 1G3

Nova Scotia

Legal Aid Commission of Nova Scotia
Suite 401
5475 Spring Garden Road
Halifax, NS
B3J 3T2

Newfoundland

Legal Aid Commission

21 Church Hill
St. John's, NF
A1C 3Z8

Prince Edward Island

Prince Edward Island Annual Report

42 Great George Street
Charlottetown, PE



Appendix Two: Community Organization Contacts

* Indicates an organization with which a full interview was not completed.

Organizations Contacted in British Columbia

Affiliation of Multicultural Societies and Service Agencies (Vancouver)
Immigrant Services Society (Vancouver)
Multilingual Orientation Services Association for Immigrant Communities (MOSAIC – Vancouver)
United Chinese Community Enrichment Services Society (SUCCESS – Vancouver)
Surrey Delta Immigrant Services Society (Surrey)
Victoria Immigrants and Refugee Centre Society

Organizations Contacted in Alberta

Calgary Immigrant Women's Association
Catholic Social Services*
Changing Together – A Centre for Immigrant Women (Edmonton)
Edmonton Centre for Equal Justice*
Edmonton Immigrant Services Association

Organizations Contacted in Saskatchewan

Immigrant Women of Saskatchewan*
Moose Jaw Multicultural Council*
Prince Albert Multicultural Council
Regina Open Door Society
Saskatoon Open Door Society

Organizations Contacted in Manitoba

Citizenship Council, International Centre (Winnipeg)
Manitoba Interfaith Immigration Council (Winnipeg)
Needs Centre for War Affected Families*
Welcome Place (Winnipeg)

Organizations Contacted in Ontario

Council of Agencies Serving South Asians (Toronto)*
Hamilton House (Toronto)
Ontario Council of Agencies Serving Immigrants (Toronto)*
Ottawa–Carleton Immigrant Services Organization
Romero House (Toronto)*
South Asian Legal Clinic of Ontario (Toronto)
St. Joseph’s Refugee Committee (Ottawa)

Organizations Contacted in Quebec

Accueil liaison pour arrivants (Montréal)
Carrefour d’aide aux nouveaux arrivants (Montréal)
Centre for Research Action on Race Relations (Montréal)
Centre PRISME (promotion, référence, information et services multi-ethniques) (Lasalle)
Centre multi-ethnique de Québec Inc. (Quebec City)
Centre social d’aide aux immigrants (Montreal)
Service d’aide aux réfugiés et immigrants du Montréal Métropolitain

Organizations Contacted in Nova Scotia

Catholic Pastoral Centre*
Centre for Diverse Visible Cultures (Halifax)
Halifax Refugee Clinic
Halifax Regional Newcomers’ Club*
Lee Cohen (private bar lawyer, Halifax)
Metropolitan Immigrant Settlement Association (Halifax)

Organizations Contacted in New Brunswick

Multicultural Association of Fredericton
Multicultural Association of the Greater Moncton Area
Public Legal Education and Information Service of New Brunswick (Fredericton)
Refugee Support Centre (Saint John)*
Wilmont Church Legal Centre (Fredericton)

Organizations Contacted in Newfoundland

Association for New Canadians (St. John’s)
Immigrant and Refugee Advisory Council (St. John’s)
Public Legal Information Association of Newfoundland (St. John’s)



Organizations Contacted in P.E.I.

Association for Newcomers (Charlottetown)

Community Legal Information Association (Charlottetown)



Appendix Three: National Profile of Refugees and Immigrants

CANADIAN IMMIGRATION AND REFUGEE LANDINGS, 2001		
<i>IMMIGRANT CATEGORY</i>	Number	Percentage*
Skilled Workers and Dependants	137,112	55
Business	14,580	6
Provincial/Territorial Nominees	1,274	0.6
Spouses, Betrothed, and Children	45,433	18
Parents and Grandparents	21,276	8
Other	2,829	1
<ul style="list-style-type: none"> ▪ Live-in Caregiver program ▪ Special Categories 		
<i>Total Number of Immigrants</i>	222,504	89
<i>REFUGEE CATEGORY</i>		
Government-assisted	7,321	3
Privately sponsored	3,560	1
Refugees Landed in Canada	11,886	5
Dependants Abroad of in-Canada Refugees	3,746	1
<i>Total Number of Refugees</i>	26,513	11
Kosovo Refugees	1,369	0.5
<i>TOTAL REFUGEES AND IMMIGRANTS</i>	250,386	100

Source: Citizenship and Immigration Canada News Release, April 17, 2002 and author's calculations.

* Percentage of all refugees and immigrants in 2001.

NUMBER OF PROVINCIAL/TERRITORIAL REFUGEES AND IMMIGRANTS, 2001*		
Province/Territory	Number	Percentage
Ontario	148,534	59
British Columbia	38,301	15
Quebec	37,503	15
Alberta	16,361	7
Manitoba	4,576	2
Nova Scotia	1,711	0.7
Saskatchewan	1,701	0.7
New Brunswick	802	0.3
Newfoundland and Labrador	402	0.2
Prince Edward Island	135	0.05
Northwest Territories	94	0.04
Yukon Territory	70	0.03
Nunavut	12	0.005
Not stated	184	0.07
<i>Total</i>	250,386	100

Source: Citizenship and Immigration Canada News Release, April 17, 2002 and author's calculations.

* As part of the application process, immigrants are asked where they plan to settle in Canada. This table is a breakdown of the number of newcomers and their intended settlement location as reported to Citizenship and Immigration Canada.