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Immigration and Refugee Board acceptance of Russian Jews from Israel

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IMMIGRATION AND REFUGEE BOARD ACCEPTANCE OF RUSSIAN JEWS
FROM ISRAEL

by

Inna Tsinman
BA, York University, 2007

A Major Research Paper
Presented to Ryerson University

In partial fulfillment of the requirements for the degree of

Masters of Arts
in the Program of Immigration and Settlement Studies

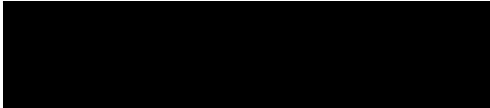
Toronto, Ontario, Canada, 2008

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Master of Arts
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ABSTRACT

This project examines the political phenomenon of the acceptance of Israeli Russian Jews claiming refugee status in Canada. The paper examines this phenomenon by unravelling the role of human rights in Canadian nation building, the Immigration and Refugee Board's (IRB) member-appointment process and the use of the IRB as a tool for enhancing Canada's image as human rights promoter, and Canadian foreign policy towards Israel. The main argument of this paper is that the reason for the acceptance of Israeli refugee claims is that some IRB members hold an agenda on promoting human rights. This project is based on the examination of academic literature, media articles, IRB and Federal Court decisions, and interviews with a variety of stakeholders.

Key words: refugees, Immigration and Refugee Board, Israeli Russian Jews, human rights

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Background

Israeli woman to leave N.L. church after three year battle to remain in Canada

A Russian-Israeli woman who has been living in the basement of a Newfoundland church for the past three years while fighting to remain in Canada with her five children has decided to leave the country...The Portnoys... saying they did not want to return to Israel because they feared persecution as non-Jewish, Russian immigrants.¹

This sensational story, followed by the Canadian media since 2005, is about a Russian Israeli family who made a refugee claim against Israel in Canada. Their claim was denied and the family was deported in 2000 but they came back in 2001 and an additional deportation order was given in 2004. However, instead of leaving Canada, the family sought refuge in a Newfoundland church.² In 2008, Angela Portnoy and her five children left the church basement after her husband was arrested for speeding and deported.³

Underneath this newspaper extract lies a much deeper social, political, and moral phenomenon. The Portnoy case is the intersection of Russia and Israel's historical circumstances, constraining Canadian immigration institutions, Canada's nation-building aspirations, and Canadian Middle-Eastern foreign policy.

The Portnoys are a few of the 10,831 refugee claimants against Israel over the past eighteen years.⁴ Canadian media reports that Israeli Russian Jews are a prominent ethnic group that makes refugee claims in Canada.⁵ Furthermore, Israel has been on the Immigration and Refugee Board (IRB) list of top ten refugee claimant source countries six times between 1989 and 2006.⁶ Since 1990, 1,610 of these refugee claimants have been accepted - roughly 15% of applicants.⁷ Despite this relatively low acceptance rate, these numbers are controversial. The reason for the controversy is threefold: first, the literature shows that most refugee claimants come from developing countries that are

experiencing economic difficulties or are ruled by oppressive regimes.⁸ According to reports by Freedom House in 2008 and the International Monetary Fund, Israel scores high on civil and political liberties and economic conditions.⁹ Despite scoring high on these measures, Israel is still one of the top countries producing refugee claimants in Canada.

The second aspect of the controversy is the literature often reports how with the emergence in the 1990s of international organized crime and threats of terrorist attacks, Western countries began to limit the number of asylum seekers accepted in their countries.¹⁰ Nevertheless, Canada still accepts refugees from Israel, a country that scores high on political, civil, and economic measures. Canada is the only country in the world that accepts refugees from Israel.¹¹ The third aspect of the controversy is that the largest ethnic group claiming refugee status against Israel is the same group that Israel welcomed from the Soviet Union. In fact, Israel's existence is built upon the tenet that it is a haven for Jews fleeing persecution.¹² It follows that Canada's acceptance of refugees from Israel changes the image of Israel from a haven for refugees to a "refugee producing, human rights violator country."¹³ Since Canadian academic literature is limited in explaining this controversy, the purpose of this paper is to unravel this paradox.

This paper will argue that IRB members have, amongst each other, been inconsistent in their reasons for accepting refugee claims from Israel. Although the majority of these claims have been dismissed, the claims that were accepted were due to individual members' perceptions of whether Israel is a human rights violator. The members who accepted refugee claims from Israel were in line with other Canadian institutions that attempt to reinforce Canada's national identity as a human rights

protector. To unravel the paradox and support the main argument of this study, an analysis of IRB statistics, IRB Federal Court decisions on refugee claims from Israel from 1989 to 2008, and interviews with officials and stakeholders were used. The statistics, decisions, and some information from the interviewees were divided into three main periods: 1989-1994, 1995-2002, and 2002-2007/08. Based on the analysis of the three periods, it was found that Russian Jews form the largest ethnic group that claimed refugee status; however, there were other ethnic groups that also made similar claims to those of Russian Jews such as Palestinians, Native Israelis, Israeli Arabs, Romanians, Ethiopians, Turkish claimants and more. The most frequent refugee categories that were used by Russian Jews were religion, political opinion (objection to military service and friendship with Arabs and Palestinians, fear of terrorism), and social group (gender/domestic abuse). Over these periods, the acceptance rates fluctuated. Between 1989 and 1994, the acceptance rate was the highest in comparison to the other two while 1995-2002 was the lowest. Between 2002-2007/08 there was a slight increase from the previous period. The refugee claims that were most likely to be accepted throughout these periods were based on objections to military service and gender. Nevertheless, both IRB members and Federal Court judges' decisions were inconsistent in deciding whether claimants who based their claims on these two categories or other categories experienced human rights violations and whether Israel was able to protect its citizens from these violations. The inconsistency among the members and judges is explained by the intertwining of Canada's foreign policy towards Israel and Palestinians, the system of patronage in appointments of IRB judges, Canada's national identity as a human rights protector, and the emergence of neo-conservative ideology and racism among Western

countries. These four factors, and case law rendered by higher courts create the inconsistency in IRB rulings.

The paper will demonstrate this by first, examining the available academic and non-academic literature on this topic by providing background on Canadian nation building and human rights, IRB hearing procedures, the appointment process for panel members, the historical and present circumstances of Russian Jews in Israel, and Canadian Middle-Eastern policy. Second, this paper will outline the main findings and discuss the implications of Canada's acceptance of refugees from Israel.

Methodology:

The research process was divided into three stages: literature review, review of IRB and Federal Court decisions regarding refugee claims from Israel, and interviews with stakeholders. The purpose of the first stage is to analyze texts on Canadian nation-building, especially in relation to human rights as a symbol of Canadian national pride, IRB procedures and IRB members' appointments, and Canada's foreign policy towards Israel. The purpose of this analysis is to better establish the theoretical foundation of Canadian nationalism, which will allow for the analysis of interviews and IRB and Federal Court decisions. The critical analysis encompasses academic texts but also government documents such as reports outlining Canadian foreign policy and how it relates to Canadian nation building, especially in relation to human rights.

The second stage of the research project is a content analysis of the 72 IRB and 100 Federal Court decisions between 1991 and 2008. The reason why the IRB *and* the Federal Court decisions were examined was because the IRB does not publish all the claims made against any particular country but only the claims that the IRB considers to

be in the public interest, hence the Federal Court decisions provide another tool to examine the decisions that are not published at the IRB level. These decisions also provide the IRB, which is a lower level tribunal than the Federal Court, the case law that guides the IRB members in their decisions. The Federal Court website asserts that it contains all the decisions rendered in the Federal Court since 1997.¹⁴ Hence, examining these decisions provides a more complete picture, at least of decisions rendered in the Federal Court. The decisions were extracted from three databases, Reflex, CanLII, and the Canadian Federal Court website. The decisions were analyzed both for manifest (surface content) and latent content (subjective content). The reason for reviewing the IRB and Federal Court's decisions is that these decisions provide the legal reasoning as to why Israeli Russian Jews' claims are accepted by Canada. Since the IRB and the Federal Court organize decisions by claimant's country of origin rather than by ethnic identity, keywords were used to narrow the search. The keywords that were used to search the database were "Israel" or "Israel and Refugee".

After the search was conducted, the decisions were organized into sub-categories based on ethnic origin (i.e. Arab, Druz, Israeli Jew, Russian Jew, unknown and so on). IRB decisions included refugee hearings from the Refugee Protection Division (PRD) while the Federal Court decisions included appeals for judicial reviews of refugee claims, appeal for judicial reviews of pre-removal risk assessment (PRRA), appeals for judicial reviews of deportation orders and appeals for judicial review of humanitarian and compassionate applications in the event the latter three also mention that the appellants claimed refugee status against Israel. The analysis of these decisions was done individually because there may have been an overlap in decisions, meaning the same case

was heard at the IRB level and the Federal Court level. However, due to IRB members' and judges' different writing styles, it was difficult to assess whether the same decisions were heard at the IRB level and Federal Court, so it was decided to keep the decisions separate. These decisions are broken down into three periods 1989-1994, 1994-2002, and 2003-2007/8. The reason is that these dates mark events or changing trends.

The third stage of the research project was interviews with different stakeholders. The interviews were conducted after the first two stages had been completed. The purpose of the interviews was to fill the gaps between the existing literature on Canadian nation-building and the IRB and Federal Court decisions on Israeli Russian Jewish refugee claims. The reason why particular interviewees were selected was because their legal and political expertise provided some depth on why Israeli Russian Jewish refugee claimants are accepted in Canada. The four interviewees were selected in a manner to represent different points of view on the subject.

One of the interviewees was Angelina Shuster, an immigration consultant who represents Russian Jewish claims at the IRB in Toronto. Ms. Shuster has been an immigration consultant who has served the Russian Jewish community since 1999. The second interviewee was a religious figure within the Russian Jewish community in Toronto who provided some background on the Russian Jews refugee claimants. This religious figure has been serving the Russian Jewish community for the past three decades. As part of this religious representative's work with the community, he has been in contact with Israeli Russian Jewish refugee claimants and with Russian Jews who were contemplating claiming refugee status against Israel. The third interviewee was Professor Audrey Macklin who teaches, among other subjects, immigration law at the University of

Toronto's Faculty of Law. Professor Macklin was also an IRB member between 1994 and 1996 in the Eastern region. The final interviewee was Irving Abella, a York University Professor who is a specialist in immigration and labour matters and a former president of the Canadian Jewish Congress between 1992 and 1995.

Research Design Limitations

There are certain limitations to the conclusions that can be drawn from the IRB and Federal Court decisions due to IRB and Federal court administrative procedures. The IRB mostly publishes negative decisions as these decisions have to be rendered in writing while positive decisions can be rendered orally.¹⁵ Although recently, the IRB also required its members to render positive decisions in writing, there has not been a noticeable increase in the number of positive claims published on the IRB. This may be due to the fact, which is another limitation of the research design, that the IRB publishes the decisions that it considers in the public interest. As a result, many of the positive decisions are mostly not available and it is not possible to examine in a complete manner why Canada accepts refugee claims from Israel. In addition, until a decision that was rendered on January 28th, 2000, only summaries of refugee decisions were published on the IRB website. The full decisions are located at the IRB documentation centres and due to traveling constraints could not be retrieved for this project. Nonetheless, the summaries provide a comprehensive account of the full decisions and allow drawing some conclusions on Israeli refugee claimants in Canada.

Due to administrative procedures of the refugee systems in Canada, the content of Federal Court's decisions also add additional constraints on drawing conclusions. The Federal Court is not an appeal court for IRB decisions but rather examines whether IRB

members have made an error in law – the Federal Court decides whether the refugee claimant is eligible for a re-hearing and does not assess the merit of a claim. One of the purposes of the interviews is to overcome this shortcoming by asking why Canada accepts refugees from Israel. However, since the topic is political, some of the interviewees were reluctant to discuss certain aspects of the topic.

Definitions:

Convention Refugee Claimant A person who makes a claim to the IRB based on the grounds that s/he "... is outside of their country of nationality or habitual residence and [who] is unable or unwilling to return to that country because of a well-founded fear of persecution for reasons of race, religion, political opinion, nationality or membership in a particular social group..."¹⁶ (Immigration and Refugee Protection Act, 2001)

Persecution There is no universally accepted definition of "persecution"... a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group is always persecution. Other serious violations of human rights--for the same reasons--would also constitute persecution...an applicant may have been subjected to various measures not in themselves amounting to persecution (e.g. discrimination in different forms), in some cases combined with other adverse factors (e.g. general atmosphere of insecurity in the country of origin). In such situations, the various elements involved may, if taken together, produce an effect on the mind of the applicant that can reasonably justify a claim to well-founded fear of persecution on "cumulative grounds". It is only in certain circumstances that discrimination will amount to persecution. This would be so if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned, e.g. serious restrictions on his right to earn his livelihood, his right to practise his religion, or his access to normally available educational facilities.¹⁷

Nation-Building The formation and establishment of the new state itself as a political entity, and the process of creating viable degrees of unity, adaptation, achievement, and a sense of national identity among the people. Inherent in its usage is the fact that the state has already been created and that the nation, or community of solidarity, is to be built within it.¹⁸

Nationalism Political activity seeking to create a more congruent or symbolic relationship between the state and the nation so as to bind the state to the nation's will and entrust the state with sustaining the nation's way of life.¹⁹

Human Rights Basic rights...are those human rights without which no other rights can conceivably be enjoyed. We shall mean by basic rights (1) the right to basic subsistence and related needs required for sustaining life; (2) freedom from arbitrary arrest and

detention without trial; (3) freedom from torture; and (4) freedom from extrajudicial execution.²⁰

Israeli Russian Jews Anisef et al. argue that it is problematic to define who Russian Jews are because some of them are not born Jewish; they only have some Jewish ancestry. In addition, Russian Jews encompass Jews not only from Russia but also from other republics in the Soviet Union such as the Ukraine, Azerbaijan, Uzbekistan, and Belarus. Despite the problematic definition of a Russian Jew, Anisef et al. decide to use this definition for their research because despite the Russian Jews' diversity, they share a similar culture – “Russian Jewish” - and language, Russian. Hence, in the research paper, a Russian Jew will be defined as one who has immigrated to Israel because s/he took advantage of The Right of Return since in order to take advantage of this right, one must have at least one Jewish grandparent. Also, a Russian Jew will encompass Jews who came from all the republics of the Soviet Union.²¹

Available Academic Literature:

To the best of the researcher's knowledge, there are two Canadian academics who published academic research regarding Israelis making refugee claims in Canada and Canada's acceptance of them. Irwin Cotler published two articles in the book *Still Moving: Recent Jewish Migration in Comparative Perspective* discussing Canada's acceptance of refugees from Israel especially the Russian Jewish claimants. In one of these chapters, Cotler's purpose is to provide arguments for demonstrating that Israel is a democratic state and it is able to protect its citizens. To determine if a state is capable of protecting its citizen, the IRB must establish whether the country under examination is democratic or non-democratic. Subsequently, those who come from democratic countries are unlikely to be successful in their refugee claims except in exceptional cases.²²

To illustrate that Israel is a democratic country able to protect its citizens, Cotler examines existing Israeli institutions. Cotler argues that Israel has an effective parliamentary democracy because there is a universal franchise, a vigorous multi-party system, which includes Arab and Communist parties, regularly-held elections, a free and robust media, and independent judiciary, as well as a dynamic civil society.²³ Further,

Cotler argues that Israel is not only a parliamentary democracy but also a constitutional democracy that protects human rights. Israel enacted in 1992 two Basic Laws: Basic Laws on Human Dignity and Liberty and Basic Freedom of Occupation, which were amended in 1994 to include basic principles of Human dignity as constitutional norms.²⁴

In Israel there is an independent judiciary, which is appointed by special judges Selection Committee, to “minimize the political influence on the selection of judges and maximize the integrity and impact of the judiciary”.²⁵ Judiciary independence is also enacted in section 2 of Basic Law: “The Judiciary: [a] person in whom judicial power is vested shall, in judicial matters, be subject to no authority but that of the law”.²⁶ All the authorities of the state and all public authorities are subject to the jurisdiction of the judiciary. The Israeli judiciary can grant remedies to those who were injured by acts of governing authorities.²⁷ In addition, a State Comptroller who overlooks the government’s executive branch and serves as an ombudsman for public complaints regarding the functioning of public bodies.²⁸

Israeli society also has an independent press, which is published in numerous languages. Besides papers that are published in Hebrew, newspapers are also published in languages such as English, French, Yiddish, and, particularly, Russian. The newspapers’ role, among others, is to monitor and exposes human rights violations.²⁹

Israel also has institutions that protect against discrimination based on religion and racism. The State of Israel, which is a home for various world religions, respects and supports religious pluralism.³⁰ The Declaration of Independence of 1948 states that: “It [i.e., the State] will guarantee freedom of religion and conscience, of language, education, and culture. It will safeguard the Holy Places of all religions.”³¹ Israel has also developed

comprehensive legal regimes against racism and discrimination and harassment of identifiable groups. Israeli civil society includes an NGO human rights community, whose goal to support equality, non-discrimination, and protection of human dignity.³²

To protect minorities, the government of Israel legislated for the protection of women, children, and other identifiable groups such as Ethiopians and Russians. For example, an important Law on Prevention of Violence in the Family was enacted. The law allowed for victims of family violence to have the spouse removed from the mutual home. Other case law that was developed for the protection of women was the prohibition of rape within marriage.³³ Finally, all these groups may seek protection from various organs such as the Supreme Court, NGOs, and the media.³⁴ Cotler regarded these facts to be of assistance to decision makers in their decisions regarding refugee claimants from Israel.

In the second chapter, Cotler briefly outlines the exchange of tense remarks between Canadian and Israeli public officials after IRB statistics were released in the summer of 1994.³⁵ Cotler discusses the lessons that can be learned from the correspondence between officials at or related to the 1994 conference in Quebec. The conference allowed public officials and NGOs to provide arguments about conditions in Israel that they thought may assist IRB panel members.

Cotler raises the following five questions and comments regarding Israel's interaction with Canadian officials and the Quebec conference result. First, Cotler questioned whether it was legitimate for Israel to convey its anger towards Canada's acceptance of Israeli refugees through the media rather than through more conventional diplomatic channels.³⁶ Second, Cotler points out that Israel failed to acknowledge in its

communication with Canadian public officials that the most frequent claimants against Israel are made by non-Jews and Palestinians.³⁷ The third issue that Cotler raises is Israel's limited comprehension of the significance of Israeli and international NGOs' reports on Israel's human rights violation of the Palestinians. This, as Cotler argues, might have influenced IRB decision makers to believe that Israel treats all non-Jews in the same manner that it reportedly treats the Palestinians.³⁸ The fourth issue raised is that there are dangerous deductions that can be made if Israel is being criticized as a racist state and labelled by some as an Apartheid state, as happened at the Quebec conference. These implications may include that Israel is unable to protect its citizens but also that South Africa can be equated with Israel, which may diminish the seriousness of past human rights violations in formerly Apartheid South Africa.³⁹ Finally, Cotler alarms that if some public officials accept the argument presented at the conference that Israel violated human rights of its non-Jewish minorities, then these officials would question whether Israel should have the right to extend its Jurisdiction to "east Jerusalem," the home of Palestinian Arabs and Non-Jews.⁴⁰

In *Arguing and Justifying: Assessing the Convention Refugee Choice of Moment, Motive and Host Country*, Barsky is less concerned as to whether Israel is able to protect its citizens. In his article, Barsky is more concerned that although that Russian Jews come from a democratic country, which is considered a safe country, they too deserve to have a fair refugee hearing. Barsky's article is divided into two parts: first, he discusses the affidavits of the three main participants at the 1994 Quebec conference - Lynda Brayer, Irwin Cotler, and Jonathan Livni.⁴¹ Second, Barsky on the basis of these affidavits tries to uncover the reasons Russian Jews make refugee claims in Canada by interviewing 14

people who went through the process in 1992. All of those interviewed made their claims in Quebec. They came from different cities in both the Soviet Union and Israel, some are fully Jewish (meaning both parents are Jewish) while others have mixed heritage.⁴²

The results of the interviews were that the interviewees mostly complained about five types of persecution. Some male interviewees complained about persecution related to military service: for example, one interviewee was accused of being part of the KGB by the Israeli military officials, another interviewee did not wish to participate in offensive missions in occupied territories because he only wanted to serve in defensive missions.⁴³ The second type of persecution, which was most commonly mentioned, was ethnic discrimination against Russians in the form of insults or beatings.⁴⁴ Religious persecution was the third type to be mentioned by three quarters of the interviewees. Interviewees complained that they felt that the Jewish religion dictates everything in Israel. This was especially difficult for those who were half Jewish or not Jewish at all. The interviewees claimed that Jews would beat them, throw rocks at them, and generally harass them if they did not comply with Judaism (reading Russian Orthodox prayers at work or going to church, eating non-Kosher food, driving a car on Sabbath, and so on...)⁴⁵ The fourth issue raised was the difficulty finding employment, especially if one is not Jewish.⁴⁶ Finally, the interviewees complained that their children were often beaten at school and that Israelis saw Russian women as prostitutes.⁴⁷

At the conclusion of his analysis, Barsky raises the fact that the majority of claimants are refused because of the tendency of “First World” states to refuse claimants from countries that are considered to be safe such as Israel. Barsky claims that this practice disregards the fundamental tenet of the UN Convention on Refugees, which

states that individual claims must be considered on their merit rather than according to generalities.⁴⁸

Both Cotler and Barsky provide relevant and detailed discussion on different aspects on the subject. Nevertheless, Cotler and Barsky's discussions do not address (at least not in an organized and extensive manner) on what grounds Canada accepts Israeli refugees, what is the legal reasoning of the courts and, perhaps, the political motivations involved. In addition, the research does not address whether other ethnic groups from Israel claim refugee status and how the number of these claims relates to the number of Russian Jewish claimants as a proportion of the total of claims made by Israelis.

Although Barsky does attempt to provide some of the reasonings why Russian Jews make claims against Israel, his sample is too small and he does not discuss what type of claims are successful. Finally, all three chapters were written and researched in the mid to late 1990s. These chapters are no longer current and it is important to investigate whether their findings and arguments are still applicable today. Hence, this paper will attempt to build upon and extend these academics' work. The following section will develop the theoretical background upon which these questions will be investigated.

PART I: THEORETICAL BACKGROUND

From Human Rights to Nationhood

It has been argued by some scholars that Canadians do not have a sense of nationhood and cannot agree upon a definition that defines Canada as a political community. The reason for such a lack of agreement is that Canadians are divided between Anglophone and Francophone, new and old, immigrants and aboriginal peoples, and so on.⁴⁹ However, this paper will argue that human rights is used by the political elite - governmental officials, IRB members and Federal Court judges - as a tool for nation-building, meaning trying to portray Canada as a human rights protector.

Human Rights in Domestic Policy

Since the end of World War Two (WW2), Canadians' awareness of human rights issues, both domestic and international, grew significantly. Since WW2, human rights were recognized and guaranteed in the following three areas: public policy- judicial protection rights in the common law; legislative protection of rights in public statutes; and the entrenchment of rights in the constitution.⁵⁰

After WW2, Canadian courts started to strike down or repel certain laws that discriminated against minorities. For example, in 1945 an Ontario court struck down a covenant that prevented the disposition of certain land to Jews or other persons of "objectionable nationality".⁵¹ In the 1960s, the federal government adopted the Canadian Bill of Rights, setting out civil and political rights. In 1962, Ontario adopted the first human rights laws that were to administered by an independent commission. Other provinces and the federal government quickly followed suit.⁵²

Between 1978 and the present, human rights codes expanded to include new grounds of discrimination such as sex, age, marital status, sexual orientation, social condition or source of income, and criminal conviction or charge. Gradually, the courts and tribunals began to define the codes' concepts allowing the codes to apply to day-to-day life. In 1982, the Charter of Rights and Freedoms (Charter) became a part of the Canadian Constitution. The Charter guarantees not only equal rights, but also a range of political and civil liberties.⁵³

The recognition of the importance of human rights became part of Canadian values. For example, the Supreme Court in its 1987 decision *Robichaud v. Canada (Treasury Board)* decided that human rights legislation should incorporate the basic goals of our society.⁵⁴ Furthermore, the Charter, which was part of the national political agenda of Prime Minister Pierre Trudeau, was regarded as a "people's package" and was entrenched only after public consultation. As a result, the Charter contributed to a feeling of nationalism and patriotism, at least among English Canadians.⁵⁵ In a poll conducted by Ipsos Reid - Defining Canada: A Nation Chooses the 101 Things that Best Define Their Country - the Charter and the Bill of Human Rights ranked 24th on the list.⁵⁶

Human Rights and Foreign Policy

Internationally, since WW2, Canada has pursued human rights ideals through its foreign policy. The advance of human rights in the world has impacted Canada's domestic human rights policies and vis versa. After WW2, Canada was in a good position to influence world affairs as a middle-power because, unlike other countries, it was not economically and militarily exhausted. Canada could afford to economically help other countries and by doing such exert international influence. This international influential

status allowed Canada to become a leader in the promotion of human rights.⁵⁷ The following are well-known examples of Canada's international promotion of human rights. In 1948, Canadians contributed to the adoption of the Universal Declaration of Human Rights by assisting in the creation and adoption of the document. A McGill law professor, John Humphrey, was asked to set up a Division for Human Rights in the UN Secretariat. This division, assisted by Professor Humphrey, prepared the first draft of the Declaration.⁵⁸

The UN Emergency Force (UNEF), established by Lester B. Pearson in 1956, became the foundation for future peacekeeping and peacemaking operations in troubled areas.⁵⁹ General Romeo Dallaire, who headed the UN Peacekeeping Force in Rwanda, is a Canadian icon for his work trying to save Rwandans from genocide.⁶⁰

Canada also signed and ratified a number of international human rights agreements, such as the International Covenant on Economic, Social and Cultural Rights in 1976. One of the purposes in ratifying and implementing these treaties was to strengthen Canada's image as a supporter of human rights in the international community.⁶¹ In 1988, Parliament created a non-partisan organization - the International Centre for Human Rights and Democratic Development, the mandate of which was to encourage and support the universal values of human rights and the promotion of democratic institutions and practices around the world.⁶²

A current example of Canadian world leadership in the promotion of human rights is former Supreme Court judge Louise Arbour, who was also a chief prosecutor for tribunals on the genocide in Rwanda and human rights abuses in Yugoslavia in the 1990s. In 2004, she became the UN High Commissioner for Human Rights. Through her work in

human rights, Arbour has gained the respect of former UN Secretary General Kofi Annan as well as from human rights groups around the world.⁶³ Finally, Canada's promotion of human rights is evident in the policy of Foreign Affairs and International Trade Canada, whose third key priority for the Department is "greater international support for freedom and security, democracy, rule of law, human rights and environmental stewardship."⁶⁴

Gutierrez-Haces makes the linkage between Canada's foreign policy and nation-building. She argues that the Canadian government uses its foreign policy for nation-building: "...Canadian foreign policy applies its actions and initiatives internationally as a spearhead to promote certain values and principles that are internally reworked and recycled to promote Canadian identity".⁶⁵ One of these foreign policy values she argues is the promotion of human rights worldwide. In fact, according to an Ipsos Reid survey, Canadians identify peacekeeping by the Canadian Forces as 7th of the top 101 things that best define their country.⁶⁶

Canada's Refugee Policy and Determination Procedure

Another avenue for the promotion of human rights is through providing humanitarian support to those fleeing oppression and the acceptance of refugees.⁶⁷ The commitment to human rights in refugee policy is evident in that Citizenship and Immigration Canada (CIC) states as part of its 2007-2008 mission that the responsibility of the CIC is to "maintain Canada's humanitarian tradition by protecting refugees and persons."⁶⁸ Furthermore, the CIC states in its 2007 *Report to Parliament on Immigration* that Canada's international and domestic refugee protection agenda continues to be challenged by worldwide human rights violations.⁶⁹

Prior to the end of the WW2, Canada was not obligated to make a formal determination process for the recognition of refugee claims. However, Canada's signing in 1969 of the United Nations Convention of 1951 and the 1967 Protocol changed this and Canada developed distinct refugee policies and programs. In 1976, the Canadian government incorporated the Convention definition into its domestic policy. Furthermore, in 1973 Canada created an inter-departmental committee whose role was to render decisions on refugee claims.⁷⁰ This committee evolved in 1989 into an independent judiciary known as the IRB.⁷¹

The current refugee policy of the Canadian government states that Canada accepts refugees in two ways: as sponsored refugees and as asylum seekers. Sponsored refugees can be sponsored either by the government or privately, such as by churches, non-governmental organizations, and so on. Asylum seekers are those who arrive to Canada as visitors and after arriving apply for refugee status because of a fear of persecution in their countries of origin. These asylum seekers need to undergo a judicial process, which is administered by the IRB.⁷² The decision of who is considered to be a Convention refugee is not static but rather evolves constantly. The evolution may result from past IRB decisions or its changing policies, such as the guidelines for "Women Refugee Claimants Fearing Gender Related Persecution" (gender guidelines) that were added in 1996 and whose purpose is to guide the members in their decisions on claims that relate to persecution based on gender, a category that is not explicitly stated in the Convention definition.⁷³

The IRB Process

The general process that in-land refugee claimants must undergo is as follows. If a claimant wants to make a refugee claim, he or she must notify an immigration office either at any port of entry, Canada Immigration Centre, or at an office of the Canada Border Service Agency (CBSA). At any of these locations, the claimant will be interviewed by an officer who will determine whether to refer the claimant to the IRB. Then the claimant will have 28 days to fill out a Personal Information Form (PIF) stating the reasons for their claim in a narrative format.⁷⁴

After the PIF is received by the IRB, the IRB selects one of the following processes to determine the claim: a fast-track expedited process, a fast-track hearing, or a full hearing. A fast-track expedited process is reserved for claims from certain countries or for certain types of claims. Fast track hearings are reserved for claims that appear to be simple as they require a decision on the basis of one or two issues. Full hearings are for claims that are more complex and involve more than two issues. The full hearing is more adversarial as the role of the Minister's counsel is to argue against the claim.⁷⁵

The role of the IRB member is to assess whether the claimant is a Convention refugee. If the IRB decides that the claimant is a Convention refugee, the refugee is entitled to apply for permanent residency. However, if the claimant is determined not to be a Convention refugee, the claimant may ask the Federal Court of Canada for leave, or permission, for a judicial review of the IRB's decision. If permission is granted and a judicial review is allowed, the claimant is returned to a re-hearing, for example, if the IRB decision was based on an error of law or of fact, or if a principle of natural justice

was breached. If the federal judge does find such a mistake, then the Court would send the case back to the IRB for reconsideration.⁷⁶

In general, a member of the IRB reaches a decision in involves two main stages. First, the member determines whether the claimant's type of persecution fits within Convention grounds. Second, the member determines whether the state is willing to protect the claimant from persecution, and if yes, whether the protection is adequate.⁷⁷

Identity documents are used to verify whether the claimants are who they claim to be. Other evidence may include: witnesses, expert testimonies, medical reports, and psychological reports, newspaper excerpts, and so on.⁷⁸ The IRB decisions are based on legislation as well as various guidelines for refugee determinations such as: Women Refugee Claimants Fearing Gender-Related Persecution, country documentation packages, which are compiled from different sources such as government reports, NGO reports, international organizations' reports, and country condition information answering specific questions.⁷⁹

IRB Members

The IRB members hear refugee claims in the following regions: Eastern Region (Montreal and Ottawa), Central Region (Toronto and Niagara Falls), and Western Region (Vancouver, Calgary, Winnipeg, and Edmonton).⁸⁰ The legislation allows for members to be appointed for up to seven years and they can be re-appointed after this time. In practice (as of July, 2007), initial appointments are made for a three-year period and followed by re-appointments for five-year periods followed by two-year terms.⁸¹ As an administrative tribunal, the IRB is independent from the federal Department of Citizenship and Immigration. The members' independence is a key feature of the

Canadian system. This differs from other countries' refugee admission processes, such as Australia and the U.S.⁸²

IRB Members Selection Process and Potential Patronage

The manner in which IRB members are selected is subject to controversy because the potential for patronage suggests that the IRB is not as politically independent as it claims to be. Since the establishment of the IRB in 1989, members have been appointed and re-appointed by the Minister of Immigration.⁸³ This selection process was criticized by organizations such as the Canadian Bar Association (CBA) because the process for the appointments is potentially based on patronage rather than on merit. According to the CBA's Task Force Report (1990), the CBA raised the concern that "if appointments are made only amongst supporters of the government in power, there may be a perception that the tribunal is neither independent nor indifferent when it is called upon to adjudicate cases in which the government appears as a party."⁸⁴

In 1995, the Liberal government established an advisory committee that was composed of five members: a Chairperson, a Chairperson from the IRB, and three representatives of the legal community, NGOs involved in refugee matters, and the general public. This committee was responsible for advising the Minister of Immigration on the selection of potential IRB members from applications of interested candidates who replied to the IRB advertisement in the Canada Gazette. However, despite these changes, the Chairperson was still appointed by the Minister.⁸⁵ The Minister would also make the final decision from the list of recommended candidates who were eligible for appointment or re-appointment. The Minister could also ignore the recommendations of the committee.⁸⁶ This process was also criticized for its patronage and bias: for example,

NDP immigration critic Pat Martin criticized the system prior to 2004 as “corrupt and full of patronage.”⁸⁷

In 2004, Judy Sgro, the Minister of Immigration for the Liberal government, made additional reforms for the purpose, she claimed, of eliminating political patronage and bias.⁸⁸ The Ministerial Advisory Committee was replaced with an Advisory Panel and Chairperson’s Selection Board. Instead of minimum screening by the Board, in the new system, members are selected through a five-stage process on merit-based criteria.⁸⁹ In 2007, Diane Finley, the Conservative government’s Immigration Minister, mostly maintained the IRB selection process but implemented a few additional revisions.⁹⁰ Even though the Liberal government made tremendous changes to the IRB members’ selection process, it seems that the Minister of Immigration was and still is involved in the IRB selection process. This may suggest that political considerations still be part of the selection because the Minister makes the final decision. The controversy around political patronage is understandable because if political considerations play out in IRB members’ decisions, the independence of the panel is jeopardized and consequently, refugee claimants’ right to an independent judiciary hearing, which Canada claims to provide, is endangered. This can harm the overall image of Canada as a protector of refugees.

The impact of alleged “patronage” on a supposedly independent tribunal plays out in a complicated manner in the IRB members’ work. According to an interview conducted with Professor Macklin who served as an IRB member from 1994-1996, political patronage does have an impact on the IRB members’ work. As an example, Macklin says that some members understand their role in an independent tribunal while others do not. Professor Macklin stated that when a newer member underwent training by

a more experienced member, the newer member was concerned about the opinion of the Minister if the member were to administer a positive decision. Professor Macklin also added that there is a risk in employees gaining their positions through political patronage. Since some IRB members are accustomed to being hired through political connections rather than merit, they are more likely to maintain their political ties than improve the quality of their work.⁹¹

It is difficult to assess how biases that are a result of political considerations play out in the overall refugee determination system; however, the literature does argue that there is a certain trend that may put into question the independence of the members. During the Cold War, Matas and Simon argue that Canada's refugee acceptance policies were biased towards accepting refugee claimants from communist countries. The construction of the refugee system, in the opinion of Matas and Simon, was for the purpose of condemning the communist countries as human rights violators. Therefore, Canada was more likely to accept refugee claims from communist countries to demonstrate that these states were human rights violators. Consequently, refugee claims from countries who were allies of the Western states were less likely to be accepted because Canada did not want to condemn allies as human rights violator and by doing such worsen relationships.⁹²

It may be argued that Matas and Simon's argument is no longer valid because after the Soviet regime collapsed and communist rule no longer posed a threat, there should no longer be a bias in refugee claim determination in Canada. However, Macklin writes in *"Refugee women and the Imperative of Categories"* about the reluctance of democratic states to admit refugee claimants from similar democratic states. Macklin

argues that Canada is reluctant to accept refugee claims from a country such as the United States because the implied criticism of the US risks the US accepting refugee claims from Canada. If this were to occur, Canada could be recognized internationally as a human rights violator rather than as a human rights protector, an image it wants to uphold in the international community. Therefore, that Western countries are reluctant to admit refugees from countries with democratic governments plays a role in Canada's current refugee policy.⁹³

Anti-Communism to Neo-Conservatism and Racism:

In the literature, it is argued that the Canadian refugee policy along with other Western countries has moved from its anti-communist attitude to Neo-conservatism. Beyond its economic policy, the neoconservative movement can be explained as emphasizing national interests including the defence of state borders from enemies.⁹⁴ After the emergence of international organized crime and the threat of terrorist attacks in the 1990s, adherents of neo-conservatism believed that refugees are a threat to national security because asylum seekers may participate in organized crime or collaborate with terrorists.⁹⁵

The lack of high acceptance rates for refugees by the IRB can be attributed to this neo-conservative mentality. For example, according to IRB statistics, acceptance rates dropped significantly since 1989 with 84% of refugees accepted compared to 56% in 1995 and 47% in 2006.⁹⁶ Canada's sponsorship of refugees is lower in comparison to other non-Western and Western states. In 2006, when Canada accepted 9,252, France accepted 10,881, the United States accepted 23,269, Kenya accepted 22,935, and Sudan 9,791 Convention refugees.⁹⁷

In addition to the criticism of Canada's refugee policy as neo-conservative, scholars and non-profit organizations argue that the IRB's policies and members discriminate against refugee claimants on the basis of race. According to a report written by the Canadian Council for Refugees, although an open expression of racist ideas is generally not tolerated, racism is manifested at the systemic level through refugee policies.⁹⁸ Razack, who examined IRB members' decisions on refugee claims based on gender, also argues that IRB members make decisions based on their racist perceptions. Razack argues that African Caribbean women especially experience difficulties in convincing the IRB panel to grant them refugee status because of them being stereotyped as criminals and "mammies".⁹⁹

Neo-Conservatism and Racism or World Leader in Human Rights?

On the other hand, Canada has been commended by the United Nations Refugee Agency (UNHCR) for initiatives in developing the gender guidelines.¹⁰⁰ This development opens up Canada's borders to an additional refugee group. The Canadian media echoed the UNHCR's praise and reinforced Canadian contribution to the promotion of women's rights worldwide: "Canada is a world leader in women's rights. The new guidelines... would be far ahead of the standards in most countries."¹⁰¹ It can be argued that the IRB's acceptance of refugees who experience gender related persecution is connected to Canada's desire to demonstrate to the world that it is a human rights protector and by doing so enhance its image. On the one hand, claims are made that the IRB adheres to neo-conservatism and racism while on the other hand, the IRB promotes human rights.

Published statistics from 2006 on IRB member acceptance rates by country of origin illustrate inconsistencies among IRB members. The data shows that some IRB members accept all or almost every case they hear. Robert Owen and Gilles Ethier respectively accepted 100% and 95% of refugee claims. IRB member Roger Houde on the other hand, accepted 7% and Suparna Ghosh, 9%.¹⁰² Rehaag claims that even if one takes into account that some adjudicators receive a high volume of expedited cases, the variation among IRB members is still not explained.¹⁰³ It is quite possible that different IRB members adhere to different political norms, either to neo-conservatism or human rights promotion. Adding to the norms is the pressure put upon members as a result of the patronage system.

The following section will outline the experiences of Russian Jews in Russia and Israel to explain why Russian Jews claim refugee status in Canada. The following section will also demonstrate, based on media reports and Barksy's study, how these experiences led Russian Jews to claim refugee status.

Russian Jews in the Soviet Union

Since the 1930s, Jews' and other Soviet citizens' internal passports identified their "nationality", which means ethnic affiliation. Due to this practice, Jewish identity was imposed on those whose parents were both Jewish. Many of these Jews tried to get rid of their ethnicity through *russifying* their family names, bribing officials, etc. Some of the reasons to hide Jewish nationality were discrimination in education and employment, and persecution by the Soviet public in the form of verbal or physical harassment in public places. Many of the Jews in Russia were united by anti-Semitism rather than through shared faith and cultural traditions.¹⁰⁴ For some Russian Jews, persecution was so severe

that many of them left as soon as they had a chance. Economic considerations were also a reason for Russian Jews to leave the Soviet Union. Although many Soviet Jews wanted to move to the United States, Australia, New Zealand, and Canada; they were not accepted by these countries and decided to leave for Israel.¹⁰⁵

Russian Jews in Israel

The political changes in the Soviet Union at the end of the 1980s caused a mass migration of Russian Jews to Israel. This was one of the largest waves of immigration that Israel experienced in such a short period of time.¹⁰⁶ Between 1989 and 2000, over 870,000 Russian Jews emigrated from the Soviet Union.¹⁰⁷ The basis for Russian Jews immigrating to Israel was imbedded in an Israeli law entitled “The Law of Return,” which establishes the historic right of any Jew, the child or the grandchild of a Jew, wherever he may originate, to return and settle in Israel.¹⁰⁸ Despite attempts by the Israeli government to prepare for mass immigration by creating appropriate programs and services, this influx of Russian Jews caused many social and economic problems.¹⁰⁹ The problems occurred because these immigrants had difficulty integrating with Israeli society. Some of these integration problems are cited in the Canadian media as reasons for refugee claims in Canada. The main integration problems that are cited in the media and in Barsky’s chapter as grounds for refugee claims can be divided into the following: economic integration, social integration, and political integration.

Economic Integration:

Many of the Russian Jews came from the Soviet Union as trained engineers, scientists, doctors, and teachers. However, the relatively small Israeli labour market was unable to absorb such a large number of professionals and many of these immigrants

were unemployed or had to find employment in unrelated fields.¹¹⁰ Few of Barsky's interviewees confessed that they claimed refugee status because they could not find employment in Israel; for example, Stanislav said that "in Israel I realized I would never work in my profession; I would always be a labourer on the lowest level."¹¹¹

Social Integration:

Another factor that is cited in the media is poor treatment of the Russian Jews by the Sephardic Jews and low-income Israelis (many of whom were Jews from countries in North Africa and the Middle East). The arrival of the Russian Jews was seen as an economic threat by Sephardic and low-income Israelis. These groups were jealous that the Russians, upon their arrival, were provided with tax-exemptions, better mortgages and other benefits.¹¹² These feelings of resentment escalated to verbal attacks on Russians. For example, Irina Kozlovski, a woman who was interviewed by Maclean's magazine in 1997, and who applied for refugee status in Montreal, claimed that in Israel, "...they hate Russians. One newspaper called Russians dirty sausage-eaters who don't know what soap is or what toilets are for".¹¹³ The justification for her refugee application was discrimination by the local Israeli population.

Another group that claims to experience discrimination in Israel are Russian Jews who are only partially Jewish or non-Jews who came with their Jewish spouses (those who do not have a Jewish mother are not considered to be Jewish by the Halacha - Jewish law). Because of this group's unique situation, some Israeli officials and representatives of the Canadian Jewish community claim that many of the refugee claims in Canada are made by those who were partially Jewish or by those who claimed to be Jewish when they arrived to Israel and then claimed to be non-Jewish when they arrived in Canada.¹¹⁴

Women and children also experience problems of integration. Both women and children are harassed by the Israeli natives. Such harassment contributed to the decision of Russian Jewish women to flee Israel and claim refugee status in Canada. For example, Ludmila, who claimed refugee status in 1992, left Israel because of an accumulation of factors. One of these factors was that Israeli men treated Ludmila poorly: “Israeli men saw me as a prostitute.”¹¹⁵

Political Integration:

Finally, the media reports that some of the refugee claims are because Israeli refugee claimants fear terrorism. Another common reason for applying for refugee status is the refusal to enlist in the Israeli military.¹¹⁶

Israeli and Canadian Jewish Community Reflection on refugee influx from

Israel:

Despite the proliferation of Russian Jewish refugee claims, the media reports that both Canadian Jewish community and Israeli officials argue that Russian Jews do not have substantial grounds for making successful refugee claims. The most prevalent argument that is provided by media reporters through interviews with Israeli officials and Canadian Jewish community representatives is that these refugee claims are “bogus” and that the Canadian refugee system is exploited. They claim that Israeli Russian Jews claim refugee status because they want to improve their economic conditions and that despite their difficulties as immigrants, Israeli Russian Jews do not experience systematic discrimination.¹¹⁷ Therefore, Israeli officials and Canadian Jewish community representatives argue that the Israeli Russian Jews’ claims do not fall within the Convention refugee definition.¹¹⁸

Another common argument that is brought up by Israeli officials such as Ofir Gendelman, a spokesman for the Israeli embassy in Ottawa, representatives of the Canadian Jewish community, and professors at Canadian universities such as Irving Abella and Irwin Cotler, is that Israel is a democratic state that has appropriate institutions in place to help those who feel discriminated.¹¹⁹ The media points out that most of the Israeli and Canadian Jewish community's outrage is directed towards the IRB in Montreal, which has the highest acceptance rate in Quebec.¹²⁰

Maclean's magazine argues that the Israeli government's outrage and the Jewish community's dissatisfaction have, since 1994, influenced the decline in the acceptance rate of refugee claims from Israel. Maclean's argues that Canadian Jewish community and Israeli officials have pressured the IRB and, in 1994, this led to the Quebec branch of the IRB organizing a conference on the topic.¹²¹ This conference included lawyers, IRB officials, NGO representatives, researchers, and reporters. Key speakers included Lynda Brayer, Irwin Cotler, and Jonathan Livni.¹²²

Lynda Brayer is a lawyer who lived in South Africa and moved to Israel and worked on behalf of marginalized persons. Ms. Brayer, as opposed to other figures cited from the Jewish community, argued that refugee claims from Israel are valid. Ms. Brayer argued that Israelis regard Jewishness above all and that those who are not Jews are not treated equally. Brayer argued that there are problems in Israel for those who are not Jewish: for example, the validity of their marriage is questioned, they experience institutional harassment, they are harassed at Christian places of prayer, and they may lose their housing and employment. Finally, Ms. Brayer claimed that Israel's different treatment between the Jews and non-Jews is similar to Apartheid in South Africa. Irwin

Cotler disagreed with Ms. Brayer and argued that Israel is a democratic state that protects its citizens. Livni, who is an Israeli lawyer who worked with Russian Jews, concurred with Cotler's argument that persecution in Israel did not exist, and even if it were to exist, there are counsellors who could represent Russian Jews in front of impartial courts of justice.¹²³

The media reports and Barsky's study hint of explanations as to why Russian Jews claim refugee status in Canada. Additionally, the media provided speculation explaining why the acceptance rates decreased after the 1994 conference. However, a more organized study is required to identify the reasons for the claims and for the success rates. The media reports that after the Quebec conference, acceptance rates declined. The chief of the IRB's documentation centre did not admit that the reason for the decline was pressure from the Canadian Jewish community and Israel but instead answered that there were less applicants who met the criteria of the Geneva Convention and that this led to the decrease in acceptance rates.¹²⁴ Refugee Board spokesperson, Charles Hawkins, responded when asked about the rising numbers of refugee claims from Israel that "it is important that refugee claimants have their files assessed individually and aren't 'prejudged'" and "Everyone is entitled to a fair hearing."¹²⁵ Based on these accounts, two deductions can be made: first, the IRB maintains that it is an independent tribunal and not influenced by outside factors; and second, it is clear that IRB officials do not provide substantial reasons for the acceptance rates, at least not to the Canadian media.

The following section will discuss Canada's foreign policy towards Israel. If the IRB does not provide substantive explanations as to why Israeli Russian Jews are accepted in Canada and if political considerations play a role in which IRB members are

appointed, it is important to take a closer look at Canada-Israel foreign policy to understand the background of the Canadian-Israeli political relationship. This section will also demonstrate how this policy is shaped by human rights considerations and general Canadian foreign policy.

Canada-Israel Foreign Policy

Similar to Canada's refugee policy, Canada demonstrates a complicated and at times contradictory policy towards Israel. Since the end of WW2, Canada has played a major part in the Arab-Jewish conflict. The source of Canadian policy is a reflection of general societal attitudes towards this conflict. Canadian foreign policy towards Israel is also noticeably guided by considerations with regards to human rights, either of Jews or Palestinians or human rights in general. In the period of the creation of the State of Israel, Canadians were divided in their opinions. According to a public poll that was published in February, 1948, about 58% of Canadians did not have any opinion, 19% were sympathetic to the Jews, while 23% were sympathetic to the Arabs. Those who were supportive of Israel were supportive because of the Jewish people's suffering in Europe and because of the military actions that were taking in place.¹²⁶ On the other hand, the Canadian government at the time showed more support for the Jewish cause. For example, in 1948, Lester B. Pearson, at that time the under-secretary of state for external affairs, chaired the First (Political) Committee of the General Assembly on the issue of Palestine.¹²⁷ Prime Minister Pearson was supportive of the Jewish state because he did not see any other solution for the Jewish-Arab conflict without creating Israel. Another figure, Justice Ivan C. Rand, who served on the United Nations Special Committee on Palestine (UNSCOP), voted with the majority of UN members for the partition of

Palestine into an Arab state and a Jewish state and for international control of Jerusalem.¹²⁸

Although Canadian government was generally supportive of the Jewish state, it mostly acted as a third party mediator between the Arabs and the Jews. In 1956, during the Suez crisis, Canada participated in the peacekeeping operation of the UN Emergency Force on the border between Egypt and Israel. After the Arab-Israeli War in 1967, Canada assisted in mobilizing support for Security Council Resolution 242, which asked Israel to withdraw from areas occupied during the Six-Day War in 1967, in exchange for formal peace negotiations. After the 1973 Yom Kippur War, Canada participated in another peacekeeping mission in the Sinai desert and on the Golan Heights.¹²⁹ These Canadian operations contributed to Canada's renown as a peacekeeper; for example, after the 1956 operation, Pearson received the Noble Peace Prize.¹³⁰

Ismael argues that in 1973, Canada's support of Israel started to wane in favour of support of the interests of the Arab world; however, Canada's foreign policy towards Israel remained neutral. The increased interest in Arab concerns came after the Arab oil embargo as Canada realized its vulnerability as an oil importer. This sensitivity was manifested in Canada seeing Arab refugees not as Arabs, but rather as Palestinians. Canada also developed greater trade relations with the Arab world.¹³¹ Despite the change, in 1983 Canada voted against a UN resolution affirming the "...inalienable rights of the Palestinian people and the right to self-determination, and an independent Palestinian state."¹³² In 1987, after the civil disobedience protests and demonstrations in the West Bank and Gaza against Israeli forces, Israel decided to respond with military action. The

international community condemned the Israeli response, including Canada, which raised its concerns over the human rights situation in Israel.¹³³

From the late 1980s until the end of the Chrétien government, even greater support was given by the Canadian government to the Palestinians and there was greater condemnation of Israeli actions. When there was a decrease in Western European influence in Middle Eastern affairs, Canada, rather than being a mediator, began to increase its humanitarian assistance to the Middle East. The funding was mostly for the purpose of finding viable solutions for improving the conditions of refugees and displaced people.¹³⁴ Meanwhile, Canada requested that Israel abstain from military operations in occupied territories. For example, in May 1990, the “Canadian government issued a news release expressing its dismay over the death of seven Palestinians by Israel on May 20. Canada requested Israeli authorities ‘to demonstrate maximum restraint.’”¹³⁵

During the Chrétien government in 1997, Israel sent agents using forged Canadian passports to assassinate Hamas kingpin Khalid Maashal in Jordan. The Canadian government reacted furiously, recalling the ambassador from Tel Aviv and only offering to re-open relations when Israel agreed to never use Canadian documents in the future. However, at the same time Canada assisted the Palestinians in strengthening their institutions, particularly justice and border administration.¹³⁶ According to a Canada-Israel Committee (CIC) poll, there was also a shift in Canadian attitudes towards Israel during this time from “we support Israel” to “we support peace.”¹³⁷ Canadian government moved from strongly supporting the victims of the Holocaust through support of Israel to greater support for Palestinian Refugees.

After 2003, during the Martin and Harper governments, there was again a shift in Canada's foreign policy in support of Israel. The government of Prime Minister Martin started voting against UN General Assembly resolutions condemning Israel that the government characterized as unbalanced and excessively politicized. Under Harper, this pattern of voting against UN resolutions continued and the Canadian government was the first country to withdraw aid from the Palestinian Authority after Hamas was elected into government in 2006.¹³⁸ Nonetheless, the Canadian government's official policy continues to reflect a complex attitude towards Israel and the Palestinians. On the one hand, the government supports Israel's right to protect its citizens from military attacks and terrorism by its neighbours based on international law, while on the other, Canada objects to the building of the security barrier inside the West Bank and East Jerusalem because it considers the building of the wall to be against international law. Canada also officially recognizes the Palestinian Authority as a governmental entity in the West Bank and Gaza and to contribute financially to assist Palestinian refugees.¹³⁹ In 2007, Canada contributed \$300 million over five years towards improving "Palestinian security, governance and prosperity."¹⁴⁰ This contribution demonstrates Canada's humanitarian aid tradition.

The Conservative government's official foreign policy may reflect, as previously noted, divided Canadian public opinion on this issue. This public opinions is partially shaped by media coverage that may exhibit certain biases. Some argue that the Canadian Broadcasting Corporation (CBC) adopts a pro-Palestinian bias, while others argue that media outlets such as CanWest Global, owner of former Southam/Hollinger papers, which include the Ottawa Citizen and Montreal Gazette, as well as Global TV adopt more pro-Israel editorial positions.¹⁴¹ The divided opinion in the media and among

Canadians in general is understandable due to the fact that Canada often sees itself as a middleman in the Middle East. Despite the division, throughout the years, Canada based its foreign policy towards Israel and its conflict with Palestinians on human rights and international and humanitarian aspirations. It is interesting to note that values which the Canadian government uses to justify its foreign policy towards the Israeli-Palestinian conflict are reflected in some IRB panel members' decisions.

PART II: STATISTICS, DECISIONS, AND INTERPRETATION

Findings:

The following section will attempt to unravel the three paradoxes mentioned above: why Israel is a refugee producing country despite being a democratic country, why there are refugees from Israel when one of the reasons for the existence of Israel is to provide a safe haven for Jews, and why does Canada accept refugees from a democratic country, especially during a period when many countries are reluctant to accept refugees. The section will attempt to address these paradoxes by analysing IRB statistics on the number of claims made and the number of accepted claims at the IRB and Federal Court level between the years 1989-2007. These years are broken down into three periods: 1989-1994, 1994-2002, and 2003-2007. The reason for the division is that these dates mark events or changing trends. For example, 1989 is significant because it is the year in which the IRB was established, and 1994 is significant as it is the year Canada accepted the largest number of claims from Israel compared to the other three periods. The analysis of this period ends with the Quebec conference as in 1995, and substantially in 1996, there was a decrease in accepted claims as well as a decrease in the number of referred claims. However, in 2003 the number of referred claims increased slightly but

the acceptance rates increased significantly. The purpose of the division is not only to explain the major paradoxes but also to understand the reasons for the increase or decrease in referral and acceptance of claims, which were extracted from 172 IRB and Federal Court decisions, and were also organized by the time periods, mentioned above.

First Period: 1989-1994

How Many Claims and Why?

Between 1989 and 1994, 3,599 Israelis made refugee claims in Canada. In 1993, with 1,981 refugee claims, marked the highest number of refugee claims made in one year not only between 1989 and 1994 but also between 1989 and 2007.¹⁴² Ms. Shuster, an immigration consultant in Toronto who, along with providing other services, represents Russian Jewish refugee claimants at the IRB, thinks that the reason for the high numbers in these years is due to the large number of immigrants from the Soviet Union to Israel who decided to leave Israel and move to Canada: "...the major so called Aliya from former countries (sic) of USSR from 1990 to 1993, maybe it was the reason of subsequent movement of people of former USSR citizens."¹⁴³ By region, the number of Israeli claims in the Eastern region, which consists of Montreal and Ottawa, was 1,938 compared to the Central region, which consists of Toronto and Niagara Falls, where 1,478 claims were referred. However, between the years 1990 and 1993, there were more refugee claims referred in the Central region than in Eastern region, 1,394 compared to 1,293. Although it can be argued that a difference in a hundred claims is not significant, if one were to compare the Central and Eastern regions' number of claims referred in 1994, one could see that there was a large shift between these regions. In that year, 645 refugee claims were referred to the Eastern region compared to 84 in the Central region,

making the Eastern region a far more favourable IRB branch for refugees from Israel to make their claims.¹⁴⁴ The reason for the shift may be due to media coverage that showed the Montreal IRB as being more likely to accept refugee claims from Israel than the IRB in Toronto. According to a Maclean's article published in 1997, there were advertisements in Israeli newspapers from successful refugee claimants in Montreal offering advice to new claimants.¹⁴⁵

According to the media, many of these Israeli claimants were Russian Jews.¹⁴⁶ However, although the IRB does not keep statistics on the ethnic origins of the claimants, the IRB and Federal Court decisions can assist in identifying who is making these refugee claims and on what grounds. However, as mentioned earlier, since the IRB publishes only claims that it considers in the public interest and these decisions are mostly negative and Federal Court decisions are also only partially available, the findings based on these decisions may not represent all the reasons for Israelis claimants making refugee claims.

Based on IRB and Federal Court decisions between 1989 and 1994, refugee claimants from Israel can be divided into the following ethnicities and nationalities: Soviet, Palestinian, Israeli, Iranian, Ethiopian, and unknown. At the IRB level, Russian Jews made 16 refugee claims, Palestinians made two claims, claims were made each by an Israeli, Iranian and Ethiopian, and three were made by unknown claimants. At the Federal Court level, seven decisions concerning claims by Russian Jews were examined. Based on these numbers, it can be concluded that the media reports are right in speculating that many of the refugee claimants are Russian Jews but it is important to note that Russian Jews are not the only ones making refugee claims.

Both Barsky and Abella argue that the reason why Soviet Jews decided to leave the Soviet Union and go to Israel was because Israel, unlike other countries such as the U.S., Canada, and Australia, was more likely to accept them.¹⁴⁷ Israel used the Law of Return as a criterion for selecting immigrants, which meant that everyone who is considered a Jew according to the law's definition can immigrate to Israel, including grandchildren of Jews and their spouses. These two facts - that Israel was one of the only countries to accept Russian Jews and that it used the Law of Return to determine who can be accepted and the IRB and Federal Court Judicial reviews - have four implications for IRB and Federal Court decisions: a) some Russians immigrated to Israel with false documentation claiming that they were Jewish when they were not or their documentation was considered false by Israeli officials; b) some Soviet Jews treated their move to Israel a stopover rather than final destination and did not want the automatic citizenship that Israel granted them; c) many Christians and some Muslims immigrated to Israel because the Law of Return only requires that one of family members have a Jewish grandfather; d) upon arrival, Israel identified those Soviets who were not Jews according to the Halachic law, which regards one to be a Jewish if one's mother is Jewish as identified in the new immigrants' identity documents. These four implications provide the background for the reasons why Soviet Jews claimed refugee status, especially in the period between 1989 and 1994.

At the IRB level, there were four refugee claims that involved citizenship documentation and another 14 out of 16 claims made by Russian Jews were on grounds of religion with a combination of other grounds. Similarly, four out of seven appeals for judicial review at the Federal Court level were on grounds of religion with a combination

of other grounds. Three claims related to citizenship documents demonstrated that the Law of Return has caused complications for some Russians. One female claimant argued that because she used a false birth certificate indicating that her mother was Jewish, she was afraid of being deported from Israel: “She used a false birth certificate indicating that her mother was Jewish...According to the panel, the documentary evidence confirmed the claimant's fear of losing her Israeli citizenship and being deported.”¹⁴⁸ In contrast, a Russian family claimed that they had difficulties receiving Israeli identity documents because Israeli authorities thought that their documents proving that they Jewish were fraudulent.¹⁴⁹ The third claimant claimed to be Jewish but decided to mislead the authorities by claiming that he was not Jewish and this caused him to have difficulties finding employment, accommodation, and protection of the police: “Both of his (the claimant’s) parents were of Jewish ancestry, but upon arrival in Israel, he deliberately misled the Israeli authorities about his Jewishness simply because someone told him to and his internal documents (teudat zeut) did not show his nationality... He claimed that his teudat zeut caused him many problems with employment, accommodation, and lack of protection from the police.”¹⁵⁰ These three claims illustrate that some claimants had difficulties receiving Israeli documents because their Jewish identity was questioned.

The lack of clarity as to whether those who claim refugee status are Jewish was also identified by Abella and Cotler who argued that refugee claimants in Canada fled Russia by claiming that they were Jews but left Israel by claiming that they were non-Jews.¹⁵¹ The above claim in which the claimant told Israeli authorities that he was not Jewish when he actually has connections with Abella and Cotler’s statement. These claims do demonstrate that Russian Jews do change their identity depending on

circumstances, which makes the last claim, in which a family was not believed to be Jewish by the Israeli authorities, believable as the Israeli authorities were accustomed to such practices by immigrants from Russia. The family could also have been claiming that they were not believed to be Jews in Israel in order to have some grounds for their refugee claim in Canada.

Abella and Cotler's argument, that some Russians "adjust" their nationality to move from one country to another, is confirmed by another claim made by a Russian Jew. This Israeli claimant argued that his claim in Canada should be assessed based on Russia rather than Israel because although Israeli officials accepted his immigration to Israel and he received Israeli citizenship, he received this citizenship without his consent: "The claimant was born and raised in the former USSR. Being a Jew, he was accepted for immigration to Israel. The claimant stated that...he did not intend, nor consent, to obtain Israeli citizenship...and that his refugee claim should be assessed against Russia."¹⁵² It is clear that in this scenario the claimant considered Israel a temporary station before relocating to a third destination.

A majority of the claims made by Russian Jews both at the IRB level and at the Federal Court level were made on grounds of religion, sometimes in combination with other factors. Amongst Russian Jewish claimants who argued for refugee status based on religion at the IRB level, 12 of 14 claimed to be Christians, Christians with at least one Jewish ancestor or a spouse of a Christian (for the other two claimants, the first claimant's religion was Jewish but he didn't identify himself as a Jew to the Israel authorities and, in the second case, the claimants were not recognized as Jewish by the Israeli authorities).¹⁵³ Similarly, all four of the appellants who claimed refugee status

based on religious grounds were either Christian, Christian with Jewish ancestry, or spouses of non-Jews.¹⁵⁴ These findings are corroborated by a religious figure in the Toronto Russian Jewish community. The religious representative stated that based on his contacts with Russian Jewish refugee claimants in Toronto, Israeli Russian Jews who are not Jewish according to the religious definition are more likely to claim refugee status in Canada than Israeli Russians who are Jewish according to Halachic law: “I think based on my experience, I think there is a majority of non-Jews or mixed marriage.”¹⁵⁵ All of these claimants argued that they experienced discrimination because they were not Jewish according to the Halachic law. They claimed that Jews verbally harassed them and that they experienced problems gaining employment, housing, and access to other services.¹⁵⁶ Schoolmates harassed claimants’ children and some claimants were not allowed to practice their religion and proselytize.¹⁵⁷ Many claimants stated that there was insufficient state protection against discrimination.¹⁵⁸ One claimant claimed that she was sexually harassed and raped by her employer but that the police refused to lay charges because she was not Jewish: “The female claimant was a Christian married to a Jew. She alleged that she was raped by her employer and that the police refused to lay charges because she was not Jewish...”¹⁵⁹

Many of the claimants who applied under religious grounds also mentioned that they objected to military service. At the IRB level, six of seven claimants who claimed refugee status on the basis that they did not want to serve in the military were not Jewish according to Halachic law.¹⁶⁰ At the Federal Court level, all of the three appellants who refused to serve in the Israeli army were not Jewish according to the Halachic law.¹⁶¹ These findings contradict the observation made by the religious representative in

Toronto's Russian Jewish community who said that during his contact with Israeli Russian Jewish refugee claimants, he did not remember someone who wanted to claim refugee status because s/he did not want to serve in the military. The religious figure did remember refugee claimants complain about persecution because of race, gender persecution, harassment and problems with employment: "I remember hearing stories [of] persecution because of race, gender, calling names, threatened to rape..."¹⁶² However, when he was asked whether he remembers any claimants complain about the mandatory conscription to the army: "[I remember claims made] because of job...call names...I don't remember [claims] because of army service."¹⁶³ This may be due to coincidence but also may be due to, as Professor Abella mentioned in his interview, immigration consultants and lawyers shaping claimants' claims in a manner that they think will be more successful for receiving a positive decision: "...all the stories (refugee claims against Israel) are the same, they are well-rehearsed by immigration lawyers in what should they say and what can they sell."¹⁶⁴

These non-Jewish claimants (non-Jewish according to Halachic law) who based their claims on military service state that they refused to serve in the military because they were conscientious objectors and feared imprisonment for their objection to military service.¹⁶⁵ Some of these claimants explain their conscientious objection as being religiously motivated - that serving in the military does not fit within their pacifistic religious values.¹⁶⁶ One claimant argued that in addition to his religious reasoning as to why he did not want to serve in the Israeli army, he also objected to Israel's involvement in the internal affairs of other countries, such as Lebanon.¹⁶⁷

In comparison, two other claimants who were not Russian Jews (one was Iranian and the other one was Ethiopian) also made claims for refugee status due to the consequences of taking advantage of the Law of Return. The Ethiopian claimant argued that she immigrated to Israel because her mother was Jewish and hence she could take advantage of the Law of Return but she was raised as a Christian and wanted to practice Christianity in Israel. The claimant argued that in Israel, she experienced hostility from Jews when she read the bible or went to church. She also had trouble with admission to higher education and finding employment.¹⁶⁸ The Iranian, who was Muslim, immigrated with her Jewish husband to Israel. In Israel, she separated from her husband because of domestic abuse. The claimant argued for refugee status because of persecution by her husband and that she could be deported back to Iran because she was not Jewish.¹⁶⁹ These two claims that illustrate Russian Jews' difficulties that arose from them taking advantage of the Law of Return are not unique to their ethno-religious group; other ethno-religious groups experience similar difficulties. This may be due to immigrants experiencing similar discrimination in Israel, sharing the same fears of potential discrimination, or, as Professor Abella argues, lawyers and immigration consultants shaping the claimants' claims to include arguments that would result in successful refugee claims.

Although fewer in number, there are Russian Jews who did not base their claims on the consequences of taking advantage of the Law of Return. One claimant argued that she was lured into prostitution, raped and threatened with death if she did not continue to work as a prostitute. The claimant contacted the police and a lawyer but she did not receive any assistance.¹⁷⁰ The other two claimants based their refugee claims on the grounds of refusal to serve in the Israeli military. One of the claimants, Risak Boris,

complained that due to his refusal to serve in the military, he was detained by the military without justification and was beaten by police.¹⁷¹ The other claimant refused to serve in the Israeli military due to his consciousness objection to military service and objection to Israel's military policy in occupied territories: "...the claimant had learned that he would be required to serve in the Israeli military once he turned 18. He was opposed to Israel's military policy in the Occupied Territories, and claimed a conscientious objection to serving in the army".¹⁷²

Two Palestinian Israelis, also attempted to make refugee claims against Israel based on persecution. One claimant was a female who claimed that she would be subjected to persecution if returned to Israel.¹⁷³ The other claimant sought refugee status because if he were to be deported back to Israel, he would be subject to persecution by the Israeli military because he would have to participate in the Intifada. He would be forced to participate in the Intifada because if he did not participate, fellow Palestinians would consider him an Israeli collaborator. The Palestinian elaborated by arguing that he had participated in political demonstrations against Israeli policy, and that the Israeli authorities detained him and his cousins. When the claimant was detained, he was forced to clean roads at gunpoint.¹⁷⁴

Comparing Barsky's research, which involved interviewing Russian Jews refugee claimants in Quebec around the same period of time that the above decisions were rendered, with the reasons for refugee claims extracted from the decisions, one can find corroboration with Barsky's research. The media also report that Russian Jews experienced harassment by Jews because they did not practice Judaism, had difficulty finding accommodation and employment, and that they objected to military service.

However, what is missing from media reports and Barsky's analysis is the central role that the Law of Return played in these claims. The fact that within Barsky's sample, only two of 12 claimants interviewed were fully Jewish while 12 out of 16 decisions at the IRB level and four out of seven Federal Court decisions involving Russian Jewish claimants were from Christians, demonstrates that the Law of Return attracted immigrants who did not fit within Israel's goal of creating and maintaining a Jewish state.

Regardless of whether Israel attracted people who did not fit within this goal, Israel had granted citizenship to these people. If Israel and Israeli officials claim to protect all citizens, why do IRB panel members accept refugees from Israel?

How many were accepted and why?

As mentioned by Cotler, Barsky and some media articles published between the years 1989 and 1994, Canada's acceptance of refugees from Israel was met with a hostile reaction by Israeli officials and the Canadian Jewish community. Between 1989 and 1994, 677 of 3,599 refugee claimants were accepted, which is approximately 19% acceptance rate. This can be compared to other periods. Between 1995 and 2002, 407 refugee claims were accepted and between 2002 and 2007, the number was 523. The national rate of acceptance between the years 1989 and 1994 peaked in 1990 with a 69% acceptance rate. The lowest rate of acceptance was in 1993 with 13% of claims accepted from Israel but in 1994 it rose back to 38%. Although the acceptance rate slightly increased and then decreased before 1994, the number of accepted claims has since been steadily increasing.¹⁷⁵

Based on IRB statistics, acceptance rate differences and the differences between numbers of claims accepted between the regions are quite surprising. Montreal's IRB

branch was believed to have the highest acceptance rates of Israeli refugees. According to the statistics, Montreal in fact did have much higher acceptance rates than Toronto; for example in 1990, when eleven claims were made in each region, the Eastern branch accepted all the eleven claims while the Central region accepted only four. The Eastern region had higher acceptance rates than the Central region throughout the period of 1990 to 1994, except in 1992 when the Central region accepted 39% of the claims compared to 26% in the Eastern region. The Central region accepted a significantly larger number of refugee claims from Israel. Between 1990 and 1992, the Central region accepted 81 claims compared to the Eastern region that accepted 46 claims. It is only in 1993 and 1994 that the Eastern region accepted significantly more claims than the Central region - 449 compared to 71. These statistics illustrate that perhaps the conclusion that some officials reached - that the Eastern region was more likely to accept Israeli refugee than the Central - was not well founded. The Western region, which has the lowest number of referred claims from Israel is quite inconsistent in its acceptance rates; however, the overall number of claims was very low between 1990 and 1994, only 26 claims were accepted.¹⁷⁶

Based on the published IRB decisions between 1989 and 1994, it is difficult to assess which claims Canada does accept. Of the 23 published claims by Israelis between 1989 and 1994, only one of them was positive.¹⁷⁷ At the Federal Court level, four of the seven appeals were sustained and the court ordered a re-hearing.¹⁷⁸ Two of the appeals that were sustained were successful because the panel members failed to consider a certain aspect of the claim.¹⁷⁹

Based on the decisions, it seems that IRB members and Federal Court judges were convinced by the argument that Israel is a democratic country and is capable of protecting its citizens. IRB members, while rendering their decisions for claimants who were either Russian Jews or from other ethnic groups who experienced harassment and problems finding employment and accommodations, argued that such harassment did not amount to persecution and that there was sufficient protection by the state.¹⁸⁰ In addition, the IRB members argued that the Israeli government had put in a lot of effort to accommodate, integrate, and protect the new immigrants including the non-Jewish spouses of Jewish immigrants.¹⁸¹ For example, in the case of a family who complained that they were harassed by private citizens, the IRB dismissed the claim because the harassment did not amount to persecution and the panel members found it implausible that a country that would try to integrate its immigrants would tolerate these immigrants experiencing persecution:

The panel assessed the claim against Israel alone and found that the discrimination to which the claimants testified did not amount to persecution...The panel found it implausible "that a country which has made every effort to absorb all those who qualify to immigrate...whether they are Jewish or not, would promote or tolerate the persecution of those very citizens."¹⁸²

The IRB concluded that those who experienced discrimination could file their claims within an independent judiciary and approach Israeli organizations that work for the promotion of citizens' human rights. For example, when a family of claimants from mixed religious origins argued that they were threatened by Orthodox Jews and that the police were not willing to help them, the panel dismissed the case because they did not believe that the claimants were assaulted and "that there is an independent judiciary and there exist human rights organizations to turn to for redress".¹⁸³ Even if the claim was

based on gender grounds, such as domestic abuse, the panel members decided that there was sufficient state protection available for women who experience domestic abuse.¹⁸⁴ In regards to the refugee claim of a claimant who argued that she experienced persecution on the basis of being abused by her husband and that the police failed to protect her: “The panel...found that there was adequate state protection...Israel considered domestic violence to be a serious matter and had passed new laws to prevent it and to punish the offenders”.¹⁸⁵

Regarding refusal to serve in the Israeli military, the arguments provided by the IRB members and the judges can be divided into four categories. First, panel members argued that Russian immigrants should have been aware of the mandatory military service in Israel prior to immigration to Israel and could have chosen not to immigrate to Israel.¹⁸⁶ Second, Israeli military law applies to the entire population and the punishment for not serving in the army is not too severe to constitute persecution.¹⁸⁷ Third, those who claim to be conscientious objectors must show sincere denial of any form of combat and must belong to organizations that oppose military service.¹⁸⁸ Fourth, although the Israeli military was involved in some isolated incidents where it violated human rights in occupied territories, the international community does not generally condemn Israeli military activities.¹⁸⁹ One claimant who did not want to serve in the military because he opposed Israel’s military policy in the Occupied Territories was refused as the panel decided that although there were some allegations of human rights violations by Israeli military, these are investigated and punished:

There are reports of some human rights violations, but the Israeli army operates in accordance with strict rules with respect to its moral conduct in the Occupied Territories. The army states that it investigates every fatality and that the perpetrators are punished.¹⁹⁰

It appears that regardless of which way the claimant stated his refusal to serve in the Israeli army, the panel and the Federal Court refused to admit that these claims constituted persecution.

Based on these findings the dilemma still remains - if most claimants who base their claims on grounds cited both in the media and Barsky's study are rejected, which claimants do get accepted? The only positive claim published on the IRB website was that of a Palestinian claimant who argued that if he was deported back to Israel he would be persecuted by the Israeli military as he would have to become a participant in the Intifada.¹⁹¹ Professor Macklin also claimed that based on her knowledge, Palestinians have more legitimate reasons for refugee status than other claimants.¹⁹² However, they are also met with hostility and suspicion by IRB members especially in IRB regions outside Quebec with because Israel is a democratic country that tries to protect its country and Palestinians are viewed as potential terrorists:

It is really hard for example for a Palestinian from the west-bank and Gaza to make a refugee claim in Canada especially if they want to say the agency of persecution is Israel there is a wide possibility that they will not be ... Israel is a democracy and Palestinians are potential terrorist and what Israel does to them is somehow legitimate depending on the circumstances.¹⁹³

This fact may also explain why of the two Palestinian claims that were available on the IRB website for this period, only one was successful.¹⁹⁴

Many Russian Jews and Palestinians do not recount their successful refugee claims to Israeli newspapers so it is difficult to gauge the reason for their acceptance. Although she started her practice in 1999, Ms. Shuster argues that most successful claims are those made on grounds of gender persecution and refusal to serve in the military. However, their rate of success is relatively low.¹⁹⁵

Two of the sustained appeal judgments for judicial reviews that were published between 1989 and 1994 do provide some guidance as to what types of claims are successful and corroborate Ms. Shuster's personal observations. In an appeal for judicial review of Freiberg's claim, Valentina, Judge Tremblay-Lamer provided guidelines for the panel member who was to re-hear her claim. Ms. Freiberg, who was not Jewish, claimed that she feared persecution in Israel because of discriminatory treatment such as sexual assault and harassment directed towards her and her family members. Ms. Freiberg also had trouble finding employment and accommodation and schoolmates attacked her daughter. Ms. Freiberg asked for police protection but the police did not seriously intervene, leaving Ms. Freiberg reluctant to seek the police's protection after later assaults.¹⁹⁶

The Federal Court in contrast to the IRB member's decision found that such discriminatory treatment did amount to persecution on cumulative grounds including that her right to earn a livelihood and the right to access education had been affected: "The Court found on cumulative grounds that the harassment amounted to persecution, as the right to earn a livelihood and the right of access to education had been seriously affected".¹⁹⁷ Furthermore, Ms. Freiberg's reluctance to seek protection was found to be justified because the police failed to respond to previous assaults on Ms. Freiberg. Since, according to Tremblay-Lamer, the treatment the claimant experienced amounted to persecution as the state was unable to provide protection, the claimant was eligible for refugee status: "A considerable feeling of insecurity had been created because previous complaints to the police had not elicited state protection; therefore, her reluctance to seek protection was justified."¹⁹⁸

In another allowed appeal for judicial review, the appellant, Risak Boris, stated that he was detained and beaten by the police and the military due to his refusal to serve in the military. Although the IRB had rejected the claim based on documentary evidence that showed that Israel was helping Russians integrate, the court decided that the claimant's incarceration by the police and the military "transcended the notion of discrimination" and since the police and the military are viewed as establishments that provide protection, the claimant was not obligated to seek additional state protection to prove that there was insufficient state protection.¹⁹⁹ The panel members at both of these re-hearings had to follow the judges' decision unless at the re-hearing, certain facts and circumstances had changed.

This inconsistency between these two appeals may be explained by a combination of factors: Canada's increasing condemnation of Israeli actions in occupied territories in the late 1980s and the nature of IRB member appointments through political patronage. During the first Intifada (1987-1992), the Canadian government asked Israel to exercise restraint in occupied territories. At the same time (in 1989), the government appointed new members to the IRB. The appointment system was criticized for political patronage. It can be reasonably argued that some IRB members had political opinions similar to those of the Chrétien government as this government appointed members who shared their political views. Alternatively, IRB members may have tried to appease the government with decisions that fit with the government's policy towards Israel in order to be re-appointed. Other IRB members who did not think that they had to adhere to the government's foreign policy towards Israel may have rendered negative decisions based on documented evidence.

Perhaps these factors explain why Palestinians were accepted between 1989 and 1994; however, the question remains why Russian Jews were also accepted. One explanation that can be given is that successful Russian Jewish claimants were those who refused to serve in the Israeli army due to human rights violations in occupied territories. This version may also explain the contradiction that was raised earlier that the religious figure from the Toronto Russian Jewish community was not aware of any Russian Jews who complained that they left Israel because they did not want to serve in the army despite that many decisions illustrate that refusing to serve in the military was commonly used for grounds. It may be that lawyers and immigration consultants knew that refusing to serve in the military had higher rates of success than other grounds. Those members who agreed with the government's foreign policy or who made decisions inline with government policy to help their re-appointment considered these claims to be legitimate. Another explanation is offered by Professor Macklin who argued that those who believe that Israel violates Palestinians' human right might also believe that Israeli authorities violate the rights of other ethnic minorities such as Russian Jews:

Those people [Palestinians] who are actually being oppressed by Israel and abused, and subjected to human rights violation by Israel...are not actually getting here [Canada]... it creates a climate of view that Israel does these things, Israel is a human rights violator, and that creates a context of willingness to believe that Israel is capable of abusing human rights...and here you got some people who are saying that it's happening and there is of transfer of a kind of critique that people would have against and what it [Israel] does to the Palestinians onto Russian Jews...²⁰⁰

Professor Macklin also argues that the Montreal region IRB is more accepting of this belief than the rest of Canada.²⁰¹

The reasons given why the Montreal region IRB was more likely to accept refugees from Israel are quite diverse among interviewees. Professor Abella believes that

the reason that Quebec's IRB members are more likely to accept Russian Jews is because Quebec has a higher rate of anti-Semitism and is more likely to believe that the Israeli government is likely to mistreat minorities:

Our major problem was always the Montreal office, the Montreal office accepted throughout the 90s far more than everywhere else..., and I think this has to do with attitudes towards Jews, Quebec has always had a much higher rate of anti-Semitism than the rest of Canada and I think some of the people on the IRB panel might have perception of Jews that make them believe all these stories about how people in the Government of Israel mistreat other minorities.²⁰²

Barsky's study also mentions that the Israeli government believed that the higher acceptance rates were due to Quebec's anti-Semitism. This was the Israeli government's opinion in 1994.²⁰³

Professor Macklin's argument, which in some respect is inline with Professor Abella, is that the reason that the Montreal region IRB accepts more Jews has to do with Quebecois' perception of and relationship with Jews. Professor Macklin argues that as opposed to the Anglo-Saxon side of Canada where Jews are active participants in the political culture of English Canada in political issues ranging from labour to refugees, in francophone Quebec, there is little Jewish involvement. Hence, the French have developed a very different political culture than English Canada; they are more openly critical of Israel and the oppression of Palestinians. They are the ones who are more likely to believe that Israel oppresses not only the Palestinians but also other ethnic minorities.²⁰⁴

In contrast to Macklin and Abella's arguments, Ms. Shuster, although admitting not to possess extensive expertise on this issue, does not believe that the reason lies in how Quebecois see Israel or Jews in general. Ms. Shuster believes that the Quebecois are

more liberal than English Canadians. By more liberal, she means that they are more likely to believe that a claimant is credible and that they view oral testimony as significant as English Canada views documented evidence:

I think the Anglo-Saxon community, which is Ontario may be more Conservative than Montreal, Montreal maybe more Liberal...if I am Quebecois, very liberal...I am may believe certain person that he is very credible in his testimony... if I am conservative I may look into the country conditions materials...and say that in our materials... it says otherwise.²⁰⁵

Perhaps the lack of agreement among experts is due to the fact that the reason why Quebec had a higher tendency to admit refugees from Israel than Canada is not clear, especially combined with the fact that the Eastern region did not accept more refugees than the Central in the years between 1989 and 1992 and had a lower acceptance rate than the Central region in 1992. The fact that the experts cannot agree as to why Quebec is more likely to accept refugee claims from Israel is even more relevant in the next two periods between 1995 and 2002 and 2003 to 2007, during which there were years when the Central region accepted larger numbers of refugee claims from Israel than the Eastern region.

Second Period: 1995-2002

The period between 1995 and 2002 is characterized by lower numbers of referred claims and, much more importantly, by much lower acceptance rates of Israeli refugee claimants. This may be due, as Maclean's argues, to the conference that was organized in Quebec in August 1994. Although the speakers at the conference had diverse opinions on whether Canada should accept refugees from Israel, according to the IRB statistics, it does seem that acceptance rates substantially decreased.

How many referred claims and why?

Nationally, in 1995 and 1996 there was an increase in the number of referred refugee claims, rising from 754 in 1994 to 1,229 in 1995, and then, in 1996, to 1,260. Afterwards, the number of claims referred decreased substantially to 413 claims in 1997 and hitting the period's lowest number of referred claims in 2000, with 253 claims. This may be due the fact that the national acceptance rate was lower in 1995 and 1996 than the average acceptance rate (45%) between 1989 and 1994.²⁰⁶

There is a significant difference between the number of referred claims among the Central, Eastern, and Western regions. Before 2001, most of the claimants who came to Canada had their claims heard in the Eastern region. In 1995, out of 1,229 referred claims, 1,104 were referred in the Eastern region. Similarly in 2000, out of 253 claims, 135 claims were referred in the Eastern region. In contrast, in 1995, there were 108 claims referred in the Central region and 17 claims in the Western region. In 2000, 94 claims were referred in the Central region and 24 in the Western region. In 2001, out of 454 claims, 246 claims were accepted in the Eastern region, 184 in the Central region, and 24 in the Western region. In 2002, the shift between the Eastern region and Central region was much more evident, where out of 632 nationally referred claims, the Eastern region had 232 claims and the Central region had 373 claims.²⁰⁷ This shift is also perhaps not coincidental because both regions had low acceptance rates. Perhaps refugee claimants applied to the one which was more convenient rather than considering which gave better chances for successful claims.

In comparison to the previous period, the published decisions both at the IRB Federal Court levels show less ethnic diversity. Russian Jews, as in previous periods,

formed the largest group of claimants and appellants. At the IRB level, there were 24 claimants originally from the Soviet Union, six Palestinian claims, four Israeli-Arabs, one Jewish Israeli, and 10 unknown.²⁰⁸ At the Federal Court level, there 48 Israeli refugee claimants who requested a judicial review originating from the Soviet Union, one Romanian appellant, one Palestinian appellant, and one unknown.²⁰⁹

Reasons given by Russian Jews for applying were similar to the previous period. Although religion was the most common ground in the previous period and non-Jews made most of the refugee claims, between 1995 and 2002, fewer Russian Jews made claims based on these grounds. In this period, 15 claims were made by non Jews based on Halachic law on religious grounds or in combination with other factors.²¹⁰ The remaining 9 claimants who were residents of the Soviet Union were either Jewish or did not apply on religious grounds.²¹¹ At the Federal Court level, 29 out of 48 claims were made by non-Jews based on religious grounds.²¹² This is in comparison to the previous period during which 12 of 14 claims were made by non-Jews at the IRB level and at the Federal Court level and four out of seven claims were made by non-Jews.

These findings contradict the views held by the religious figure and the composition of Barksy's sample, which mostly consisted of claimants who were non-Jews. But Ms. Shuster did claim that throughout her experience since 1999, she had an approximately equal number of claimants who were Jewish and non-Jewish according Halachic law.²¹³ The contradiction can be explained by perspective. The difference in Ms. Shuster and the religious figure's observations may be due to the religious figure basing his observations on twenty years of experience while Ms. Shuster bases her observations only on the past ten years. Another possibility is that non-Jewish claimants

do not base their refugee claims on religious grounds because they do not feel that they would be successful on these grounds or that they in fact do not feel discriminated against on these grounds.

The main reasons for claiming refugee status on religious grounds are similar to those given for the previous period. Based on the decisions published on the IRB website and by the Federal Court, claimants argued that because they were not Jewish, they were met with hostility from private citizens, and were discriminated against by their employers.²¹⁴ One claimant even argued that an employer threatened to kill him.²¹⁵ Complaints about claimants' children being beaten up at school were also common.²¹⁶ For example, one woman from Azerbaijan, who was of Muslim and Jewish heritage, complained that her son was often beaten up at school because of his Muslim name. The principal of the school suggested that the woman change her son's name in order for him to be more accepted by his schoolmates.²¹⁷ Several women complained that they were sexually harassed because they were not Jewish.²¹⁸ Other claimants argued that the police refused to provide protection to them because they were not Jewish and advised them to convert to Judaism if they wanted the police to protect them from the discrimination that they experienced.²¹⁹ One claimant presented that he was afraid of being forcefully circumcised by Orthodox Jews and another claimed that the neighbours harassed him because he did not circumcise his son after eight days and, as a result, everyone found out that he was not Jewish.²²⁰

As in the previous period, almost all of the claimants whose claims related to military service were non-Jewish. At the IRB level, six out of seven claims were made by non-Jews and the remaining claimant's religion was unknown.²²¹ Of the ten appeals made

at the Federal Court level related to military service, seven were made by non-Jews; two of the claimants' religion was unknown but since they also based their claim on religious grounds, one can assume that they were also not Jewish. One claimant was Jewish.²²² Claims were made on the basis of conscientious objection and religious beliefs against participating in combat.²²³ As well, Russian Jews rejected military service because they claimed to be pacifists.²²⁴ There were also some complaints about harassment and violence in the army, harassment at the army recruiting centres, being subject to violence in the army, and fears about being treated poorly by other soldiers because of religion.²²⁵ Some also added that they were afraid to return due to possible penalties for refusing to serve in the army.²²⁶ The Jewish claimant argued that he objected to serving in the military because he believed he would be required to commit war crimes and crimes against humanity. He also claimed that if he returned to Israel, he would have to face charges and a prison sentence.²²⁷

As in the previous period, a few claimants were afraid that their Israeli citizenship would be taken away from them because they were not Jewish.²²⁸ For example, one claimant was afraid that her citizenship would be taken away because she divorced her Jewish husband; two claimants who were proselytizing Jehovah Witnesses were also afraid to lose their Israeli citizenship; and, a family of claimants argued that they would be stripped of their citizenship because they obtained it based on fake claims that they were Jewish.²²⁹

Similarly, as between 1989 and 1994, non-Jewish claimants argued that because their Israeli identification documents indicated that their nationality was Russian or unknown rather than Jewish, they experienced discrimination. Some claimants argued

that they experienced difficulties with integration into Israeli society and were afraid to show their identity cards.²³⁰ Non-Jewish claimants complained that their identification documents were issued substantially later than those of Jewish citizens.²³¹

However, in contrast with the previous period, many of the claims that were published on the IRB and Federal Court website were not based on religion. Some Russian Jewish claimants claimed that native Israelis harassed them due to their ethnicity.²³² One claimant argued that a crowd of Jews attacked him due to his Russian origin.²³³ Another Russian Jewish female claimant argued that due to her Oriental appearance, she suffered discrimination in Israel. The claimant argued that although she held two degrees in music and had 33 years experience in the USSR and Hungary, she was not able to find employment in Israel except as a domestic worker or a clerk. She also was threatened and harassed on the street, which caused her to be fearful of leaving her apartment. She also claimed that her son was harassed at school and had difficulties finding work and when he found a job, he was not paid for his overtime work.²³⁴

Claims related to domestic abuse were made by both those who are Jewish and non-Jewish according to Halachic law. Either on the IRB level or at the Federal Court level, these female claimants provided numerous examples of being abused by their husband or their common law partner.²³⁵ Ms. Shuster also corroborated these findings by observing that some of her female clients especially Russian Jews who were Jewish by the Halachic law claim that "...they have been subjected to persecution by their husbands' hands, by their boyfriends..."²³⁶ Some of these claimants argued that the police failed to protect them despite their numerous attempts to contact the police. The

women argued that the reason for the police's lack of protection was due to their Russian ethnicity or their non-Jewish beliefs.²³⁷

Another similarity between the first and second periods is that Russian Jewish claimants, both those who are Jewish and not Jewish according to Halachic law, was that these claimants did want their claims assessed against Israel but rather against their country of origin. The IRB published one claim in which a couple from the Ukraine immigrated to Israel in 1990 under the Law of Return because the husband was Jewish, and became Israeli citizens. In 1995, they came to Canada and made their first refugee claim against Israel. After the claim was refused, they returned to the Ukraine. In 1998, they made another refugee claim to Canada arguing that their second claim should be assessed against Ukraine rather than Israel.²³⁸ Similarly, in *Grinevich v. Canada*, the claimants argued that their claim should be assessed against Russia even though they held Israeli citizenship. They argued that they were shocked when they automatically received Israeli citizenship, as they were not planning to immigrate to Israel but to go to Hungary.²³⁹ These claims illustrate that some claimants continued as in the previous period to use Israel as a stopover before continuing to a final destination.

An unusual type of claim not published in the decisions in the previous period is that Russian Jews who were eligible to immigrate to Israel but chose not to and instead claimed refugee status against their countries of origin. The IRB, instead of assessing them against these, assessed these claims against Israel. For example, among the IRB decisions published for this period there were two claims, one from Moldova and the other from the Ukraine. These claimants made claims against their home countries on the grounds of persecution as Jews. Both stated that they did not have any desire to

immigrate to Israel, even though they were both eligible to do so.²⁴⁰ In fact, Israel accepted one of the claimant's applications for immigration to Israel from Moldova.²⁴¹ However, the IRB assessed these claims against Israel because the claimants could immigrate to Israel. This same type of claim was likely made in the period between 1989 and 1994 and may have contributed to the number of claims assessed against Israel. On May 2, 1997, the Federal Court decided that the Law of Return was not an automatic right of citizenship for every Jew who applies for immigration to Israel, and that therefore refugee claims made by Jews who do not have Israeli citizenship should not be assessed against Israel.²⁴² This case likely contributed to a drop in refugee claims made by Jews from other parts of the world in Canada against Israel.

As in the previous period in their claims, Russian Jews commonly cited lack of police protection. Despite numerous requests for police intervention, claimants argue that the Israeli police failed to take measures to protect citizens.²⁴³ There were also several claimants who argued that they also approached other human rights organizations and institutions and that these too did not provide sufficient protection against the persecution that they experienced.²⁴⁴ One couple of mixed religious and ethnic heritage (Jewish, Christian, German, and Russian) whose children were harassed at school approached the Ministry of Education to help them stop the attacks on their daughters. In response, the Ministry of Education advised them to convert to Judaism. Similarly, when the couple complained about the military officers at a recruiting centre, the officer asked him to leave because he was undesirable due to his German origin.²⁴⁵ One claimant, Valentin Zeuvich, Russian Orthodox, was asked to convert to Judaism and was regularly insulted by his co-workers for being Christian. He even approached the newspaper, Maariv, and

the mayor of Haifa, but he claimed that they too failed to provide the necessary protection.²⁴⁶

Other ethnic groups who frequently claimed refugee status although in substantially lower numbers than Russian Jews were Israeli Arabs and Palestinians. Israeli Arab claims can be divided into two categories: those based on honour killing and political opinion. Four Israeli Arab women claimed that they were afraid of being victims of an honour killing by their families.²⁴⁷ One Israeli Arab argued that he faced persecution by Israeli intelligence agencies who tried to persuade him to spy on the Palestinian organization to which he belonged; since he refused, the claimant argued that he was fired from his job. He also claimed that he feared violence at the hands of Israeli Jews and he was refused housing because he was Arab. On the other hand, the claimant also argued that he feared persecution by the Palestinian organization because the organization accused him of collaborating with Israeli intelligence.²⁴⁸

The seven Palestinian claimants, all males, had claims similar to those of the previous period. They made claims based on their fear of being persecuted by either Israeli or Palestinian authorities because of their political opinions. Three of the claimants were afraid of the Palestinian authorities because the authorities suspected them of collaborating with the Israelis.²⁴⁹ The other four claimants based their claims on persecution by Israel. One claimant complained that the Israeli government confiscated his travel documents and forbade him from returning to Israel.²⁵⁰ Another claimant argued that since the Israeli authorities thought he was a militant, his residency documents proving that he was a citizen of East Jerusalem were confiscated. Without these documents, the claimant could not work or travel in Israel or in the West Bank.²⁵¹

The third claimant claimed he was shot, served two prison terms for stone throwing, and was beaten by authorities and that he would be subject to persecution because if returned, he would be arrested by Israel for outstanding charges of street blocking and graffiti.²⁵²

The last claimant, Amir Sbitty, argued that the Israeli authorities harassed him to become an Israeli collaborator and the Israeli police arrested him several times for crimes he did not commit.²⁵³ It is important to note in the case of the Palestinians, even if the persecutor is not Israel but the Palestinian Authority (PA), Israel is still held as obligated to provide protection to these claimants as the PA is not considered independent of Israel. Examining all referred claims, there are a number of claims that are not against Israel but against the PA or former Soviet states, but are labelled as such for the purposes of evaluation.

Between 1994 and 2002, despite lower acceptance rates, claimants continued to make refugee claims on grounds used in the previous period. However, as opposed to the decisions published in the former period, between 1994 and 2002 there were a substantially more claims made by Russian Jews who were also Jewish according to Halachic law. Jewish claimants, as in the previous period, made claims for conscientious objection and gender persecution. It is interesting to note that some of the Russian Jews who based their claims on grounds of discrimination based these on ethnicity rather than religion and had similar complaints of harassment by native Israelis as those who made claims made on religious grounds. This means that even those who were welcomed by Israel because they were Jews either did not want to remain in Israel because they wanted to look for better opportunities or they, as their fellow non-Jewish Russians, felt unwelcome and discriminated against in Israel. In addition, in this period another ethnic

group claiming refugee status exposes the argument that discrimination by Israel leads to inadequate protection of Israeli Arab women who are subject to honour killings.

However, since discrimination is insufficient grounds for refugee status, the IRB must decide whether the discrimination amounted to persecution and as in the previous period, the IRB frequently decided that it did not.

How many claims are accepted and why?

The average national acceptance rate was low between 1995 and 2002 (8.6%) compared to 45% the period between 1989 and 1994. The largest decrease in the national acceptance rate was in 1996, it dropped from 22% in 1995 to 8% in 1996. In 2002 there was an increase again to 16% compared to 5% in 2001. In terms of actual numbers there is a considerable drop as well, nationally, Canada accepted average of approximately 51 people per year between 1995 and 2002 compared to 113 people per year between 1989 and 1994.²⁵⁴ The Eastern and Central regional branches also followed this national pattern: the Eastern region accepted 8% of refugee claims per year, while the Central region accepted 7% on average each year. There was a substantial drop between 1995 and 1996 in both the Eastern and Central regions: in the Eastern region there was a drop from 24% to 8% while in the Central region 9% to 2%. In 2002 there was an increase of acceptance rates in both of the regions: in the Eastern region from 2% in 2001 to 12% in 2002 and in the Central region from 5% in 2001 to 20% in 2002. It is important to note that the acceptance rate in the Central region was higher than the national acceptance rate in 2002 (16%). In terms of absolute numbers, the Eastern region did accept much larger numbers of claims than the Central region 306 compared to 63 between 1995 and 2002. However, in 2002 the Central region accepted 30 refugee claims compared to 24 in the

Eastern region. The Western region whose acceptance rate is the least consistent among the regions accepted 17% of refugee claims on average per year but in absolute numbers the region accepted only 38 claims.²⁵⁵

Between 1995 and 2002, under the Chrétien government, Canada's foreign policy was more openly critical of Israel's actions towards the Palestinians. The government made some changes to the IRB members' selection process, but this did not eliminate all political patronage and the Minister still had the last word on the appointments.

Combined with the latter, the conference in Quebec may explain the lower rates of claims being accepted. The Quebec conference cannot fully account for the drop because the conference was not conclusive as to whether Israel protects its citizens from persecution. Professor Cotler and Mr. Livni presented arguments differed from those of Ms. Brayer. Professor Macklin, who was present at the conference, said that although many IRB members were also present at the conference, they were not convinced by Ms. Brayer's argument and some members who already believed Israel to be incapable of protecting its citizens had their beliefs reinforced, especially Quebecois members:

People would not accept that argument because it was more on the level of abstraction it ... will not score points with that crowd, and if it did score points it would be for the Quebecois decision makers who were rendering the positive decisions, a country who treats the Palestinian so unjustly so it is plausible that [it] will treat the Russian Jews also unjustly...²⁵⁶

Therefore, the Quebec conference cannot be the only reason why the acceptance rates dropped so significantly. The changes in the selection process perhaps gave the signal to some members that they do not have to follow the government's foreign policy in order to be re-appointed; however, since the government continued to have the last word in the

appointment process and they likely appointed members who shared a similar outlook on Israel, these members continued to accept refugees from Israel.

The reason why there was a substantial decrease in the rate of acceptance perhaps can be explained by a decision of the Federal Court of Appeal, Canada (M.C.I.) v. Kadenko.²⁵⁷ This decision is the most referred case both in IRB decisions and Federal Court decisions that followed.²⁵⁸ Kadenko's case was a typical claim for a Christian family from the Ukraine who immigrated to Israel. In Israel, they claimed to experience attacks, including sexual assault on the mother of the family, and that the police responded to the two complaints made by the family with inaction and hostility.²⁵⁹

In Kadenko v. Canada, Judge Tremblay-Lamer allowed the appeal for four reasons. First, the Court considers that to constitute persecution, discriminatory acts must be serious and occur for a period of time long enough to demonstrate that the claimant's physical and mental integrity was threatened. The repeated incidents that occurred to the Kadenko family were not isolated but repetitive. Second, the claimants testified that state protection was not forthcoming and this was sufficient to demonstrate "clear and convincing proof of non-protection".²⁶⁰ Although the state cannot guarantee protection at all times, because the police refused to act, it justified the claimants' reluctance to seek state protection and that permitted the reoccurrence of the incidents. The claimants, then, were not obligated to approach higher authorities for protection. The third reason was that Israel should not enjoy unique standards, either regarding the extent of a citizen's obligations to seek protection or the significance of the incidents. Fourth, the judge states that an IRB member is not obligated to be familiar with all the documents in the

documentation centre. A document that was not introduced before the Refugee Division did not form part of the panel's specialized knowledge.²⁶¹

The Canadian government appealed this decision and the Federal Court of Appeal ruled in favour of the government by arguing that in a state where there is no complete breakdown of the government apparatus, and where the state has political and judicial institutions capable of protecting its citizens, a refusal of certain police officers to take action is not sufficient to establish that the state was unable or unwilling to protect its nationals. Furthermore, the Court accepted that the State of Israel had the political and judicial institutions capable of protecting its citizens.²⁶² Lastly, and most importantly, the court set a benchmark that the claimant must meet in order for a state to be considered unable to protect its citizens. The Court set that:

The burden of proof on a claimant was in some way directly proportional to the degree of democracy within the state in question, as the more democratic the state was, the more the claimant would have to exhaust the remedies available to him.²⁶³

In a majority of the cases that followed this decision, the IRB seemed to render their decisions inline with this case, meaning that Israel is a democratic country able to protect its citizens. However, there were a few cases that were inconsistent with the decision made by the Court of Appeal illustrating the inconsistency among the IRB members, which characterized the last period.

Among the published decisions, there were eight positive claims out of 43 on the IRB website. Four of the positive claims involved Palestinian claimants, which is consistent with Macklin's observation and the pattern of the previous period that showed that Palestinian claims are more likely to be accepted by the IRB.²⁶⁴ Two of the positive claims concerned to claimants originating from the Soviet Union.²⁶⁵ One concerned an

Israeli Arab woman whose claim was based on the threat of an “honour killing” and one concerned a claimant who refused to serve in the military.²⁶⁶ With regards to Federal Court Trial division decisions, ten appeals were sustained. Seven of the appeals that were sustained were for Russian Jewish claimants, one sustained appeal was for a Palestinian claimant, and the last two concerned positive claims made by the IRB that were appealed by the government.²⁶⁷

Claims that were likely to succeed, aside from those made by Palestinians, were those that were related to gender and military service. Ms. Shuster also observed that during her practice, claims that were related to gender and conscientious objection were more likely to succeed.²⁶⁸ However, the success of both these types of claims is highly inconsistent.

The success of military claims is not surprising due the success of the Palestinian claims as these claims are connected. However, even in the only positive decision concerning military service in this period, the IRB members were divided as to whether serving in the Israeli military constitutes persecution. The claimant whose ethnic background is unknown argued that he objected to serving in the Israeli military because he believed that the military violated human rights while policing civilian populations. The claimant was originally called for a 10-month period of service; however, when he refused he was interrogated and received another call for 24 months. The two panel members were divided in their decision but since only one of the judges had to be convinced, the claim was successful.²⁶⁹

Panel member Calvin, although acknowledging that Israeli military law was of general application, thought the punishment of increased service because of the

claimant's objection to service in the military constituted persecution. He stated that because the military was involved in alleged human rights violations that were condemned by the international community, "the military activity which the claimant did not wish to be associated involved basic human rights violations including torture, which has been condemned by the international community."²⁷⁰ In contrast, member Avery argued the opposite, that Israel did not engage in torture or any systematic human rights violations. As well, as the military law was of general application it was not persecutory in general or specifically of the claimant. Clearly, the two members could not agree whether Israel is engaged in systematic human rights violations. These results are not surprising as Canada's foreign policy is also not conclusive as to whether Israel engages in systematic human rights violations although it strongly accuses Israel of human rights violations in certain instances.²⁷¹

In contrast, in two other cases in this period that dealt directly with the question of whether Israel violates human rights, the members and judges determined that Israel does not violate human rights in a systematic manner. In one refugee claim in 1995, the claimant stated he refused to serve in the military because he did not want to violate human rights in occupied territories. The IRB member decided that:

His refusal to serve in the Occupied Territories was also not accepted by the panel as a genuine opposition to a particular military action, because the nature of the abuses in the Occupied Territories...do not amount to gross human rights violations of the type envisioned in the UNHCR Handbook.²⁷²

The Federal Court judge agreed with this decision in 1999 in *Zeuvich v. Canada*, in which the judge determined that isolated incidents that violate international standards do not mean that the international community condemns Israel's actions:

...it is not enough to submit evidence with a view to establishing that the actions of the Israeli army with respect to the Palestinians are bad or even deplorable. In accordance with paragraphs 170 and 171 of the Handbook on Procedures, *supra*, it must be established that the action is condemned by the international community. The applicants did not establish this fact and there is no evidence on the record to this effect.²⁷³

The lack of conclusiveness mirrors Canadian foreign policy in regards to whether Israel violates human rights in a systematic manner. But the fact that some members do think that Israel is a systematic human rights violator reflects the Canadian government's strong but occasional condemnation of Israel.

Other IRB or Federal Court decisions that were published all denied that the obligation to serve in the Israeli military constituted persecution.²⁷⁴ Only one appeal was sustained in regards to military service and the reason was the judge decided that the IRB member did not consider the totality of evidence and did not properly explain why one disregarded certain evidence was disregarded.²⁷⁵

Other claims that were based on refusal of military service were dismissed due to arguments that were also presented in the previous period such as: the claimants should have known about the obligation to serve the military prior to immigrating; military law is not persecutory because it is of general application, and the punishment for not serving in the military does not amount to persecution because the punishment was considerably short.²⁷⁶ Also, exemptions were available. For example, 30% of men were exempted from the army due to unsuitability, which also included pacifists.²⁷⁷ Other exemptions were also available for women and religious persons.²⁷⁸ Jehovah witnesses have been exempted on a yearly basis from the army.²⁷⁹ With respect to conscientious objectors, in one case an IRB member decided that Israel had tried to accommodate conscientious objectors both formally through legislation and informally outside of legislation.²⁸⁰ Other

claimants were rejected because they did not provide sufficient proof that they were conscientious objectors.²⁸¹

The lack of definiteness with regards to whether Israel violates human rights in occupied territories also characterizes the debate of whether there is sufficient protection for women from domestic abuse in Israel. One of two positive decisions concerned a Russian Jewish woman who was subject to domestic abuse by her husband and who sought police protection. The panel decided that the documentary evidence supported the claim that there was lack of protection and it was possible that the claimant would be subject to persecution if she went back to where her husband lived.²⁸² On the other hand, the claim of another woman who was abused by her common law husband who also contacted the police but claimed that the police responded inappropriately was dismissed. In this case, the IRB decided that although the police had failed to react, it did not mean that state protection was not available: “The fact that police officers to who the claimant turned may have responded inappropriately, in part due to her ethnicity, did not mean that state protection would not be available to the claimant.”²⁸³

An IRB decision that was appealed by the Canadian government illustrates the difference of opinion, even in the same case, of whether there is sufficient protection for women who suffer domestic abuse. In 1999, the IRB gave a Russian Jewish woman who claimed to be subject to domestic abuse in Israel refugee status. The member explained the decision by arguing that the mother was a victim of domestic violence and was threatened with death and that her child would be taken away. The child’s life was disrupted and he was far behind at school. There was also risk that he would not receive health and education benefits, and would be subject to cruel physical and psychological

treatment because of his ethnic background. However, the other member present at the hearing dissented. Federal Court judge Nadon sustained the appeal because he thought the member did not provide in a clear and convincing manner that Israel was not able to protect its citizens. The IRB also did not demonstrate how the claimant met the test established in the Kadenko case and did not deal with this issue at all. Further, the Court claimed that the IRB ruled in favour of the claimant on humanitarian grounds rather than Convention grounds.²⁸⁴

However, although the Federal Court sustained the appeal of the government, the Court did not provide a definite answer of whether there is sufficient protection for women who suffer from domestic abuse. In *Kviatkovsky v. Canada*, the Court upheld the decision of the IRB that there was available protection for a claimant who suffered domestic abuse even though she had approached the police.²⁸⁵ In another case, the Court upheld the appellants who requested a judicial review for Ms. Haimov. Ms. Haimov, who is Russian Orthodox and immigrated to Israel with her Jewish husband, claimed refugee status because her husband abused her. Along with other reasons, Ms. Haimov claimed that the husband abused her because she failed to observe some religious customs. Ms. Haimov tried to seek help from the police. The police officer did start to write a report; however, when he heard that Ms. Haimov was Russian Orthodox, he dismissed the report and suggested that she convert to Judaism.²⁸⁶ The IRB rejected her claim because it found that this was the behaviour of a single individual and did not constitute a complete failure to protect the claimant.²⁸⁷ The Court, on the other hand, decided that in this case the state was unable to protect and the police had done nothing about the complaints:

There is no doubt that the applicants have a subjective fear of persecution at the hands of the adult applicant's husband. He has threatened to kill her and

has beaten her. The police seem to respond to calls that the husband is threatening her and they remove him, but it seems to me from the evidence that when a crime is committed, nothing is done about it. I am of the view that this inability of the state to protect the applicants leads to a presumption that the fear is well-founded...²⁸⁸

This statement made by the judge illustrates Canada's attitude to human rights promotion referred to earlier. The consequences of these statements are that although the Federal Court determined that in a democratic state, the failure of a few police officers to provide appropriate protection is insufficient to demonstrate that there is general lack of protection by the state, in certain cases this is overlooked due to the aspiration of some judges to support a human rights agenda. As a result, IRB members are left with no guidance from the Federal Court on how to judge such cases and it is left up to them how a case is to be determined. The way these cases are then determined is left to different interpretations of evidence as to whether one believes that Israel is a country incapable of protecting its citizens or not. The result is that similar cases result in different outcomes.

The answer to the question of whether Israel is capable of protecting its citizens from discrimination based on religion and ethnicity was also not conclusive. The IRB rendered negative decisions to all claims on grounds of religion and ethnicity with the exception of one case. The reasons for the rejections were similar to the previous period: lack of credibility of the claimants; available state protection; discrimination did not amount to persecution; Israel had gone to great lengths to absorb Russian Jewish immigrants; and Israel has a number of groups that support immigrants.²⁸⁹ There is also an ombudsman for ex-Soviet immigrant children and a police complaint unit.²⁹⁰ In MA1-02617, the IRB member also mentions that Israeli police do not take into account ethnic origin or religious affiliations of complaints when dealing with complaints addressed to

them.²⁹¹ The Federal Court also dismissed all the appeals of claimants who made their refugee claims based on grounds of religion and ethnicity/nationality, except for five claims. The five cases were sustained because the Court thought that the IRB conducted a procedural mistake or did not consider all the evidence.²⁹²

The only case in which the IRB rendered a positive decision was that of an “Oriental” woman and her son. However, as in the previous cases rendered by the Board in this period, the members’ opinions were divided. Member Eustaquio found that the mother had been denied freedom of movement, that the claimants suffered discrimination and that the cumulative effect of the harassment amounted to persecution. Although the human rights reports contained no mention of discrimination in Israel against persons with Oriental features, the claim was reasonable because of the small number of Orientals in Israel and the low profile of the discrimination experienced by the claimants. The member also accepted that the claimants did not want to continue to pursue protection from the state because they thought it would be futile. In contrast, IRB member Zimmer found that the discrimination fell short of persecution and based on the documents there was no evidence of substantial discrimination against Orientals. As with previous examples, this case demonstrates that it is left to the members to decide whether they believe Israel is capable of protecting its citizens and in the absence of documentary evidence, members may decide based on their own perception of human rights in Israel.²⁹³

The discussion of the refugee cases based on different grounds - refusal to serve in the military, domestic abuse, and persecution based on gender and ethnicity/nationality - illustrates the lack of consistency among the IRB members and Federal Court judges in

rendering their decisions. Ms. Shuster also acknowledges that during her practice, she found that the outcomes of cases with similar facts and circumstances were very different depending upon the IRB member presiding.²⁹⁴ Although *Canada (M.C.I.) v. Kadenko* provided some direction in subsequent refugee cases to IRB members in how to decide cases concerning Israel, some Federal Court decisions contradicted what was established in the case of Kadenko. The lack of clear higher court direction leaves the IRB with the burden of deciding cases based on their perceptions of Israel and to what extent they as members of the Board should be promoting human rights. The fact that the Liberal government appointed the members to the IRB during this period impacted the perception of Israel by the Board and the outcome of cases. As mentioned by Professor Macklin, those who believe that Israel violates the rights of Palestinians would be more likely to believe that Israel also persecutes other ethnic minorities.

The IRB and the Federal Court was much more consistent in its decisions regarding Palestinians. At the IRB level, four of six claims were successful and the remaining two were unsuccessful because the nature of reasonably expected persecution was minor.²⁹⁵ In two of the successful claims, the Board decided that Israel was acting in a persecutory manner when confiscating Palestinians' documents and thus infringed on their rights of mobility and employment.²⁹⁶ One of the claims that was rejected was due to the fact that prosecution for crimes of graffiti and blocking streets was no longer under Israel's jurisdiction but under that of the Palestinian Authority.²⁹⁷ The other three claims, two of which were successful, concerned the Palestinian Authority; however, since Israel was still controlled these territories, the claims were assessed against Israel.²⁹⁸

The only published Palestinian appeal at the Federal Court level was also sustained. In this case, the Palestinian claimant argued for refugee status due to claimed harassment, detention, and beatings by the Israeli police who tried to make him confess to crimes committed in his neighbourhood. He also claimed to have been asked to collaborate with the police and was arrested and charged for crimes that he did not commit. The Board decided to dismiss his claim because his testimony was implausible due to inconsistencies. He changed facts about encounters with the police, the medical certificate that he submitted did not indicate any injuries, and he had an internal flight alternative. However, the Court decided that the Board erred in reviewing the evidence meticulously and that the Palestinian claimant was unlikely to have an internal flight alternative because he was a Palestinian who was harassed by Israeli police, which was a judicial body of the State of Israel.²⁹⁹

The fact that, based on published decisions, Palestinians have higher success rates than Russian Jews upholds Professor Macklin's observation that Palestinians are more likely to succeed in their claims. However, despite their success as was illustrated in the appeal case, some IRB members, as also discussed by Professor Macklin, are stricter in assessing Palestinian claims. Overall, the high success rate correlates with the government's foreign policy at that time and its greater sympathy towards the plight of Palestinian refugees.

Third Period: 2003-2007/8

These five years are characterized by a slight increase in the number of refugee claimants but a much more substantial increase in national acceptance rates for refugee claims from Israel. At the same time, the Canadian government shifted its policy more

towards support of Israel. As will be presented later, this fact creates a paradox because in previous periods, some of the IRB members who were rendering positive decisions against Israel had a similar outlook towards the conflict between the Palestinians and Israel, although the Quebec conference perhaps minimized the perception that Israel was responsible for persecuting its own citizens. Unfortunately, all the published decisions on the IRB website are negative and there is no way of illuminating, as in the previous cases, which cases were accepted in this period. However, decisions from the Federal Court may provide some explanation for the increased rates.

How many referred claims and why?

After 2002, there was a decrease in the number of claims reaching 302 of 632 claims in 2005 but rising again in 2006 and then dropping. However, the number of claims referred in the period between 2002 and 2007/8 is slightly higher on average (469 cases per year compared to 358 cases per year) compared to 1997 and 2001.³⁰⁰ The religious figure from the Toronto Russian Jewish community explains that this slight increase was the result of increased emigration of Russian Jews from Israel after the second Intifada (2000) and the war with Lebanon (2006). The religious figure speculates that some of these emigrants came to Canada without any documents and claimed refugee status in order to gain permanent resident status.³⁰¹

The regional difference in referred claims is remarkable as the Central region became a more attractive location for refugee claimants than the Eastern region, in contrast to the period between 1992 and 2001. Both of the regions had a similar pattern of referred claims: After 2002, there was a slight decrease in the number of claims hitting the lowest numbers in 2005 and rising again in 2006. However, the Central region had a

considerably larger number of claims than the Eastern region (294 on average per year compared to 118 per year, respectively).³⁰² This may be due to the fact that between 2001 and 2003 acceptance rates were higher in the Central region than in the Eastern region or because, as previously noted, acceptance rates were very low in the two regions between 1996 and 2001 and people did not consider that any region had a particular advantage over another. The Western region exhibited a similar number of referred claims as in the previous period, ranging between 14 and 27, except in 2003 when there were 42 claims. This was surprising because the national number of referred claims had actually decreased in 2003 compared to 2002 (632 in 2002 compared to 531 in 2003).³⁰³

There are only six decisions published at the IRB level for this period, and therefore it is difficult to draw conclusions about the composition of claimants for this period. Nevertheless, four of the six claims were by Israelis, which is quite a change from the previous periods when there were very few claims made by Israelis.³⁰⁴ However, since the ethnic origin of some claims in the previous period was unknown, some of them may have been native Israelis. The remaining claims were made by a Russian family and a Turkish man.³⁰⁵ In comparison, at the Federal Court level, there were 41 appeals for judicial reviews. Out of these 41 appeals, 24 were made by Russian Jews (one family was involved in the appeal process twice), two were Palestinians, two were Israelis (one Israeli made a claim with a Russian man), six Israeli Arabs, four were unknown, one was an Ethiopian family and another, a Romanian family.³⁰⁶

Overall, the reasons for the claims have mostly remained the same as in the previous period. At the IRB level, the Russian Jewish claimants made their claims based on refusals to serve in the army and religion.³⁰⁷ The Turkish claimant made his claim

based on nationality and religion.³⁰⁸ One of the Israeli claimants made his claim based on refusal to serve in the army together with other grounds and another Israeli woman made her claim based on domestic abuse.³⁰⁹

Among Russian Jews, the most common types of claims at the Federal Court level were similar to the ones in the previous period. There were nine claimants who based their claims on military service either solely or in combination with grounds.³¹⁰ Six of these claimants combined their refugee claim with religious grounds, ten claimants based their claim on religion, three claims were based on gender (domestic abuse), seven claimants based their claims on nationality and five of these claims were made in combination with religious grounds.³¹¹

Palestinians based their claims on their political opinions. As opposed to previous periods when most of the claims by Israeli Arabs were related to honour killings, in this period only, one claimant made her claim based on honour killings and the rest of the claimants, except for one whose reasons for claiming were unknown, made their claims based on religion (Christianity) and persecution as a result of inter-ethnic conflicts between Muslim Israeli Arabs and Bedouin.³¹²

However, there were few types of claims that were not as common as in the previous periods. Some claimants made claims based on terrorism. In the previous period, only one such claim was made (2002) and it was in combination with other grounds.³¹³ All the Israeli claimants at the IRB level made their claim either on grounds of nationality/race or political opinion – that they feared Palestinian terrorism because they were Jewish.³¹⁴ At the Federal Court level during this period, there were three claimants who based their claims solely on their fear of terrorism or in combination with

other factors. Two of these claims were made by Russian claimants (the remaining claimant was an Israeli woman married to a Russian Jew).³¹⁵ Claims based on terrorism were not captured in Barsky's research but some media articles did report that Israeli refugee claimants based their claims on terrorism.³¹⁶ The reason for the increased number of claims based on terrorism may be due to the new 2001 Immigration and Refugee Protection Act that also includes a section that allows for one to claim refugee status because one may be subjected to "a risk to their life or to a risk of cruel and unusual treatment or punishment..."³¹⁷

Another type of claim, which is also more common in this period, is friendship or support of Israeli Arabs or Palestinians by Russian Jews. These grounds were not mentioned either in Barsky's research or in the media. The possible reasons for this new ground for arguing refugee status may be due to changes in Constitutional immigration legislation as well as two other factors. The first factor is that due to intensified conflict with the Palestinians, Israeli natives became intolerant of Russian Jews who formed friendships with Arabs or Palestinians decided to use these arguments because of the difficulty establishing a refugee claim based on other grounds.

Between 1994 and 2002, there was only one claim that stated the claimant was discriminated against by Israeli authorities because of his relationship with Muslims. The claimant argued that he used to campaign for the reopening of mosques, synagogues and churches in Ukraine. When the claimant and his family arrived in Israel, a rabbi denounced him as a supporter of Muslim culture. The claimant also argued that his identity documents indicated his nationality as unknown, when he was in fact Jewish, because of discrimination by the government over his political views. The claimant

contacted the Ministry of the Interior to inquire about the mistake and he alleges that the ministry replied that a person who helps Muslims shouldn't be considered a Jew.³¹⁸ This was the only complaint of this kind in published decisions prior to 2003.

After 2003, there were three complaints by Russian Jews who felt that their friendship with or employment of Arabs and Palestinians resulted in persecution. One applicant with her two children claimed that Israelis persecuted her because of her friendship with Arabs and another claimant claimed persecution because he was a Palestinian sympathizer.³¹⁹ Alexey Loshkariev's claim provides a more detailed account of the persecution he experienced as a result of employing Palestinians in his construction business. The claimant testified that he and his Palestinian employees were threatened and attacked by Jewish settlers and Orthodox Jews on a number of occasions when the Intifada started in 2000. Despite his requests for help, he claims the police did not assist him because the complaints were against Jewish settlers and extremists.³²⁰

Combining the claims of those who made their claims at the IRB level and those were made them at the Federal Court, the majority of the claims based on military service were made by Russian Jews, with six of these claims being made in combination with religious grounds.³²¹ At the IRB level, the Russian claimant stated that he was a conscientious objector and was afraid of imprisonment.³²² At the Federal Court level, Russian Jewish claimants claimed that they refused to serve in the army because they objected to carrying arms, that they too were conscientious objectors, unwilling to serve in the army because of the requirement to kill civilians and destroy homes and were unwilling to follow military orders against the Palestinians.³²³ One applicant claimed that fellow soldiers beat him in the military because he was homosexual.³²⁴ A claimant whose

ethnic origin was unknown argued that he believed that the Israeli military committed human rights violations, which included reckless shooting and shelling of civilians, using civilians as human shields, and the destruction of civilians' houses. He also claimed that the punishment for refusing to serve in the army amounts to persecution.³²⁵ The Israeli claimant whose claim was heard by the IRB claimed that he refused to serve in the army because he was afraid for his life.³²⁶

Russian Jews who based their claims on religion were arguing that they were discriminated against because of their Christian or Muslim religion.³²⁷ Some claimants expressed their fears of ultra-nationalist or ultra-orthodox Jewish groups.³²⁸ One Christian Russian non-Jewish claimant described attacks that he experienced from Orthodox Jewish extremists because of his relationship with a Jewish Israeli woman. He claimed that his home was vandalized and a Star of David was painted on the house's interior walls. The police, according to the claimant, failed to take action against the extremists.³²⁹ Another claimant argued that she was physically attacked on her way to church services.³³⁰

Claims based on religion were not only made by Russian Jews. A Romanian claimant argued that because of her Christian faith, she was discriminated against by Israeli immigration officials and had difficulty finding employment. The Romanian claimant also argued that she tried to complain about the immigration officials to a police complaints bureau, called Mahash, and even though the complaint was investigated, it did not go to Criminal Court. It is important to note that the claimant also argued a claim based on persecution by Romania.³³¹ A Muslim Turkish man who married an Israeli Jewish woman also argued that he was discriminated against in Israel on the basis of his

religion. The claimant argued that his children who were not fully Jewish would be subjected to systematic discrimination. The Israeli police also accused the Turkish claimant of being in Israel illegally, came to his house in the middle of the night and treated him in an abusive manner. Finally, the Turkish man argued that he received anonymous death threats that were, in his opinion, from Hamas because he was a Muslim married to a Jew. Between 1989 until 2007, claimants made many claims against Israel based on religion.³³² Among the published decisions, claims based on religious grounds are far more numerous than claims in other categories. Those who did not fit in into the rabbinical definition of Jewish were more likely to leave Israel and claim refugee status on religious grounds.

As in the previous period, some Russian Jewish claimants who were Jewish according to the Halachic law complained that they were discriminated against because of their ethnicity as Russians. Two claimants complained that they were discriminated against by Israeli natives because they were Russian immigrants.³³³ One of the claimants argued that her new neighbour harassed her by leaving a garbage bag next to her door.³³⁴ Russian Jews who base their claims on religion also confirm that they experience discrimination based on their ethnic origin and not only their religion. A female claimant who was not Jewish argued that she could not find employment because of her religion and her Russian nationality.³³⁵ Also, one couple argued that they were not treated well in Israel both because they were non-Jews and because they were Russians.³³⁶

Women who experienced domestic abuse also made similar complaints to claimants in former periods. Three Russian Jewish women, an Israeli woman and an Ethiopian woman claimed that they were subject to persecution - domestic abuse by their

husbands or ex-husbands.³³⁷ Two of the three Russian Jewish claimants argued that they did not receive any protection from the state even though they contacted the police.³³⁸ A claimant of unknown ethnic origin also made a similar case against her husband in Israel.³³⁹ Interestingly, one Russian Jewish woman decided to claim refugee status in Canada based on domestic abuse after she had already tried another avenue for immigrating to Canada.

Palestinian claimants, as in the previous periods, argued that they were harassed by the Israeli military but, while previous periods, no claims were made against the Palestinian Authority. After 1999, the IRB started to collect separate statistics on refugee claimants who made their claims against the PA.³⁴⁰ It is not surprising that there were no claims against the PA that were automatically assessed against Israel. Of the three who made claims in this period, two argued that they were harassed by the Israeli military and one of these claimants argued that he and his relatives were detained by the Israeli military and his house was destroyed.³⁴¹ Although the IRB started to separate claimants who made claims against Israel and those who made claims against the Palestinian Authority, the number of claims against Israel as well as the acceptance rates increased. Consequently, it cannot be argued that because the IRB included in its statistics of Israeli claims the claims that were made against the Palestinian Authority, that this had significantly increased the number of claims against Israel.

How many accepted claims and why?

The national acceptance rate substantially increased compared to the second period. In 2005, the national rate was 31%; however in 2006 it decreased to 18% and in 2007 decreased to 17%.³⁴² The acceptance rate in the Eastern region was lower than the

national rate and the Central region in 2003 and 2004 - 9% in 2003 and 21% in 2004 for the Eastern region compared to the Central region with 36% in 2003 and 26% in 2004. These findings continue to suggest that the Eastern region does not accept the largest numbers of claims. In 2005, the rate of acceptance of the Eastern region had substantially increased to 43% in 2005 and 45% in 2006. However, at the same time, the Central region accepted a much larger number of claimants in 2005, 90 claimants compared to 60 claimants. Only in 2006 did the Eastern region accept a larger number of claimants: 24 compared to 20. In 2007, the percentage of acceptance in the two regions was almost identical, but the Central region again started to accept more claimants than the Eastern region: 19 compared to 8 claims. In the Western region, the number of accepted claimants remained low, ranging from 1 to 7 accepted claims.³⁴³ These acceptance rates do not seem to follow the acceptance rates of the other regions.

Between 2003 and 2007, all the decisions that were published on the IRB website were negative; therefore, it is difficult to assess the reason why the acceptance rates increased during this period. This is especially puzzling as Canadian foreign policy had started to become more supportive of Israel. An article in the National Post in 2003 sheds some light. In 2003, the IRB had produced rulings citing reports by an American human rights group that the Israeli government was responsible for crimes against humanity in South Lebanon, including torture and murder. This influenced an IRB decision in a refugee case concerning a man who spied on terrorist group Hezbollah for an Israeli intelligence agency.³⁴⁴ The IRB commented in their ruling that Israeli counter-terrorism measures were on par with terrorists' tactics: "Those who attempt to eradicate terrorism and fight terrorists must in no way conduct themselves as they do."³⁴⁵

A day later, after the article had been published, the former Minister of Immigration, Denis Coderre, said that the IRB's decision was out of line with Ottawa's official policy.³⁴⁶ This controversy happened prior to Paul Martin becoming prime minister. The disagreement between the Board and the government can explain both some of the IRB's decisions and the government's initiative to challenge the Board's decisions, which was not the case in the previous years.

In 2008, an IRB decision on a claim based on conscientious objection was negative. The reasoning given for this judgment was inline with the attitude of an IRB member who was quoted in the National Post. Some of the reasoning for this decision may have also been present in 2003. A Russian Jewish claimant argued that he needed protection because of the risk that military service involved cruel and unusual treatment. Further, the claimant admitted that he had no objection to serving in the army, as long as he was not placed in a combat unit, as he would have to attack civilians and destroy their homes.³⁴⁷ The claimant's lawyer argued that the claimant was a conscientious objector, who would be imprisoned if he refused to serve in the army, and that he refuses to be associated with acts "condemned by the international community as contrary to basis rules of human conduct."³⁴⁸

IRB member Duquette disagreed with the lawyer that the claimant was a conscientious objector as he did not express this during his interview and because he did not belong to any political organization.³⁴⁹ However, he did agree based on a report that was published by Amnesty International and a Human Rights Watch Report published in 2007 that Israel had committed human rights violations: "The panel therefore notes that there is evidence on file indicating that war crimes were committed during the war

between Israel and Lebanon that lasted for 34 days in July and August 2006.”³⁵⁰

Nevertheless, the panel member decided that the war was over and there was nothing to demonstrate that the claimant would be asked to commit any crimes. The claimant could also refuse to comply if he were ever to receive an illegal order. The punishment for the refusal was not unreasonable in the opinion of the member.³⁵¹

A key case that was cited by the IRB member at the MA7-00403 decision that provided the case law for other IRB cases is *Tewelde v. Canada*. However, this case, too, was rendered after the increase in admission of refugee claimants from Israel. Baruch Tewelde, whose ethnic origin is unknown, sought refugee status on the grounds of conscientious objection to military service in Gaza and the West Bank. He believed that the Israeli army committed human rights violations. He also claimed that the punishment for going against the orders of the military would amount to persecution.³⁵²

The panel refused his case because it did not consider the imprisonment of the claimant and the discrimination that he would be subject to because he refused to serve in the Occupied Territories constituted persecution.³⁵³ On the issue of human rights, the member also did not think that the claimant could be considered a conscientious objector because he objected only to participating in military actions that are judged by the international community to be contrary to basic rules of conduct.³⁵⁴ The panel also added that although the army may have overreacted in certain times to maintain order, there was no persuasive evidence that the army actively engaged in systemic abuse of human rights:

The panel has no serious reasons to believe that the state of Israel deliberately targets civilians in its campaign to identify and deal with terrorists. While the army may over react in certain circumstances in an attempt to maintain order and protect borders even in circumstances when deliberately provoked by stone throwers or suicide bombers, **there is no persuasive evidence** that the

army is actively engaged in systemic killings or systemic abuse that violates fundamental human rights of civilians in a war.³⁵⁵ (Emphasis original)

Gauthier, a Federal Court Judge, did not seem to hold the same opinion as the panel.

In an appeal case, Judge Gauthier accused the member of failing to consider all the evidence that was presented by the claimant at the refugee hearing, including Human Rights Watch reports dated 2004 and 2005. Gauthier held based on the Lebedev decision, that sometimes reports from credible non-governmental organizations can be sufficient evidence of unacceptable and illegal practices.³⁵⁶ The reports corroborated the appellants' testimony of human rights violations by the IDF.³⁵⁷ The judge added that even if the member did ignore the Human Rights Watch reports, the reasons were inadequate and it did not provide reasons why some evidence was not included in the panel's analysis.³⁵⁸

On the other hand, a 2008 appeal for a judicial review decision made by Lemieux, a Federal Court Judge, did not discard the decision of a pre-removal assessment (PRRA) officer who was assessing a claim of a Russian Jew who objected to serve in the military in 2007. Mr. Sounitsky and his wife's refugee claims were denied so they applied for a PRRA. Mr. Sounitsky was afraid of returning to Israel as he claimed to be a conscientious objector and was concerned that he would have to commit human rights violations.³⁵⁹ The PRRA officer did not find Mr. Sounitsky to be a conscientious objector and with regards to human rights violations, the officer accepted that although some believe that human rights violations were systemic to the Israeli army, the officer thought that it was an "ugly fact of battle rather than part of a deliberate campaign" and that "violators of human rights were punished. Mr. Sounitsky would not... be obliged to participate in human rights abuses, directly or indirectly."³⁶⁰ Judge Lemieux argued that as opposed to the case of *Twedle v. Canada*, the officer did acknowledge the available

evidence on the existence of human rights violations by the Israeli army, and gave a reasonable explanation why these were not systemic violations.³⁶¹ On the surface, perhaps the question that was in front of the two judges was whether the panel or the officer considered all the evidence while deciding their cases and whether these decisions were reasonable. On a deeper reading, these two decisions can represent the two opposing opinions of whether Israel commits a deliberate campaign in violating human rights. It seems that Judge Lemieux did not believe that Israel was involved in a deliberate campaign because the Court could plausibly question to what extent the officer was reasonable in his decision and would have lead to a different outcome. Consequently, these decisions demonstrate the lack of consistency among decision makers as to whether an Israeli who objects to military service can be considered a refugee claimant because Israel violates human rights and whether the violations are systemic. However, because the opinions of decision makers about whether Israel violates human rights are firmer than in the past, it may explain the reason why there was a slight increase in the number of accepted claims.

The government's view that the IRB opinion about Israel's human rights violations was incorrect and the government's general attempt to modify the process of appointing members of the IRB may explain why the government has appealed some of the decisions of the IRB, especially between 2003 and 2008. In the previous period, the government only appealed one decision. In 2001, the Court sustained the government appeal that the IRB member rendered his decision due to humanitarian reasons rather than evidence that the claimants were Convention refugees.³⁶² Two other cases that were appealed by the government and were allowed were in October 2003 due to an IRB

member's decisions being too vague or generic. For example, one of the decisions was appealed when the government questioned why the member rendered a positive decision for a Russian Jewish Israeli who claimed to be a consciousness objector as the reasons given were too generic.³⁶³ Similarly, the government also appealed a member's decision that granted refugee status to a family on the grounds that the decision was too generic and it did not address why Israel could not protect its citizens.³⁶⁴ Interestingly, both of these decisions were also rendered by one of the members whose decision was also appealed in 2001.

Finally, the government appealed the Board's conclusion that Israeli authorities would not protect a rabbi who was part of an anti-Zionist Jewish movement. The rabbi argued that Israel should not exist prior to the arrival of the Messiah and that Jews should accept Arab domination.³⁶⁵ The rabbi would not be protected according to the reasoning of the members because his opinions were considered to be dangerous by the Israeli authorities. If the claimant returned to Israel, Israeli authorities would not want to protect him due to the evidence that show the state contributed to defaming the Rabbi.³⁶⁶

In the same period that Israel was condemned for alleged violations of human rights against the Palestinians, a case was presented in which an IRB Board member decided that the Palestinian claimant should not be granted refugee status.³⁶⁷ However, the Federal Court decided that the case deserved a re-hearing.³⁶⁸ The IRB member had dismissed the Palestinian claimant because he did not demonstrate that he would be subject to persecution by the Israeli authorities. The Board concluded that although the claimant's brother was a member of the Palestinian Presidential Security Forces, that the Israeli forces questioned the claimant and destroyed his house, arrested his brothers, and

killed or injured members of his family, the Board found that that the claimant was not targeted by the Israeli authorities.³⁶⁹ This case confirms another of Professor's Macklin assertions that Palestinian claimants, although more successful in their claims, continue to have difficulties making a case for a refugee status.

At the time when Israel is condemned for human rights violations, all IRB members agreed that being attacked by terrorists is not considered grounds for refugee status. The IRB members argued that terrorism is a situation of a generalized risk and that all Israelis are subject to attacks regardless of their race, political opinion, and religion, and that even tourists were at risk. Therefore, the arguments did not fit within the refugee claim categories.³⁷⁰ Although Israel's protection of its citizens is not perfect, Israeli authorities use all means possible to protect citizens from suicide attacks:

...where a state is in the effective control of its territory, has military, police and civil authority in place, and makes serious efforts to protect its citizens from terrorist activities, the mere fact that it is not always successful at doing so will not be enough to justify a claim that the victims of terrorism are unable to avail themselves of such protection.³⁷¹

As opposed to Palestinians who have some success in claiming refugee status, Israeli victims of Palestinian terrorist attacks cannot claim refugee status because of limitations on the refugee definition.

Other categories of refugee claims that were dismissed by the Board involved arguments that were similar to those previously discussed. On decisions that related to domestic abuse, the IRB members decided that claimants must do more than simply seek one or two interactions with the police. Since Israel is a democratic state, the claimant must exhaust all courses of action open to her. The Israeli government has enacted laws and established organizations that handle domestic abuse cases.³⁷² For those who argued

for refugee status on the basis of religion, there was a consensus among the members that these are not grounds for persecution as there was sufficient state protection.³⁷³ The IRB's position is similar for those who argued on grounds of nationality.³⁷⁴ Regarding claimants who argued that their friendship or employment of Arabs or Palestinians amounted to persecution, the IRB concluded as well that there was sufficient state protection.³⁷⁵ Finally, as for claimants who refused to serve in the army due to reasons other than refusing to violate human rights, the IRB found them to be either non-credible, not conscientious objectors, or that the punishment for not serving the military was not persecutory.³⁷⁶

Snapshot of decisions in 2006

Despite this analysis of numerous cases, there is no definite answer as to what types of cases IRB members accept. In all cases examined, there is evidence that there is no consistency among the IRB members in regards to whether Israel is a refugee producing country, although it seems that Palestinians have a higher likelihood of success. Ms. Shuster admitted that during her practice, she experiences inconsistencies among members who deliberate very similar cases.³⁷⁷ The overall inconsistency is also mentioned by Professor Rehaag. Based on the database that was published about members' rate of accepting refugee status in all countries, there seems to be some proof of these allegations.

One can ask whether IRB members who have considerably high acceptance rates for all cases are also more likely to grant refugee status for those from Israel. Based on the database, there is some basis to argue that it is in fact the case but again the evidence is not conclusive. For example, IRB member Ethier Gilles from Quebec granted refugee

status to 95.65% of the refugee cases that he heard, he also granted refugee status to all the five claims he heard from Israeli refugees. Venton Anne, a member in Toronto granted refugee status in only 26.09% of the cases that she heard and she did not grant status to any of the seven Israeli claims that she heard. Christine Lloyd from Toronto accepted 57.55% of claims heard compared to 2 out of 4 (50%) Israeli claims. Diane Fecteau in Quebec accepted 34.62% of claims heard and only one of 5 claims (20%) by Israelis. On the other hand, Judy Ireland accepted 60.78% of claims heard but only one out of eight Israeli claims (12.5%). Similarly, Brennenstuhl Kieth in Toronto accepted 71.88% of his claims heard while only 3 out of 8 (37.5%) Israeli claims. Finally, Fraser Gayle accepted 43.48% of her claims and only six out of twenty seven (22.22%) claims by Israelis.³⁷⁸ Therefore, it is difficult to draw conclusions in regards to all IRB members in terms of whether they decide their cases in general has a direct correlation with how they decide cases on Israeli claims. However, for some of the members, a pattern is noticeable. Those who are more liberal in accepting refugees in general are also likely to accept refugees from Israel, for some who are more conservative and those who are in the centre, the pattern also holds.

PART III- IMPLICATIONS AND CONCLUSIONS

Implications

There are a few implications that result from the Russian Jewish Israelis claiming refugee status in Canada. The first implication is that it creates tension between the Israeli government and the Russian Jewish community. The Canadian media and additional academic literature provide a fair account of why Russian Jews claim refugee status in Canada. Russian Jewish refugee claimants argue that they experience discrimination

based on religion and nationality and women claimants who suffer domestic abuse feel that the police are not willing to help them. Others claimed refugee status as conscientious objectors, fearful of terrorist attacks, or being harassed due to their association with Arabs. They argue that the aforementioned issues are so great that they decide to leave the country that was supposed to provide them a safe haven from the discrimination that they experienced in Russia. It is important to note that other ethnic groups also make similar claims although in smaller numbers. There were similar claims on the basis of religion that imply a gap between the Halachic law defining a Jew and the Law of Return cause difficulties for some claimants.

Despite the discrimination that some Russian Jews experienced, the Israeli government has attempted to integrate the Russian Jews as much as possible by assisting them with finding accommodation, providing financial aid and other assistance. The Israeli government argues that these claims are bogus and that Russian Jews make these claims for economic reasons. During his interviews with Russian Jewish claimants, Barsky noted that many of the claimants did not know that they could claim refugee status and what it entailed until they arrived in Canada. One of the claimants, Sergey confessed that “In Israel I wanted to come to Canada. I didn’t know anything about refugees, I only knew about it in the last moment. But I knew I could come to Canada and get accepted, but I did not know how.”³⁷⁹ One female claimant admitted that she thinks that she has made a mistake by claiming refugee status in Canada. Prior to leaving Israel, she thought that immigrating to Canada would take too long, so she decided to flee and claim refugee status. Looking back the claimant argues that she should have waited longer as she was mistaken: “Now I think that I should have stayed a bit more, and not

claimed status. I am pretty confident in my strengths; I could work at any job. I think what I did was a mistake.”³⁸⁰ It seems that with additional information, some refugee claimants would have chosen a different avenue.

A religious figure from the Toronto Russian Jewish community confirms this assertion. When he was asked whether Russian Jews claim refugee status because they actually experience violations of human rights or because it is difficult to immigrate through other avenues, the religious figure answered that he thinks the latter is the case: “that’s what I think, it is hard for a person who is under stress, because of lifestyle or of security or stability or they feel uncomfortable. The minute this person make a decision, then [s/he] thinks how to go there, and someone advises them this is what you should say in order to get there.”³⁸¹ This confirms Abella’s allegation that immigration consultants shape the immigrants story to fit in within a refugee definition. Some claimants, according to the religious figure, admit that they do not want to speak poorly about Israel when they arrive in Canada: “some feel bad because they say we don’t want to say anything bad about Israel but we suffered and we want to come here.”³⁸² As a result of the complexities of the Canadian immigration system and lack of awareness of the consequences of claiming refugee status, some claimants chose the avenue of making a refugee status.

Although some claimants think that they were mistaken to claim refugee and that they do not want to speak poorly about Israel, there are serious implications for Israel if its citizens claim refugee status in Canada and Canada accepts them, especially if as a result, Israel is considered a human rights violator.³⁸³ This groups Israel with countries with malfunctioning governments and according to Professor Abella: “...no country in

the world wants to be seen as a refugee producing country the way Somalia or the way some totalitarian dictatorship countries, Israel doesn't want to be lumped with these countries...it gives Israel a black eye".³⁸⁴

IRB decision makers must be aware of the political implications of accepting refugee claims from Israel. The media often reports about the effects of accepting refugee claimants from a state such as Israel. Nonetheless, Canada continues to accept refugee claimants from Israel and it is the only country in the world to do so, although the inconsistency of decisions concerning whether Israel is considered a human rights violator is apparent. It is correct, that the IRB is more likely to accept Palestinian claimants but the members also accept Russian Jewish claimants and other claimants. Based on IRB and Federal Court decisions, and confirmed by Ms. Shuster, the two main categories of refugee claims that have been accepted by the IRB are claims related to military service and gender, specifically related to domestic abuse. It is possible that claims in other categories are also accepted especially if, as Professor Macklin stated, some IRB members accept Russian Jews because they believe that Israel is hostile towards the Palestinians, and if that is the case that they are likely to believe that Israel is also aggressive towards other ethnic minorities. However, in all these categories, IRB members' opinions were divided as to whether these claims constitute persecution.

The common element of these claims is that human rights are being violated. The implications of accepting refugee claims relating to human rights are that Canada, as opposed to Israel, becomes a human rights protector. The fact that Canada is a human rights protector feeds into the Canadian national identity that Canadians fight for human rights regardless of whether the perpetrators are democratic countries.

The question that remains is why only 15% of total claims between 1990 and 2007 are accepted and why there is an inconsistency in the rate of acceptance throughout the years. The answer is that Canadian foreign policy towards Israel was also inconsistent throughout the years. Due to the political patronage that characterized the IRB appointment system, it is not surprising that when the Canadian government shifted its policy against Israel and more towards the Palestinians that the acceptance rates also increased. It is only after the Quebec conference of 1994 that the numbers dropped substantially, and followed by *Kadenko v. Canada*, that the numbers dropped even more. But again, inconsistency remained; IRB members continued to accept refugee claimants from Israel. This may be due to the fact that despite the conference, some members appointed by a government less supportive of Israel felt that they had to mirror this sentiment in their decisions.

In recent years, there seem to be inconsistencies between the Canadian government's policies towards Israel and the IRB's higher acceptance rates. This may be due to the fact there has not been significant turnover among the IRB members, and many of the members who still decide claims are those who were appointed by the Chrétien government. This may also explain the Conservative government's interest in changing the appointment system as it feels some members on the panel represent views that are not inline with the Conservative government's policy towards Israel. It is an important fact that in Canada, as opposed to countries like Australia and the US, the Canadian government cannot directly impact the decisions of the members because the panel is supposed to be independent of the Minister. The outcome that some IRB members tend to accept more refugees than others and that there is no real consistency among the

members is not surprising because the members are free to decide on the refugee claims as they see fit based on their political views of the refugee system, Canada's role in protecting refugees or on how it will impact their career.

It is important to note despite the common accusation that Quebec accepts the highest numbers of refugees from Israel, based on the statistics that are produced by the IRB; this does not seem to be the case. This is an important observation especially considering that Montreal's IRB members were accused of anti-Semitism by Canadian lawyers and Israeli authorities. The phenomenon of accepting refugee claims from Israel occurs in both English as well as French Canada.

In comparison to the acceptance rates of Israeli claimants, the rate for accepting American refugee claimants is considerably lower. In comparison to Israel, between 2004 and 2007, the average acceptance rate was 2% per year, hitting the highest level in 2007 at 4%. In 2007, there were 941 referred claims, 255 of these claims and claims from previous years were finalized, and 9 claims were accepted.³⁸⁵ At the same time, the average acceptance rate for claimants from Israel was 23%, hitting its highest level in 2005 with 31%. In 2005, 302 claims were referred, 492 claims were finalized and out of these, 151 were accepted.³⁸⁶

One may be astonished at the substantial difference in acceptance rates between Israel and the United States as the Americans have been also accused of violating human rights by organizations such as Amnesty International in their report Human Rights Report of 2008 and World Report of 2008. It is reported by Amnesty International that Native American and Alaskan Native women suffer from disproportionately high levels of rape and sexual violence. These women are unable to access the justice system due to

among other reasons the lack of funding by the government for key services, and the failure of the government both at the state and federal level to pursue these cases. There are also concerns about discrimination in the US based on police stops and searches and other areas of the criminal justice system due to race. Conscientious objectors who serve in the American military are also imprisoned. One soldier was sentenced to eight months imprisonment. There are also reports of ill treatment in jails on the US mainland. For example, since 2001, 300 people died because they were shocked with tasers. In addition, in jails, thousands of prisoners continue to be confined in long-term isolation where conditions in the cells sometimes amount to cruel, inhuman or degrading treatment.³⁸⁷ The United States has the largest incarcerated population and has the highest per capita incarceration rate in the world.³⁸⁸

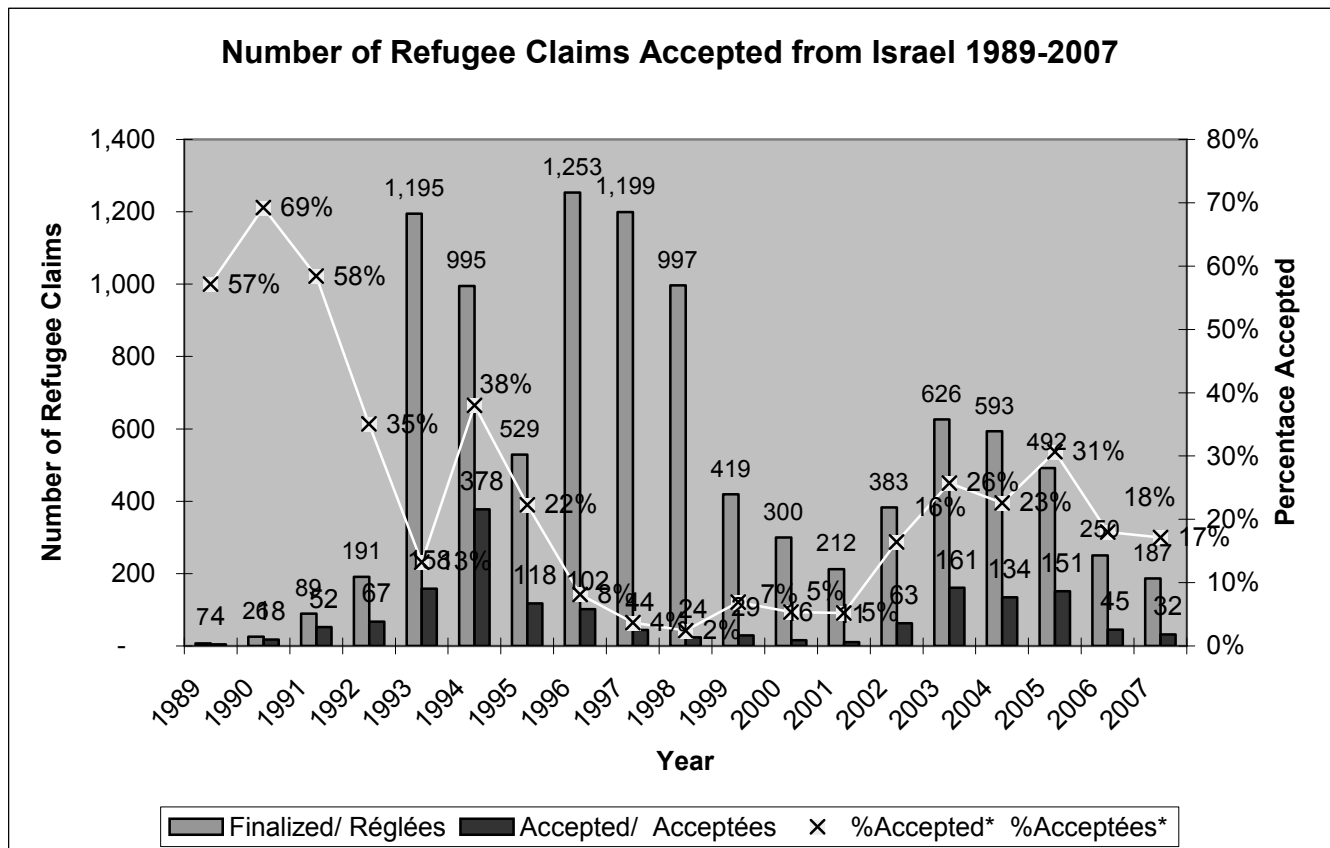
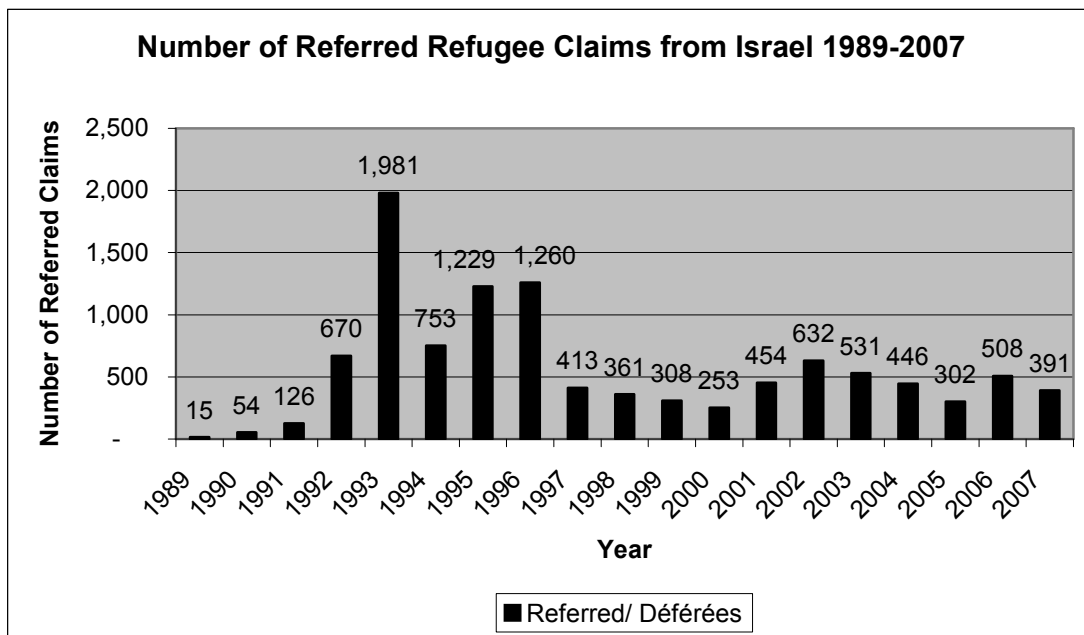
The above listed violations of human rights do not include the more controversial accusations of American human rights violations against foreign nationals. The United States continues to hold hundreds of foreign nationals in Guantanamo Bay. These detainees are being held indefinitely, and the majority of them without charge for over six years. They are held in isolation in maximum-security facilities. The Director of the Central Intelligence Agency (CIA) also destroyed the videotapes of detainee interrogations.³⁸⁹ Cases of military personnel who were investigated by officials for abuse of detainees in US custody in Afghanistan, Iraq, and Guantanamo Bay sat idle for years and most of the prosecution is exclusively of low-ranking personnel. No CIA agents have been prosecuted for abuse.³⁹⁰ Despite the major violations of human rights according to credited human rights organizations, sometimes similar to the alleged violation of human rights that claimants from Israel claim to experience, Canada seems to

accept a considerably lower number of refugees from the United States. It seems that IRB members are more careful in labelling the United States as a human rights violator than the State of Israel. This may be because there are much more detrimental implications for Canada if it were to accuse its neighbouring country and largest trade partner of human rights violations in order to strengthen Canada's image as a human rights promoter. Additionally, the fact that IRB members seem to be reluctant to admit refugee claimants from the United States in rates similar to refugee claimants from Israel is jeopardizing the image that perhaps some IRB members try to portray through their admission rates that Canada is a human rights protector.

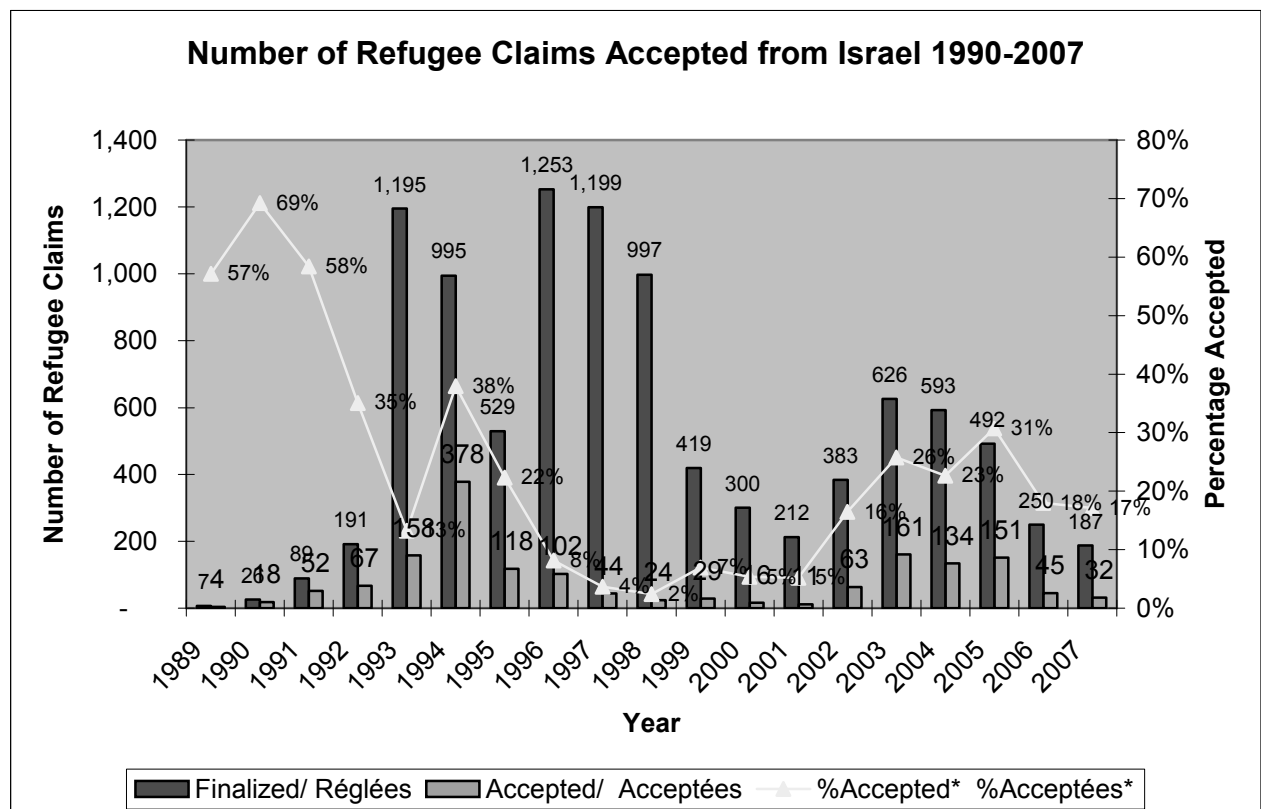
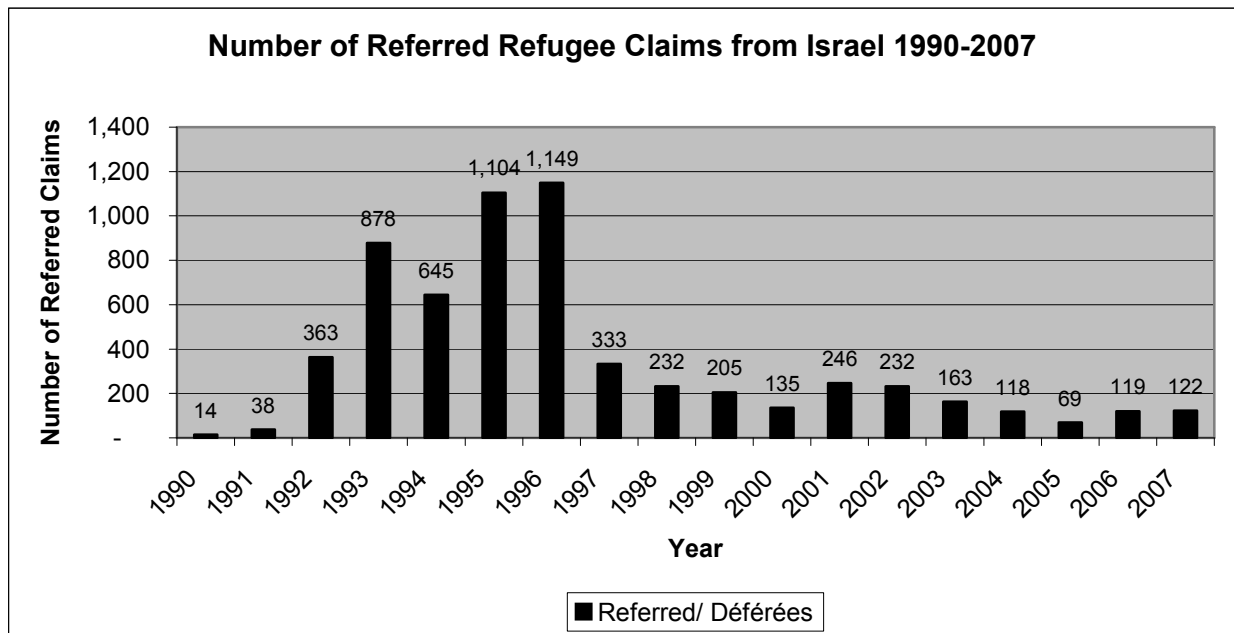
Canada's immigration and refugee policy is a product of many global and domestic political factors. These factors include Canada's attempt to promote itself as a human rights protector, the rise of neoconservative ideology, and systemic racism inherent within Canada's refugee system. The IRB reproduces these global and domestic factors by accepting refugee claimants from around the world. It is interesting to observe how these factors play out on refugee claimants from a country, Israel, which around the world is not considered to be a refugee producing country but is considered a democracy. Adding to the layer of complexity is the nature of the ethnic group who forms the largest number of refugee claimants from Israel. Russian Jews, who subjected to anti-Semitism in Russia, claim that they experience similar discrimination in Israel, a country that provided them with a safe haven. Most IRB members seem to agree with the widely held opinion that Israel is not a human rights violator. However, some IRB members seem to readily advance a human rights agenda, which is inline with Canada's foreign policy, by accepting Russian Jews and other ethnic minorities from Israel who ask for protection

from human rights violations. Although some IRB members who accept refugee claimants from Israel try to portray an image of Canada being a human rights protector, this image is tarnished in light of neo-conservative attitudes, systemic racism and inconsistent acceptance of refugees from other democratic states, such as the United States.

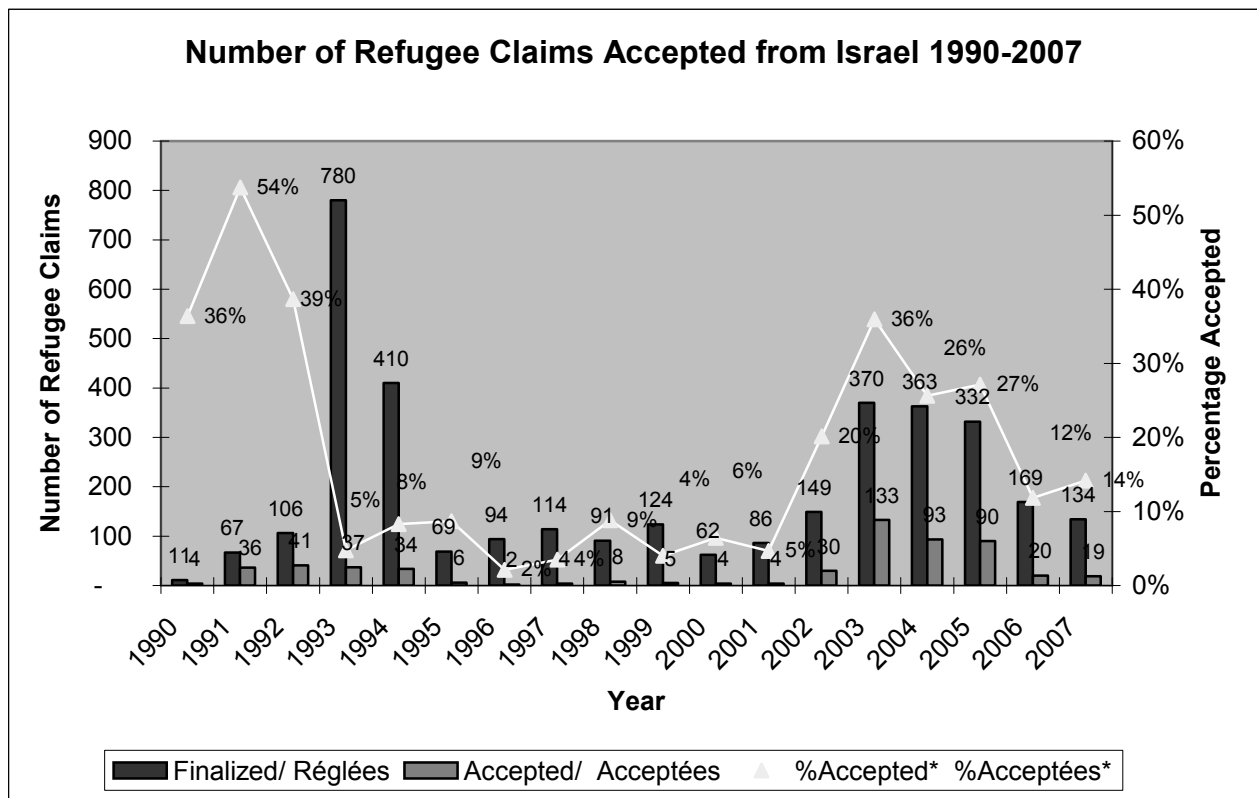
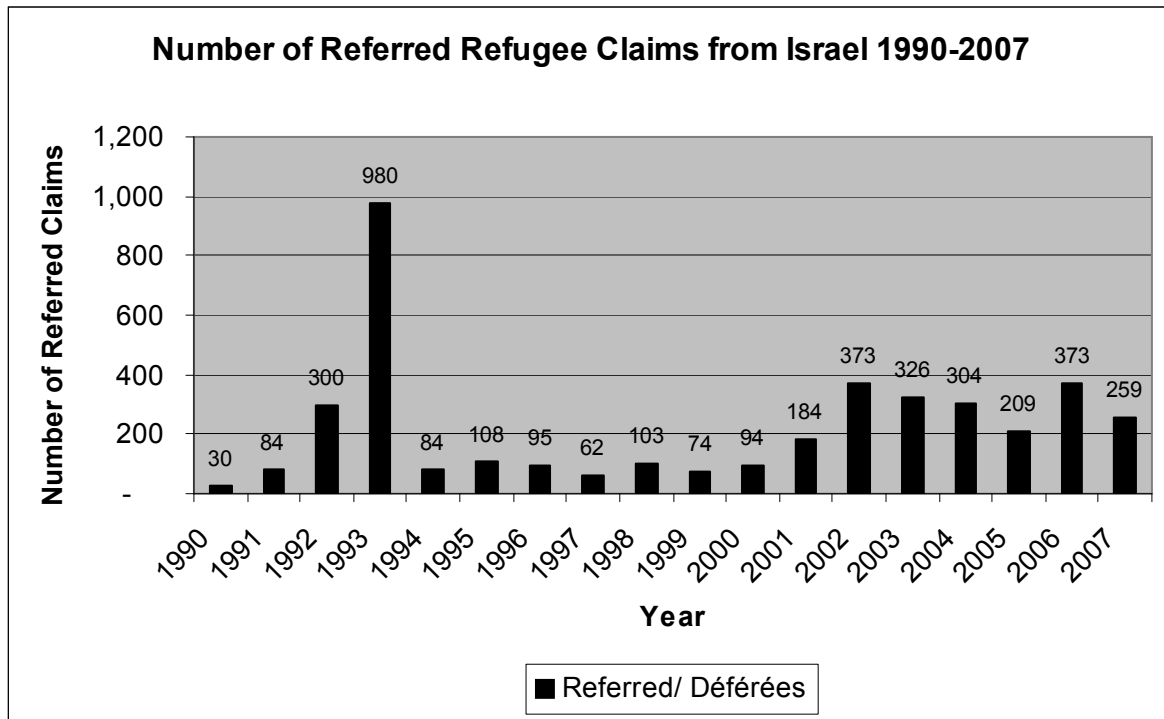
Appendix 1-IRB Statistics-Refugee Claims from Israel-National



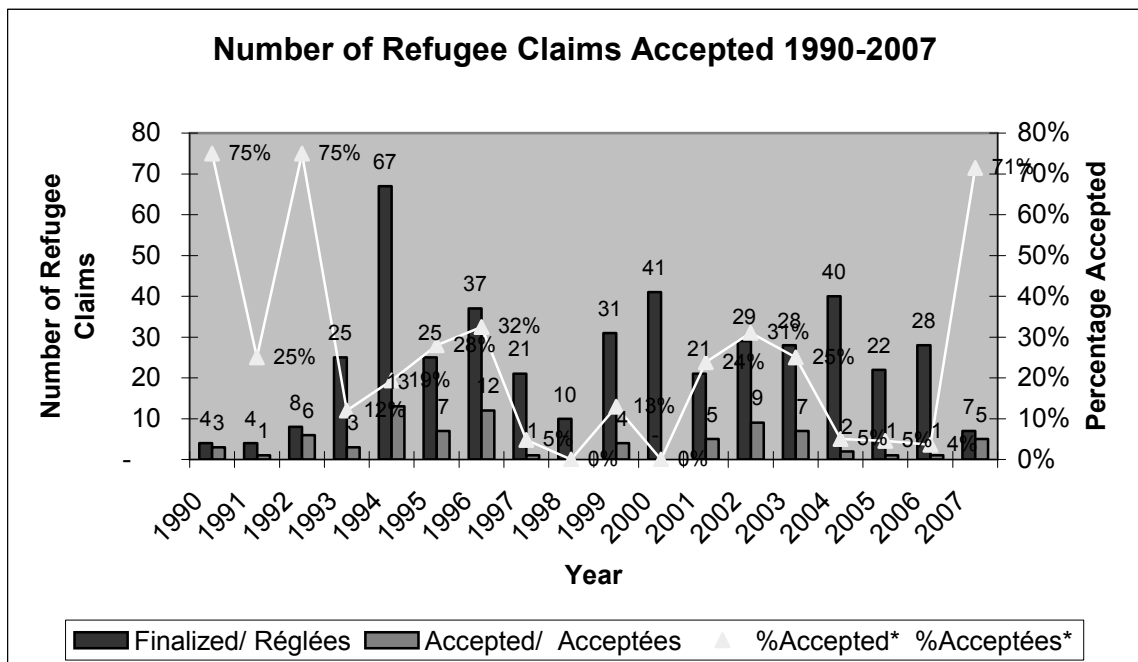
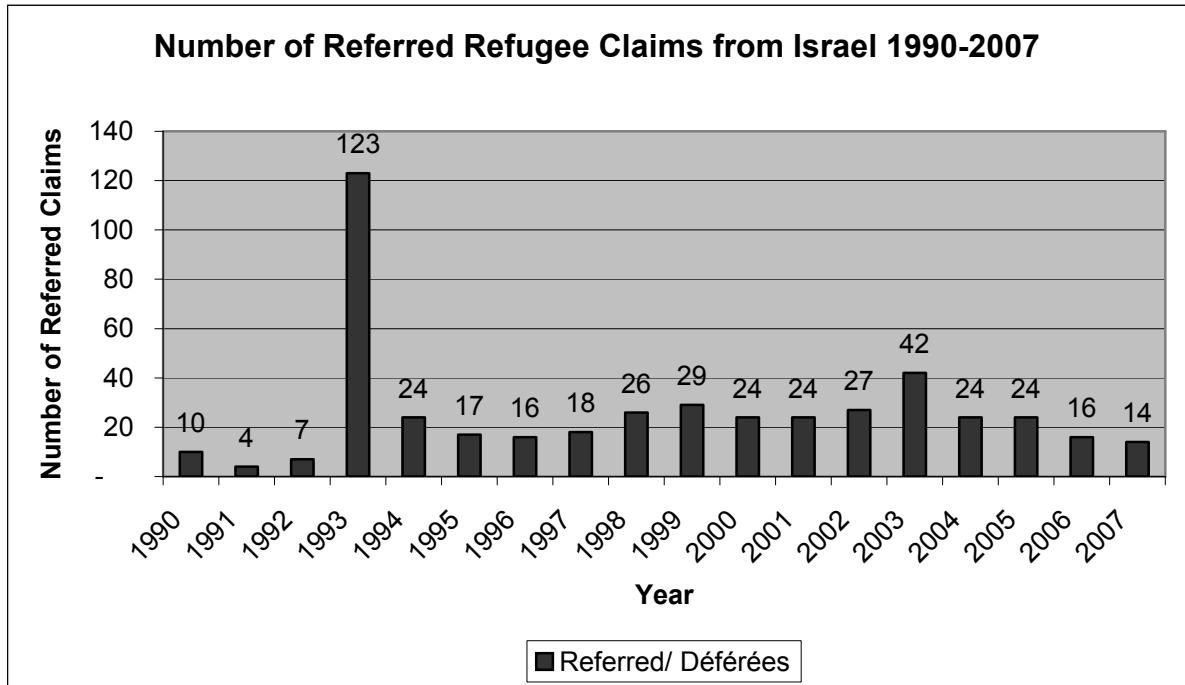
Appendix 2-IRB Statistics-Refugee Claims from Israel-Eastern Region



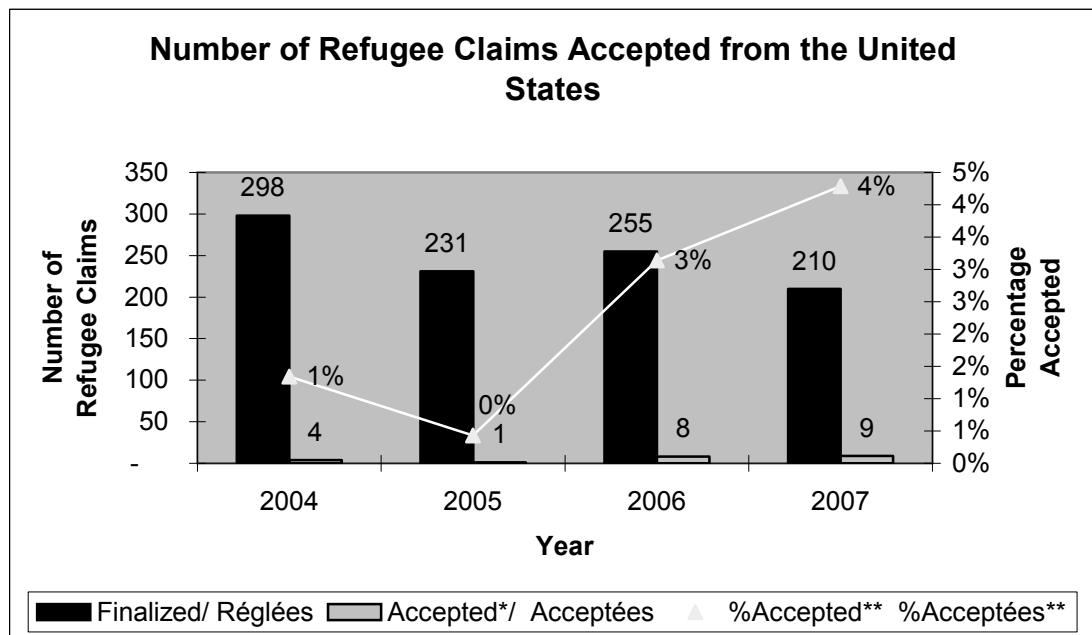
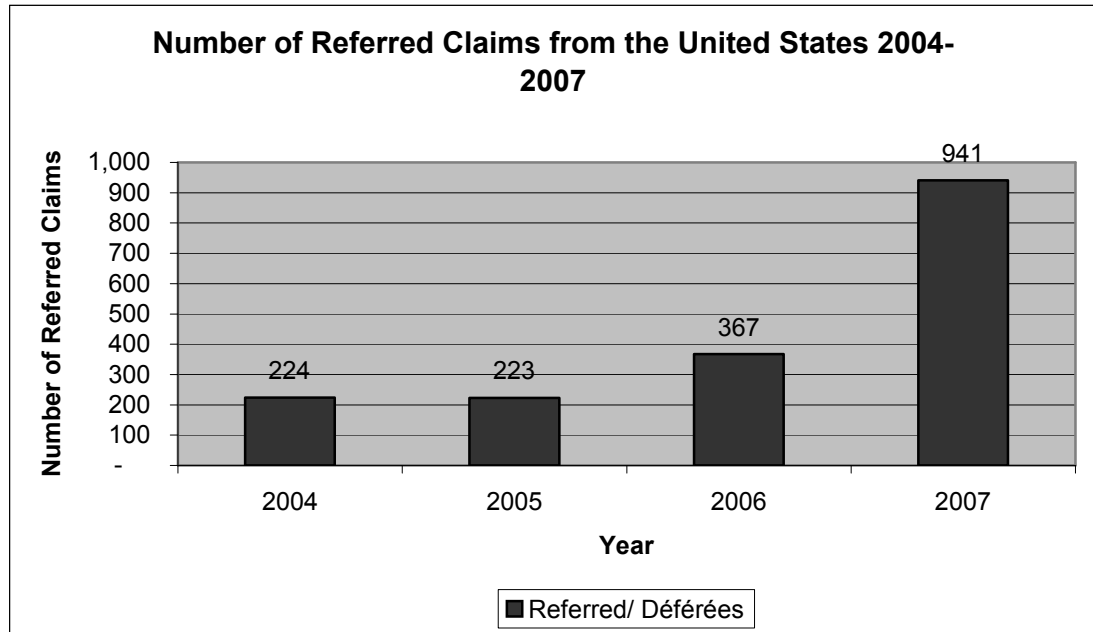
Appendix 3-IRB Statistics-Refugee Claims from Israel-Central Region



Appendix 4-IRB Statistics-Refugee Claims from Israel-Western Region



Appendix 5-IRB Statistics-Refugee Claims from the United States



Appendix 6-IRB Decisions-Claims against Israel

CRDD, T90-06713, August 29, 1991
CRDD, C90-00184, December 11, 1991
CRDD, M92-01379, September 1, 1992
CRDD, T91-04830, September 10, 1992
CRDD, U92-06311, November 23, 1992
CRDD, U92-05035, December 22, 1992
CRDD, U92-05365, February 23, 1993
CRDD, C92-00519, March 25, 1993
CRDD, T92-07223, April 28, 1993
CRDD, T93-00121, June 25, 1993
CRDD, T93-01249, July 6, 1993
CRDD, T93-01878, August 30, 1993
CRDD, T93-00853, September 27, 1993
CRDD, T93-05595, October 18, 1993
CRDD, M93-04559, October 28, 1993
CRDD, T93-01297, November 17, 1993
CRDD, T93-05313, January 27, 1994
CRDD, T93-03070, May 5, 1994
CRDD, T92-08429, May 10, 1994
CRDD, A93-80697, June 22, 1994
CRDD, V93-03084, August 9, 1994
CRDD, M94-00788, August 11, 1994
CRDD, C94-00064, October 5, 1994
CRDD, T93-09377, January 4, 1995
CRDD, M93-07107, May 18, 1995
CRDD, M94-00202, September 25, 1995
CRDD, T94-05013, October 3, 1995
CRDD, M94-05728, March 5, 1996
CRDD, V94-00043, April 19, 1996
CRDD, M95-02463, June 20, 1996
CRDD, V95-01339, July 31, 1996
CRDD, V93-02553, August 22, 1996
CRDD, M95-03697, September 4, 1996
CRDD, T95-06897, October 1, 1996
CRDD, M95-09872, October 21, 1996
CRDD, M94-07377, October 23, 1996
CRDD, T94-07106, November 13, 1996
CRDD, T95-05057, December 5, 1996
CRDD, T95-04512, December 20, 1996
CRDD, T95-06356, February 7, 1997
CRDD, M94-07234, February 28, 1997
CRDD, T95-06252, March 3, 1997
CRDD, M95-08251, April 15, 1997
CRDD, M96-02257, May 16, 1997
CRDD, M96-07277, July 23, 1997
CRDD, T93-05633, August 19, 1997
CRDD, M96-02600, August 8, 1997
CRDD, M96-01368, October 2, 1997
CRDD, M96-04842, October 8, 1997
CRDD, T95-03079, October 31, 1997
CRDD, T95-05950, November 19, 1997
CRDD, T96-06003, November 25, 1997
CRDD, T97-00295, February 4, 1998
CRDD, T96-03667, March 30, 1998
CRDD, M97-08720, July 24, 1998
CRDD, T97-02809, August 4, 1998
CRDD, T98-03991, January 18, 1999
CRDD, A97-00353, March 1, 1999
CRDD, T97-02794, May 4, 1999
CRDD, T99-04510, November 2, 1999
CRDD, A99-00200, January 28, 2000
CRDD, A99-00438, March 8, 2000
CRDD, V99-02244, June 5, 2000
CRDD, T99-07761, September 27, 2000
CRDD, MA1-02617, September 19, 2002
CRDD, TA2-06065, November 20, 2002
CRDD, VA3-03243, October 25, 2004
CRDD, MA3-01325, November 24, 2004
CRDD, TA5-02334, September 2, 2005
CRDD, VA5-01289, January 3, 2007
CRDD, VA6-00942, January 14, 2008
CRDD, MA7-00403, February 8, 2008

Appendix 7-Federal Court Trial Division & Federal Court of Appeal

Decisions-Appeals from Israel

Yuzefovich v. Canada (M.C.I.), [1994] F.C.T. IMM-1820-93.
Popov v. Canada (M.C.I.), [1994] F.C.T. IMM-2567.
Anatolievich v. M.E.I., [1994] F.C.T. IMM-2567.
Makhlin v. M.E.I., [1994] F.C.T. IMM-2957-93.
Freiberg v. S.S.C., [1994] F.C.T. IMM-3419-93.
Frid v. Canada (M.C.I.), [1994] F.C.T. IMM-6694-93.
Litvinov v. Canada (M.C.I.), [1994] F.C.T. IMM-7488-93.
Risak v. Canada (M.C.I.), [1994] F.C. T. IMM-6087-93.
Drozdov v. Canada (M.C.I.), [1995] F.C.T. IMM-94-94.
Talman v. Canada (M.C.I.), [1995] F.C.T. IMM-5874-93.
Levkovich v. Canada (M.C.I.), [1995] F.C.T. IMM-599-94.
Pidasheva v. Canada (M.C.I.), [1995] F.C.T. IMM-4065-93.
Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-94.
Bougai v. Canada (M.C.I.), [1995] F.C.T. IMM-4966-94.
M.C. I v. Kadenko [1996] F.C.A. A-388-95.
Hanukashvili v. Canada (M.C.I.), [1997] F.C.T. IMM-1732-96.
Grinevich v. Canada (M.C.I.), [1997] F.C.T. IMM-1773-96.
Katkova v. Canada (M.C.I.), [1997] F.C.T. IMM-3886-96.
Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96.
Greim v. Canada (M.C.I.), [1997] F.C.T., IMM-2733-96 .
Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96.
Kudriavtsev v. Canada (M.C.I.), [1997] F.C.T. IMM-3896-96.
Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96.
Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96.
Furman v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96,
Menaker v. Canada (M.C.I.), [1997] F.C.T. IMM-3837-96.
Sbitty v. Canada (M.C.I.) [1997] F.C.T. IMM-4668-96
Yankilevitch v. Canada (M.C.I.), [1997] F.C.T. IMM-247-97.
Ostapenko v. Canada (M.C.I.), [1997] F.C.T. IMM-3833-96.
Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96.
Shmiley v. Canada (M.C.I.), [1998] F.C.T. IMM-3478-96.
Jakhovets v. Canada (M.C.I.), [1998] F.C.T. IMM-2640-96.
Gulin v. Canada (M.C.I.), [1998] F.C.T. IMM-2366-97,
Kuslitsky v. Canada (M.C.I.), [1998] F.C.T. IMM-4253-97.
Mamontov v. Canada (M.C.I.), [1998] F.C.T. IMM-2540-97.
Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97.
Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97.
Grigorenko v. Canada (M.C.I.), [1998] F.C.T. IMM-3725-97.
Edomsky v. Canada (M.C.I.), [1998], IMM-2591-97.

Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97.
 Abramov v. Canada (M.C.I.), [1998] F.C.T. IMM-5365-98.
 Zuevich v. Canada (M.C.I.), [1999] F.C.T. IMM-2476-98.
 Frisher v. Canada (M.C.I.), [1999] F.C.T. IMM-717-98.
 Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98.
 Kviatkovsky v. Canada (M.C.I.), [1999] F.C.T. IMM-4929-98.
 Belkin v. Canada (M.C.I.), [1999] F.C.T. IMM-3554-99.
 Mishak v. Canada (M.C.I.), [1999] F.C.T. IMM-4090-98.
 Belinski v. Canada (M.C.I.), [1999] F.C.T. IMM-5931-98.
 Strizhevsky v. Canada (M.C.I.), [1999] F.C.T. IMM-6135-98.
 Buhalzev v. Canada (M.C.I.) [1999] F.C.T. IMM -2947-99.
 Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99.
 Strizhevsky v. Canada (M.C.I.), [2000] F.C.T. IMM-6135-98.
 Mayburov v. Canada (M.C.I.), [2000] F.C.T. IMM-2218-99.
 Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99.
 Canada (M.C.I.), v. Roitman, [2001] F.C.T. 462.
 Pavlov v. Canada (M.C.I.), [2001] F.C.T. 602 .
 Haimov v. Canada (M.C.I.) [2001] F.C.T. 665 .
 Telemichev v. Canada (M.C.I.), [2001] F.C.T. 1103 .
 Levieva v. Canada (M.C.I.), [2002] FCT 163 .
 Abramov v. Canada (M.C.I.) 2002 F.C.T. 574 .
 Voitsekhovskiy v. Canada (M.C.I.), [2002] F.C.T. 952.
 Dumitrascu v. Canada (M.C.I.) [2002] F.C.T. 1224.
 Rylott v. Canada (M.C.I.), [2003] F.C.T. 129.
 Sokolovsky v. Canada (M.C.I.), [2003] F.C.T. 187.
 Zilenko v. Canada (M.C.I.) [2003] F.C.T. 846.
 Meyer v. Canada (M.C.I.) [2003] F.C.T. 878.
 Canada (M.C.I.) v. Koriagin, [2003] F.C.T. 1210.
 Canada (M.C.I.) v. Shpigelman, [2003] F.C.T. 1209.
 Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274.
 Hasan v. Canada (M.C.I.), [2004] F.C.T. 1537 .
 Kovtun v. Canada (M.C.I.) [2004] F.C.T. FC 109
 Volovich v. Canada (M.C.I.), [2004] F.C.T. 269.
 Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962.
 Revich v. Canada (M.C.I.), [2004] F.C.T. 1064.
 Solodovnikov v. Canada (M.C.I.), [2004] F.C.T. 1225.
 Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322.
 Antypov v. Canada (M.C.I.), [2004] F.C.T. 1589.
 Skandrovski v. Canada (M.C.I.), [2005] F.C.T. 341
 Musorin v. Canada (M.C.I.), [2005] F.C.T. 408.
 Moreb v. Canada (M.C.I.) [2005] F.C.T. 945.
 El Hof v. Canada (M.C.I.) [2005] F.C.T. 1515.
 Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070.
 Ball v. Canada (M.C.I.) [2005] F.C.T. 1609.
 Canada (M.C.I.) v. Elbarnes, [2005] F.C.T. 70..
 Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368.

Tesema v. Canada (M.C.I.), [2006] F.C.T. 1417.
Hanna v. Canada (M.C.I.), [2006] F.C.T. 580.
Hitti v. Canada (M.C.I.) [2006] F.C.T. 1256.
Fi v. Canada (M.C.I.) [2006] F.C.T. 1125.
Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368.
Duceac v. Canada (M.C.I.), [2006] F.C.T. 1400.
Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670.
Vakruchev v. Canada (M.C.I.), [2006] F.C.T. 1154.
Tewelde v. Canada (M.C.I.), [2007] F.C.T. 1103.
Sha'er v. Canada (M.C.I.) [2007] F.C.T. 231.
Skripnikov v. Canada (M.C.I.), [2007] F.C.T. 369.
Malyy v. Public Safety and Emergency Preparedness, [2007] F.C.T. 388.
Sverdlov v. Canada (M.C.I.), [2007] F.C.T. 652.
Abbud v. Canada (M.C.I.), [2008] F.C.T. 43.
Potikha v. Canada (M.C.I.), [2008] F.C.T. 136.
Makias v. Public Safety and Emergency Preparedness. [2008] F.C.T. 343.
Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345.
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- ²⁷ Cotler, 70.
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²⁰⁹ **Federal Court-Soviet:** Drozdov v. Canada (M.C.I.), [1995] F.C.T. IMM-94-94; Talman v. Canada (M.C.I.), [1995] F.C.T. IMM-5874-93; Levkovich v. Canada (M.C.I.), [1995] F.C.T. IMM-599-94; Pidasheva v. Canada (M.C.I.), [1995] F.C.T. IMM-4065-93; Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-94; Bougai v. Canada (M.C.I.), [1995] F.C.T. IMM-4966-94; M.C. I v. Kadenko [1996] F.C.A. A-388-95; Hanukashvili v. Canada (M.C.I.), [1997] F.C.T. IMM-1732-96; Grinevich v. Canada (M.C.I.), [1997] F.C.T. IMM-1773-96; Katkova v. Canada (M.C.I.), [1997] F.C.T. IMM-3886-96; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Greim v. Canada (M.C.I.), [1997] F.C.T., IMM-2733-96 ; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Kudriavtsev v. Canada (M.C.I.), [1997] F.C.T. IMM-3896-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Furman v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96, Menaker v. Canada (M.C.I.), [1997] F.C.T. IMM-3837-96; Yankilevitch v. Canada (M.C.I.), F.C.T. IMM-247-97; Ostapenko v. Canada (M.C.I.), [1997] F.C.T. IMM-3833-96; Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96; Shmilev v. Canada (M.C.I.), [1998] F.C.T. IMM-3478-96; Jakhovets v. Canada (M.C.I.), [1998] F.C.T. IMM-2640-96; Gulin v. Canada (M.C.I.), [1998] F.C.T. IMM-2366-97, Kuslitsky v. Canada (M.C.I.), [1998] F.C.T. IMM-4253-97; Mamontov v. Canada (M.C.I.), [1998] F.C.T. IMM-2540-97; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Grigorenko v. Canada (M.C.I.), [1998] F.C.T. IMM-3725-97; Edomsky v. Canada (M.C.I.), [1998] IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97; Abramov v. Canada (M.C.I.), [1998] F.C.T. IMM-5365-98; Zuevich v. Canada (M.C.I.), [1999] F.C.T. IMM-2476-98; Frisher v. Canada (M.C.I.), [1999] F.C.T. IMM-717-98; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Kviatkovsky v. Canada (M.C.I.), [1999] F.C.T. IMM-4929-98; Belkin v. Canada (M.C.I.), [1999] F.C.T. IMM-3554-99; Mishak v. Canada (M.C.I.), [1999] F.C.T. IMM-4090-98; Belinski v. Canada (M.C.I.), [1999] F.C.T. IMM-5931-98; Strizhevsky v. Canada (M.C.I.), [1999] F.C.T. IMM-6135-98; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99; Strizhevsky v. Canada (M.C.I.), [2000] F.C.T. IMM-6135-98; Mayburov v. Canada (M.C.I.), [2000] F.C.T. IMM-2218-99; Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99; Canada (M.C.I.), v. Roitman, [2001] F.C.T. 462; Pavlov v. Canada (M.C.I.), [2001] F.C.T. 602 ; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665 ; Telemichev v. Canada (M.C.I.), [2001] F.C.T. 1103 ; Levieva v. Canada (M.C.I.), [2002] FCT 163 ; Abramov v. Canada (M.C.I.) 2002 F.C.T. 574 ; Voitsekhovsky v. Canada (M.C.I.), [2002] F.C.T. 952. **Romanian:** Dumitrascu v. Canada (M.C.I.) [2002] F.C.T. 1224. **Palestinian:** Sbitty v. Canada (M.C.I.) [1997] F.C.T. IMM-4668-96. **Unknown:** Buhalzev v. Canada (M.C.I.) [1999] F.C.T. IMM -2947-99.

²¹⁰ CRDD T93-09377 January 4, 1995; CRDD M94-00202 September 25, 1995; CRDD V94-00043 April 19, 1996; CRDD V95-01339 July 31, 1996; CRDD V93-02553, August 22, 1996; CRDD M94-07234, February 28, 1997; CRDD M96-02257 May 16, 1997; CRDD T93-05633, August 19, 1997; CRDD T96-06003, November 25, 1997; CRDD T97-00295, February 4, 1998; CRDD T96-03667, March 30, 1998; CRDD A99-00200, January 28, 2000; CRDD A99-00438, March 8, 2000; CRDD MA1-02617, September 19, 2002; CRDD TA2-06065, November 20, 2002.

²¹¹ CRDD M94-05728, March 5, 1996; CRDD M95-03697, September 4, 1996; CRDD M95-09872, October 21, 1996; CRDD T94-07106, November 13, 1996; CRDD T95-06252, March 3, 1997; CRDD M96-04842, October 8, 1997; CRDD T95-03079, October 31, 1997; CRDD T98-03991, January 18, 1999; CRDD T99-04510, November 2, 1999.

²¹² Drozdov v. Canada (M.C.I.), [1995] F.C.T. IMM-94-94; Talman v. Canada (M.C.I.), [1995] F.C.T. IMM-5874-93; Pidasheva v. Canada (M.C.I.), [1995] F.C.T. IMM-4065-93; Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-94; Bougai v. Canada (M.C.I.), [1995] F.C.T. IMM-4966-94; Hanukashvili v. Canada (M.C.I.), [1997] F.C.T. IMM-1732-96; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Furman v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96; Kudriavtsev v. Canada (M.C.I.), [1997] F.C.T. IMM-3896-96; Jakhovets v. Canada (M.C.I.), [1998] F.C.T. IMM-2640-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Yankilevitch v. Canada (M.C.I.), F.C.T. IMM-247-97; Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96; Gulin v. Canada (M.C.I.), [1998] F.C.T. IMM-2366-97; Kuslitsky v. Canada (M.C.I.), [1998] F.C.T. IMM-4253-97; Kuslitsky v. Canada (M.C.I.), [1998] F.C.T. IMM-4253-97; Mamontov v. Canada (M.C.I.), [1998] F.C.T. IMM-2540-97; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Edomsky v. Canada (M.C.I.), [1998] IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97; Zuevich v. Canada (M.C.I.), [1999] F.C.T. IMM-2476-98; Frisher v. Canada (M.C.I.), [1999] F.C.T. IMM-717-98; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99; Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665; Telemichev v. Canada (M.C.I.), [2001] F.C.T. 1103.

²¹³ Angelina Shuster, Personal Communication with Immigration Consultant Ms. Angelina Shuster, June 12, 2008).

²¹⁴ CRDD V94-00043, April 19, 1996; CRDD V95-01339, July 31, 1996; CRDD M96-02257, May 16, 1997; CRDD T97-00295, February 4, 1998; CRDD MA1-02617, September 19, 2002; Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Yankilevitch v. Canada (M.C.I.), F.C.T. IMM-247-97; Mamontov v. Canada (M.C.I.), [1998] F.C.T. IMM-2540-97; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Edomsky v. Canada (M.C.I.), [1998] F.C.T. IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98

²¹⁵ CRDD V94-00043, April 19, 1996.

²¹⁶ CRDD T97-00295, February 4, 1998; CRDD A99-00438, March 8, 2000; CRDD MA1-02617, September 19, 2002; IMM-5874-93, 11-Jan-95, Talman v. Canada (M.C.I.), [1995] F.C.T. IMM-5874-93; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Edomsky v. Canada (M.C.I.), [1998] IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97; Zuevich v.

Canada (M.C.I.), [1999] F.C.T. IMM-2476-98; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98.

²¹⁷ CRDD T97-00295, February 4, 1998

²¹⁸ Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Edomsky v. Canada (M.C.I.), [1998] IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97.

²¹⁹ CRDD MA1-02617; IMM-809-94, 09-Jun-95; Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9; Bougai v. Canada (M.C.I.), [1995] F.C.T. IMM-4966-94; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Gulin v. Canada (M.C.I.), [1998] F.C.T. IMM-2366-97; Maximilok v. Canada (M.C.I.), [1998] F.C.T. IMM-1861-97; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Edomsky v. Canada (M.C.I.), [1998] F.C.T. IMM-2591-97; Gunin v. Canada (M.C.I.), [1998] F.C.T. IMM-1462-97; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.

²²⁰ Mamontov v. Canada (M.C.I.), [1998] F.C.T. IMM-2540-97.

²²¹ **Russian Non -Jews:** CRDD T93-09377, January 4 1995; CRDD M94-07234, February 28, 1997; M96-02257, CRDD May 16, 1997; CRDD T96-06003 November 25, 1997; CRDD T96-03667, March 30, 1998; CRDD MA1-02617, September 19, 2002
Unknown Religion: CRDD T99-04510, November 2, 1999;

²²² **Non-Jews:** Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Zuevich v. Canada (M.C.I.), [1999] F.C.T. IMM-2476-98; Frisher v. Canada (M.C.I.), [1999] F.C.T. IMM-717-98; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99; Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99. **Unknown:** Greim v. Canada (M.C.I.), [1997] F.C.T., IMM-2733-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96. **Jewish:** Strizhevsky v. Canada (M.C.I.), [1999] F.C.T. IMM-6135-98

²²³ CRDD T93-09377, January 4 1995; Zuevich v. Canada (M.C.I.), [1999] F.C.T. IMM-2476-98; Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99.

²²⁴ CRDD T99-04510, November 2, 1999

²²⁵ CRDD MA1-02617, September 19, 2002; Greim v. Canada (M.C.I.), [1997] F.C.T., IMM-2733-96; Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99;

²²⁶ Shumunov v. Canada (M.C.I.), [1999] F.C.T. IMM-735-98; Weiss v. Canada (M.C.I.), [2000] F.C.T. IMM-4364-99.

²²⁷ Strizhevsky v. Canada (M.C.I.), [1999] F.C.T. IMM-6135-98

²²⁸ CRDD V95-01339, July 31, 1996; CRDD T96-06003, November 25, 1997; Drozdov v. Canada (M.C.I.), [1995] F.C.T. IMM-94-94, Pidasheva v. Canada (M.C.I.), [1995] F.C.T. IMM-4065-93 ; Hanukashvili v. Canada (M.C.I.), [1997] F.C.T. IMM-1732-96.

²²⁹ **Claimant was afraid that her citizenship would be taken away because she divorced her Jewish husband:** CRDD V95-01339, July 31, 1996. **Claimants who were proselytizing Jehovah Witnesses who were also afraid to lose their Israeli**

citizenship: CRDD T96-06003, November 25, 1997. **Claimants argued that they would be stripped of their citizenship because they obtained it based on fake claims:** Drozdov v. Canada (M.C.I.), [1995] F.C.T. IMM-94-94.

²³⁰ Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Yankilevitch v. Canada (M.C.I.), F.C.T. IMM-247-97 ; Shumunov v. Canada (M.C.I.),[1999] F.C.T. IMM-735-98.

²³¹ CRDD V93-02553, August 22, 1996.

²³² CRDD T95-03079, October 31, 1997; CRDD T98-03991, January 18, 1999; Menaker v. Canada (M.C.I.), [1997] F.C.T. IMM-3837-96; Mayburov v. Canada (M.C.I.), [2000] F.C.T. IMM-2218-99.

²³³ Menaker v. Canada (M.C.I.), [1997] F.C.T. IMM-3837-96.

²³⁴ CRDD T95-03079, October 31, 1997.

²³⁵ CRDD V95-01339, July 31, 1996; CRDD M95-09872, October 21, 1996; CRDD T98-03991, January 18, 1999; Kviatkovsky v. Canada (M.C.I.), [1999] F.C.T. IMM-4929-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.

²³⁶ Shuster, Personal Communication with Immigration Consultant Ms. Angelina Shuster, June 12, 2008).

²³⁷ T98-03991, January 18, 1999; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.

²³⁸ CRDD A99-00200, January 28, 2000.

²³⁹ Grinevich v. Canada (M.C.I.), [1997] F.C.T. IMM-1773-96.

²⁴⁰ CRDD T94-07106, November 13, 1996; CRDD T95-06252, March 3, 1997.

²⁴¹ CRDD T94-07106, November 13, 1996.

²⁴² Katkova v. Canada (M.C.I.), [1997] F.C.T. IMM-3886-96.

²⁴³ CRDD M95-09872, October 21, 1996; CRDD T98-03991, January 18, 1999; Talman v. Canada (M.C.I.) [1995] F.C.T. IMM-5874-93; Levkovich v. Canada (M.C.I.), [1995] F.C.T. IMM-599-94; Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; Kondratiev v. Canada (M.C.I.), [1997] F.C.T. IMM-2563-96; 1997; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Edomsky v. Canada (M.C.I.) [1998] F.C.T. IMM-2591-97; Gunin v. Canada (M.C.I.) [1998] F.C.T. IMM--1462-97 ; Shumunov v. Canada (M.C.I.), [1998] F.C.T. IMM-735-98 ; Kviatkovsky v. Canada (M.C.I.) [1999] F.C.T. IMM-4929-98; Belinski v. Canada (M.C.I.) [1999] F.C.T. IMM-5931-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.

²⁴⁴ CRDD T95-03079 October 31, 1997; CRDD MA1-02617 September 19, 2002; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Gunin v. Canada (M.C.I.) [1998] F.C.T. IMM--1462-97 ; Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.

²⁴⁵ CRDD MA1-02617 September 19, 2002.

²⁴⁶ Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98.

²⁴⁷ CRDD M93-07107, May 18, 1995; CRDD A97-00353 March 1, 1999; CRDD T99-07761 September 27, 2000.

²⁴⁸ CRDD T94-05013, October 3, 1995.

- ²⁴⁹ CRDD M95-02463, June 20, 1996; CRDD T95-04512, December 20, 1996; CRDD T97-02809, August 4, 1998.
- ²⁵⁰ CRDD T95-05057 December 5, 1996.
- ²⁵¹ CRDD T97-02794, May 4, 1999.
- ²⁵² CRDD T95-05950, November 19, 1997.
- ²⁵³ Sbitty v. Canada (M.C.I.) [1997] F.C.T. IMM-4668-96
- ²⁵⁴ Immigration and Refugee Board, Refugee Protection Division, National-Claims referred and Finalized: Israel 1989-2007 (Canada :, 2008).
- ²⁵⁵ Immigration and Refugee Board, Refugee Protection Division, Claims Referred and Finalized: Israel by Regions (Western, Central, and Eastern), 2007).
- ²⁵⁶ Audrey Macklin, Personal Communication with Professor Audrey, Macklin, July 2, 2008).
- ²⁵⁷ Canada (M.C.I.) v. Kadenko [1996] F.C.A. A-388-95.
- ²⁵⁸ **Examples of judicial review cases where the decision was considered:** Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.t. IMM-3998-96; Kondratiev v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96; Menaker v. Canada (M.C.I.) [1997] F.C.T. IMM-3837-96; Yankilevitch v. Canada (M.C.I.), [1997] F.C.T. IMM-247-97; Gulin v. Canada (M.C.I.) [1998] F.C.T. IMM-2366-97; Maximilok v. Canada (M.C.I.) [1998] F.C.T. IMM-1861-97; Edomsky v. Canada (M.C.I.) [1998] F.C.T. IMM-2591-97; Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98; Kviatkovsky v. Canada (M.C.I.) [1999] F.C.T. IMM-4929-98; Belinski v. Canada (M.C.I.) [1999] F.C.T. IMM-5931-98.
- ²⁵⁹ Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9.
- ²⁶⁰ Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9 (A quote from a summary).
- ²⁶¹ Kadenko v. Canada (M.C.I.), [1995] F.C.T. IMM-809-9.
- ²⁶² Canada (M.C.I.) v. Kadenko [1996] F.C.A. A-388-95.
- ²⁶³ Canada (M.C.I.) v. Kadenko [1996] F.C.A. A-388-95 (A quote from a summary).
- ²⁶⁴ CRDD M95-02463, June 20, 1996; CRDD T95-05057, December 5, 1996; CRDD T97-02809, August 4, 1998; CRDD T97-02794, May 4, 1999.
- ²⁶⁵ CRDD M95-09872, October 21, 1996; CRDD T95-03079, October 31, 1997.
- ²⁶⁶ **Israeli Arab:** CRDD T99-07761, September 27, 2000. **Military Service:** CRDD T95-06356, February 7, 1997.
- ²⁶⁷ **Russian Jews:** IMM-4966-94, 15-Jun-95, Bougai v. Canada ; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Katkova v. Canada (M.C.I.) [1997] F.C.T. IMM-3886-96; Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96; Kuslitsky v. Canada (M.C.I.) [1998] F.C.T. IMM-4253-97; Strizhevesky v. Canada (M.C.I.) [1999] F.C.T. IMM-6135-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665; **Palestinian:** Sbitty v. Canada (M.C.I.), [1997] F.C.T. IMM-4668-96; **Appealed by the Government:** A-388-95, 15-Oct-96, Canada (M.C.I.) v. Kadenko [1996] F.C.A. A-388-95; Canada (M.C.I.) v. Roitman [2001] F.C.T. 462.
- ²⁶⁸ Shuster, Personal Communication with Immigration Consultant Ms. Angelina Shuster, June 12, 2008).
- ²⁶⁹ CRDD T95-06356, February 7, 1997.
- ²⁷⁰ CRDD T95-06356, February 7, 1997 (A quote from a summary).
- ²⁷¹ CRDD T95-06356, February 7, 1997.

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- ²⁷² CRDD T93-09377, January 4, 1995.
- ²⁷³ Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98 at para. 41.
- ²⁷⁴ **IRB, Military Service Claims dismissed:** CRDD T93-09377, January 4, 1995; CRDD M94-07234, February 28, 1997; CRDD M96-02257 May 16, 1997; CRDD T96-06003, November 25, 1997; CRDD T96-03667, March 30, 1998; CRDD T99-04510, November 2, 1999; CRDD V99-0224, June 5, 2000; CRDD MA1-02617, September 19, 2002. **Federal Court Trial Division Dismissed:** Talman v. Canada (M.C.I.) [1995] F.C.T. IMM-5874-93; Kondratiev v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96; Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98; Frisher v. Canada (M.C.I.) [1999] F.C.T. IMM-717-98; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99; Weiss v. Canada (M.C.I.) [2000] F.C.T. IMM-4364-99.
- ²⁷⁵ Strizhevesky v. Canada (M.C.I.) [1999] F.C.T. IMM-6135-98.
- ²⁷⁶ **Know about the obligation to serve the military prior to immigrating:** CRDD T93-09377, January 4, 1995; CRDD MA1-02617, September 19, 2002; Talman v. Canada (M.C.I.) [1995] F.C.T. IMM-5874-93 **Military law is not persecutory because it is of general application, and the punishment for not serving in the military does not amount to persecution because the punishment was considerably short:** CRDD T93-09377, January 4, 1995; CRDD M96-02257 May 16, 1997; CRDD T99-04510, November 2, 1999; CRDD MA1-02617, September 19, 2002; Talman v. Canada (M.C.I.) [1995] F.C.T. IMM-5874-93; Frisher v. Canada (M.C.I.) [1999] F.C.T. IMM-717-98; ; Khaniukov v. Canada (M.C.I.) [2000] F.C.T. IMM-1134-99; Weiss v. Canada (M.C.I.) [2000] F.C.T. IMM-4364-99.
- ²⁷⁷ CRDD T99-04510, November 2, 1999.
- ²⁷⁸ CRDD MA1-02617, 2002, September 19, 2002.
- ²⁷⁹ CRDD T96-06003, November 25, 1997.
- ²⁸⁰ CRDD T93-09377, January 4, 1995.
- ²⁸¹ CRDD T93-09377, January 4, 1995; CRDD M94-07234, February 28, 1997; CRDD V99-0224, June 5, 2000; Zuevich v. Canada (M.C.I.) [1999] F.C.T. IMM-2476-98.
- ²⁸² CRDD M95-09872, October 21, 1996.
- ²⁸³ CRDD T98-03991, January 18, 1999.
- ²⁸⁴ Canada (M.C.I.) v. Roitman [2001] F.C.T. 462 at para. 10-14.
- ²⁸⁵ Kviatkovsky v. Canada (M.C.I.) [1999] F.C.T. IMM-4929-98 at para. 5.
- ²⁸⁶ Haimov v. Canada (M.C.I.) [2001] F.C.T. 665.
- ²⁸⁷ Haimov v. Canada (M.C.I.) [2001] F.C.T. 665 at para. 3.
- ²⁸⁸ Haimov v. Canada (M.C.I.) [2001] F.C.T. 665 at para. 19.
- ²⁸⁹ **Lack of credibility of the claimants:** CRDD M94-00202, September 25, 1995; CRDD V93-02553, August 22, 1996; CRDD M96-02257, May 16, 1997; CRDD T93-05633, August 19, 1997; CRDD T97-00295, February 4, 1998; CRDD T96-03667, March 30, 1998; CRDD A99-00438 March 8, 2000; CRDD MA1-02617, September 2, 2002; CRDD TA2-06065 November 20, 2002; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Kondratiev v. Canada (M.C.I.) [1997] F.C.T. IMM-2563-96; Menaker v. Canada (M.C.I.) [1997] F.C.T. IMM-3837-96; Yankilevitch v. Canada (M.C.I.), [1997] F.C.T. IMM-247-97; Shmilev v. Canada (M.C.I.) [1998] F.C.T. IMM-3478-96; Maximilok v. Canada (M.C.I.) [1998] F.C.T. IMM-1861-97; Grigorenko v. Canada (M.C.I.) [1998]

F.C.T. IMM-3725-97; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Frisher v. Canada (M.C.I.) [1999] F.C.T. IMM-717-98; Belkin v. Canada (M.C.I.) [1999] F.C.T. IMM-3554-99 **Available state protection:** CRDD V95-01339, July 31, 1996; RDD V93-02553, August 22, 1996; ; CRDD T97-00295, February 4, 1998 ; CRDD T98-03991, January 18, 1999; CRDD A99-00438 March 8, 2000; CRDD MA1-02617, September 2, 2002; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Menaker v. Canada (M.C.I.) [1997] F.C.T. IMM-3837-96; Yankilevitch v. Canada (M.C.I.), [1997] F.C.T. IMM-247-97; Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96; Shmilev v. Canada (M.C.I.) [1998] F.C.T. IMM-3478-96; Mamontov v. Canada (M.C.I.), [1998] F.C.T. 1998; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97; Edomsky v. Canada (M.C.I.) [1998] F.C.T. IMM-2591-97; Shumunov v. Canada (M.C.I.), [1998] F.C.T. IMM-735-98 ; Belinski v. Canada (M.C.I.) [1999] F.C.T. IMM-5931-98; Haimov v. Canada (M.C.I.) [2001] F.C.T. 665 **Discrimination did not amount to persecution:** CRDD V93-02553, August 22, 1996 ; CRDD T97-00295, February 4, 1998; CRDD A99-00438 March 8, 2000; CRDD TA2-06065, November 20, 2002; Bougai v. Canada (M.C.I.), [1995], F.C.T. IMM-4966-94 ; Furman v. Canada (M.C.I.) [1997] F.C.T. IMM-4406-96; Yagadaev v. Canada (M.C.I.), [1997] F.C.T. IMM-3998-96; Ostapenko v. Canada (M.C.I.), [1997] F.C.T. IMM-3833-96; Jakhovets v. Canada (M.C.I.), [1997] F.C.T. IMM-2640-96; Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97 **Israel had gone to great lengths to absorb Russian Jewish immigrants:** CRDD A99-00438 March 8, 2000; CRDD MA1-02617, September 2, 2002; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Gunin v. Canada (M.C.I.) [1998] F.C.T. IMM--1462-97 ; Shumunov v. Canada (M.C.I.), [1998] F.C.T. IMM-735-98 **Israel has a number of groups that support immigrants:** CRDD T97-00295, February 4, 1998; CRDD A99-00438 March 8, 2000; CRDD MA1-02617, September 2, 2002; Boyansqi v. Canada (M.C.I.), [1997] F.C.T. IMM-2786-96; Gunin v. Canada (M.C.I.) [1998] F.C.T. IMM--1462-97 ; Shumunov v. Canada (M.C.I.), [1998] F.C.T. IMM-735-98

²⁹⁰ CRDD A99-00438, March 8, 2000.

²⁹¹ Bougai v. Canada (M.C.I.), [1995], F.C.T. IMM-4966-94 ; Komarnitski v. Canada (M.C.I.), [1997] F.C.T. IMM-502-96; Molotkov v. Canada (M.C.I.), [1997] F.C.T. IMM-2846-96; Kuslitsky v. Canada (M.C.I.) [1998] F.C.T. IMM-4253-97; Strizhevesky v. Canada (M.C.I.) [1999] F.C.T. IMM-6135-98.

²⁹² CRDD T95-03079, October 31, 1997.

²⁹³ CRDD T95-03079, October 31, 1997.

²⁹⁴ Angelina Shuster, Personal Communication with Immigration Consultant Ms. Angelina Shuster, June 12, 2008).

²⁹⁵ **Successful:** CRDD M95-02463, June 20, 1996; CRDD T95-05057, December 5, 1996; CRDD T97-02809, August 4, 1998; CRDD T97-02794, May 4, 1999. **Unsuccessful:** CRDD T95-04512, December 20, 1996; CRDD T95-05950, November 19, 1997.

²⁹⁶ CRDD T95-05057, December 5, 1996; CRDD T97-02794, May 4, 1999.

²⁹⁷ CRDD T95-05950, November 19, 1997.

²⁹⁸ CRDD M95-02463, June 20, 1996; CRDD T95-04512, December 20, 1996; CRDD T97-02809, August 4, 1998.

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- ²⁹⁹ *Sbitty v. Canada* (M.C.I.), [1997] F.C.T. IMM-4668-96.
- ³⁰⁰ Immigration and Refugee Board, Refugee Protection Division, National-Claims referred and Finalized: Israel 1989-2007 (Canada :, 2008).
- ³⁰¹ Personal Communication with a Religious Figure from Toronto Russian Jewish Community, 2008).
- ³⁰² Immigration and Refugee Board, Refugee Protection Division, Claims Referred and Finalized: Israel by Regions (Western, Central, and Eastern), 2007).
- ³⁰³ Immigration and Refugee Board, Refugee Protection Division, Claims Referred and Finalized: Israel by Regions (Western, Central, and Eastern), 2007).
- ³⁰⁴ CRDD VA3-03243, October 25, 2004; CRDD MA3-01325, November 24, 2004; CRDD TA5-02334, September 2, 2005; CRDD VA5-01289, January 3, 2007.
- ³⁰⁵ **Russian:** CRDD MA7-00403, February 8, 2008; **Turkish:** CRDD VA6-00942, January 14, 2008.
- ³⁰⁶ **Russian Jews:** *Rylott v. Canada* (M.C.I.), [2003] F.C.T. 129; *Sokolovsky v. Canada* (M.C.I.), [2003] F.C.T. 187; *Zilenko v. Canada* (M.C.I.) [2003] F.C.T. 846; *Meyer v. Canada* (M.C.I.) [2003] F.C.T. 878; *Canada (M.C.I.) v. Koriagin*, [2003] F.C.T. 1210 ; *Canada (M.C.I.) v. Shpigelman*, [2003] F.C.T. 1209; *Zolotareva v. Canada* (M.C.I.), [2003] F.C.T. 1274; *Volovich v. Canada* (M.C.I.), [2004] F.C.T. 269; *Ochakovski v. Canada* (M.C.I.), [2004] F.C.T. 962; *Revich v. Canada* (M.C.I.), [2004] F.C.T. 1064; *Solodovnikov v. Canada* (M.C.I.), [2004] F.C.T. 1225; *Alshynetsky v. Canada* (M.C.I.), [2004] F.C.T. 1322; *Antypov v. Canada* (M.C.I.), [2004] F.C.T. 1589; *Musorin v. Canada* (M.C.I.), [2005] F.C.T. 408; *Gisinsky v. Canada* (M.C.I.), [2005] F.C.T. 1070; *Ball v. Canada* (M.C.I.) [2005] F.C.T. 1609; *Sorokin v. Canada* (M.C.I.), [2006] F.C.T. 368; *Loshkariev v. Canada* (M.C.I.) [2006] F.C.T. 670; *Vakruchev v. Canada* (M.C.I.), [2006] F.C.T. 1154; *Skripnikov v. Canada* (M.C.I.), [2007] F.C.T. 369; *Malyy v. Public Safety and Emergency Preparedness*, [2007] F.C.T. 388; *Sverdlov v. Canada* (M.C.I.), [2007] F.C.T. 652; *Potikha v. Canada* (M.C.I.), [2008] F.C.T. 136; *Makias v. Public Safety and Emergency Preparedness*, [2008] F.C.T. 343; *Sounitsky v. Canada* (M.C.I.), [2008] F.C.T. 345 **Palestinians:** *Hasan v. Canada* (M.C.I.), [2004] F.C.T. 1537 ; *Fi v. Canada* (M.C.I.) [2006] F.C.T. 1125; **Israelis:** *Canada (M.C.I.) v. Elbarnes*, [2005] F.C.T. 70; *Sorokin v. Canada* (M.C.I.), [2006] F.C.T. 368. **Israeli Arabs:** *Moreb v. Canada* (M.C.I.) [2005] F.C.T. 945; *El Hof v. Canada* (M.C.I.) [2005] F.C.T. 1515; *Hanna v. Canada* (M.C.I.), [2006] F.C.T. 580; *Hitti v. Canada* (M.C.I.) [2006] F.C.T. 1256; *Sha'er v. Canada* (M.C.I.) [2007] F.C.T. 231; *Abbud v. Canada* (M.C.I.), [2008] F.C.T. 43 **Unknown:** *Kovtun v. Canada* (M.C.I.) [2004] F.C.T. FC 109; *Skandrovski v. Canada* (M.C.I.), [2005] F.C.T. 341; *Tewelde v. Canada* (M.C.I.), [2007] F.C.T. 1103; *Betesh v. Canada* (M.C.I.), [2008] F.C.T. 173 **Ethiopian:** *Tesema v. Canada* (M.C.I.), [2006] F.C.T. 1417 **Romanian:** *Duceac v. Canada* (M.C.I.), [2006] F.C.T. 1400.
- ³⁰⁷ CRDD MA7-00403, February 8, 2008.
- ³⁰⁸ CRDD VA6-00942, January 14, 2008.
- ³⁰⁹ **Military Service:** CRDD VA3-03243, October 25, 2004. **Domestic Abuse:** CRDD TA5-02334, September 2, 2005.
- ³¹⁰ **Military Service:** *Zilenko v. Canada* (M.C.I.) [2003] F.C.T. 846; *Canada (M.C.I.) v. Koriagin*, [2003] F.C.T. 1210 ; *Volovich v. Canada* (M.C.I.), [2004] F.C.T. 269; *Ochakovski v. Canada* (M.C.I.), [2004] F.C.T. 962; *Solodovnikov v. Canada* (M.C.I.),

[2004] F.C.T. 1225; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345

³¹¹ **Military Service and Religion:** Zilenko v. Canada (M.C.I.) [2003] F.C.T. 846; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345. **Religion:** Sokolovsky v. Canada (M.C.I.), [2003] F.C.T. 187; Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Ball v. Canada (M.C.I.) [2005] F.C.T. 1609; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Skripnikov v. Canada (M.C.I.), [2007] F.C.T. 369; Sverdlov v. Canada (M.C.I.), [2007] F.C.T. 652; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345. **Gender (domestic abuse):** Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Antypov v. Canada (M.C.I.), [2004] F.C.T. 1589; Vakruchev v. Canada (M.C.I.), [2006] F.C.T. 1154. **Nationality:** Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322; Revich v. Canada (M.C.I.), [2004] F.C.T. 1064; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Ball v. Canada (M.C.I.) [2005] F.C.T. 1609; Skripnikov v. Canada (M.C.I.), [2007] F.C.T. 369. **Nationality and Religion:** Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Ball v. Canada (M.C.I.) [2005] F.C.T. 1609; Skripnikov v. Canada (M.C.I.), [2007] F.C.T. 369.

³¹² **Honour killing:** Sha'er v. Canada (M.C.I.) [2007] F.C.T. 231. **Unknown:** Abbud v. Canada (M.C.I.), [2008] F.C.T. 43. **Christian Israeli Arabs:** Moreb v. Canada (M.C.I.) [2005] F.C.T. 945; Hanna v. Canada (M.C.I.), [2006] F.C.T. 580; Hitti v. Canada (M.C.I.) [2006] F.C.T. 1256.

³¹³ CRDD TA2-06065, November 20, 2002.

³¹⁴ CRDD VA3-03243, October 25, 2004; CRDD MA3-01325, November 24, 2004; CRDD TA5-02334, September 2, 2005; CRDD VA5-01289, January 3, 2007.

³¹⁵ Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670.

³¹⁶ Katherine Hamer, "Leaving the Holy Land-Thousands of Israelis claim refugee status." *Jewish Independent* (2007), Nicholas Keung, "Israeli Refugees on the Rise-They're on Canada's top-10 list as critics charge we're being 'duped'." *thestar.com* Jan 27, 2007.

³¹⁷ Canada . Parliament. House of Commons., Immigration and Refugee Protection Act (2001, c. 27), trans. Department of Justice (Ottawa: Canada , 2001) 97 (1) (b).

³¹⁸ Chudinov v. Canada (M.C.I.), [1998] F.C.T. IMM-2419-97.

³¹⁹ **Friendship with Arabs:** Revich v. Canada (M.C.I.), [2004] F.C.T. 1064. **Palestinian Sympathizer:** Musorin v. Canada (M.C.I.), [2005] F.C.T. 408.

³²⁰ Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670.

³²¹ **IRB Military Service: Russian:** CRDD MA7-00403, February 8, 2008. **Other:** CRDD VA3-03243, October 25, 2004. **Federal Court Military Service (Claims made by Russian Jews):** Zilenko v. Canada (M.C.I.) [2003] F.C.T. 846; Canada (M.C.I.) v.

Koriagin, [2003] F.C.T. 1210 ; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962; Solodovnikov v. Canada (M.C.I.), [2004] F.C.T. 1225; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345 **Other:** Tewelde v. Canada (M.C.I.), [2007] F.C.T. 1103 **Military Service and Religion:** Zilenko v. Canada (M.C.I.) [2003] F.C.T. 846; Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345.

³²² CRDD MA7-00403 February 8, 2008.

³²³ **Objected to carrying arms:** Zilenko v. Canada (M.C.I.) [2003] F.C.T. 846. **Conscientious objectors:** Canada (M.C.I.) v. Koriagin, [2003] F.C.T. 1210 ; Ochakovski v. Canada (M.C.I.), [2004] F.C.T. 962; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Loshkariev v. Canada (M.C.I.) [2006] F.C.T. 670; Sounitsky v. Canada (M.C.I.), [2008] F.C.T. 345. **Unwilling to serve in the army because of the requirement to kill civilians and destroy homes and unwilling to follow Military orders against the Palestinians:** Volovich v. Canada (M.C.I.), [2004] F.C.T. 269; Solodovnikov v. Canada (M.C.I.), [2004] F.C.T. 1225; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368.

³²⁴ Meyer v. Canada (M.C.I.) [2003] F.C.T. 878.

³²⁵ Tewelde v. Canada (M.C.I.), [2007] F.C.T. 1103.

³²⁶ CRDD VA3-03243, October 25, 2004.

³²⁷ **Discrimination:** Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322; Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368.

³²⁸ **Fear of Ultra-nationalist and ultra-orthodox Jewish Groups:** Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070; Ball v. Canada (M.C.I.) [2005] F.C.T. 1609; Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368; Sverdlov v. Canada (M.C.I.), [2007] F.C.T. 652.

³²⁹ Sorokin v. Canada (M.C.I.), [2006] F.C.T. 368;

³³⁰ Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274.

³³¹ SDuceac v. Canada (M.C.I.), [2006] F.C.T. 1400

³³² CRDD VA6-00942, January 14, 2008.

³³³ Revich v. Canada (M.C.I.), [2004] F.C.T. 1064; Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322.

³³⁴ Alshynetsky v. Canada (M.C.I.), [2004] F.C.T. 1322.

³³⁵ Gisinsky v. Canada (M.C.I.), [2005] F.C.T. 1070.

³³⁶ Skripnikov v. Canada (M.C.I.), [2007] F.C.T. 369.

³³⁷ **Russian Jewish women:** Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Antypov v. Canada (M.C.I.), [2004] F.C.T. 1589; Vakruchev v. Canada (M.C.I.), [2006] F.C.T. 1154. **Israeli woman:** CRDD TA5-02334, September 2, 2005. **Ethiopian woman:** Tesema v. Canada (M.C.I.), [2006] F.C.T. 1417.

³³⁸ Zolotareva v. Canada (M.C.I.), [2003] F.C.T. 1274; Vakruchev v. Canada (M.C.I.), [2006] F.C.T. 1154.

³³⁹ Skandrovski v. Canada (M.C.I.), [2005] F.C.T. 341.

³⁴⁰ Immigration and Refugee Board, Refugee Protection Division, Claims Referred and Finalized: Palestine (Canada : Immigration and Refugee Board, 2007).

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