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FOCUS: REFUGEE MOVEMENTS FROM THE SUDAN

An Exemplar Report on IRB

Rebuilding Trust: The Report of the Review of Fundamental Justice in Information Gathering and Dissemination at the Immigration and Refugee Board (IRB) of Canada is imposing, far less because of the overlong title than for the carefully reasoned and empathetic treatment of an urgent issue in refugee determination. Couched in efficient and grammatically impeccable prose, this 80-page document deserves to become required reading for all concerned with the substance and method of refugee determination, not least, we hope, for all members of the IRB and of the Citizenship and Immigration Commission (CIC). Reviewer Prof. James Hathaway, buttressed by innumerable testimonies and depositions of Board, legal and nongovernmental communities, has interpreted his terms of reference to review and advise on:

compliance by the Immigration and Refugee Board with the principles of fundamental justice in its information gathering and dissemination activities with particular attention to the matter of contacts between members and refugee hearing officers
... compliance ... regarding information gathering and dissemination

[and] to provide any other advice and make any other recommendations in connection with this review and its findings (*Review of fundamental justice*, Terms of Reference).

These terms of reference extend somewhat more widely than is traditional for an in-house review, and fortunately so. Hathaway thereby examines some of the immediate context within which IRB members and staff discharge their duties and focuses on impediments to implementation of the nonadversarial procedures. Included among the major objects of attention are adversarial tactics of counsel, the anomalous role of refugee hearing officers and the fulfillment of the board members role of fact-finder and decision-maker. He uses the contextual

approach to provide a structural analysis of serious impediments to the appropriate functioning of the Board and thus averts *cul-de-sac* reductions to personality indisposition or poor managerial style.

Among the forty well considered recommendations, six directly address an issue much in recent Board news — the process of appointment of board members. Taking direct aim at present practices, Hathaway recommends a wider process of advertising for prospective members, and the formation of Regional Advisory Committees, composed of representation from the Board, the bar, a delegate from the Canadian Council for Refugees, the federal tribunal and Privy Council. This committee would construct a

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