NEW REFUGEE INTERVIEWS FOR HUMANITARIAN AND COMPASSIONATE CONSIDERATIONS: COSMETICS AND REALITIES

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The past decade saw an unprecedented increment in the number of asylum seekers in Canada creating backlogs in the processing of claims. On December 28th, 1988, the Federal Minister of Immigration and Employment, Hon. Barbara McDougall announced there were approximately 85,000 backlog refugee cases; current estimates place the volume at 100,000. In order to handle the immense volume of applications, the Federal government established a new refugee determination system effective from January 1989, under Bill C-55.

Claimants appear before a special two-person panel, composed of an adjudicator and a member of the refugee division of the Immigration and Refugee Board (IRB), who must both agree to reject a claim. If either panel member determines a credible basis for a claim, the applicant will be allowed to apply for permanent residence. Before attending the panel hearings, however, refugee claimants have to attend interviews to have their cases initially assessed by immigration officers, to determine whether there exist any humanitarian and compassionate grounds for accepting their claims.

In the light of a recent Federal Court decision that such refugee interviews were inadequate for the consideration of potential claimants on "humanitarian" and "compassionate" grounds, the Refugee Backlog Clearance Centre has been compelled to arrange new interviews. The importance of such a move cannot be underestimated. Canada is committed to guaranteeing all refugee claimants a fair hearing. Among many other things, the assessment for humanitarian and compassionate grounds ensures that refugee claims which possess these ingredients will be dealt with fast enough to enable the board to save time and resources for dealing with the tremendous backlog.

However, after interviews with clients who have appeared before this new review process, our impression is that it not only lacks the crucial characteristics which can adequately ensure consideration on humanitarian and compassionate grounds, but also serves as a calculated attempt to dress up the whole process of refugee determination while masking the inherent contradictions.

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Of the 2,395 clients who appeared at the new interviews between late March and late May, 1990, only 587 of them were accepted. This might appear acceptable to some commentators. However, to us this acceptance record is terribly inappropriate, and a woeful indication of the sorrowful state of the new interviews. The low acceptance rate creates the embarrassing illusion that the cases of these clients are profoundly inadequate for consideration on humanitarian grounds. In our estimation, it is the very nature and structure of these interviews which impede the acceptability of clients.

Our focus in this article is the examination of these new interviews in order to bring out the inherent weakness and its unsuitability for consideration of refugee claimants on both humanitarian and compassionate grounds. First, the summons to these interviews state: "Interpreters will not be provided. Should you require language assistance please bring a friend or relative to interpret for you." Implicitly the Refugee Determination Board is declaring that it is not its responsibility to ensure that clients who are not proficient in English will understand the proceedings. Taking into consideration that English is not the first language of an overwhelming majority of such clients, such a practice makes nonsense of the mandate of the whole interview - "consideration of clients on the basis of humanitarian and compassionate grounds". For those clients who do not have friends or relatives who can adequately and appropriately provide translation under satisfactory terms, the only alternative is to sit through the session without grasping the main import of a crucial determination of their fate.

Secondly, the sessions have been hasty, rushed and short-lived. A typical session runs for fifteen minutes. This is too compressed to realistically consider the fate of people on the basis of humanitarian and compassionate grounds. Clients we interviewed for this article stated that since the whole session is so short it is not worth paying over $500 to solicit services of a lawyer. The structure of the supposedly fair interviews has become a fetter discouraging solicitation of legal representation, a crucial aspect of justice and fairness.