CANADIAN COUNCIL FOR REFUGEES

The Experience of Refugee Claimants at Refugee Hearings in the New System

April 2014

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1. Introduction

In December 2012, Canada's refugee determination system underwent important changes, as a result of amendments to the *Immigration and Refuge Protection Act*. In the revised system, claimants must comply with faster timelines for providing basic information and for appearing at the hearing on their claim. The claim is determined by the Refugee Protection Division of the Immigration and Refugee Board, whose members are now civil servants, rather than appointed by Cabinet, as was the case before the amendments. Following a selection process to staff the Refugee Protection Division under the revised rules, most decision-makers are new in this role.

In light of the changes, the Canadian Council for Refugees decided, in consultation with its members, to repeat a research project conducted in 2011. The report of that research was published in January 2012 under the title *The Experience of Refugee Claimants at Refugee Hearings at the Immigration and Refugee Board*.

As with the first project, the CCR's goal was to gather information about the good and bad aspects of the experiences of claimants during their refugee hearings, with the understanding that the purpose of the refugee hearing is to give claimants a fair chance to be heard. The information and anecdotes gathered through these interviews have been compiled in a report in the hopes that it will provide members of the Immigration and Refugee Board with some perspective on claimants' experiences, and some feedback on how they are perceived by claimants. The research was also designed to find out how the new system affects claimants' experience of the hearing and the determination process more generally.

It is important to emphasize that the purpose of the research was not to assess whether the decision on the refugee claim was correct. Rather, the research sought to document the positive and negative experiences of refugees during the hearings in order to discover claimants' perceptions of whether they were treated fairly and respectfully.

The claimants interviewed are not necessarily a representative sample of all refugee claimants. In fact, since they were recruited by organizations offering services to refugees, there is likely to be a disproportionate number of interviewees who are connected to networks of support. This is an important point, since many of those interviewed emphasized how much they relied on people supporting them in negotiating the claim process. In addition, claimants who had received a negative decision were less likely to agree to an interview than those who had had a positive outcome.

2. Acknowledgements

The CCR gratefully recognizes the generous participation in this project of the 39 refugee claimants who agreed to be interviewed. They shared their perceptions of their experiences in the refugee hearing process, knowing that their participation could have no effect on their own immigration outcomes, but hoping that it would contribute towards making hearings as fair as possible for future claimants.

The project would also have been impossible without the significant contributions of the following organizations, which took the lead in recruiting and interviewing claimants:

- Action Réfugiés Montréal, Montreal
- FCJ Refugee Centre, Toronto
- Mennonite Coalition for Refugee Support, Kitchener
- RCEC Diocese of London - Refugee Ministries, Windsor
- Manitoba Interfaith Immigration Council, Winnipeg
- SOS and Kinbrace Community Society, Vancouver

The CCR is very grateful for the enthusiastic support for the project offered by these organizations, their staff and volunteers, who conducted the interviews and interpreted them. Other individuals and organizations also offered their assistance to recruit and interview claimants, including in Ottawa.

Several volunteers also greatly assisted the CCR office in preparing the interview guides and analyzing the interview reports.

The project was overseen by a steering committee, made up of representatives of the lead organizations and other individuals: Francisco Rico-Martinez, Tanya Aberman, Elizabeth Galvez, Fran Gallo, Ghezae Hagos Berhe, Claire Roque , Eunice Valenzuela, Catherine Dauvergne, Paul Clarke, Petra Molnar Diop, Jamie Liew and Baijayanta Mukhopadhyay.

3. The Research

The research was conducted in the fall and winter of 2013-14 through a series of interviews.

In total, 37 interviews were conducted, involving 39 refugee claimants (one interview included three members of a family). The interviews took place in Vancouver, Windsor, Kitchener, Hamilton, Toronto, Ottawa and Montreal. All those interviewed were in the new system: all but one had made their claims after 15 December 2012, while one made her claim earlier but was moved into the new system when her claim was joined to a family member who arrived later.

Of the claimants interviewed, 21 were female, 18 were male. Most (24 people) were between the ages of 21 and 40. 8 were in their 40s. Two were under 21, two were 51-60 and one was over 61. The ages of two interviewees are not known.

In 23 cases, the person made their claim alone, while 13 claims involved family members. In one case, it is not clear if the claimant was alone.

43% of the claims were made at a Port of Entry, while 57% were inland claims. 7 had been detained. Only two claimants were from a Designated Country of Origin. The vast majority of claimants (92%) had legal representation, although not necessarily throughout the process.

At the time of their interviews, 25 (68%) had been accepted, 6 were rejected and 6 were waiting for a decision.

A chart with basic facts about the claimants interviewed is presented in the Appendix.

All refugee claimants interviewed were assured of complete anonymity, including country of origin and any other potentially identifying information.

The interview process was semi-structured, meaning that participants followed a common questionnaire, but claimants were encouraged to elaborate as they saw fit. The purpose was to obtain as far as possible a comprehensive and unbiased account of refugee hearing experiences.

Claimants were asked broad, open-ended questions to encourage them to describe their perceptions and feelings throughout the process. Questions covered the process of making the claim and completing the Basis of Claim form, collecting documents, preparing for the hearing and various aspects of the hearing itself, as well as the next steps after the hearing. Claimants were encouraged to describe both the positive and negative aspects of their experience.

Interviewees were directed not to ask claimants about the specifics of their refugee claim.

Individual incidents that are mentioned in the report are not alleged to be representative of all or most experiences.

The report reflects the subjective experiences and perceptions of refugees: others involved in the process might give different versions.

We have presented below a summary of key findings, highlighting extracts that seem to provide the clearest insight into the claimant's perspective. The stages of the process are presented chronologically. Quotations from the interviews have been lightly edited for readability. Pseudonyms have been used throughout.

4. Making the Claim

16 of the claimants interviewed made their claims at a Port of Entry (POE), compared to 21 made inland.

The processes for making a claim differ in important ways depending on whether it is made at a POE or inland.

a) Port of Entry Claims

A person arriving in Canada may make a refugee claim at a Port of Entry, for example an international airport or at the US-Canada border. The Canada Border Services Agency (CBSA) receives the claim and interviews the claimant while still at the border. A CBSA officer decides whether the claim is eligible and if it is, the person receives a copy of the Basis of Claim (BOC) form to be completed and submitted to the Immigration and Refugee Board within the next 15 days. The claimant is also given the date for a refugee hearing within the next 60 days (or 45 days in the case of a person from a Designated Country of Origin). In some cases, claimants are detained on arrival.

Of the claimants interviewed who had made their claim at a Port of Entry, some reported a positive experience, some found the process of making a claim confusing, while others were intimidated and threatened with return.

Eric, who speaks French, arrived at the land border in Western Canada. He noticed that the officers at the border are in uniform, which he felt could make you nervous, especially when you do not speak the same language.

> "They should have someone there who can translate. They were very busy. Many staff and many people. No one explains what is happening. I sat and couldn't do anything. I was used to talking to people without fear because of my work but other people might find it very difficult and wonder what they will do with you. They [CBSA] had new machines that they didn't know how to use yet. They apologized because they were learning to use the new equipment."

Maribel also made a claim at the land border, in her case with her husband and two children. They were interviewed for 8 hours. She felt well treated by the CBSA while they were there. "They were a little tough with the questions for my husband." She was given a BOC and instructions. Although things were explained, there was so much information that they felt a little lost. "They said we would have a hearing on a certain day but we didn't know what that was about. We didn't know if we would have to pay. We just came to escape my country without knowing what we would face. The important thing was to get out of my country."

Patricia arrived at the Montreal airport and was detained:

> "The first day, the immigration officer threatened me at the airport and at 1010 [the downtown immigration office]. At 1010 she told me I was someone else, that I had 6 children in England. But it wasn't true, I've never had any children. She told me, 'you won't get out, you're going to stay there in detention. You'll sleep there, you'll stay there a year, I'll sleep comfortably at home, I'll eat well, but you won't have anything good to eat there.' I thought she was hard. It hurt me.
>
> "At the airport, they told me 'we can see by looking at you that you haven't come straight from your country' [...] At first I didn't want to respond, because I knew that wasn't the place to tell all my story. They said to me [...] 'if you don't want to respond, we'll send you back to England.' At that point I was scared to tell the truth and say that I had come from England."

Isabella made her claim at the land border, accompanied by her six year old child.

> "The only inconvenience was the way they receive you at the border. They are rude and a bit intimidating. They search you, they take your wallet; my son had a toy in his arms and a bag with toys and they even searched the bag. My son started crying and I was trying to calm him down telling him, 'Mommy is here, don't worry'. They were very serious and they never showed any kind of softness taking in consideration that there was a young child. It was very intimidating."

Anna said that she spent two days at Pearson airport making the claim. "The process was too long [...] It was a lot of time but I didn't have any problems. It was this long because they have to investigate my situation."

Diego arrived with some understanding of the process because he had family in Canada. He arrived at the US-Canada border on a Sunday at 4pm and waited until Monday at 3-4pm before seeing an officer. He and his family spent the night at the border. His sister who lives in Canada

came to the border to assist them. She brought food for the family. Diego did not mind waiting and said that under the circumstances, it was not a bad experience.

Isabella had received help from an NGO in the US before coming up to the border to make a refugee claim.

Semhar had a positive impression of her experience at the border. Other people who were waiting tried to make her comfortable. "Even the officer was really nice."

Jasmine also found the official at the border very kind. "She felt that I was scared and she always told me not to worry […] She provided me a kind of energy."

b) Completing the BOC: Port of Entry (POE) Claimants

Most claimants had a lawyer, an organization or both to help them fill in the Basis of Claim (BOC). However, some filled it in by themselves.

Diego was assisted by his sister, who has lived in Canada for many years. A few days after they arrived, she took him and his family to a settlement agency where they met a settlement worker who referred the family to legal aid. They obtained a lawyer in this way. She told them that she could only spend 16 hours in total on the refugee claim prior to the hearing. 8 hours were spent helping Diego prepare his BOC. They had several short meetings lasting 30 minutes. Diego would fill out forms with his sister and with the settlement worker and then e-mail the forms to the lawyer, who made corrections.

Jasmine finished filling out the form in 10 days, but only because she had the support of her brother and a refugee serving organization that offered her a computer, help in filling out application forms, translation service and even free photocopy services.

Isabella, who had been helped by an NGO in the US before making a claim at the Canadian border, had the assistance of a lawyer to fill in the BOC. In her case the lawyer completed the BOC after a single consultation with her. He also asked her to provide a written narrative.

Anna was staying at a shelter, which helped her get legal aid and a lawyer. She had about 5 meetings with the lawyer to complete the BOC. She was very nervous about the process, because she did not know any English. She was suffering from panic attacks so the meetings had to be short. She reported that she got too worried about getting the exact dates, places, etc from the documents she had brought with her. Nevertheless, she felt that she had no real problems because of all the support she had from the lawyer. She provided him with the information and he put it all together.

Idriss said he completed the BOC at the hospital, on his own. He was already over the deadline and he was given 30-48 hours to fill in the form.

c) Claimants in Detention

Claimants who were in detention faced particular challenges.

Salvador was detained for 11 days, due to Canadian officials confusing dates on his documents. Eventually he was released (and "Immigration" apologized to him). He says that he only understood the claim process after he was released and someone at an NGO explained it to him.

Élizabeth was in detention because she did not have her identity documents with her. She was given a list of lawyers and another detainee pointed out the name of one that she said was good. This lawyer filled in the BOC for her because she couldn't complete it since she was in detention.

Patricia was also detained. The first lawyer she had wanted to complete the BOC by telephone, but she didn't want to. She thought it was too difficult to tell her story over the phone and she worried about how they could correct errors. In the end she decided to change lawyers. By then it was the 15th day. The new lawyer came the next day and they completed the BOC the same day. She was worried about it being late as the immigration officer had warned her of the possible consequences of missing the deadline. However, it was alright.

Joy started filling out her BOC by herself while she was in detention. "Every day I looked at it and wrote what I could write." But she was told that it would be better to fill it out with the help of a lawyer, so she called a lawyer someone introduced her to while in detention. He helped her work on the BOC after she was released, but she was not happy with the result. He told her it needed to be changed so that people in Canada would understand it, but from her perspective he shortened the story and took out important information. However, by that time it had been submitted and it was too late to do anything about it.

Milo completed his BOC while in detention, without a lawyer. He reported that he spent about 3-4 hours filling out the BOC and CIC forms with the help of an interpreter (in person). He commented: "the BOC was not completed appropriately while in detention. I was nervous, plus the fact a lawyer was not there to fill out the forms with me and to explain and clarify about the whole process."

Andrea also completed the BOC by herself while in detention. She was given a series of forms in English to fill in. Through an interpreter, an officer told her on a Monday that she must return them to him by Wednesday. Andrea told him that she doesn't read English and that she didn't know how to complete the forms. The officer returned again on Friday to ask for the completed forms. She was told to go to an NGO who gave her a Spanish version of the BOC, so then she filled the forms out. The next week the officer came and an interpreter read him the form. He said that the form wasn't completed correctly and told her to finish a few questions that were incomplete. The NGO faxed it in for her.

d) Other Challenges in Completing the BOC

Several claimants, though not detained, had other pressures to deal with while completing the BOC. Mama, for example, noted that she was preoccupied caring for a son with a disability.

Lionel found a lawyer, paid for by legal aid, immediately after making a claim, but still found it difficult to meet the 15 day timeline. "The first few days were spent trying to find a place to sleep etc. If we had a little more time, we could have submitted things more easily."

Fatimah had a male lawyer to whom she did not feel comfortable telling her whole story. She initially gave an incomplete version. Luckily, she was also being assisted by a female NGO worker: she told her the rest of the story and the worker forwarded the information to the lawyer.

Gabriela did not receive proper information about the need to complete the BOC and only found a lawyer two days before the hearing. The lawyer successfully requested an extension on her behalf.

e) Inland Claims

The law also provides for claims to be made from within Canada. In this case, the claimant must complete a series of forms, including the BOC, and then go for an interview with Citizenship and Immigration Canada (CIC). They do not officially enter the claim process until they meet with CIC. A CIC officer determines if the claim is eligible, and if so, the claimant is given the date for a hearing at the Immigration and Refugee Board within 60 days (or 30 days in the case of a claimant from a Designated Country of Origin). Only when the claim is found eligible does the claimant have access to most services and benefits, including health care and social assistance.

Interviewees who made inland claims had widely varying experiences of preparing the BOC and other forms.

Williams went to the CIC office a few days after arriving in Canada to say he wanted to make a refugee claim. He was given information about where to find the forms. It took him weeks to complete the forms. During this time he worked with two different NGOs. He had no lawyer and no income. It was a challenge even to produce the passport pictures he needed to submit with his application as he had no money to pay for photos.

In contrast, Nader had a smooth process for completing the BOC. He had a lawyer, paid for by legal aid. He wrote up his case and his lawyer helped him with it. It was done the same day he met the lawyer.

Several other claimants did the BOC very quickly, although not necessarily with the help of a lawyer. Suldan said it took him a day to complete the BOC, with the assistance of an interpreter from his community. He said it was very straightforward. Slim completed her BOC in a day or two, with the help of a NGO representative. She felt it went fine.

Fara starting out completing his BOC by himself. "I thought it was not difficult." When he went to submit the BOC, a CIC representative gave him a piece of paper with information about settlement agencies and other services, including legal aid. So he got a lawyer and gave him the BOC. "When he looked at it he said, 'Your Basis of Claim is so, so thin! You've mentioned almost nothing and we have to work on it!'" So they revised the BOC, adding a lot to it (about two pages he thought). "I had been describing the situation in a nutshell, but he needed more details about specific things. He did it in the best way possible and it was great, he really worked hard and helped me with the case."

Robert, who spent three weeks on the BOC, started out working on it with a friend. But then he went to a lawyer, and realized that they had been doing it wrong. He felt the lawyer knew the "new way."

Some claimants struggled because of language issues.

Ashgar worked with his lawyer and a settlement worker to fill out the documents. He met with the lawyer three times to work on the narrative, and with the settlement worker several times to fill out the forms. The lawyer would look over the forms after they were filled out. He found it a challenge to fill in the forms as he does not understand English. He also said that he found it hard to remember all the information required in the forms. He and the settlement worker had to spend a lot of time converting dates because the calendar in his country is different from the Western calendar.

Ashgar also thought that one question regarding arrests and criminal offences is not entirely clear. He had answered the question with one understanding and during the hearing it was observed that he answered it incorrectly.

Kate had no idea about how to make a claim. By chance she met someone from her country of origin who took her home. She did not know what to advise Kate to do, but after two weeks consulting her network she was able to tell her to go to a particular NGO that serves claimants. However, because she worked, they could only go when she had the time.

At the NGO Kate learned she could have a lawyer paid for by legal aid and she was referred to other relevant services. On direction from the lawyer, Kate worked on writing down her history. The woman from her community was acting as her interpreter but could not help her with this task. "She can speak English but cannot write English well. I am not very good at speaking English, but I can write better. Only I use the dictionary a lot and my grammar is not very good. When I was done with my history, the lawyer only had to put the events in chronological order and correct my English. He also asked some questions to clarify some details." She worked with the lawyer for a month but eventually decided he did not know enough about her country of origin. So she changed lawyers. The new lawyer helped her reduce her narrative as it was too long. He worked quickly but the process still took another month, because of the difficulty of finding interpreters, as the woman who had been helping was too busy.

"She had to ask another person, who then asked another person. I had many interpreters, about four or five. It was very upsetting for me. They learned about who I am. They were listening to every single detail of my life. I also felt very uncomfortable with the men interpreters. I thought maybe due to my situation, they did not like to interpret for me. How could I have opened up? When I worked with them, I just talked but did not say much."

Finally, she tried to make her claim, but CIC required her to re-do a form she had done in English with the NGO. CIC wanted to ask her the questions again, with an interpreter. Finding interpreters and working with their schedule prolonged the process. In the meantime, Kate had no income to cover food.

Hugo said he did not know how to apply for refugee status until he met someone from a community centre. With the help of his cousin, the community centre and a lawyer who reviewed his documentation, he was able to complete all the forms. He was conscious that he was lucky to have his cousin and also the support from the community centre.

Jian spent about 2 weeks preparing the BOC, with the help of a lawyer. He did not find it very difficult as he had been through a similar process in the US.

Jimmy did not know what to do or where to go until she came to an NGO. "They helped me go through the process step by step." She was assisted in filling out the forms by the NGO case workers and her lawyer.

Mustapha was assisted by the same NGO and later by his lawyer. He found the process complicated and remembered it as taking 20-28 days. "My English was not helping me and I had to wait for a translator which made the process lengthy too. It was also difficult for me to recall the painful events of being imprisoned, kidnapped and tortured. I was stressed to remember the mistreatment I had. My memory was short and slow."

Youssef's daughter helped him fill in the forms, since he does not speak English. He felt it took a long time, given the number of forms to complete and the length of each form. However, he did not report any problems except that he had some difficulties remembering the exact dates of some events that took place a long time ago. Filling out the BOC took about 10 days in total, and was done with his daughter and an NGO.

Alma and her family took 10 days to complete the BOC. They did it by themselves, using a Spanish-language guide provided by an NGO. The main challenge was the language.

5. CBSA interviews

A few claimants, particularly those in Vancouver, reported that they had repeated interviews with CBSA.

Jian's refugee hearing was postponed for approximately four months, while he was investigated by CBSA. In the end the hearing lasted just 20 minutes, and the Minister was not represented. However, to get there, he went through 12-15 interviews with CBSA, each one lasting 2-3 hours, according to his report. "I can't even remember how many times they interviewed me [...] I didn't like it and sometimes I even became aggressive during the interviews because they repeated the questions over and over. [...] Fifteen times with the same person and they played their role as if I was a criminal and he was a policeman. I can understand that from one side, he has to do his job, but not like that! It's too much, really. Of course he has to check my background [...] he was asking me so many details about the life over there and I explained to him, no problem, one time, two times, three times. But again and again and again? — I don't know! I thought he was waiting for me to make a mistake that he could use against me."

Henry said he had 4 interviews at CIC and CBSA, lasting 40 minutes to an hour. The last one in particular made a strong negative impression on him and he got emotional recollecting it. "They treated me like a delinquent in the 4th interview [...] My case is that of a victim." He felt that he

had difficulty remembering details and sometimes expressed himself poorly because he was emotional during the interview. The discrepancies were used against him in the hearing. When asked about his overall impressions of the refugee system, he commented that "the interviews at CBSA made me feel bad."

Maribel and her family had a good experience with CBSA when they made their claims at the border, but it was very different when her husband was twice called in by CBSA before the hearing. "They were very rude and heavy handed with him." She said her husband was asked a lot of questions, and was very upset (he cried). She noted that he came out of one of the interviews very pale. He told her that he was so nervous that he did not even know what he said in the interview. In her view, the purpose of the CBSA interview was "to tell him that everything he said was a lie". Their message was: "What happened to you is a lie." She was indignant about the attitude, noting that their family had been forced by circumstances to seek security in Canada (this cold country with cold people). If it were not for those circumstances, they would have stayed in their country, where they had everything they needed, despite the poverty of the country.

6. Preparing for the Hearing

Many of the claimants reported that their lawyers helped them prepare for the hearing. Ashgar said he met twice with his lawyer before the hearing, each time for two hours. At the first session the lawyer explained the process and how to speak to the Board Member. At the second session, the lawyer asked him questions (in a role play for the hearing – a preparation technique used by many lawyers and NGOs).

Maribel was helped to prepare for the hearing by her lawyer, but didn't particularly feel the need to prepare "because we lived what happened to us [...] Our friends told us we need to prepare well and study our documents, but I didn't understand this because I will never forget what happened to us. I didn't understand what there was to prepare."

In contrast, Élizabeth was extremely anxious. She met with her lawyer four times before the hearing. The lawyer practised asking her questions and also played a role in helping her to manage her fears:

> "The lawyer saw how I was panicking, each time she called me, I was scared, she calmed me, she prepared me."

This support continued to the day of the hearing: "I was fearful, the lawyer took me into a little office, we had a meeting, she told me not to be afraid."

Élizabeth also benefitted from information meetings at an NGO with lawyers, who she felt gave very concrete and practical information.

Alma and her family were helped by their lawyer and prepared themselves. They didn't feel 100% prepared: there was psychological pressure. Alma felt that her five year old sister was the one most affected by the process.

Hugo's lawyer explained how the hearing would go, but despite that he reported that "the experience of being there is totally different. There is a lot of pressure and uncertainty around the hearing process. In my case, I had never been in a hearing or court, or even met the police or a judge that questioned me about events and facts. I never had a problem before so it makes it difficult."

Some claimants were assisted in their preparation by both their lawyer and an NGO.

Patricia was detained while making her claim, and only released a week before her hearing. She was nervous but was encouraged by her lawyer, whom she met twice. The lawyer asked her questions, playing the role of judge. She was also supported by two NGOs – one of them also helped her prepare the day before the hearing by asking her questions. Looking back on the experience, she was very conscious of how nervous she had been, and how much her lawyer and the two organizations helped her, by giving her hope. She contrasted her experience here with an earlier experience when she made a refugee claim in England: "I was all alone there ... not even a lawyer, no one, I was alone. This is why I really felt the difference. Here people really helped me."

Some of the claimants in Vancouver had attended a READY tour, a well-established program that orients claimants to the hearing location and process. Eric found it helpful:

> "Knowing what it would be like made me feel safe and comfortable. I knew where I would sit with my lawyer. It was a preparation for me. […] I said, okay, this is the place. It will be my second time to come back so it will be very simple for me to come back. I had my hearing in the same room that I attended the READY Tour. It was very good for me."

Alice only heard about the READY tour after her hearing, and regretted that her lawyer had not referred her to it.

Several claimants reported that they felt prepared for the hearing, often those who had the support of a lawyer or NGO, or both. Lionel had met about 6 times with his lawyer and twice with an NGO representative, leaving him feeling "reasonably prepared for my hearing." Espérance felt well prepared – her lawyer had explained how the hearing would go, and her therapist had helped her psychologically. Williams felt prepared by his lawyer and said that the time was sufficient.

Others were conscious of the support that they had received in preparation, but still did not feel prepared. Robert had support from a therapist to deal with his fears and his lawyer helped him to know what to expect inside the hearing room and to prepare. Despite this, Robert never thought he was fully prepared: "My lawyer gave me pre-hearing trainings, but you still don't know what to expect. Not knowing was stressful."

Mama's lawyer helped her to get ready, but she did not feel she and her family had enough time to prepare. Her lawyer requested a change in the hearing date, but it was refused.

Jasmine experienced a lot of stress in the lead up to the hearing: she went every day to the NGO that was assisting her and she always received help from them.

Anna received advice from various people, but she never learned about what to expect in the hearing, partly because there was a lot of work to do coordinating with lawyers and arranging for witnesses.

> "I didn't really have any legal advice on how the hearing was going to unfold. I had no idea and that really scared me. I received the letter from the court that said that there would be three judges according to the new system and that the three had an input in the decision. But I didn't have any advice on how the hearing was going to be, the length of it and how the decision was to be taken."

Anna had been involved in court cases in her home country and had assumed the refugee hearing would be similar, causing her extreme stress. "Little by little, I started to realize that it was different."

Lionel found the experience of the hearing "very, very stressful, because you realize your life depends on the hearing, and you have to put all your effort into getting it right the first time. You don't want to make any mistakes or leave anything out. The day before the hearing it was very tense. I couldn't sleep. The only thing I could think about was what would happen in that room. I worried about what I should say, what I shouldn't say. I didn't want to forget anything. My life depended on it."

Some claimants did not comment on their level of preparation. Others reported that they hadn't felt prepared because they had inadequate support. Isabella was not happy with her lawyer: she had to chase after him to work on the preparation of hearing. She tried to change lawyer, but was unable to do so. Gabriela found a lawyer only two days before the scheduled hearing, so did not feel well prepared at all, but a postponement was granted. Joy did not have a lawyer as she was refused legal aid. She was referred to an NGO, but by then it was only one week before her hearing. "It was too short for them to do more."

Nader explained that he had turned to friends who are former refugees because he was worried about the hearing, even though he was confident that he met the refugee definition. He also did some research on the internet. It doesn't sound like he found the advice particularly helpful:

> "But everyone says it is personal, still there were comments like 'don't do this, don't do that'. In the end I decided to just answer my questions. They are there to decide if you deserve protection or not."

7. Obtaining and Submitting Documents to Support the Claim

Several claimants found it difficult to gather the documents necessary within the timeframe. Fara complained: "They decided that I had to have a hearing date in 60 days so I had to do everything in two months and honestly, it's not an easy thing to do, it's not an easy thing to do at all."

Maribel also found the short timelines caused a lot of stress. "We had to do what the lawyer told us very quickly. We had to call to our country to get the evidence and send money so that they would send it. It costs a lot. It was hard that everything had to be done rapidly, but it was positive to have the answer quickly."

Robert found the time (a month and two weeks) too short to get documents: people in his home country did not understand the importance of the documents for him. While he did receive some documents, others were more difficult, including a document attesting to his sexual orientation, since some people did not want to write that in an official Canadian document.

Jasmine had some documents with her, but needed to collect others from her country. She was scared about the documents not arriving on time. Luckily for her, her brother is a professional person: she gave him a call and he faxed and sent the documents that she needed.

Ashgar was able to obtain the documents he needed, but he had to overcome the reticence of family members to send things because of fears that the mail would be read by the authorities of the home country. Some of his documents were translated by a settlement worker, and others by a translator.

Esperanza's family was fortunate that someone they trusted was travelling to Canada from their country of origin and could bring the documents they needed. Internet access is limited in their country of origin, so it was with difficulty that some documents were sent electronically.

Kate had to rely on her daughter back in the home country to collect evidence to support her claim in Canada. This was a source of worry for Kate. Her daughter was a university student, and collecting the documentation involved a lot of travelling for her daughter, compromising her studies. That put stress on both Kate and her daughter. The daughter would have to go multiple times to the same office before she could get the document. She was often treated by officials as "only a little girl". Kate was also concerned that it would not be safe for her daughter to travel to some parts of the country. Nevertheless, Kate's daughter managed to get 90% of the documents sought. Unfortunately, however, Kate had to get the documents translated twice because the first time the translation was not good enough. She thought the documents might have been filed late as a result.

Williams also had problems with translation of his documents, which had to be done on a volunteer basis, since there were no funds to pay for translation. It took up to three weeks to get them translated. One document which arrived later had to be on rush to translate and was only presented at the day of the interview.

Alma and her family did not receive all the documents requested in time, but they still had so many documents that translation was difficult. An NGO helped them with the translation.

Lionel regretted that he was unable to get a document from a third country in time for the hearing. On the other hand, all his documents were in English or French, so there was no need for translation. Slim was able to obtain letters from family members but not the police record ("they are very slow"). Her documents were in English. Espérance was unable to get a document concerning the death of her father due to the short timeline.

Andrea did not submit any documents. She was from a Designated Country of Origin and had been detained until shortly before the hearing, so she had very little opportunity to seek documentation. The only evidence that she had arrived only two days before the hearing. The NGO assisting her requested an extension on her behalf, but it was denied. She reports that the

Board Member explained at the hearing that her case could not be approved in part due to the fact that Andrea had no proof.

A number of claimants reported that they were able to get the documents they needed in time.

Nader had a second hearing ten days after the first, because documents were being translated and were not ready for the scheduled date.

Élizabeth felt that she was lucky to have been able to count on people in her country of origin who could send her the documents she needed. She noted that in some countries there are long delays in providing documents that are requested by citizens.

Diego felt he was able to obtain documentary evidence without difficulty. His lawyer told him what documents to collect. They were mailed to him from his home country and arrived in time. However, his challenge was getting them translated. Legal Aid did not cover the translation and he had no money to pay for it himself. He had previously been helped by his sister, but by that time, they had had a falling out. So Diego translated the documents himself using an English-Spanish dictionary and had the lawyer and her student make corrections. He recommended that assistance be provided to claimants for translation of documents as it can be costly.

8. Scheduling of Hearing (including change of date issues)

Most claimants interviewed had their hearing on the scheduled date.

Some claimants had their hearing postponed, including because the lawyer was unavailable on the original date (Fara), because no decision-maker was available (Eric), during investigation of the claimant by CBSA (Jian – for 6 months), for security checks (Ashgar – five months, Robert – 3 months) and because the Minister wanted to be present (Idriss).

Suldan did not know why the date was changed (to an earlier date), but thought it might have been to suit his lawyer's schedule.

Anna's hearing was postponed four times: first because of translation problems, then because the lawyer was ill, and the third and fourth times because of the claimant's panic attacks.

Slim had her hearing postponed because she came with her children. She was told by someone not to bring them back the next time and to find a babysitter, otherwise they would disqualify her. She said the hearing was also postponed because she needed more time to gather evidence.

Gabriela was given a postponement because her BOC had been submitted late.

Alma had two hearings, because the first was too short to cover everything. Hugo also had two sessions: there was not enough time in the first to review everything, but there also seemed to have been an issue with Hugo being very nervous: "there were a lot of questions made to me that I was having difficulties with, so the judge told me that if I did not feel well then we could call off the hearing and program another one for a later date."

9. Travel to the Hearing and Childcare

A number of claimants had challenges related to travel to the hearing, since they had to get to another city. The problem was compounded if they had children.

Ashgar found it very expensive to take the bus from Ottawa to Montreal for his hearing since he was on social assistance. He said he would have rather done the hearing via video-conference, for this reason. He was fortunate to have a friend from his home country who lived in Montreal: he stayed with him the night before the hearing. The alternative was to stay with the daughter of a settlement worker, since he could not afford to pay for accommodation in Montreal. His friend also helped him get to the hearing location, which otherwise would have been a challenge.

An issue raised by several claimants was that there was no one to take care of their children. Mama had a son with a disability: she was not given any help with him during the hearing. Jimmy had to leave her children with a man she had paid $100 to drive the family to the hearing.

Lionel, who had to travel to Toronto from Windsor, said: "Finding a person to go with us to Toronto to care for our very young son during our refugee hearing was very stressful, almost impossible even." Because they were very new in Canada, they had no friends or family members to turn to.

The one problem with the hearing mentioned by Diego was the difficulty in making accommodations for his very young children. At the time of the hearing, his son was 11 months old and his daughter was 3 and a half years old. He had to ask a friend to watch his children. The children attended the beginning of the hearing and then the friend took them out of the hearing room.

At Alma's hearing, there was no one to take care of her five year old sister, who was sick. The Board Member told them not to hesitate to say if she was feeling bad. Alma's 17 year old brother looked after her.

10. Procedures and Formal Aspects

Claimants who commented on the physical set up of the hearing room were neutral or positive.

Enrique described it as follows:

> "It was a small room, not formal, as it had been described to us at [agency serving claimants]. Everyone had their place, microphones, the computer, the cameras, comfortable, well-lit. Like an office."

Esperanza, his wife, added:

> "Before going in, I thought it was going to be like in the films, but no. We arrived 15 minutes ahead of time and I felt good. I was nervous, but not as much as I expected."

Jian described the physical set-up as "very friendly and very nice." Salvador described it as "comfortable." Alice commented that the distance between the IRB Member and herself was "comfortable."

Nader said:

> "When I saw the Canadian flag and the rules about where to sit and everything, I don't know, maybe I noticed how serious it was. As I told you compared to movies it is very relaxed. It was not like a court hearing, so yeah. But as I told you before I entered I had the words of people in my mind 'you will meet the judge, you have to be serious' – my friends, internet, stereotypes. But it was not like that. She was very professional, and I found that in her questions."

Fara found the set up of the room "very cozy". He had attended a READY tour and found the tour helpful for dispelling misconceptions: "before the tour I had no idea what it would be like and I thought it would be like a tribunal court, but it's not like that, it's much friendlier than that."

Henry felt relaxed in the hearing room space. "The space didn't make me feel scared."

Diego was the only claimant interviewed who had a hearing via videoconference. He said that he preferred videoconferencing and felt that if the Board Member had been in the room in person, he would have been more scared.

Patricia liked the room but did not feel truly at ease, particularly because there was no water to drink.

> "You should be able to have a glass of water, because when you talk... I had some in my bag, but I was afraid to bring it out. Because I saw that sometimes, it could be a sign of rudeness. Because I saw that no one there had water."

Semhar, who is under 20 years old, regretted that she could not see her sister's face because she was seated behind her.

Youssef has hearing difficulties, which he asked the Member to consider at the beginning of the hearing. His lawyer asked the interpreter to sit closer to Youssef, which helped him to hear.

Several claimants commented on the breaks during the hearing, which were mostly welcome. Patricia said that it was good that the Board Member proposed a break. She would not have asked for it on her own (she wanted to get it over as soon as possible). Alma found that they were constantly on break in the second hearing: a question and then a break. The break before the decision was very stressful.

Outside of the hearing room itself, Espérance commented that it was difficult to understand the system as no one "at immigration" spoke French (in Toronto).

11. Interpretation

About a quarter of claimants interviewed did not need an interpreter at their hearing.

Of those who had interpreters, many were satisfied with how they played their role. In a few cases they noted just minor issues: lack of knowledge of specific religious terms (Alice), converting dates in different calendars (Ashgar) or an error on a particular word (Diego).

Others had problems with the interpretation.

In Anna's first hearing, the interpreter was leaving out important details. This was noticed by the observers at the hearing, who raised it during the break. Anna's lawyer requested that the hearing be adjourned on this basis, which the Board Member agreed to.

In Jasmine's case, she understands some English and noticed that the interpreter was making errors. "Sometimes I did not interrupt and say anything because it is not polite. But when the next question was raised I explained the question for him. He fixed that question and also the judge understood that I know English. The judge was looking at my face when he was asking questions. He was seeing if I understood the question or not. If he saw that I did not understand the question he was repeating the question."

She was understanding of the difficulty of doing interpretation, but she noted that "if there is a possibility, they should provide a professional translator for the hearings because it is very, very important in the hearing. It is a life-changing decision."

Alma could understand the interpreter, but noted that Spanish was not her first language. Several words that Alma's father said were not correctly translated.

Patricia reported that the interpreter at her hearing was better than one she had used previously, who was not from her country, although there were some small errors. She did not think they influenced the hearing, however.

Semhar thought the interpreter knew both languages perfectly but she sometimes had difficulty understanding "when they used big words between the board and the translator". Her lawyer tried to clarify in English but there were some misunderstandings.

Kate had requested a female interpreter. She was extremely happy to find on the day of the hearing that this request was accommodated. She said, "It would have been more stressful to answer the Board Member's questions in front of a male interpreter. This would have added to the stress I was already feeling because of the hearing."

Nader did not understand why the hearing was in French since he speaks English. However, he understood the interpreter well.

12. Board Member Conduct

The hearing is the claimant's opportunity to be heard: many of the claimants interviewed commented positively on how the Board Member facilitated them presenting their case.

Alice described the IRB Member as "kind, patient, supportive, familiar with my case and open-minded about my case." When she did not understand her question, the Member repeated her question more clearly. The Member helped her to tell her whole story by asking her some questions and allowing her enough time to explain her case.

Eric found the Board Member to be open and accommodating. "She told me 'don't be angry or nervous. Feel at home. I am here to help you, not to cause you a problem.' She asked me many questions. I was respected [...] She took time to listen to me."

Élizabeth reported that the Board Member was calm and ready to listen. He spoke more slowly and adopted a "French accent" to make it easier to understand. She saw him reacting to some of the documentation about her case and felt that for this reason he didn't question her too much, and told her she could ask to stop if she was not ready or if she was tired.

Some claimants commented on how the Board Member helped to reassure them. For example, Lionel, who had been extremely stressed, said:

> "As soon as the hearing started, the board member told us exactly what was going to happen, and that helped. We knew the direction the interview would take. As the interview progressed, I became more relaxed and I was able to answer the questions more clearly."

The Board Member was intimidating (tall, and dressed in a suit and tie), but he joked a little right away, which broke the ice.

Jenny said that she was greatly relieved as soon as the Board Member entered the room and kindly said:"Hello".

Idriss said that the Board Member neither helped nor prevented him from explaining his case. "He was just there to listen to me."

Diego felt he had enough time to explain his case. Ashgar said that the Board Member conducted the hearing well and he felt good about the process. Enrique described the Member as attentive and pleasant. Espérance said the Board Member was calm, explained to her the questions, repeated her rights and gave her enough time to speak and to explain.

Youssef reported that there were times when he was reminded to stick to the question and provide a specific answer, and this prevented him sometimes from expressing his worries and fears. "But at the end, I think I was able to tell my story and present my case in full."

Lionel thought that the Board Member helped by not rushing him to answer questions.

Other claimants did not feel that they had been able to express themselves so freely.

Fara found the Board Member to be focussed on irrelevant details and this prevented him from explaining and clarifying certain aspects of his claim. He expected the Member to ask questions about key points in his case, but he never asked those questions, and instead went into details of things that it was not really necessary for him to know (for example, the Member wanted to know why he speaks English). Fara worried that all the time would be used up discussing these irrelevant matters – the interpreter had warned him before the hearing began that the Member was going to go into a lot of details and use up the whole time "and it freaked me out, my heart was bouncing, pounding!" Fara is aware that he talks a lot, and in fact the interpreter told him he was speaking too much and to keep quiet.

When asked if he had enough time to explain his case, Fara replied:

> "I had enough time to answer everything because I had decided not really to talk but just to answer questions. As I said, my lawyer told me, 'it's your job to listen, not to speak, you're not supposed to give a speech there.'"

Nevertheless, Fara felt that the Board Member was open-minded, although serious. "I don't remember that the member blinked even one time, he was like this [stares intensely without blinking]. It was sort of rude, but it was actually scary."

Henry felt that the Board Member didn't allow him to give full explanations. She wanted short answers. "I felt bad at my hearing also because I felt like I couldn't express what I felt. She wanted an answer that they wanted to hear."

Jimmy similarly commented that the member sometimes did not allow her to give details and instead wanted short answers. "I was stopped many times from explaining in my own words what happened."

Mama felt that the Board Member did not give her a sufficient chance to speak: almost all the questions were directed at her husband. "The few questions I was asked felt silly and she did not make me feel like I had a chance at all [...] I did not feel she was open-minded, but she already knew she was rejecting me again anyway."

Another claimant who was heard together with her husband, Maribel, also felt deprived of a full opportunity to be heard. "I wanted to talk but only my husband could speak. I could have said more." However, she thought that all the important points came out.

Many of the claimants made positive comments on the Board Member's manner. They described the member using such words as pleasant and friendly (Henry), polite and respectful (Salvador), gentle and patient (Jenny), understanding, caring and supportive (Fatimah), and friendly and understanding (Lionel).

Jian said, "I just explained a little bit and she understood. She was a good person." Alma said that the member was very generous, cordial and humane.

Patricia compared the Member favourably with the decision-makers she had previously appeared before in another country.

Anna reported that there were three Board Members in her case ("the principal judge and the other two").[1] During the hearing Anna was overwhelmed while listening to a witness and lost consciousness. An ambulance was called and the hearing adjourned. At the next hearing, the panel agreed that she should be treated as a vulnerable person.[2]

Several claimants commented on the skills and fairness of the Board Member. Diego felt that the Board Member treated him fairly. For Nader, the Board Member was nice, but at the same time very professional. Semhar felt the Board Member was supportive and tried to be fair. Jasmine described the Board Member as very professional and calm.

Maribel was grateful to the Board Member: she felt that he defended her from the Minister's representative who was present ("He defended us from that bad man.")

While several claimants found their Board Member "nice", others used the adjective "serious" but still fair. This was the case for Williams, who found the Board Member's questions to be logical.

Jimmy said her Board Member was very focused on the questions he asked and he listened precisely to her responses. He seemed to be busy typing in his computer, but he told her that he was listening to each word that she spoke. Overall, she found him an experienced, skilful and supportive person.

Mustapha found the member aggressive in his questions but he recognized that it was his job. He also felt that generally the Member was understanding about his painful experience.

Mama said she felt as though the decision had been made before the hearing began.

13. Board Member Preparedness

Many claimants reported that the Board Member seemed to be knowledgeable about their case, their country of origin, or both.

Eric commented that the Board Member seemed to be prepared and asked good questions. Jenny had a similar opinion. Fatimah considered the Board Member well-prepared, knowledgeable and open-minded. Alma's Board Member asked concise questions, which she took as a sign of preparedness. Diego felt that the Board Member had read his file. Lionel thought that the Member had studied their case and knew what the story was. His questions were direct and showed that he knew what he was asking. He also seemed familiar with Lionel's country of origin (including knowing some of the abbreviations used).

Youssef similarly felt that the Board Member had clearly read his narrative and was familiar with his case. His questions focused on specific issues of his case, and he stressed that he was not

[1] While a single member of the Refugee Protection Division usually hears a case, three-member panels are also possible, and are sometimes used for training purposes.
[2] Presumably in accordance with *Chairperson Guideline 8: Procedures With Respect to Vulnerable Persons Appearing Before the IRB.*

interested in going through the whole narrative again. He also seemed familiar with the situation in Youssef's country of origin.

Maribel was impressed that the Board Member asked the Minister's representative if he knew about the crime index in her country of origin, which she took as evidence that he was well prepared. Similarly Salvador noted that the Board Member showed that she was familiar with his case because she pointed out to the Minister's representative on one occasion that his question was answered on a certain page in a document.

Milo commented that the Board Member sometimes knew more about conditions in her country of origin than she did.

Williams noted that when his lawyer presented a document during the hearing, the Board Member took the time to review it.

On the other hand, some claimants were not so impressed.

Henry found that the Board Member "wasn't quite up to date" about the situation in his country of origin. "She doesn't understand the whole situation [there]."

Patricia felt at the beginning that the Board Member was well prepared, but towards the end she seemed surprised to learn that the claimant had previously made a claim in another country. She also felt that the Board Member had perhaps never travelled to another country and expected a prison in her country of origin to function like a Canadian prison.

Fara noted that he had submitted a CD with relevant details that was never discussed. Joy commented that the Board Member did not look at the documents: she was more interested in the claimant's identity.

Semhar felt that the Board Member could have been more prepared, and have done research about the situation in the country before the hearing.

14. Minister's Representative

Following the recent changes to the refugee system, there is increased scope for interventions by the Minister – in fact both the Minister of Citizenship and Immigration, and the Minister of Public Safety (via CBSA) may intervene. Interventions can be in writing only or in person at the hearing.

Three claimants reported that a representative of the Minister was present at their hearing.

Salvador, who had some legal training, referred to the Minister's representative as a "prosecutor." He felt that he was simply doing his job: the representative was familiar with his case, did not ask excessive questions and was never rude. "The questions were pertinent. I never heard a question that wasn't relevant." He did not feel any particular pressure.

In contrast, Maribel, experienced the Minister's representative as aggressively hostile. She reported that he said that what she and her husband said was not credible, and that their own

government could protect them: they didn't "need to come to bother Canadians." She reported that he said: "You came to lie." Maribel felt protected from his attacks by the Board Member.

There were two representatives of the Minister in Idriss' case. He did not have any complaints about how they asked questions. However, the hearing was suspended because they presented evidence that he had refugee status in another country, making his claim ineligible.

In Mama's case, the Minister was not represented at the hearing but had apparently sent a letter before the hearing. "He said that he would not be attending the hearing, or sending a representative, and he had already rejected our claims." The letter stated that they did not meet the refugee definition. Mama seems to have understood that the letter meant that the outcome of the hearing was pre-determined. "We had already been rejected even before the hearing."

15. Decision and Aftermath

Many claimants (65%) received an oral decision at the hearing. The written decision came mostly two to three weeks later (where the timeframe was mentioned). Two claimants said it arrived about a month later.

Needless to say, those who were recognized as refugees were more likely to welcome the oral decision. Maribel said:

> "We received our decision on the same day. It was the most beautiful day despite the fact that I don't want to be here anymore because I miss my country. He said "congratulations, as of today you are protected persons." We cried and hugged. It was so emotional. The judge waited a minute to let us calm down and then he began to read something that I didn't pay any attention to because I was so emotional."

Milo felt that it is "very important that one is told what is one's status in this country, leave the room with an answer and not to have to be waiting. It is very nice to have the decision on the same day."

Among those who did not receive an oral decision, written decisions were received one, two or three months later (where reported, and where a decision had been received by the time of the interview).

Eric had to wait three months for a decision, so while he was happy with the hearing, his problem was with not knowing if the decision was going to be positive or negative. "I didn't understand why it took so long to tell me if it was okay or not okay."

Eric has a wife and children in his home country, with whom he is anxious to be reunited.

Of those who had received a decision, several reported that they needed assistance understanding the next steps.

Esperanza, Enrique and their daughter Silvia received information about what to do from a social services agency and an NGO.

Anna said she understood absolutely nothing from the decision letter:

> "I found out about the next steps by asking [...] my social worker. She told me to do the permanent resident application and she printed the forms for me to do the application.
>
> "In the written decision, there were no instructions given…unless none that I could understand because it was given in English. I could only understand the decision and certain other things, but no, there weren't any steps to follow listed."

Milo received information from his lawyer about applying for permanent residence.

Gabriela seemed to be completely adrift. The Board Member gave an oral positive decision and told her she would receive the written decision by mail. When it arrived 30 days after the hearing, "the only thing that it informed me is that I would receive a call from an immigration agent to inform me about the next steps to follow. To this moment, he has not called me. I did not understand anything about the next steps to follow because nobody explained what I should do, if I had to request permanent residence and the one of my son at the same time, if I had to pay or not pay, nobody informed me about anything."

Fara, on the other hand, was clear about what needed to be done:

> "I knew that I was accepted on the day of the hearing and I was waiting to receive [the written decision] because I knew without that I could not apply for permanent residence. So I filled out the application, everything, and put it in an envelope, stamped and addressed, just waiting for that letter. And when I got it, I put it straight in the envelope and posted it immediately."

Patricia felt it wasn't clear what needed to be done after being accepted. An NGO explained things to her, but she still feels that there are a lot of steps (including applying for provincial health coverage).

Andrea received an oral negative and asked the Board Member to explain to her what would happen. The Board Member could only tell her that she would receive a letter. 15 days later she still had not received a letter.

Jian knew from NGOs and other claimants about the next steps in the process, but unfortunately he could not afford to apply for permanent residence. He did not have a job at the time of the interview, having received his work permit only just before the hearing (even though he had been in Canada for six months by then).

Kate was similarly without means, because she has to rely on welfare. In her case, she still had not received a work permit by the time of the interview. She felt there was a contradiction in that Canada grants her the right to be reunited with her dependant daughter in Canada, but the application fee is beyond her reach as she has no money. She was considering borrowing money from an NGO, but was already worrying about when and how she could repay the money.

Eric mentioned during the interview that he had medical bills to pay. The interviewer realized that he was not aware that he was eligible for provincial health coverage. He was referred to an NGO.

Joy received an oral negative. She was alone at the hearing as she had not been able to pay her lawyer to attend.

> "The judge told me that I should not feel that I'm totally lost or that I have no hope anymore and that the next step is to appeal. She told me I could appeal. When I got out from the premises I called my counsellor here [...] The next steps were not clear at all as I did not get any orientation from anywhere.
>
> "I was confused, I got back to my shelter and I cried and cried and that was it. So when I spoke with her she told me that I should not worry about it, that everything would be fine, and she starting telling me what next to do."

Isabella also received an oral negative and the written decision arrived a month later. Regarding the right of appeal, she said:

> "This was really confusing as my lawyer told me that I had 15 days to appeal and 30 days to leave the country. This really shocked me as 15 days is a really short time to appeal and to collect evidence. Then, I consulted [an NGO representative] who told me that the 15 days delay starts the day I receive the written decision. The instructions that my lawyer gave me were not clear at all."

Hugo felt that confusion was the inevitable state of mind:

> "I don't know, maybe the people who had lived that can tell that after going through the process you are confused about everything. However the assessment that I have received from the lawyer for the appeal process helped me out."

Nader, who was accepted, understood that he could apply for permanent residence, but was frustrated about how long it would take to get it, and in the meantime he has no right to study: "it is like a year of wasting your time, I have nothing to do right now. What will I do? I am accepted, I am a resident here, why do we have to wait that long?"

Six claimants were waiting for a decision at the time of the interview. Several mentioned the stress of waiting for the decision, including Mustapha, who still had no decision after 2 months. As Jimmy said: "The stressful part is waiting for the decision."

16. General Comments

In their overall comments on the refugee determination system, several mentioned the speed of the process.

Youssef commented positively on the 60 day period for the hearing, on the grounds that it means that people do not have to wait too long for the result on their case. However, he also noted that it could be risky if you have to gather documents from abroad.

For Maribel, the most positive thing about the refugee process in Canada "is that everything is all fast, fast, fast". But she also recognized the other side of the speed: "The negative thing is, personally, stress. Nerves, and a lot of pressure because everything is so fast."

Anna was similarly ambivalent about the speed. On the one hand, she felt that psychologically she was not ready. On the other hand, "this was the best way for things to go because when I received the decision I felt that I was protected and that my voice was finally heard after all those years where I was trying and knocking on doors to get protection."

Hugo was aware that the process in Canada used to take two or three years. "I think this new process could benefit some people, but it could really have a negative impact on others depending on documents, evidence and information that people bring with them. Some people would arrive here, with no family, no support, and no information, no nothing. If we consider that it could have a negative impact on those cases." (Hugo himself had the support of family and a community centre.)

Jasmine also felt bad for claimants waiting one or two years, but found that the short timelines created a lot of stress: "How was I going to finish everything before my hearing day? So I was scared and lots of stress was on my head and shoulders. My health condition was not good, there wasn't a specific sickness or something, I know it was because of stress." But compared to having to wait for years without a decision, she considered herself very lucky.

Others were straightforwardly negative about the timelines. For Espérance, "everything was difficult, everything was going too fast." She could not sleep and lost her appetite. Robert said: "It's not enough time, two months is not enough." He felt that the process requires you to be mentally prepared and can be stressful. He seems to have lost weight: "I became really skinny." Élizabeth similarly said that she needed more time: two months was not enough time.

Andrea was severe in her judgment: "The system isn't effective. They don't give anyone time to organize themselves. I heard that before the change in the law people had more time to prepare for their hearings. The new changes didn't help me at all."

For Isabella, the time for each stage is "extremely short. I have heard that the delays were longer before and much more comfortable. They have to bear in mind that we come here to ask for help [...] and that we are very stressed and with a lot of anguish. In my case, I came here with a little boy, I left my life, everything, and, with a young child, my anguish is greater [...] You don't know where to seek help so I think that the treatment is not very fraternal and is very quick."

Alma found the process fast, but was well-supported. "I never thought that the process would be that fast. Everyone I met in the process wanted to help. It was a process of learning. I learned a lot. I am 100% grateful to all the people that helped us."

Fatimah similarly felt she was only able to negotiate the process successfully because of the support she had – in her case, family members:

> "Although, for me the whole refugee system worked, I don't think I could have gone through the process, especially with the very short time period given to me, if I did not have family members here that guided me. I am lucky that they knew the refugee office and so I was able to have access to help fast."

Fatimah also mentioned that the short timeline made it difficult for her to trust her lawyer at the beginning, particularly because she had a male lawyer.

Several other claimants expressed gratitude for the invaluable help given by civil society organizations during the claim process. For example, Fara lived in a refugee house operated by a settlement agency. He found this living arrangement helpful as he was able to share his experiences with other applicants. Enrique and Esperanza mentioned a couple of organizations that helped their family, as well as a friend who had already gone through the process and was able to help them.

Fara highlighted the financial situation of claimants:

> "If I was going to warn newly arrived refugees about something to do with the system, I would tell them to save their money! Because the government is not going to give you much money. Don't think they're generous, because they're not! I would also tell them to start their preparation *now* because they don't have much time. They have to really work hard on their case to make everything ready for the hearing date because there really isn't much time at all. I think that's what I would advise them."

Salvador also reflected on living in poverty, while he waited for welfare. He stayed with a friend for about a month and a half, and was embarrassed not to be able to even buy rice to bring home. He sometimes went to food banks. Diego also noted that he had no funds for the application fee for permanent residence.

Several claimants gave a strongly positive overall assessment of the process. Suldan was happy with the whole system and thought it was fair. Alice believed that "the whole refugee system is positive, works well for me and seems fair to me. Nothing seems unfair or difficult to me." Similarly, Jian said: "Overall, I think this system is so good, and they are such good people. I like it and I am very grateful."

Maribel had some critical things to say, but noted on the positive side that "you are treated with respect and there is no discrimination. People treated us with good manners." Élizabeth felt that she had had a fair hearing, even if she was fearful. Williams said he felt "safe" while going through the refugee process in Canada. Semhar felt that it was a lot of work, but now she feels more responsible.

Others were more negative. For Mustapha, the whole process was stressful and painful. He was not able to understand the questions and the Member seemed not to understand his answers. He was finding it difficult to wait a long time after the hearing for a decision. Mama felt that her family's experience at the border was the only place where they were treated kindly and fairly. "From start to finish of the hearing, I was in shock, and confused because I knew a decision was already made before I had started the hearing, [...] I felt inhuman, like my right to be treated like a human being had been taken away from me. [...] For me there was nothing good about the hearing. I wasn't given any chance to be heard."

A couple of claimants commented on the difficulty of getting accurate information. In particular, Fara felt that the information on the CIC website about the refugee system was inaccurate and incomplete. It was only when he found an organization serving refugees that he was able to learn important things not on the website.

For Patricia, who had been accepted as a refugee, the memory of detention remained dominant when she thought about the process overall. She was very distressed to have been handcuffed whenever she went to a hearing or to immigration, making her feel like a criminal. She also found it very difficult to sleep while detained, and she was woken up at 5 am.

Several claimants were turning their attention to the next stage in the process, and hurdles to be overcome. Jasmine took the opportunity to mention the importance of family reunification. She was disappointed to think that she cannot bring her adopted child, because of a lack of formal adoption papers.

Maribel was grateful to be safe, but conscious of what she had lost:

> "I thank Canada for providing security for myself, my kids and my husband. This is very valuable. In my country I was always looking over my shoulder. I give thanks to the government for taking us in and I hope to work to be able to help this country move forward.
>
> "I was a teacher and I miss my kids that I had to leave without saying good-bye. I really miss my work. I have been very depressed because I don't feel useful. I've worked since I was 17 years old."

Nader said, "Now I found protection from the Canadian government and now I am safe. […] Everybody wants to have this good life in their original country, they miss family and everybody, but this country gives us … dignity."

17. Appendix

Pseudonym	Location	Age	Gender	Area of Origin	Port of entry or inland	Result
Mama	Windsor	41-50	Female	W. Africa	POE	Rejected
Fatimah	Windsor	31-40	Female	W. Asia	POE	Accepted
Lionel	Windsor	31-40	Male	C. Africa	POE	Pending
Williams	Windsor	31-40	Male	N. or C. America	Inland	Pending
Fara	Vancouver	21-30	Male	C. Asia	Inland	Accepted
Alice	Vancouver	31-40	Female	E. Asia	Inland	Accepted
Eric	Vancouver	31-40	Male	C. Africa	POE	Accepted
Henry	Vancouver	31-40	Male	N. or C. America	Inland	Rejected
Salvador	Vancouver	51-60	Male	S. America	POE	Accepted
Jenny	Vancouver	21-30	Female	C. Asia	Inland	Accepted
Jian	Vancouver	51-60	Male	W. Asia	Inland	Accepted
Maribel	Vancouver	41-50	Female	N. or C. America	POE	Accepted
Milo	Vancouver	21-30	Male	S. America	Inland	Accepted
Kate	Vancouver	41-50	Female	C. Asia	Inland	Accepted
Jasmine	Kitchener	41-50	Female	C. Asia	Inland	Accepted
Jimmy	Kitchener	31-40	Female	C. Asia	Inland	Pending
Mustapha	Kitchener	31-40	Male	C. Asia	Inland	Pending
Youssef	Kitchener	61+	Male	W. Asia	Inland	Accepted
Suldan	Kitchener	21-30	Male	E. Africa	Inland	Accepted
Diego	Ottawa	21-30	Male	S. America	POE	Accepted
Asghar	Ottawa	21-30	Male	C. Asia	Inland	Accepted
Idriss	Hamilton	41-50	Male	C. Africa	POE	Rejected
Joy	Toronto	-	Female	W. Africa	POE	Rejected
Espérance	Toronto	31-40	Female	C. Africa	Inland	Accepted
Slim	Toronto	31-40	Female	N. or C. America	Inland	Pending
Robert	Toronto	21-30	Male	N. or C. America	Inland	Accepted
Isabella	Toronto	-	Female	S. America	POE	Rejected
Gabriela	Toronto	31-40	Female	S. America	POE	Accepted
Alma	Toronto	21-30	Female	N. or C. America	Inland	Accepted
Anna	Toronto	31-40	Female	N. or C. America	POE	Accepted
Andrea	Toronto	41-50	Female	Eur + S. America	POE	Rejected
Semhar	Toronto	21 and under	Female	E. Africa	POE	Accepted
Hugo	Toronto	31-40	Male	-	Inland	Pending
Elizabeth	Montréal	31-40	Female	C. Africa	POE	Accepted
Patricia	Montréal	21-30	Female	C. Africa	POE	Accepted
Enrique Esperanza and Sylvia	Montréal	41-50 41-50 and under 20	M, F and F	N. or C. America	Inland	Accepted
Nader	Montréal	21-30	Male	E. Asia	Inland	Accepted

Questionnaire used in project

About the claimant:

Applicant's Name: _____

City _____

Phone number: _____ email: _____

(The above is confidential and for contact purposes only – for example so we can send you a copy of the final report.)

Pseudonym: _____

(optional: suggest a fictional first name for yourself for use in the report)

Gender of claimant: _____

Country in claim: _____

Age: 20 and under _____21-30_____ 31-40 _____ 41-50_____51-60 _____61+_____

Refugee Decision: Accepted _____ Rejected _____ No decision yet _____

Consent

Claimant has consented to interview for use in CCR report Yes/No [if no, do not proceed with interview]

Claimant also consented to interview (without name) being shared with researchers trusted by CCR: Yes/No

Making the claim

1. When did you make your claim?
2. Where did you make your claim (border or inland)? If the claim was made inland, when did you arrive in Canada?
3. How did the process of making a claim go? Were there any problems?
4. How long did you have to fill in the Basis of Claim form (BOC)?
5. Did someone help you fill out the BOC, and if so who, (lawyer, organization, friend, etc)?
6. How did the process of filling out the BOC go? Were there any problems?
7. [If this has not already been answered] Do you have a lawyer? Is the lawyer paid by legal aid?
8. What did you do to prepare for your hearing and who was helping you or giving you information? Did you know what to expect and did you feel well-prepared?

9. Did you try to collect documents to support your claim (for example from your country of origin, or from a doctor)? If so, did you receive the documents in time for the hearing? Tell us a bit about the documents that you did or didn't receive. Were you able to get them translated?

About the hearing

10. When was your hearing?
11. Where was your hearing (which city)?
12. Was the hearing in person or by video conference?
13. Was the hearing just for you or were you with family members? If not alone, which family members were with you? If there were children, please give ages and explain what happened with child care arrangements for any children too young to stay through hearing.
14. Did the hearing happen on the day originally scheduled, or was the date changed? If there was a change in date, please explain what happened.
15. How long did the hearing last? Was it all on one day or on several days?
16. Do you know if the government opposed your claim? (technically, this is the Minister intervening in your case. Usually the government sends documents to argue that you should not be recognized as a refugee; sometimes the Minister will send a representative to the hearing).
17. Who was present at the hearing? (lawyer or immigration consultant, interpreter, Minister's representative, observer, etc, etc) - (not names, just roles. If not sure, no need to worry!)
18. If you received documents just before the hearing, did the decision maker accept them at the hearing? If you were still waiting for documents to support your claim, did you or your lawyer ask for more time to receive those documents? If so, what was the answer?
19. Did the decision maker tell you whether you were accepted or not at the hearing?
20. How long after the hearing did you receive the written decision?
21. What did you understand about next steps in the process when you received the decision?

Perceptions of Hearing:

Give the interviewee the opportunity to describe their experience of the hearing. Indicate that it is not necessary to tell us about their claim, and that we are interested in how the hearing went and what (in their opinion) helped or didn't help them to present their case.

Can you describe your experience of the hearing from start to finish? What was your impression of the hearing? What was good about it and what was bad about it? Do you feel you were fully heard? Include any details you would like to tell us about.

- Interpretation
  - Was there an interpreter?
  - Did you understand the interpreter and did she/he seem to understand you?
  - How did you feel about the interpreter? In your view, did the interpreter influence the hearing?
  - How did the interpreter help or not help you to be understood?
- Board Member Conduct
  - What was your impression of the board member (or decision maker) conducting your hearing?
  - How was your interaction with the member? Was the Member supportive or hostile?
  - Overall, what did you like or not like about how the Member ran the hearing?
  - How did he or she help you or prevent you from telling your whole case?
  - How did he or she help you or not help you to feel you had a fair chance to present your claim?
  - In your opinion, did the member appear to be open-minded about your case?
  - Did you feel you had enough time to explain your case?
- Board Member Preparedness
  - Did the decision maker appear to be familiar with your file and the documents you had submitted? Did he or she appear to be well prepared?
- Minister's representative (if present)
  - How did the Minister's representative (or government representative) participate in the hearing?
- Procedures and Formal Aspects
  - What did you think about the physical set-up of the hearing?
  - Did anything about the format or procedures of the hearing make an impact on you? Describe what they were and what you thought about them.
  - Did you need any accommodations for a special situation during your hearing, and were these provided to you? (e.g. disabilities, health issues, having young children there, etc.)
- Overall comments on the refugee system
  - When you think about the whole refugee system from making the claim to the hearing, what parts of the system worked well for you or seemed fair?
  - Which parts were difficult for you or seemed unfair?