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Court No. 22153

SUPREME COURT OF CANADA
(On Appeal from the Federal Court of Appeal)

B E T W E E N:

ABDUL RASSOUL DEGHANI

Appellant

- and -

THE MINISTER OF EMPLOYMENT
AND IMMIGRATION

Respondent

FACTUM OF THE INTERVENANT
CANADIAN COUNCIL FOR REFUGEES

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Part I: The Facts

The Intervenant accepts the statement of facts as set out in the Appellant's factum.

10

Part II: The Issues

The Intervenant accepts the statement of issues as set out in the Appellant's factum. In addition the Intervenant submits that this issue may arise; if there is a violation of either section 10(b) or section 7 of the Charter, is the violation a reasonable limit demonstrably justified under section 1 of the Charter?

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Part III: The Law and Argument

A. Section 10(b) and Section 15

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1. Detention in section 10(b) of the Canadian Charter of Rights and Freedoms should not be interpreted so as to effect discrimination against Convention refugee claimants.

2. The equality guarantee in the Charter can be used to interpret the other rights and freedoms guaranteed in the Charter. The "law" referred to in section 15 of the Charter includes the Canadian Charter of Rights and Freedoms itself.

Reference Re School Act (1988) 30 D.L.R.(4th) 499 (P.E.I.C.A.) per McQuaid J. at 535-6

Re Fraser and A.G. of N.S.(1986) 30 D.L.R.(4th) 340 (N.S.T.D.)

40

3. The equal protection of the law in section 15 of the Charter includes policy. Section 15(2) refers to programs or activities. This reference would have been unnecessary if section 15(1) embraced laws only.

Dale Gibson "The Law of the Charter: Equality Rights" page 95

Operation Dismantle v The Queen (1985) 1 S.C.R. 441 at 459 per Dickson J.

Andrews Law Society of B.C. (1989) 1 S.C.R. 143 at 182 per McIntyre J.

4. In this case the contested denial of access to counsel is a policy. The Immigration Manual states "It shall be Commission policy not to permit counsel at port of entry examinations."

(Underlining is in the Manual) I.E. 1.08 in Chapter 2
"Port of Entry Control"

10 5. Refugee claimants fall into an analogous category to those specifically mentioned in section 15.

6. Refugee claimants, unlike others who have come to Canada without visa, are not people who are free to leave and to return to their country of nationality.

20 7. The majority of the Federal Court of Appeal in this case states that everyone is detained from the moment when the person presents himself for admission at a port of entry.

8. What is at issue is not whether there is a detention but whether the detention escalates into one of constitutional consequence.

30 9. The majority in the Federal Court of Appeal refer to refugee claimants as persons who have been put in detention by their own actions in seeking admission. The Intervenant submits that because refugee claimants are fleeing what they claim to be a well founded fear of persecution, they have not accepted detention voluntarily. A person forced to flee cannot be said to have come voluntarily to Canada. Their refugee claimant status insofar as it is based on a well founded fear of persecution, cannot be readily altered by them, except on the basis of
40 unacceptable cost, i.e. by returning to persecution. In that sense, their refugee claimant status is an immutable characteristic.

See LaForest J. in Andrews supra at page 195

10. Refugee claimants are a group lacking political power and as such vulnerable to having their interests overlooked and their rights to equal concern and respect violated. They do not have the right to vote.

See Andrews supra at page 152 per Wilson J.

11. Refugee claimants form the kind of discrete and insular minority to which the Supreme Court of the U.S. referred in U.S. v Caroline Products co. 304 U.S. 144 (1938) at pp 152053, n.4.

See Andrews supra at page 183 per McIntyre J.

10

12. In determining whether there is discrimination on grounds relating to personal characteristics it is important to look not only at what has created the discrimination but also to the larger social, political and legal context. It is only by examining the larger context that a court can determine whether differential treatment results in equality. A finding that there is discrimination will in most cases necessarily entail a search for disadvantage that exists apart from and independent of the particular legal distinction being challenged.

20

Turpin v The Queen (1989) 1 S.C.R. 1296 at 1331-1332 per Wilson J.

13. In the case of Andrews this Honourable Court found that non citizens fall into an analogous category to those specifically enumerated in section 15.

Andrews v Law Society supra per Mr. Justice LaForest at p 195

30

14. Refugee claimants are a sub group of non citizens. All refugee claimants are non citizens.

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15. Andrews and Kinersly, the applicants in the Andrews case, were permanent residents. It is submitted that if permanent residents are considered to fall within the protection of section 15 of the Charter then refugee claimants fall within the protection of section 15 of the Charter a fortiori. Refugee claimants have fewer rights and more liabilities than permanent residents do. Refugee claimants are more powerless than landed immigrants are. Refugee claimants are more vulnerable to having their interests overlooked and their rights to equal concern and respect violated than permanent residents are.

16. Refugee claimants are amongst the most disadvantaged of those covered by the Canadian Charter of Rights and Freedoms.

- (a) Refugee claimants cannot work before their credible basis hearings.

Immigration Regulation 19(1), 19(4) (k) (ii)

- (b) Refugee claimants and their children cannot go to school before credible basis hearings.

Immigration Regulation 14.1, 15 (1.1)

- (c) Refugee claimants, depending on the province, are ineligible for medical care and hospitalization coverage.

10 For Manitoba, Regulations 506/88 Manitoba Gazette vol. 117 Oct. 23/88 sec. 7.

- (d) Refugee claimants are ineligible for family allowance.

Family Allowance Act (1985) R.S.C.Chap.F-1 Section (3)(1)(ii)
Family Allowance Regulations section 2(3) 1978
Can Gaz. Pt II, page 2801

- (e) Refugee claimants are subject to detention solely on the ground that they are unable to satisfy a government official of their identity.

20 Immigration Act 103.1(1)(a)

- (f) Depending on the province, refugee claimants are or have not been eligible for legal aid for their refugee claims.

Legal Aid Act of New Brunswick 1973 R.S.N.B.
section 12(1) as amended

Re: Gonzales-Davi (1989) B.C.L.R. (2nd) 232

- (g) Depending on the province, refugee claimants have been ineligible for welfare.

Re: Pirbhai (1983) 49 B.C.L.R. 275

- 30 (h) Refugee claimants cannot be united in Canada with their family abroad.

Immigration Regulation section 4(1)

40 17. Both Canadian citizens and non citizens on arrival at a port of entry pass through a primary inspection line. The primary inspection line is for both customs and immigration purposes. Canadian citizens do not go to secondary inspection for immigration purposes. Both citizens and non citizens may go to secondary inspection for customs purposes.

18. A person who enters secondary examination for customs purposes is considered detained within the meaning of section 10(b) of the Charter from the moment the person enters the interview room.

R. v Jacoy (1988) 2 S.C.R. 548 at 561 (Wilson J.) at 557 (Dickson C.J.C.)

R. v Rodenbusch (1985) 21 C.C.C.(3d) 423 at 426 (B.C.C.A)

19. It amounts to discrimination against non citizens if non citizens are not considered detained within the meaning of section 10(b) of the Charter when they are asked to submit to secondary examination for immigration purposes, but persons are considered detained within the meaning of section 10(b) of the Charter when they are asked to submit to secondary examination for customs purposes.

10

20. A refugee claimant at a secondary (immigration) examination is in greater need of counsel than a Canadian citizen or permanent resident at a secondary (customs) examination. The refugee claimant is usually unfamiliar with the language. His/her fear of public authority might be fairly grounded on the experience in the country of origin. The claimant is in greater jeopardy and entitled to a greater degree of protection or assistance for these reasons. The claimant should certainly not be given lesser protection.

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M.E.I. v Borowski (1990) 32 F.T.R. 205 at 211

21. In order for discrimination to exist it is not necessary for those more favorably treated to consist only of citizens. The relevant test is whether those less favorably treated consist only of non citizens. Where those less favorably treated consist only of non citizens, then there is discrimination in violation of the Charter.

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Brooks v Canada Safeway Ltd. (1989) 1 S.C.R. 1219
at 1247-1249

22. In the alternative, a person who goes to secondary inspection for customs purposes is considered detained from the moment when the person is required to undergo a strip search, or from the moment when customs officials decide to search the person.

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R v Simmons (1988) 2 S.C.R. 495 at 521

R v Jacoy supra at p.557

23. The analogous situation for immigration inspection is the moment when the immigration officer goes beyond routine questioning and decides to examine the person on his/her refugee claim.

24. The Federal Court of Appeal majority in this case makes a distinction between the questioning of the Appellant, which it considered routine and a strip search, which it considered not routine. However, as this Court has said in Therens the distinction is not between the routine and the non routine, but between situations where persons may reasonably require assistance of counsel, but might otherwise be impeded from retaining counsel, and situations where either counsel is not reasonably required or where there is no impediment to retaining counsel.

R. v Therens (1985) 1 S.C.R. 613 at 614-42 per LeDain J.

25. For both strip searches and for questioning of a refugee claimant on his/her claims the person may reasonably require the assistance of counsel but might otherwise be impeded from retaining counsel, without the benefit of section 10(b) of the Charter.

26. It amounts to discrimination in violation of section 15 of the Charter to hold that one group of those who could reasonably benefit from counsel but might otherwise be prevented from retaining counsel, those to be searched at secondary customs examinations, can benefit from section 10(b) of the Charter, but another such group, refugee claimants being examined at secondary examinations about their claims, cannot benefit from section 10(b).

27. The denial of the right to retain and instruct counsel without delay is a positive act of the government. The failure to inform a refugee claimant of that right, where the right exists, is a negative omission of the government.

28. The equality guarantee applies both to positive acts and negative omissions. A failure to act which results in discrimination or invidious inequality violates the guarantee of section 15 of the Charter.

R v S.S. (1990) 2 S.C.R. 254 at 286 per Dickson C.J.C.

10 29. Denying a right to counsel and notice of the right to counsel at the secondary examination means denying section 10(b) rights to a sub group of Convention refugee claimants and as such is a violation of section 15 of the Charter.

20 30. For inland control it is Immigration policy to allow legal or lay counsel to attend immigration interviews with the exception of counsel who cause delays, disruption or annoyance which impede the progress of the interview. The Immigration Manual states that a rationale for allowing counsel to attend interviews is the belief that those individuals who need assistance should have the privilege of counsel.

Immigration Manual I.E. 4.07

30 31. Refugee claimants are not denied the right to retain and instruct counsel for all interviews. They are allowed the right to retain and instruct counsel for inland interviews, but are denied the right for port of entry interviews.

32. For section 15 to be violated it is not necessary for discrimination to be universal, to affect every member of the group. It is sufficient if it is partial, affecting only part of an identifiable group.

40 Brooks v. Canada Safeway Ltd., supra.

B. Section 7 and Section 15.

33. Section 15 requires that section 7 interests be respected without discrimination. Denying a right to counsel and a notice of the right to counsel at port of entry secondary Immigration examinations means denying section 7 rights to a sub group of Convention refugee claimants.

34. This Honourable Court in 1964 held that a person whose affairs are involved in an investigation carried on by an officer is not entitled to be represented by counsel.

Guay v Lafleur (1965) S.C.R. 12

35. In light of a 1987 decision in this Court the case of Guay v Lafleur is no longer good law.

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Stephens v College of Physicians (1989) 76 Sask. Rep. 57 at 63 referring to Irvine v Canada (1987) 1 S.C.R. 181

36. Now the law is that the characteristics of the proceedings and the nature of the resulting report and what will result when events succeeding the report are put in train determine the extent of the right to counsel at common law under the duty of fairness.

20

Irvine v Canada at page 231

37. In the case of Irvine this Court stated:

"it was sufficient that the hearing officer allowed all the parties to be represented by counsel who could object to improper questioning and re-examine their clients to clarify the testimony given and to ensure that the full story was communicated by the witness counsel represented."

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At page 235

38. This statement creates an implication that if that right of counsel had not been granted, the procedures would not have been sufficient to meet the duty of fairness.

39. The enactment of the Canadian Charter of Rights and Freedoms has enhanced the right to counsel in an administrative setting. Under the Charter there is representation of counsel as a matter of right where the circumstances are such that the opportunity to present the case adequately calls for representation by counsel.

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Howard v Stony Mountain Institution (1984) 2 F.C. 642 at 663 (per Thurlow C.J.) and at 684 (per MacGuigan J.) (F.C.A.); (1987) 2 S.C.R. 687, appeal quashed as moot

40. A refugee claimant at a port of entry examination is a compellable witness. The person must appear at the examination, and must answer the questions asked. If the claimant, on arrival, refuses to answer the questions that are asked, the claimant can be prosecuted.

Immigration Act Section 12(1), 12(4), 94(1)(f), 94(1)(g), 94(1)(h), 94(2).

10

41. It is submitted that these constraints lead to a violation of liberty and security of the person within section 7 of the Charter.

42. Section 7 of the Charter may be infringed by a purely investigatory proceeding. The fact that a procedure is investigatory is irrelevant when a potential consequence of the investigation is itself a deprivation of life, liberty and security of the person.

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Thompson Newspapers v Canada (1990) 1 S.C.R. 425 at 461
Wilson J., in dissent but not on this point.

43. There is a deprivation of liberty and security of the person within section 7 of the Charter even if there is no detention if a person is required to give evidence to an investigating official.

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Thompson Newspapers v Canada per Wilson J. at 460, 461

44. The Intervenant submits that by virtue of the evolving doctrine of fairness and its enhancement by the Charter there is now a general right in Canada for any compellable witness subject to purely investigative proceedings to have a right to counsel when events succeeding the report that stems from the investigation may reasonably create a threat of impairment of the right to life liberty and security of the person.

40

45. If the Intervenant is correct and there is such a general right it would be a denial of the equality guarantee under the Charter to grant this right to everyone else and to deny it to refugee claimants.

46. Under Bill C-86, the function of immigration officers would cease to be investigatory only at the secondary examination. The officers would have powers to decide on eligibility to make a refugee claim, on exclusion orders, and on conditional departure orders.

Bill section 35, repealing and substituting Act section 45(1)(a), page 40

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Bill section 13(2) repealing and substituting Act section 23(4), page 23

Bill section 17, repealing and substituting Act section 28(1) page 29

47. The interests of true equality may well require differentiation of treatment.

R v Big M Drug Mart Ltd. (1985) 1 S.C.R. 295 at 347 per Dickson J.

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48. It must be recognised that identical treatment may frequently produce inequality.

Andrews supra at p.164 per McIntyre J.

49. There must be reasonable accommodation so that those with special needs enjoy realistic equality.

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50. There is no greater inequality than the equal treatment of unequals.

McIntyre J. in Andrews supra at page 164 quoting Frankfurter J. in Dennis v U.S. 339 U.S. 162 at 184 (U.S.S.C. 1950)

51. While the concept of reasonable accommodation has been developed when interpreting human rights legislation, that jurisprudence is transferrable to a Charter setting.

40

Andrews supra at 172-175

52. Even if, contrary to the position of the Intervenant, equal treatment of refugee claimants does not require recognition of a right to counsel at port of entry secondary immigration examinations, then it is submitted refugee claimants would nonetheless be entitled to counsel.

53. Refugee claimants are people with special needs. In order to enjoy realistic equality with others they need the assistance and advice of counsel at port of entry secondary immigration examinations.

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54. Because of the unfamiliarity of refugee claimants with the language, and the justifiable fear of authority they may have, refugee claimants at port of entry secondary immigration examinations are entitled to a reasonable accommodation to cater to their special needs.

20

55. Allowing, before the interview, telephone contact, or personal contact if the counsel is already present, and allowing counsel to participate in the interview provided the counsel does not delay or impede the interview is a reasonable accommodation to the special needs of refugee claimants.

C. Section 1 of the Charter

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56. If section 10(b) or section 7 is violated, then that violation cannot be justified when the violation is inflicted in a manner that denies section 15 rights.

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57. If refugee claimants are constitutionally detained either on entry into the secondary examination or on commencement of inquiry into their refugee claims then a balance or administrative convenience cannot override the need to adhere to the protection given the constitutionally detained. If refugee claimants have a right to counsel and notice of the right to counsel by virtue of section 7 of the Charter at secondary examination on commencement of an inquiry into their refugee claims, then, also a balance of administrative convenience cannot override the need to adhere to the protection given by section 7 of the Charter.

Singh v M.E.I. (1985) 1 S.C.R. 177 at 219 per Wilson J.

58. The bringing of section 15 considerations to bear on section 10(b) does not bring administrative considerations to bear where they would otherwise be irrelevant. Administrative

considerations have been held to be relevant to a section 1 analysis where section 15 is violated in isolation. They have not been held to be relevant where a principle of fundamental justice is violated in a manner that denies section 15 rights.

10 59. The assertion of section 15 rights alone may involve the balancing of competing interest of different groups in society. The assertion of section 15 rights to interpret and apply section 10(b) rights and/or section 7 rights involves no such balancing. Here the government is the singular antagonist of the individual whose rights have been infringed. In such circumstances, the courts can assess with some certainty whether the least drastic means for achieving the purpose have been chosen.

20 See *Irwin Toy Ltd. v A.G. Que.* (1989) 1 S.C.R. 927 at 994 per LaForest J.

30 60. Insofar as administrative considerations are relevant, the Intervenant notes that the Respondent accepts that at inland interviews refugee claimants may be accompanied by counsel. Yet at inland interviews, refugee claimants are not detained in any sense. It would be perverse to find denial of counsel at the port of entry, where there is a detention, to be a reasonable limit demonstrably justified, when the Respondent, by its own practice, accepts that denial of counsel at inland interviews where there is no detention is not demonstrably justified.

Immigration Manual I.E. 4.07

40 61. If it is justifiable to allow counsel to be present at inland interviews, a fortiori it is justifiable to allow counsel to be present at port of entry interviews. A port of entry claimant is entitled to a greater degree of protection or assistance than an inland claimant, because of his/her possible fear of public authority and unfamiliarity with the language.

M.E.I. v *Borowski* (1990) 32 F.T.R. 205 at 211

62. The Immigration Act and Regulations provide for federally financed designated counsel for port of entry claimants, but not for inland claimants.

Immigration Act section 30(2)

Immigration Regulations section 39.3(1)

10 63. It is perverse and inconsistent for the federal Parliament and government to set up a system of federally financed designated port of entry counsel, and then deny access for these counsel to port of entry claimants at the time of the initial interviews. Any argument that denial of access to counsel is demonstrably justified is undercut by the establishment of a port of entry designated counsel system.

20 64. The Parliament and Government of Canada were able to overcome administrative concerns that a right to counsel at port of entry inquiries would lead to adjournments and delays by establishing the designated counsel system. If these concerns about delays are indeed overcome with the use of designated counsel at port of entry inquiries, it is submitted that they could also be overcome by use of designated counsel at port of entry interviews.

30 65. The Intervenant does not submit that the port of entry interviews should be delayed until such time as counsel of choice is available for the interviews. The Intervenant submits only that when counsel is available ready and present at the time when the interview would otherwise take place, that counsel should be allowed to assist.

40 66. In addition the Intervenant submits that refugee claimants should be allowed to contact a lawyer to seek legal advice before the interview takes place. The contact would be in person if the lawyer is present at the port of entry. Otherwise it could be by telephone.

67. The purpose of the right to counsel is not merely to allow the person to be represented at the time of the proceedings. It is also to allow the person to be informed of his/her rights and obligations under the law and to obtain advice on how to exercise those rights.

See *R v Manninen* (1987) 1 S.C.R. 1233 at 1242-1243, per Lamer J.

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68. The Intervenant submits that claimants should be informed both of their right to contact counsel for advice before the interview and their right to have counsel present at the interview if counsel is available at the time the interview is to take place.

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69. In principle, the refugee claim has nothing to do with the secondary examination, other than the fact that the claim is being made.

See Immigration Act 12(1); 2(1) "Entry", "Admission"; 14(1)

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70. In order to conduct the port of entry examination as required by the Immigration Act, officers can legitimately ask whether a person is making a refugee claim in order to determine whether or not the person is a bona fide visitor. Refugee claimants are not considered genuine visitors, because the duration of their stay is uncertain.

Immigration Act 19(1)(h)

Chan v M.E.I. (1928) 1 F.C. 217 (F.C.A.)

40

71. Interviewing officers should not be interviewing claimants about their claims. Insofar as a right to counsel generates any administrative inconvenience whatsoever, the inconvenience could be avoided if immigration officers stayed within the confines of the task assigned to them by law, and did not interview claimants about their claims. Then there would be no need for counsel to assist at the interview.

72. The officer in this case asked the Appellant about his claim in order to determine whether to invoke humanitarian and compassionate (h & c) considerations to allow the person to stay. This h & c interview was done pursuant to a policy of the Government to conduct a pre inquiry h & c review of all refugee claimants.

10 73. The law does not dictate that the h & c review be done at the port of entry. It could just as easily be done subsequently after the Appellant had cleared port of entry formalities.

20 74. It is submitted that it cannot be demonstrably justified that the h & c preinquiry review for refugee claimants be done at the port of entry.

30 75. The purpose of the h & c review is to consider the possibility of invoking a program that was designed to benefit claimants. When the h & c review is done in a port of entry setting, without access to counsel, and where the claimant is a compellable witness, instead the h & c review may end up being adverse to the claimant, as it was in this case. The claimant may make statements in this context that are then used against the claimant by the Respondent in contested credible basis proceedings, again as was done in this case.

40 76. The fact that the h & c interview is not required by law does not change the fact that the claimant is compellable. According to the Immigration Act "every person shall answer truthfully all questions put to the person by an immigration officer at an examination." An h & c interview at a port of entry is not a voluntary interview for the claimant.

Immigration Act sections 12(1); 94(1)(g); 94(1)(h); 94(2)

77. If the pre inquiry h & c reviews for refugee claimants are not done at ports of entry, there would be no need for counsel at the port of entry interviews.

78. According to Immigration Manual I.E. 12 "Refugee Claimants in Canada" there is to be both a pre inquiry and a post inquiry pre removal h & c review. The pre inquiry review is to look at two criteria only:

10 (a) is the person a member of an official delegation, athletic team or cultural group or other individual who by seeking to remain in Canada, so embarrasses the home government as to leave him/her open to severe sanction should he/she return home?

(b) is the person a close family member of a permanent resident who would suffer hardship if the claimant were forced to return home to obtain an immigrant visa?

I.E. 12.05(2)

20 79. The post inquiry pre removal review involves the same two criteria as the pre inquiry review. In addition a third criterion is added: are there strong reasons to believe that the person will face a life threatening situation in his or her homeland as a direct result of the political or social situation in that country?

I.E. 12.19(4)(a)

30 80. This third criterion added on for post inquiry pre removal review is a refugee-like criterion. The basis of a refugee claim is relevant to applying this criterion.

40 81. In this case the port of entry officer examined the Appellant on all three criteria, the pre inquiry h & c criteria and also the additional post inquiry pre removal criterion. It was the examination on the refugee-like post inquiry pre removal criterion at the pre inquiry stage that generated the legal issue that is before this Court.

82. The Intervenant submits that it cannot be demonstrably justified for the Respondent to examine refugee claimants at ports of entry pre inquiry on whether they will face a life threatening situation on return, when according to the Respondent's own policy the answers to that examination are relevant only for a policy that is applied post inquiry and pre removal.

83. The sole apparent purpose of examining a port of entry pre inquiry claimant on matters relevant to a post inquiry pre removal review is to obviate the need for a second, post inquiry interview.

10 84. The Intervenant submits that avoiding a post inquiry interview on a post inquiry criterion is not a reasonable limit demonstrably justified on a violation of Charter rights.

20 85. The Intervenant in the alternative submits that if avoiding a post inquiry interview on a post inquiry criterion is a reasonable limit demonstrably justified, then denying the right to counsel for a refugee-like interview before a refugee claim is heard, where the claimant is a compellable witness, and the interviewing officer is a representative of a potential adversary when the claim is heard at credible basis, is not a reasonable limit demonstrably justified.

30 86. In support of the position that denial of the right to counsel at port of entry interviews is not demonstrably justified, the Intervenant notes that several countries, in recent legislation, have granted the right of counsel to refugee claimants at port of entry interviews.

For France, see the law of July 6, 1992, Loi 92-625 Article 1^{er} inserting article 35 quater V alinea 2; Art. 35 quater II alinea 2

For Finland, see The Aliens Act of Finland of July 11, 1991 Article 2

40 For Norway, see The Immigration Act of Norway of June 24, 1988, Section 34 and Section 133

For Holland, see "Asylum in Europe; A Handbook for Agencies Assisting Refugees", update, August 1992 paragraph 22

For Sweden, see "Asile En Europe" Consultation Européene pour les réfugiés et les exilés 1990, page 474, paragraph 25.

For Germany, see Law on Administrative Procedure,
Verwaltungsverfahrensgesetz, section 14.

87. U.S. law provides:

10 "A person compelled to appear in person before an agency
or representative thereof is entitled to be accompanied
represented and advised by counsel or, if permitted by the
agency, by other qualified representation."

U.S. Administrative Procedures Act 5 U.S.C.A. Art. 555(b)

20 88. The Respondent has announced, for port of entry inter-
views with senior immigration officers under Bill C-86,
that the Respondent "would not deny the participation of
counsel if they sought access and were immediately available".
The Intervenant submits that the denial of the right to
counsel under the present law cannot be demonstrably justified
when the Respondent is prepared to accept the presence of
counsel under the new law.

Notes for an address by Hon. Bernard Valcourt P.C.M.P.
to the Legislative Committee Studying Bill C-86,
October 29, 1992.

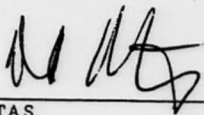
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Part IV: Prayer for Relief

The Intervenant requests the same relief as the Appellant.

40

All of which is respectfully submitted this ^{2nd} day of
November 1992.



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MOTION (✓)
APPEAL (✓)

SHEET # 1 OF 1

FILE NO: 22153

CAUSE: ABDUL KASSOUL DEHANNI - (F.C.A.) (CONT.)

✓ - MIN. EMPLOYMENT - IMMIGRATION

NATURE OF CASE: _____

CORAM: CJ, LAF, S, G, C, MEL, T

COUNSEL: For Appellant (or applicant) _____

MS. PIA ZAMBELLI & BARBARA JACKMAN

For Respondent J. E. THOMPSON, Q.C. & DONALD A. MACINTOSH

For Intervener DAVID MATAS - CAN. COUNCIL FOR REFUGEES

DATE	COUNSEL	REPRESENTING	TIME FROM
1992			
DEC, 2	P. ZAMBELLI	APPELLANT	10.58 - 11.25 (27)
"	B. JACKMAN	"	11.25 - 11.46 (21)
"	D. MATAS	INTERVENER CAN. COUNCIL	11.47 - 12.09 (22)
"	J. E. THOMPSON	RESPONDENT	12.10 - 12.57 (47)
"	B. JACKMAN	REPLY	12.57 - 13.07 (10)
		- RESERVES -	

C. L. Henry

For the Registrar

02-12-92