

**CANADIAN COUNCIL FOR REFUGEES  
CONSEIL CANADIEN POUR LES RÉFUGIÉS**



## **Concerns with Refugee Decision-making at Cairo**

**January 2010**

**Canadian Council for Refugees**

**CONCERNS WITH REFUGEE DECISION-MAKING AT CAIRO**

**31 January 2010**

**Table of contents**

A.	Executive Summary .....	2
B.	Introduction.....	4
C.	Cases analyzed.....	5
D.	Concerns .....	6
	1. Lack of knowledge of country conditions .....	6
	2. Lack of understanding of the refugee definition.....	8
	3. Credibility assessments.....	9
	4. Approach to testing membership in faith community.....	17
	5. Possible bias against Pentecostals?.....	19
	6. Failure to take account of documentary evidence.....	21
	7. Incorrect weighing of evidence.....	23
	8. Lack of interest in serious human rights abuses .....	25
	9. Poor interview technique .....	28
	10. Lack of sensitivity regarding interpretation issues .....	29
	11. Poor notetaking .....	31
E.	Tables of cases .....	31
F.	Conclusion .....	34

## A. EXECUTIVE SUMMARY

In response to a recent series of rejections of Eritrean refugee applicants at the Canadian visa office in Cairo, the Canadian Council for Refugees undertook an analysis of 17 cases, all decided by one visa officer.

The analysis reveals serious problems in decision-making in a number of areas.

- The visa officer lacked basic knowledge of realities in Eritrea, including facts about the principal reasons refugees flee Eritrea. She failed to conduct relevant research to address the gaps in her knowledge.
- The visa officer made some basic errors in applying the refugee definition. She misunderstood the role of “durable solutions” and wrongly stated that one could not be a refugee on the basis of a refusal to perform military service.
- In all cases, the applicant was found to be not credible. Departmental guidelines for assessing credibility were not followed: applicants were not given the benefit of the doubt, the visa officer often failed to give clear reasons for disbelieving the applicant, testimony was frequently rejected based on speculation rather than documented evidence, applicants were sometimes not given an opportunity to respond to concerns and when they were, their explanations were not seriously considered. The visa officer made arbitrary assumptions about the beliefs and knowledge of Pentecostals and concluded that applicants were not Pentecostal if their responses did not meet her expectations. She frequently based her finding that the applicant was not credible on peripheral matters, failing to take account of the totality of the circumstances, including the prevalence of grave human rights abuses in Eritrea.
- She tested membership in a faith community (Pentecostal Christianity) through questions focused on religious doctrine, an approach that is flawed because adherents are not necessarily knowledgeable about their faith. The approach was particularly problematic in these cases, as the visa officer lacked knowledge of Eritrean Pentecostalism and relied instead on speculation about what Pentecostals should know.
- The evidence suggests that the visa officer may have been biased against Pentecostals. In some cases she mentioned unnecessarily that she was Catholic and challenged applicants on their reasons for converting to Pentecostalism. Some applicants felt that her words and demeanour conveyed hostility towards Pentecostals.
- The visa officer repeatedly failed to take account of documentary evidence submitted, such as the applicant’s written account of why they fled Eritrea and supporting documents. In some cases she does refer to the written evidence, but only to allege an unspecified contradiction between the oral and written testimony. In one case where she does specify the alleged contradiction, the visa officer appears to be in error.
- Although highly sceptical about applicants’ testimony, the visa officer was insufficiently critical of evidence from other sources. She relied on untrustworthy internet evidence to reject one applicant’s testimony.
- The visa officer failed to take seriously into consideration applicants’ allegations that they had suffered serious human rights abuses, including torture, rape and atrocious conditions of detention. She was also insensitive to the possibility that traumatic experiences might affect

their testimony, or that a woman who has suffered sexual violence may be uncomfortable testifying through a male interpreter.

- The visa officer appears to have used a poor interview technique. There are reports of her checking the internet during the interviews, cutting off applicants, appearing angry, mentioning her own religious affiliation and appearing hostile to Pentecostals.
- The visa officer did not fully follow CIC guidelines on using interpreters. She was insensitive to the communications barriers inherent in interviewing through an interpreter.
- There are weaknesses in the visa officer's note-taking. The notes are sometimes unclear and may not be comprehensive.

The problems in these cases highlight the systemic shortcomings in refugee decision-making at Canadian visa offices. Visa officers are often inadequately trained, decisions are rarely reviewed by the courts or monitored internally, and there are few witnesses to interviews, which are not recorded. The system thus lacks accountability.

It is possible that there are similar patterns of flawed decision-making occurring at other visa offices, with no one available to draw attention to them.

#### Recommendations to Citizenship and Immigration Canada:

1. Re-open all negative decisions on refugee cases by this visa officer.
2. Relieve this visa officer of responsibility for making further refugee decisions.
3. Publish the report of the Quality Assurance assessment of privately sponsored refugee decisions.
4. Urgently put in place measures to ensure improved refugee decision-making at visa offices by strengthening guidelines and training of visa officers and instituting regular monitoring of compliance with the guidelines, in the areas of:
  - a. Conduct of interviews;
  - b. Note-taking;
  - c. Use of interpreters;
  - d. Decision-making.
5. Institute audio recording of interviews.
6. Review existing codes of conduct governing visa officers and mechanisms for monitoring compliance, and strengthen them as necessary to promote appropriate attitudes towards and treatment of applicants.
7. Develop a transparent and meaningful process for reviewing and re-opening problematic decisions and for interventions by NGOs regarding problematic trends in decision-making at visa offices.

## B. INTRODUCTION

In October 2009, the Canadian Council for Refugees (CCR) was made aware of a recent series of rejections of Eritrean refugee applicants applying for resettlement to Canada through the visa office in Cairo.

The news was surprising and distressing. Given the widespread and serious human rights abuses in Eritrea that have forced large numbers of its citizens to flee, most Eritrean applicants can be expected to meet the refugee definition. Over 80% of Eritreans who make a claim in Canada are found to be refugees.<sup>1</sup> Furthermore, it is well known that Eritrean refugees face a lack of effective protection in Egypt, so that resettlement to a third country may well be necessary for the applicants' safety.

What was still more disturbing was that an initial review of several rejected cases seemed to point to some very serious flaws in the decision-making, including an apparent lack of basic knowledge about Eritrea and about refugee determination, a possible bias against Pentecostal Christians and an over-eagerness to disbelieve the applicants.

The CCR has long been concerned about inconsistencies in the quality of decision-making at visa offices abroad for refugees seeking resettlement to Canada.<sup>2</sup> Not all visa officers have been adequately trained on refugee determination: this lack of preparation shows in some of the errors made. When mistakes are made, there is little opportunity for them to be corrected or for visa officers to learn from them, as there is no appeal and few cases are reviewed by the Federal Court.<sup>3</sup> It is much more difficult for people in Canada to gather information on refugee decisions made at visa offices, compared to those made in Canada, and little attention is paid to the area by politicians, academics or the media.

In part in response to the concerns raised by the Canadian Council for Refugees, Citizenship and Immigration Canada committed in 2007 to undertake a Quality Assurance assessment of decision-making on applications by privately sponsored refugees.<sup>4</sup> The assessment was conducted in 2008 and involved a review of a significant number of files from the Africa and Middle East region. The report of the assessment, however, has never been made public. The

---

<sup>1</sup> 82% of Eritrean claimants whose cases were finalized in 2008 were accepted as refugees by the Immigration and Refugee Board. Of those cases that were decided on the merits (i.e. excluding claims that were withdrawn or abandoned), 97% were accepted as refugees.

<sup>2</sup> In 2006, the CCR prepared an *Analysis of refusals of Iraqi private sponsorship applications at Damascus*, <http://www.ccrweb.ca/IraqiPSRrefusals.pdf>

<sup>3</sup> Refugee applicants, whether in Canada or overseas, have no access to an appeal on the merits but can apply to the Federal Court for leave for judicial review. For refugee applicants in Canada, access to the Federal Court may be difficult, but they can at least speak directly to a lawyer who can advise them and they may be eligible for legal aid, or be able to earn Canadian wages to cover the legal costs. Refugee applicants overseas are unlikely to be able to apply to the Federal Court unless they have family in Canada or a private sponsor who can afford to hire a lawyer on their behalf. The UN High Commissioner for Refugees (UNHCR), which refers many of the refugees assessed by the visa officers, does not assist those rejected to apply to the Federal Court.

<sup>4</sup> The Canadian refugee resettlement program is made up of Government-Assisted Refugees (mostly referred by the UNHCR) and those resettled through the Private Sponsorship of Refugees Program, which provides for organizations or groups of individuals in Canada to submit an undertaking on behalf of a refugee overseas. For more information, see <http://www.cic.gc.ca/EnGLish/refugees/sponsor/private.asp>.

CCR believes that the report from this assessment might throw important light on areas of weakness in refugee decision-making by visa officers.

Given the specific concerns about the decision-making at Cairo, as well as the broader concerns about the inconsistent quality of visa office refugee decision-making, the CCR undertook a detailed analysis of a number of the cases of Eritrean refugee applicants rejected at Cairo.

### C. CASES ANALYZED

A number of Eritreans rejected by the Canadian visa office in Cairo approached in October 2009 a refugee-serving organization in Cairo, Africa and Middle East Refugee Assistance (AMERA).<sup>5</sup> AMERA communicated to the CCR its concerns about the pattern of refusals. The CCR in turn alerted Citizenship and Immigration Canada (CIC) to the apparent problem, and decided to collect further information in order to analyze the situation more fully.<sup>6</sup>

Rejected applicants who were willing signed an authorization allowing the CCR to request the Canadian visa office computer file on the applicant (known as CAIPS<sup>7</sup> notes), as well as the full file on the applicant held by CIC. The analysis in this report is based on all the cases for which CAIPS notes have been received so far. In most cases the full file has also been received. Also included in the analysis is one other case where the applicant shared relevant documents directly with the CCR.<sup>8</sup>

In total, 17 cases were analyzed, all involving Eritreans and all decided by one visa officer. The applicants were all found not to be Convention refugees. Those who were privately sponsored were also declared not members of the Country of Asylum Class.<sup>9</sup>

The applicants' interviews with the visa officer took place between September and December 2009. The rejection letter generally followed within approximately two weeks of the interview.

Of the 17 cases, 12 of the applicants were women and 5 men. Two of the men were subsequently accepted, when, for reasons that are not clear, the visa officer re-opened the file.<sup>10</sup>

---

<sup>5</sup> AMERA is a UK-registered refugee rights organization that assists refugees who seek asylum in Egypt. The organization provides legal aid and psychosocial assistance to asylum seekers and has specialized teams dealing with psychosocial, community outreach and facilitation, refugee status determination, sexual and gender-based violence, unaccompanied minors and protection. [http://www.amera-uk.org/egypt/index\\_eg.html](http://www.amera-uk.org/egypt/index_eg.html)

<sup>6</sup> The CCR made public its concerns in a media release, *Disturbing upsurge in rejections of Eritrean refugees in Cairo by Canada*, 30 November 2009, <http://ccrweb.ca/en/bulletin/09/11/30>.

<sup>7</sup> CAIPS stands for Computer Assisted Immigration Processing System.

<sup>8</sup> The CCR is also aware of a number of other negative decisions by the same visa officer (including one involving an Iraqi couple), where preliminary information such as the letter of rejection suggests similar problems to those found in the cases analyzed. However, we have only included cases for which the CCR currently has access to the CAIPS notes, since this allows a more in-depth analysis of the decision-making process.

<sup>9</sup> To be eligible for resettlement, applicants must meet one of three definitions: Convention Refugee, the definition of the Country of Asylum Class (for privately sponsored refugees only), or the Source Country Class (not applicable for these applicants as they are outside their country of origin), <http://www.cic.gc.ca/EnGLish/refugees/outside/index.asp>.

<sup>10</sup> In one of these two cases, the CAIPS records simply that the visa officer re-opened the file and re-stated her principal conclusion about why the applicant left Eritrea, which apparently now made him a refugee. See below,

For all of the cases analyzed, we have:

- Rejection letters
- CAIPS notes. These include the visa officer's record of the interview.

For most, but not all, we have in addition:

- Record of an interview conducted by AMERA with the applicant after the rejection letter was received. The applicant was asked for their recollections of the interview with the visa officer.
- Full visa office file. This includes copies of all documents submitted by the applicant, such as their written account of why they fear persecution in Eritrea and any supporting documents.<sup>11</sup>

For ease of reading, we have corrected insignificant obvious typographical errors in quotations from the CAIPS notes and from applicants' written submissions.

It should be noted that the Canadian Council for Refugees is not suggesting that all the applicants included in this study should have been accepted. Our objective is to analyze the cases for possible errors in the decision-making process.

## **D. CONCERNS**

In all the cases reviewed, there were at least some and often multiple problems in the way the visa officer conducted and recorded the interview and arrived at her decision. To give as clear as possible a picture of the kinds of problems, we present these by category of problem.

### **1. Lack of knowledge of country conditions**

The visa officer displays a lack of basic knowledge of realities in Eritrea. For example:

- She appears unaware that military service in Eritrea is indefinite (a well-documented fact<sup>12</sup> that is associated with many serious human rights abuses). She records asking in one interview "Is national service mandatory for 1 year?" and then "You are telling me no one was allowed to leave national service."<sup>13</sup>

---

page 9. For the other case, the full file including the CAIPS notes with the note on the reversal have not yet been received.

<sup>11</sup> See below pages 31ff for charts outlining basic facts about the 17 cases.

<sup>12</sup> See, for example, US Department of State *2008 Human Rights Report: Eritrea*, February 2009: "The government required all men between the ages of 18 and 50 and women between the ages of 18 and 47 to participate in the national service program, which included military training and civilian work programs. Increasing reports indicate citizens were enlisted in the national service for many years below minimum-wage rates with no prospective end date." <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119000.htm>. See also Human Rights Watch, *World Report 2009, Eritrea*: "Under a 1995 decree, all men between ages 18 and 50, and women between 18 and 27, must serve 18 months of military service. In fact, men serve indefinitely and boys under 18 years of age increasingly report being conscripted." <http://www.hrw.org/en/node/79224>. In April 2009, Human Rights Watch published a report with the telling title of *Service for Life: State Repression and Indefinite Conscription in Eritrea*.

<sup>13</sup> Case #1

- She is reluctant to believe accounts of passports obtained through bribes,<sup>14</sup> although it is well-documented that corruption is widespread.<sup>15</sup>
- She misunderstands the climate of Eritrea. She rejects one applicant in large part because she does not believe she could have been cold at night in jail without a blanket in June or July.<sup>16</sup> The climate in Eritrea varies according to the region: temperate in the highlands; hot in the lowlands.<sup>17</sup>
- She makes assumptions about conditions of detention in Eritrea, and disbelieves applicants' accounts which do not conform to her expectation. She expects a high ratio of guards to prisoners (the norm perhaps in most Western countries, but less plausible in a poor country like Eritrea with a huge prison population). On this basis, she disbelieves one applicant who said there were six guards for 170 prisoners, as well as another applicant who was one of 20 women guarded by 2 men.<sup>18</sup> She also rejects as implausible accounts of escape,<sup>19</sup> although the documentation points to escapes from detention being common.<sup>20</sup>
- She considers it "not reasonable that all soldiers who die during the war are considered martyrs."<sup>21</sup> Eritrea celebrates Martyrs' Day each June 20<sup>22</sup> in honour of all who gave their lives in the 30-year liberation struggle and the subsequent border war with Ethiopia. Martyrs' survivors benefit from an official support scheme.<sup>23</sup>

It is not to be expected that visa officers will necessarily have extensive knowledge of all the countries from which refugee applicants come. When they lack deep familiarity, it is particularly important that decision-makers be aware of the gaps in their knowledge and refrain from rejecting applicants' testimony on the basis of speculation.

In the cases under analysis, the visa officer on the contrary assumed, despite her evident unfamiliarity with Eritrea, that she knew what was plausible in that country.

While visa officers may not have in-depth knowledge of all countries, they ought, in advance of an interview, at least to acquaint themselves with the basic documentation. Unfortunately,

---

<sup>14</sup> Cases #9, 13.

<sup>15</sup> For example, US Department of State 2008 *Human Rights Report: Eritrea* (supra, note 12): "The World Bank's 2008 governance indicators reflected that corruption was a problem. There were reports of petty corruption within the executive branch, largely based on family connections. [...] There were reports that individuals requesting exit visas or passports had to pay bribes."

<sup>16</sup> Case #14.

<sup>17</sup> For more details about this case, see below page 23.

<sup>18</sup> Cases #3 and 13.

<sup>19</sup> Cases #1, 3, 6 and 13.

<sup>20</sup> See, for example, Human Rights Watch, *Service for Life: State Repression and Indefinite Conscriptioin in Eritrea*, 16 April 2009, <http://www.hrw.org/node/82284>. This report cites numerous cases of escape from detention, and points to the arbitrariness of many aspects of prison life in Eritrea.

<sup>21</sup> Case #16.

<sup>22</sup> See, for example, the list of days closed for the Canadian consulate to Eritrea:

<http://www.canadainternational.gc.ca/kenya/offices-bureaux/contact-eritrea-contactez-erythree.aspx?lang=eng>

<sup>23</sup> See for example shabait.com, "Martyrs' Families Receive Over 1.6 Billion Nakfa in Benefit Scheme", 8 June 2009, <http://allafrica.com/stories/200906081555.html>.

although applications from Eritreans were numerous at the Cairo visa office, it appears that the visa officer had not even read a document as basic as the UNHCR's *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*.<sup>24</sup>

Furthermore, before reaching a decision on an individual case, a visa officer must conduct relevant research to fill in any gaps in their knowledge of the country of origin, if the decision turns on whether the applicant's account of events is plausible. The visa officer failed to do this. In the one case where she did some minimal research on conditions in Eritrea, the research was fatally flawed (see below, page 23).

## 2. Lack of understanding of the refugee definition

Refugee determination is a complex legal decision-making process that is guided by international standards as well as Canadian jurisprudence. Doing it correctly requires significant training, something that not all visa officers have received.

It becomes clear from some of these cases that the visa officer is not simply falling short in terms of the finer aspects of applying the refugee definition: she makes very basic errors.

On two occasions, as part of her finding that an applicant is not a refugee, she concludes that the person has a "durable solution".<sup>25</sup> This shows a complete misunderstanding of the notion of "durable solutions", which are solutions sought for people who are refugees. The prospect of a durable solution is not a reason for finding that a person is not a refugee. First a decision is made as to whether the person is a refugee; if they are, it is then necessary to look for a durable solution for the refugee.

In several cases, the visa office states: "Evading national service obligation does not constitute persecution or violation of human rights."<sup>26</sup> As well as being imprecise in its wording, this sentence reveals an ignorance of the fact that in some circumstances draft evasion or military desertion can make a person a refugee. If she had consulted, as she ought to have done, the relevant section in Citizenship and Immigration Canada's guidelines to visa officers, she would have been referred, with respect to "refusal to perform military service", to the UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status*, paragraphs 167-174.<sup>27</sup>

Beyond the Handbook, the UNHCR offers more specific guidance relating to draft evaders and military deserters from Eritrea. Their *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea* includes a whole section on this issue.<sup>28</sup> Even a cursory reading of this text would have made it clear to the visa officer that there are a number of ways in which Eritreans who evade or desert from military service may be considered

---

<sup>24</sup> UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, April 2009, <http://www.unhcr.org/refworld/pdfid/49de06122.pdf>.

<sup>25</sup> Cases #9, 10.

<sup>26</sup> Cases #3, 9 (with this exact wording). The same position is implied in the rejection letter and/or CAIPS notes of cases #6, 11, 14.

<sup>27</sup> Citizenship and Immigration Canada, Operational manual, *OP5 Overseas Selection and Processing of Convention Refugees Abroad Class and Members of the Humanitarian-protected Persons Abroad Classes*, Appendix C, UNHCR Handbook Checklist, <http://www.cic.gc.ca/english/resources/manuals/op/op05-eng.pdf>.

<sup>28</sup> UNHCR, *supra* note 24. Pages 12-20, including extensive footnotes to relevant sources.

refugees. In fact the UNHCR guidelines strongly suggest that in most cases they will meet the refugee definition:

Military service has become politicized in Eritrea and actual or perceived evasion or desertion from military service is regarded by the Eritrean authorities as an expression of political opposition. Persons who evade or desert military service are regarded as disloyal and treasonous towards the Government, and are punished for their perceived disloyalty. Hence, persons of, or approaching, military service age, who are medically fit, are at risk of persecution on return to Eritrea as actual or perceived draft evaders or deserters on the ground of imputed political opinion.<sup>29</sup>

At some point, the visa officer appears to have awakened to the fact that draft evaders and military deserters may indeed face persecution in Eritrea. In two cases, the visa officer re-opened the file and found the applicant a refugee.<sup>30</sup> In one of these cases, at the conclusion of the interview, the visa officer stated:

“I am not satisfied that you were persecuted for your religion. I believe you are a deserter and were evading military service. [...] I am not satisfied that [the applicant] meets the definition of CR. I believe that [the applicant] is a deserter, or trying to evade military service.”

Two months later, without any other explanation, the CAIPS notes state:

“File reopened. Even though I am not satisfied that [the applicant] is the claimed faith, I am satisfied that [the applicant] is a military evader. Will issue meds [i.e. instructions for medical exams, the next step for an accepted refugee]”<sup>31</sup>

She has not however re-opened two other cases, where she had also stated in the reasons for rejection that she believed that the applicant left Eritrea in order to evade national service.<sup>32</sup> We thus have four cases of persons she believes to be evading national service: she has accepted two for that reason (after initially refusing them), and rejected two for that reason.

### 3. Credibility assessments

In all the cases analyzed, the visa officer found at least part of the applicant’s testimony not credible. Evaluating the credibility of a refugee applicant is an important part of a visa officer’s task, especially since in many cases the applicant’s testimony is the main evidence on which the refugee determination must be based. Assessing credibility, however, is difficult and a visa officer needs to bring rigour and care to the task. In these cases, the visa officer makes numerous elementary errors in her findings of non-credibility.

---

<sup>29</sup> Pages 16-17, footnotes deleted.

<sup>30</sup> Cases #6 and 11.

<sup>31</sup> Case #6. For case #11, where she also re-opened the file and accepted the applicant, we have not yet received the updated version of the CAIPS notes with her entry on the re-opening.

<sup>32</sup> Cases #3, 9. In case #14, where the interview was conducted by a locally engaged employee, the CAIPS notes show the interviewer saying to applicant: “I find that you left your country just to evade mandatory national service?”

- **Failure to give clear reasons for disbelieving the applicant**

In some cases, the visa office rejects the applicant's testimony without specifying exactly why she did not believe it.

According to CIC guidelines, "if an application is refused essentially because of a lack of credibility, clear reasons must be given. Those aspects of the story that appear not to be credible must be clearly identified and the reasons for such conclusions must be clearly articulated."<sup>33</sup>

The visa officer does not comply with this guidance.

For example, one letter of rejection includes among the reasons for rejection: "you were unable to provide to my satisfaction details of your imprisonment."<sup>34</sup>

There is nothing in the letter nor in the CAIPS to indicate what details were missing in the applicant's account of imprisonment. The CAIPS notes do not indicate that the visa officer asked questions about his imprisonment to elicit details. The relevant section reads: "Detained until 2006? Two years and nine months. Detention, force [sic] labour, unload trucks, break stones, took us to farming land." The notes then move on to the applicant's account of his escape.

In fourteen of the seventeen cases, the visa officer declares herself not satisfied that the applicant was "forthcoming" at the interview, an exceptionally vague reason for rejecting a person.

In several cases, the visa officer claims that there are discrepancies between the written and oral testimony, but without specifying clearly what the alleged discrepancies are.

For example, in the letter of rejection for one applicant, the visa officer states: "There are major discrepancies between your statements at interview and your testimony to the UNHCR especially with regards to how you came to work for the leader."<sup>35</sup>

There are in fact no obvious major discrepancies. The UNHCR summarized her testimony on this point as follows:

In October 2006, [the applicant] was drafted into compulsory military training in Sawa military camp. She attended educational classes for around 2 months. After failing the exams, she was assigned to work as a cleaner for one of the military commanders, named [...]. [The applicant] was tasked to work in his residential unit located inside Sawa camp.

According to the visa officer's notes of the interview, the applicant stated that in October 2006 she went to Sawa, failed the exam and was made to remain in Sawa. "Then there was a leader [same name as told to UNHCR] he called me to the office, so he told me that I would be serving

---

<sup>33</sup> CIC, OP5, supra note 27, 13.1, *Assessing credibility*.

<sup>34</sup> Case #1.

<sup>35</sup> Case #2.

him, so I was working in the compound alone [...] And then I began to serve as a housemaid, cleaning preparing food.”<sup>36</sup>

In another case, also involving a woman alleging abuse by a military superior, the visa officer states that “there are discrepancies between your written testimony and your oral statements with regards to the leader who accused you of stealing money.”<sup>37</sup> She provides no details about the discrepancies she alleges.

A comparison of the applicant’s two-page written testimony with the account of the interview in CAIPS shows a high degree of consistency and no obvious discrepancy. It is admittedly a little difficult to follow the different players in the story as the applicant was in different jobs and the hierarchical relationship with the superior harassing her changed with the jobs. In the written testimony, she does not specify that there was a single man causing the problems throughout: that comes out in interview. The visa officer asks for clarification of the hierarchical relationship and the applicant explains that in one job he was her immediate superior and in another her superior at one remove. If the visa officer found an important discrepancy, she needed to identify it clearly.<sup>38</sup>

- **Testimony declared unreasonable without justification**

In many cases, the visa officer declares parts of the applicant’s testimony “unreasonable” based on unjustified assumptions about what is or is not plausible.

According to CIC guidelines, “officers should be well-informed when assessing credibility. The credibility of the applicant has to be evaluated in light of what is generally known about the conditions and laws of the applicant’s country of origin, as well as the experiences of persons in similar situations in that country.”<sup>39</sup>

The visa officer deems testimony non-credible without reference to “what is generally known about conditions and laws” in Eritrea. Given that the visa officer is evidently not well-informed about Eritrea, her readiness to leap to conclusions, without any verification, about what might happen in Eritrea is particularly inappropriate.

For example, in rejecting one woman, the visa officer declared: “I find it unreasonable that your leader would take you as a cleaner before you completed the military training.”<sup>40</sup>

---

<sup>36</sup> It is possible that the visa officer is referring to a confusion over whether the applicant took one or two sets of exams: “Your story is confusing, where you went to Sawa to take the exam, didn’t pass, then they educated you for 1 [sic] and took the exam again?” It would seem from the CAIPS notes and the other documents in the file that the applicant took one set of exams, but during the interview she spoke about the same exams twice because the visa officer asked a question of clarification. However, whether she took one or two sets of exams is immaterial to the refugee claim and is hardly accurately described as relating to “how you came to work for the leader.”

<sup>37</sup> Case #12.

<sup>38</sup> In case #5, the visa officer also states there are contradictions between the oral and written testimony without clearly identifying them. In case #8, the visa officer does specify the alleged contradiction; however, it seems that she may have misread the written testimony. See below, page 21.

<sup>39</sup> CIC, OP5, supra note 27, 13.1, *Assessing credibility*.

<sup>40</sup> Case #2.

There is nothing inherently implausible about persons in positions of authority exploiting their power for their personal benefit. Without documentation contradicting the plausibility of this scenario, the visa officer is simply not justified in declaring it unreasonable. In fact, open source information reveals that abuse of women, including sexual harassment, is pervasive in military service.<sup>41</sup> Furthermore, human rights organizations have reported that military conscripts are deployed for private gain by military commanders. According to Human Rights Watch:

The projects on which conscripts are deployed are not just public works for the national good. They are often sent to work on private construction projects, building houses for military leaders, and working on private farms. Human Rights Watch and Amnesty International have both previously documented the use of conscript labor for the benefit of ranking members of the military and the government.<sup>42</sup>

In a number of cases, the visa officer also makes unwarranted assumptions about religious conversion and religiously-based decisions:

“I find it unreasonable that an 11 year old would be able to change religion and manage to hide this fact from parents.”<sup>43</sup>

“I find it unreasonable that you decided to follow a banned religion only one month before taking military service knowing of the consequences.”<sup>44</sup>

“I find it unreasonable that if you converted to the Pente faith since 1984 that you started to work with church in 2003 one year after the religion was banned.”<sup>45</sup>

Human experience is extraordinarily diverse, and a visa officer errs if she disbelieves an applicant simply because they report events that are beyond her own experience.

The visa officer writes to one applicant that she finds it “unreasonable that if you were Eritrean as alleged that your parents were listed as Ethiopian nationals on your birth certificate.”<sup>46</sup> The visa officer neglects the fact that when the applicant was born, Eritrea was still part of Ethiopia.

The visa officer repeatedly has problems believing applicants’ accounts of escape, although she doesn’t explain exactly why the account is not reasonable. For example, in one case she concludes:

---

<sup>41</sup> See for example, Human Rights Watch, *Service for Life*, supra note 20.

<sup>42</sup> Human Rights Watch, *Service for Life*, supra note 20. The report quotes one woman who served as a conscript for 10 years: “First you do your military training then they hold you forever without your rights. The military leaders can ask you for anything and if you refuse their demands then you can be punished. Almost every woman in the military experiences this kind of problem.” In a context where military leaders hold such absolute and arbitrary authority, it is certainly not implausible that a woman would be set to work for a commander without having undertaken military training.

<sup>43</sup> Case #15.

<sup>44</sup> Case #11.

<sup>45</sup> Case #10.

<sup>46</sup> Case #7.

“the story of your escape is not plausible. I find it unreasonable that you were able to escape from prison just because there was a sandstorm.”<sup>47</sup>

In his written testimony, the applicant had explained his escape as follows:

After two years and 6 months I began to discuss with my friend on how to escape from the prison whenever we found a convenient time. After three months of thinking about it; on July 07, 2006 we were taken to work in a military farm and suddenly a strong wind called KAMSIN came at 6:00pm to the place where we were working. We used the wind to escape since it is almost impossible to see a person standing near you let alone far away. So using the wind as our cover we managed to escape from prison.

It is worth noting that this applicant was detained on the basis of his membership in a banned religion: he was therefore not a high-value detainee that one would expect to be held in maximum security.

The visa officer appears to be basing her conclusion that this account is implausible on unproven assumptions about detention conditions in Eritrea and perhaps the types of sandstorms that occur in Eritrea.<sup>48</sup>

- **Failure to give people an opportunity to respond to the concern, and failure to address explanations given by applicant when she does mention concern**

According to CIC guidelines, “[a]pplicants should be questioned about the contradictions in their story. Moreover, any explanation provided by the applicant should be addressed by the officer and they must consider whether the explanation is reasonable in all circumstances. Also, any unresolved inconsistency or concerns regarding an explanation are to be raised by the officer.”<sup>49</sup>

In several cases, the visa officer failed to follow this direction. For example, in one rejection letter she states:

“the story of your escape is not credible. I find it unreasonable that 170 prisoners are guarded by only six guards.”<sup>50</sup>

According to the visa officer’s record of the interview, she never raised concerns about this aspect of the testimony, and thus the applicant was not given an opportunity to explain.

In another case, the visa officer writes in the rejection letter: “You were not able to provide details of your alleged Pente faith.” Not only was this concern never raised with the applicant, but the interview actually seemed to proceed on the understanding that the applicant was of the

---

<sup>47</sup> Case #1.

<sup>48</sup> Other things declared “unreasonable” by the visa officer include that “170 prisoners are guarded by only six guards” (case #3); and “that only two guards would be sent to guard 20 prisoners” and “that your passport was issued at the time you were supposedly in detention” (case #13).

<sup>49</sup> CIC, OP5, supra note 27, 13.1, *Assessing credibility*.

<sup>50</sup> Case #3.

alleged faith (the interviewer suggested to the applicant that she could return to Eritrea and practise her faith in private). Worse still, according to CAIPS only one question was asked on issues related to faith: “Do you believe in old or new testament?”<sup>51</sup>

Where the visa officer does raise the concern with the applicant, she almost invariably fails to take account of the response given.

For example, in one rejection letter, she writes that she finds it “unreasonable that your passport was issued at the time you were supposedly in detention.”<sup>52</sup> When the applicant was asked about this at the interview she answers “my family did that”. The visa officer asked further about how a passport could be issued while she was in detention, and the applicant answered “It was obtained by paying bribes.” The visa officer fails completely to consider this explanation provided by the applicant.

In another letter of rejection, the visa officer says that it is “implausible” that the applicant “did not attempt to seek medical attention or even opinion at the hospital where you were working as a nurse and went to a private doctor.”<sup>53</sup> She ignores the explanation offered by the applicant in the interview: “In the place where I was they didn’t have full equipment, besides that I wanted to be with my family, and with a private doctor that I can trust.” When challenged again, she responded: “I was in bad condition, the hospital didn’t have the facilities to make surgical operation, the private doctor told me that I had to have surgical operation soon.”

In another rejection letter, the visa officer states that she finds the story of the applicant’s escape not credible: “It is unreasonable that security would release a prisoner in order to receive medical treatment and expect to voluntarily return back to prison [sic].”<sup>54</sup> When challenged on this point during the interview, the applicant had explained that someone had posted a guarantee for her. This information is completely ignored by the visa officer.

- **Arbitrary expectations**

The visa officer appears to have made some arbitrary assumptions about the beliefs and knowledge held by Pentecostals. On this basis, she has established questions to test whether an applicant is a Pentecostal as claimed. Failure to give the “correct” answer leads to the conclusion that the applicant is not a Pentecostal and not credible.

From the end of September onwards, one of her preferred tests relates to the gifts, or the seven gifts, of the Holy Spirit.<sup>55</sup> Take, for example, the following extract from the end of one interview:

I also have concerns about you converting to another religion because of the gifts of the holy spirit and not knowing what they are?

---

<sup>51</sup> Case #9. The applicant answered “both”. The interview in this case was conducted by a locally engaged employee.

<sup>52</sup> Case #13.

<sup>53</sup> Case #12.

<sup>54</sup> Case #14.

<sup>55</sup> Cases #10, 11, 13, 14, 15, 17. In cases #14 and 15, the applicant was interviewed by the locally engaged employee.

The gifts would only be given to a few people, you are born from water and spirit, you are baptized and start speaking in tongues.<sup>56</sup>

This applicant evidently failed the test: the visa officer states in the refusal letter that she is not satisfied that she is a Pentecostal “as you were not able to provide basic information about the faith.”

Interestingly, there is no record in the file that this applicant ever said she converted “because of the gifts of the holy spirit”, as the visa officer alleges. According to the CAIPS notes, she said at the interview that she converted because she wanted to enter heaven. In her written submission, she had also given explained why she converted: here she mentioned the Holy Spirit, but not the “gifts” of the Holy Spirit. A handwritten note in the margin, presumably by the visa officer, says “What are the 7 gifts of the Holy Spirit? Practised for 25 yrs. One of the reasons for conversion.”

Another applicant was similarly found not to be a Pentecostal because she could not satisfactorily name the “seven gifts”:

“What are the 7 gifts of the holy spirit? I don’t understand. 7 gifts holy spirit? Worship in tongues. The holy spirit is very important in the Pente religion, he gives seven gifts? I don’t have an idea about that. Not satisfied that [applicant] is a Pente as she claims.”<sup>57</sup>

In none of the cases in which she refers to the gifts does she explain her apparently arbitrary test, nor on what she bases her conviction that Eritrean Pentecostals must necessarily believe in and know the “seven gifts of the Holy Spirit”. One might speculate that she is aware that Pentecostals give emphasis to the Holy Spirit, that being herself a Catholic (as she mentioned in more than one interview) she has learned of the “seven gifts of the Holy Spirit” (one of the teachings of the Catholic Church<sup>58</sup>), and she therefore wrongly concluded that Pentecostals must necessarily be well-versed in the “seven gifts”. Pentecostals, however, do not subscribe to the teachings of the Catholic Church. They are more likely to draw upon the New Testament, notably 1 Corinthians 12, which actually identifies nine gifts of the spirit.<sup>59</sup> However, there does not seem to be a consensus on a doctrine of a specific list.<sup>60</sup>

<sup>56</sup> Case #10.

<sup>57</sup> Case #13. Case #11 contains the following exchange: “What are the seven gifts of the Holy Spirit? Wisdom, and knowledge. There are seven? Don’t know”. Another applicant remembered the following exchange at his interview. “She said, let me ask you one question: What are the seven gifts of the Holy Spirit? I told her only three gifts: wisdom, knowledge and faith. She said, I am asking you seven but you only gave me three.” This case is not formally included in the analysis as we do not have the CAIPS. In the letter of rejection the visa officer said: “I am not satisfied that you are a follower of the Pentecostal faith. You were not able to provide sufficient information about the religion...”

<sup>58</sup> Catechism of the Catholic Church, para. 1845: “The seven gifts of the Holy Spirit bestowed upon Christians are wisdom, understanding, counsel, fortitude, knowledge, piety, and fear of the Lord.” <http://www.vatican.va/archive/catechism/p3s1c1a7.htm#III>. A quick internet search shows that the concept of the seven gifts of the Holy Spirit is popular primarily with Catholics.

<sup>59</sup> One of the applicants thought there were nine gifts. “What are the gifts of the Holy Spirit? To work with energy, wisdom, spiritual. I think there are nine.” Case #17. See below, page 18. The Pew Forum on Religion and Public Life, *Spirit and Power: A 10-Country Survey of Pentecostals*, October 2006: “Gifts of the Holy Spirit: Listed in 1

It appears that a key test the visa officer has been using to decide whether an applicant is Pentecostal (and therefore likely a refugee) is based on an erroneous assumption about Pentecostal beliefs.

- **Overall concerns regarding credibility assessments**

CIC guidelines instruct officers to give applicants the benefit of the doubt. They also state:

**It is important to consider the story in the totality of the circumstances in order to establish a standard of reasonableness**

The officer should maintain an objective and open mind when hearing the applicant's story and when, subsequently, evaluating the evidence provided by the applicant.<sup>61</sup>

The visa officer frequently makes findings of non-credibility on the basis of points that are hardly central to the person's account (such as how the person escaped, or whether they could have been cold at night). Furthermore, in all the cases analyzed, she found the applicant non-credible. These facts must put into question whether she properly approached the interviews with an open mind, or whether she rather began them with the intent of looking for a reason to disbelieve, and therefore reject, the applicant.

The totality of the circumstances that the visa officer needs to consider includes the prevalence of grave human rights abuses in Eritrea. Human Rights Watch describes Eritrea as "one of the most closed and repressive states in the world."<sup>62</sup> In its most recent human rights report, the US Department of State found that the Eritrean government's human rights record "remained poor, and authorities continued to commit numerous, serious abuses." They also note that "Eritrean refugees and asylum seekers who were repatriated from other countries during the year reportedly disappeared."<sup>63</sup> The UNHCR advises that "most Eritreans fleeing their country should be considered as refugees."<sup>64</sup>

None of these circumstances appears to be in the mind of the visa officer in any of these cases. Nor is there any sign that she struggled with what it would mean to give them the benefit of the doubt – that she considered, for example, possible counter-arguments to her objections.

---

Corinthians 12:4-14, these gifts include speaking in tongues, healing, prophecy, spiritual discernment and the performing of miracles." <http://pewforum.org/docs/?DocID=140>

<sup>60</sup> See, for example, the *Statement of Essential and Fundamental Truths, of the Pentecostal Assemblies of Canada*, <http://www.paoc.org/upload/files2/docs/Stmt%20of%20Essential%20and%20Fundamental%20Truths.pdf>. This document states at 5.6.4: "The gifts of the Spirit are supernatural abilities given by God through the exercising of which believers are enabled to minister effectively and directly in particular situations. They serve the dual function of building up the church and of demonstrating the presence of God within His church." Citations are to 1 Corinthians 12. St Paul and St Mark offered different lists of gifts of the spirit: BBC, *Pentecostalism*, last updated 2009-07-02 [http://www.bbc.co.uk/religion/religions/christianity/subdivisions/pentecostal\\_1.shtml](http://www.bbc.co.uk/religion/religions/christianity/subdivisions/pentecostal_1.shtml). The *Assemblies of God Statement of Fundamental Truths* cites to four New Testament passages, with respect to the baptism in the holy spirit, including the "bestowment of gifts": Luke 24:49, Acts 1:4, Acts 1:8, 1 Corinthians 12:1-31, [http://www.ag.org/top/beliefs/Statement\\_of\\_Fundamental\\_Truths/sft\\_full.cfm#7](http://www.ag.org/top/beliefs/Statement_of_Fundamental_Truths/sft_full.cfm#7).

<sup>61</sup> CIC, OP5, supra note 27, 13.1, *Assessing credibility*.

<sup>62</sup> Human Rights Watch, *Service for Life*, supra note 20.

<sup>63</sup> US Department of State 2008 Human Rights Report: Eritrea, supra note 12

<sup>64</sup> UNHCR, *Eligibility Guidelines*, supra note 24, IV, 1.

#### 4. Approach to testing membership in faith community

Many of the applicants based their claim in whole or in part on their adherence to a banned religion, namely Pentecostal Christianity.<sup>65</sup>

It is of course necessary for the visa officer to test whether applicants are in fact Pentecostals as they claim, since it is certainly possible that applicants might falsely present themselves as such in the hopes of improving their chances of being accepted. However, it is difficult to test a person's religious identity, as people will have diverse experiences of their faith. It is particularly challenging when the decision-maker has limited knowledge of the doctrine and practice of the faith in question. This is certainly the situation in these cases, as Eritrean Pentecostalism is not well-documented, not least because it has been banned within Eritrea since 2002.

Unfortunately, the visa officer's approach in this challenging context is deeply flawed. Firstly, she places an emphasis on questions of doctrine, which is always problematic since legitimate and even fervent adherents of a faith are not necessarily knowledgeable about their faith.<sup>66</sup> As one applicant said after her interview: "I pray, I know the Bible, I glorify God, but I do not think that every Pentecostal knows the answer to every question."<sup>67</sup>

Secondly, in the absence of actual knowledge about Eritrean Pentecostalism, the visa officer substitutes her speculation to establish the "correct" answers.

The visa officer's preferred question about the gifts of the Holy Spirit, and the problem with it, have been addressed above.

The following exchange comes from the case of an applicant who was found by the visa officer to lack knowledge of the religion she claimed to practise:

Why did you leave Eritrea? I left Eritrea because of my beliefs.  
 What religion before? Orthodox.  
 What is the difference between both? Baptise as a child, other when you have knowledge of Bible, and older.  
 Any other differences? We don't believe in angels.  
 Any other differences? Orthodox believe in photos, Pente no.  
 What is the final judgment? JC will come and judge the people.  
 Eternal state of righteous? Believe fully, give you gifts.  
 What is the Second Coming of Christ? Believe those will be judged.<sup>68</sup>

<sup>65</sup> 12 of the 17 cases.

<sup>66</sup> See *Ullah, Khan Asad v.M.C.I.* (F.C.T.D., no. IMM-5639-99), Heneghan, November 22, 2000. The Federal Court criticized a member of the Immigration and Refugee Board for expecting the claimant to be as knowledgeable about his religion as the member. The UNHCR advises against "extensive examination or testing of the tenets or knowledge of the claimant's religion", pointing out that "knowledge of a religion may vary considerably depending on the individual's social, economic or educational background and/or his or her age or sex." UNHCR, *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, 28 April 2004, HCR/GIP/04/06, para. 28.

<sup>67</sup> Case #13.

<sup>68</sup> Case #4

The visa officer never specifies what was, in her view, inadequate in the responses. Since the visa officer's style of note-taking is abbreviated, it is impossible to know if these were the full answers given, or simply the visa officer's summary. It should also be noted that there were apparently problems in interpretation: presumably the word translated as "photos" was "icons."

The locally engaged employee who conducted three of the interviews takes the same mistaken approach, with the endorsement of the visa officer.<sup>69</sup> One applicant reported at the interview that she had been baptised at the age of 12:

Unreasonable that you were baptised at age of 12 as acc to the faith baptism is administered only to adults? I told the pastor about my problem that my family is against my belief so I was baptised earlier. It varies from church to church. No it is a principle acc to Pente faith.<sup>70</sup>

The visa officer endorsed this approach, stating in the refusal letter: "You stated that you were baptised in 2002 at the age of twelve while according to Pentecostal doctrines baptism is only administered to adults who have accepted the faith."

The following exchange from another case similarly shows the locally engaged employee establishing herself as an authority on Pentecostalism:

Can you describe to me how do Pente usually pray?  
We pray in a group and we have religious songs and then there is a priest. I pay 10% from my income I get to church. When you become filled with Holy Spirit I pray with tongue. .... that is the different way special for Pente. (Not true Pente pray in a loud voice, lift their hands, play musical instruments and sometimes dance to the Lord.)<sup>71</sup>

It is not clear why she felt the need to object that the applicant's account was "not true" since the "correct" answer given is not actually inconsistent with the answer given by the applicant.<sup>72</sup>

Another applicant recollected the exchange testing her knowledge of Pentecostalism as follows:

She asked: What about Corinthians? What does Corinthians verse 13 mean?  
I said: Are you asking me First Corinthians or Second Corinthians?  
Then she said, wait, and she took a long time, and I think she was searching on the Internet. Then she said, no, Second Corinthians.  
I told her that the verse talks about faith, hope and love. But the verse says that love is the one thing that will last forever.  
She asked me about the gifts of the Holy Spirit.

---

<sup>69</sup> Where the locally engaged staff member conducted the interview, the visa officer reviewed the notes from the interview and reached her decision on that basis.

<sup>70</sup> Case #15.

<sup>71</sup> Case #14.

<sup>72</sup> In this case, the visa officer did not explicitly state in the letter of rejection that she does not believe that the applicant is a Pentecostal, although it seems to be implied as she finds her not forthcoming, not credible and not a refugee.

I told her that there were nine gifts of the Holy Spirit and I was able to mention 5 or 6 of them.

She asked me where in the Bible are the gifts of the Holy Spirit?

I told her that I can memorize things from the Bible but I cannot remember exact verses and numbers because I am bad at memorizing numbers. And I said, it is in Corinthians but I cannot remember the verse.

When I looked at her face I was confused, because of the things that I had heard about her from other Eritreans, I was afraid.

She said, if you are a Pentecostal believer then you should have known the exact number and the verse.<sup>73</sup>

This account is remarkably close to the visa officer's notes in CAIPS (which the applicant had not seen when she gave her account):

Pls tell me what 1 Corinthians 12? It speaks about belief, love and hope. I think it is about love, cause love is forever. Sorry I can't not recall [sic] What are the gifts of the Holy Spirit? To work with energy, wisdom, spiritual, I think there are nine. Where is that located in the Bible? In second Corinthians, I am not sure.

Concerns: You have very little knowledge about the Pente religion? I have problem remembering, I am very weak.<sup>74</sup>

The visa officer tends to give little or no attention to evidence that might be more useful for testing the applicant's credibility, such as whether they can give a coherent account of their own experiences in the faith, including conversion, worship, particular churches they are or were a member of and persecution on the basis of religion.<sup>75</sup>

## 5. Possible bias against Pentecostals?

When a number of the Pentecostal cases are considered together, a question may arise about whether the visa officer might be biased against Pentecostals.<sup>76</sup> In some cases she mentions unnecessarily that she herself is Catholic. She also challenges people as to their reasons for converting in a way that does not sound altogether objective.

For example, according to the CAIPS notes, one applicant who was previously Catholic was asked why he converted:

I didn't have any idea about the Bible, I found many differences.

Like what? Quoted excerpts from the Bible which are Catholic religion and Pente.

<sup>73</sup> Case #17.

<sup>74</sup> This applicant reported that she felt that the interpreter was making mistakes and not interpreting all that she said.

<sup>75</sup> According to the UNHCR, in assessing credibility regarding claims based on religion, "[e]xperience has shown that it is useful to resort to a narrative form of questioning, including through open-ended questions allowing the claimant to explain the personal significance of the religion to him or her, the practices he or she has engaged in (or has avoided engaging in out of fear of persecution), or any other factors relevant to the reasons for his or her fear of being persecuted." UNHCR *Guidelines*, supra note 66, Para. 29.

<sup>76</sup> Her use of the abbreviation "Pente" perhaps suggests at least insensitivity. According to the UK Home Office, the term is considered by some to be pejorative. UK Home Office, Immigration and Nationality Directorate, "Country of Origin Information Bulletin - Eritrea. 'Evangelicals': Unregistered Christian Churches" July 2006.

Please explain the differences? Mentors, angels, do not make photos. What is the final judgment? [The applicant] went on to explain that Catholics have to go thru mother, told [the applicant] that I am Catholic and never heard that, [the applicant] then stated he was Catholic too.<sup>77</sup>

It sounds as if the visa officer might have temporarily lost sight of the fact that her job is to determine whether he converted, not whether he was right to convert.

This is how the applicant himself remembered the exchange:<sup>78</sup>

She asked me what is the difference between Pentecostalism and Catholicism. I answered by quoting John 14:6 and then I told her that this means that Jesus is the only one who can save you. But in Catholicism there is mediation, with Mary and the other Saints. I said, I know that they read the Bible and that they keep this verse, but practically speaking they go through mediation. I also told her about the Icons and the pictures. Then I quoted Exodus 20 which says “I am the only God” and advises against making Icons or pictures and which says “I am a jealous god”. While I was speaking to her she seemed to be searching something online. Then I told her about Mark 10:16 “Those who believe and get baptized are saved.” I told her that in Catholicism people are baptized when they are very young, but in the Bible it says that you should believe first so you should not be baptized until later in life.

When I was telling her this she said “I am a Catholic and what you are telling me is also in the Catholic faith. So I don’t accept these differences. Tell me something different.”

I felt this was threatening. I said the only thing I want to emphasize is that salvation is through Jesus Christ and can only come through Jesus Christ.

In the rejection letter, the visa officer stated: “I am not satisfied that you are indeed a follower of the Pentecostal faith. You were not able to explain to my satisfaction why you converted to the Pente faith after the religion was banned by the government and knowing of the consequences.”

Another applicant described as follows what happened when asked to explain why he converted from Catholicism:

I tried to tell her the differences between Catholicism and Pentecostalism. Suddenly, she was so angry and started to be very rude to me. She started to challenge me by saying that I am a Catholic and we have this in Catholicism (in a very emotional and rude way). Then I explained to her the differences again. I think she was trying to intimidate me. Suddenly she stopped me and started to ask me more questions on how I left Eritrea.<sup>79</sup>

---

<sup>77</sup> Case #11.

<sup>78</sup> He gave his version after receiving the rejection letter, but before he could read the visa officer’s notes from the interview.

<sup>79</sup> Case #8.

In describing their impressions of the interviews afterwards, several Pentecostals reported feeling that she was particularly negative towards their faith. The following are comments from two applicants:

“She seemed very negative towards me during this part of the interview. When I was telling her that the gifts were not for all people, that they were given to some people as special gifts, at this point she said no.”<sup>80</sup>

“At the beginning of the interview I felt that she was listening to me and I felt that I would be accepted. But throughout I began to feel that she was not happy with Pentecostals in general.”<sup>81</sup>

Of course, these reflections need to be considered with caution since they were given after being rejected, when the applicants might be expected to be looking to find fault with the visa officer.

## **6. Failure to take account of documentary evidence**

A visa officer must take into account not only the applicant’s testimony, but also any documentary evidence submitted. In most cases, the applicant had submitted a written account of their reasons for fleeing Eritrea. In a few cases, they had also submitted documents to support their claim, such as letters from churches where they have worshipped. Some applicants also claimed that they tried at the interview to submit documentary evidence, such as letters or photos attesting to their church membership, but she refused to take them.

In most cases, the visa officer simply ignores the documentary evidence. When she does refer to such evidence, it is invariably in order to use it against the applicant, notably to allege a usually unspecified contradiction between the oral and written testimony, as mentioned above.

On one occasion, she does supply more detail about the alleged contradiction. She writes in the refusal letter: “You stated in your written statement that you and your family were arrested in 2005 and were held for three weeks while you stated at your interview that you were only arrested and that you decide[d] to leave Eritrea because you were told that you would be jailed for life.”<sup>82</sup>

Unfortunately, there are major inconsistencies between the allegation of the visa officer and the documentary evidence. The CCR does not have access to the full file held by the visa officer, but in the written submission that the applicant is believed to have submitted, there was no reference to the applicant and his family being arrested in 2005. Furthermore, according to the CAIPS record of the interview, the applicant stated that in 2007 he was arrested and detained for two weeks in a police station, and then transferred to a prison (in the form of a metal container) where he was held for one month.<sup>83</sup> He is never recorded saying that anyone told him he would be jailed for life. In fact, in the CAIPS notes the visa officer claims that it was in his written statement that he said that “he decided to leave Eritrea because of his told him [sic] that he would be arrested and jailed for his life.”

---

<sup>80</sup> Case #10.

<sup>81</sup> Case #4.

<sup>82</sup> Case #8.

<sup>83</sup> This is consistent with the written testimony that he is believed to have submitted.

The visa officer seems to be deeply confused about the facts. This impression is strengthened by the fact that she incorrectly stated in the letter of rejection that the interview was conducted with a Tigrinyan-speaking interpreter: in fact, as the CAIPS makes clear, the interview was conducted in English.

In many cases, consulting the written submissions clarifies and supports the oral testimony, but the visa officer never uses them in this way.

For example, in one interview the locally engaged employee raised concerns about the applicant being released from jail in order to receive medical treatment.<sup>84</sup> She seems suspicious when the applicant explains that a guarantee was offered, asking why she didn't mention that earlier.

If the visa officer had taken the trouble to read the applicant's written statement provided in advance of the interview, she would have seen that she had in fact mentioned that she was released on bail. She had written: "I was detained there for almost two months and I became seriously sick because of cold and I was sent to take medication by bail to inform to the prison after I finished my medication."

The visa officer's letter of rejection suggests that she did not review the written testimony. She writes: "It is unreasonable that security would release a prisoner in order to receive medical treatment and expect to voluntarily return back to prison."

In another case, the locally engaged employee who conducted the interview was troubled when the applicant mentioned near the interview that she had been detained.<sup>85</sup> When confronted, the applicant responded: "I thought that you are aware of my case." Indeed, the applicant had recounted her experience of detention in her written submission, which she could reasonably have expected the interviewer to have read in advance of the interview.

It appears that the visa officer similarly failed to read the written submission: in her review of the case following the interview she simply repeats that the applicant "did not mention being detained until at the end of the interview."<sup>86</sup>

Among the documents submitted by some applicants was proof that they had been recognized as a refugee by the UNHCR. While UNHCR status is not determinative for the Canadian decision-maker, it is certainly relevant. Yet, she never takes it into consideration. On the other hand, she holds it against one woman that she had not pursued UNHCR status with sufficient energy (the woman said she had not presented herself for the UNHCR interview because her employer would not give her the time off).<sup>87</sup>

---

<sup>84</sup> Case #14.

<sup>85</sup> Case #9.

<sup>86</sup> In the rejection letter, the visa officer takes a different line, saying "By your own admission, you were detained on one occasion in 2002. You never had further incidents with security until you left Eritrea in 2007." The applicant might be forgiven for thinking that she can't win: first she is reproached for not giving greater emphasis in the interview to her experience of detention, then she is told that the detention was too insignificant and long ago to make her a refugee.

<sup>87</sup> Case #4.

One of the applicants was referred by the UNHCR to Canada.<sup>88</sup> This means that the UNHCR not only found her to be a refugee, they also considered her to be in particular need of resettlement as a durable solution. As is routine with a resettlement referral, the UNHCR had provided the visa officer with a detailed submission, which included the applicant's reasons for fleeing persecution and the factors in her personal situation that led the UNHCR to recommend her for resettlement. This would necessarily have involved at least one quite extensive interview. Nevertheless, the visa officer gives no consideration, let alone weight, to the UNHCR's recommendation, using the submission only as a basis to reject the applicant, due to unspecified and unobvious "major discrepancies" between her statements at the interview and testimony to the UNHCR.

### **7. Incorrect weighing of evidence**

As we have seen, the visa officer is very quick to disbelieve the testimony of applicants, simply on the basis that one part of it does not seem reasonable to her. On the other hand, she accepts uncritically evidence from other sources, even though their reliability might seem dubious.

One applicant described how she got sick as a result of being cold at night in jail without a blanket in June or July.<sup>89</sup> The visa officer found this incredible as she felt it should not be cold at night in June or July. Unlike many other cases where she simply relied on her assumptions to find the applicant not credible, here she did some minimal internet research and concluded that the applicant's testimony was contradicted by web pages from "Trip Advisor" and MSN Weather.<sup>90</sup>

According to Trip Advisor (Asmara Weather and When to Go), "[t]he average summer temperature in Asmara (during June and July, its warmest season) is near 100 degrees F."<sup>91</sup>

MSN Weather, meanwhile, offers monthly averages for Asmara that, in the Fahrenheit favoured by the visa officer, shows an average low of 85-86° and high of 101° in June and July (30° C low, 38° C high).<sup>92</sup>

These temperatures are extremely implausible given that Asmara is situated at a high elevation and is often described as having a temperate climate. The US Department of State describes the geography of Eritrea as follows:

The country has a high central plateau that varies from 1,800 to 3,000 meters (6,000-10,000 ft.) above sea level. A coastal plain, western lowlands, and some 300 islands comprise the remainder of Eritrea's landmass. Eritrea has no year-round rivers.

---

<sup>88</sup> Case #2.

<sup>89</sup> Case #14.

<sup>90</sup> It is possible the internet research was done by the locally engaged employee who conducted the interview. Whoever did the research, the visa officer used it in her letter of refusal, where she states "According to open source information, the average temperature in Asmara during June and July is near 100 degrees F."

<sup>91</sup> Trip Advisor, <http://www.tripadvisor.com/Travel-g293789-s208/Asmara:Eritrea:Weather.And.When.To.Go.html>

<sup>92</sup> MSN Weather, [http://weather.msn.com/monthly\\_averages.aspx?&wealocations=wc%3aERXX0001&q=Asmara%2c+ERI&setunit=F](http://weather.msn.com/monthly_averages.aspx?&wealocations=wc%3aERXX0001&q=Asmara%2c+ERI&setunit=F)

The climate is temperate in the mountains and hot in the lowlands. Asmara, the capital, is about 2,300 meters (7,500 ft.) above sea level. Maximum temperature is 26° C (80° F). The weather is usually sunny and dry, with the short or belg rains occurring February-April and the big or meher rains beginning in late June and ending in mid-September.<sup>93</sup>

The internet site Weather.com offers average temperatures for Asmara that are widely different from MSN Weather but consistent with the US State Department account. They give average highs of 24° C for June and 21° C for July, and the average lows respectively 10° C and 11° C (76° and 71° F for highs, 50° and 51° F for lows).<sup>94</sup>

The average temperatures listed by Weather.com are entirely compatible with the applicant's account of being cold in jail without a blanket.<sup>95</sup>

In any case, according to the applicant's account she was not even in Asmara. She was detained in Mendefera and transferred after a week to Adiquala detention centre, which is where she claimed to have become sick from the cold.

The visa officer needed to ask herself whether temperatures for Asmara, even if correct, would be relevant for the region where the applicant said she was imprisoned. Eritrea's climate is very diverse, a fact that is captured by a popular motto of the Eritrean tourism industry that offers "three seasons in two hours."<sup>96</sup>

Based on her lack of knowledge of Eritrea, her over-readiness to disbelieve the applicant and her lack of critical judgment with regard to internet evidence, the visa officer has wrongly rejected the applicant's testimony that she became sick because of the cold.<sup>97</sup>

---

<sup>93</sup> US Department of State, <http://www.state.gov/r/pa/ei/bgn/2854.htm#geo>

<sup>94</sup> Weather.com,

<http://www.weather.com/outlook/travel/businesstraveler/wxclimatology/monthly/graph/ERXX0001>. This site reports that "on average, the warmest month is March." Other websites support the Weather.com temperatures for minimum temperatures in Asmara. For example, according to <http://www.climatetemp.info/eritrea/>, the average minimum in June and July is 12°C. According to <http://www.climate-charts.com/Locations/e/E163021.php>, the low mean in June and July is 10.5°C and 10.8°C.

<sup>95</sup> It seems likely that the MSN Weather averages are taken from a weather station not located in Asmara and simply generalized to the whole of Eritrea. The only other Eritrean city for which MSN Weather offers monthly averages is Keren: the averages for June are exactly the same as for Asmara.

<sup>96</sup> "Eritrea is the land where one can experience three seasons in just two hours – from the rugged mountain peaks of Emba Soira to the arid desert heat of the Danakil Depression (100 meters below sea level and which is one of the hottest places on earth) to the cool breezes of the Red Sea." Embassy of the State of Eritrea in South Africa, <http://www.eritreambassy.co.za/Eritrea%20at%20a%20glance/Eritrea-Location.htm>. See also <http://www.embasoirahotel.com/aboutus.html>, the website of the Embasoira Hamasien hotel in Asmara: "the diverse climate of Eritrea lends itself to wide range of natural elements. "Three seasons in two hours!" is a slogan that best describes this scene."

<sup>97</sup> Also problematic is the failure (according to the evidence of CAIPS) to give the applicant an opportunity to respond to the internet sources that the visa officer was relying on.

## 8. Lack of interest in serious human rights abuses

Many of the applicants speak of suffering serious human rights abuses, including torture, rape and atrocious conditions of detention. It is well-documented that these abuses are widespread in Eritrea, making the applicants' accounts prima facie plausible. Despite this, and despite the relevance of such experiences to the applicants' refugee claim, the visa officer displays little or more usually no interest in these experiences. Nor does she take them into consideration when making her decision.

For example, one applicant claims she was detained twice in Sawa for her religious beliefs.<sup>98</sup> In her written statement she explained that on the first occasion she was held for four months in a "metal cargo containership"<sup>99</sup> and forced to do "difficult military punishments and hard labor work, until we agreed to convert our faith." The second time she was detained, she was held for two months at Sawa and it was then, she wrote, that she "faced the worst persecution, torture and [I was] sexually harassed several times by the prison guards and interrogators."

Her oral testimony, as reported in the CAIPS notes, was consistent with this account. She said regarding the first detention, "I was kept in a container kept with other female detainees, I suffered a lot in detention." With respect to the later detention, she said "I experienced very bad things."

The visa officer does not ask any questions to elicit details about the applicant's experiences in detention. She neither considers nor directly challenges the applicant's account of being abused in detention. Instead she focuses on her account of her escape (deemed not credible because the visa officer does not believe 20 prisoners could be watched by only 2 guards) and the fact that she was issued a passport while in prison (the applicant said it was as a result of a bribe). The visa officer also finds her not a Pentecostal because she could not name the seven gifts of the Holy Spirit.

Another applicant similarly provided some details in his written account of torture and abusive conditions of detention.<sup>100</sup> The visa officer records the relevant part of his testimony at the interview as follows:

[...] detained us in container, very cold, suffered. We were kept there for 10 days, they asked us questions, then transferred to Halhale, they shaved our head, took shoes, they beat us with sticks. In Halhale very bad centre, holds 10 but had 30 people, not enough food. Hard labour. How long did he stay? 8 months.

The interview then moves on to the applicant's account of his escape. The visa officer never gives any consideration to his alleged experiences of detention. Instead she confines herself to challenging his statement that he is Pentecostal, and speculating on what she felt was the real reason for the applicant's flight from Eritrea. Here is how the interview concluded, according to the CAIPS notes:

---

<sup>98</sup> Case #13.

<sup>99</sup> The use of shipping containers for detention is well-documented. See for example Human Rights Watch, *Service for Life*, supra note 20. "According to former detainees, shipping containers are frequently used as detention facilities in Sawa, Mai Serwa, Dahlak, and Klima, near Assab."

<sup>100</sup> Case #3.

I have concerns, I asked specific questions related to the Pentecostal religion, and you have no idea what I was talking about? I just answered to my ability, I left my country, in detention I experienced very bad things. I don't believe you were detained because tried to evade national service I do not believe you because you converted to Pentecostal [sic], your knowledge is very basic for someone who has been studying for 8 years.

The confusion in the text only adds to the problem in understanding the visa officer's position with respect to the detention. Did she mean to say that she believed he was detained because he tried to evade national service? If so, she has failed to consider how the abuses he suffered constitute persecution. Perhaps on the other hand, she meant to say that she doesn't believe he was detained at all, either because he tried to evade national service, or because of his Pentecostal faith. If so, she has failed to articulate what concerns she had with his account of detention.<sup>101</sup>

People who have been tortured or have suffered other traumatic experiences can find it extremely distressing to speak about those experiences, especially in an intimidating setting such as an interview with a government official. For this reason, it is preferable for a decision-maker to avoid direct questions about the trauma, if a clear conclusion can be reached from other evidence.<sup>102</sup>

However, in these cases the conclusion is far from being clear and the visa officer is at fault for failing to grapple meaningfully with the applicants' accounts of experiences of serious human rights abuses. She needed either to accept their uncontradicted accounts or test their credibility on this part of their story by detailed questioning.

The visa officer's insensitivity to experiences of repressive violence is particularly evident in a case referred by the UNHCR.<sup>103</sup> In their submission, the UNHCR reported that the applicant had been raped in Cairo and that she was suffering "serious psychological problems due to the sexual assault experience." The applicant had also reportedly been sexually assaulted in Eritrea.

It is well-established that victims of serious trauma often have difficulties testifying and their testimony may seem confused or inconsistent.<sup>104</sup> The visa officer shows no awareness of this when she comments that the applicant's "story is confusing" or refers to supposed discrepancies between her oral statements and the UNHCR submission.

---

<sup>101</sup> In the letter of rejection, she takes the position that he left Eritrea to evade national service. She also declares his account of escape not credible, because she finds it unreasonable that 170 prisoners were guarded by only six guards. She never raised this concern with the applicant, so he was not given an opportunity to respond. She does not mention at all his account of his experiences in detention.

<sup>102</sup> CIC advises that "officers should keep in mind that applicants may have difficulty in repeating the story of persecution, particularly if the persecution involved torture, rape, intimidation or humiliation." OP5, *supra* note 27, 11.1.

<sup>103</sup> Case #2.

<sup>104</sup> See, for example, Immigration and Refugee Board, *Training Manual on Victims of Torture*, April 2004, <http://www.irb-cisr.gc.ca/Eng/tribunal/rpdspr/victorture/Pages/index.aspx>.

Nor does the visa officer appear to have given any thought to the possible problems of using a male interpreter in this case involving an alleged victim of sexual assault.<sup>105</sup> CIC guidelines advise using a female interpreter for female applicants “wherever possible”.<sup>106</sup> According to the CIC Declaration on Refugee Protection for Women:

Citizenship and Immigration Canada recognizes that refugee claims by women may be jeopardized because they do not tell of experiences of sexual violence, they may be unwilling to speak of such experiences in front of their husbands, or they may be intimidated by the presence of male officials or interpreters.<sup>107</sup>

The applicant’s recollection of the interview suggests a lack of interest in or sensitivity to the allegations of sexual assault. The following are some key excerpts:

She only interrupted me once when I was telling her about the problems I faced in Sawa and I was describing the situation with my leader. I was telling her about how I was raped after I failed the exam and was not allowed to leave Sawa. She interrupted me to say “You have said ‘officer’, but it is written differently in your file”. I said: “it is written ‘brigadier officer’ and it is the same thing.”

I tried to tell her about what happened to me in Egypt as well. I told her about the people that I lived with here being rounded up by the police and deported to Eritrea. She interrupted me to ask why I did not live with my relatives and instead told her that I lived with my colleagues. I said, it is the same thing, some of them are my colleagues and some of them are my relatives.

Then finally when I finished all the details she said she did not understand anything I had said to her. I said: “Ask me something you did not understand and I will give you clarification.” I do not remember if I gave the interpreter enough time to talk.

She said: “What you are telling me is totally different from what is written by UNHCR”.

I told her there is no inconstancy between what I said and what is written there. I asked her to tell me the place where the inconsistency is. She did not tell me what she thought was the inconsistency.

I felt I was not finished my information, the details I wanted to tell her. She looked at her watch and then after one minute or half a minute, she put her hand out and told me to stop.

I was really upset because I did not feel that I was finished. She said thank you and asked me to leave.

---

<sup>105</sup> The visa officer does not identify the interpreter in the CAIPS, but the applicant afterwards reported that the interpreter was male.

<sup>106</sup> CIC, OP5, supra note 27, 11.1.

<sup>107</sup> Declaration included as Appendix B in CIC, OP5, supra note 27.

This account was given by the applicant after she had learned that she had been refused, so it should be approached with caution. However, it seems consistent with the visa officer's version in CAIPS (which the applicant hadn't seen), both in terms of content and an abruptness in manner on the part of the visa officer.

### **9. Poor interview technique**

Overall, the evidence suggests that the visa officer's interview technique is poor. In describing their impressions afterwards, several applicants reported that she was checking the internet during the interviews, that she cut them off, that she appeared angry, that she mentioned that she was Catholic and/or appeared disapproving of Pentecostals.

The CAIPS notes tend to support such allegations: they suggest that the visa officer employed a style of questioning that was unsympathetic to the applicant and that she sometimes departed from a neutral position and entered into a debate with the applicant, particularly on matters of religion. The CAIPS also suggest that when she raised a concern, she tended to do so in a forceful and confrontational way. Having raised a concern, she did not keep an open mind: she never acknowledged that a concern had been addressed or recorded even considering alternative explanations.

It is interesting to contrast the responses recorded in the CAIPS notes with those reported by the AMERA representative who debriefed them after their interviews with the visa officer. Of course some of the differences may be attributable to style: the CAIPS notes are written in an abbreviated style, apparently as a summary only. Also important is the difference in setting: applicants can be expected to have been much more comfortable and fluent in their responses when speaking with an NGO representative than with a visa officer who would make a decision significantly affecting their future. Another possible factor relates to the interpreter: responses rendered to the visa officer through an interpreter who was not familiar with the religious terms being used may well have come across in less detail. One may also wonder how much the difference in recorded responses is also due to inadequacies in the visa officer's technique for interviewing and recording.

Consider, for example, the following extract from the CAIPS notes for one applicant:

Tell me the differences and why you would convert? Baptized older, no mentor. Why would you convert to a religion that was illegal? Because we only have to follow over one God.<sup>108</sup>

Compare this with the applicant's description of these exchanges to AMERA (given before he had seen the CAIPS notes):

She asked me why I converted to Pentecostalism. I told her that when [X] started telling me about his faith, about Pentecostalism, I was not having enough knowledge about the Bible. Later when I began to read, I saw that there were some points in Catholicism that were not true and in the Bible, such as Mediation,

---

<sup>108</sup> Case #11.

through Saint Mary, bowing to saints and Icons. I also understood the meaning of speaking in tongues and I understood that it is not necessary to have icons or images. I knew also the time at which a person should get baptized.

She asked me why I converted to Pentecostalism even though it is a banned religion. I told her, as the scripture says: “Don’t get afraid to those who can kill your flesh but not your soul, be afraid of the one who is able to take your flesh and soul.”<sup>109</sup>

The applicant also commented on his impression of the visa officer’s questioning:

I found the way that she was behaving very stressful because I felt that when I said things that were true in my life she said that they were not true. For example, how she reacted to me when I told her why I converted. She also said that she was not satisfied with what I said about my detention.

Another applicant suggested that she felt intimidated by the visa officer’s manner:

During the interview I was not relaxed. When I saw her face and she was angry, I felt like I could not even speak. She asked me questions in a rude way. For example, when she asked me how many people were in the place when I escaped and I told her 20 people she got angry.

When she asked me the seven points and I gave her the first one, I felt that she was laughing at me, and mocking me. She looked at me and she was smiling but not in a kind way. I was not able to answer because I figured that the case was finished as soon as she declared that it was impossible for 20 people to be guarded by 2, because I felt that it would not be possible to convince her. It is very usual for two armed men to control 20 unarmed women.<sup>110</sup>

## **10. Lack of sensitivity regarding interpretation issues**

The use of an interpreter is a necessary but challenging aspect of conducting a resettlement interview. CIC guidelines offer a section on “preparing the interpreter”,<sup>111</sup> which the visa officer did not fully follow. For example, in some cases the visa officer fails to record the presence of the interpreter and his name, or that she asked whether the applicant and interpreter understood each other.

Based on the CAIPS notes and the accounts of the applicants, it appears that two different interpreters were used, both of them male.<sup>112</sup>

As has already been mentioned, the visa officer failed to take note of the potential pitfalls in having a male interpreter in a case involving a woman alleging sexual assault.

---

<sup>109</sup> In the letter of rejection, the visa officer wrote: “I find it unreasonable that you decided to follow a banned religion only one month before taking military service knowing of the consequences.”

<sup>110</sup> Case #13.

<sup>111</sup> CIC, OP5, supra note 27, 12.1.

<sup>112</sup> As noted above, one interview was conducted in English without an interpreter.

There were also apparently problems in communication in cases involving Pentecostals because of the interpreters' lack of familiarity with the religious terms being used. This should have been evident to the visa officer from the reference to "photos" where "icons" was meant. It seems that the interpreters also had trouble translating "mediation" or "mediation through the saints": this concept seems to have come out as "mentors" or "angels."<sup>113</sup>

A number of the applicants recognized that there were problems in the translation of some religious terms. For example, one applicant said that when he said "Easter" the interpreter simply used the Tigrinyan word when translating the answer for the visa officer.<sup>114</sup> He also said he corrected the interpreter when he translated Holy Spirit as Holy God.

Another applicant felt that the interpreter failed to translate all that he had said and that the visa officer did not address the fact that there were almost certainly some omissions:

I think [the interpreter] had difficulty expressing biblical terms. [...] When she asked me what is the meaning of the Holy Spirit, I told him the details about what the Holy Spirit is but he only said that "the Holy Spirit is Holy Spirit". For example, I told him that the Holy Spirit is God by himself, and it cannot be seen, it is also power as is written in the scripture that when the Apostles gathered one day they were filled by the Holy Spirit and were able to speak in Tongues, as it is described in the Holy Bible in Acts Chapter 2. The interviewer did not ask for more information from the interpreter.<sup>115</sup>

Another applicant also felt that the interpreter was not repeating everything she said: "I was giving a lot of information and he was only saying a small amount."<sup>116</sup>

One of the applicants mentioned near the end of the interview that her native language is Belin (as recorded on her application form) and that this might explain apparent inconsistencies between her oral testimony (through a Tigrinyan-speaking interpreter) and the written submission.<sup>117</sup> Rather than being open to the possibility of a communication challenge, the visa officer goes on the attack: "You never identified that you had a problem speaking with this interpreter?" According to CIC guidelines regarding use of interpreters, visa officers should "advise applicants to tell them at any point during the interview if there is anything that they do not understand or if there are any other difficulties."<sup>118</sup>

Emphasizing the visa officer's lack of sensitivity to the issues of interpretation, the rejection letter incorrectly states that the interview took place in Belin.

---

<sup>113</sup> For example, one applicant reported that she said that "in Orthodoxy there is mediation but this is not true in Pentecostalism." In the CAIPS, the equivalent answer reads "We don't believe in angels". Case #4. Another applicant says that he responded to a question about the difference between Catholicism and Pentecostalism by reference to mediation "with Mary and the other Saints" and use of icons in Catholicism. The CAIPS notes read: "Please explain the differences? Mentors, angels, do not make photos." Case #6.

<sup>114</sup> Case #1.

<sup>115</sup> Case #3.

<sup>116</sup> Case #4. Another applicant similarly said of the interpreter: "when I was telling details, I felt that he was only interpreting the last thing that I said, and missing the things that I said at the beginning." Case #11.

<sup>117</sup> Case #2.

<sup>118</sup> CIC, OP5, supra note 27, 12.1.

### 11. Poor notetaking

It is often difficult to understand the visa officer's version of what occurred at the interviews because of weaknesses in her note-taking.

Overall the note-taking is very disjointed. It is not clear whether answers were as recorded or the visa officer means the notes as a summary of what was said. It is sometimes difficult to understand what is said by the applicant and what by the interviewer. Some carelessly written sentences leave the reader attempting to guess what the visa officer meant to say. Since she was sometimes consulting the internet during the interview, according to several applicants' report, it is difficult to see how she could give full attention to ensuring an accurate record of what was said.

There is some internal evidence suggesting that she did not record all exchanges at interviews.<sup>119</sup>

### E. TABLES OF CASES

Chart 1 shows the cases, according to the number allotted to them for this analysis, with gender, the main basis of their refugee claim, main allegations of imprisonment or violence suffered, the visa officer's reason for rejection (expressed in general terms) and their status with UNHCR, if known.

#	M/F	Basis of claim	Alleges prison, torture of other violence	Reason for rejection	UNHCR status
1	M	Pentecostal	Imprisoned in harsh conditions	Not forthcoming. Insufficient knowledge of Pentecostalism. Part of story not credible. Lack of specifics.	Refugee
2	F	Military deserter	Sexual assault	Not forthcoming. Inconsistencies oral/written. Part of story "unreasonable"	Refugee
3	M	Pentecostal	Imprisoned, tortured	Not forthcoming. Insufficient knowledge of Pentecostalism. Part of story not credible. Believed to be draft evader	Refugee
4	F	Pentecostal	Imprisoned, tortured	Not forthcoming. Insufficient knowledge of Pentecostalism. Part of story not credible.	Awaiting determination
5	F	Military deserter	Attempted sexual assault	Inconsistencies oral/written. Part of story not credible. Lack of specifics.	Awaiting determination

<sup>119</sup> For example, in one case she records: "Differences? Name the same differences as other applicants." Presumably she means that the applicant gave similar answers to other applicants, without specifying what they were. Case #8. In another case, the visa officer raises a concern about the applicant's lack of knowledge of the gifts of the Holy Spirit, but the CAIPS notes do not show that she had been until then asked a question on this subject. Case #10.

#	M/F	Basis of claim	Alleges prison, torture of other violence	Reason for rejection	UNHCR status
6	M	Pentecostal	Imprisoned in harsh conditions	Not forthcoming. Part of story not credible.	Refugee
7	F	Eritrean ethnicity in Ethiopia		Not forthcoming. Parts of story not credible. No bar to return to Ethiopia.	
8	M	Pentecostal	Imprisoned in harsh conditions (including beatings)	Not forthcoming. Inconsistencies oral/written. Parts of story not credible.	Refugee
9	F	Pentecostal		No well-founded fear of persecution (detained once a long time ago). Not forthcoming. Insufficient knowledge of Pentecostalism. Evading military service.	
10	F	Pentecostal		Not credible. Parts of story not credible. Insufficient knowledge of Pentecostalism. Durable solution in Eritrea.	Refugee
11	M	Pentecostal and military deserter	Imprisoned, tortured	Only reason to flee was to evade conscription. Parts of story not credible.	Refugee
12	F	Military deserter	Attempted sexual assault, imprisoned	Not forthcoming. Parts of story not credible. Inconsistencies oral/written.	Rejected. Did not appeal
13	F	Pentecostal	Imprisoned, tortured and sexually harassed	Not forthcoming. Parts of story not credible. Insufficient knowledge of Pentecostalism.	Refugee
14	F	Pentecostal	Imprisoned, tortured	Not forthcoming. Parts of story not credible.	Refugee
15	F	Pentecostal	Imprisoned, tortured	Not forthcoming. Parts of story not credible. Insufficient knowledge of Pentecostalism.	Refugee
16	F	Imputed political opinion (based on family issues)	Imprisoned, tortured	Not forthcoming. Parts of story not credible.	File closed
17	F	Pentecostal	Imprisoned in harsh conditions (including beatings)	Not forthcoming. Insufficient knowledge of Pentecostalism. Parts of story not credible.	Refugee

Chart 2 shows, for the same cases, the date the interview was conducted, who the interpreter was and whether/how it was recorded in CAIPS, whether we have access to the full file and a post-interview debriefing by AMERA, and any other comments

#	Date of interview	Interpreter	Full file?	AMERA debriefing	Other comment
1	6-Sept-09	K (named). Did not verify understood interpreter.	Yes	Yes	
2	7-Sept-09	Presence not mentioned. Applicant mentions not native language. Wrong language in refusal letter. Applicant says K.	Yes	Yes	UNHCR referred, woman at risk + survivor of violence and trauma
3	16-Sept-09	K (named). Did not verify understood interpreter.	Yes	Yes	
4	16-Sept-09	K (named). Did not verify understood interpreter.	Yes	Yes	
5	16-Sept-09	K (named). Verified that understood interpreter.	Yes	Yes	
6	28-Sept-09	Mentioned interpreter present. Did not verify understood interpreter. Applicant says K	Yes	Yes	Case re-opened and accepted as military evader
7	28-Sept-09	Presence not mentioned. Did not verify understood interpreter. Applicant says K.		Yes	
8	28-Sept-09	Interview in English. Letter wrongly states interviewed with interpreter.	No	No (gave his own report)	
9	29-Sept-09	Mentioned interpreter present. Did not verify understood interpreter.	Yes	No	Interviewed by local employee
10	30-Sept-09	Presence not mentioned. Did not verify understood interpreter. Applicant says N.	Yes	Yes	
11	30-Sept-09	Presence not mentioned. Did not verify understood interpreter Applicant says N.	No	Yes	Case re-opened and accepted. Reasons not yet known.
12	7-Oct-09	Presence not mentioned. Did not verify understood interpreter. Applicant says K.	Yes	Yes	
13	7-Oct-09	Presence not mentioned. Did not verify understood interpreter.	Yes	Yes	
14	3-Nov-09	Mentioned interpreter present. Verified that understood interpreter Applicant says K.	Yes	Yes	Interviewed by local employee
15	3-Nov-09	K (named). Verified that understood interpreter.	Yes	Yes	Interviewed by local employee
16	4-Nov-09	Presence not mentioned. Verified that understood interpreter Applicant says K.	No	Yes	
17	16-Nov-09	Presence not mentioned. Verified that understood interpreter Applicant says K.	No	Yes	

## F. CONCLUSION

The analysis of these seventeen cases reveals that the visa officer made numerous serious errors in conducting the interviews and reaching her decisions. The consequences for the lives of the applicants are dramatic: the visa officer determines whether or not they can find a safe and permanent home in Canada. The seventeen are only some of the refugee applicants refused in recent months at Cairo: the CCR knows of at least 8 others, and there are no doubt many more of whom we have not heard.

The problems in these cases highlight the systemic shortcomings in refugee decision-making at Canadian visa offices. Despite the complexity and high stakes of refugee determination, visa officers are often inadequately trained. Decisions are rarely reviewed by the courts and internal monitoring appears to be minimal. Few refugees are accompanied at their interview by a lawyer or indeed anyone else to witness to events. Interviews are not recorded and the sketchy notes in CAIPS do not give a full picture of the interview. Refugees themselves have very limited avenues of complaint open to them if they believe they have been treated unfairly.<sup>120</sup>

The system thus lacks accountability.

These cases came to the attention of the CCR because of the work of AMERA, which noticed and followed up on the pattern of rejections at the Canadian visa office in Cairo. Organizations with the mandate and resources to respond as AMERA did are rare, particularly in the places where most refugee applicants are located. We must therefore ask ourselves whether there are similar patterns of flawed decision-making occurring at other visa offices, with no one available to draw attention to them.

A response is needed not only to the problems at the Cairo visa office, but to the shortcomings in the system of overseas refugee decision-making.

### **Recommendations to Citizenship and Immigration Canada:**

1. Re-open all negative decisions on refugee cases by this visa officer.
2. Relieve this visa officer of responsibility for making further refugee decisions.
3. Publish the report of the Quality Assurance assessment of privately sponsored refugee decisions.
4. Urgently put in place measures to improve refugee decision-making at visa offices by:
  - strengthening guidelines,
  - strengthening training of visa officers, and
  - instituting regular monitoring of compliance with the guidelines, in the areas of:
    - a) Conduct of interviews;

---

<sup>120</sup> Some of the applicants did submit to the visa office their response to the rejection letter. The visa officer simply dismissed their submissions, noting that the case could not be re-opened.

- b) Note-taking;
  - c) Use of interpreters;
  - d) Decision-making.
5. Institute audio recording of interviews.
  6. Review existing codes of conduct governing visa officers and mechanisms for monitoring compliance, and strengthen them as necessary to promote appropriate attitudes towards and treatment of applicants.
  7. Develop a transparent and meaningful process for reviewing and re-opening problematic decisions and for interventions by NGOs regarding problematic trends in decision-making at visa offices.