



THE CANADIAN BAR ASSOCIATION
L'ASSOCIATION DU BARREAU CANADIEN

March 13, 2009

Elsy Jetty Chakkalakal
Senior Project Officer
Operations Branch
Immigration and Refugee Board of Canada
Minto Place, Canada Building
344 Slater Street, 12th Floor
Ottawa, Ontario K1A 0K1

Dear Ms Chakkalakal:

Re: Consultation on Inventory Management in the Refugee Protection Division

I am writing on behalf of the National Citizenship and Immigration Law Section of the Canadian Bar Association (CBA Section). Thank you for this opportunity to make submissions on this important subject. Like the Immigration and Refugee Board, the CBA regards improvements in the law and the administration of justice as vital concerns. It is in this light that we have considered the issue of the processing inventory. Our concerns and recommendations fall under three headings, listed below.

Processing Based on Source Country

An important aspect of procedural fairness is that legal processes are actually fair, and also seen to be fair. Inventory management must not lead to a perception that nationals of one country are being given priority over another. There is a perception that Mexican claims are being prioritized, as they are generally scheduled for hearing after four months, where nationals of other countries wait up to 1.5 years. There is speculation among some practitioners that this is done because the IRB does not consider Mexico a refugee-producing country, and scheduling the claims quickly means they may be quickly cleared out of the system. Any inventory management scheme focused on a specific claimant source country should be avoided, and the existing impression of prioritization should be dispelled in a public statement by the Board. In our view, the circumstances of the claimant should govern the priority of the claim, not the source country *per se*.

Claims with Dependents

Any claimant with a dependent spouse or children living in a country in which they fear persecution should be given priority if the IRB finds that the dependents could be in danger. Indeed, they should be granted the highest priority in processing. This type of claim goes to the heart of refugee protection. We expect this would not include a large number of claimants. Giving effect to this priority would not be administratively burdensome.

Vulnerable Persons

Claimants who are categorized as vulnerable persons should, if at all possible, be referred to the expedited process, and not just given priority for a regular hearing. The informal setting offered by the expedited process is more appropriate, as the IRB has recognized these persons as having an impaired ability to present their case in a formal hearing.

Alternatively, members hearing "vulnerable" cases should conduct an informal hearing where all parties sit around a table, and the member takes the same role that a tribunal officer would take at an expedited interview. Ideally, only specially trained members with experience dealing with mental health issues should hear these kinds of claims.

Conclusion

We thank you for the opportunity to make this submission and look forward to hearing from you regarding any inventory management decisions you may wish to take in the near future.

Yours truly,

(Original signed by Kerri A. Froc for Baerbel Langner)

Baerbel Langner
Chair, National Citizenship and Immigration Law Section