

The Goal and Importance of Evidence Assessment

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What is the burden of proof in a refugee claim?

The particular situation of asylum-seekers should be kept in mind and consideration given to the fact that the ultimate objective of refugee status determination is humanitarian.

The determination of refugee status does not purport to identify refugees as a matter of certainty, but as a matter of likelihood.

Standard of Proof in Common Law Countries and in Civil Law Countries

The burden of proof is discharged by the applicant:

- rendering a truthful account of facts relevant to the claim
- so that, based on the facts, a proper decision may be reached.

Adjudicator shared duty

In view of the particularities of a refugees situation, the adjudicator shares the duty to ascertain and evaluate all the relevant facts.

Adjudicator must:

1. Be familiar with the objective situation in the country of origin concerned
2. Be aware of relevant matters of common knowledge
3. **Guide** the applicant in providing the relevant information
4. Adequately verify facts alleged which can be substantiated

In refugee claims, the adjudicator does not have to be fully convinced of the truth of each and every factual assertion made by the applicant.

The adjudicator needs to decide whether it is likely that the claim of that applicant is credible

based on the evidence provided (if provided) + the veracity of the applicant's statements

Applicant's duty to tell the truth

- Due to applicants traumatic experience, he/ she may not speak freely
- Due to time lapse
- Due to intensity of past events, the applicant may not be able to remember all factual details or to recount them accurately or may confuse them
- Inability to remember or provide all dates or minor details
- Minor inconsistencies
- Insubstantial vagueness or incorrect statements which are not material may be taken into account in the final assessment on credibility, but should not be used as decisive factors

- Given the special situation of asylum seekers, they should not be required to produce all necessary evidence
- It should be recognized that, often, asylum-seekers would have fled without their personal documents
- Countries that do not have the regular institutions operating, that can provide documents evidence

Benefit of the Doubt

Credibility

- Of the Applicant (personal credibility)
- Of the Claim (narrative credibility)

Credibility is established where the applicant has presented a claim which is coherent and plausible, not contradicting generally known facts, and therefore is on balance, capable of being believed.