



What could possibly go wrong?



False Negative

Refusing protection to a person who is actually a refugee or who is in danger of torture

- A person might be persecuted, tortured, killed.
- A person will be forced to live in extreme fear.

False positive

Granting protection to someone who is not actually a refugee or in danger

- Undermines integrity of the RSD system; erodes public confidence
- Possible public safety threat (in CAT cases)

+ Causes of false positives

- Simplistic approach to credibility
- **Some say:** Progressive legal interpretations

A conscious choice:

- Low (ish) standard of risk (well-founded fear)
 - Relaxed rules of evidence
 - Lenient approach to credibility

+ Causes of false negatives

Decision-maker error

- Mis-application of the refugee definition
- Mis-judging credibility
- Mis-judging the level of risk

Applicant errors

- Difficulty gathering evidence
- Difficulty communicating experiences



Safeguards against decision-maker error

- Impartiality
- Right to counsel
- Adequate training and resources for the adjudicator
- Equal access to evidence
- Time
- Written reasons for decision
- Independent appeal
- Feedback mechanism



Safeguards against applicant errors

- Right to counsel & information
- Interview & oral hearing
- Interpretation
- Access to evidence
- Time
- Appeal

+ Detail: A two-way street



“We heard some gunfire in the distance. The shooting was coming closer. People started running and shouting.”

The best refugee testimony is detailed and coherent ...

But where does detail come from?

+ Detail: A two-way street

“I remember that we were returning back from work in the fields. We had not yet changed our clothes. We just stopped to take a rest. We heard some gunfire in the distance. It was the sound of kalishnikovs, which I knew well because they were sold in the local markets. I thought maybe people were hunting, which people from Wadi Salah did sometimes. But as time went on, the shooting was coming closer. Then the first hut in our cluster started burning. The straw was on fire. People started running and shouting.”

+ Detail: A two-way street

Q: Why did you run from your village?

A: We heard some gunfire in the distance. The shooting was coming closer.

Has the applicant given enough detail?

Q: Where were you when you heard the sound?

A: I remember that we were returning back from work in the fields. We had not yet changed our clothes. We just stopped to take a rest.

Q: Can you tell me more about what you remember when the attack started?

A: It was the sound of kalishnikovs, which I knew well because they were sold in the local markets. I thought maybe people were hunting, which people from Wadi Salah did sometimes.



+ What is the role of a lawyer
in this process?