INTERVIEWING TECHNIQUES

A crucial and time-consuming part of representing or assisting an individual who is applying for asylum is gathering information about the claim from the applicant. It is often necessary to meet with the applicant on several occasions before beginning the task of completing the asylum application form. The interviewing process may be hampered because the applicant is often traumatized by his or her past experiences. Also, the applicant may initially lack the trust or confidence needed to share information about his or her past or the reasons for the harm he or she suffered. There may also be cultural or language barriers to overcome. Here are a few tips for getting over some of the hurdles you may encounter.

EXPLAIN YOUR ROLE AS AN ATTORNEY

Applicants for asylum come from a wide variety of backgrounds. Many may never have had contact with an attorney in their home countries. It is important to explain to the applicant that you represent him or her and that you do not work for the U.S. authorities. You should also note that you have a duty of confidentiality and may not reveal information to anyone without the applicant’s permission.

DESCRIBE THE ASYLUM PROCESS

As Kafka’s The Trial so aptly demonstrates, not knowing what to expect during a trial or hearing process can be frustrating, if not terrifying. Walk the applicant through the maze of the asylum process at the first interview and summarize the process at later interviews. It may be comforting for an applicant who is applying in removal proceedings to know that if he or she is not granted asylum by the immigration judge, there is an opportunity to appeal the decision to the Board of Immigration Appeals and, possibly, to a federal appeals court. In contrast, an applicant who seeks asylum in expedited removal proceedings should be informed of the need to fully present his or her claim at the “credible fear” interview, due to the swift and limited review of negative determinations.

EXPLAIN ASYLUM IN NONLEGAL TERMS

An applicant who understands the concept of asylum will be able to provide more relevant information to you during your interview sessions. Some applicants mistakenly believe that they must demonstrate that they will be persecuted for political reasons and are unaware of the other grounds for seeking asylum. It is also important to explain that the term persecution is broadly defined under U.S. law. Moreover, informing the applicant of the requirement that the persecution must be “on account of” one of the five enumerated grounds will prepare the applicant for your questions focusing on the reasons why the persecutor harmed or intends to harm him or her.

SCHEDULE SEVERAL MEETINGS WITH THE APPLICANT

An applicant, who has met with you on several occasions, will develop confidence in you and will most likely divulge more information about his or her asylum claim at each meeting. Some applicants may have been coached by smugglers or individuals from their home countries on the “story” they should tell U.S. authorities. Other applicants may conceal information that they believe may be harmful to their claims. It is important to impart to the asylum applicant the need to know the truth and all of the details regarding the applicant’s fear of returning. At times, information that the applicant believes to be detrimental to his or her claim is actually helpful and may ultimately be the reason why he or she is granted asylum. Be prepared for your client’s story to change as you discuss his or her claim over a period of time. It may, for example, take time for an applicant to reveal to you that he or she was sexually assaulted or took part in activities considered to be subversive in his or her home country.
OBTAIN A COMPETENT INTERPRETER

If you and the applicant do not speak the same language, it is essential to obtain a competent interpreter for your interviews with the applicant. Before an interview, the interpreter should be instructed to provide exact translations of your questions and comments and of the applicant’s responses. Be aware that applicants may not be able to relate certain aspects of their claims in the presence of a person of the opposite sex, or, in some cases, of the same sex. Ask the applicant if he or she would feel more comfortable with a male or female interpreter.

LEARN ABOUT THE APPLICANT’S COUNTRY

In addition to human rights reports and current country condition reports, read as much as you can about the history of the applicant’s country, its cultures, customs, religions, and traditions. There may even be movies or documentaries about the applicant’s home country available at your local library or video store. The applicant’s story will become clearer to you as you gain an understanding of his or her background.

LET THE APPLICANT PLAY AN ACTIVE ROLE IN DEVELOPING THE CLAIM

No one likes to feel helpless or powerless, including the applicant. Give the applicant assignments that will assist both you and the applicant in preparing his or her claim. Ask the applicant to write out his or her reasons for seeking asylum in a narrative form for your next interview. (If the applicant is unable to read and write, ask whether a family member or friend could assist or have the applicant tape record a narrative.) Ask the applicant to gather documents and letters in support of the claim, including identity documents, proof of membership in organizations or religious communities, or proof of military service. If he or she has access to a library or the Internet, the applicant may even be able to compile country condition reports for you. The applicant may also be able to identify family and friends who can corroborate parts of his or her claim. As an attorney, most likely a pro bono one, you need all of the help you can get, so don’t overlook the applicant.

For additional interviewing techniques, you may wish to review:
• UNHCR’s Interviewing Applicants for Refugee Status (1995), or