UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS

In the Matter of PATRICK MKHIZI, Applicant.	)	A-74-959-862 BRIEF *AMICUS CURIAE* OF THE LAWYERS COMMITTEE FOR HUMAN RIGHTS

The Lawyers Committee For Human Rights (the "Lawyers Committee") hereby respectfully submits this brief pursuant to its request to appear in this matter as *amicus curiae*. *See* Motion of the Lawyers Committee for Human Rights For Leave to File a Brief *Amicus Curiae*, dated May 21, 1999, attached hereto at Tab A.

PRELIMINARY STATEMENT

. The Interest Of The Amicus

Since 1978, the Lawyers Committee has worked to protect and promote fundamental human rights, and to ensure protection of the rights of refugees, including the right to seek and enjoy asylum. The Lawyers Committee grounds its work on refugee protection in the international standards of the 1951 Convention Relating To The Status Of Refugees, the 1967 Protocol Relating To The Status Of Refugees, and other international human rights instruments, and advocates adherence to these standards in U.S. law and policy. The Lawyers Committee operates one of the largest and most successful *pro bono* representation programs in the country. With the assistance of volunteer attorneys, the Lawyers Committee provides legal representation, without charge, to hundreds of indigent refugees each year. The Lawyers

Committee and its volunteer attorneys currently represent approximately 900 clients from more than 60 countries. Mr. Mkhizi is being represented by a volunteer attorney through the Lawyers Committee's *pro bono* representation program. The Lawyers Committee is particularly concerned with the treatment of asylum seekers under the expedited removal process of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and has regularly advocated for the implementation of fair procedures to ensure protection of asylum seekers who are subjected to the expedited removal process.

This case raises a number of issues that go to the heart of ensuring a fair asylum process for all applicants. Among these issues are the proper weight to be given arrival interviews and credible fear interviews conducted under the expedited removal procedures, and the propriety of an immigration judge's relying on statements allegedly made by an official of the government from which the asylum seeker has fled. The Lawyers Committee has sought leave to file this brief as *amicus curiae* because of the importance of these issues.[1]

. Summary Of Argument

1. Immigration and Naturalization Service ("INS") records of arrival and credible fear interviews conducted during the expedited removal process deserve little weight in making adverse credibility findings. The arrival and credible fear interviews at issue in this case were infected by several of the serious problems that typically contribute to the lack of reliability of such preliminary INS interviews, including lack of translation, lack of assurance that the interview statement was an accurate reflection of the interview, and the natural fear of a refugee who has fled from persecution to confide in U.S. authorities upon his or her arrival. As a result, the immigration judge's reliance on these records was misplaced.

2. The inherent conflict between an asylum seeker and officials of the government accused of persecuting the asylum seeker is self-evident. Not only will such officials have an interest in discrediting the asylum seeker, but there is a danger of reprisals

[1] Since the time the Lawyers Committee requested permission to submit this *amicus* brief, the Mkhizi case was remanded back to the immigration judge for a determination on Mr. Mkhizi's claim for withholding of removal under the Convention Against Torture, and the case is now back on appeal before the Board.

should the asylum seeker be returned to his or her country of origin. Accordingly, U.S. regulations and international authorities recognize the importance of protecting the confidentiality of asylum applications. In this case, statements allegedly made by a Congolese consular official based upon an interview with Mr. Mkhizi were admitted into evidence and relied on by the Immigration Judge. The use of these statements, which sought to cast doubt on Mr. Mkhizi's veracity, is antithetical to the confidentiality safeguards provided to asylum seekers and to the very purposes of the asylum system.

ARGUMENT

I. Records of Arrival and Credible Fear Interviews, Particularly When Conducted with Inadequate Translation, Deserve Little Weight in Making Adverse Credibility Findings

From the earliest days of the Republic, the United States has provided safe haven for people fleeing from persecution. In the wake of World War II, U.S. concern for the plight of refugees was instrumental in the development of international treaties that lay the groundwork for the modern international refugee protection system. In 1968, the U.S. acceded to the 1967 Protocol Relating to the Status of Refugees, and, in doing so, became bound by provisions of the Protocol and the 1951 Convention Relating to the Status of Refugees.[2] And in 1980, the U.S. enacted the Refugee Act, which created the U.S. asylum adjudication system, in order to bring U.S. refugee law into conformance with the Protocol.[3]

However, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA" or the "1996 law"), Pub. L. No. 104-208, 110 Stat. 3009 (Sept. 30, 1996). The new law, which took effect on April 1, 1997, established new barriers to applying for asylum – including an "expedited removal" process that poses serious risks of sending refugees back to persecution without giving them a chance to present their asylum claims. Under the expedited removal process, a non-citizen who arrives in the United States without valid travel documents is barred from applying for asylum unless an INS officer during an arrival interview at the airport or port-of-entry, recognizes that the non-citizen may have a fear of persecution if returned to his or her home country (triggering referral for a "credible fear" interview), and if an asylum officer during that "credible fear" interview determines that the non-citizen has a "credible fear of persecution."[4] Similarly, a stowaway may only apply for asylum if an INS officer at a similar

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[2] United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577; United Nations Convention Relating to the Status of Refugees, [cite to come]

[3] *INS v. Cardoza-Fonseca*, 480 U.S. 421, 436 (1987).

[4] INA § 235(b)(1)(A) & (B), 8 U.S.C. § 1225(b)(1)(A) & (B). Under the statute, a "credible fear of persecution" means that "there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are know to the officer, that the alien could establish eligibility for asylum under section 208."

arrival interview recognizes that the stowaway has indicated a fear of persecution (triggering referral for a "credible fear" interview), and if an asylum officer during that credible fear interview determines that the stowaway has a "credible fear of persecution."[5]

Given that a potential refugee who does not successfully pass through her arrival and credible fear interviews is not permitted an opportunity to present the merits of her asylum claim, the importance that the INS adhere to fair procedures in conducting its arrival and credible fear interviews cannot be overemphasized. In fact, the legislative history of the 1996 law makes clear that Congress remained committed to providing fair procedures to ensure that refugees are not returned to countries in which they faced, or will face, persecution.[6] Statements by supporters of the legislation emphasized the care and skill with which the removal procedures were to be administered:

> This provision will only be administered by specially trained asylum officers with translators. There will be translators. There always are translators of any language, subject to review by a superior, another trained asylum officer. These are not low-level immigration officers. . . . These are highly trained individuals.

142 Cong. Rec. S4457, S4467 (1996) (statement of Senator **[full name]** Simpson). According to Representative Henry Hyde, the new procedures were intended to include "major safeguards against returning persons who meet the refugee definition to conditions of persecution," including screening by "[s]pecially trained asylum officers." 142 Cong. Rec. H11071, H11081 (1996). And Representative Lamar Smith stated that "[i]t is also important, however, that the process be fair — and particularly that it not result in sending genuine refugees back to persecution." 142 Cong Rec. H11054, H11066-67 (1996).

Sadly however, the conduct of the expedited removal process's arrival interviews and credible fear interviews has been plagued by a lack of procedural safeguards. For instance,

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[5] INA § 235(a)(2), 8 USC 1224(a)(2); *see also* 8 C.F.R. § 208.30. Mr. Mkhizi arrived as a stowaway.

[6] As a signatory to the Protocol, the United States is obligated not to "expel or return . . . a refugee in any manner whatsoever to . . . territories where his life or freedom would be threatened on account of race, religion, nationality . . . social group or political opinion." Protocol, supra note __, at Article 33. *See also INS v. Stevic*, 467 U.S. 407, 421 (1984) (noting that the Refugee Act of 1980 conforms to the Protocol).

according to a 1998 study performed by the United States General Accounting Office (the "GAO"):

- INS inspectors fail to follow their own procedures up to 20% of the time, including failing to have supervisors approve summary deportations and failing to ask specific questions about an applicant's fear of return;
- Asylum officers err in their judgments about credible fear in about 17% of cases;
- Asylum officers have failed to inform applicants of their right to request review of a negative credible fear finding; and
- Asylum officers have failed to ask applicants questions regarding fear of torture.[7]

Similarly, the Lawyers Committee, in its 1998 report on the implementation of the first year of expedited removal, cited accounts that raised serious doubts about whether the arrival interview process is fair and accurate.[8] The report also noted the INS's failure to guarantee the confidentiality of such arrival interviews and its failure to provide qualified interpreters, fluent in the individual's native language or other language of fluency.[9] The report likewise documented inadequate translation during credible fear interviews: noting not only that translation deficiencies had directly contributed to the mistaken removal of an Albanian asylum seeker, but also stressing that "[e]ven when inaccurate translation does not lead to an erroneous determination at the credible fear stage, it can infect the assessment of the merits by creating an apparent inconsistency in the asylum seeker's story."[10]

Insert re Expedited Removal Study/ UNHCR. See also Human Rights Watch (with parenthetical).

Mistakes made by the INS during arrival interviews and credible fear interviews can be disastrous not only for those refugees who are wrongfully denied an opportunity to apply for

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[7] *See* United States General Accounting Office, *Illegal Aliens: Changes in the Process of Denying Aliens Entry Into the United States* (March 1998) at 5-8.
[8] Lawyers Committee for Human Rights, *Slamming the Golden Door; A Year of Expedited Removal* (1998) at 11. A copy of that report is attached as Exhibit __.
[9] *Id*. at 13, 14.
[10] Id. at 16. After the mistaken return of the Albanian asylum seeker, who claim was based on her gang-raped because of her family's political opinions, became widely publicized, the U.S. government arranged for her return to the U.S. Her claim for asylum was subsequently granted. [cite NYTimes reports].

asylum, but also for those refugees who are permitted to apply for asylum, as they are frequently called upon to explain alleged "inconsistencies" resulting from deficiently conducted interviews.[11] The instant case is illustrative of this very problem. Mr. Mkhizi's arrival and credible fear interviews were plagued by several of the problems that typically contribute to the lack of reliability of such preliminary INS interviews, including lack of translation, lack of assurance that the interview statement was an accurate reflection of the interview, and the natural fear of a refugee who has fled from persecution to confide in U.S. authorities upon his or her arrival. As a result, not only was Mr. Mkhizi nearly denied an opportunity to apply for asylum,[12] but the deficiencies in the conduct of his arrival and credible fear interviews have contributed to the immigration judge's erroneous decision to deny his asylum claim.

While the importance of proper conduct of arrival interviews has become even more critical as a result of expedited removal, even in pre-expedited removal cases, deficiencies in the conduct of these and other INS interviews and the lack of reliability of corresponding interview "statements" has been repeatedly recognized. In fact, the Court of Appeals for the Third Circuit has repeatedly cautioned immigration judges not to place undue reliance on statements made during arrival interviews to support adverse credibility findings. *See Balasubramanrim v. INS*, 143 F.3d 157, 162-63 (3d Cir. 1998) (noting defects in the arrival interview, including lack of proper translation, an inadequate record of the interview, inadequate questioning by INS officer, and the reluctance of applicants to divulge information); *Senathirajah v. INS*, 157 F.3d 210, 218 (3d Cir. 1998) (finding that "the immigration judge and the BIA gave far too much weight to the affidavit taken during [applicant's] airport interview").

The courts and the Board have, in particular, recognized the unreliability of "statements" or "affidavits" allegedly made during INS interviews where no translation or inadequate translation was provided. For instance, in *Senathirajah*, the Third Circuit concluded that the

[11] *See* note [9] and accompanying text.

[12] As described in further detail in Mr. Mkhizi's brief, an INS asylum officer initially determined that Mr. Mkhizi did not have a credible fear of persecution, and the immigration judge did not vacate that determination. As a result, Mr. Mkhizi was nearly deported. The INS subsequently re-interviewed Mr. Mkhizi and reversed its decision – finding that he did indeed have a credible fear of persecution. Mkhizi Asylum brief at __.

Board and the immigration judge had given too much weight to an airport arrival affidavit that was prepared without use of an interpreter, even though the applicant had spoken and studied some English. *Id*. at 218-19. In *Balasubramanrim*, the court concluded that undue reliance had been placed on an airport interview statement that was prepared without an interpreter, where the applicant asserted that he knew only a little English. 143 F.3d at 164. In reaching its conclusion in *Balasubramanrim*, the Third Circuit looked to its prior decision in *Marincas v. Lewis*, 92 F.3d 195, 200 (3d Cir. 1996), in which the court had held that the asylum procedure afforded to stowaways was inadequate because it did not require a translator and lacked a mechanism to ensure accurate recording of statements. As emphasized in *Marincas,* "[c]ourts have recognized the importance of a competent translator to ensure fairness of proceedings to applicants who do not speak English." *Marincas*, 92 F. 3d at __ ; *see also Augustin v. Sava*, 735 F.2d 32, 38 (2d Cir. 1984)(applicant "was denied procedural rights . . . where the translation of the asylum application was nonsensical"); *Hernandez-Garza v. I.N.S.*, 882 F.2d 945, 948 (5th Cir. 1989)("the probative value of statements written in a language that the witness can neither read nor speak, absent corroboration, is questionable at best"); *Gonzalez-Gomez v. I.N.S.*, 450 F.2d 103, 105 (9th Cir. 1971)(probative value of a document "severely undermined by the circumstances of its execution," which involved a language barrier between the alien and the INS investigator).

The Board has also recognized that little or no weight should be given to statements prepared without adequate translation. For instance, in *In re H--*, Interim Decision 3276 at n.3 (BIA May 30, 1996), the Board recognized the limited probative value of an airport arrival interview statement, explaining that it would "accord no significant weight to the interview statement given by the [Somali] applicant upon his arrival in the United States, as it was conducted by the Service in the English language." S*ee also In re Abrahim*, File No. A73 148 818 (B.I.A. Dec. 3, 1998) (declining to base credibility finding on inconsistencies between arrival interview document and statements made to the immigration judge, in part because the arrival interview document had been created without the assistance of an interpreter). In *Matter of Tomas*, 19 I. & N. Dec. 464, 465-66 (BIA 1987), the Board emphasized the importance of

translation in the context of an asylum hearing, noting that "[t]here is a great difference between understanding a language and being able to fully translate thoughts from one language to another." The Board concluded that "[t]he presence of a competent interpreter is important to the fundamental fairness of a hearing, if the alien cannot speak English fluently."

The reliability of "statements" of arrival or other preliminary INS interviews is also frequently undermined by the failure of the statements (and often the record in the particular case as well) to accurately reflect whether the purported statement is an actual verbatim record of what the interviewee said or instead, as if often the case, merely a paraphrasing or summary of what the officer believes the interviewee said. For example, in assessing the reliability of an arrival interview statement, the Third Circuit in *Balasubramanrim* listed the following factors as relevant:

> First, the hand written record of the airport interview in this case may not be reliable. We do not know how the interview was conducted or how the document was prepared. We do not know whether the questions and answers were recorded verbatim, summarized, or paraphrased. We cannot tell from the document the extent to which [the applicant] had difficulty comprehending the questions, whether questions had to be repeated, or when and how sign language was used. Nor does the document reveal whether [the applicant's] responses actually correspond to those recorded or whether the examiner recorded some distilled or summary version based on his best estimation of the response.

157 F.3d at 162; s*ee also Senathirajah*, 157 F.3d at 218 (rejecting reliance on airport interview affidavit where the "government offered no testimony as to the circumstances under which [the airport] affidavit was obtained"); *In re Abrahim*, File No. A73 148 818 (B.I.A. Dec. 3, 1998) (declining to base credibility finding on inconsistencies between arrival interview document and statements made to the immigration judge, in part because the INS "has provided no detail regarding the conditions or circumstances under which the applicant signed the [arrival interview] document, nor has it provided the testimony or statement of the Service official who created the document"). The Board, in examining the question of asylum interviews for stowaways, has similarly stressed the need for a "meaningful, clear, and reliable summary of the statements made by the

applicant" in order to assess credibility. *In re S-S-*, Interim Dec. (BIA) 3257 (BIA Nov. 8, 1995)(adverse credibility finding insupportable due to inadequacy of the record).

The reliability of such interviews is further undermined by the vulnerable condition of refugees upon their arrival in the United States. Refugees who have fled from persecution at the hands of the authorities in their home countries are often understandably reluctant to immediately confide in U.S. authorities upon their arrival. As the United Nations High Commissioner for Refugees, has explained in the Handbook on Procedures and Criteria for Determining Refugee Status ("UNHCR Handbook"): "A person who, because of his experiences, was in fear of the authorities in his own country may still feel apprehensive vis-a-vis any authority. He may therefore be afraid to speak freely and give a full and accurate account of his case." UNHCR Handbook ¶ 198 (Jan. 1992);[13] *see also Senathirajah*, 157 F.3d at 218 ("Given [applicant's] allegations of torture and detention, he may well have been reluctant to disclose the breadth of his suffering . . . to a government official upon arriving in the United States even if he could understand the questions he was being asked at the airport."); *Balusabramanrim*, 148 F.3d at 163 ("[A]n arriving alien who has suffered abuse … by government officials in his home country may be reluctant to reveal such information during the first meeting with government officials in this country."). This reluctance has also been noted by experts in asylum law in examining the new expedited removal procedures:

> Many arriving refugees are very reluctant to reveal the truth about why they fled their home countries, particularly to a uniformed INS officer. Victims of human rights abuses do not understand the American legal system and are afraid to talk about the fact that they were persecuted by their government to officials of another government. They are afraid that they will be sent home, and that if they are, their complaints will be shared with their oppressors in their home countries. In fact, many people who were ultimately granted asylum by immigration judges were initially afraid to reveal the truth of their fears to officials at the airport immediately after their arrival. It is often not until the asylum process has been explained to them by lawyers and they have been told that they should not be

[13] The Handbook is not binding authority, but it has been recognized as providing significant guidance in construing the Protocol to which Congress sought to conform in the Refugee Act. *See* Aguierre-Aguierre [insert cite]; *Cardoza-Fonseca*, 480 U.S. at 439 n. 22.

> afraid to reveal the truth about their persecution that they are willing to explain the details of their persecution.

Philip G. Schrag & Michele R. Pistone, *The New Asylum Rule: Not Yet A Model Of Fair Procedure*, 11 Geo. Immigr. L.J. 267, 287 (1997).

In this case, the Immigration Judge, in erroneously denying asylum, relied on alleged inconsistencies between, on the one hand, the records of Mr. Mkhizi's May 21, 1997 arrival interview and his May 27, 1997 credible fear interview, and on the other hand, statements Mr. Mkhizi made in his asylum application and during his asylum hearing, as a grounds for rejecting the asylum application. This was error for the very reasons outlined above: these interviews were conducted without an interpreter and shortly after arrival -- at a time when a refugee is typically fearful to disclose information to U.S. authorities; and the resulting statements (as well as the record) do not reflect that these statements are reliable verbatim transcripts of the interviews. In sum, the Immigration Judge relied too heavily on records that are inherently unreliable.

II. Statements Made By The Government Accused Of Persecuting An Asylum Applicant Should Not Be Used Against The Asylum Applicant

The critical importance of maintaining the confidentiality of a refugee's asylum application cannot be overstated. Refugees are understandably fearful of the retaliation that they or their family members might face if their persecuting home countries should learn that they applied for asylum. *See, eg.*, *Chang v. INS*, 119 F.3d 1055, 1067-68 (3d Cir. 1997) (finding asylum seeker eligible for asylum and considering possible knowledge on the part of the Chinese government that the applicant had applied for asylum); Schrag & Pistone, *supra*, *The New Asylum Rule*, 11 Georgetown Immigration Law Journal at 287 ("Victims of human rights abuses …. are afraid that they will be sent home, and that if they are, their complaints will be shared with their oppressors in their home countries.).

Recognizing the danger that could face asylum seekers if their home countries should learn that they have applied for asylum, U.S. regulations specifically provide for the confidentiality of asylum information:

> Information contained in or pertaining to any asylum application shall not be disclosed without the written consent of the applicant, except as permitted by this section or at the discretion of the Attorney General . . . . .
>
> The confidentiality of other records kept by the [INS] that indicate that a specific alien has applied for asylum shall also be protected from disclosure. The [INS] will coordinate with the Department of State to ensure that the confidentiality of these records is maintained if they are transmitted to Department of State offices in other countries.

8 C.F.R. § 208.6 (a), (b) (1998); *see also Guevara Flores v. INS*, 786 F.2d 1242, 1251-52 & n.10-11 (5th Cir. 1986) (explaining that when the State Department needs to verify information contained in an asylum application, it "avoids any attempt to contact the authorities in the alien's country" and that INS policy is "'to refuse to disclose any asylum application without the consent of the asylum applicant'") (quoting INS memorandum).

Confidentiality protections afforded asylum applications extend to the refugee's consulate. The U.S. Department of State policy under the Vienna Convention on Consular Relations[14] makes clear that the privacy of refugees should be protected:

> In some cases, a foreign national may be afraid of his/her government and may wish to apply for refugee status/asylum in the United States. The privacy wishes of the foreign national should therefore be respected unless there is a mandatory notification requirement.

[14] The U.S. is a party to the Vienna Convention on Consular Relations. 21 U.S.T. 77, T.I.A.S. No. 6820, 596 U.N.T.S. 261 (1967).

See United States Department of State, *Consular Notification and Access: Instructions for Federal, State, and Local Law Enforcement and Other Officials Regarding Foreign Nationals in the United States and the Rights of Consuls to Assist Them* 20-21 (1998).[15] U.S. regulations – even for those countries where consular notification of detention is mandatory pursuant to a particular bilateral treaty – direct INS officials to maintain in confidence the fact that a detained individual has applied for asylum. The regulation specifically provides that "[w]hen notifying consular or diplomatic officials, Service officers shall not reveal the fact that any detained alien has applied for asylum or withholding of removal." 8 C.F.R. § 236.1(e) (1998).[16]

The importance of maintaining the confidentiality of asylum claims is also recognized by the UNHCR which maintains "a strict confidentiality policy" regarding asylum proceedings, and, "as a general rule, will not share any information relating to individual cases with the country of origin." UNHCR, Letter Re: Requests for Documentation in Support of Refugee Claims (Oct. 29, 1998) (Exhibit __ to Mkhizi brief). The UNHCR recommends that governments do likewise, so as not to "increase the likelihood of retaliatory or punitive measures by the national authorities in the event that the individuals are repatriated." *Id*. While the UNHCR recognizes that countries may be required to contact consular officials "in the course of removal of rejected asylum-seekers," it advises that the "nature of the proceedings and information regarding an individual's asylum claim should be considered privileged from disclosure to the diplomatic representatives of the country of origin." *Id.*

In this case, the INS arranged for a consular visit at which Mr. Mkhizi was questioned by the highest ranking consular representative of the Congolese government –

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[15] This booklet applies to, and "should be followed by all federal, state, and local government officials, whether law enforcement, judicial, or other, insofar as they pertain to foreign nationals subject to such officials' authority or to matters within such officials' competence." *See Consular Notification and Access* at i.

[16] Similarly, the European Convention on Consular Functions rejects consular entitlement "to exercise consular functions on behalf of, or otherwise to act on behalf of or concern himself with, a national . . . who has become a political refugee . . . ." *See* European Convention on Consular Functions, Dec. 11, 1967, art. 47, 15 E.Y.B. 285, Europ. T.S. No. 61.

the very government that he feared.[17] The nature of the questions – which included questions about his ethnic background, political affiliations, imprisonment in and reasons for leaving Congo – raises serious concerns about whether the INS improperly disclosed confidential information relating to Mr. Mkhizi's desire to claim asylum. The Immigration Judge then admitted testimony of an INS deportation officer which purported to recount statements of the Congolese consular officer, and the Immigration Judge relied on those supposed statements in making her adverse credibility finding. *See* Decision at 6 (stating that the consular official "was unable to establish [Mr. Mkhizi's] identity as a native or citizen of the Congo").

The admission of statements of an official of a persecuting government into an asylum proceeding, particularly where the INS itself arranges for contact between the asylum seeker and the government the asylum seeker is fleeing from, flies in the face of the confidentiality protections accorded to asylum claims. Inherent in our law's confidentiality protections is the recognition that a persecuting government should not be entrusted with the knowledge that an individual is seeking refuge from that government. A system that would permit the submission of purported statements of the representative of a persecuting government about the validity of a particular asylum seeker's claim would thwart the very purposes of the refugee protection regime.

[17] As detailed in Mr. Mkhizi's Asylum Brief, this interview took place following the INS's initial mistaken determination that he did not have a credible fear of persecution. *See* Mkhizi Asylum Brief at __ regarding this interview.

CONCLUSION

We respectfully request that the Board reverse the decision of the Immigration Judge and grant asylum to Mr. Mkhizi.

Dated: June __, 2000

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this day of August, 1999, the foregoing was served by U.S. mail, first class, postage prepaid, upon the following: