

Excluding Manuel

It seems a simple principle: do not give refuge to the persecutor. It is the corollary to the UN Convention's central commitment and axiom: we shall give refuge to those who fear persecution in their home country. In the refugee business, it is known as exclusion. If you commit crimes against humanity, you are excluded from the refugee definition. There is no safe haven for the torturer even though he now fears torture.

There is obvious good purpose to the rule. People who persecute refugees should not themselves be granted asylum. There are too many stories of Haitians out for a stroll on St. Catherine's street suddenly encountering the Tonton Macoute who terrorized their neighbourhood in Port-au-Prince, killing innocents, or the Tutsi who lost all of her family, meeting the Hutu administrator who fanned the flames of madness in her village, a man known to be without remorse. And of course there are the nations who gave refuge to the Baby Doc Duvaliers, the Mobutus, the Idi Amins, thankfully, no more, the Pinochets. These are not moral ambiguities and yet, and yet...even with torture, we are dealing with affairs of the human heart and mind. There are subtleties, exceptions; time passes, a kindness follows a killing. The torturer seeks to atone for past misdeeds. And redemption, what about redemption?

And so it was with Manuel who had been in Canada more than seven years with his family after he had escaped from his country. Now a janitor in a school, he had allegedly been a torturer for the security police before fleeing to Canada. There were no details about the specific acts of torture in the file and he had vehemently denied the allegations at his first hearing several years before. He had sworn that he was a simple policeman who only did his duty but it was a thinner, more urgent man who appeared before the second panel.

The case was a procedural nightmare. His claim was first heard in 1989, one of the early cases to be heard by the new Immigration and Refugee Board. The panel members, suspicious of his police work but new to their job, could not find their way through the thicket of his denials. In frustration, they refused him on the ground that his fear of persecution was not well-founded although his country was still consumed by civil war and he had deserted from the Technical Police, an offence punishable by death. In those days the Federal court was slow to review Board decisions, buried in its own backlog, and so it took nearly three years for the court to quash the Board's decision and send Manuel's case back for a new hearing.

In the meantime, Manuel had moved to a small town in Ontario, the file was transferred, the file was lost, there had been letters to the Board's Chairperson from two bishops, one Catholic, one Anglican, speaking of the hardworking immigrant, the family well liked, the daughter first in her class, the concern, even indignation of the community and finally seven years after his arrival in Canada, he would again sit before a different panel of the Board sent to hold a new hearing in the local courthouse. A representative for the Minister of Citizenship and Immigration also attended, determined to prove that Manuel had turned screws into human flesh and must be deported as a danger to Canadians and an embarrassment to the community which had spoken for him.

The panel convened on a Monday morning in the badly-lit basement of the courthouse, a dry, stale room, smelling of old documents. One small rectangular window was thankfully open to admit the light, sounds and smells of a soft spring day, apple blossoms, birdsong, a shaft of sunlight reaching halfway to the hollow rectangle of tables which occupied the centre of the room. Bingo hall furniture, plywood tables, metal chairs. The court house staff had clearly indicated the measure of their respect for the Immigration and Refugee Board.

On a bench along the wall, Manuel sat with his family. A small man with short sleeved white shirt, black, heavily oiled hair, dark hollows in a haunted face. His wife was shorter, heavier, and the children, five in a row, all daughters, aligned in descending order, their dark hair neatly tied back with bright ribbons, pastel dresses, probably their confirmation dresses, shiny black shoes, white socks, a picture book family. The three youngest were Canadians by birth. Probably none could remember their home country. And Manuel? Did he remember?

“Por favor, senior Judge, I am Manuel”.

“Good morning, Mr. Benitez. I am Mr. McDougall and this is Mrs. Chiarelli. We are the Board members. And this is Ms. Pacek, she is the Refugee Claims Officer. Where is your lawyer?”

“No, I do not have. The lawyer is too much money. But I do not need the lawyer. I will tell the truth. I take what you and God decide.”

McDougall was a tall, spare man with faded red hair and too many lines in a long, thin face. He appeared uncomfortable talking to the much shorter man. His colleague, Mrs. Chiarelli, was a large woman, wearing a dark business suit and lipstick that was either too much or too bright. McDougall couldn't decide which. With a single look around the room, she clearly indicated her displeasure with her surroundings.

“Well, it's certainly not the Supreme Court. You'd think they could do a little better than this, even in a one-horse town.”

Ms. Pacek, a thin, nervous woman, went directly to the tables where she began to unpack two large briefcases. Mrs. Chiarelli had walked over to what would clearly be the panel members' table at one end of the rectangle, plunked down her briefcase and opened her purse to remove a package of cigarettes.

“I don't suppose they'd mind my smoking in here since no one has apparently used the place in years.” She removed and lit a cigarette from a gold cigarette case with a flourish, returning the lighter to the purse which she snapped shut.

McDougall appeared lost in thought, still standing near Manuel. He didn't know his colleague well. She was relatively new to the Board. Member rumours said she had been the volunteer president of a major arts charity before her appointment and was well connected to two cabinet ministers from Toronto. He was troubled by Manuel's lack of a lawyer. Clearly the man had no

idea what exclusion meant, or complicity, or duress or any of the legal principles which contributed to the complicated body of case law surrounding exclusion. McDougall had been a successful lawyer before coming to the Board, real estate and estate planning, nothing to do with refugees. Successful in a minor way; he was well off, not rich, and had wanted something different for the latter part of his career, to put his legal skills to work for some good, something with flesh and blood. Through good fortune, his best friend was also his local M.P. who was pleased to express his gratitude for a lifetime of personal and financial support. After three years on the Board, McDougall was still overwhelmed by the vividness of the suffering which so frequently filled his hearing room.

“Well, let’s get this show on the road.”

Mrs. Chiarelli had finished her cigarette and was unpacking her briefcase. She was the presiding member, responsible for all procedural decisions in the case. McDougall found her to be crass, insensitive to claimants and to the effects of her remarks on others. He had learned that claimants secretly scrutinized the judges, looking for any signs of positive or negative inclination, reading too much into too little. During their few cases together, Mrs. Chiarelli had seemed totally oblivious to the claimants. She had barely acknowledged Manuel or his family. He also knew she was smart and decisive, brooking no nonsense from claimants or colleagues.

Ms. Pacek was still untangling the wires of the various tiny microphones which would be placed before each participant. She was a competent, dutiful RCO who did her job while disclosing as little as possible about herself. This was a nightmare case, she had avoided it and shouldn’t even be here except for a screw up at scheduling which of course should be a surprise to no one. Chiarelli was a blunderbuss, a bit of a loose cannon and should never have been put on a case like this, certainly not to preside. McDougall was okay, a trifle insipid, but he didn’t put his foot in cow plops as her uncle used to say.

Chiarelli was not pleased that McDougall had been assigned as her partner. The man was a twit. She normally travelled with Helen Carstairs who was a delight. They saw things the same way, never disagreed on the outcome of a case. She was someone who knew the pleasure of a cigarette and didn’t mind the odd off-colour joke. She imagined McDougall’s long white body in a bathing suit at the hotel pool, probably a sunken chest, wrinkles on his knees. This would definitely be a business trip. No hanky-panky with the punky-wunky. Hopefully they wouldn’t have to stay over. With luck this fellow will admit torturing people and they can all go home.

“We’re still missing the Minister’s rep and the interpreter.”

McDougall was standing beside her. God he was lanky. What did he expect her to do about it? Couldn’t any one show up on time in this organization? Compared to the Foundation, this was a joke. God when she thought of her former office, the carpeting, great view, prestigious address, everything but a salary. Still, compared to this. A basement for God’s sake. Board members of the largest federal tribunal, practically judges, hearing cases in a basement. She looked over at the claimant, cute little family all in a row. Her son had a bunny dish like that when he was a boy.

Momma rabbit and all the dressed up little baby rabbits. He hadn't phoned in a month. Stanford education, doing well in Silicone Valley. He can bounce e-mails off satellites but he can't pick up a telephone. She was irritated to see McDougall standing there, obviously waiting for something.

"Can't we start without them? Just get the start up nonsense out of the way?"

He looked uncomfortable, twisting that long body into unusual positions.

"I don't think so. The claimant doesn't have a lawyer so we're going to have to explain the law and procedure fairly clearly. He's not going to understand. What do you think Ms. Pacek?"

Ms. Pacek had finally untangled the wires of the tape recorder and was on her knees trying to insert the extension cord into a wall socket which for some reason was cut into the baseboard.

"I don't believe we can start without benefit of an interpreter unless you are satisfied that he is sufficiently competent in English to proceed without interpretation."

"The man's been in Canada for seven years. What's his problem? He doesn't need a college degree. He just has to understand ordinary English. He probably watches more tv than any of us. Maybe the daughter can translate. She's old enough. She must be in grade ten or eleven, top of her class according to the bishop."

McDougall turned a bland eye to her, thinking it was going to be a very bad day. Great idea. Let's ask the fourteen year old daughter to interpret while the father tells us about all the crimes against humanity that he's committed. Oh yes. A fourteen year old claimant becomes the interpreter while the family has no legal counsel. The Federal Court will love this one.

"She's a claimant herself. She can't act as interpreter. Besides she hasn't been certified. We could never challenge his credibility. The court would strike it down in a minute. Do you agree Ms. Pacek?"

"I agree. I'll call the office and see if they have a number for the interpreter. We also have to wait for Gilles. The Minister could appeal if we proceeded without him."

"I take it Gilles is the Minister's rep. Why would he appeal if it's going to be a negative?"

Ms. Pacek pretended not to hear her response, already looking for the cell phone in her briefcase. Nothing like starting the hearing with an open mind. McDougall looked away, watching Manuel's wife bending over the youngest daughter, straightening a sock. She was squatting, not bending, her thick legs surprisingly pliable. Probably women had been squatting like that in fields in her country for hundreds of years. He found it refreshing, an honest body posture. He remembered the psychiatric report in the file, speaking of her extreme stress, she was under

medication due to the endless delays and anxiety about being sent back. There had been a lawyer on the file at the time, pleading for an early date. That was more than a year ago. McDougall had not been too surprised to find Manuel without counsel. The legal aid cutbacks would have greatly reduced his chances of getting a lawyer. His home country was no longer considered to be refugee-producing. Wonderful expression that, refugee-producing. It made refugees sound like a product, a natural resource. Mind you, they still killed deserters from the army. Not all was forgiven after ten years of civil war. Why couldn't the bishops pay for a lawyer? Or the community if they were genuinely concerned.

“Bonjour. Comment allez-vous Monsieur le Commissaire? Salut Sandra. Ca va?”

“Bonjour Gilles! Oui, ca va. Et toi?”

McDougall mumbled a responding bonjour. Ms. Pacek had clearly brightened with the arrival of the Minister's rep, a cheerful, breezy man in a black leather sports jacket and thin leather tie. His receding hairline was partially disguised by the half inch buzz cut. McDougall felt he would never get used to the French Canadian thing. He had been designated as functionally bilingual which meant he could say hello, thank you and catch half the gist of what was said at bilingual meetings. He was willing to speak his heavily-anglicized french yet found himself to be hesitant and uncomfortable. It wasn't the language, it was the personality change which went with it. At the same time, he despised the hypocrisy of the bureaucrats who began their comments in French, usually written by their Francophone secretaries, and then switched as soon as politically possible to English, for “the remainder of my remarks”. They were suckholes. Buzz cuts and suckholes. Two expressions he'd learned from his daughter, a commercial artist who moved with a very fast crowd in Toronto. Fast by his standards anyway, a lot of sexual ambiguity and very little commitment. But his daughter claimed to be happy and looked the part. Gilles had shaken hands all around although he studiously ignored Manuel who still sat with his family on the far side of the room.

McDougall strolled self-consciously over to the family. “I am sorry we cannot begin until the interpreter arrives. We are trying to locate her, to find her. Good morning Senora.” He nodded to Manuel's wife who remained seated with the children.

“I do not wish to wait. I can speak some English and my daughter is very good in English. She is primera in the classe. My wife is very sick. She does not want to wait.”

“We do not want to wait either. We know it has been a long time but we also want to be fair to you, to make sure you understand everything.” McDougall had learned the knack of speaking English to claimants, clearly enunciating his words, no contractions, no colloquialisms, slowing his speech yet maintaining a rhythm so he didn't appear to be talking down to them. He did not confuse limited language ability with lack of intelligence.

“It is more fair to decide today, Mr. Judge. I am sure. It is in the hands of God.”

McDougall nodded and sighed inwardly. In the hands of God. God willing. Inshallah. The number of times he had heard that naive fatalism from claimants of every major religion. All so confident of some exterior beneficence. The Lebanese Shiites, so many of them refused a few years back because of one member, a staunch Orangeman from rural Ontario who was suspicious of all Arabs, refusing claims on the slightest whim. God had some peculiar ways of looking out for his own. In God's hands, indeed.

“We're all here. Let's get underway!”

Mrs. Chiarelli was calling from the other side of the room, a quiet, well-dressed woman standing beside here. She was urgently signalling McDougall to join them. “This is Diane Cord, our translator. Let's go before I need another smoke break. Mrs. Cord, please tell the claimant and his wife to join us. His name is Manuel Benitez. I don't know the wife's name.”

McDougall wondered how well she had prepared the file. He had spent the previous evening making meticulous notes of all the relevant details of Manuel's military career, the family's flight and a summary outline of the civil war and subsequent political violence. He knew from experience that it would be very difficult to follow the twists and turns of the testimony without an outline of names, dates and major events.

“Now Mr. Benitez, you sit over there. And talk loudly so the microphone can pick up your testimony. Mrs. Cord, could you tell him all that in Spanish? And Mrs. Benitez, you can sit back there. The children don't need to be here. Some of the testimony may be messy. I don't think they should be here.” Mrs. Chiarelli was arranging the parties around the table, apparently oblivious to the children who huddled around their mother, their eyes following Mrs. Chiarelli. Manuel's dark face was already shining with sweat. McDougall watched the mother quietly speak to the eldest daughter who then led the children out of the room, the second oldest casually brushing her father's shoulder as she walked behind him.

“Now, is everyone ready?” Mrs. Chiarelli looked at Ms. Pacek who nodded, pressing the start button on the tape recorder.

“Now this is a hearing into the Convention refugee claim of Manuel Benitez, file number 89-00759 as well as that of his wife and his two eldest children, whose names and file numbers are on file. This is a re-hearing of the claim upon order of the Federal Court which quashed the Board's original decision upon judicial review in April, 1995 and...Oh, excuse me Mrs. Cord, I forgot to allow you time to translate, perhaps you better do that now. Just summarize what I said.”

McDougall wondered who looked more confused, the interpreter or Manuel. She turned to Manuel and began to speak in hesitant Spanish. Even McDougall's inexperienced ear could hear the anglicized accent. Manuel nodded encouragement to her several times.

With that rocky beginning it took more than half an hour to complete the formalities of the

hearing introduction, to enter the exhibits and have Manuel swear an oath to tell the truth. The file clerk had inadvertently packed a Koran instead of a bible. Mrs. Chiarelli said it had the same effect but he could also make a solemn affirmation instead. Mrs. Cord did not know how to interpret “solemn affirmation”. Manuel crossed himself and said in English that he would tell the truth before God, crossing himself again. Mrs. Chiarelli said that was probably good enough.

McDougall’s best friend on the Board, John Barstow, had a theory about problem files. He said they were like positive ions that attracted all the negative factors in the claim process thus keeping the file flow relatively clean for the other cases. Barstow was a very clever, cynical man who constantly complained about the ineptitude of the Board and the civil service in general. He had been loudly proclaiming his imminent retirement for two years. McDougall didn’t buy the theory but he suspected the current file might make him a believer. It was definitely a Murphy’s Law case. Whatever could go wrong, would go wrong.

Two of the tiny microphones weren’t recording. Mrs. Chiarelli said everyone should speak louder. The Minister’s representative had not received the Board’s letter outlining the principal issues to be decided. McDougall listened to Gilles’ protests with a half a mind. Weren’t the issues obvious? Had Manuel committed human rights abuses? And would the military still prosecute him for desertion after all these years? And what did the Minister want, another adjournment? Manuel had received the disclosure package, a large thick document which he had not read, explaining that he did not read English so good and it was not something for his daughter to read. Mrs. Chiarelli said that was his decision and the hearing should proceed.

The interpreter, Mrs. Cord, was a disaster, stumbling over the legalisms in English. McDougall could not imagine what she was saying in Spanish. He was bemused to observe her confusion as Mrs. Chiarelli droned through her opening spiel, “The Convention Refugee Determination Division hears and determines claims in accordance with the law and in a manner which reflects Canada’s humanitarian tradition.....if you are outside your country of nationality or formal habitual residence...those who have a well-founded fear of persecution due to their race, religion, nationality, membership in a particular social group or political opinion.” McDougall had long since discarded the spiel, finding it to be virtually incomprehensible in English or any other known language.

Barely pausing for breath, Mrs. Chiarelli plowed on into the exclusion elements of the definition...if he has committed crimes against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes...

Obviously defeated, Mrs. Cord was making no pretence of interpreting everything, mumbling a few words in Spanish out of the side of her mouth whenever Mrs. Chiarelli paused for breath. McDougall finally leaned toward his colleague to whisper, “I don’t think she’s able to follow you”.

Mrs. Chiarelli gave him an irritated look. She wasn’t blind. God the man could be inconvenient.

It was all just mumbo-jumbo to satisfy the court that all of the procedures were followed. Of course the interpreter didn't understand it. It had taken her months of reciting the damn thing before she did. The world wasn't all lawyers after all, just the bloody judges. What did he expect? And what was that little Hispanic man going to understand in any language? He didn't read English and had a grade four education in Spanish.

"Mrs. Cord, are you understanding the substance of my recitation?" She gave the interpreter a stern look which suggested only one appropriate answer. Mrs. Cord said she did.

"And you, Mr. Benitez, do you understand the interpreter?" Manuel nodded his head vigorously, not waiting for the interpretation.

"I am satisfied that all parties understand the gist of the procedure and law and that we can continue."

McDougall wondered how Mrs. Cord would interpret "gist".

By three o'clock Mrs. Chiarelli had a piercing headache. Lunch had been most unsatisfactory, a little diner across the street with charming tablecloths and god awful club sandwiches. Too much mayonnaise, no low-fat. She should have known when the waitress asked "brown or white". The town had not yet discovered the concept of whole wheat bread. God in Heaven! Dyed Wonder Bread and Club Soda masquerading as mineral water. And the hearing was going badly. She couldn't decide who was the principal culprit, that little Frenchman who spoke inexcusable English, the interpreter who truly was as clueless as the waitress, the little Hispanic who seemed too ignorant to lie or the bloodless doorpost next to her, scribbling endless notes as though the claimant had anything meaningful to say.

McDougall found the questions from the Minister's rep to be truly surreal as he attempted to dissect the minute details of Manuel's duties in the Technical Police. "So dese tings dat you did for dis oder man who is de commandant, is dis de same ting dat you did for the oder officer, de one wit de power to make de arrest to de suspected person?"

"Loopy". That was another word McDougall had learned from his daughter. The questions, the entire testimony, was definitely loopy. He could not imagine what metamorphoses the mangled questions underwent passing through Mrs. Cord's Spanish meat grinder and Manuel's comprehension to elicit unconnected responses.

"I went many times to the home of the officers."

Manuel appeared to be working hard, his brow deeply furrowed with vertical creases, desperate to give a meaningful answer and knowing it wasn't going well, frequently breaking into English.

It was three o'clock and McDougall had no clearer idea of what Manuel actually did for the police. The Technical Police appeared to have a wide range of duties, everything from traffic control to security work. Manuel was trying to describe the different divisions and sections of the police. Mrs. Cord's translation of "section" as "field" had not assisted McDougall. For a while he thought they were talking about field duties. Meanwhile Chiarelli harrumphed and snorted but was generally ineffective in forcing her way through the thickets of miscommunication.

McDougall leaned over to whisper. "Perhaps we should have the RCO ask the questions directly in English. Manuel's English seems to be as good as Mrs. Cord's Spanish."

"Yes! An excellent idea. Mr. Archambault, perhaps we will make more progress if Ms. Pacek asks the questions in English." Gilles looked relieved. "Is that all right with you, Mr. Benitez? Ms. Pacek will ask you the questions in very simple English so you can understand and make your answers in English?"

"Yes please Senora. Is much better. I understand."

And they made progress. Pacek asked the questions well, simplifying the English and following clear lines of logic that Manuel began to anticipate. They soon understood that he had been originally conscripted into the army then transferred to the Technical Police which were a separate military branch under the direct control of the Minister of the Interior. He had first worked as a traffic policeman responsible for "civil control" of particular neighbourhoods. McDougall made a note, he would go back later to ask what civil control actually meant, entailing what kinds of police action. He had heard previous refugee claims from Manuel's country where the military had kicked in the doors of suspected guerrilla sympathizers, arrested male suspects, later leaving them on the outskirts of town frozen in the kneeling position, blindfolded, hands tied behind the back, a single bullet in the base of the skull, sometimes marks of torture on the hands and bare feet, often smashed teeth. Had Manuel done these things to other humans? Is that why his face was heavy with sweat? Chiarelli interrupted his thoughts.

"Let's take a break. Miss Pacek, fifteen minutes?" He knew that meant enough time for a cigarette on the back steps of the courthouse, the kind of hideaway smokers soon ferreted out in smoke hostile environments. Surprisingly Chiarelli signalled for McDougall to join her. The back stoop was pleasant and sheltered if a little cramped. It looked onto a small park filled with the greenery of large leafy trees. Chiarelli lit her cigarette without saying anything. McDougall stood on the steps to allow Chiarelli more smoking room and to equalize their heights. He waited, knowing she had brought him here for a reason

"We're going to have to adjourn. We'll never get done today and I'm not available for two months."

He was taken off-guard. "Can't we finish tomorrow? This case needs to get done."

"Well you can do it. I have plans at home and there's no way I'm staying in some second rate

Holiday Inn.”

McDougall looked off into the shadows cast by the tall stately trees in the park. Elms. Didn't see them so often, nearly wiped out by Dutch Elm disease. “What about the psych report on Mrs. Benitez? She's in bad shape. Another adjournment could put her back in the hospital.”

“Well whose fault is that? She's the one who married the human rights abuser.” McDougall didn't say anything, waiting, standing his ground. Silence was a powerful persuader.

Chiarelli broke first. “God, I hate it when these people lay their problems on others. Besides the interpretation was terrible. He's not understanding half of it. We should really start again with another panel and a real interpreter”.

McDougall bit his tongue. He should be amused by Chiarelli's sudden concern for natural justice. Instead he had an irrational urge to physically strike her, better still, aim a kick at her well-padded posterior. He hadn't struck anyone in his life. Not even the boy who had deliberately stomped on his model aeroplane in grade three. How ridiculous. He probably couldn't even raise his leg that high.

“Leonora, I don't like you and I am perfectly aware that you do not particularly like me. This hearing has already been bugged up in more ways than I can count, mainly due to the inability of the Board and Minister to even approximate compliance with their own procedures. But there is a man and woman and five children in there who are going through a living hell and we have a job to do. If this fellow has committed human rights abuses, and I say “if” because we have not yet heard one scintilla of evidence to establish that he has, despite all your presumptions, then we send him back. If he hasn't, we decide if he still has a fear of persecution. But we decide. We do not adjourn, we do not dump the dirty job on some other panel to come down two months from now. We use our intelligence and common sense to bypass the interpreter and Minister's rep and we decide. And I don't care if we sit until midnight or we adjourn for supper and resume in the morning. We will decide this case.”

He was shaking as he walked back in, not looking behind to see her reaction. “Bugged”. Another one of his daughter's words. He could never recall uttering the word. And Ralph Dempsey. The name kept repeating. He hadn't thought about the man in five years, a real estate lawyer, not particularly successful but known for sharp practice, a bully who had twice attempted to force him to close a deal after last-minute irregularities had occurred and he had given ground, comprising, suggesting alternatives which had worked out but left him feeling weak, somehow sullied.

Manuel was again seated on the bench across the room, huddled with his wife and two eldest daughters who had returned. Who was caring for the younger children? They all turned to watch him, sensing that something of import had occurred. He nodded to them, nodded at Pacek, then took his seat. Manuel and his wife returned to their chairs as did Gilles, Mrs. Cord and Ms. Pacek. He busied himself with his notes as did the others except for Manuel, all studiously

ignoring Chiarelli's empty seat.

The silence was painful and lingered. He could hear the scratching of Gilles's pen. Pacek occupied herself with the tape machine. Manuel and his wife sat stony silent. The quiet was choking, claustrophobic. The old courthouse was creaking in the full heat of the day, long strange sounds, quite distinct when you listened, like some old plough horse labouring up a slope. Gilles cleared his throat and finally he heard the scrape and bang of the door as Chiarelli entered behind him. Manuel didn't move, staring straight ahead. His black eyes, shiny as buttons, fixed on some object. It suddenly hit McDougall that Manuel thought this was it, the final decision. My God, they weren't half way through the evidence. The poor fellow didn't have the faintest notion of what the hearing process was about. Chiarelli was struggling with her chair beside him. He scraped his chair sideways without looking at her.

"Mr. Benitez. This panel would like to acknowledge the difficulties in interpretation which have occurred during your testimony today. Through no fault of Mrs. Cord, I might add who has been asked to perform duties outside the range of her normal professional experience as a Spanish language instructor."

McDougall felt his shoulders tighten. Damn. She was going to adjourn anyway. She was presiding, there was nothing he could do except make a complaint to the Deputy Chair, a fruitless gesture. Chiarelli's power lay elsewhere with the unknown cabinet ministers. She had little to fear from a Deputy Chair whose word would carry little weight with the Minister of Immigration.

And I must say that, in the view of the panel, we have made little progress in assessing the material issues in your case. Given the lateness of the day and the lack of progress, an adjournment is inevitable."

Damn. Manuel moved for the first time, squirming in his chair. Clearly he understood that word, adjournment. How could he not? Having heard it so often. McDougall looked away, seeing nothing.

"However, I am also cognizant of the considerable stress the refugee determination process has placed on you and your family, in particular, Mrs. Benitez." McDougall heard his own intake of breath, felt his throat constrict. "We realize that an extended adjournment would be cause for considerable distress to all concerned. As well, we are encouraged by your ability to testify in English. Consequently we will resume the hearing tomorrow morning. We stand adjourned."

Manuel was struggling to understand. "Tomorrow Senora? Here? Nueve hora?"

"No. Eight o'clock. Mrs. Cord tell him he must be here at seven forty-five. We will start promptly at eight and we will finish this damn thing. Mr. McDougall, I trust you will not object excessively to the profanity. Ms. Pacek speak to whatever clerk upstairs is responsible for this dudgeon to ensure it will be open before eight. Mr. Archambault, I trust you will be able to

attend? I should have asked prior to my decision.”

“Oui Madame. No problem an’ I will be ver’ happy if de RCO ask de question.”

“Good. Mr. McDougall, since this was your idea, I trust you will take responsibility for finding us a decent place to stay. No motels and I prefer a double bed. Also a restaurant that can spell hors d’oeuvre.”

McDougall found himself hopping to, part of the entourage receiving his assignment from the queen. And pleased to be of service Ma’am. Manuel looked glum and worried, talking to his wife in Spanish. McDougall had an urge to clap him on the shoulder, to re-assure him. This was good news. What did he expect? A same-day decision? If the decision were going to be negative, it would be two or three months before he received it with written reasons. A one day delay was nothing. He still had a chance. McDougall had to remind himself that this man might still turn out to be a torturer. He was the decision-maker. He wasn’t supposed to be rooting for the little guy.

While Mrs. Chiarelli was re-organizing her files, he quietly spoke to the RCO. “Ms. Pacek, could you please reassure Mr. Benitez that we will make every effort to complete the testimony tomorrow?”

Ms. Pacek nodded, thinking of her concert ticket for Yo-Yo Ma, now worthless. As usual, no one had asked the RCO about her schedule. At least the Minister’s Rep got an apology. The man earned about 10,000 more than she did and couldn’t ask four competent questions in English. His logic was so convoluted, she suspected he wasn’t that much more effective in French. So she would be spending the evening in her room preparing the questions which Gilles wasn’t capable of asking and not even a thank you for a job well done. McDougall was a nice man but he might think about someone besides the claimants. Without further comment, she went over to Manuel to explain that the bad news was really good news. It was difficult to believe this scrawny little man had been a policeman, let alone a torturer. She supposed they all looked big with a weapon in their hands.

McDougall had a surprisingly pleasant dinner with Mrs. Chiarelli. The hotel dining room proved to be charming, beautiful linens from another time and fresh cut flowers on every table. They had a small table overlooking well-kept gardens and a grassy slope running down to the small river for which the town was named. His wife would enjoy the view as the lowering sun softened the outline of trees and flowers, filling the gardens with a rich golden light. He thought of Thomas Hardy who wrote so well of that time between day and night, a daily equinox with its own particular stillness. There were cows in the pasture across the river. Bucolic. A good word. These were his sunset years, he should be softened by the lowering of his energies and expectations. He should be thinking of retirement, of leaving the fray.

Mrs. Chiarelli pronounced the Chianti to be excellent. It appeared she was something of an expert, her father had made wine for years. She told him of her father’s immigrant struggles,

arriving in Canada after the war with little but the skill in his hands and the will to succeed. She remembered a succession of houses in downtown Toronto, big houses with the noise of student tenants and endless renovation. Her father was a tireless man, a stone mason by day, renovating at night, moving once the house was completed, a family of hermit crabs. By the time his back gave out, he owned six properties, enough to support his children while he passed his time with the older men in the Cafe Calabria and became a presence in the back rooms of the Liberal party. Angelo could deliver the vote.

She said she knew something of poverty, the only stain on the evening occurred when she claimed to be able to understand “these people”, meaning, McDougall assumed, refugees, and she was endlessly sympathetic to the ones who were willing to work hard and told the truth. He played with the notion of a new refugee definition based on sincerity and effort and what then of the persecuted with broken lives or the frightened dissemblers, the inarticulate, and found it an unkind thought as the golden light descended further into the grasses of the lawn and distant pasture and he did not want to fight with Chiarelli or anyone else on such an evening.

The morning started well. Everyone was in the room early, Manuel and his family looking fresh and apprehensive, the children again in their Sunday dresses. He wore the same shirt as the day before but freshly laundered and pressed. Again the daughters departed and Pacek was already asking questions as the town clock sounded the hour. Even in the basement, McDougall could feel the resonance of the heavy waves of bronze sound rolling out over the town, a real bell, reassuring the residents of time and continuity. Most of these people had marked the days of their lives by that sound. This was a place out of time, perhaps a place to retire. Far enough from Toronto for lower property values and his wife would be pleased with the large gardens. How had Manuel found such a haven?

“And did you carry weapons when you went on patrol?”

“Si Senora, it was very dangerous.”

Pacek was trying to isolate Manuel’s more serious military activities. Over the first hour she had roughed out the outlines of his military career. As a sixteen year old peasant boy working in his father’s rented fields, he had been drafted early into military service where he had served as a dutiful soldier fighting guerillas in the north. The army arbitrarily extended his service by one year then transferred him to the Technical Police where, upon re-enlistment, he was offered more money than any of his brothers could earn labouring as tenant farmers. He could marry and have a family and send money to his father and so he accepted, remaining with the police for five years before suddenly leaving the country one year before the civil war ended. Questions about torture had disclosed nothing. Manuel was unwavering in his denial that he had ever smashed teeth, twisted limbs, attached electrodes. Idly, McDougall wondered why Manuel had left. His rapid departure from service and country had never been explained.

“Were these patrols in the city, into people’s homes?”

“No Senora, they were in the field.”

“And this was still with the Technical Police, not with the military?”

“Yes, with the Technicals but they are the militaries, Senora.”

They had been over this ground twice before, once with the Minister’s rep in a very haphazard manner, then with Pacek, moving very carefully, thoroughly, the way, McDougall imagined, a good platoon commander would move over terrain, missing nothing. They had at least partially uncovered the metamorphic relationships between various units of the police and the army. The Technical Police, the National Police, the Military Police, the Security Service, the Army, the Traffic Police, who were ironically some of the most serious people, accused of numerous atrocities against the families of suspected political dissidents. It was difficult to establish a pattern. The army did what appeared to be police work and the police carried out military missions. McDougall was certain that it was all a shell game perpetrated by political leaders and commanders who did their best to hide the worst of the abuses from international eyes. The civil war had been going on for years before human rights reporters were able to link the atrocities with particular units. And then there were the death squads, the night time murderers with balaclavas whom everyone knew to be security police of some form. But never proven, just as the American military presence had never been proven beyond a few “military advisors” captured after the downing of a government helicopter.

So Pacek was careful, reversing her field, always ascertaining which police unit Manuel was referring to, for McDougall knew she was cautiously moving toward one damning piece of evidence buried in the two hundred odd pages of documents. It was a report by the local human rights commission on one of the most “active” police units, known as Unit B or the White Division, which maintained a secret detention centre on a military base near the capital city. The commission had documented the testimony of several torture survivors before the commission’s offices were ransacked and burned by persons unknown. The government alleged that guerrillas were responsible, purportedly trying to hide the truth of their own human rights abuses. No one believed the government but it didn’t matter. Nothing could be known for certain. Fortunately some of the commission’s documents had been smuggled out of the country by a Protestant church group, including the document which stated quite definitively that Unit B was attached to the Technical Police.

By the coffee break, Pacek had established that Manuel had fired his gun on several occasions, but it was always during military skirmishes while on patrol. He had not shot at civilians. So far he had held up fairly well, answering the questions promptly in bad English.

After the break, Pacek asked Manuel directly about Unit B. McDougall had seen this technique before. Meander around laying groundwork, then suddenly hit the claimant right between the eyes with the crunch question. With manifest liars, McDougall thought it a good technique.

Manuel seemed surprised. His brow had instantly furrowed. “Unit B? Que es Unit B? Is that a Section B?”

A peculiar time to lapse into Spanish. Pacek smelled a rat and went after it like any good terrier. “Yes. Unit B. Do you know of a police group known as Unit B?”

“There are many militaries with that name Senora.”

“I am interested on one particular police section. It is known as Unit B. They wear regular army uniforms with a white patch on the shoulder.” Pacek paused, then added, “the right shoulder”, looking directly into Manuel’s eyes.

Again this was excellent technique. Scare hell out of him by dropping a very precise detail but don’t disclose how much you really know. Keep him guessing and see if he starts to shift and evade. Manuel couldn’t win. If he denied all knowledge of the unit, they would find him not to be credible since he would surely know of their existence. Early in the morning’s testimony, he said he was assigned to the military base where the detention centre was located. If he admitted knowing about the unit, there would be many more questions.

“Si Senora. Los Blancos. Yes, I know these people. They are militaries.”

McDougall noted the sweat beads which had popped out amidst the furrows in his forehead. He was getting that strained, greasy look again.

“Why didn’t you tell me this the first time I asked you about Unit B?”

Manuel looked puzzled and worried. “The first time Senora?”

“Yes the first time Mr. Benitez. Ms. Pacek just asked you about Unit B and you appeared not to know what in the devil she was talking about. Now suddenly you do. So why didn’t you just say so the first time?”

This was Chiarelli, barging in before Pacek could respond. McDougall found it irritating when she did this. Moving in for a clumsy kill after other members of the pack had brought the quarry to bay. Often she moved prematurely before all the pieces were in place. It must drive Pacek crazy after all her careful work, like a clever junior detective watching the police chief stumble around the crime scene contaminating evidence.

Manuel’s reply was urgent.”But Senora, there are very many Unit B. Is a Unit B for the Brigado in the norte when I fight the guerrilleros, is a Unit B in la Policia Trafico, is a Unit B in everything.”

Chiarelli turned to Pacek. “Well Ms. Pacek, which Unit B are we talking about and what is its relevance?”

McDougall winced. A bull in a china shop was the better analogy. Whose side was she on? Then he realized that she hadn't read the document. She didn't have the faintest idea where Pacek was going with this.

Pacek paused, uncertain of her response. She glanced at McDougall who leaned over to whisper into Chiarelli's ear, "Let's let her run with this. There's a document."

Chiarelli gave him an irritated side glance. He knew she didn't like whispering in her ear and she didn't like being left in the dark. He also knew she would not want to admit that she hadn't read the document by asking which one.

"Please continue Ms. Pacek. Let's get to the bottom of this Unit B business."

Pacek nodded, resisting the temptation to glance a thank you to McDougall. "Mr. Benitez, could you please tell us again why you did not tell me about Unit B when I first asked you."

"Is many Unit B. No one say, Unit B. Is paper name. People say, "Los Blancos". When you tell me white patch, I know you talk about Los Blancos."

"Do other units have different patches on their uniforms?"

"Yes. Different colours. Some no colour. Or same colour but far away in the norte."

"So why did you know that the white patch was Los Blancos?"

"Is very important. Is very big. Everybody know Los Blancos. It mean the white ones."

"Yes. I understand. And what section or area of the military are the Blancos related to?"

McDougall was amused to hear how quickly they all assimilated Manuel's vocabulary. They had all been saying "guerrilleros", even Chiarelli. Now it was "Blancos". He was never sure if it was the vitality of particular words or the utility of using the claimant's words to avoid unnecessary ambiguity. He shifted back to Manuel's answer, this was important. Which way would he go?

"Area, Senora? What is area?"

Pacek was patient. "I will re-phrase the question. This Unit B, the Blancos, they are connected to which part of the military or the police.?"

"Yes, I understand. Los Blancos are part of the Technical Police."

He said it almost with a sigh. McDougall watched Manuel's head slowly descend, as though it were too heavy, made of iron, his neck suddenly too weak to support it, until his chin was almost touching his newly washed shirt. His black hair, heavily oiled, fell partially forward, like a

rooster's comb. A banty rooster, the little fighters who never give up. His head slowly raised, more sweat on the brow.

"But Senor, I am not a Los Blancos." He was looking directly at McDougall, his black button eyes, flat and opaque, somehow communicated the depth of his pain. Why him? McDougall had not asked the question. Did Manuel see him as the soft touch, the easy one on the panel? He looked away as Pacek asked her next question.

"So I want to be sure I understand. The Blancos, this Unit B, were a part of the same Technical Police that you were a part of?"

"Yes Senora. But not the same. The Blancos are very difficult, very different."

"What do you mean by different?"

"They no go with us. Always secret. Alone. Very dangerous men."

"Were you ever a member of the Blancos?"

"No Senora, never. I am never with the Blancos. I was a Technical Police."

Again Chiarelli interjected, "Yes, but the Blancos are Technicals as well. That's what you told us already. It seems there's some sort of contradiction here."

The sparring went on for more than an hour with Pacek probing for some connection between Manuel and the White Unit with occasional interjections from Chiarelli and even Gilles. On two occasions, Manuel gave his answer in Spanish then corrected Mrs. Cord's interpretation. Sweat stains darkened his neatly pressed shirt. Just before the noon hour, Chiarelli announced a lunch time adjournment, saying that they were all drawing blanks. McDougall thought it an amusing if inadvertent pun as he walked out into the brightness of the day through the heavy ringing of the noon hour. Perhaps that town clock would become irritating in time.

He spent the lunch hour carefully reviewing his notes, ignoring Chiarelli's attempts at conversation. He knew there was something missing. Pacek had attempted several lines of enquiry to establish some relation between Manuel and Los Blancos. There was none. Privately he had given up the notion that Manuel had himself committed serious human rights abuses, either torture, rape or murder. But there was still complicity, the doctrine which said that if you were implicated in the commission of human rights abuses, you were also excludable. You didn't have to pull the trigger or the switch as long as you were either directly involved or you were a member of a group whose primary purpose included human rights abuses. If Manuel had been a member of Los Blancos, the claim would be over. But he wasn't. The real question was whether or not Manuel had assisted in some way. Manuel was telling the truth, McDougall was fairly certain of that. He truly had sworn before God. But something was missing, there was something he wasn't talking about.

McDougall found a promising line of questioning immediately after lunch, a lucky guess. “Manuel, you have told us about the patrols you made with the Technical Police, I don’t mean the early patrols in the north with the army, but later, after 1985, with the Technical Police. Did you ever arrest people?”

“Yes, Senor. Sometimes but not too many times.”

“And these arrests, did they happen in the city and in the country?”

“No Senor, not the city. I told the Senora that we do not make the patrols in the city”.

“Yes, I remember, but you did make them in the country near the capital, during these one and two-day patrols you told us about?”

“Yes, Senor, sometime.”

“And who were these people that you arrested? What were they accused of?”

“Sometimes they were bad people, Senor. Criminales.”

“All the time? Or were there other kinds of people you arrested?”

“I did not do the arrest, Senor. I go with the patrol.”

“Yes, I remember, you said you were never the commander, but sometimes you were second-in-command. Is that right?”

“Yes, Senor.”

“And was it always the decision of the commander to make the arrest?”

“Yes, Senor.”

“Never the second-in-command?”

“No Senor. The commander decide to take the people. Is long walk or he have to make the order for the vehiculo. Is commander who decide.”

“And these people who were arrested, you said that sometimes they were criminals. Who were the other ones, the ones who were not criminals?”

“Is jus’ people, Senor.” Manuel was showing considerable distress, sometimes attempting to glance at his wife who sat perfectly still except for her hands which lay in her lap quietly squeezing one another.

“Guerilleros?”

“No, Senior. The guerilleros fight, Senior.”

“Did they arrest civilians? Women and children?” McDougall had switched to the third person, making it less personal, it would come more easily if “they” were making the arrests.

“No children, Senior.” The sweat was now flowing freely from his brow. He had taken a red neckerchief from his pocket which he used to wipe his forehead, holding it in his lap, working it with the same nervous hand gestures as his wife. McDougall had an open view of his legs under the table.

“But civilians, men and women. They were arrested?”

“Yes, Senior.”

“And what were the charges, what were they accused of?”

“Sometimes crimes, Senior.”

Manuel was still resisting, telling the truth but evading at every possible turn. McDougall was relentless. “I am not interested in the criminales, the bad people you told us about. I am talking now only about the other people, not the criminales. The civilians, sometimes women. What were they accused of?”

“They say they help the guerrilleros.”

“Who is ‘they’?”

“The commandante. Or sometime we have report. They say, you go to this place and you find the people who help the guerrilleros”.

“And how often did they make arrests?”

“Not too many time. Many time nobody home.”

“I need you to be more precise if you can. You were a Technical Police working on the military base for about three years. During that time, about how many patrols did you make where they arrested civilians, the men and women accused of helping the guerrilleros?”

“Is difficult. It was long time ago. I try to forget that time.”

“I understand. And I know this is painful for you but it is important so I want you to try as best you can. It doesn't have to be an exact number but we do need to have a general idea. About how

many arrests would you say over the three years?”

“Maybe three, Senior”. He paused, wiping his brow then looking down at his hands. “Maybe little bit more, Senior. Maybe six.”

McDougall had to decide if Manuel had started to lie, if the pressure was too much. “ Six arrests. That would be about two times a year?”

“Not every year, Senior. Sometime no arrest or only criminales. Sometime I only go in the city. Is always different. But not too many times, Senior. Before God, not too many times.”

Whether or not it was true, Manuel probably believed it and so McDougall decided to move on, he had to close the other half of the net.

“And what happened to these people, I will call them the civilians, what happened to these civilians when you brought them back to the military base? You did take them back to the base?”

“Yes, Senior.”

“ In the vehicles or sometimes walking?”

“Yes, Senior.”

“And what happened to them?”

“Is go in a jail, senior.”

“A jail? What jail is that?”

“Is a jail. Is a place, you know, with big wall and a.....” He paused, obviously seeking a word, making vertical hand motions, “metales”.

“Bars? Iron bars?”

“Si, Senior. Iron bars.”

“And what happened to these people once they were put in the jail?”

“No se. I don’t know Senior. Is different police.”

“Not the Technical Police?”

“Yes, Technical Police, but different.”

“Unit B? Los Blancos?”

“No Senior, different. Is a guardia for the jail.”

“Did Los Blancos work in the jail?”

“No Senior. Los Blancos have different place. Is....is.....is in a campo, very high wall.”

“A separate prison? In a separate camp but still on the military base?” McDougall was going to help him out. The report said that the Unit B detention centre was in a separate walled area within the base.

“Yes, Senior. Separate.”

“And have you ever been inside this other jail? Or been inside the Los Blancos area?”

“No Senior. Never. Is very secret. Very dangerous.”

It was all so neatly done, so neatly compartmentalized. McDougall had seen it in other countries, Iran under the Shah, Lebanon, Argentina, the Soviet Union. The regular army or police deliver the prisoners to a neutral detention centre, containing ordinary criminals. Who knows what happens to them then? Later the security police remove them to a separate clandestine torture centre. Nothing to do with the police. Clean hands, just doing their duty. The Nazis were probably the architects of the system. It lets the leaders and the Manuels off the hook.

“Did you ever do guard duty in the regular jail?”

“Yes, Senior. Sometime. Not too many times.”

“About how often over the three year period?”

“Maybe four-five time. Sometime they not have enough guardia for the night. Is very quiet.”

“And did you ever see any torture victims in the jail. People with injuries?”

“No, Senior. Is not like that. The people okay. Is very unhappy but nobody is torture.”

Questions about the jail were going nowhere. Being a part-time jailer of arbitrarily detained people who weren't going to get a fair trial was not going to be seen as complicity in human rights abuses. He had to try a frontal assault.

“When you were working on the base, did you know what the Blancos did to people?”

“Maybe a little bit, Senior. Is very secret.”

“Did you know that they tortured people?”

This time Manuel turned his head to look directly at his wife. “Is stories, Senior. Los Blancos do many bad things. But is secret, muy confidential. No one know for sure. Is very dangerous to ask question.”

“But you must have had a pretty good idea that they were torturing these people inside that hellhole, isn’t that the way it really was? Everyone knew and no one was talking.”

Manuel looked confused. Chiarelli’s question was too blunt, she had spoken too quickly. McDougall quietly laid a hand on Chiarelli’s elbow. He didn’t want her screwing this up.

“Manuel, what are some of the bad things that people talked about?”

“Is very bad, Senior. Is hurt people very bad. People say they hear the people crying in the night, is make big noise. But no one know.”

“ Sounds in the night. Like screams and people crying out?” Manuel nodded, looking at McDougall now, as though he were afraid to look away. “And so the other Technicals knew the Blancos were hurting people, the prisoners, inside the prison?”

Again a nod. McDougall spoke very gently, he didn’t want to spook him. “Manuel, I need you to say something for the record, to speak. The tape cassette is recording the testimony so there have to be some words, not just moving your head.”

“Si, Senior. We hear the noises, the scream, and we know Los Blancos doing bad things to the people. But nobody talk. Is very dangerous to talk.”

“I understand. And were there any other signs, any other ways that you suspected the Blancos were doing bad things to people?”

“Yes, Senior. Is one other thing” He seemed almost eager to talk, as though a small dam had overflowed. “My friend, Enrique, is a driver. He say at night sometime he drive truck for Los Blancos, special job. He no work for Los Blancos full time. They go in country and put people, los muertos, in ground.”

“ Enrique drove the truck? He transported dead bodies from the Los Blancos prison into the country where they buried them. Is that what you are saying?”

“Yes, Senior. But Enrique no touch dead people. He is driver solamente. But he know.”

“I understand.” If there were more time McDougall would ask questions about the number of bodies but he could see that Manuel was tiring and he did not want to lose the rhythm of the questions. “And you think the bodies, the dead people were the same people making the noises in

the nights, the screams in the prison?” He was careful not to say the word torture.

“ Yes Señor. We know is same people.”

It was time to close the net. “Did the Blancos sometimes come and take people from the Technical Police jail? Take them from there to their own prison?”

Although his face still glistened with sweat, Manuel seemed calmer. His eyes did not leave McDougall’s face. “Yes Señor. Sometime they take the people.”

“And did the Blancos return the people to the Technical jail, later. Did they bring them back?”

“No, Señor. No one come back from Los Blancos.”

“And could some of these prisoners be the ones making the noises in the night or the ones being killed?”

“No se Señor. I not know. Some people maybe go home. Make the interrogation and go home. Is possible.”

Fair answer. Dumb question, smart answer. Manuel had no way of knowing who was tortured and killed in that place. Some probably were released. In court his counsel would have objected to the question, “Calls for speculation your Honour.”

So far, he really didn’t have a lot. His best friend, Morty Silverstein, would say “bubkes”. And he would be right. He had established that Manuel had been a member of patrols that had occasionally arrested people who were delivered to a central prison. And the security police who did commit torture occasionally removed prisoners from that same prison. In terms of complicity in the commission of human rights abuses, he had bubkes. There had to be a more direct link between Manuel and the abuses. But where was it? He thought of asking for a break, maybe re-trace his line of questions, what had he missed? And then, it fell into place. It was suddenly there, like finding his missing car keys which had been lying there in plain view the whole time.

“Manuel, these six arrests of the civilians that you told me about, did you ever know that the people would be taken to the Blancos?”

Manuel visibly started, his bony shoulders jerking sideways. He had been staring off into space before the question, possibly lost in some nightmare. At first he didn’t answer, simply staring at McDougall, no not staring, the black button eyes were almost sightless, opaque, nothing but surface reflection. For some bizarre reason, the word Rumpelstiltskin popped into McDougall’s head. Manuel’s lips were moving but there was no sound. Finally, “Si, Señor, una vez, one time. Si, Señor.”

The quality of his voice had altered, become softer and ironically, more relaxed. He had ceased to

look at McDougall or anyone else. Manuel was no longer sitting in the basement of the courthouse with the bright sound of red-winged blackbirds coming through the window. He was standing on the edge of a clearing in heavily forested hills watching the seven people tied to the tree and the patrol resting in the shade after a heavy two day march and brief fire fight, the men squatted down eating US Army field rations watching flies gather on the bodies of three guerrilleros laying in the sun. One of their own men was wounded, sitting against a tree, needing more than his share of water. They would have to carry him out to the main highway. He knew that headquarters would not risk the loss of a helicopter for an ordinary soldier.

The story came very quickly. McDougall was careful not to interrupt, occasionally prompting with brief questions when Manuel appeared to lose the flow of his thoughts. The patrol had not been expecting to find guerrillas, only supporters. If they found signs of a guerilla presence, they would burn some houses, destroy the gardens scratched out of thin, acidic upland soil, ask some questions, scare the peasants and their families. But there were three guerrillas playing soccer in the clearing, chasing a ball made of rags. Coming up the trail, the patrol had heard their laughter and been warned. Two had fallen in the first hail of bullets. The third one had somehow scrambled to a weapon and released a burst of shots, wounding Carlos, before his body jerked backwards from the impact of their second volley. Manuel knew his own burst had struck the man in the chest, knocking him backwards. And now they must do something with the seven people tied to the tree. The men were excited, they had never shot a guerrilla before but they were also very angry because of the wound to Carlos since they knew they must carry him. They were also angry because all the prisoners were very old, except one. Where were the young women? They had all heard of the rapes, of the commandantes allowing them, even ordering them to violate the women of the guerrilleros. Here there were six old people, two men and four women, farmers, very old. There was the one woman, very thin but not too old and maybe they would violate her.

The commandante wanted to kill her. He said she was different from the others. She was not from the region and so must be with the guerrilleros. The old people, he would burn their houses and small field of corn, take their chickens. But the younger one they should kill or she would go to the guerrilleros, possibly identify them. Perhaps the men would violate her first but she was as skinny as the chickens. He did not think it was worth the trouble. Manuel said they should not kill her, they should take her with them back to the base. If she was with the guerrilleros, she would have information that might interest Los Blancos. And if the men violated her, she would not be able to walk. They did not want to carry both her and Carlos. Besides, if they radioed to say they had a prisoner with information, the colonel might send a truck to take them all back to the base. Manuel did not tell him that the name of the woman was Milagro and that she had been the friend of his older sister in his village. Milagro had not always been thin. He remembered her with a round face and beautiful hair. She had a big laugh and sometimes gave him candy. She had been the daughter of the school teacher and the first girl from the village to go to the university.

The commandante had said Manuel was right and perhaps they would send a truck if Los Blancos were eager to talk to the prisoner. He would give the men three of the chickens instead

of the woman and only keep two for himself. Manuel could also have a chicken for his good advice as the second-in-command.

It was difficult to carry Carlos down the trail and he called out many times. Manuel loosely held the rope tied to Milagro, having already loosened the knot around her wrists where it was bleeding. She gave no sign that she recognized him. A truck was waiting for them at the highway which made everyone happy except Manuel. If they had walked back to the base, Milagro might have escaped in the night while they slept. Three Los Blancos drove up in a cloud of dust while the men were unloading at the barracks. They spoke briefly to the commandante who pointed at Milagro. One had a knife to cut the rope which the commandante had tightened in the truck. Without speaking they placed her in the jeep and drove away. All three men were big with faces of stone. Milagro stared straight ahead, apparently sightless, but Manuel could see her body shaking through the thin dress. Manuel said he did not want his chicken and gave it back to the commandante. He knew the bad taste in his mouth would not leave for a long time.

McDougall had forgotten the other people in the room, had become lost in Manuel's story. Likely, it was the same for the others since no one had spoken. It required a few more questions to learn that Manuel had waited two more months before deserting from the police and his country, before selling his few possessions for bus fare to the north, his wife following without questions. She knew about his nightmares and inability to eat. Chiarelli asked if he had news of Milagro and he nodded slowly as though considering a difficult problem. His father had told him on the telephone that she lived with her father in the capital city. He knew only that she had been hurt very badly by the police and did not leave the house. There were many bad stories from the war, it was one of many and Manuel asked his father only a few questions.

McDougall and Chiarelli later sat at their same table overlooking the gardens. He had been surprised by the lateness of the hour by the time all the questions were finished. Without consultation, Chiarelli had told Manuel that they would return with a decision after dinner, they would not keep him waiting. Over dinner, they had briefly reviewed the law on complicity. The issues were knowledge of the human rights abuses and proximity to their commission and Manuel fell within that definition, certainly in regard to Milagro, but also probably the other five arrests. He knew that anyone suspected of supporting the guerrillas was likely to fall into the hands of Los Blancos. Perhaps they should have asked questions about the other arrests but there had been no time and another adjournment was unthinkable. There was never enough time. There were always unanswered questions.

They also discussed the law on duress which did not assist Manuel. He had a choice. He had actually re-enlisted although it was unclear how much he knew at the time of the re-enlistment. However he definitely had not taken the first opportunity to leave once he did know.

McDougall had never been fully comfortable with the law on complicity. It was one thing to reject the butchers but what about the teenagers dragooned into military service, complicit yet frightened, peasants like Manuel, who had never had a sense of choice or alternative in their lives, raised within hierarchical cultures to do what they were told? Manuel should have left at

his first opportunity, he should have refused. “Should” seemed like a pretty harsh word. Still, it was the law and he was, presumably, a man of the law. He looked over at Chiarelli who hadn’t said a word.

“Ironically, he’s honest and hard-working. He fits very nicely within your definition.” He offered tentatively.

Chiarelli nodded, absent-mindedly fiddling with the overlarge piece of lemon in her soda water. Her face had softened, become more pensive. With the briefest of peripheral glances, she scanned his face, assessing his mood.

Those large eyes really did contain such a quick intelligence. She was more complex than he had first thought and he wondered if she were waiting for him to suggest a way out of the box, an alternative logic. They would have to decide, one way or the other. Poised on the brink of some precipice, they both looked off into the garden and to the cows lowing in the pasture across the river.