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Review of *Well-Founded Fear**

by

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Video: *Well-Founded Fear*
Filmmakers: Shari Robertson and Michael Camerini
Released: On PBS's *P.O.V.*
Year: 2000

Well-Founded Fear is a powerful yet puzzling video that chronicles the strange space of the political asylum unit at the Immigration and Naturalization Service (INS) in New York. The eye of the camera captures the sterility of the hard plastic chairs that accommodate asylum applicants as they wait to tell their testimonies to asylum officers. We hear snippets of nervous conversations with family members and interpreters in the final moments before an officer calls their names. The camera then follows the applicants behind the closed doors into the intimate spaces of the officials' offices as they conduct interviews with the applicants and attempt to mete out the truth or falsity of their claims. Viewers are privy to these confidential proceedings (all participation in the documentary, we are told at the outset, is voluntary), but, unlike the applicants themselves, viewers are also allowed into the deliberations officials have with themselves, their colleagues, and their superiors over the merits of different cases. Occasionally, viewers are also treated to glimpses of the applicants' lives outside the INS, a privileged perspective that officials do not share. We also enjoy translations, both of what applicants say and what interpreters convey of their words to the asylum officers (needless-to-say these two do not always coincide). Do these advantages afford viewers better information to decide who deserves safe haven in the U. S. and who does not? Not necessarily.

The film is a treatise on subjectivity and positionality; it is also

about how these elements assist in telling compelling, believable stories or not. Asylum officers tell about how gullible they were when first on the job when they tended to believe each sad story and how they have become more cynical — and more judicious — over time. We see some who seem awed by the responsibility of determining the fate of another human being and we encounter others who no longer see individuals but rather faces that utter the repeated scripts of the same, trumped up story. Some, no most, asylum applicants cry as they are interviewed and some trip over dates, names, and other details. Those with doctorates, thick files, or NGO lawyers exude credibility; peasants, women with finely painted nails, and those with thin files and messy paperwork, are treated circumspectly.

Ultimately, though, winning and losing are determined less on the basis of merit and more by the roulette wheel of which INS officer is assigned a case — someone who still retains the foibles of human subjectivity or someone who has morphed into a bureaucrat. One of the latter walks down a dreary hallway into the room where he **[End page 149]** retrieves his next brown file by mumbling, "Once again, into the breech." It is hard to believe that anyone can remain humane in this atmosphere, a place of long, sterile corridors, windowless offices, and interminable rows of ugly brown file folders. Yet just as you lose all belief in humanity, let alone justice, you hear the voice of a clerk congratulating a new asylee on winning his case or the faith of the Rumanian applicant who, despite it all, still believes that the U. S. is "the best thing in the world…because indeed everything is possible here." Unfortunately, the filmmakers splice in views of the Statue of Liberty at this point, offering an unbearably melodramatic yet upbeat ending to an otherwise solemn critique of "America."

The ending scenes raise the most profound and troubling question about this film: What is it intended to do and for whom? If its intention is to educate the public about the political asylum system, it falls way short for there is, aside from a brief rolling definition of the 1967 U. N. protocol definition of a refugee that is later adopted by the U. S., almost no background about political asylum and the history behind the special asylum units offered to the viewer. As someone who translated for scores of asylum applicants before these special units were begun — under duress from litigation showing how discriminatory the previous, and worse, system was — I know that this film provides a more

charitable perspective than most applicants faced not so many years ago. In those days, applicants presented their stories, however horrible and divulging, in immigration court where there was no pretense of confidentiality and wherein judges, towering high above applicants from their judicial thrones, frequently screamed at them with impunity if they faltered during testimony. The odds of winning a case then were also worse, so bad for people fleeing regimes allied with the U. S. government such as El Salvador and Guatemala, that even extremely strong cases with thick files and NGO lawyers were no guarantee of safe haven. There is one commonality between then and the view given in the film: The person who is assigned his or her case still primarily determines the applicant's fate. Supposedly, the 1980 Refugee Act was passed to remove foreign policy and politics from influencing the evaluations of asylum and refugee applications, yet these biases have never been eliminated. Indeed, the film touches only very lightly on this topic through its allusions to the State Department country reports that officers use to contextualize claims. And only in the final credits does it make reference to the 1996 law that, for all intents and purposes, gutted the 1980 Refugee law. Viewers, unfortunately, receive almost none of this historical background and so, unless unusually well educated in this arcane area, are not well prepared by the film to comprehend the system they watch, let alone to judge it.

Perhaps the objective of the film, alternatively, is to side with applicants and show the forces that they are up against. We see, for example, how much is lost and sometimes distorted in the process of interpretation. Compelling original testimony is translated into the undistinguished drawl heard by officers who must judge its credibility and persuasiveness. And we see the same officers discussing the cases behind the scenes, away from applicants. But we are not offered any other information that would help us judge the cases, such as an investigation of the information presented or even follow-up interviews with applicants. **[End page 150]**

If the purpose of the film is to extol the INS by depicting many officers wrangling over their decisions and trying to do what is just, then it is most successful. The fact that the words of Officer Gerald Brown, when contemplating the case of a Chinese dissident poet, "I am humbled. What a life," are repeated twice underscores this interpretation — just before we read that he has left this job. But they leave me more unsettled. Yes, I can see that there are

improvements in the asylum decision-making process over its hellish past, but I know it more intimately and thoroughly than I imagine most viewers can. Something tells me, however, that this is not the intention of the film — not that it is not one of its aims, but not its overall purpose.

And that brings me to the film's title, *Well-Founded Fear*. The 1967 Protocol defines a refugee as someone who has been persecuted or has a "well-founded fear" of persecution. This is one of the gray areas in the definition that actually allows for so much latitude in interpretation. What is a "well-founded" fear? The film actually explores some of the subtleties of this term but without ever doing so directly. An Algerian woman testifies that she and her family were on a beach when two bombs exploded, nearly blowing them up. The officer hearing the case is heard saying that all people in Algeria are at risk. We hear how the woman's family has been politically involved for generations and she believes the bombs were targeting her family because of their political ties. But she is not granted asylum; her case is referred up a level. Why? Because virtually everyone in the country is at risk and she has not sufficiently shown how she and her family have been singled out. But doesn't she have a "well-founded" fear of persecution? I shouted to myself. I could feel the hurdle bar still being jerked higher in her case than for some others, and I wondered what invisible and visible hands manipulate it. Ultimately, this, I think, is the intention of the film. After all is said and done, after all the rational procedures are put in place, our fates are still largely determined by the whims of our humanity.

ENDNOTE

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