

DECIDED
29 July 2020

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- [1] XXXX XXXX XXXX XXXX XXXX and his mother IbtXXXX XXXX XXXX XXXX XXXX XXXX are appealing the decision of the Refugee Protection Division (the RPD), which denied their claim for refugee protection.
- [2] Mr. XXXX is the principal appellant, and MsXXXX XXXX XXXX XXXX is the associate appellant.
- [3] The RPD accepted that they are both stateless Palestinians and that their country of former habitual residence is the United Arab Emirates (the UAE).

- [4] I confirm the decision of the RPD that the appellants are neither Convention refugees nor are they persons in need of protection.
- [5] The appellants have failed to establish that there is a serious possibility of persecution on a Convention ground in the UAE, nor have they established that they are persons in need of protection on a balance of probabilities. Allegations
- [6] The appellants are both stateless Palestinians residing in the UAE. The associate appellant is dependent on her son for her residence permit.
- [7] In XXXX 2017, the principal appellant's employer terminated his employment. He tried to find other work, but was not successful. He was unable to procure status for himself, so he and his mother travelled to Canada in the fall the same year and asked for refugee protection. The Role of the Refugee Appeal Division (RAD)

- [8] The standard of review is correctness.¹ I am required to conduct an independent assessment and not defer to the RPD except in limited circumstances, which do not arise in this case.
- [9] The appellants are not submitting any new evidence, nor are they requesting an oral hearing. As there is no oral evidence, I have no jurisdiction to hold an oral hearing. The RPD was correct in its finding that the denial of the right of entry to the UAE is not persecution
- [10] The appellants argue that that the RPD erred when it did not make a finding that the appellants are unable to return to the UAE. They argue that this denial itself may constitute persecution.
- [11] The appellants agree that the UAE is their country of former habitual residence. The principal appellant was born in the UAE. The associate appellant has lived there since 1972.
- [12] Both appellants are stateless. Their claim is accessed against their country of former habitual residence. A claim for refugee protection must have a country of reference. In other words, a claimant must have a country where he/ she alleges persecution. In the case at hand, this country is the UAE.
- [13] The appellants likely will not be able to return to the UAE, because return is contingent upon employment. The principal appellant does not have employment in said country. They left in 2017. The appellants stated in their testimony if they have to return to the UAE, they would have to remain there illegally, which would be precarious.
- [14] The appellants would likely be denied entry to the UAE, as non-citizens require a sponsor a work permit to enter and remain in the country.²
- [15] UAE citizenship is derived through the citizenship of the father or the mother if the father is unknown. The population of the country is 9.7 million.³ Almost 90% of the population are migrant workers. The UAE does not grant asylum or refugee status.⁴ There are no official policies toward stateless Palestinians; they can obtain employment and residence permits like any other foreigner.⁵
- [16] The appellants would likely be denied entry to their country of former habitual residence. However, they have failed to establish that they would be denied entry to the UAE because they are Palestinians. Rather, I find that they would be denied entry because the principal appellant no longer has a work permit for the UAE and the associate appellant is dependent on him.
- [17] This denial of entry is not persecutory as it is not linked to a Convention ground. Instead, it is a law of general application, because it applies to all non-citizens of the UAE. The appellants were not persecuted or faced risk in the UAE prior to their departure
- [18] I have found that the appellants cannot return to the UAE because they do not have a right of entry. Therefore, I need not conduct a forward-looking risk assessment.

- [19] Next, I turn my attention to whether the appellants faced a well-founded fear of persecution while they were in the UAE.
- [20] The appellants argue that Palestinians are discriminated against in the UAE and that this discrimination rises to the level of persecution. The RPD disagreed. My reasons are the same as those of the RPD, who made the correct decision.
- [21] I find that Palestinians are discriminated against but that the discrimination does not rise to the level of persecution. The appellants lived in the UAE for decades with little difficulty. The principal appellant attended school and then university, albeit a private one. He was able to secure employment, which provided both appellants with health insurance. They were able to obtain housing.
- [22] The principal appellant argued that he was terminated from his employment because of Emiratisation, where the government is seeking to employ its own citizens over foreign workers.⁶ This is a law of general application because it applies to all non-Emirati citizens. The principal appellant lost his job not because he is an ethnic Palestinian, but because he is not a citizen of the UAE.
- [23] Non-citizens faced discrimination in most areas of daily life, including employment, education, housing, social interaction and health care.⁷ The principal appellant attended a private university. Both appellants had access to private health care through the principal appellant's work.⁸
- [24] The RPD acknowledged that there is discrimination toward Palestinians in education and employment, but that this did not amount to the level of persecution. The appellants argue that cumulatively it does, but there is no evidence to support that assertion. The principal appellant was able to obtain employment and education, though at a private university.
- [25] The associate appellant alleges that she is completely dependent on her son because she is a senior person. She has not shown that she has faced discrimination or hardship that amounts cumulatively to a well-founded fear of persecution due to her age or her dependence on her son.
- [26] The appellants are correct in that the UAE is not signatory to the 1951 Refugee Convention⁹. Therefore, they cannot ask the UAE for refugee status. However, this does not automatically make them Convention refugees. They have simply stated a fact without explaining to the RAD how this fact should impact analysis. Therefore, I find this fact to be irrelevant.
- [27] Palestinians have to obtain a sponsor and employment before they can reside in the UAE. They can be fined, imprisoned, or deported for violating the terms of their employment. This applies to all non-citizens.¹⁰ Therefore, it is a law of general application.
- [28] The appellants are not Convention refugees because they did not have a well-founded fear of persecution when they left their country of former habitual residence. The appellants are not persons in need of protection

- [29] I agree with the RPD that the appellants have not established that they faced a danger of torture, a risk to life or a risk of cruel and unusual treatment or punishment when they left the UAE. They are not being targeted by criminals in the UAE, nor are they part of a feud or vendetta.
- [30] Furthermore, they have not argued that should they return to the UAE, that detention or prison conditions (should they be detained) are such that they would rise to a risk to life or a risk of cruel and unusual treatment or punishment.
- [31] Political prisoners are often subject to torture.¹¹ This is not the profile of the appellants.

CONCLUSION

- [32] I have conducted an independent review of the record, hearing and RPD decision. There is no error.
- [33] I dismiss the appeal and confirm the decision of the RPD that the appellants are neither Convention refugees nor persons in need of protection.¹² (signed) R. Seyan Ravi Seyan 29 July 2020 Date 1 Canada (Citizenship and Immigration) v. Huruglica, [2016] 4 FCR 157, 2016 FCA 93. 2 National Documentation Package (NDP), United Arab Emirates (UAE), 31 March 2020, item 14.1. 3 NDP, UAE, 31 March 2020, item 1.3. 4 NDP, UAE, 31 March 2020, item 2.1. 5 Exhibit RPD-1, RPD Record, Exhibit 8, p. 283. 6 Exhibit RPD-1, RPD Record, Exhibit 8, p. 179. 7 NDP, UAE, 31 March 2020, item 2.1. 8 Audio of RPD testimony. Also Exhibit RPD-1, RPD record, Exhibit 8, p. 285. 9 NDP, UAE, 31 March 2020, item 14.2. 10 NDP, UAE, 31 March 2020, item 14.2. 11 NDP, UAE, 31 March 2020, item 2.1. 12 Pursuant to section 111(1)(a) of the Immigration and Refugee Protection Act (IRPA).

RAD File / Dossier de la SAR : MB9-07949 MB9-07950 RAD.25.02 (January, 2020) Disponible en français 2 Immigration and Refugee Board of Canada Refugee Appeal Division Commission de l'immigration et du statut de réfugié du Canada Section d'appel des réfugiés RAD.25.02 (January, 2020) Disponible en français

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