

CANADA / JUDGMENT

TB7-22488

COURT

Refugee Protection Division

DECIDED

25 November 2020

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RPD File / Dossier de la SPR : TB7-22488

TB7-22521 / TB7-22532

UCI / IUC: XXXX XXXXXXXXXX XXXX XXXX

Huis clos / Private Proceeding

Reasons and Decision ? Motifs et décision

Claimant(s)

XXXX XXXX XXXX XXXXXXXXXX XXXX XXXX XXXXXXXXXX XXXX XXXX

Demandeur(e)(s) d'asile

Date(s) of hearing

November 4, 2020

Date(s) de l'audience

Place of hearing

Toronto, Ontario

Lieu de l'audience

Date of decision

and reasons

November 25, 2020

Date de la décision

et des motifs

Panel

H. Ross

Tribunal

Counsel for the claimant(s)

Nilofar Ahmadi

Barrister and Solicitor

Conseil(s) du (de la/des)

demandeur(e)(s) d'asile

Designated representative

XXXX XXXX XXXX

Représentant(e) désigné(e)

Counsel for the Minister

N/A

Conseil du (de la) ministre

REASONS FOR DECISION

- [1] XXXX XXXX XXXX, (the principal claimant), XXXX XXXX XXXX, (the female claimant), and XXXX XXXX XXXX, (minor claimant), seek protection in Canada pursuant to sections 96 and 97(1) of the Immigration and Refugee Protection Act (IRPA).¹ They allege a well-founded fear of persecution in Pakistan from Tehrik-i-Taliban.
- [2] Pursuant to Rule 55(1) of the Refugee Protection Division Rules,² these claims have been joined. The Refugee Protection Division (the RPD) has designated XXXX XXXX XXXX the representative for the minor claimant, pursuant to IRPA section 167(2).

ALLEGATIONS

- [3] The claimants allege that they meet the definition of Convention refugee, in that they are "persons who by reason of a well-founded fear of persecution for reasons of their nationality and membership in a particular social group are outside their country of nationality and are unable, by reason of that fear, or are unwilling to avail themselves of the protection of that country", namely Pakistan. In the alternative, they allege they are persons in need of protection. Their fear stems from the attempts of Tehrik-i-Taliban (Taliban) to recruit the principal claimant. A summary of their allegations follows:

* The principal claimant comes from XXXX or XXXX, a small village in XXXX, which is in the Khyber-Pakhtunkhwa (KP) region of Pakistan.

* In XXXX 2008, the Taliban attempted to recruit him into its ranks. He told them he was not interested, but they insisted that he meet with them at a certain "checkpoint". When he failed to show up, three men went to the family home to look for him. His father advised him to go into hiding, which he did. He principal claimant went to the village of XXXX, where he found work as a XXXX. He lost his job when men came to his employer's house looking for him. He left XXXX and went to XXXX. In XXXX 2012, he returned home because his mother was ill. He was out one evening when two men approached him. He recognised them as members of the Taliban. The men wanted to know why he was not going to their meetings. The principal claimant replied that he was a simple man and did not want to become involved with Taliban activities. The men tried to force him into their vehicle. They struck him on the face with a rifle but were prevented from abducting him when his screams attracted people to the scene. He made a report to the police, who took no action.

* The principal claimant left XXXX after his mother died. He went to the UAE. Between XXXX 2013 and the XXXX of 2014, he returned to Pakistan several times. In the XXXX of 2014, he was out walking when several shots were fired in his direction. This incident caused him to leave Pakistan in XXXX 2015. As a precaution, he stayed with different relatives until he left. The principal claimant went to work as a XXXX for the XXXX XXXX XXXX in the UAE; while the female claimant and their sons went to XXXX where the female claimant XXXX.

* Their older son fell ill in XXXX 2016. He died on XXXX XXXX, 2016. The following day the family returned to Pakistan for his funeral. They travelled back to XXXX on XXXX XXXX, 2017, even though the traditional 40-day mourning period had not ended. Later on, the principal claimant would learn that the Taliban had come looking for him while he was in Pakistan.

* In XXXX 2017, his brother told him that the Taliban had questioned him about the principal claimant's whereabouts and had beaten him. His brother reported that the Taliban told him that as the principal claimant had not joined them, he had made trouble for the entire family. Realising that he could not return to Pakistan and remain there safely, and also realising that his wife could not sponsor him, the principal claimant decided to join his sister in Canada.

* The claimants travelled to the U.S. on XXXX XXXX, 2017. They did not make an asylum claim, but travelled to Canada, where they made a claim for refugee protection. They fear returning to Pakistan because of the Taliban and the state's inability to prevent them from being harmed by it.

* The claimants fear that the Taliban could recruit the minor claimant. They also fear that his educational opportunities and employment prospects might be limited because the Taliban has destroyed many schools in Pakistan.

ANALYSIS

[4] In making its determination, the panel considered the totality of the evidence, including the oral testimony, the claimants' COI documents and the Board's documentary evidence. The determinative issues are credibility and Internal Flight Alternative (IFA).

Identity

- [5] The personal identities of the claimants and their identities as citizens of Pakistan are satisfactorily established through their passports and other Pakistan civil documents.³

Ethnicity

- [6] The panel is satisfied, on a balance of probabilities, that the claimants are ethnic Pashtuns. The principal claimant hails from the XXXX area of Pakistan, which the documentary evidence indicates is heavily populated by Pashtuns. Further, the claimants spoke in the Pashto language and the English language hearing was translated by a Pashto speaking interpreter, who confirmed, as they did, that he understood the claimants when they spoke Pashto to him.

Credibility

- [7] A claimant's sworn testimony is presumed to be true unless there is a valid reason to doubt their veracity.⁴ The determination as to whether the claimant's evidence is credible is made on a balance of probabilities. In assessing credibility, the panel was mindful of the claimants' profile but also of the difficulties faced by claimants in establishing a claim, including cultural factors, the milieu of the hearing room, the inherent stress in responding to oral questions through an interpreter, and nervousness.
- [8] The principal claimant provided the bulk of the testimony. Given an opportunity to add to his testimony, the female claimant adopted his testimony as her own.
- [9] The principal claimant testified in a straightforward manner with respect to central elements of the claims. His oral testimony was consistent with his written narrative. Nonetheless, the panel found that there was valid reason to doubt and to reject certain crucial aspects of his testimony because, in the circumstances of the case, the testimony was not plausible and the explanation provided by the principal claimant was not satisfactory. These areas include, but are not limited to, the principal claimant's explanation for the Taliban's continued interest in him, and why his family is able to live and remain in the family home seemingly undisturbed.

Attempt to recruit the principal claimant

- [10] The principal claimant tendered several letters from family members, friends, and a former employer to support his claim that the Taliban tried to recruit him. He also tendered two police reports to show that the Taliban attacked him and the family.⁵ The principal claimant also tendered a letter, ostensibly from the Taliban, in which the group threatens to extract revenge on the principal claimant's family should he persist in his refusal to join it.⁶ For the following reasons the panel gave little weight to these letters and police reports:

- [11] First, the letter from the Taliban, which is dated XXXX XXXX XXXX 2017, comes some six years after the principal claimant allegedly rebuffed the Taliban. The letter contains the statement: "later on, the younger members of the movement found out you do not wish to join the movement". As the claimant repeatedly testified that he told the Taliban from the outset he was not interested in joining them and that he was attacked because of his refusal to join, this statement coming more than five years later does not make sense. More importantly, the letter contains the statements, "we swear that we will make you and your family shed tears of blood. We will not rest until you are obliterated"⁷ but to date none of the promised retribution has materialised.
- [12] The panel is aware of the claim that the Taliban attacked the principal claimant's brother in XXXX 2017 and that it shot at the family home in XXXX 2019, nonetheless, the panel is not persuaded that the principal claimant has a well-founded fear of persecution at the hands of the Taliban. The fact is, the principal claimant's family remain safe and sound some two years after the dire threat was allegedly made. There have been no "tears of blood" as promised; no-one has been harmed. The panel finds that that in circumstances where, despite the Taliban's ominous threats, the principal claimant's family members have been living in relative peace, the absence of "follow through" is not consistent with the claimed desire to harm the principal claimant and his family.
- [13] Further, the panel finds that the conclusion that the Taliban was responsible for the XXXX 2019 shooting is speculative. The police report speaks to "unknown persons", indicating that the claimant's brother did not know who or why the shots were fired. In the circumstances, the panel rejects the claim that the Taliban shot at the family home in XXXX 2019 as, at best, it is no more than speculation. The panel finds, on a balance of probabilities, that the Taliban did not attempt to recruit the claimant in XXXX 2011 as he claimed, and the letters and police reports are not reliable evidence of the alleged recruitment. The panel further finds, on a balance of probabilities, that the Taliban did not assault the principal claimant's brother in 2017.
- [14] The principal claimant's claim of forward-looking risk hinges on these two incidents. Having considered the claimants' testimony and evidence regarding the assault and the shooting up of the family home, for the reasons set out above, the panel finds that the principal claimant has not credibly established that there is a serious possibility that he would be persecuted by the Taliban should he return to Pakistan.

The Claimant's ethnicity

- [15] During the hearing and in the context of him relocating to other parts of Pakistan, the principal claimant stressed that he would be persecuted because of his Pashtun ethnicity. Counsel for the claimants amplified this argument. She pointed to actions taken by police and military against members of the Pashtun community. Counsel for the claimants also stressed that the passage of the Actions in Aid of Civil Power Ordinance of 2019 (the Ordinance) had increased the powers of the military and allows it to ride roughshod and

harass Pashtuns with impunity. The claimants disclosed articles that show that the military have detained and caused the disappearance of Pashtun persons suspected of being involved with the Taliban.⁸

- [16] There is no denying that there is a high level of violence in Pakistan. Both the Board's documentary evidence and that submitted by the claimants are replete with articles describing the violence, which is perpetrated by both militant groups and government forces.⁹ The documentary evidence ascribes the violence largely to resettlement of the Afghan Taliban in north-west Pakistan and the efforts of the Pakistani government to deal with the Taliban.¹⁰

Militant violence in Pakistan is mainly caused by the instability in the northwest of the country resulting from the 2001 toppling of the Taliban regime in Afghanistan. The Afghan Taliban settled in the FATA and in the North Western Frontier Province (NWFP, currently Khyber Pakhtunkhwa), having fled the invasion of an international coalition led by the United States (US) in Afghanistan. Under their influence, several Pakistani groups with a similar ideology continued working together in what developed into a federation of armed groups.¹¹

- [17] These groups coalesced into the Taliban. The same documentary describes the aims and purposes of the Taliban in the following terms:

Tehrik-e Taliban Pakistan (TTP)

The TTP (also called Pakistani Taliban) was founded in 2007 by Baitullah Mehsud, who was killed in 2009 by a US drone strike. The initial objectives of the organisation were the implementation of Sharia law and the ousting of coalition forces from Afghanistan. The group was banned in August 2008 by the Government of Pakistan. The term Pakistani Taliban was also used to describe various groups. The TTP is an umbrella organisation that was formed out of 13 distinct Pakistani Taliban factions - approximately half of all Pakistani Taliban factions.

- [18] The documentary evidence confirms that the Ordinance gives the military sweeping powers to operate in Khyber-Pakhtunkhwa (KP) and has been met by widespread resistance, including legal challenges. The documentary evidence also speaks to increased police and security activity throughout Pakistan. At the same time the documentary evidence speaks to a steady decline in terrorist activity since 2017 throughout Pakistan, with a resultant increase in security.¹² According to the Australia DFAT Report, "the overall security situation for all Pakistanis, including Pashtuns, has improved in line with increased security across Pakistan."¹³
- [19] The documentary evidence regarding the ability of Pashtuns to relocate in Pakistan shows that there are difficulties. The documentary evidence supports the principal claimant's testimony that he could face difficulty trying to rent a home. However, the documentary evidence indicates that likelihood of him finding accommodations is lessened in majority

Pashtun areas. It shows that many Pashtuns in Pakistan can and do relocate to the larger cities. The Australian Department of Foreign Affairs and Trade, 20 February 2019 report¹⁴ comments on the ability of Pashtuns to live in areas of Pakistan other than the traditional locations. The report states:

Pashtuns are identified by their use of the Pashto language and its many dialects. Pashtun culture emphasises tribal and family relations, as well as customary norms collectively referred to as Pashtunwali. Pashtuns are predominantly Sunni, but not exclusively.

Pashtuns comprise an estimated 15.4 per cent of the population of Pakistan, making them the second-largest ethnic group in the country after Punjabis. Pashtuns traditionally live among their own tribes and sub-tribes in Khyber Pakhtunkhwa and the former FATA, although many have migrated to urban areas. The largest Pashtun communities live in Karachi, which hosts the largest population of Pashtuns in the world, followed by Peshawar. Pashtuns also live in Balochistan, Islamabad, Lahore and other urban areas.

[20] Further, the documentary evidence discloses that Pashtuns living in Pashtun majority neighbourhoods are less likely to face discrimination from the authorities: "Pashtuns in Pashtun majority areas or locations where individuals have family or social connections face a low risk of official discrimination."¹⁵

[21] The Board's documentary evidence is culled from a wide variety of independent sources with no interest in the outcome of proceedings brought before it. Therefore, the panel prefers the assessments in the Board's documentary evidence to that of the claimants and counsel. The panel interprets the documentary evidence to mean that Pashtuns are able to relocate to other cities in Pakistan. This does not mean that the principal claimant would not encounter some anti-Pashtun hostility in the proposed IFA locations. However, given the statements in the documentary evidence respecting the ability of Pashtuns to relocate to the cities in significant numbers, the panel finds that the discrimination the principal claimant he is likely to experience in the proposed IFAs would not rise to the level of persecution.

INTERNAL FLIGHT ALTERNATIVE (IFA)

[22] The panel finds that there is an IFA for the principal claimant in Pakistan. At the start of the hearing, the panel indicated that the claimants should explain why they would face a serious possibility of persecution were they to relocate elsewhere in Pakistan. The panel identified Rawalpindi, Faisalabad, and Lahore as possible IFA locations. The principal claimant provided two explanations for why he could not relocate to any of these cities; firstly, that being Pashtun, he would experience anti-Pashtun discrimination everywhere in Pakistan. The principal claimant testified that it would be difficult for him to find housing as people are reluctant to let to Pashtuns. He would not be able to disguise his identity as he would require police clearance to any prospective landlord, and his National Identity Card clearly identifies him as Pashtun.

- [23] Secondly, the Taliban is well organised and can trace people throughout the country. He testified that it would have been very easy for him to find work in Rawalpindi, but the Taliban would locate him there. He claimed the Taliban was able to locate him in the village in XXXX district where he went to work in 2012. The panel finds that latter explanation is not satisfactory because the situation that XXXX presented is qualitatively different from what would occur in a large city. In short,
- 1) The principal claimant went to a village, not to a large city.
 - 2) The village was just two hours away from the principal claimant's home village; and
 - 3) was in the area where the Taliban was known to hold sway.
- [24] All of which would be factors that would make him more readily detected, if he were trying to hide from the Taliban.
- [25] Counsel for the claimants underscored what she described as the ability of the Taliban to reach targets in the proposed IFAs.¹⁶ She argued the Taliban would find the principal claimant wherever he went in Pakistan. The panel does not find her argument persuasive. The documentary evidence does speak to the Taliban being able to reach targets throughout Pakistan; however, the "targets" referred to are largely organs of the state, such as the police and military, and persons involved in vaccination campaigns, as well as structures like schools, in particular girls' schools. When individuals are involved, they tend to be high profile as opposed to regular individuals like the principal claimant.¹⁷
- [26] The panel weighed these statements in the documentary evidence with a view to determining whether the test for an IFA was met in this claim. Case law mandates a two-pronged test,¹⁸ namely that,
- 1) "... the Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists."¹⁹
 - 2) Moreover, conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable, in all the circumstances, including those particular to the claimant, for him to seek refuge there.
- [27] Further, both prongs of the test must be met before a panel could find that a claimant has an IFA. In Kanagaratnam²⁰ the Court of Appeal held that it was not necessary that the RPD make a preliminary finding that a claimant had a well-founded fear of persecution in the home area of the country before a panel could consider whether an IFA existed. For the following reasons, the panel finds that an IFA exists for the principal claimant in either of Rawalpindi, Lahore or Faisalabad.

There is no serious possibility of persecution

- [28] The principal claimant stated he could not live in any of the proposed IFA locations because the Taliban would find him wherever he went in Pakistan. He also testified that, if returned to Pakistan he would have no choice but to return to his village, where the Taliban would find him. The panel finds that his evidence and testimony and the documentary evidence do not support these arguments
- [29] First, as set out above, the principal claimant has not credibly established that the Taliban is after him. Second, his brother and other family members continue to live in the family home in XXXX. They have not been obliterated. Neither was there any evidence that the Taliban has made the family "shed tears of blood" in the three years since its letter was allegedly written.
- [30] With respect to his claim that he would have no other option but to return to his village, the panel finds that his personal history undermines that claim. The principal claimant has spent the better part of the past fifteen years outside of his home village and outside of Pakistan. He left for the first time in 2005, when he went to Dubai to look for work. He spent the years between 2005 and 2017 alternating between Pakistan and countries in the Middle East. The documentary evidence indicates that there are large Pashtun communities in Pakistan's cities. Thus, the panel is not persuaded that his village is the only place in Pakistan where the principal claimant could live.
- [31] With respect to his claim that the Taliban would find him and kill him, and that he could be traced when he registered with the police, the panel finds that he has not established by means of credible or trustworthy evidence that the Taliban has targeted him or continues to have an interest in him, if they ever did so. Thus, this claim is not supported. The panel finds that the claimant has not established that there is a serious possibility of persecution in the proposed IFA locations.

It is reasonable to relocate to the suggested IFAs

- [32] The principal claimant also claimed that he would be persecuted in the IFA locations because of his Pashtun ethnicity. The documentary evidence supports his claim to the extent that it confirms that he would likely face some discrimination especially in obtaining housing, however, as noted earlier the documentary evidence also indicates that he would face fewer difficulties in a Pashtun majority neighbourhood. He testified that he could find work. The panel finds that the proposed IFA locations are reasonable.
- [33] The principal claimant's testimony and the documentary evidence show that Pashtuns tend to associate because of common language and tradition. The panel finds, on a balance of probabilities, that in any of the proposed IFA locations, the claimant would likely seek to settle in a majority Pashtun area, where according to the documentary evidence he would face a low risk of official discrimination. Furthermore, the principal claimant has admitted he could find work, at least in Rawalpindi. The documentary evidence states that, "Pashtuns

are represented at all levels of society in Pakistan. Historically, Pashtuns have dominated employment in the transport sector in Pakistan and Afghanistan. Pashtuns are well represented in Pakistan's security forces."²¹ the principal claimant has experience as a XXXX; therefore, it is not unreasonable to expect that he could find work in this area.

- [34] Taking the foregoing into consideration, the panel finds that the proposed IFA locations are reasonable.

The Female Claimant

- [35] The panel assessed the claim of the female claimant under the grounds of member of a particular social group as part of the principal claimant's family. The panel also assessed her claim on the ground of ethnicity. She relied on the statements, testimony and documents presented by the principal claimant for her claim. Having found that the principal claimant has not credibly established that there is a serious possibility of persecution by the Taliban, the panel finds that her claim, on this basis, is also not made out. Likewise, the panel finds that she has an IFA in either of Rawalpindi, Lahore, or Faisalabad.
- [36] During the hearing the issue of her ability to work was raised. It was argued that due to the actions of the Taliban she could not work outside the home. This may well be true in the claimants' home village; however, no evidence was put before the panel that she could not find work in either of Rawalpindi, Lahore, or Faisalabad. The panel finds that there is insufficient credible and trustworthy evidence to support the claim that the female claimant would not be able to find work. The panel finds that the female claimant has not established that there is a serious possibility that she would be persecuted if she were to return to Pakistan. Further, on the basis of its IFA analysis the panel finds that there is an IFA for the female claimant in either of Lahore, Rawalpindi, or Faisalabad.

The Minor Claimant

- [37] With respect to the grounds of membership in a particular social group and ethnicity, the claims of the minor and female claimant are identical. The panel comes to a similar conclusion in both claims. The additional claim is made that the minor claimant is at risk of recruitment by the Taliban. The allegation is based solely on the fact of his age. The documentary evidence does disclose that the Taliban has recruited young children to work for them.²² The documentary evidence appears to imply that the Taliban's efforts are centred mainly on refugee camps and in the KP region.²³ Having found that the principal and female claimant have an IFA in either of Lahore, Rawalpindi or Faisalabad, none of which are in the KP region, the panel finds that the minor claimant, too, has an IFA in these locations,

State Protection

[38] The claimants allege that, as ethnic Pashtuns, state protection is not available to them. They have submitted a police report outlining the principal claimant's attempt to obtain police protection in XXXX 2013. A second police report sets out his brother's attempt to obtain protection in XXXX 2019. Having found that the allegations regarding the underlying incidents are not reliable the panel finds that the probative value of these documents is limited. They do not support the notion that state protection would not be available to the claimants. Further, the documentary evidence indicates that there is a strong desire on the part of the authorities to curb violence perpetrated by the Taliban, resulting in the police and army having conducted a number of significant operations against the Taliban in recent years, that have had the effect of improving the security situation in Pakistan.²⁴ The documentary evidence respecting the response of the Pakistani state to violence by the Taliban or other militant groups is captured in the following paragraphs:

State Response

According to the US Department of State's Country Reports on Human Rights Practices for 2018, [Pakistani] military and paramilitary organizations conducted multiple counterinsurgency and counterterrorism operations to eradicate militant safe havens. The military's Operation Radd-ul-Fasaad, launched in February 2017,

continued throughout the year. Radd-ul-Fasaad is a nationwide counterterrorism

campaign aimed at consolidating the gains of the 2014-2017 Operation Zarb-e-Azb, which countered foreign and domestic terrorists in the former FATA. Law enforcement agencies also acted to weaken terrorist groups, arresting suspected

terrorists and gang members who allegedly provided logistical support to militants. In raids throughout the country, police confiscated caches of weapons, suicide vests, and planning materials. Police expanded their presence into formerly ungoverned areas, particularly in Balochistan.

According to the Australian DFAT report, [o]bservers credit Operation Zarb-e-Azb, its successor Radd-ul-Fasaad, and the NAP [National Action Plan] with a significant reduction in the number of violent and terrorism[-]related attacks in Pakistan. In 2018, up to 262 reported terrorist attacks killed 595 people. This is a significant decrease from 2013, when the terrorist death toll included 3,000 civilians and 676 security force personnel.... In July 2017, the military launched operation Khyber-IV in the Rajgal Valley, targeting Lashkar-e-Islam, Jammatul Ahrar (JuA) and the TTP. Khyber-IV also targeted ISIL connections across the border with Afghanistan's Nangarhar province. ... Local observers, including officials, in Khyber Pakhtunkhwa also reported a trend of increased security, a reduction in reported killings, and reduced fear within the community in 2018. Residents of Peshawar reported an increased sense of security in the evenings due to the enhanced military presence.

An August 2018 briefing by International Crisis Group similarly indicates that TTP networks in FATA were disrupted by the military operations, but states that "the military has neither killed nor captured all major TTP leaders," with some relocating to Afghanistan, or other Khyber Pakhtunkhwa districts, such as Tank and Dera Ismail Khan...25

[39] The USDOS 2019 report for Pakistan makes similar observations, noting that,

"Terrorist violence and human rights abuses by nonstate actors contributed to human rights problems, although to a lesser extent than in previous years, consistent with an overall decline in terrorist activity. Military, police, and law enforcement agencies continued to carry out significant campaigns against militant and terrorist groups."26

[40] The claimants are not themselves of interest to the police, and other than their bald assertions that the police would not protect them, they have not presented any clear evidence that they would not. The panel finds that there is insufficient evidence before it to allow it to conclude that state protection would not be forthcoming for the claimants.

[41] With respect to the claim that the Taliban could locate the claimants after they register with the police, while the panel acknowledges that the documentary evidence indicates there is corruption within the police force in Pakistan, including allegations of collusion between the police and criminal elements, there was no persuasive evidence before the panel that the police would disclose the claimants' address to the Taliban as claimed.

[42] Having assessed the totality of the evidence before it, the panel finds that the claimants have not displaced the presumption that state protection would be available to them in Pakistan. Accordingly, their claims fail. The claimants are not Convention refugees. Based on its finding that the claimants have not credibly established their fear of persecution by the Taliban; its finding that there is an IFA for them in Pakistan and its further finding that they have not displaced the presumption of state protection, the panel finds that they are also not persons in need of protection.

CONCLUSION

[43] In light of the foregoing analysis, the panel finds that the claimants, XXXX XXXX XXXX, XXXX XXXX XXXX, and XXXX XXXX XXXX are not Convention refugees and are not persons in need of protection.

[44] Their claims are rejected.

(signed)

H. Ross

H. Ross

November 25, 2020

date

1 Immigration and Refugee Protection Act, S.C. 2001, c.27, as amended, sections 96, 97(1)(a) and 97(1)(b).

2 Refugee Protection Division Rules, SOR/2012-256.

3 Exhibit 1, Package of Information from the referring CBSA/IRCC; Exhibit 6, Claimant's disclosure of February 6, 2020.

4 *Maldonado v. Canada (Minister of Employment and Immigration)*, [1980] 2 F.C. 302 (C.A.); 31 N.R. 34 (F.C.A.).

5 Exhibit 5.

6 Exhibit 5, p. 40.

7 *Ibid.*

8 Exhibit 6.

9 Exhibit 3, National Documentation Package (NDP) for Pakistan, Version March 31, 2020. For example Items 1.6; 1.24, 2.1; 2.4. see also, Exhibit 6 and 7 Claimants' Disclosure.

10 *Ibid.*, Item 1.24.

11 *Ibid.*, Item 1.24 also cited in Item 1.18 at 5.1.2.

12 NDP for Paksitan, Item 2.1.

13 NDP for Pakistan. Item 1.13. The Australian Department of Foreign Affairs and Trade, 20 February 2019 report

14 Exhibit 3, NDP for Pakistan, Item 1.13.

15 *Ibid.*, item 1.13.

16 Exhibit 6, p.78.

17 NDP for Paksitan, Item 2.1.

18 *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.); *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)* [1994],] 1 F.C. 706 (C.A.) at 710.

19 *Rasaratnam*, *Supra*.

20 *Kanagaratnam v. Canada (Citizenship and Immigration)*, [2015] FC 885.

21 Item 1.13, NDP for Pakistan.

22 Exhibit 6. P. 78 and exhibit 3 at Item 2.1., The USDOS report identifies the issue of child soldiers as a significant human rights problem, stating: Child Soldiers: Nonstate militant groups recruited children as young as 12 to spy, fight, or die as suicide bombers. The militants sometimes offered parents money, often sexually and physically abused the children, and used psychological coercion to convince the children that the acts they committed were justified. The government operated a center in Swat (Khyber Pakhtunkhwa) to rehabilitate, educate, and reintegrate former child soldiers.

23 Ibid, exhibit 6 at 78. IRB Pakistan 106391.E.

24 Exhibit 3, item 2.6 indicating that violent incidents have fallen since 2016.

25 Exhibit 3, item 7.8., Response to Information Request, PAK106391.E 1.

26 Ibid, Item 2.1.

1

Immigration and Refugee

Board of Canada

Refugee Protection Division

Commission de l'immigration

et du statut de réfugié du Canada

Section de la protection des réfugiés

RPD.29.01 (October 4, 2019)

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TB7-22521 / TB7-22532

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