



RPD File No. / N° de dossier de la SPR : TB8-08530

Private Proceeding / Huis clos

Reasons and Decision – Motifs et Décision

Claimant(s)	XXXX XXXX XXXX XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of Hearing	January 2, 2019	Date(s) de l'audience
Place of Hearing	Toronto, Ontario	Lieu de l'audience
Date of Decision and reasons	28 February 2019	Date de la décision et des motifs
Panel	K. MacLennan	Tribunal
Counsel for the Claimant(s)	No counsel	Conseil(s) du (de la/des) demandeur(e)(s) d'asile
Designated Representative(s)	N/A	Représentant(e)(s) désigné(e)(s)
Counsel for the Minister	N/A	Conseil du (de la) ministre

2019 CanLII 132731 (CA IRB)

REASONS FOR DECISION

[1] XXXX XXXX XXXX XXXX XXXX (the claimant) is claiming refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*.¹

[2] The panel has taken into consideration the *Chairperson's Guidelines* on gender-related claims.²

ALLEGATIONS

[3] The claimant's allegations are set out fully in her Basis of Claim (BOC) form.³ In summary, the claimant is a citizen of Iraq and a Christian who fears persecution at the hands of a man named XXXX, who has demanded that she marry him and convert to Islam, and who has threatened both her and her family. The claimant further fears persecution as a Christian woman living in a predominantly Islamic society.

[4] More specifically, the claimant alleges that was born in XXXX, Iraq and had been living in northern Iraqi city of XXXX for several years at the time she departed the country in XXXX 2018. XXXX is situated in what is known as the Kurdistan Region of Iraq. In 2014, the claimant started working for the XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX as a XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX. This work brought her into contact with various non-governmental organizations (NGOs) and local authorities, including the main security force in the Kurdistan Region, known as XXXX. She came to know an XXXX XXXX named XXXX, who took a romantic interest in her and tried to convince her to marry him and to convert to Islam. The claimant continually rejected these proposals. XXXX constant demands disrupted the claimant's life. She was forced to quit her job on four occasions in order to try to keep him away from her. In XXXX 2016, she moved to XXXX to get away from XXXX, hoping that he might forget about her. However, he went to the claimant's home in XXXX and learned from the claimant's sister that she was in XXXX. Thereafter, he called the claimant in XXXX and threatened that he could find her

¹ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, as amended.

² *Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution*. IRB, November 13, 1996.

³ Exhibit 2.

anywhere in the Kurdistan Region. The claimant was afraid to remain in Erbil by herself after this so she moved back to her family home in XXXX. XXXX became more forceful in his communications. One day in XXXX 2018, he showed up at the claimant's house and threatened to kidnap and hurt her and her family if she did not comply with his demands. It was after this incident that the claimant felt that she had no other choice but to leave the country, which she did. Her family moved temporarily to XXXX. The claimant fears that her life will be in danger if she were to return to Iraq.

DETERMINATION

[5] The panel finds that the claimant has not established that she would face a serious possibility of persecution were she to return to Iraq. She has also not established, on a balance of probabilities, that she would be personally subject to a danger of torture, a risk to her life, or to cruel and unusual treatment or punishment, were she to return to Iraq.

ANALYSIS

Identity

[6] The panel is satisfied, on a balance of probabilities, as to the claimant's personal identity and identity as a national of Iraq, based on the certified true copy of her Iraqi passport in evidence.⁴

Internal flight alternative

[7] The determinative issue in this claim relates to the existence of an internal flight alternative (IFA), the idea being that claimants are expected to find safe haven within their own country unless they can show that it is objectively unreasonable for them to do so. It is not a matter of convenience, or the attractiveness of an IFA, but whether a claimant should be expected to make do in that location before traveling to another country to seek a safe haven.⁵ The test to be applied in determining whether there is an IFA is two-pronged.⁶ First, the panel must be satisfied that there is no serious possibility of the claimant being persecuted in the part of the

⁴ Exhibit 1.

⁵ *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.).

⁶ *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.).

country identified as an IFA. Second, 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 her to seek refuge there. Once the issue of an IFA is raised, the onus shifts to the claimant to demonstrate that either of the two prongs is not met.

[8] During the course of the hearing, the panel raised Baghdad as a potential IFA for the claimant and, having considered all of the evidence, the panel finds that the claimant does have a viable IFA there.

The claimant would not be at risk in Baghdad

[9] There is no persuasive evidence before the panel that the claimant's persecutor is looking for her outside of the Kurdistan Region. At the hearing, the panel asked the claimant if XXXX has contacted any of her family members in Iraq in the period after her departure from the country. She answered "no," adding that the XXXX does not hold any power in the central region of Iraq and, therefore, he would not be able to find her family in Baghdad. In light of this, the panel finds, on a balance of probabilities, that that the claimant's persecutor would not have the ability to find the claimant either were she to relocate to Baghdad.

[10] The panel asked the claimant why she could not relocate to Baghdad, given her testimony that XXXX would be unable to find her family there. She testified that as a Christian and a woman it would not be safe for her living in that city, which she likened to living in a prison. The panel has therefore considered whether being a Christian and a woman would pose a serious possibility of persecution for the claimant in Baghdad.

[11] With respect to her profile as a Christian, the claimant testified that she is not a very religious person but that she would attend church at Christmas and Easter. She described her family as being the same way. The panel is cognizant that the objective documentary evidence indicates that religious minorities in Iraq, including Christians, are reported to be vulnerable to human rights violations and other abuses, such as abductions, extra-judicial killings, extortion and forced eviction.⁷ However, considering the claimant's testimony that she is not a very religious person and the fact that she attends church infrequently, the panel finds that it is unlikely that she

⁷ Exhibit 3, National Documentation Package (NDP) for Iraq (30 April 2018), item 1.21.

would be identified or targeted as a Christian were she to relocate to Baghdad. The panel also notes that it has been reported by the United Nations High Commissioner for Refugees (UNHCR) that while the risks against religious minorities persist, the reported number of such incidents has recently reduced.⁸ In making this finding, the panel further notes the claimant's testimony that her father, who she indicates is a Christian also, has been travelling back and forth between northern Iraq and Baghdad for work for approximately 15 years, holds a high profile, well-paying job in Baghdad and is currently living there with the claimant's mother and brother in a predominantly non-Christian neighborhood. The panel further notes that while the claimant declared in her BOC that her family's move to Baghdad was temporary, they were still residing there as of the date of the hearing, an approximate period, according to the claimant's testimony, of 10-11 months.

[12] With respect to gender, the claimant testified at the hearing that she could not live in Baghdad because the people and culture are "behind." She stated that she was sure that she would be bothered or sexually harassed were she to live there. The panel finds that this amounts to speculation.

[13] The panel notes from the objective documentary evidence that women in Iraq face various forms of legal and social discrimination.⁹ Conservative social norms are said to constrain women's participation in public life throughout the country.¹⁰ The same norms are reported to impede women's ability to enjoy the same legal status and rights as men in all aspects of the judicial system.¹¹ In general, law and custom do not respect freedom of movement for women.¹² Women routinely require permission from husbands or male relatives to engage in economic activities outside the home.¹³ Domestic violence is noted to remain a pervasive problem in Iraq, with no law prohibiting it in areas of the country outside the Kurdistan Region.¹⁴ Violence against women is said to be significantly underreported and rarely prosecuted.¹⁵ It is reported that

⁸ Exhibit 3, National Documentation Package (NDP) for Iraq (30 April 2018), item 12.5.

⁹ Ibid., item 1.19.

¹⁰ Ibid.

¹¹ Ibid., item 2.1

¹² Ibid.

¹³ Ibid., item 1.19.

¹⁴ Ibid., item 2.1.

¹⁵ Ibid., item 2.4.

trafficking in women and girls continues to pose a major problem in Iraq.¹⁶ Sexual harassment is reported to be prevalent, with local customs and traditions preventing many women from seeking justice.¹⁷

[14] The panel further notes that the UNHCR Eligibility Guidelines states that “[w]omen without support and protection provided by their family or tribal network are particularly vulnerable to being harassed, kidnapped or sexually assaulted. In order to ensure livelihoods for themselves and their children, women without a breadwinner may be compelled to engage in prostitution, begging or marriage to elderly men, including in so-called temporary or “pleasure marriages” (muta’a).¹⁸

[15] The panel finds that the claimant’s circumstances are such that she would not be without support or protection from her family, who continue to live in Baghdad. The claimant’s testimony was that they are living comfortably by Iraqi standards, given her father’s well-paying job. The panel considers that the claimant’s father has considerable knowledge of the city and is stable there, based on the fact has been living and working in Baghdad for approximately 15 years. The panel also draws from evidence of the claimant’s education and work history that her father is supportive of her. There is no evidence before the panel to suggest that he would be unwilling or unable to support the claimant were she to join the family in Baghdad.

[16] While the objective documentary evidence indicates that serious problems continue to exist in Iraq, including in Baghdad, and including problems faced specifically by women, the preponderance of the evidence indicates that such problems are in many cases significantly decreased by the fact that the claimant has a supportive male breadwinner. The panel therefore finds that the claimant would not face a serious possibility of persecution in Baghdad on the basis of her gender were she to relocate there.

[17] Having considered all of the evidence, the panel finds that the claimant would not face a serious possibility of persecution were she to relocate to Baghdad.

It would not be unreasonable for the claimant to relocate to Baghdad

¹⁶ Ibid.

¹⁷ Ibid., item 5.13.

¹⁸ Ibid., item 1.7.

[18] The Federal Court of Appeal (FCA) has set a very high threshold for the “unreasonable test,” requiring nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area. There must also be “actual and concrete” evidence of such conditions.¹⁹ The FCA has also found that it is not enough for refugee claimants:

to say that they do not like the weather in a safe area, or that they have no friends or relatives there, or that they may not be able to find suitable work there. If it is objectively reasonable in these latter cases to live in these places, without fear of persecution, then IFA exists and the claimant is not a refugee.

...[I]t is not a matter of a claimant's convenience or the attractiveness of the IFA, but whether one should be expected to make do in that location, before travelling half-way around the world to seek a safe haven, in another country.²⁰

[19] The objective documentary evidence²¹ indicates that the following should be taken into consideration when deciding upon internal relocation to Baghdad:

- possession of a Civil Status ID (CSID) or the ability to obtain one;
- ability to speak Arabic (those who cannot are less likely to find employment);
- the existence of family members or friends able to provide accommodation and assistance;
- whether the individual is a lone female (women face greater difficulties than men in finding employment);
- whether the individual can find a sponsor to access a hotel room or rent accommodation;
- and whether the person is from a minority community.

[20] The panel finds, based on the evidence, that the claimant meets all of the above criteria: she declared in her BOC that she is of Iraqi nationality and that she speaks Arabic; she has family currently living in Baghdad, including both of her parents, who would be able to provide

¹⁹ *Ranganathan v. Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA).

²⁰ *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.).

²¹ Exhibit 3, NDP for Iraq, item 1.14.

assistance and accommodation to her – again, her father has been working in Baghdad for a very long period of time; and certified true copies of her Iraq passport and Certificate of Identification are included in Exhibit 1. Additionally, the panel notes that the claimant is well-educated, which the panel finds would assist her in finding employment.

[21] In light of the evidence, and considering the high threshold set by the FCA, the panel finds that it would not be unreasonable for the claimant to relocate to Baghdad.

CONCLUSION

[22] Having considered all of the evidence, the panel determines that the claimant would not face serious possibility of persecution in Iraq, nor, on a balance of probabilities, would she be personally subject to a danger of torture, a risk to life, or a risk of cruel and unusual treatment or punishment, were she to return to Iraq, owing to the availability of an IFA in Baghdad.

[23] Accordingly, the panel rejects her claim.

(signed)

“K. MacLennan”

K. MacLennan

28 February 2019

Date