Federal Court  Cour fédérale

Date: 20190107

Docket: IMM-1506-18

Citation: 2019 FC 14

Ottawa, Ontario, January 7, 2019

PRESENT: Mr. Justice Grammond

BETWEEN:

MAGRETH BENARD MAGONZA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Ms. Magonza claimed refugee status in Canada. She said she was persecuted by her ex-husband and that the police in her home country, Tanzania, were powerless to protect her. Her claim was denied. She then applied for a pre-removal risk assessment [PRRA]. She provided evidence that, since the decision denying her claim for asylum, her ex-husband kept harassing her mother and her friends in Tanzania. The PRRA officer denied her application, finding that there was "insufficient objective evidence" that her ex-husband was still after her. Ms. Magonza

now seeks judicial review of this decision. I allow her application, because the PRRA officer unreasonably assigned little weight to the evidence tendered by Ms. Magonza and unreasonably disregarded the evidence that overwhelmingly shows that victims of gender-based violence are not adequately protected in Tanzania.

[2] This case illustrates the challenges of fact-finding in refugee law. In most refugee cases, the relevant facts take place outside of Canada. The tools used in other fact-finding processes to check the facts are hard to deploy in that context. Decisions must be made in a context of uncertainty. In particular, decision-makers are often presented with statements written by the claimant's relatives or friends and may have suspicions about the credibility or trustworthiness of such statements. Handling this issue requires striking a balance between two of the goals of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], namely, "to grant, as a fundamental expression of Canada's humanitarian ideals, fair consideration to those who come to Canada claiming persecution" and "to establish fair and efficient procedures that will maintain the integrity of the Canadian refugee protection system" (IRPA, s. 3(2)(c) and (e)).

[3] In order to reach a better balance between these goals, it is useful to clarify the concepts that we use in the fact-finding process, such as credibility, probative value, weight and sufficiency. A substantial part of these reasons is devoted to this endeavour.

I. Background

[4] Ms. Magonza is a citizen of Tanzania. She came to Canada in 2015 and claimed refugee status because she feared verbal and physical abuse on the part of her ex-husband, Mr. Haule.

Her claim was dismissed by the Refugee Protection Division [RPD] of the Immigration and Refugee Board [IRB]. The RPD found that Ms. Magonza was not a credible witness, her testimony was inconsistent with her written evidence, and the documents she submitted contained many errors. These conclusions were subsequently confirmed by the Refugee Appeal Division [RAD] of the IRB. Thus, because of her lack of credibility, the RPD, and later the RAD, both decided that Ms. Magonza had failed to demonstrate a crucial element of any claim for refugee status, namely, a serious possibility of persecution.

[5] Ms. Magonza then applied for a PRRA. The PRRA is an expedited process meant to examine facts that took place, or evidence that became available, after the RPD hearing (see section 113 of IRPA) and to reach a conclusion based on the same criteria as for refugee protection, found in sections 96 and 97 of IRPA. It is IRPA's last formal safeguard before removal from Canada (see *Martinez v Canada (Citizenship and Immigration)*, 2019 FC 1 at para 1 [*Martinez*]). In most cases, the PRRA process is paper-based, in contrast to the in-person refugee determination process before the IRB.

[6] In support of her PRRA application, Ms. Magonza provided information about several incidents that took place after the RPD hearing. Mr. Haule (her ex-husband) attended her mother's home in Tanzania, asked for her whereabouts and uttered threats to her life. Moreover, while at a restaurant, Mr. Haule threw bottles at Ms. Kalinga, a friend of Ms. Magonza, because he thought that she had helped Ms. Magonza to flee. On a separate occasion, Mr. Haule tried to approach Ms. Kalinga. Later, a friend of Mr. Haule questioned Ms. Kalinga concerning

Ms. Magonza's whereabouts. Lastly, Mr. Haule returned to Ms. Magonza's mother house, shouted at her and uttered death threats against Ms. Magonza.

[7] In a decision rendered on March 14, 2018, however, the PRRA officer gave little weight to the evidence of those events. The officer concluded that Ms. Magonza "has provided insufficient objective evidence to suggest that she continues to be of interest to her ex-husband." Moreover, the officer also concluded that Ms. Magonza, should she be threatened by Mr. Haule, could avail herself of the protection offered by Tanzania. The existence of adequate state protection is a reason to deny refugee status.

[8] Ms. Magonza now seeks judicial review of her negative PRRA decision.

II. The Assessment of Risk

[9] Ms. Magonza challenges the part of the decision that relates to the risk to which she would be exposed in Tanzania on two grounds. She argues that the PRRA officer unreasonably assessed her evidence of risk. As I agree with this ground, and as I will explain later, there is no need to assess her second assertion – that the PRRA officer acted unfairly by making veiled credibility findings without hearing Ms. Magonza in person.

[10] I find that the PRRA officer's risk analysis is unreasonable, because the officer did not provide intelligible reasons for assigning little weight to most of the evidence submitted by Ms. Magonza. Moreover, the officer's conclusion that the evidence was insufficient is unreasonable, as it can only be explained by ascriptions of weight that were themselves flawed.

[11] In saying that, I am mindful that decisions of PRRA officers usually deserve a high degree of deference (*Perampalam v Canada (Citizenship and Immigration)*, 2018 FC 909 at para 14 [*Perampalam*]). Nevertheless, reasonableness requires "justification, transparency and intelligibility within the decision-making process" (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190 [*Dunsmuir*]). This means that PRRA officers must explain, in their reasons, the justification for their findings of fact. This must be done in an intelligible manner, which means that this Court must be able to understand the logical path followed by the PRRA officer, even though we need not agree with each and every choice made by the officer along that path. Only then can we assess whether the decision under review "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir* at para 47).

A. *Clarifying the Concepts*

[12] A common language is of considerable help in understanding each other. The consistent use of well-defined concepts and accepted forms of reasoning goes a long way towards making a decision intelligible. Yet, when it comes to fact-finding, "the law of evidence has relatively few "rules of reasoning" to assist decision-makers" (David M. Paciocco and Lee Stuesser, *The Law of Evidence*, 7th ed. (Toronto: Irwin Law, 2015) at 35 [Paciocco and Stuesser]). The law of evidence is mainly concerned about rules for the admissibility of evidence (such as the rule against hearsay or the rule against similar fact evidence) which do not apply in the refugee context (see sections 170(g) and 171(a.2) of IRPA).

[13] Like statutory interpretation, fact-finding is not governed by strict rules, but rather by methods or guidelines which identify which forms of reasoning, or which types of arguments, are acceptable. Unlike statutory interpretation, however, fact-finding does not appear to have been the subject of comprehensive study. There are no textbooks on fact-finding, and the subject is not taught in law schools (see, however, for a useful introduction, *Stanford Encyclopaedia of Philosophy*, "The Legal Concept of Evidence" on line: https://plato.stanford.edu/entries/evidence-legal/).

[14] Nevertheless, there are a number of basic concepts that lawyers and judges use to express their reasoning with respect to fact-finding. As these concepts are not defined in legislation, their meaning is not fixed. Sometimes, a specific term acquires a precise meaning in one area of the law or for the purposes of a particular rule of evidence, but there is not always an overall consistency.

[15] In the paragraphs that follow, I propose to review certain basic concepts that we use when we justify findings of fact: credibility, probative value, weight and sufficiency. I acknowledge the multiple meanings that these terms may have. I also mention other terms that are used in the fact-finding process, in particular relevance, reliability and materiality, and show how they can be subsumed under the three key concepts of credibility, probative value and weight. I propose certain conventions that will, hopefully, increase the intelligibility of decisions and facilitate judicial review. In particular, those conventions will help distinguishing credibility concerns from other factors that are taken into account in assessing the evidence. The discussion is focused on the context of refugee law and the specific evidentiary difficulties in this area.

(1) Credibility

[16] Usually, the first step in the fact-finding process is to determine the credibility of the various pieces of evidence submitted to the decision-maker. Chief Justice Green once wrote that "[c]redibility means simply worthiness of belief" (*Cooper v Cooper*, 2001 NFCA 4 at para 11 [*Cooper*]). In other words, credibility is the answer to the question, "is this a trustworthy source of information?"

[17] Jowitt's *Dictionary of English Law* (4th ed., Daniel Greenberg ed., London, Sweet and Maxwell, 2015) makes a useful distinction between two aspects of credibility:

> A measure of the trustworthiness and believability of a witness's testimony. Testimonial credibility is comprised of two principal components: (i) veracity – is the witness honest and telling the truth?; and (ii) reliability – granted that the witness is being truthful to the best of his or her ability, does the witness's testimony provide an accurate account of facts material to the litigation?

[18] Some writers use two separate terms to refer to those two aspects. "Credibility," in the narrow sense, would relate only to honesty concerns, whereas the concept of "reliability" would refer to the factors affecting a witness's ability to recount the facts with accuracy (see, for example, *R v C(H)*, 2009 ONCA 56 at para 41; Paciocco and Stuesser at 35–36).

[19] However, it is not always easy to separate the two components of credibility. The factors that are frequently used to assess credibility may pertain to either honesty or accuracy, but more commonly to both aspects. Those factors include:

- Ability of the witness to observe the facts;

- Ability of the witness to remember the facts;

- Internal consistency of the testimony and consistency with previous declarations;

- Corroboration, that is, consistency with other witnesses' testimony or with written evidence which is itself considered credible;

- Plausibility, that is, conformity of the testimony with common experience;

- Bias, interest and motivation to be untruthful;

- Demeanour of the witness at the hearing.

(see, among others, *Cooper* at para 11; *Powell v Eagle Harbour Yacht Club*, 2018 BCSC 537 at para 25; in the immigration and refugee context, see *Rahal v Canada (Citizenship and Immigration)*, 2012 FC 319 at paras 41-46 [*Rahal*])

[20] In providing this list, I acknowledge the debates regarding the propriety of using certain factors in assessing credibility (see, for example, with respect to demeanour, *Rozas del Solar v Canada (Citizenship and Immigration)*, 2018 FC 1145 at paras 100–104) and the risk that the decision-maker's cultural biases may affect credibility findings (see, for example, with respect to

plausibility, *Valtchev v Canada (Citizenship and Immigration)*, 2001 FCT 776 at paras 7-9). I need not address these debates in the context of this case.

(2) Probative Value

[21] The second step in the fact-finding process is the assessment of probative value. As the Ontario Court of Appeal stated, "[p]robative value has to do with the capacity of the evidence to establish the fact of which it is offered in proof" (*R v T(M)*, 2012 ONCA 511 at para 43). In other words, probative value is an answer to the question, "to what degree is this information useful in answering the question I have to address?" In many cases, we do not have direct evidence of the ultimate facts that trigger the application of a legal rule. Instead, we need to rely on inferences from known facts. Probative value is the measure of the strength of those inferences.

[22] There is a close link between the concepts of relevance and probative value. Relevance has been described as follows:

> For one fact to be relevant to another, there must be a connection or nexus between the two which makes it possible to infer the existence of one from the existence of the other. One fact is not relevant to another if it does not have real probative value with respect to the latter […]
>
> (*R v Cloutier*, [1979] 2 SCR 709 at 731)

[23] Thus, while probative value is a matter of degree, relevance is a binary concept. As long as a piece of evidence has some probative value, it is relevant. Relevance is often a component of tests for the admissibility of evidence.

[24] In certain contexts, probative value is defined in a manner that includes credibility (*R v Handy*, 2002 SCC 56 at para 134, [2002] 2 SCR 908; Paciocco and Stuesser at 36). From that perspective, evidence can only have probative value if it is credible in the first place. In the refugee law context, however, it is preferable to keep the two concepts separate (see, for example, *Raza v Canada (Citizenship and Immigration)*, 2007 FCA 385 at para 13 [*Raza*]). Another concept, the weight of evidence, which I will discuss later, is a preferable manner of combining credibility and probative value. Moreover, the criteria used to assess credibility and probative value are fundamentally different, because those concepts are answers to different questions.

[25] In *Raza*, the Federal Court of Appeal indicated that evidence would be considered as "new," for the purposes of the PRRA process, if it meets a number of criteria, including credibility, relevance and materiality. The Court described materiality in terms of whether "the refugee claim probably would have succeeded if the evidence had been made available to the RPD" (*Raza* at para 13). Thus, materiality appears to be the quality of evidence that has strong probative value, which, in turn, implies that it is relevant. I must confess that I do not see any increased analytical value in the use of the separate concepts of relevance and materiality instead of probative value. In any event, the approach I am proposing here is not significantly different from that in *Raza*.

[26] Probative value is assessed by the likelihood of the inferred fact when the known fact has been proved to exist. In doing so, decision-makers rely on what they know about the co-occurrence of various facts or the causal relationship between them. To paraphrase the Ontario

Court of Appeal, one may ask whether the evidence offered, as a matter of logic and human experience, tends to prove or disprove a fact in issue (*R v Watson* (1996), 108 CCC (3d) 310 (Ont CA) at 324). Paciocco and Stuesser express the same idea through different words:

> The ability of particular evidence to inform depends upon (1) how live the issue it addresses is, and (2) how cogent the evidence is in proving the thing it is offered to prove. Assuming the fact it describes is a live issue, "direct evidence" is completely informative since it directly asserts the very thing that is of interest. […] For circumstantial evidence the strength of the logical inference yielded by the evidence is critical in determining weight.
>
> (Paciocco and Stuesser at 36)

(3) Weight

[27] According to *Black's Law Dictionary*, the weight of evidence is "[t]he persuasiveness of some evidence in comparison with other evidence" (Bryan A. Garner, ed., *Black's Law Dictionary*, 10th ed (St. Paul, MN: Thomson Reuters, 2014). It is what counts in the ultimate balancing of the evidence that tends to prove or disprove a relevant fact.

[28] Weight and probative value are often used as synonyms (see, for example, *R v Hart*, 2014 SCC 52 at paras 95-102, [2014] 2 SCR 544). Indeed, if one conceives of probative value in a manner that encompasses credibility concerns, there is no meaningful difference between weight and probative value.

[29] In the immigration context, however, it is preferable to distinguish probative value and weight. Doing so reveals what are credibility concerns. Thus, weight is a function of credibility and probative value or, if one likes to see this in the form of an equation, weight = (credibility) x

(probative value). It follows that weight can only be assessed as a function of credibility and probative value. In other words, a decision-maker cannot reach a conclusion regarding weight without having previously assessed credibility or probative value or both.

[30] A recent decision, *Osikoya v Canada (Citizenship and Immigration)*, 2018 FC 720, provides an illustration in a context similar to that of the present case. My colleague Justice John Norris considered the RAD's rejection of a letter from the applicant's aunt, which confirmed central elements of her claim. He comments as follows on the letter's credibility (or, in this case, authenticity), probative value and weight:

> On its face, it could only have high probative value. The real issue is one of weight, and this turns on the letter's authenticity. The letter is either authentic or it is not. If it is not authentic, it should be given no weight […].
>
> (at para 51)

[31] To explain this in mathematical terms, if the letter's credibility is zero (it is not authentic), then its weight is zero times its probative value, which always equals zero. In contrast, if the letter is authentic and has high probative value because its contents are closely linked to a conclusion of persecution, it can only have significant weight. (See also *Ahmed v Canada (Citizenship and Immigration)*, 2018 FC 1207 at para 31 [*Ahmed*].)

(4) Sufficiency

[32] The last concept I wish to discuss is that of "sufficiency" of the evidence. The use of this concept, especially if it is meant to require several pieces of evidence to prove a fact, may be surprising. After all, the law does not require that facts be proved by more than one witness.

When a contract is filed in evidence, or a witness testified that he saw the accused discharge a firearm on the victim, those facts are proven. But these are cases of direct evidence. Where the evidence is indirect or circumstantial, however, the fact-finder must rely on inferences, weigh each piece of evidence and decide whether the cumulative weight of all the evidence is sufficient to warrant a finding that the disputed fact exists.

[33] Another manner of conveying the concept of sufficiency is to require corroboration: evidence that stands alone may not be sufficient. Of course, there is no accepted manner of quantifying credibility, probative value and weight. Thus, it is impossible to describe in advance what "amount" of evidence is "sufficient." "Sufficiency" is simply a word used by decision-makers to say that they are not convinced.

[34] In refugee law, the central fact that must be proven is that there is "more than a mere possibility of persecution" (*Chan v Canada (Minister of Employment and Immigration)*, [1995] 3 SCR 593 at para 120, citing *Adjei v Canada (Minister of Employment and Immigration)*, [1989] 2 FC 680 (CA)). Usually, this can only be proved by indirect evidence and it is impossible to say in advance "how much." Deciding whether the evidence is sufficient is a practical judgment made on a case-by-case basis.

[35] Because it is difficult to describe in words or in numbers the amount of evidence that will be sufficient to buttress a claim, sufficiency is an issue that will attract much deference on the part of reviewing courts (*Perampalam* at para 31). But like other factual findings, findings of insufficiency must be explained. One problem that often arises is that an "insufficient evidence"

conclusion is really a manner of disguising an unexplained (or "veiled") credibility finding (*Liban v Canada (Citizenship and Immigration)*, 2008 FC 1252 at para 14; *Begashaw v Canada (Citizenship and Immigration)*, 2009 FC 1167 at paras 20–21; *Adetunji v Canada (Citizenship and Immigration)*, 2011 FC 869 at para 11; *Abusaninah v Canada (Citizenship and Immigration)*, 2015 FC 234 at para 54 [*Abusaninah*]; *Majali v Canada (Citizenship and Immigration)*, 2017 FC 275 [*Majali*]; *Ahmed* at para 38). Decision-makers should not "move the goalposts," as it were, when they have mere suspicions about credibility that they are unable to explain.

B. *The PRRA Officer's Analysis of the Evidence*

[36] Equipped with the conceptual toolkit described above, I now review the fact-finding process in this case. The evidence reveals five incidents involving Mr. Haule in the period that post-dates the RAD's decision. In this section, I will briefly outline the evidence supporting each of the five alleged incidents, as well as the treatment afforded to each by the PRRA officer. In the next section, I will analyse the PRRA officer's findings to decide whether they are reasonable.

[37] The first incident took place on October 8, 2016. Mr. Haule allegedly broke into Ms. Sanga's (Ms. Magonza's mother) house. He asked Ms. Sanga to reveal her daughter's whereabouts, failing which he would kill her. As a result of those threats, Ms. Sanga suffered a minor stroke, fainted and regained consciousness only half an hour later. The evidence of this incident consists of the following:

- A handwritten letter by Ms. Sanga, written in Swahili, in which she describes the incident; the PRRA officer notes that this letter was written several months after the incident, without commenting further on its credibility, probative value or weight;

- An affidavit written in English by Ms. Kitime, Ms. Sanga's neighbour, who attended her house upon hearing arguing and shouting and seeing Ms. Sanga's grand-children running for help; Ms. Kitime states that she found Ms. Sanga unconscious and sought assistance and that Ms. Sanga later described the incident to her; the PRRA officer seems to accept what Ms. Kitime saw first-hand, but gives "little weight" to the part where Ms. Kitime recounts Ms. Sanga's description of the incident;

- A medical examination form given to Ms. Sanga by the police, and which was filled out by the doctor who examined her immediately after the incident; the doctor notes that Ms. Sanga suffered a minor stroke after receiving death threats from Mr. Haule;

- Two documents emanating from the municipality of Kinondoni attesting to the fact that Ms. Sanga reported the death threats she received from Mr. Haule to the municipality; the second document states that the municipality cannot bring criminal charges and that the matter was referred to the police;

- A police report describing the incident, stating that the investigation is continuing and that the police "expect to lay charges against the suspect."

[38] The PRRA officer does not make any negative comments with respect to the last three categories of documents. Indeed, the officer relies on them to find that there is adequate state protection in Tanzania, an issue to which I will return later.

[39] The second incident took place on October 29, 2016. Three friends of Ms. Magonza, Ms. Kalinga, Ms. Kasuga and a person only identified as Joyce, were having drinks in a pub when Mr. Haule came in. He accused Ms. Kalinga of facilitating Ms. Magonza's flight and said he would follow her until she revealed Ms. Magonza's whereabouts. He threw empty beer bottles at Ms. Kalinga, which narrowly missed her. Ms. Kalinga, Ms. Kasuga and Joyce then left the premises. Two documents were put before the PRRA officer as evidence of this incident: a handwritten letter from Ms. Kalinga dated January 16, 2017, and an affidavit from Ms. Kasuga dated February 14, 2017. The PRRA officer's only comment with respect to this incident is: "there is no indication that [Ms. Kalinga] or any of her friends reported this incident to the police or attempted to and were turned away."

[40] The third and fourth incidents involved Ms. Kalinga alone. In December 2016, Mr. Haule saw Ms. Kalinga while she was waiting for a bus. He started walking towards her, as if he wanted to speak to her. However, the bus arrived and Ms. Kalinga avoided the meeting with Mr. Haule. That incident was described in Ms. Kalinga's letter dated January 16, 2017. Then, on June 15, 2017, a friend of Mr. Haule met Ms. Kalinga and started to question her concerning Ms. Magonza's whereabouts. Ms. Kalinga declined to provide the information. Ms. Kalinga described that incident in a further letter dated June 27, 2017. The PRRA officer's only comment

with respect to those incidents is that Ms. Kalinga's evidence is not corroborated and that she did not complain to the police or feel threatened.

[41] The fifth incident took place on September 10, 2017. Mr. Haule returned to Ms. Sanga's house, raging about Ms. Magonza whereabouts. He said that he would continue until he found Ms. Magonza or he saw her dead. The evidence of this incident consisted of a handwritten letter from Ms. Sanga dated January 5, 2018. Ms. Sanga also mentions that similar incidents had occurred "a few times." The PRRA officer noted that the letter was written several months after the events and added:

> I note that the applicant's mother has not provided any evidence to suggest that she reported this second encounter on 10 September 2017 and the threats made against her or the applicant to the police. I also note that there has been no post-marked envelope or other evidence submitted to corroborate that this hand written letter originated in Tanzania. I assign this second letter dated 05 January 2018 little weight.

C. *Reasonableness of the PRRA Officer's Findings*

[42] When the PRRA officer's reasons are analyzed, it becomes clear that the officer made negative credibility findings on grounds that this Court has repeatedly held to be unreasonable. The fact that the officer never uses the word "credibility" is immaterial, where ascriptions of "little weight" can only be explained by an assumption that the evidence presented is untruthful (*Majali* at para 31).

(1) Discounting Evidence Given by Family Members

[43] The most serious incidents alleged by Ms. Magonza are those where Mr. Haule entered Ms. Sanga's house and threatened her. With respect to Ms. Sanga's letters describing those incidents, the officer notes "that both of these letters are written to the applicant from her mother, several months after the altercations they are referring to." If we unpack this statement, we realize that the officer doubted the contents of the letters for two reasons: they were written by someone who had an interest in seeing Ms. Magonza remain in Canada and the time that had elapsed before they were written would somehow make them less reliable. Both concerns are related to credibility, not to probative value.

[44] Immigration decision-makers have on a number of occasions discounted evidence provided by members of the family of an applicant, for the sole reason that these persons, having an interest in the well-being of the applicant, would have a propensity to make false statements. This Court has repeatedly held that this is unreasonable. In doing so, the Court has shown its awareness of the challenges of obtaining evidence of persecution. In the vast majority of cases, the family and friends of the applicant are the main, if not the only first-hand witnesses of past incidents of persecution. If their evidence is presumed to be unreliable from the outset, many real cases of persecution will be hard, if not impossible to prove. Thus, while decision-makers are allowed to take self-interest into account when assessing such statements, this Court has often held that it is a reviewable error to dismiss entirely such evidence for the sole reason that it is self-interested. In *Cruz Ugalde v Canada (Public Safety and Emergency Preparedness)*, 2011 FC 458 at para 28, Justice Yves de Montigny (now of the Federal Court of Appeal) wrote:

> […] I do not believe it was reasonable for the Officer to award this evidence low probative value simply because it came from the Applicants' family members. Presumably, the Officer would have preferred letters written by individuals who had no ties to the Applicants and who were not invested in the Applicants' well-being. However, it is not reasonable to expect that anyone unconnected to the Applicants would have been able to furnish this kind of evidence regarding what had happened to the Applicants in Mexico. The Applicants' family members were the individuals who observed their alleged persecution, so these family members are the people best-positioned to give evidence relating to those events. In addition, since the family members were themselves targeted after the Applicants' departure, it is appropriate that they offer first-hand descriptions of the events that they experienced. Therefore, it was unreasonable of the Officer to distrust this evidence simply because it came from individuals connected to the Applicants.

[45] Other decisions of this Court raising similar concerns regarding evidence from family members include *Durrani v Canada (Citizenship and Immigration)*, 2014 FC 167 at para 7; *Abusaninah* at paras 38-39; *Tabatadze v Canada (Citizenship and Immigration)*, 2016 FC 24; *Sitnikova v Canada (Citizenship and Immigration)*, 2016 FC 464 at para 25 [*Sitnikova*]; *Giorganashvili v Canada (Citizenship and Immigration)*, 2017 FC 100 at para 19; *Duroshola v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 518 at paras 21-23.

[46] The same can be said about delay. After being victim of threats and suffering physical harm as a result, Ms. Sanga may have been more concerned by her own health and safety than by writing letters to support her daughter's PRRA application. It is obvious that letters such as those filed in evidence in this case are written at the applicant's request, for the purpose of buttressing her case. It is unreasonable to discount them because they were not written immediately after the events (*Majali* at para 43).

[47] I pause here to note that the reasons given by the PRRA officer to discount Ms. Sanga's letters can only be described as related to credibility. They have nothing to do with probative value. Indeed, this evidence, if believed, has a strong probative value, because the events described by Ms. Sanga go a long way towards proving the ultimate issue in this case, namely whether there is more than a mere possibility that Ms. Magonza will suffer persecution at the hands of Mr. Haule.

(2) Discounting Events not Reported to Police

[48] It appears that the main reason the officer discounted the second, third and fourth events is that there is no indication that Ms. Magonza's friends reported those occurrences to the police. This is unreasonable on two counts.

[49] First, the officer's line of reasoning fell into the common trap of discounting evidence for what it does not say. When witnesses are asked to provide a letter or an affidavit to be filed in evidence, they will usually focus on the events that corroborate the applicant's claim of persecution, not on what they did afterwards. What this Court has repeatedly said is that such statements should be assessed on the basis of what they contain (*Sitnikova* at paras 22–24; *Arachchilage v Canada (Citizenship and Immigration)*, 2018 FC 994 at para 36; *González v Canada (Citizenship and Immigration)*, 2018 FC 1126). Perhaps the facts as stated in the letter or affidavit will raise additional questions in the mind of the decision-maker. That those questions remain unanswered – especially, as in this case, where there is no hearing – is not a reason to doubt or discount the information actually provided.

[50] For example, in *Belek v Canada (Citizenship and Immigration)*, 2016 FC 205, the claimant had submitted a letter from his wife, who had remained abroad, describing an attack on her and her son. The RAD gave little weight to this evidence because it provided insufficient details concerning the incident and it did not disclose whether the incident was reported to the police. My colleague Justice Russell Zinn held this to be unreasonable:

> … documents that corroborate some aspects of an applicant's story cannot be discounted merely because they do not corroborate other aspects of his story […]. Here the RAD assigns little weight to a letter that corroborates some of the applicant's story simply because it fails to provide details that would further corroborate his story. The RAD fails to explain why it would be reasonable to expect these further details to have been provided, such that a negative inference can be drawn from their absence […]. Absent such justification, the RAD's treatment of this document is unreasonable.
>
> (at para 21)

[51] Second, there may not have been any reason to report those incidents to the police. The third and fourth incidents did not involve any criminal activity that could be reported to the police. They nevertheless tend to show that Mr. Haule still has an interest in Ms. Magonza. While the second incident involved violence, none of Ms. Magonza's friends were actually injured. It appears from the country condition evidence that reporting a crime to the police may be a manner of obtaining free medical attention. As there was no injury on that occasion, reporting the matter to the police may have been unnecessary, especially, as we will see later, given the Tanzanian police's poor track record in addressing gender-based violence. Moreover, in her affidavit, Ms. Kasuga also mentioned that Mr. Haule is a police officer himself and that the safest course of action was to avoid further confrontation.

[52] Hence, the PRRA officer's failure to give serious consideration to the second, third and fourth incidents is unreasonable. The reasons given by the officer in this regard are not clearly related to either credibility or probative value and cannot sustain an ascription of little weight.

(3) No Envelope

[53] It is common ground that the PRRA officer was mistaken in saying that there was no post-marked envelope or other evidence showing that Ms. Sanga's letter dated January 5, 2018 actually came from Tanzania. In reality, that letter is accompanied by a translator's affidavit that was sworn in Tanzania.

[54] The Minister, however, asserts that this is a minor error that does not affect the officer's overall reasoning. I disagree. This error led to the rejection of evidence of an additional incident that corroborates Ms. Magonza's thesis that Mr. Haule is still looking for her. Again the reasons offered by the officer to ascribe little weight to the letter are related to credibility and not probative value. Moreover, they give the impression that the PRRA officer had already made the decision to reject Ms. Magonza's claim and was attempting to "reverse-engineer" credibility findings that would justify the rejection.

(4) Sufficiency of Evidence

[55] The PRRA officer's overall assessment of the sufficiency of the evidence is also unreasonable. That assessment boils down to the mere assertion that Ms. Magonza "has provided insufficient objective evidence" that Mr. Haule is likely to persecute her.

[56] Of course, assessing the weight of the evidence is within the ken of the PRRA officer and this Court should not intervene lightly. However, this assessment must be minimally defensible, in terms of both substance and reasons.

[57] Ms. Magonza provided evidence from several witnesses and other sources describing five incidents involving Mr. Haule over a period of less than one year. The evidence, in particular relating to incidents involving Ms. Magonza's mother, has strong probative value. The incidents described all tend to show that Mr. Haule still has an interest in finding Ms. Magonza and harming her.

[58] When we review a finding that the evidence was insufficient, it is useful to ask: what other evidence could reasonably have been brought? Or, in other words, what kind of corroborative evidence was required but not offered? In this case, the first and second incidents were attested to by multiple witnesses or sources and are thus corroborated. Moreover, each of the five incidents tends to corroborate each other and the critical fact that Mr. Haule is still looking to harm Ms. Magonza. If corroboration was required, it is difficult to understand what other evidence Ms. Magonza could reasonably be expected to provide.

[59] Moreover, the PRRA officer provides no reasons for the finding of insufficiency. We are thus left to rely on the reasons given by the officer to discount various pieces of evidence. I have already found those reasons to contain several unreasonable errors.

[60] Thus, the PRRA officer's conclusion as to the sufficiency of the evidence is an additional reason for me to find that the decision as a whole was unreasonable.

D. *"Saving" the Decision by Looking to the Record?*

[61] So far, my analysis has focused on the reasons actually given by the PRRA officer. I have found them to be unintelligible and unreasonable on several counts. Nevertheless, I must also "look to the record" before the decision-maker to supplement reasons that might appear inadequate on a first reading (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 15, [2011] 3 SCR 708). In the context of a PRRA application, I can buttress a negative credibility finding if there are obvious flaws in the documents submitted by the applicant (see, for example, *Raza v Canada (Citizenship and Immigration)*, 2018 FC 215). In doing so, however, I cannot entirely rewrite the decision or seek to justify it on grounds that the decision-maker chose not to give (*Delta Air Lines Inc. v Lukács*, 2018 SCC 2 at para 24, [2018] 1 SCR 6; *Sharif v Canada (Attorney General)*, 2018 FCA 205 at paras 27-28).

[62] In this case, to sustain the decision challenged, I would have to subscribe to the alternative theory that Ms. Magonza entirely fabricated her claim and that the documents she tendered in evidence are all forged or contain false information. I am unable to do so, for a number of reasons.

[63] First, the PRRA officer mentioned no credibility concerns whatsoever regarding the first incident.

[64] Second, in this case, I am unable to articulate any specific reason why the documents tendered in evidence would be forged or would convey false information. Again, I emphasize that we may not rely only on a generalized suspicion that all documents provided by family members or friends are suspect.

[65] Third, the first incident is corroborated by documents emanating from public authorities in Tanzania. Documents emanating from foreign public authorities are presumed to be genuine and the mere fact that forged documents are easily obtainable in a given country is not, without more, sufficient reason to rebut the presumption (see, for example, *Cai v Canada (Citizenship and Immigration)*, 2015 FC 577 at paras 16–17; *Reis v Canada (Citizenship and Immigration)*, 2018 FC 1289 at paras 25–26). One may ask any number of questions about the documents submitted by Ms. Magonza. For example, I am somewhat puzzled by the fact that a police report would say that charges are expected to be laid, although the investigation is continuing. But my interrogation, based on what Canadian police officers would usually say or not say while an investigation is underway, is not sufficient to rebut the presumption and to justify, in effect, a finding that the document is forged.

[66] That leaves me with the RPD's and RAD's negative credibility findings against Ms. Magonza. PRRA officers may rely on adverse credibility findings made by previous decision-makers (*Perampalam* at para 20; *Ahmed* at para 36). However, this does not mean that PRRA officers may disbelieve every piece of evidence brought by an applicant for the sole reason that the applicant was found not to be credible by the RPD or RAD. If that were the case,

the PRRA process would be rendered largely nugatory for a significant class of applicants (see, by analogy, *Chen v Canada (Citizenship and Immigration)*, 2015 FC 565 at para 16).

[67] When importing credibility findings made in prior proceedings, PRRA officers must explain why those findings affect the evidence before them. In principle, the evidence presented to the PRRA officer must be different from that before the RPD and RAD. Thus, it would normally require a separate credibility assessment (*Perampalam* at para 42).

[68] The documents filed by Ms. Magonza in support of her PRRA application were not the same as those in evidence before the RPD and RAD. As a result, the credibility findings made by the RPD and RAD can only be transposed to them if some explanation is given (see, for a similar situation, *Dinartes v Canada (Citizenship and Immigration)*, 2018 FC 986 at para 18 [*Dinartes*]; *Martinez* at paras 27-28). The PRRA officer gave no such explanation and did not find that any of the documents submitted by Ms. Magonza were forged or contained false information. As I mentioned above, I am unable to find any obvious reason to doubt their authenticity.

E. *Conclusion on finding of risk*

[69] To sum up, the reasons given by the PRRA officer for discounting Ms. Magonza's evidence rely on reasoning that this Court has already found to be objectionable. They are not logically connected to the ascriptions of "little weight" contained in the decision. Moreover, the officer's finding that the evidence is insufficient appears to be based on a general and unexplained finding of lack of credibility. A review of the record does not cure the defects of the decision. As a result, the decision is unreasonable and will be sent back for redetermination.

[70] In addition to her argument that the officer's decision was unreasonable, Ms. Magonza submitted that the officer made veiled credibility findings despite not having held a hearing. According to section 113(b) of IRPA, PRRA officers may hold hearings. The criteria for holding a hearing are set out in section 167 of the Regulations and revolve around the fact that credibility is in issue. As I will send the matter back in any event, it is unnecessary for me to decide whether the officer in this case should have held a hearing. The officer who will decide the issue anew may want to review recent decisions of this Court on the topic, such as *Majali* and *Ahmed*.

III. State Protection

[71] The Minister argues that even if Ms. Magonza's return to Tanzania would expose her to a risk of persecution, she could still rely on state protection. Indeed, the PRRA officer found that state protection existed in Tanzania and that this was an alternative basis for rejecting Ms. Magonza's claim. Ms. Magonza, however, argues that the officer's analysis with respect to state protection was unreasonable. I agree with Ms. Magonza, because the officer's findings cannot be reconciled with the evidence he or she considered or should have considered.

A. *Principles*

[72] Refugee status may be denied to persons who, despite having a well-founded fear of persecution based on a Convention ground, can nevertheless avail themselves of the protection of their own country. This concept is known as "state protection." State protection was in issue in the seminal case of *Canada (AG) v Ward*, [1993] 2 SCR 689 [*Ward*]. In *AB v Canada*

(Citizenship and Immigration), 2018 FC 237 [*AB*], I canvassed the principles that are relevant when assessing the issue of state protection. These principles may be summarized as follows:

- "refugee claimants bear the burden of proving not only a well-founded fear of persecution, but also that their country of nationality is unable or unwilling to protect them — or that they have valid reasons for not seeking that protection" (*AB* at para 15, relying on *Ward* at 724-25) and this issue is forward-looking and not focused on past incidents;

- State protection must be effective at the operational level and it is not enough to point to efforts made by a state to address shortcomings or to assert that "perfection is not required" (see, among many other cases, *Mata v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 1007 at para 13; *Lakatos v Canada (Citizenship and Immigration)*, 2018 FC 367 at para 21);

- Failure of state protection is usually a systemic and not an individual issue and for that reason, "country evidence may be more useful than evidence concerning the applicant's situation in determining whether state protection is adequate" (*AB* at para 20);

- Assessing a country's "level of democracy" may or may not be related to a country's capacity to offer adequate protection (*AB* at para 22; *Ahmed v Canada (Citizenship and Immigration)*, 2018 FC 1157 at paras 52–55); in other words, the issue of state protection does not arise only in so-called "failed states."

B. *Applying the wrong test*

[73] In this case, the PRRA officer did not apply the test of operational adequacy which has been adopted by this Court. The officer mentioned that (1) the research does not indicate that Tanzania permits or condones domestic violence; (2) police protection in Tanzania is not perfect; (3) the Tanzanian government is "trying to bring about change;" (4) there is no "total breakdown of state apparatus." None of these statements, however, relate to the test of operational adequacy. They do not show that the officer turned his or her mind to the relevant question, which is whether Ms. Magonza can expect to be adequately protected from Mr. Haule.

[74] Administrative decision-makers, such as PRRA officers, are bound by this Court's jurisprudence (*Canadian National Railway Co v Emerson Milling Inc*, 2017 FCA 79 at para 70, [2018] 2 FCR 573; *Tan v Canada (Attorney General)*, 2018 FCA 186 at para 22). They cannot ignore the test of operational adequacy or substitute a test of their own. When they apply the "wrong test," their decisions are unreasonable (see, for example, *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11 at para 194, [2013] 1 SCR 467; see also *Alberta (Education) v Access Copyright*, 2012 SCC 37 at para 37, [2012] 2 SCR 345).

[75] In this connection, this Court has repeatedly struck down decisions that did not apply the test of operational adequacy where state protection is in issue, looking instead at the efforts deployed by the state (see cases cited in *AB* at para 17, as well as *Camargo v Canada (Citizenship and Immigration)*, 2015 FC 1044 at para 26; *Sokoli v Canada (Citizenship and Immigration)*, 2018 FC 1072).

C. *Disregarding the overwhelming evidence*

[76] But there is more. The PRRA officer disregarded the overwhelming evidence to the effect that Tanzania does not offer adequate state protection to victims of domestic violence. First, the officer declined to consider critical documents that were part of the national documentation package for Tanzania. Second, the officer offered a highly selective reading of country condition documents; however, a finding of state protection was not reasonably open on the evidence.

(1) The national documentation package

[77] The IRB's Research Directorate maintains national documentation packages [NDP] for each country, which include publicly available information regarding the country's political situation, human rights situation, police practices, identification documents and other issues relevant to refugee status determination. They also include responses to information requests [RIR] prepared by the Research Directorate in answer to specific questions. The preparation of these NDPs is meant to address one of the major challenges of the refugee status determination process, namely, the fact that individual asylum seekers lack the resources to collect, on their own, evidence about systemic issues in their countries of origin.

[78] IRPA appears to contemplate the use of documentation found in the NDPs in refugee status proceedings. For example, section 170(i) of IRPA empowers the RPD to "take notice of any facts that may be judicially noticed, any other generally recognized facts and any information or opinion that is within its specialized knowledge." I am informed by both counsel that the usual practice before the RPD is that the table of contents of the relevant country's NDP

is filed as an exhibit, thus putting the claimant on notice that the RPD may rely on that information (see, for example, *Ding v Canada (Citizenship and Immigration)*, 2014 FC 820 at para 12). While the record before the RPD in Ms. Magonza's case has not been filed in evidence before me, I have no reason to doubt that the usual practice was followed.

[79] It is common practice for the RPD and RAD, as well as for PRRA officers, to rely on documents found in the NDP even when the claimant did not refer to them. It may be that, in some circumstances, they even have a duty to go beyond the documents mentioned by the claimants in their arguments (*Sivapathasuntharam v Canada (Citizenship and Immigration)*, 2012 FC 486 at para 22; *Umuhoza v Canada (Citizenship and Immigration)*, 2012 FC 689; *Ramirez Chagoya v Canada (Citizenship and Immigration)*, 2008 FC 721; *Canada (Citizenship and Immigration) v Kaur*, 2013 FC 189 at para 30). However, this does not translate into a wide-ranging obligation "to comb through every document listed in the National Document Package" (*Jean-Baptiste v Canada (Citizenship and Immigration)*, 2018 FC 285 at para 19). I need not pronounce on the precise scope of that duty for the purposes of this case.

[80] The problem in this case is more specific and arises from the fact that the PRRA officer refused Ms. Magonza's request to consider two specific documents forming part of the NDP. The two documents in question are the latest concluding observations of the United Nations Committee on the Elimination of All Forms of Discrimination Against Women [CEDAW] and a RIR prepared by the IRB's Research Directorate in 2015 concerning the "Situation of female victims of domestic violence, including legislation and availability of state protection and support services." The officer's reason for refusing to consider these documents is that they did

not constitute “new evidence” as contemplated in section 113(a) of IRPA, because they pre-dated the decision of the RAD.

[81] Where an applicant seeks to refer to a document that is part of the NDP in support of a PRRA application, it is not useful to decide whether the document may be considered as “new evidence.” Sections 170 and 171 of IRPA draw a distinction between testimonial or documentary “evidence” and “generally recognized facts and any information or opinion that is within [the Board’s] specialized knowledge.” The requirement of newness in section 113(a) applies to the former, but not to the latter. As mentioned above, the NDP is better viewed as containing generally recognized facts or specialized knowledge.

[82] Indeed, it would be illogical to make the consideration of a document at the PRRA stage conditional upon the RPD or RAD specifically mentioning it in their decisions. The RPD or RAD may not mention a relevant document for a variety of reasons. In this case, for example, the RPD and RAD did not need to address the issue of state protection because they found Ms. Magonza not to be credible. It would also be unjust if PRRA officers could only rely on documents found in the NDP to rebut the applicants’ cases, as they frequently do, but could not, even when specifically asked to do so, rely on the same documents in favour of the applicants.

[83] As a result, I find that the PRRA officer’s refusal to consider the CEDAW report as well as the 2015 RIR was unreasonable. As these documents are sufficient to allow me to dispose of the case, I need not address the issue of the PRRA officer’s refusal to consider a number of

country condition documents that did not form part of the NDP and that pre-dated the decision of the RAD.

(2) Selective reading of the evidence

[84] The main ground for the finding of state protection appears to be the PRRA's officer interpretation of country condition evidence. The officer relied on a single document, the United States Department of State [DOS] 2016 report on the situation of human rights in Tanzania. The only excerpt quoted in support of the officer's conclusion is the following:

> There were some government efforts to combat violence against women. Activities under the 2001-15 National Plan of Action for the Prevention and Eradication of Violence Against Women and Children continued. Police maintained 417 gender and children desks in regions throughout the country to support victims and address relevant crimes. Women often tolerated prolonged domestic abuse before seeking a divorce, due to fear of retaliation, loss of support, shame, and family pressure. In Zanzibar, at One Stop Centres in both Unguja and Pemba, victims could receive health services, counseling, legal assistance, and a referral to police.

[85] This appears to be the basis for the officer's conclusion that "[w]hile I acknowledge that police protection in Tanzania is not perfect, the research indicates that the government is trying to bring about change." As I mentioned above, this is a misstatement of the test for state protection.

[86] But the problem is deeper. The passage quoted by the officer is but a minor qualification to what is in all other respects a severe indictment of the manner in which the Tanzanian police

treat victims of gender-based violence. The following passages give a more accurate flavour of the substance of the DOS report:

> The most widespread human rights problems in the country were […] gender-based violence, including rape, domestic violence […].
>
> In some cases, the government took steps to investigate and prosecute officials who committed abuses, but generally, impunity in the police and other security forces and civilian branches of government was widespread.
>
> […]
>
> Domestic violence against women remained widespread, and police rarely investigated such cases. […]
>
> Cultural, family, and social pressures often prevented women from reporting abuse, including rape and domestic violence, and authorities rarely prosecuted persons who abused women. Persons close to the victims, such as relatives and friends, were most likely to be the perpetrators. Many who appeared in court were set free because of corruption in the judicial system, lack of evidence, poor investigations, and poor evidence preservation.

[87] These statements convey a finding that state protection for victims of gender-based violence in Tanzania is ineffective. In contrast, the excerpt quoted by the PRRA officer simply states a fact, without any assessment of the effectiveness of the government action plan or the "gender desks." Thus, it was unreasonable for the officer to rely on an isolated quote from the report to sustain a finding that is the exact opposite of the report's conclusions.

[88] My conclusion is bolstered by the CEDAW report and the 2015 RIR, which, as I mentioned above, the PRRA officer should have taken into account. With respect to gender-based violence in Tanzania, CEDAW found the following:

> 22. Notwithstanding the steps taken to prevent and combat violence against women, such as the development and implementation of a national plan of action for the prevention and eradication of violence against women and children covering the period 2001-2015 on the mainland and in Zanzibar and the establishment of dedicated desks at major police stations throughout the State party to process cases involving children and women who are victims of abuse, the Committee expresses deep concern about:
>
> (a) The high prevalence of violence against women, in particular sexual and domestic violence;
>
> (b) The lack of a comprehensive law criminalizing all forms of violence against women and providing for victim support and assistance;
>
> (c) The lack of specific provisions on domestic violence, including marital rape, in the Penal Code;
>
> (d) The impunity for perpetrators of such violence and the reluctance of girls who are victims of sexual violence to report cases of abuse to the police because of the stigma surrounding it;
>
> (e) The insufficient protection, support and rehabilitation services available to women and girls who are victims of violence.

[89] This indicates, first, that the "gender desks" relied upon by the officer to conclude that state protection is adequate have not, in CEDAW's opinion, been successful to reduce gender-based violence. Most importantly, CEDAW highlights the impunity for perpetrators and the insufficient protection for victims.

[90] Furthermore, the RIR prepared in 2015 by the IRB's Research Directorate contains the following statements that severely question the effectiveness of state protection:

> Other sources list the following reasons for which women do not report incidents of domestic violence: the fear of retaliation from their husbands (LHRC and ZLSC Mar. 2014, 167; US 25 June 2015, 22); the fear of losing economic support (ibid.; HDT June

> 2011, 6); and the desire to protect their children (ibid.; LHRC and ZLSC Mar. 2014, 167).
>
> […]
>
> Sources indicate that corruption within the Tanzanian police forces stands as a barrier for women to report instances of domestic violence (DW 3 Dec. 2013; McCleary-Sills et al. Mar. 2013, 51). According to the ICRW report, police officers have been known to refuse to open case files on behalf of victims, even after receiving a bribe (ibid.). Transparency International's (TI) *East African Bribery Index 2014* reports that the Tanzania Police Force is the most corrupt agency within the country (TI 2014, 38).

[91] It is true that the assessment of evidence is a task primarily assigned to immigration and refugee decision-makers, such as PRRA officers. This does not mean that this Court will never intervene. An officer's assessment of the evidence must still satisfy the *Dunsmuir* requirements of transparency and intelligibility. It must be within the range of reasonable outcomes.

[92] In this regard, a difference must be drawn between, on the one hand, situations where the evidence is truly mixed and the officer has to make a decision and, on the other hand, situations where the evidence overwhelmingly demonstrates that state protection is inadequate but the officer clings to some minor qualification or positive aspect in the evidence to reach the opposite conclusion. In this case, the latter and not the former happened. This means that the decision was made without regard to the evidence and was not within the range of reasonable outcomes. Moreover, given the strength of the evidence favouring the opposite conclusion, the officer had to discuss that evidence and explain why it was not accepted. The failure to do so renders the decision unreasonable: *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 14–17; *Whyte v British Columbia (Superintendent of Motor Vehicles)*, 2013 BCCA 454.

[93] Indeed, this Court has often intervened to strike down findings of state protection that were based on a selective reading of country condition evidence (see, for example, *Richards v Canada (Citizenship and Immigration)*, 2011 FC 1363 at paras 18-21; *Vargas Bustos v Canada (Citizenship and Immigration)*, 2014 FC 114 at para 39; *Dinartes* at para 25).

(3) Unreasonable inference

[94] There is another problematic aspect in the PRRA officer's decision. The officer "strongly noted" the involvement of the municipal council and the police investigation further to Ms. Magonza's mother's complaint with respect to the first incident. The officer concluded that the documents submitted in this regard "indicate that due process does exist in Tanzania and state protection is available."

[95] This is an inference, a deduction from known facts to unknown facts. Drawing an inference is within the PRRA officer's role, provided it is reasonable. The problem with the inference in this case is that the officer failed to appreciate the difference between what the police say and what the police do. That made the inference unreasonable.

[96] When the evidence overwhelmingly shows that the police are not taking gender-based violence seriously, the mere fact that the police took a complaint cannot support an inference that state protection is adequate. Indeed, apart from a letter from the police saying that the investigation is continuing and they expect to lay charges, there is no indication that the police did anything to protect Ms. Magonza's mother. Although we do not know for sure that

Mr. Haule was never prosecuted, the fact that returned to harass Ms. Magonza's mother after that letter was written tends to show that the police did not do anything.

D. *Conclusion on state protection*

[97] The PRRA officer's analysis of state protection is undermined by two fundamental errors: the officer did not apply the test laid out by the constant jurisprudence of this Court and disregarded the bulk of the evidence regarding the Tanzanian police's ineffectiveness in protecting victims of gender-based violence without articulating reasons for doing so. Moreover, the officer unreasonably concluded that Ms. Sanga's complaint to the police was proof of adequate state protection.

IV. Conclusion

[98] As the PRRA officer's treatment of Ms. Magonza's risk of persecution and state protection was unreasonable, the decision as a whole is unreasonable. Accordingly, the application for judicial review will be allowed and the matter will be sent back to a different officer for redetermination.

JUDGMENT in IMM-1506-18

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;

2. The matter is sent back to a different officer for redetermination;

3. No question is certified.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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