

Federal Court



Cour fédérale

Date: 20200130

Docket: IMM-2723-19

Citation: 2020 FC 170

Ottawa, Ontario, January 30, 2020

PRESENT: The Honourable Mr. Justice Pamel

BETWEEN:

**FAIZA IQBAL
ZUHAYR FAIZAN AHMED
AAMIRA ZABABA IQBAL
AAIRAH ZAINA IQBAL**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Nature of the Matter

[1] In a decision dated April 8, 2019, the Refugee Appeal Division [RAD] rejected the Applicants' refugee claims. Before this Court, the Applicants submit that the RAD breached procedural fairness by raising new issues on appeal and conducted an unreasonable analysis of the Applicants' fear of persecution.

[2] For the reasons outlined below, I would dismiss the application for judicial review.

II. Facts

[3] Faiza Iqbal [the Principal Applicant] is a citizen of Pakistan and identifies herself as a Muslim. She is the mother of the three other Applicants, who are minor children [the Minor Applicants].

[4] The Principal Applicant completed a bachelor's degree in civil engineering in 2001 and moved to Bangladesh in 2002 to join her father's textile business as a director. In 2003, she married a Bangladeshi citizen. The Minor Applicants were born from that relationship. Since they were all born in Bangladesh, the Minor Applicants are citizens of Bangladesh.

[5] Starting in 2007, the Principal Applicant's husband began neglecting her and engaging in extra-marital affairs. In 2008, the husband began physically abusing the Principal Applicant. The Principal Applicant decided to maintain her relationship with her husband, despite the abuse.

[6] On January 15, 2013, the Principal Applicant saw her husband at a hotel engaging in an affair with another woman. The Principal Applicant's husband saw the Principal Applicant and then assaulted her in front of her friend. The Principal Applicant was struck on the head and knocked down. She was taken to a local clinic for treatment for a fracture on the left side of her head.

[7] On January 20, 2013, the Principal Applicant was assaulted again by her husband. She was taken to the clinic for X-rays and an examination. The Principal Applicant filed a formal complaint with the police on January 21, 2013. The police did not follow up on the complaint.

[8] On numerous other occasions, the Principal Applicant's husband threatened her life, threatened her with a knife, confined her in a locked room, physically abused her, and verbally abused her.

[9] There seems little doubt that domestic violence is a pervasive problem in Bangladesh. In February 2013, the Principal Applicant's husband sequestered her at their home and assaulted her. At one point, the husband raised a knife to her. The Principal Applicant then fled the house along with her children and took refuge at her friend's house.

[10] On November 27, 2016, the husband assaulted her during an argument over their dowry (*mahr*). The Principal Applicant was struck on the head and rendered unconscious. She regained consciousness at a hospital. The hospital certificate indicates that the Principal Applicant experienced head injuries from November 27 to 28. She made a formal complaint to the police on November 29, 2016. The police did not follow up on the complaint.

[11] Following this incident, the Principal Applicant decided she needed to leave Bangladesh. However, she could not leave Bangladesh without the permission of her husband, who withheld her passport and personal identity documents.

[12] She later persuaded her husband to travel with the family to the United States in December 2016. While in the United States, the Principal Applicant received permission to visit Canada with the children. The Applicants entered Canada on December 31, 2016. Upon entry, the Applicants broke communication with the Principal Applicant's husband.

[13] In February 2017, the Applicants made a claim for refugee protection. Months earlier, the Applicants had filed applications for Canadian temporary resident visas, which were successful.

[14] The Principal Applicant claimed refugee protection as the victim of domestic violence by her husband in Bangladesh and Pakistan. The Minor Applicants only claimed refugee protection with respect to Bangladesh. The Minor Applicants claimed protection together with their mother based on their father's history of domestic violence. The Minor Applicants' claims do not elaborate on the mother's claim.

[15] In the Basis of Claim [BOC] form, the Principal Applicant indicated that she was at risk of serious harm in Bangladesh and Pakistan. In the BOC form, the Principal Applicant also indicated that the Minor Applicants "do not want to live with an abusive father." The Principal Applicant affirms that she sought police protection in Bangladesh but that they did not take action.

[16] In support of the refugee claim, the Applicants submitted a notarized document from the Principal Applicant's friend attesting to the numerous events of abuse.

[17] While in Canada, the Principal Applicant sought treatment for her depression and anxiety symptoms from a registered clinical social worker.

[18] At the Refugee Protection Division [RPD] hearing, the Principal Applicant stated that her husband had not been abusive towards their children, but that the children disapproved of their father's violent and abusive conduct.

[19] On February 19, 2018, the RPD rejected the Applicants' refugee claims because she had three viable internal flight alternatives [IFAs] in Pakistan, where her husband could not reach her. The RPD rejected the Minor Applicants' claims on the basis that their father had not abused them personally. The RPD also found that the Principal Applicant had no male relatives in Pakistan.

[20] On appeal to the RAD, the Applicants argued that the RPD committed three errors. First, the RPD failed to consider whether it would be unreasonable or unduly harsh to require the claimant to seek refuge in the proposed IFAs. Second, the RPD failed to properly characterize and assess the Principal Applicant's risk profile in Pakistan (i.e., a single woman without a support system in Pakistan). Third, the RPD failed to appreciate that causing a child to witness the abuse of a parent is a form of child abuse.

III. Decision Under Review

[21] On April 8, 2019, the RAD upheld the RPD decision, though on different grounds. The RAD upheld the RPD's finding that the Principal Applicant was not at risk from her husband

because the Principal Applicant failed to articulate a well-founded fear of persecution in Pakistan and acknowledged that her husband could not harm her in Pakistan. The RAD found that the RPD did not mischaracterize Pakistan as an IFA.

[22] The RAD also found that the Principal Applicant would not be at risk in Pakistan because the victimization occurred in Bangladesh. The RAD found that it could not consider the separation of the Principal Applicant from her children in assessing whether she meets the definition of a Convention refugee or a person in need of protection.

[23] The RAD also held that the testimony of the Principal Applicant regarding the presence of male protectors in Pakistan lacked credibility. The RAD concluded that the risk to the Applicant as a single, educated, Muslim and professional woman returning to Pakistan raises “a possibility” but not “a serious possibility” of persecution.

[24] The RAD also confirmed the RPD’s conclusions regarding the Minor Applicants. The RAD upheld the RPD’s finding that the Minor Applicants were not at risk because they would not likely return to their father if returned to Bangladesh and because they had not witnessed the abuse firsthand or been harmed by it.

IV. Issues

[25] The case at bar involves two issues:

- (1) Did the RAD a commit a breach of procedural fairness by raising new issues on appeal without providing notice to the parties or an opportunity to provide submissions?

- (2) Did the RAD commit a reviewable error in its analysis of the Minor Applicants' claims?

V. Standard of Review

[26] In additional submissions made following *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the Respondent argues that there is no reason to depart from the presumptive standard of review of reasonableness.

[27] I disagree in part with the Respondent.

[28] Consistent with this Court's recent post-*Vavilov* jurisprudence, I do not interpret *Vavilov* in a manner so as to supersede previous jurisprudence on the applicable standard of review for the types of procedural fairness questions raised in this matter (*Vavilov* at para 23; *Weng v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 151). As a result, the first issue is reviewable on the correctness standard (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 SCR 339 at para 43 [*Khosa*]; *Mission Institution v Khela*, 2014 SCC 24, [2014] 1 SCR 502 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69, [2019] 1 FCR 121 at paras 37-56; *CUPE v Ontario (Minister of Labour)*, 2003 SCC 29, [2003] 1 SCR 539 at para 100).

[29] However, I agree with the Respondent that the second issue is reviewable on the standard of reasonableness (*Vavilov* at para 23). Under the reasonableness standard of review, "the reviewing court must consider only whether the decision made by the administrative decision

maker — including both the rationale for the decision and the outcome to which it led — was unreasonable” (*Vavilov* at para 83).

VI. Analysis

- (1) Did the RAD a commit a breach of procedural fairness by raising new issues on appeal without providing notice to the parties or an opportunity to provide submissions?

[30] The Applicants submit that the RAD committed a breach of procedural fairness by raising two issues that were not addressed by the RPD. The first issue relates to the RAD’s finding that the Principal Applicant had not articulated a well-founded fear of persecution in Pakistan. The second issue relates to the RAD’s finding that the Principal Applicant was not credible in her testimony that she had no relatives living in Pakistan. The Applicants claim that these issues are new credibility issues, and, as a result, that they should have been given notice or offered an opportunity to make submissions on these issues (citing *Ching v Canada (Citizenship and Immigration)*, 2015 FC 725 [*Ching*]; *Xu v Canada (Citizenship and Immigration)*, 2019 FC 639 [*Xu*]; *Ugbekile v Canada (Citizenship and Immigration)*, 2016 FC 1397 [*Ugbekile*]; *Marin v Canada (Citizenship and Immigration)*, 2018 FC 243 [*Marin*]; *Bakare v Canada (Citizenship and Immigration)*, 2017 FC 267 [*Bakare*]; *Ibrahim v Canada (Citizenship and Immigration)*, 2016 FC 380 [*Ibrahim*]; *Isapourkhoramdehi v Canada (Citizenship and Immigration)*, 2018 FC 819).

[31] The Respondent submits that the Applicants already made submissions on these two issues in their memorandum of argument before the RAD. The Respondent further argues that the RAD does not raise a new issue when it simply reviews and assesses the evidence afresh.

However, the Respondent accepts that the RAD has a duty of fairness when it addresses new legal issues.

(a) Well-founded fear of persecution in Pakistan

[32] At the RPD stage, the determinative issue was whether the Principal Applicant had access to a viable IFA in Pakistan. On this issue, the RPD applied the two-prong IFA test and concluded that the Principal Applicant had three viable IFAs in Pakistan.

[33] The RPD determined that the Principal Applicant would not face a serious possibility of persecution in Pakistan based on the view that the husband would not threaten her in Pakistan. The RPD found it unlikely that the Principal Applicant's husband would be able to locate the Principal Applicant in Pakistan because of its large population and geography, and her husband's lack of connection to Pakistan. The Principal Applicant also testified that her husband could not cause her any harm in Pakistan. In addition, the RPD found that the Principal Applicant failed to establish that the husband has the desire to locate her because the husband has not communicated with her since her arrival in Canada.

[34] On appeal, the Applicants argued that the RPD erred in characterizing the Principal Applicant's risk profile in Pakistan. In particular, the Applicants argued that the RPD failed to consider the Principal Applicant's particular circumstances as aggravating factors relevant to her profile as a victim of domestic violence and as a single woman separated from her partner living alone with children without the protection of a male relative in Pakistan. In their submissions, the

Applicants placed considerable weight on documentary evidence showing that single women living alone in Pakistan face considerable challenges.

[35] The RAD first determined that the RPD erred in the manner in which it assessed the viability of an IFA in Pakistan, saying that in order to determine that a viable IFA exists, one must first determine that there is a well-founded fear of persecution in the country where the IFA is located. As there was no evidence of such a fear as regards the Principal Applicant in Pakistan, an IFA assessment was not applicable to the facts of this case.

[36] However, the RAD upheld the RPD's decision on the basis of the RAD's own finding that the Applicant had not articulated a well-founded fear of persecution in Pakistan. As the RAD states in its decision, the latter determination is based on the RAD's own reasoning derived from the evidence (i.e., the Principal Applicant's admission, her husband's lack of connection to Pakistan, and the lack of communication between the husband and the Principal Applicant). The RAD also noted that the RPD's assessment of the evidence on this point is uncontested by the Applicants. As a result, the RAD concluded that the Principal Applicant "does not face a serious possibility of persecution, or face a risk to life or a risk of cruel and unusual treatment or punishment from her husband if she returned to Pakistan."

[37] On my reading of the RAD decision, it is not clear to me that the RAD addressed a new issue. In its decision, the RAD simply reiterated the RPD's reasoning regarding the risk of persecution in Pakistan (*Marin* at para 37). This issue relates to the first prong of the two-prong

IFA test (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (CA) at page 710).

[38] Since the possibility of an IFA was the determinative issue at the RPD stage, it was only natural that the RAD addressed this issue. The RPD determined that “there is no serious possibility that the [Principal Applicant] will be persecuted in Pakistan because, on a balance of probabilities, the agent of persecution, her husband, will not find her there [...]” As the RAD correctly noted, the Applicants had the opportunity to challenge the RPD’s finding on this point, and chose not to do so. I see nothing unreasonable with that finding.

(b) The Principal Applicant’s testimony about family in Pakistan

[39] The issue of the Principal Applicant’s family in Pakistan only came up once in the RPD decision. Since this issue was not determinative of the decision, the RPD simply noted that the Principal Applicant “lacks family” in Pakistan. In the same paragraph, the RPD noted that documentary evidence shows that “single women” face “challenges” in Pakistan and Bangladesh. Based on these and other factors, the RPD concluded that the Principal Applicant could reasonably relocate to the IFA locations. The RPD did not make a credibility determination regarding the Principal Applicant’s family in Pakistan.

[40] As the Respondent points out, the Applicants challenged the RPD’s assessment of this issue on appeal before the RAD. In the overview section of their appeal memorandum, the Applicants argued that the RPD did not consider the issue of the Principal Applicant’s family in Pakistan and the lack of male relatives in the country:

The Panel assessed her claim as a woman in Pakistan and considered certain mitigating factors relevant to her profile, but failed to assess her claim as a victim of domestic abuse, and as a separated woman living alone without the protection of a male relative. The evidence shows these to be significant risk factors in Pakistan, and they were not properly taken into account.

[41] Later in the appeal memorandum, the Applicants made the following argument:

The Panel fail[ed] to properly assess whether the Appellant's profile, as a victim of domestic violence, and as a single woman separated from her partner living alone without the protection of a male relative, might face persecution in Pakistan.

[42] In support of this argument at the RAD level, the Applicants submitted evidence and case law (*Begum v Canada (Citizenship and Immigration)*, 2011 FC 10 [*Begum*]), stating that "to live alone as a single woman without the protection of a male relative creates a serious risk of harassment or physical harm of a level rising to persecution." Indeed, the record contains a series of documents showing that living as a single woman without male relatives in Pakistan is risky, particularly in rural areas.

[43] Let me first state that being a single woman (without a male protector figure) is a recognized social group to which an applicant may anchor her fears of persecution. The important question is whether there is sufficient evidence of a nexus between the applicant and the social group (*Begum*; *Dezameau v Canada (Citizenship and Immigration)*, 2010 FC 559 at paras 18-41). The generalized nature of the persecution claim does not in itself preclude a finding of persecution, provided the applicant provides sufficient evidence that his or her situation fits the risk profile (*Salibian v Canada (Minister of Employment and Immigration)*, [1990] 3 FC 250, 1990 CanLII 7978 (FCA)).

[44] The RPD considered the issue and found that the “level of discrimination against women in Pakistan does not, in general, amount to persecution.” The RPD also found that “[w]hile the documentary evidence does speak to the challenges faced by women in both Pakistan and Bangladesh, including single woman,” the RPD noted that “[the Principal Applicant] has managed to succeed in education and business in both countries, notwithstanding their patriarchal challenges.”

[45] The RAD agreed with the RPD on this issue, and found that the Principal Applicant’s “high level of education, employment experience, living in an urban area, higher class, reduces the likelihood of [her] having difficulty residing in Pakistan as a single woman or being left with no means of support [...]. Although the documentary evidence states that a young or middle age woman may find it ‘hard’ to live alone in Pakistan, being difficult does not amount to persecution.”

[46] The RAD concluded that the Principal Applicant would not face a serious possibility of persecution if she were to return to Pakistan. I see nothing unreasonable with that finding, in particular when the Principal Applicant herself gave evidence that she harbours no fear in returning to Pakistan.

[47] In making their argument before the RAD, the Applicants stated that the RPD improperly assessed the Principal Applicant’s risk profile in Pakistan, and they invited the RAD to re-evaluate the RPD’s analysis of the lack of male relatives in the Principal Applicant’s family in Pakistan as an aggravating factor within the context of an IFA analysis.

[48] In response to this challenge, the RAD found that the Principal Applicant did not establish, “on a balance of probabilities that she does not have a male protector relative if she returned to Pakistan.”

[49] In examining the Principal Applicant’s testimony at the RPD hearing, the RAD found that the Principal Applicant was inconsistent as to whether she had male relatives in Pakistan:

The Appellants submit that the principal Appellant testified that she had no male relatives living in the cities of Lahore, Karachi, or Islamabad, and stated that she has no other relatives living in Pakistan. However, in my review of the record, I do not believe this to be a proper characterization of the evidence. During the RPD hearing, the RPD asked the principal Appellant if she had family in Pakistan. She did not directly respond to the question and stated that her parents were in Bangladesh. The RPD asked if she had any other family in Pakistan, to which she stated “no”. The RPD asked whether she had brothers, sisters, aunts, uncles, extended family in Pakistan, to which the principal Appellant again did not directly answer the question, responding that her brother was in Australia and has Australian citizenship. Later in the hearing, the RPD asked why she could not go back to Pakistan, and she stated because her family is not there. However, when the RPD asked what difficulties she would have in Pakistan, her testimony evolved stating that she had some relatives in Pakistan who would keep their eye on her, what she is doing and will talk about her. When the RPD asked what relatives in Pakistan she had, her testimony changed again to say “friends in the neighbourhood” and “far relatives”. Given the principal Appellant’s evasive and inconsistent testimony about whether she has relatives in Pakistan, I find she has not established that she does not have a male protector relative in Pakistan.

[50] The RAD addressed the Applicants’ argument that the RPD failed to consider the Principal Applicant’s risk of persecution due to her lack of male relatives. In addressing this issue, the RAD reviewed the Principal Applicant’s testimony and found internal inconsistencies.

A finding based on internal inconsistencies is one form of credibility determination (*Magonza v Canada (Citizenship and Immigration)*, 2019 FC 14 at para 19).

[51] Although the Applicants challenged the weight given to the testimonial evidence, the parties did not raise credibility as an issue at the RAD stage. In any event, it does not seem to me that the issue of the Principal Applicant having, or not having, a male protector relative in Pakistan was a determinative issue in relation to whether she fit the profile of a woman at risk. Both the RPD and the RAD focused on the Principal Applicant's education and achievements to find that there is no serious risk of her facing persecution in Pakistan. Again, I see nothing unreasonable with that determination.

[52] In any event, the RAD's analysis of the Principal Applicant's testimonial evidence did not raise a new legal issue. Unlike the situation in *Ching*, the RAD did not adopt a new framing of the issues, but rather responded to the Applicants' own arguments and concerns raised on appeal. To borrow the words of Mr. Justice Zinn, "the RAD was not raising a new issue; rather, it was addressing the very issue raised by the applicant" (*Ibrahim* at para 30).

[53] The Applicants raised the Principal Applicant's family in Pakistan as an issue on appeal, and the RAD's credibility analysis stemmed from that issue (*Xu* at para 33). In such a situation, the RAD is not obligated to solicit submissions (*Bakare* at paras 18-19; *Jadallah v Canada (Citizenship and Immigration)*, 2016 FC 1240 at paras 51-52).

[54] The present case is distinct from *Ugbekile*. In that case, Madam Justice Elliott found that it was procedurally unfair that the RAD made credibility findings (not made by the RPD) based on a momentary pause in the applicant's testimony without giving notice of the credibility issue to the Applicants (*Ugbekile* at paras 17, 25). Justice Elliott reasoned that unlike the RAD, the RPD "had the advantage of seeing and hearing the wife give this testimony while the RAD only heard the audio recording" (*Ugbekile* at para 21). However, unlike the RPD in *Ugbekile*, the RPD in the present case enjoyed no real advantage in evaluating the internal consistency of the Principal Applicant's testimony.

[55] In this case, the RAD drew an adverse finding with respect to credibility based on "the evidence before the RPD" (*Kreishan v Canada (Citizenship and Immigration)*, 2019 FCA 223 at para 46 [*Kreishan*]). The RAD considered the evidence on appeal and made a determination that was different from that of the RPD. Such an approach falls within the RAD's mandate as a "safety net" that ensures that the "correct decision is made" (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93, [2016] 4 FCR 157 at paras 87-88, 98; *Kreishan* at paras 41-42). Indeed, The Applicants have not convinced me that the RAD missed any evidence that was otherwise available to the RPD.

[56] Since the RAD did not address new issues, I see no reason to intervene.

- (2) Did the RAD commit a reviewable error in its analysis of the Minor Applicants' claims?

[57] The Applicants submit that the RAD's assessment of the risks to the Minor Applicants is incomplete. First, the RAD gave insufficient weight to evidence showing that the Applicants

were subject to child abuse due to the effects of the domestic abuse of their mother. Second, the RAD made no findings on the state's failure to protect a child's mother from domestic violence. Third, the RAD's finding that the children would not live with their father is unreasonable, as the RAD made no suggestion of alternative custody or living arrangements if they are separated from their mother and returned to Bangladesh. In support of this submission, the Applicants cite *Modeste v Canada (Citizenship and Immigration)*, 2013 FC 1262 [*Modeste*]; *Amayo v Canada (Minister of Employment and Immigration)*, [1982] 1 FC 520 (FCA), [1981] FCJ No 136 [*Amayo*]; and *Kim v Canada (Citizenship and Immigration)*, 2010 FC 149, [2011] 2 FCR 448 [*Kim*].

[58] The Respondent submits that the RAD did not err in its assessment of risk for the Minor Applicants because of the evidentiary shortcomings of the Applicants' claims. The Respondent highlights that: no psychological report was prepared for the Minor Applicants; the Principal Applicant's BOC form did not mention that the Minor Applicants feared returning to Bangladesh; and there is no persuasive evidence that the Minor Applicants would return to their father in Bangladesh. The Respondent argues that these shortcomings lead to the conclusion that the evidence on record does not establish that the Minor Applicants witnessed any abuse or that there is deficient state protection.

[59] On appeal before the RAD, the Applicants presented similar arguments challenging the RPD decision. Citing *Modeste*, *Amayo*, and *Kim*, the Applicants argued that the RPD failed to recognize that the Minor Applicants were exposed to child abuse and that the failure of the state to protect a child from the continued abuse of a parent can amount to persecution.

[60] The *Modeste* case stands for the proposition that a child who is made to witness physical and psychological domestic abuse is a victim of abuse. The RPD must then assess this risk. In *Modeste*, Mr. Justice Russell found that the RPD's decision was unreasonable because the "RPD failed to understand that the [a]pplicant had already been abused by her father when he made her witness the terrible things he did to [the applicant's mother], and that the [a]pplicant faces a continuation of that abuse if she is returned to Saint Lucia" (*Modeste* at para 32).

[61] The RAD distinguished the present case from *Modeste* on three grounds. First, the evidence on record was "vague" as to whether the Minor Applicants witnessed abuse. Second, there was a lack of evidence as to whether the alleged abuse had an impact on the Minor Applicants. Third, there was no persuasive evidence that the Minor Applicants would live with their father if they returned to Bangladesh.

[62] I agree that *Modeste* is distinguishable from the case at bar. In *Modeste*, the RPD dismissed the minor applicant's claim in seven sentences and did not explain how the applicant failed to meet her evidentiary burden of proof as to her risk of persecution (*Modeste* at para 5); this despite ample evidence that the minor applicant was "forced to witness the horrendous physical and psychological abuse of [her mother] by her father" (*Modeste* at para 29). In addition, there was a "real prospect that the [a]pplicant may have to witness further violence by her father against her mother" if the minor applicant returned to her country of origin (*Modeste* at para 33). In short, as Mr. Justice Russell determined, the RPD's "brief" treatment of the minor applicant's claim "entirely miss[es] what is of real concern in this case" (*Modeste* at para 27).

[63] In contrast to *Modeste*, the RAD was alive in this case to the issues at play and explained its evidentiary findings. The RAD found that there was no persuasive evidence that the Minor Applicants witnessed domestic violence against their mother based on the Principal Applicant's failure to articulate that the Minor Applicants' fear of returning to Bangladesh in the BOC form and the Principal Applicant's testimony at the RPD stage. In her testimony, the Principal Applicant indicated that although the Minor Applicants "do not like their father," the Minor Applicants did not receive psychological help for this issue. After reviewing the testimonial evidence and the record, the RAD concluded that the Minor Applicants only "heard" about the abuse.

[64] Furthermore, the RAD's decision on this issue contains other signs of reasonability. The RAD identified in a clear manner the shortcomings associated with the Applicants' claims (e.g., the lack of a evidence as to the psychological or physical effects of the alleged abuse, the lack of evidence as to the "frequency, patterns, duration and impact" of the alleged abuse, and the failure to mention the Minor Applicants' fear in relation to Bangladesh). The RAD addressed the Applicants' concern that the Minor Applicants would return to their father and concluded that it was a "speculative" proposition.

[65] The RAD also analyzed the Minor Applicants' claims in light of the United Nations High Commissioner for Refugees [UNHCR] Guidelines, which suggest that immigration authorities should be sensitive to the various forms of child abuse, particularly in situations involving "a child who has witnessed violence against, or experienced the disappearance or killing of a parent or other person on whom the child depends" (UNHCR *Guidelines on International Protection*

No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, HCR/GIP/09/08, December 22, 2009; *Kim* at para 58; *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61, [2015] 3 SCR 909 at para 41; *Vavilov* at para 114). This factor further supports the reasonability of the RAD's approach.

[66] In short, the RAD addressed all of the issues raised by the Applicants and rendered a decision that fell within the range of reasonable outcomes. I see no reason to intervene.

VII. Conclusion

[67] Accordingly, I would dismiss the application for judicial review.

JUDGMENT in IMM-2723-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

“Peter G. Pamel”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2723-19

STYLE OF CAUSE: FAIZA IQBAL, ZUHAYR FAIZAN AHMED, AAMIRA ZABABA IQBAL, AAIRAH ZAINA IQBAL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

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