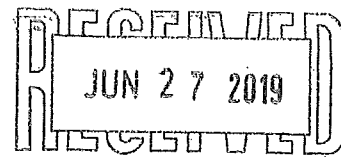




Immigration and
Refugee Board of Canada
Refugee Protection
Division

Commission de l'immigration
et du statut de réfugié du Canada
Section de la protection
des réfugiés



NOTICE OF DECISION

[*Immigration and Refugee Protection Act*, subsection 107(1)]
[*Refugee Protection Division Rules*, rule 67]

Craig Costantino
Member

In the claim for refugee protection of:

Date of birth:

UCI:

The claim was heard on June 14, 2019.

The Refugee Protection Division determines that **the claimant is a Convention refugee and therefore accepts the claim.**

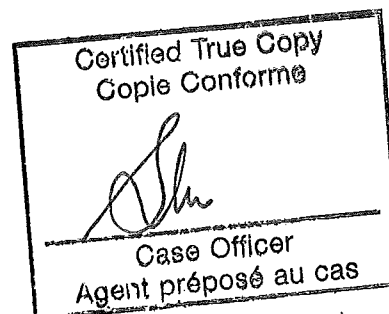
The reasons for the decision are attached.

June 21, 2019

Shahana Perven, Case Management
Officer

For the Registrar

Tel: 1-866-790-0581



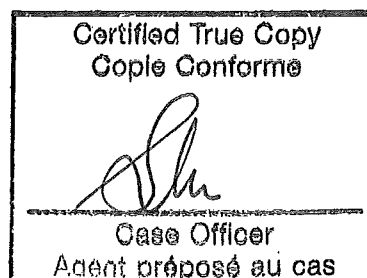


RPD File No. / N° de dossier de la SPR

Private Proceeding / Huis clos

Reasons and Decision – Motifs et Décision

Claimant(s)		Demandeur(e)s d'asile
Date(s) of Hearing	June 14, 2019	Date(s) de l'audience
Place of Hearing	Heard by videoconference in Vancouver, BC and Toronto, ON	Lieu de l'audience
Date of Decision and reasons	June 17, 2019	Date de la décision et des motifs
Panel	Craig Costantino	Tribunal
Counsel for the Claimant(s)	Edward Corrigan Barrister and Solicitor	Conseil(s) du (de la/des) demandeur(e)s d'asile
Designated Representative(s)	N/A	Représentant(e)s désigné(e)s
Counsel for the Minister	N/A	Conseil du (de la) ministre



Canada

REASONS FOR DECISION

INTRODUCTION

[1] (the “claimant”), claims refugee protection pursuant to Sections 96 and 97 of the *Immigration and Refugee Protection Act*¹ (“Act”).

BACKGROUND / ALLEGATIONS

[2] The following is a summary of the claimant’s allegations, as set out in a narrative attached to his Basis of Claim form (“BOC”) filed initially in December 2016², subsequently amended in January 2017³, and again in May 2019⁴, as well as his testimony and other evidence in the record.

[3] The claimant is a stateless Palestinian aged . . . His paternal grandfather was forced to flee from Haifa to Iraq as a child. The claimant’s father was born in Iraq and migrated to the United Arab Emirates (U.A.E.) around 1970. The claimant’s mother is . . . and met and married the claimant’s father in U.A.E. The claimant was born and has spent most of his life in the U.A.E. He has no right to citizenship in the U.A.E., Lebanon, or Iraq. While he has travelled to Iraq on a few occasions to visit his grandparents and other relatives, and previously held an Iraqi travel document, Iraq has refused to renew his travel document since it last expired in 2006.

[4] The claimant completed high school in the U.A.E. and then came to Canada as a student in 2002. He studied at the University of . . . for two years before returning to the U.A.E. and obtaining his degree in Business Administration there. The claimant then worked as at . . .

. . . for two years before finding work with another employer as a financial manager in 2009. The claimant’s life was relatively stable and comfortable, and he was able to remain in the U.A.E. on permits that were renewed on multiple occasions. He was able to travel to the United

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

² Exhibit 2.

³ Exhibit 8.

⁴ Exhibit 19.

States (U.S.) and back to the U.A.E. in August 2015 for a vacation, and gave no thought of claiming asylum there as he believed that his employment and status in the U.A.E. was stable.

[5] Then, in May 2016, the claimant was informed that his company was downsizing and he was likely to be terminated. He sought employment elsewhere but was unable to find a new sponsor and work. He began to worry about what would happen if he lost status. He believed, based on stories he had heard from the Palestinian diaspora in U.A.E. that he would be detained for deportation. He feared that the U.A.E. would deport him to Iraq where he feared persecution, and that if the authorities were not able to have him removed, he would remain in detention indefinitely.

[6] The claimant's uncle in Canada suggested that the claimant come and make a refugee claim here. He was issued notice on August 24, 2016 that his employment would be terminated on September 24, 2016⁵. The claimant applied for a visa to Canada in July but it was refused in September 2016. He then made arrangements to travel to the U.S. He arrived in the U.S. on November 4, 2016 and came to Canada at the Peace Bridge border crossing, where he was found eligible to make a refugee claim through an exemption to the Safe Third Country Agreement on the basis of the presence of his uncle in Canada.

[7] The claimant's hearing was initially heard by the RPD in February 2017 and his claim was rejected in extensive written reasons in April 2017⁶. That decision was reviewed by the Federal Court in February 2018. The Court held that the RPD had been correct in finding that the only country of reference for the claim is the U.A.E. but that the RPD erred in finding that the claimant had not lost his status in the U.A.E. Because the RPD had found that the claimant had not lost status in the U.A.E., the Panel also failed to conduct an analysis of whether the prospect of detention for removal of a stateless Palestinian who had no country of nationality or citizenship, and whether the denial of the claimant's ability to return to the U.A.E., amounted to persecution.

⁵ Exhibit 7 p. 14.

⁶ Exhibit 13.

DETERMINATION

[8] I find that the claimant is a Convention⁷ refugee. I find that the claimant has established that he faces more than a mere possibility of persecution in the U.A.E. on the basis of his status as a stateless Palestinian refugee.

ANALYSIS

Identity

[9] The claimant has established through the provision of credible documentation that he is a Palestinian who was born in the U.A.E.⁸ He has been credible, forthcoming and consistent in disclosing the nationality and status of himself and his parents.

Countries of Reference

[10] The RPD previously carried out a comprehensive and exhaustive analysis of the appropriate countries of reference for the claim, and concluded, as have I, that the claimant is a stateless Palestinian and that his sole country of former habitual residence ("CFHR") is the U.A.E. The Federal Court upheld that finding in an extensive analysis. The claimant has never been to Gaza, has no right to enter Gaza and has only the most tenuous historical connection to it. He has no right to Lebanese status through his mother, and his argument that Iraq should be considered a CFHR was previously rejected by the RPD and the Federal Court. Although he has familial connections to Iraq, and Iraq formerly issued him travel documents, Iraq no longer issues travel documents to Palestinians as a matter of policy, and the claimant's efforts to renew his travel documents have been refused since 2006.

⁷ 1951 *Convention Relating to the Status of Refugees*: Office of the United Nations High Commissioner for Refugees, "Handbook on Procedures and Criteria for Determining Refugee Status", under the 1951 Convention.

⁸ Exhibit 7.

Credibility

[11] I found the claimant to be a credible witness. He provided thoughtful, articulate and spontaneous testimony in response to the questions that he was asked, conceded facts against his own interest, and there were no material inconsistencies between his testimony and the other evidence before me. The claimant was able to credibly explain why he found himself in a situation in which he feared persecution in 2016, gave credible testimony on his efforts to find a new job and avoid falling out of status in the U.A.E. and credibly explained that the same sponsor who assisted his father after he too lost his job in the U.A.E. could not also assist the claimant.

Well-Founded Fear

[12] As a stateless Palestinian, the way in which laws of general application for all resident aliens in the U.A.E. affect the claimant have a profound effect that significantly impair his autonomy and rights. The claimant was born, raised and schooled in the U.A.E. and he has no right to reside anywhere else, but he was still subject to the same system of reliance on an Emirati patron as any foreign worker.

[13] The evidence clearly establishes that despite the fact that Palestinians are stateless and in many cases have no country to which they can legally be returned, Palestinians are nevertheless subject to the same administration of immigration laws in the U.A.E. as other foreign workers who lose status when they lose employment, and are therefore subject to removal. As the U.A.E. is not a signatory to the Refugee Convention, this creates the risk that Palestinians in many instances face deportation to a state where they have a well-founded fear of persecution.

[14] In this case, the claimant had a subjective fear of persecution if he were returned to Iraq, as he believes that the U.A.E. authorities would try to remove him there as someone who no longer had status. While this fear was found to be speculative by the Federal Court, and the Court gave directions that the potential of deportation to Iraq from the U.A.E. is something beyond the scope of what I should consider, I find that the claimant's fear of removal to Iraq was an honest and reasonably held one.

[15] More importantly though, I accept the claimant's testimony that he has heard anecdotally that Palestinians who lose status are held in detention until they can be removed from the U.A.E. While the claimant may not be situated in the precise circumstances of Palestinians who have been successfully removed to countries with which they have no connection, I find that the evidence establishes that Palestinians are held indefinitely in detention for removal by the U.A.E.⁹ I find that such conduct by the state without regard to the unique circumstances of stateless Palestinians, and indeed precisely because stateless Palestinians have no country to which they can return through no fault or choice of their own, is a clear violation of their right to liberty, and many other basic human rights.

[16] It is one matter for a country to restrict access of foreign workers to its labour market; it is another to subject individuals who were born in the country and have no other country of nationality to a system where they are beholden to employer sponsors. I find that the possibility of indefinite detention for the failure to find or maintain employment is clearly persecutory. Further, I find that the claimant's loss of employment and the daunting prospect of detention for deportation in the face of being unable to find new employment was a valid basis for the claimant developing a subjective fear of persecution such that he decided to flee and seek protection. This development took place in part in the face of the U.A.E.'s efforts to nationalize its work force¹⁰, and was largely, if not entirely out of the claimant's control. I accept that he applied for many jobs but was unable to find work despite his qualifications and experience.¹¹ I accept his testimony that despite his father's long-standing residence in the U.A.E. and his ability to remain there with the assistance of an Emirati friend and sponsor, his father was not able to find a sponsor who could assist the claimant in the same manner.

[17] I find that the claimant lost status in the U.A.E. through no fault of his own, that he tried but did not succeed in seeking a new sponsor so that he could maintain his status, and that he fled the U.A.E. out of a well-founded fear that he would be indefinitely detained as a Palestinian with no country of removal, as well as speculative fear that he could be removed to Iraq. I find that

⁹ Exhibit 17, pp. 133-151.

¹⁰ Exhibit 4.

¹¹ Exhibit 18, pp. 18-29.

these circumstances establish a well-founded subjective fear that the claimant could face more than a mere possibility of persecution in the U.A.E. In any event, he now has no right to return by virtue of the same set of circumstances. As the state is the agent of persecution, it is clear that state protection would not be reasonably forthcoming, and that there is no viable flight alternative.

CONCLUSION

[18] Based on the foregoing analysis, I conclude that the claimant is a Convention refugee and therefore accept his claim.

(signed)

"Craig Costantino"

Craig Costantino

June 17, 2019

Date