

Federal Court



Cour fédérale

Date: 20210630

Docket: IMM-3082-20

Citation: 2021 FC 698

Ottawa, Ontario, June 30, 2021

PRESENT: The Honourable Mr. Justice Southcott

BETWEEN:

ZULFIQAR ALI

Applicant

and

**THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision of the Immigration Division [ID] of the Immigration and Refugee Board dated June 30, 2020 [the Decision], which found the Applicant inadmissible to Canada pursuant to s 35(1)(a) of the *Immigration and Refugee Protection Act* [IRPA]. The ID made this finding based on its conclusion that there were

reasonable grounds to believe that the Applicant was complicit in crimes against humanity committed by the Punjab Provincial Police in Pakistan [the Punjab Police].

[2] As explained in more detail below, this application is dismissed, because I find that the Decision is intelligible, supported by the evidence before the ID, and therefore reasonable.

II. **Background**

[3] The Applicant is a 54-year-old citizen of Pakistan, who lived in Pakistan until August 2017. He was a police officer with the Punjab Police, Sialkot District. The Applicant enrolled in the police force in 1992 and was in the service until August 2017. He started as an Assistant Sub-Inspector and in 2000 was promoted to the rank of Sub-Inspector. From 2005, he served as Station House Officer [SHO] in multiple police stations in Sialkot District. In 2007, he was promoted to the rank of Inspector.

[4] In 2017, the Applicant arrested two members of the Lashkaar-e-Jhangvithat, a Sunni supremacist group, and confiscated funds they had obtained through extortion from the community. From that point, he and his family were targeted and threatened by that group. He left Pakistan for the United States on August 24, 2017, and his family joined him some days later. They came to Canada on October 19, 2017 and claimed refugee protection.

[5] Canadian immigration authorities interviewed the Applicant on October 19, 2017, and he submitted his Basis of Claim form to the Refugee Protection Division. Following that and subsequent interviews, the Canada Border Services Agency issued a report against him pursuant

to s 44 of IRPA, alleging that he is inadmissible under s 35(1)(a) of IRPA, and referred him to the ID for an admissibility hearing. Section 35(1)(a) states:

Rules of interpretation	Atteinte aux droits humains ou internationaux
35 (1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for	35 (1) Emportent interdiction de territoire pour atteinte aux droits humains ou internationaux les faits suivants :
(a) committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of <i>the Crimes Against Humanity and War Crimes Act</i> ;	a) commettre, hors du Canada, une des infractions visées aux articles 4 à 7 de la <i>Loi sur les crimes contre l'humanité et les crimes de guerre</i> ;

[6] The Applicant's refugee claim was then suspended, pursuant to s 103(1) of IRPA, pending the result of the inadmissibility hearing. That hearing took place over two sittings on February 11 and 12, 2020. On June 30, 2020, the ID issued the Decision now under review in this application.

III. **Immigration Division Decision**

[7] The ID canvassed country condition evidence and, based thereon, found there were reasonable grounds to believe that the Punjab Police committed crimes against humanity during the time the Applicant was employed with that force. The ID then assessed whether the Applicant was complicit in these crimes. It applied the instruction of the Supreme Court of Canada in *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*Ezokola*], assessing

whether he voluntarily made a significant and knowing contribution to the crime and criminal purpose of the group, including consideration of the factors prescribed by *Ezokola* to guide that assessment.

[8] Based on that analysis, which will be canvassed in greater detail in the Analysis portion of these Reasons, the ID found that the *Ezokola* test was satisfied, as there were reasonable grounds to believe that the Applicant made the kind of contribution to the crime and criminal purpose of the Punjab Police that renders him complicit in its activities. This was sufficient to establish that he committed an act outside Canada that constituted an offence referred to in ss 4 to 7 of the *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24 [CAH & WCA].

[9] The ID therefore found the Applicant inadmissible to Canada under s 35(1)(a) of IRPA for violating human and international rights and issued a deportation order against him.

IV. **Issues and Standard of Review**

[10] The Applicant raises the following issues for the Court's determination:

- A. Did the ID unreasonably find that the Punjab Police were an organization that had committed crimes against humanity or had a criminal purpose during the Applicant's tenure?
- B. Was the Punjab Police the relevant organization to assess the Applicant's complicity, and if not, was there evidence of widespread crimes against humanity in the applicable local police force?

C. Did the ID unreasonably find the Applicant complicit in crimes against humanity?

[11] The parties agree, and I concur, that these issues are reviewable on the standard of reasonableness.

[12] The Respondent's counsel also raises a preliminary issue as to the identity of the Respondent, taking the position that, as the Minister of Public Safety and Emergency Preparedness is the minister responsible for the enforcement of the IRPA, including in relation to removal and inadmissibility, that minister is the proper Respondent (see IRPA, s 4(2)). I accept this position, which the Applicant does not oppose. My Judgment will replace the Minister of Citizenship and Immigration with the Minister of Public Safety and Emergency Preparedness as the Respondent to this application.

V. **Analysis**

A. *Did the ID unreasonably find that the Punjab Police was an organization that had committed crimes against humanity or had a criminal purpose during the Applicant's tenure?*

[13] The analysis portion of the ID's decision is broadly divided into two components. First, the ID assessed whether there were reasonable grounds to believe that the Punjab Police had committed crimes against humanity, as defined in the CAH & WCA, in the period when the Applicant was employed with that force. Then, having found such grounds, the ID assessed the Applicant's complicity with these crimes.

[14] In the first portion of the analysis, the ID canvassed objective country condition evidence [CCE], based on which it concluded that the Punjab Police have knowingly and intentionally engaged in widespread, frequent, and large-scale actions of torture, enforced disappearances, encounter killings, sexual violence, and cruel and inhuman treatment against civilian populations and identifiable groups. The ID found that these actions have been carried out collectively by a vast majority of police officers with considerable seriousness and directed at a multiplicity of victims.

[15] The ID noted that there is wide public knowledge about the existence of these attacks and that the general historical and political environment in which these acts have occurred shows a long-standing and deep corruption within the Punjab Police, a culture of impunity, and a silent acquiescence to their crimes. The ID concluded that, in every respect, there are reasonable grounds to believe that the Punjab Police have committed crimes against humanity.

[16] The first issue raised by the Applicant relates to the scope of the CCE upon which the ID relied in arriving at these findings. The Applicant argues that the ID erred by relying heavily on reports of abuses by the police in Pakistan in general, that were not specific to Punjab province.

[17] The Applicant notes that, at the beginning of this portion of its analysis, the ID relies on a report from Amnesty International, and a submission to the United Nations Committee against Torture, which relate to Pakistan generally rather than to Punjab. While there is one exception, a reference to the police being the main known perpetrators of torture in South Punjab, the Applicant notes that Sialkot where he was employed is in the north of the province. The

Applicant also identifies a number of other reports, general to Pakistan, referenced in the ID's analysis.

[18] In response to this argument, the Respondent emphasizes portions of the ID's analysis which rely on CCE with references specific to Punjab province. This includes the Amnesty International report, relied upon by the Applicant, which refers to torture cells operated by the police in Punjab province, both in police stations and in private houses. Other CCE identifies that, among the cases of torture reported in Pakistan, a significant number were committed in Punjab. For instance, of 9634 reported cases of torture in Pakistan between January 2000 and June 2008, 5729 cases occurred in Punjab province, 37 in those being in Sialkot where the Applicant was employed. A report by Human Rights Watch stated that, in 2015, over 2000 people were killed in armed encounters with the police, most in Punjab province. Similarly, the ID referred to a United States Department of State report as reinforcing the very high number of Punjab Police encounters and related killings and deaths.

[19] The Applicant acknowledges that the ID did cite reports referring to Punjab but submits that its extensive attribution of generalized reports to the Punjab Police, without an effort to connect this evidence to Punjab province, taints its analysis.

[20] I accept that there could be circumstances in which an unintelligible inference from generalized evidence to a more particular conclusion could represent an unreasonable decision. However, the nature of the evidence upon which the ID relies in the case at hand, and its analysis thereof, demonstrate no error of this nature. The body of CCE upon which the ID relies includes

evidence specific to Punjab province. Indeed it includes evidence specific to Sialkot. Moreover, while some of the CCE is broader in scope, the ID's analysis does not demonstrate a misunderstanding or unintelligible use of that evidence. For instance, the submission to the United Nations Committee against Torture, upon which the Applicant relies, reports that torture and other ill-treatment remains widespread and takes place in all parts of Pakistan. The ID refers to this document as highlighting the widespread nature of these abuses.

[21] In conclusion, on this issue, I find no reviewable error in the ID's determination that the Punjab Police were an organization that had committed crimes against humanity or had a criminal purpose during the Applicant's tenure.

B. Was the Punjab Police the relevant organization to assess the Applicant's complicity, and if not, was there evidence of widespread crimes against humanity in the applicable local police force?

[22] The Applicant submits that the ID erred in selecting the Punjab Police as the organizational level at which to assess his complicity. He argues that, given the size of the Punjab Police and what he characterizes as his low level of management within that organization, the ID should have focused on the police force at a more local level. The Applicant submits that, if focusing upon the Sialkot District, there is little evidence of abuse and none in relation to the particular stations where he was employed.

[23] In advancing this position, the Applicant refers to portions of both the first component of the ID's analysis, whether there were reasonable grounds to believe that the Punjab Police had committed crimes against humanity, as well as the second component, the Applicant's

complicity with such crime. As with the first issue canvassed above, the Applicant submits that the ID relied on reports about abuses by the police in Pakistan that were not specific to the Punjab province and evidence related to areas in Punjab other than Sialkot District. He also argues that, in tying the Applicant's complicity in large part to his perceived power and control as an SHO over officers in his stations, the ID was relying on the concept of "superior responsibility" to find complicity. Referencing this concept as engaged by s 7(2)(c) of the CAH & WCA, the Applicant argues that the relevant offence must be related to activities over which the superior has effective authority and control.

[24] In some respects, my analysis of this issue is related to that of the first issue above. While the Applicant worked exclusively in Sialkot District, the ID concluded, based on a combination of CCE related to Pakistan generally, to Punjab province more specifically, and to Sialkot District itself, that crimes against humanity identified in the evidence have been carried out collectively by a vast majority of police officers. As noted earlier in these Reasons, the CCE upon which the ID relied included evidence documenting that cases of torture and other ill-treatment are widespread and take place in all parts of Pakistan. This militates in favour of the reasonableness of the ID's decision to conduct its analysis at the organizational level of the Punjab Police, rather than the particular district or station level at which the Applicant was employed.

[25] Also, I do not read the ID's analysis as turning in particular on the concept of "superior responsibility" or s 7(2)(c) of the CAH & WCA. In advancing that position, the Applicant relies on three paragraphs of the Decision, in which the ID canvassed the Applicant's career

progression and the leadership hierarchy of the Punjab Police. The ID observed that the rank of Inspector he achieved is the highest in the junior ranks and concluded that he was fairly high in the hierarchy. Noting his roles as SHO in various police stations between 2005 and 2017, the ID held that the Applicant was, by all accounts, a powerful and influential leader in the Punjab Police. In conducting this Analysis, the ID was considering one of the *Ezokola* factors, the person's position or rank in the organization, which can inform the assessment of whether the person has voluntarily made a significant and knowing contribution to an organization's crime or criminal purpose.

[26] In my view, reliance on this factor under the guidance of *Ezokola* does not support a conclusion that the ID's complicity analysis must be limited to examination of abuses committed by officers over which the Applicant had authority and control. As the Respondent submits, the Applicant's position as SHO was only one of the facts based on which the ID found that the Applicant was complicit in the crimes of the Punjab Police. The ID also based its determination on the Applicant's testimony that he had heard in the news of the crimes committed by the Punjab Police, to which the ID found he was wilfully blind and reckless, the fact that he served with the organization for 25 years, and the fact that he did not disassociate himself from the Punjab Police until forced to do so by the circumstances that gave rise to his refugee claim.

[27] The Applicant also emphasizes the guidance in *Ezokola* that another factor, that part of the organization with which the individual was most directly concerned, may be relevant if only particular parts of the organization were known to be involved with the crime or criminal purpose. As the Applicant notes, the guidance in the Respondent's Manual EN F-18 repeats this

requirement “to drill down as far as possible in the organization so as to more properly define the group to which the person is said to belong, especially with organizations that are hybrid or multifaceted.”

[28] However, as explained above, the ID found that the abuses within the Punjab Police were widespread within the organization. Moreover, in conducting its complicity analysis, the ID relied upon evidence of abuses in Sialkot District in particular, including the following:

- A. In Sialkot in 2004, a police team led by an Assistant Sub-Inspector barged into the house of a widow and held her and her two daughters hostage, beating them severely. The widow was taken to the police station where she was illegally detained for two days, beaten repeatedly, her nails removed, and released only after her son paid a bribe;
- B. In 2005, following the abduction and gang rape of a 17-year-old girl, the girl was rescued by two Sialkot police officers, who then raped her at the police station;
- C. In 2008, within the space of six months, 37 cases of police torture were reported in Sialkot;
- D. In 2010, two police torture cells were discovered near police stations in Sialkot, with six people having been brutally beaten and starving; and

E. In 2011, two brothers were lynched to death in the presence of police officers in Sialkot. Twenty-two people, nine of whom were police officers, were convicted in relation to this crime.

[29] The ID's complicity analysis will be canvassed in more detail under the next issue considered in these Reasons. However, in relation to the present issue, I find nothing unreasonable in the ID's selection of the Punjab Police as the relevant organization with which to assess the Applicant's complicity, particularly taking into account the evidence of abuses in Sialkot District that is consistent with the evidence related to the Punjab Police more broadly.

C. Did the ID unreasonably find the Applicant complicit in crimes against humanity?

[30] In assessing whether there were reasonable grounds to believe that the Applicant was complicit in the crimes against humanity committed by the Punjab Police, the ID was required to assess whether there were serious reasons for considering that the Applicant made a voluntary, significant and knowing contribution to the commission of crimes against humanity by that organization or to its criminal purpose (see *Ezokola* at paras 8, 29, 84).

[31] The Applicant emphasizes that, in conducting that analysis and relying on the factors prescribed by *Ezokola* for guidance, the focus must always remain on the individual's contribution to the crime or criminal purpose (see *Ezokola* at para 92). If the organization is multifaceted or heterogeneous, i.e. one that performs both legitimate and criminal acts, the link between the contribution and the criminal purpose will be more tenuous (see *Ezokola* at para 94).

In the case of a multifaceted organization such as a police force or military, there must be an assessment of whether the person significantly contributed to the crimes or criminal purpose of the group and not just to the organization itself (see *Concepcion v Canada (Citizenship and Immigration)*, 2016 FC 544 at para 17; *Talpur v Canada (Citizenship and Immigration)*, 2016 FC 822 at paras 21-22).

[32] In the case at hand, the ID found that the evidence did not readily show that the Applicant had personally or directly committed any abuses. As such, the ID identified that it was required to scrutinize the organizational link between the Applicant and the Punjab Police to determine whether he was complicit in the criminal agenda and activities of the organization. However, the Applicant submits that, in conducting this analysis, the ID erred by conflating his contribution to the legitimate law enforcement function of the police with contribution to its alleged crime or criminal purpose. The Applicant submits that the ID's s 35(1)(a) analysis therefore lacks context, is deficient, and is unreasonable.

[33] The Applicant's exposition of this argument follows the same structure as the ID's complicity analysis, considering each of the *Ezokola* factors and then the question whether the Applicant made a voluntary, significant and knowing contribution to the Punjab Police's crimes or criminal purpose. I therefore adopt the same structure in my analysis of the Applicant's argument.

- (1) Size and nature of organization

[34] The Applicant submits that the size and nature of the Punjab Police, and the fact that it fulfils a legitimate purpose, militates against finding an organizational connection to diffuse crimes against humanity in this case. Although the ID noted the Applicant's uncontradicted testimony that no such crimes occurred in his area of responsibility, it nevertheless concluded that these crimes were sufficiently widespread that he must have been aware of them. The Applicant argues that, as the evidence did not demonstrate crimes against humanity were widespread in his own stations or local police force, this analysis is unreasonable.

[35] I agree with the Respondent's position that these arguments amount to a disagreement with the ID's assessment of the evidence and do not present a basis for the Court to find the Decision unreasonable. The Decision clearly demonstrates that the ID was aware that the Punjab Police also fulfils a legitimate law enforcement purpose. The Decision also expresses the ID's understanding of the requirement to assess whether the Applicant had voluntarily made a significant and knowing contribution to the organization's crime or criminal purpose.

[36] The ID acknowledged the Applicant's evidence that he had heard of crimes being committed by the Punjab Police but that nothing of that sort had happened under his watch and in his area of responsibility. However, based on the prevalence and scale of the abuses identified in the documentary evidence, which occurred while the Applicant was part of the Punjab Police, the ID found the reasonable grounds to believe that he likely had knowledge of the organization's crime and criminal purpose and that his service and oversight contributed to that purpose. This analysis is intelligible, takes into account the documentary evidence and the Applicant's testimony, and withstands review on the reasonableness standard.

(2) Part of organization with which the Applicant was most directly concerned

[37] The Applicant submits that the ID erred in concluding that the operations unit, with which he was involved, was most likely to commit abuses because of its contact with the public. The Applicant submits that this finding was speculative, given that it was the investigations unit which conducted interrogations during which torture was alleged to have occurred.

[38] Again, I find that the Applicant's argument represents an effort to have the Court arrive at different conclusions than the ID, based on the evidence before it, which is not the Court's role in judicial review. The ID noted that, based on the operations unit's duties and responsibilities, its officers would have had day-to-day interactions with the populace. The ID therefore reasoned that these officers were likely to be involved in the perpetration of crimes against humanity, as their functions included the arrest and detention of citizens, interrogations, the operation of detention facilities, the transfer of detainees between facilities, and the ability to enter people's spaces almost unhampered. The ID concluded that these functions and related powers would have enabled such officers to subject people to unreasonable search, seizure, and corrupt practices and to inflict torture, acts of brutality, and other human rights abuses upon them.

[39] The ID therefore found that the Applicant's direct involvement with the operations unit presented a compelling indicator of his contribution to the Punjab Police's crime and criminal purpose. I find this analysis intelligible and therefore reasonable.

(3) Duties and activities within the organization

[40] The Applicant notes his testimony that he did not witness abuses by the officers that were in his stations and that he received no complaints of abuse, other than about the occasional police blockade or bribe that would not constitute a crime against humanity. The Applicant identified one circumstance in which two brothers were murdered in 2011 and the police failed to act, but he explained that he was involved in the investigation and prosecution of these officers.

[41] The Applicant argues that the ID erred in nevertheless concluding that his promotion from rank-and-file officer to supervisor presented a “weighting continuum” that pointed to his complicity. He submits that the ID ran afoul of the warning in *Ezokola* to distinguish between contributions to the legitimate purpose of an organization and its crimes or criminal purpose. He also argues that, by focusing on his work both as a low lower level officer and at a higher supervisory level, the ID’s analysis would effectively render every member of the Punjab Police inadmissible under s 35(1)(a) of the IRPA.

[42] In this portion of its analysis, the ID does not expressly state that it is assessing the Applicant’s complicity with the organization’s criminal purpose. However, reading this portion in the context of the overall Decision, it is clear that this is the question the ID is assessing. That is, the Decision does not demonstrate that the ID misunderstood the analysis it was required to conduct.

[43] The ID notes the number of arrests of which the Applicant was a part in Sialkot (approximately 500 arrests as an Assistant Sub-Inspector, followed by approximately 100 arrests between 2000 and 2005 after he was appointed a Sub-Inspector) and, after he was made a SHO,

his subsequent responsibility for all arrests that took place in his jurisdiction and were made by his officers. The ID acknowledged the Applicant's evidence that nothing abusive happened under his watch. As I interpret the Decision, the ID simply did not accept this evidence. Rather, based on the Applicant's lengthy, varied, and increasingly more senior roles with the Punjab Police, and consistent with its analysis elsewhere in the Decision, the ID reasoned that the Applicant was aware of the abuses that were widespread throughout the organization and therefore was complicit therein. I find nothing unreasonable in this analysis.

(4) Rank

[44] The Applicant takes issue with the ID's conclusion that his position as an SHO made him a particularly powerful and influential leader. He submits that this finding conflicts with the evidence that his rank is in the bottom half of the hierarchy, with seven ranks above him and only four below.

[45] In my view, the ID's finding is reasonable based on the evidence. Specifically, the ID found that the Applicant was "fairly high in the leadership hierarchy." The ID determined that seven ranks below the highest rank in the organizational chart was a relatively high rank. In concluding that he was, by all accounts, a powerful and influential leader in the Punjab Police, the ID noted not only his appointment as SHO but his assignment as SHO to numerous police stations in the Sialkot District over 12 years between 2005 and 2017, when he left for the US. There is no basis for the Court to interfere with these findings.

(5) Length of time after acquiring knowledge of crime or criminal purpose

[46] The Applicant challenges the ID's reliance on the fact that he remained with the Punjab Police for 25 years, reasoning that during that time he would have known of its widespread crimes against humanity. Again, the Applicant argues that this analysis is flawed, as the evidence does not support a conclusion that there was widespread abuse, particularly in Sialkot District and the stations of which he was in charge.

[47] The ID concluded it was reasonable to infer, from the length of time the Applicant served with the organization, the timing of his involvement with the organization, his role and placement in the organization, and the nature of his duties, that he would and should have been an obvious repository of knowledge about the organization and what was going on under its auspices. The ID again noted the Applicant's denial of ever witnessing or dealing with abuses. However, it noted his testimony that he had heard, mainly through the news, that the Punjab Police were engaged in corruption and other offences. Noting the reliable evidence of the prevalence of torture and other crimes against humanity committed by the Punjab Police during the period of the Applicant's involvement, the ID reasoned that he would have been exposed to such abuses at the different facilities at which he worked or had oversight. It therefore found that his failure to dissociate himself from the organization for approximately 25 years favoured a finding of complicity.

[48] Again, the ID's analysis is intelligible and takes into account the CCE and the Applicant's testimony. There is no basis for the Court to intervene.

(6) Method of recruitment and opportunity to leave

[49] The ID noted that the Applicant joined the Punjab Police voluntarily in 1992 and, had it not been for the threats to his life, would not have left the organization. It found that these circumstances favoured a finding of complicity in the organization's crimes and criminal purpose.

[50] In relation to this finding, the Applicant argues only that voluntarily joining and remaining with the police force would not count against him to the extent he was engaged only in its legitimate law enforcement purpose. Given the ID's conclusions as to the Applicant's knowledge of the force's crimes and criminal purpose, as canvassed above and below in these Reasons, this argument does not undermine the reasonableness of the Decision.

(7) Voluntary contribution

[51] Moving to the three-part *Ezokola* test for complicity, the ID first considered whether the Applicant made a voluntary contribution to the crime or criminal purpose of the Punjab Police. It concluded that there was compelling voluntariness inherent in his recruitment, tenure, advancement, retention, involvement, and participation in the Punjab Police, which raised the vision of a shared purpose with, and commitment to, the organization. He was not a peripheral agent, but rather a well plugged-in, stable and enduring institutional link. Based thereon, the ID held that he willingly participated in the organization's activities and thus voluntarily contributed to its crimes and criminal purpose.

[52] The Applicant submits that the ID's conclusion that he voluntarily contributed to its crimes and criminal purpose represents a failure to distinguish between the organization's

legitimate and illegitimate activities. I accept that this portion of the ID's analysis does not itself engage with this distinction. However, that was not the purpose of this portion of the analysis. This portion must be read in the context of the overall decision, including in particular its analysis and conclusions that the Applicant made a significant and knowing contribution to the crimes and criminal purpose of the Punjab Police. Against the backdrop of those conclusions, the ID found that the Applicant's contribution was a voluntary one. That finding is supported by the evidence and is reasonable.

(8) Significant contribution

[53] In challenging the ID's finding that the Applicant made a significant contribution to the crimes of the Punjab Police, the Applicant argues that the ID made this finding based merely on his lengthy membership and ascendancy in the organization, contrary to the principles in *Ezokola*. He also submits that the ID erred in finding him complicit based on the objective evidence of routine use of torture by the Punjab Police, notwithstanding a paucity of such evidence related to Sialkot, and none in relation to his stations aside from offences that he investigated and prosecuted.

[54] In this portion of the ID's analysis, it noted the guidance in *Ezokola* that a finding of significant contribution need not focus on a role in specific identifiable crimes, but may be derived from generic support for and promotion of the goals and purposes of an organization or enabling such goals to be realized (*Ezokola* at paras 87-88). The ID explained that it was not finding the Applicant complicit in relation to specific identifiable crimes. Rather, such finding flowed from his status and rank in the organization, his being in tandem with its common design,

and his commitment to the accomplishment of the organization's purpose by whatever means necessary.

[55] The ID referred to the Applicant's promotions as recognition of his having established himself as a functionally contributing employee, describing his contribution as supporting the success and expansion of the Punjab Police and its objectives. The ID reasoned that when, in fulfilment of his supervisory and management functions, the Applicant assigned tasks to officers and they made arrests under his authorization, he contributed significantly to the operation of the force and potentially to a system that allowed interrogations and torture to occur. The ID arrived at similar findings in relation to his role, and that of his officers, in transporting prisoners from the jails to the courthouses.

[56] The ID concluded this portion of its analysis by describing the Punjab Police as operating a system that was predicated on widespread torture and other abuses of human rights. Although found in the next portion of its analysis, the ID similarly stated its conclusion that, while the Punjab Police is tasked with the legitimate purpose of law enforcement, criminal investigation, and the maintenance of law and order, it is under the auspices of such mandate that it committed its crimes of torture, extrajudicial killings, and other abuses of human rights. The ID reasoned that, as the Applicant's functions were essential and critical to the continued and efficient operation of the organization's machinery, there are reasonable grounds to believe that he made a significant contribution to the organization's criminal agenda and its system of employing widespread torture.

[57] As with other portions of the Decision, the ID's analysis is intelligible and based on the evidence before it. The ID arrived at its finding notwithstanding its recognition of the Applicant's denial that, to his knowledge, the Punjab Police was engaged in crimes against humanity. This analysis is reasonable and demonstrates no reviewable error.

(9) Knowing contribution

[58] Finally, the Applicant argues that the ID erred in concluding that he made a knowing contribution to the crimes of the Punjab Police. Again, he submits that this finding is unsupported by evidence of abuses in his particular stations or local police force. He takes particular issue with the ID relying upon his denial of knowledge of such abuses as evidence that he acquiesced in or was wilfully blind or reckless to abuses that he ought have to have investigated. The Applicant argues that this reasoning is circular and therefore cannot withstand review.

[59] Similarly, in relation to the particular incidents under his jurisdiction, where the Applicant testified as to his role in investigating and prosecuting the police officers involved, he submits that it was circular for the ID to reason that these steps were incident-specific and not broad enough to curb the widespread abuse. He also argues that the ID erred by impugning his conduct with respect to incidents in which he had been accused of failing to perform his duties, because it ignored evidence related to those incidents that was supportive of the Applicant.

[60] In my view, this portion of the Decision, in which the ID assesses the Applicant's knowledge of the Punjab Police's crimes, is key to understanding the ID's reasoning. It

explained that his knowing contribution can be factually inferred from the prevalence and scale of violence, the general environment in which these acts occurred, public knowledge of the police's criminal acts, the Applicant's position in the hierarchy, his leadership role, and the significant period of time he spent in the force. In making that inference, the ID relied significantly on the Applicant's own testimony and its assessment of his credibility in giving that evidence.

[61] The ID noted the rebuttable presumption that a claimant's sworn testimony is true. However, it found that presumption rebutted in relation to the Applicant's testimony. In arriving at that finding, the ID compared the Applicant's testimony, related to his placement, postings and rank in the Punjab Police hierarchy, with his evidence related to the organization's involvement in torture and other human rights abuses. With respect to the former, the ID found his evidence to be generally spontaneous, consistent with the documentary records, and therefore credible. In contrast, he was evasive and defensive in testifying about abuses. He discounted the objective evidence without much support for his position. He also tried to justify the misconduct of officers and was generally averse to providing any information that would implicate the organization or that could be prejudicial to him personally. The ID noted that it was difficult to reconcile his testimony with the CCE.

[62] The ID preferred the CCE and described the Applicant's testimony as unpersuasive and precarious, because of its inconsistency with the objective evidence. It concluded from the CCE, including evidence of incidents in Sialkot District, that the crimes of the Punjab Police were sufficiently pervasive, and well known to the public, that they simply could not have eluded him.

In the context of that finding, the ID reasoned from the Applicant's failure to acknowledge the Punjab Police's criminal methodology and motivations that he could not have been denouncing or seeking to prevent the organization's abuses. Alternatively, the ID characterized his knowledge as recklessness or wilful blindness in relation to those abuses.

[63] As the Applicant notes, the ID based this analysis in part on his testimony about particular knowledge he did have of abuses within the organization. The ID noted his evidence that he was aware through the media of allegations of abuse, but it also referred to his assertion that some of these allegations were false. This evidence supported the ID's conclusion that the Applicant's sense of loyalty to the Punjab Police contributed to his recklessness or wilful blindness. In relation to the incidents where the Applicant testified he played a role in prosecuting abuses, the ID recognized that these particular incidents may not represent crimes against humanity. However, it reasoned that these incidents were consistent with the prevalent culture of such crimes and that his involvement therein supported the conclusion that he was aware of this culture.

[64] As the ID's analysis of the Applicant's knowledge is based not only on the evidence before it, but on its assessment of the Applicant's credibility in presenting his testimony, this is an area in which the Court should be particularly loathe to intervene. I agree with the Respondent's position that the Applicant's arguments represent an effort to have the Court reweigh the evidence before the ID and do not establish any reviewable error in the Decision.

[65] Finally, in relation to the Applicant's argument that the ID ignored evidence of support for his role in particular incidents in which his conduct was impugned, I find no basis to conclude that such evidence was ignored. Although rebuttable, the ID is presumed to have considered all the evidence before it (*Cepeda-Gutierrez v Canada (Minister of Citizenship & Immigration*, [1998] FCJ No 1425 at paras 16-17). There is no significant inconsistency between the evidence to which the Applicant refers and the ID's analysis in this portion of its Decision.

VI. Conclusion

[66] Having considered the Applicant's arguments, I find that the Decision is intelligible, supported by the evidence before the ID, and therefore reasonable. As such, this application for judicial review must be dismissed. Neither party proposed any question for certification for appeal, and none is stated.

JUDGMENT IN IMM-3082-20

THIS COURT’S JUDGMENT is that:

1. The Minister of Citizenship and Immigration is replaced with the Minister of Public Safety and Emergency Preparedness as the Respondent to this application.
2. This application for judicial review is dismissed.
3. No question is certified for appeal.

“Richard F. Southcott”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3082-20

STYLE OF CAUSE: ZULFIQAR ALI v THE MINISTER OF PUBLIC
SAFETY AND EMERGENCY PREPAREDNESS

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: JUNE 9, 2021

JUDGMENT AND REASONS: SOUTHCOTT J.

DATED: JUNE 30, 2021

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