Federal Court Cour fédérale

Date: 20210915

Docket: IMM-1482-20

Citation: 2021 FC 953

Ottawa, Ontario, September 15, 2021

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

SCOTT EGHOSA AGHIMIEN
OGHOGHO AGHIMIEN
LESLIE AIMUAMWOSA AGHIMIEN
KENDRA OGHOSA AGHIMIEN
GERALD OSARUONAME AGHIMIEN

Applicants

and

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants are a Nigerian couple with three minor children - who seek to set aside a February 10, 2020 decision of the Refugee Appeal Division (RAD). The RAD dismissed their appeal and confirmed the November 26, 2018 decision of the Refugee Protection Division (RPD)

that the Applicants were not Convention refugees or persons in need of protection pursuant to the *Immigration and Refugee Protection Act*, SC 2001 c 27 [*IRPA*] (the Decision).

[2] The RPD found that the Principal Applicant (PA) was not credible and determined that the Applicants had a viable internal flight alternative (IFA) in two different cities (IFA cities).

[3] The RAD, confirming the RPD's decision, found that the IFA was the determinative issue. After independently reviewing the record, the RAD found that the RPD did not err in its analysis that the proposed cities were viable IFAs.

[4] For the reasons that follow, this application is dismissed.

II. **Background**

[5] The Applicants claim the agent of persecution is the PA's family, in particular his uncle, who insists the PA assume the position of his deceased father as Chief Priest of the Ikhokho Shrine.

[6] The PA claims he and his family would be required to submit to certain preparatory rites that offend their religious beliefs as Christians prior to assuming this position. Those rites include his daughter submitting to female genital mutilation (FGM).

[7] The Applicants claim they were forced to move from their residence in Benin City to Warri where they resided briefly with their pastor's friend who was beaten and killed after the

agents of persecution tracked them down. The Applicants claim the matter was reported to police but it is not being actively investigated.

[8] The Applicants obtained visas and travelled to the United States in October 2017. One week later, the Applicants entered Canada where they immediately made a claim for refugee status.

III. **The Decision**

[9] The RAD considered all the evidence before the RPD and conducted an independent analysis of the complete record, including the transcript of the oral testimony of the PA and his wife, the Associate Applicant.

[10] As noted above, the RAD found the determinative issue was the existence of two viable IFA's for the Applicants. The RPD had found the same two cities were viable IFA's for the Applicants.

[11] The Applicants submitted the following new evidence to the RAD for consideration:

1. An affidavit of Pastor Victor dated January 2, 2019 with a copy of his driver's license describing the murder of another pastor on August 31, 2017;
2. The PA's father's death certificate signed November 13, 2018 and a related affidavit of the PA's uncle;
3. A letter from the Pastor Owenaze of the God's Kingdom Come Prophetic Ministry, a police report, and associated photographs; and

4. An affidavit of the Associate Applicant's cousin, Erewari Jack, sworn January 29, 2019.

[12] The RAD found the first two affidavits and their associated documents referred to events pre-dating the RPD hearing and they could reasonably have been provided earlier. The Applicants have not challenged their admissibility.

[13] The Applicants have challenged the RAD determination not to admit the letter from Pastor Owenaze and the Affidavit of Erewari Jack.

[14] More details from the Decision will follow in the ensuing analysis of the issues.

IV. **Issues and Standard of Review**

[15] The Applicant raises three issues:

1. The interpretation language used resulted in a breach of procedural fairness as the Applicants only spoke Edo, not Pidgin English and Edo.
2. The decision not to admit the letter from Pastor Owenaze and the Affidavit of Erewari Jack as new evidence was unreasonable. The Applicants say this new evidence specifically supports the first prong of the IFA test.
3. The RAD misapplied the legal test for the first prong of the IFA and erred in its assessment and analysis of the proposed IFA in Abuja. Within that, the Applicants add that the IFA finding was unreasonable and unfair because both

> the RPD and RAD relied on the revoked Jurisprudential Guide for Nigeria. The Applicants assert that on that basis alone the Decision ought to be set aside.

[16] The standard of review for issues of procedural fairness is generally referred to as correctness. However, it is now accepted that procedural fairness is not amenable to a standard of review. The task of the Court on judicial review is to determine whether the proceedings were fair to the applicant in all the circumstances. That involves determining whether the applicant knew the case to be met and had a full and fair chance to respond and be heard: *Canadian Pacific Railway Company v Canada (Attorney General*), 2018 FCA 69 at para 56.

[17] The Federal Court of Appeal has established that reasonableness is the standard of review to be applied by this Court to a decision of the RAD: *Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at paras 30, 35.

[18] Recently, the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] extensively reviewed the law of judicial review of administrative decisions. The Supreme Court confirmed that judicial review of an administrative decision is presumed to be on the standard of reasonableness, subject to certain exceptions which do not apply on these facts, and the burden is on the party challenging the decision to show it is unreasonable: *Vavilov* at paras 23 and 100.

[19] Citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraph 47 [*Dunsmuir*], it was also confirmed in *Vavilov* that a reasonable decision is one that displays justification, transparency

and intelligibility with a focus on the decision actually made, including the justification offered for it. To set a decision aside, a reviewing court must be satisfied that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency: *Vavilov* at para 100.

[20] Overall, a reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker: *Vavilov* at paras 15 and 85.

V. **The Interpretation was not procedurally unfair**

[21] The hearing was, at the request of the Applicants, conducted in English with an interpreter who spoke Edo and Pidgin English.

[22] In one line in their Reply memo, the Applicants allege there was a breach of procedural fairness caused by the interpretation. They allege the interpretation was in Edo only and not Edo and Pidgin English as stated by the interpreter to the RPD.

[23] The Applicants say they do not speak Pidgin English, only Edo, so this issue is important in reference to their ability to live in either of the IFA cities.

[24] The Applicants also say the RAD should have listened to the audio recording rather than rely solely on the transcript of the hearing.

[25] The Respondent states the Applicants did not submit any evidence in their written materials to support the allegation that the hearing was in Edo only, and not Edo and Pidgin English. The Respondent also says that minor typographical errors, such as showing the word "Edo" as "Urdu" were not material to the outcome.

[26] A review of the transcript indicates that the RPD confirmed the Applicants and the interpreter were able to understand each other at the outset of the hearing. The transcript also shows the Applicants responded to questions from the RPD without waiting for interpretation of the question, some of which were lengthy. The transcript does not reveal that there was any indication of difficulty due to the language used in the interpretation.

[27] The Applicants have not submitted any evidence to support their allegation that the translation was procedurally unfair. There is no affidavit from an independent translator, or anyone else, attesting to the language used or the quality of the translation.

[28] No contemporaneous complaint about the translation was raised at or after the hearing until it appears in the Applicants' Reply memo. I do not accept that, without more than a bald assertion, either the RAD or this Court is required to listen to the audio recording of the hearing to determine whether the translation is as described in the transcript.

[29] On the evidence in the record, as outlined above, I am unable to find that the interpretation requested and received by the Applicants was procedurally unfair to them.

VI. **The decision not to admit the Pastor's letter and affidavit was reasonable**

[30] My task is to determine whether the RAD's treatment of the new evidence was reasonable. I begin by noting that a reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *Vavilov* at para 125.

[31] The legislation governing the admittance of new evidence to the RAD is found in subsection 110(4) of the *IRPA*:

Evidence that may be presented	**Éléments de preuve admissibles**
(4) On appeal, the person who is the subject of the appeal may present only evidence that arose after the rejection of their claim or that was not reasonably available, or that the person could not reasonably have been expected in the circumstances to have presented, at the time of the rejection.	(4) Dans le cadre de l'appel, la personne en cause ne peut présenter que des éléments de preuve survenus depuis le rejet de sa demande ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'elle n'aurait pas normalement présentés, dans les circonstances, au moment du rejet.

[32] The Pastor's letter was accompanied by a police report and photographs. The police report described an incident where the agents of persecution allegedly attended a church in Benin City, assaulted congregants and damaged the Pastor's vehicle.

[33] The RAD found that this evidence met the requirements of s.110(4) as the incident took place after the Applicants' claim was rejected by the RPD.

[34] Regarding the letter from the Pastor, the Applicants submit that the RAD microscopically examined it and nitpicked the words it used. They say the RAD focussed on minor typos and details rather than the substance of the evidence.

[35] For example, the RAD was said to have focussed on the word “destroy” which was used in the Pastor’s letter. The Applicants say that not only was this “microscopic”, it “applied a western paradigm” and that people perceive things differently. They state that the letter described how events were perceived by the person writing the letter, in this case, the Pastor.

[36] The Applicants also state that the RAD erred in finding that the Pastor’s letter and the police report were not relevant because the event did not occur in a proposed IFA. They submit that finding goes against settled law that an applicant does not need to test the proposed IFA before rebutting it.

[37] The Respondent notes that the events described by the Pastor occurred in Benin City and therefore, it was reasonable for the RAD to note the letter was of limited relevance to the IFA determination.

[38] The Respondent also submits that it was open to the RAD to note that the letter overstated the damage to the car by saying that it was destroyed.

[39] The RAD noted that the police report and photos were submitted as a package with the Pastor’s letter and they appeared to be intended as corroboration for the events described in the

letter. The photographs however failed to demonstrate a degree of destruction to the point of the car being destroyed. The RAD also found that while the letter referred to injuries to “members” and referred to “some of them”, the one clear photograph did not show any notable damage to the car.

[40] Even if the Applicants’ argument that the term “destroyed” should not be taken literally were to be accepted, the photograph showed only one person.

[41] There was no evidence before the RAD that the agents of persecution have the means or motivation to find the Applicants in either of the IFA cities. I find that the suggestion by the Applicants that the RAD wanted them to “test” the proposed IFA is without any foundation. It is entirely reasonable to find that the allegation of specific events of risk in Benin City cannot portend future events in Abuja or Port Harcourt without more foundation to support that assertion. No such foundation was presented to the RAD.

[42] Given the foregoing, it was reasonable for the RAD to conclude that the inconsistencies in the package of documents including the Pastor’s letter meant the police report and photographs failed to support the claims made in the letter.

[43] The RAD ultimately found that the package of the Pastor’s letter, the police report and the photographs were not credible nor did it address the proposed IFA cities. As such, it was not admissible.

VII. <u>The decision not to admit the Affidavit of Erewari Jack was reasonable</u>

[44] The RAD found this Affidavit was new evidence under subsection 110(4) of the *IRPA* because it addressed an incident that occurred after the Applicants' appeal had been perfected. It then considered whether the evidence was also credible and relevant.

[45] The affiant states that the agent of persecution attended at her residence in Port Harcourt demanding to know the Applicants' whereabouts, assaulted her, and threatened that she would be punished if she did not disclose the Applicants' location.

[46] The RAD found that the substance of the affidavit was that the affiant, a cousin of the Associate Appellant before the RAD, had been threatened. It referred to "some people" threatening her and stated that the primary agent of persecution identified himself by name and relationship to the Applicant. The RAD noted that the affidavit did not state the nature of the threat, who uttered it or the actual words spoken. It only said "they threatened me".

[47] Regarding the allegation that the affiant was assaulted, the RAD noted that she self-reported a physical assault but did not say who assaulted her. The affiant also did not indicate whether she was injured by the assault or required any medical attention.

[48] The RAD concluded that the affidavit "is almost devoid of details about the nature of the threats, the perpetrator(s) and the manner of the assault and injury, if any. It is self-reported and fails to indicate whether the matter was reported to police."

[49] Credibility is a combination of several factors including the ability to describe clearly what was seen and heard: *Hassan v Canada (Citizenship and Immigration)*, 2010 FC 1136 at para 12 citing *Faryna v Chorny*, [1951] BCJ No 152 at para 10.

[50] It is not applying western logic or microscopic analysis to seek basic details regarding who made threats against the affiant, the nature of the threats, who committed the assault, whether she was injured as a result, and whether the matter was reported to police. While not all of these details may be required for the affidavit to be considered credible, the lack of details reasonably brings its credibility into question.

[51] The RAD went on to physically examine the affidavit using the objective documentary evidence reporting on the requirements and procedures for issuing affidavits.

[52] During the physical examination, the RAD noted that the "wet seal", which is applied at the time the affidavit is signed by a notary, had clearly been applied before the document was dated and signed. This conclusion was driven by the fact that the RAD observed the date and commissioner's signature were written in ink over the seal. That caused the RAD to have concerns as to the credibility of the affidavit as it undermined the integrity of the seal. After noting a statement in the National Documentation Package (NDP) that "fraudulent affidavits are widely available" in Nigeria, the RAD found the affidavit was not credible.

[53] The Applicants submit that once again the RAD applied "Canadian logic" and conducted a microscopic review of the evidence in rejecting the affidavit. They say the security features

were on the affidavit and complied with the requirements of the NDP. They submit that some reason is needed to question the absence of security features and rebut the presumption that government issued documents are valid.

[54] The Applicants state there is no universal way to commission an affidavit and the RAD's conclusion was troubling as they accused the Applicants of engaging in fraudulent activities. The Applicants cite *Cheema v Canada (Citizenship and Immigration)* 2004 FC 224 (*Cheema*) at paragraph 7 which held that evidence of widespread forgery is not, on its own, sufficient to reject a document as a forgery to support their argument that the RAD erred in determining the affidavit was not credible.

[55] The RAD did not find that the affidavit was fraudulent. Rather, the Decision, by noting evidence of widespread forgery, merely demonstrated that false documentation could be available to the Applicants as stated in *Cheema*.

[56] Contrary to the Applicants' submission, the RAD did not rely on the evidence of widespread forgery in Nigeria on its own to doubt the authenticity of the document. The RAD properly consulted the NDP and assessed the security features of the specific document in question to note that the wet seal appears to have been applied before the document was signed. I find that it was reasonable and within the range of possible, acceptable outcomes, for the RAD to find that a wet seal found under, as opposed to placed over, the recording of the date and signature meant the affidavit was not credible.

[57] The RAD did not err in finding there was a viable IFA in Abuja and Port Harcourt

A. *Principles applicable to an IFA*

[58] In considering the viability of an IFA in Abuja or Port Harcourt, the RAD identified and applied the two-pronged test set out in *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (FCA).

[59] The first prong requires the Applicants to prove that there is a serious possibility of being persecuted in the IFA. In other words, the onus is on the Applicants to show they will be persecuted; it is not up to the Respondent to show they will not be persecuted.

[60] The second prong requires that the Applicants show they could not reasonably seek refuge in the IFA location when considering all the circumstances including those particular to them.

[61] To succeed in proving that a proposed IFA is not viable, an applicant must persuade the decision-maker, in this case the RAD, that at least one prong of the two-prong test is not made out*: Aigbe v Canada,* 2020 FC 895 at para 9.

[62] An applicant must meet a very high threshold to prove the unreasonableness of an IFA. To do so requires actual and concrete evidence proving that there are conditions that would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area:

Ranganathan v Canada (Minister of Citizenship and Immigration), [2001] 2 FC 164 (FCA) at para 15 (*Ranganathan*).

[63] The RAD set out the appropriate law and correctly identified the burden of proof faced by the Applicants to show that they would have a well founded fear of persecution in a proposed IFA or that they could not reasonably seek refuge in a proposed IFA.

[64] In their appeal to the RAD, the Applicants argued that the RPD had unreasonably and unfairly applied the guidelines in the Nigerian Jurisprudential Guide (Nigerian JG).

B. *The First Prong of the IFA test: arguments and analysis*

[65] The Applicants argue that both the RAD and RPD committed an error of law and fact when they based their conclusion on inconclusive evidence in NDP to find the Applicants were not credible and that the allegations did not occur. They say the test is not whether the allegation exists, but whether they would face serious persecution in the IFAs.

[66] The inconclusive evidence is said to be commentary in the NDP by four academics who had studied the issue of the refusal of people to take up the position of chief priest of a village. Three of the scholars stated they had never heard of the priesthood being forced on anyone in Nigeria.

[67] The Applicants' answer is that it does not mean it does not happen.

[68] The RAD acknowledged that one of the academics indicated it would be a big problem, inviting "divine wrath", if someone refused to take the inherited role.

[69] The Applicants submit that it was unreasonable for the RAD to have rejected the opinion of the fourth scholar on the ground that they did not offer any evidence. The Applicants also argued the information in the NDP was outdated.

[70] The RAD determined that it must weigh the objective country evidence. In doing so the RAD found that, in the main, where the objective evidence conflicted with the Applicants' allegations, the objective evidence that the role of Chief Priest can be refused without fear of sanction or persecution was preferred.

[71] I am not persuaded that such a determination by the RAD was unreasonable.

[72] Even if it is accepted that refusing the Chief Priest position may give rise to fear of persecution, there was no credible evidence put forward that the agents of persecution had the means or inclination to pursue the applicants to the IFAs. That is not the same as requiring an IFA to be tested – the Applicants have the burden of showing that an IFA is not viable because they may face a serious possibility of harm even after relocation.

[73] The implausibility of the Applicants' narrative regarding the alleged death of a pastor who had offered them sanctuary when they first left Benin City reasonably detracted from the PA's credibility and the credibility of the claim as a whole.

[74] Contrary to what the Applicants allege, when three out of four scholars agree on a point, it is not inconclusive just because a fourth scholar disagrees. The role of the RAD includes being familiar with country condition documents. The RAD is charged with making factual determinations which, as stated at the outset of these reasons, is acknowledged to be something with which a reviewing court does not lightly interfere: *Vavilov* at para 125.

[75] The Applicants also return at this point to the issue of the interpretation at the RPD hearing. They say that they only speak Edo and they do not speak English or Pidgin English. Therefore, it would be difficult for them to live in either of the two IFA cities. As this issue has already been determined by reference to comments made at the RPD hearing and a review of the transcript of that hearing showing the Applicants were able to follow and answer questions in English, it need not be considered again in terms of the IFA.

[76] The Applicants initially moved from Benin City to Warri. The RAD found contradictions in their testimony that the alleged persecutors tracked them to Warri and killed a pastor who offered them sanctuary there.

[77] The Applicant’s timeline of events concerning the alleged death of the pastor is inconsistent with the details in the police report. The discrepancy is that based on the Applicants’ statements, the police report appears to have been made before the assault of the pastor. Although the Applicants put forward various arguments as to why this is an unreasonable conclusion - such as the distance was not known, whether a car was being driven or what kind of

car was speculative and no one knew the speed limit none of that is relevant to the fact that the Applicants own timeline of events does not match up with the time in the police report.

[78] I agree with the RAD's conclusion that the Applicants' story on this point was not credible and they failed to establish that there was a serious risk of harm in the two IFA cities.

C. *Revocation of the Nigerian Jurisprudential Guide*

[79] The other main issue raised by the Applicants under the first prong of the IFA test is that the RAD relied on the revoked Nigerian Jurisprudential Guide (Nigerian JG). The Applicants argue that as it was revoked, they ought to benefit from that but they did not as the Decision confirmed the Nigerian JG.

[80] The Nigerian JG was revoked as of April 6, 2020. The stated reason was that developments in Nigeria, including those in relation to the ability of single women to relocate to the various internal flight alternatives proposed in the Nigerian JG, had diminished the value of the decision as a jurisprudential guide.

[81] The Notice of Revocation stated that the framework of analysis of the revoked guide would be identified going forward as a RAD Reasons of Interest decision. The Notice also stated that members of the RAD are able to use the analytical framework of the revoked guide in assessing the facts of each case as well as the most current country of origin information. The analytical framework includes the legal test for identifying a viable IFA as well as seven factors to be considered.

[82] The RAD addressed the Nigerian JG this way at paragraphs 35 and 36 of the Decision:

> [35] While it is true that the JG considered the case of a single woman and this case involves a family unit, it is the view of the RAD and the RAD finds that the Nigerian JG is properly applied when considering IFAs in south and central Nigeria (including the cities of Port Harcourt and Abuja) where claimants fear non-state agents of persecution. This finding is subject, of course, to the proviso coming out of both the Nigerian JG itself and the case law that the particular facts and circumstances of the refugee claimant's case must be applied to the broader principles set out in the Nigerian JG. The RAD also notes that the RPD Member clearly indicated that she was "guided" by the Nigerian JG. For reasons which follow, the RAD finds that the RPD Panel did not err in its application of the Nigerian JG, nor was it unfairly or unreasonably applied.
>
> [36] As indicated, the Nigerian JG is referenced as a "general framework" to assessing IFAs in major cities in south and central Nigeria for refugee claimants fleeing non-state agents of persecution. The use of JGs has come under the scrutiny of the courts in the context of whether such guides unlawfully fetter the decision-making ability of IRB members. In *Canadian Association of Refugee Lawyers v Canada,* the Federal Court had occasion to comment upon the existence and application of JGs. In the CARL decision, the Federal Court of Appeal stated as follows:
>
> > "There does not appear to be any dispute between the parties as to whether the Chairperson may issue JGs with respect to issues of law and issues of mixed fact and law, and then impose an expectation that findings on such issues will be applied in cases of similar facts, unless a reasoned justification is provided for not doing so."

[83] The RAD went on to note that there were factual differences between the Nigerian JG and those of the Applicants. The RAD identified family status, occupation and different agents of persecution as examples of those differences.

[84] The RAD clearly shows awareness of the limits of the Nigerian JG and the proper way to employ it in cases involving Nigeria and IFAs therein.

[85] The Applicants point out that the RPD and the RAD each referred to the Nigerian JG. They say the Nigerian JG was “totally applied” in this case and had it not been available, the Decision would have been different. It was revoked because the country conditions had changed and the Applicants state they should benefit from that. They add that because the Nigerian JG was before the RAD, it relied heavily on the factual findings that formed the basis for its revocation and it influenced the RAD.

[86] The Applicants add that since the Nigerian JG has been revoked, it is no longer relevant and credible. As the RAD followed the reasoning in the Nigerian JG to find the Applicants had IFAs in Port Harcourt and Abuja, the analysis of the RAD cannot stand and the Decision is unreasonable.

[87] Though the Decision was written before the revocation of the Nigerian JG on April 6, 2020, this Court has the jurisdiction to consider whether the Applicants have demonstrated that the RAD was unduly influenced by the Nigerian JG and failed to make its own independent determinations: *Liu v Canada (Citizenship and Immigration),* 2020 FC 576 at para 58.

[88] The RAD addressed the Applicants’ arguments that the RPD erred in unfairly and unreasonably applying the Nigerian JG. The RAD recognized that the particular facts and

circumstances of a claimant's case must be applied to the broader principles of the Nigerian JG, which serve as a general framework.

[89] As noted above, the RAD went on to acknowledge the factual differences between the Nigerian JG and the present matter before applying the IFA test. The Applicants have not demonstrated that the Nigerian JG was unduly relied upon – the Decision's analysis appropriately applied the IFA test framework to the specific circumstances of the Applicants, not the circumstances of the applicants in the Nigerian JG.

D. *The Second Prong of the IFA test: arguments and analysis*

[90] I note again that the threshold for this prong of the IFA test is very high. It requires nothing less than the existence of conditions, which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area. In addition, it requires actual and concrete evidence of such conditions: *Ranganathan* at para 15.

[91] In considering whether it would be unreasonable for the Applicants to reside in either Port Harcourt or Abuja, the RAD fully considered the Applicants' profiles including that: a) they speak Pidgin English; b) the father has above average education; c) Christians form 50% of Nigeria's population; and d) indigeneship is not considered a significant barrier to relocating to major urban centres based on the NDP.

[92] Whether or not the Applicants spoke English or Pidgin English, the record supports the conclusion that they spoke some form of English, which was adequate to understand the RPD

and participate in the hearing without necessarily waiting for the translation to occur. In fact, they had to be warned by the RPD to wait for it. Given that the RAD found as a fact that the Applicants speak Pidgin English, I defer to that finding as there is no reason to disagree with it.

[93] The Applicants argue the PA's education, which was secondary school, was not average at the time of the RAD decision and it would not help him to find employment in the IFA cities. They also raise the RAD's reliance on the Nigerian JG and that it stated the average education in Nigeria was secondary school.

[94] The RAD's statement that the PA has above average education was based on the NDP, his experience in Benin City and the specific facts of his case. The Applicants now criticize the RAD's assessment by saying the RAD did not provide any evidence as to how a high school education would allow the PA to obtain a well-paying job. I find that this is an attempt to reverse the onus and place it on the RAD rather than provide their own evidence to meet their onus.

[95] In terms of indigeneship, the Applicants state they fear discrimination in the two IFAs because they are not from either city. They note that the NDP states that internal moves can be difficult for non-indigenes due to language, religious and cultural differences. Most non-natives who thrive are either oil workers or allied to oil servicing companies.

[96] While the Applicants allege that connections with politicians or elites are required to be selected for a job, the NDP item they cite indicates education plays a big role in accessing employment in the big cities though social or political connections "may also help".

[97] The RAD's assessment of the viability of the IFA's is supported by their geographic size and population, the PA's above average education when compared to the Nigerian male population as stated in the NDP, the evidence in the NDP that non-indigeneship is not a significant barrier in major urban centres such as the IFAs when looking for a job or owning land, and the fact that approximately half of Nigeria's population is Christian. The Applicants' claim that Christians are often targeted in Abuja is not supported by the NDP, which merely states Christians face an elevated threat in Abuja comparative to Lagos. It is silent on other cities and the general degree of danger Christians may face in Nigeria.

[98] Considering the foregoing, I find that the RAD reasonably determined the Applicants' circumstances did not rise to the level of objective unreasonableness under the second prong of the IFA test.

VIII. **Conclusion**

[99] I am satisfied that the RAD reasonably considered the evidence before it and conducted a thoughtful review of both the evidence and the law. The RAD evaluated the viability of the IFAs by considering factors including transportation, language, education, indigeneship, and religion.

[100] I have considered the RAD's reasoning process and the resulting outcomes. I find, the RAD reasonably concluded that the Applicants had failed to discharge their burden to show it was unreasonable for them to relocate to either IFA city.

[101] Applying the principles and parameters established in *Vavilov*, I find that the Decision as a whole and the process the RAD followed with respect to the availability of the two IFA cities was reasonable.

[102] This application is dismissed and there is no serious question for certification.

JUDGMENT in IMM-1482-20

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.

2. There is no question for certification.

"E. Susan Elliott"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1482-20
STYLE OF CAUSE:	SCOTT EGHOSA AGHIMIEN, OGHOGHO AGHIMIEN, LESLIE AIMUAMWOSA AGHIMIEN, KENDRA OGHOSA AGHIMIEN, GERALD OSARUONAME AGHIMIEN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION CANADA
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	MARCH 23, 2021
JUDGMENT AND REASONS:	ELLIOTT J.
DATED:	SEPTEMBER 15, 2021

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