Federal Court  Cour fédérale

Date: 20220713

Docket: IMM-4005-21

Citation: 2022 FC 1035

Ottawa, Ontario, July 13, 2022

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

OYEWOLE ABAYOMI OWORU
EUNICE OLUWAKEMI OWORU

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Oyewole Abayomi Oworu ("Principal Applicant") and Eunice Oluwakemi Oworu ("Associate Applicant"), seek judicial review of a decision of the Refugee Appeal Division ("RAD"), dated May 21, 2021. The RAD's decision confirmed the Refugee Protection Division ("RPD")'s finding that the Principal Applicant is excluded from refugee

protection pursuant to section 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*") and Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees,* 189 U.N.T.S. 150 (the "*Refugee Convention*"). The RAD also confirmed the RPD's determination that the Associate Applicant has a viable internal flight alternative ("IFA") in Abuja, Nigeria and is therefore neither a Convention refugee nor a person in need of protection under sections 96 and 97(1) of the *IRPA.*

[2] The Applicants fear persecution in Nigeria at the hands of the Niger Delta militant group because of the Principal Applicant's participation in a community vigilante group named the Community Development Association (the "CDA"). In his role as the deputy leader of the CDA, the Principal Applicant provided intelligence on the activities of Niger Delta militants to the Special Anti-Robbery Squad (the "SARS") of the Nigerian Police Force (the "NPF").

[3] The Applicants submit that the RAD erred in finding that the Principal Applicant is excluded under Article 1F(a) of the *Refugee Convention* and erred in its assessment of the availability of an IFA for the Associate Applicant.

[4] For the reasons that follow, I find that the RAD's decision is reasonable. This application for judicial review is dismissed.

II. **Facts**

A. *The Applicants*

[5] The Applicants are citizens of Nigeria. They are from Ishawo, Ikorodu in the North-East part of Lagos State. Beginning in 2015, Niger Delta militants began attacking communities in the Ikorodu region. The Principal Applicant joined the CDA and became its deputy leader. In his role with the CDA, he coordinated the collection and provision of information on the activities of Niger Delta militants to the SARS of the NPF. The information provided to the SARS included routes and locations of the militants, which the Principal Applicant provided "virtually every week". This information led to the killing of two militants and the arrest of others in mid-2015.

[6] The Applicants allege that on April 9, 2016, militants attacked members of their community, including members of the CDA. On June 24, 2016, militants killed over 35 community members, most of whom were members of the CDA and their families. They claim that on the night of July 26, 2016, militants kidnapped over 50 people, and killed nine community leaders. The Principal Applicant and his family were able to escape their home and the Applicants decided to leave Nigeria. They arrived in the US on January 27, 2017.

[7] The Applicants state that on April 10, 2017, militants killed members of the CDA, including the president. The Principal Applicant fears that he will be the militants' next target. The Applicants entered Canada and made a claim for refugee protection on December 28, 2017.

B. *The RPD Decision*

[8] In a decision dated October 21, 2020, the RPD found that the Principal Applicant was excluded under Article 1F(a) of the *Refugee Convention* based on his complicity in the crimes

against humanity committed by the SARS and the NPF. The RPD also determined that the Associate Applicant has a viable IFA in Abuja, Nigeria.

[9] The Minister intervened before the RPD for the purpose of the Principal Applicant's exclusion under section 1F(a) of the *Refugee Convention.* The Minister submitted that the documentary evidence shows that the SARS has committed crimes against humanity, including summary execution and torture. The Minister took the position that the Principal Applicant was complicit in the crimes by aiding and abetting the SARS and NPF through the provision of information that led to the killing of Niger Delta militants.

[10] In examining the possibility of exclusion under Article 1F of the *Refugee Convention,* the RPD first considered whether the NPF and the SARS had committed crimes against humanity. The RPD found the evidence demonstrates that the use of torture and other ill-treatment by the NPF is widespread and systematic, and that killings by members of the NPF occur frequently across Nigeria and often go uninvestigated and unpunished. Specifically, the RPD found that the evidence establishes that the SARS – a specialized unit of the NPF created to fight violent crimes – committed crimes against humanity as defined by international instruments, and engaged in systematic attacks against the civilian population, as well as identifiable groups of persons.

[11] The Applicants argued before the RPD that terrorist organizations such as the Niger Delta militant groups are not considered civilians (*Bamlaku v Canada* (*Minister of Citizenship and Immigration),* 1998 CanLII 7252 (FC) ("*Bamlaku*"). Therefore, actions against such groups do not fall under the definition of crimes against humanity in *Mugesera v Canada (Minister of*

Citizenship and Immigration), 2005 SCC 40 ("*Mugesera*"). The RPD found that *Mugesera* does not limit the definition of crimes against humanity to victims belonging to the civilian population, as the Supreme Court of Canada specifies that an attack may be "directed against any civilian population or any identifiable group" (at para 128). The RPD found that the definition extends to crimes against humanity committed against Niger Delta militants.

[12] Subsequently, the RPD considered whether the Principal Applicant participated in the SARS' criminal acts by complicity, or through his actions or inactions (*Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 ("*Ezokola*") at para 8). The RPD acknowledged that persons are not to be excluded under Article 1F merely because of their association with others who have committed international crimes. The RPD reviewed the factors outlined by the Supreme Court in *Ezokola* to establish whether a person has been complicit in crimes pursuant to Article 1F of the *Refugee Convention* (at para 91).

[13] First, the RPD found that the Principal Applicant's contribution to crimes against humanity was voluntary: He was a willing participant of the CDA, became its deputy leader, and was not under duress while fulfilling his role in the CDA. He also played an active role in providing the SARS with information that resulted in the deaths of militants. In light of the documentary evidence, it is likely that the SARS committed extra-judicial killings during their attacks against the militants. The RPD stated that while it is reasonable to expect individuals to seek assistance from the authorities when their community is in distress, the Principal Applicant was not personally facing an immediate threat from Niger Delta militants when he began

assisting the SARS. Rather, according to his narrative, militants began targeting CDA members because of their role in providing information to the SARS.

[14] Next, the RPD found that there are serious reasons to consider that the Principal Applicant knowingly contributed to crimes against humanity. While the Principal Applicant states he did not have first-had knowledge of the crimes committed by the NPF and SARS, the international instruments and case law do not require a person who is complicit to have directly witnessed crimes against humanity. It is sufficient for a person to know of the crimes or the criminal purpose of these organizations. Through his testimony, the Principal Applicant indicated that he was aware of certain crimes committed by the NPF and the SARS. The RPD concluded that the Principal Applicant was aware that the SARS committed crimes against humanity and that his actions contributed to such crimes.

[15] Finally, the RPD determined that the Principal Applicant's contribution to crimes against humanity was significant. The Principal Applicant released information to the SARS on an almost weekly basis, including information about the militants' routes and locations. This information led to the killing of two militants and the arrest of others by the SARS.

[16] With respect to the Associate Applicant's claim, the RPD found that the Associate Applicant has a viable IFA in the city of Abuja. In applying the two-pronged IFA test, the RPD first determined that the Associate Applicant failed to demonstrate that she has a well-founded fear of persecution in Abuja. While the Principal Applicant stated that the militants would look for him, the RPD found that the Applicants failed to establish that the militants would be able to

find them in Abuja. The Principal Applicant further stated that he would be at risk because the authorities had told him that he would be required to testify if cases against the militants went to court. However, the Applicants provided no evidence of formal charges against the militants, or evidence that they were threatened in light of an eventual trial.

[17] Second, the RPD found that it would not be unreasonable for the Associate Applicant to relocate to Abuja. The Applicants would be able to meet their basic needs and overcome the linguistic challenges in Abuja, and the Associate Applicant had not established that relocation to Abuja would place her life or safety in jeopardy. Accordingly, the RPD concluded that the Associate Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97(1) of the *IRPA*.

C. *Decision Under Review*

[18] The Applicants appealed the RPD's decision to the RAD. In a decision dated February 26, 2021, the RAD dismissed the Applicants' appeal. In confirming the RPD's finding that the Principal Applicant is excluded under Article 1F(a) of the *Refugee Convention*, the RAD made the following findings:

- The RPD was correct to find that the evidence establishes that the NPF and the SARS have committed crimes against humanity. These crimes were part of a widespread and systematic attack against the Nigerian population at large, and not only the Niger Delta militants. It is therefore not necessary to consider the issue

raised by the Applicants regarding whether attacks solely against terrorists can be considered crimes against humanity per *Mugesera*.

- The RPD correctly found that the Principal Applicant's association with the SARS was voluntary since he willingly became the deputy leader of the CDA. The Principal Applicant did not have a moral duty to collect intelligence over several months and actively collaborate with the SARS, nor was he coerced or compelled by the SARS to do so. The Principal Applicant's actions are also not subject to the defence of duress, as they are not sufficiently linked to his broad security concerns about the presence of militants in his community.

- Since the criminal purpose of the NPF and the SARS is a routine practice, it is not necessary to establish that the organization has a solely criminal purpose. The possibility of an organization having both legitimate and criminal purposes was specifically acknowledged in *Ezokola* (at para 94). In this case, while there is a competing purpose of carrying out legitimate law enforcement activities, the NPF and the SARS have a concurrent criminal purpose: the enrichment of police officers through bribery and extortion, and state control of citizens through methods involving human rights violations including torture.

- The RPD was correct to find that the Principal Applicant knowingly contributed to the SARS' crimes. The Principal Applicant testified that he knew that the NPF and the SARS commit human rights abuses in the administration of their duties, such as torture and killings without reason. As such, he had subjective awareness that the

information he provided to the SARS would result in consequences of human rights violations for the suspects identified.

- The RPD was correct to find that the Principal Applicant's contribution to the SARS' crimes was significant.

[19] The RAD also confirmed the RPD's finding that a viable IFA exists for the Associate Applicant in Abuja. On the first prong of the test established in *Rasaratnam v Canada (Minister of Employment and Immigration),* [1992] 1 FC 706 (FCA) ("*Rasaratnam*"), the RAD found that the Applicants failed to establish a serious possibility that their persecutors have the means and motivation to find them in Abuja. The RAD agreed with the RPD that the Applicants' fears of retaliation from the militants are speculative. On the second prong of the test, the RAD found that the RPD correctly concluded that it would not be unreasonable for the Associate Applicant to relocate to Abuja. The Associate Applicant had not established that she would face undue hardship in Abuja, and the Applicants' profiles weigh in favour of their ability to find employment in Abuja.

III. **Issues and Standard of Review**

[20] The issue in this application for judicial review is whether the RAD's decision is reasonable, and in particular:

A. *Whether the RAD erred in finding that the Principal Applicant is excluded under article 1F(a) of the Refugee Convention, and*

B. *Whether the RAD erred in its assessment of an IFA.*

[21] The applicable standard of review in evaluating the RAD's decision is reasonableness (*Adelani v Canada (Citizenship and Immigration),* 2021 FC 23 at paras 13-15; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("*Vavilov*") at paras 10, 16-17).

[22] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). 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 para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[23] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36).

IV. **Analysis**

A. *Exclusion under Article 1F(a) of the Refugee Convention*

[24] Section 98 of the *IRPA* excludes a person from refugee protection in Canada if they fall under the definition of Article 1F(a) of the *Refugee Convention.* Article 1F(a) of the *Refugee Convention*, which is incorporated as a Schedule to the *IRPA,* makes the refugee protection provisions inapplicable where there are serious reasons to believe that a person has committed crimes against humanity. It states:

F The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:	**F** Les dispositions de cette Convention ne seront pas applicables aux personnes dont on aura des raisons sérieuses de penser :
(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;	**a)** Qu'elles ont commis un crime contre la paix, un crime de guerre ou un crime contre l'humanité, au sens des instruments internationaux élaborés pour prévoir des dispositions relatives à ces crimes;

[25] Subsection 6(3) of the *Crimes Against Humanity and War Crimes Act,* SC 2000, c 24, defines a crime against humanity in the following way:

Definitions	Définitions
	(3) Les définitions qui suivent s'appliquent au présent article.

(3) The definitions in this subsection apply in this section.

crime against humanity means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (*crime contre l'humanité*)

crime contre l'humanité Meurtre, extermination, réduction en esclavage, déportation, emprisonnement, torture, violence sexuelle, persécution ou autre fait — acte ou omission — inhumain, d'une part, commis contre une population civile ou un groupe identifiable de personnes et, d'autre part, qui constitue, au moment et au lieu de la perpétration, un crime contre l'humanité selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (*crime against humanity*)

[26] In *Ezokola,* the Supreme Court refined the Canadian test for "complicity" in international crimes. At paragraphs 84 and 85, the Supreme Court notes:

> [84] In light of the foregoing reasons, it has become necessary to clarify the test for complicity under art. 1F(a). To exclude a claimant from the definition of "refugee" by virtue of art. 1F(a), there must be serious reasons for considering that the claimant has voluntarily made a significant and knowing contribution to the organization's crime or criminal purpose.
>
> [85] We will address these key components of the contribution-based test for complicity in turn. In our view, they ensure that decision makers do not overextend the concept of complicity to

> capture individuals based on mere association or passive acquiescence.

[27] Paragraph 91 of *Ezokola* sets out six factors to assist in the determination of whether there are serious reasons for considering that an individual has committed international crimes:

> […] The following list combines the factors considered by courts in Canada and the U.K., as well as by the ICC. It should serve as a guide in assessing whether an individual has voluntarily made a significant and knowing contribution to a crime or criminal purpose:
>
> (i) the size and nature of the organization;
>
> (ii) the part of the organization with which the refugee claimant was most directly concerned;
>
> (iii) the refugee claimant's duties and activities within the organization;
>
> (iv) the refugee claimant's position or rank in the organization;
>
> (v) the length of time the refugee claimant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose; and
>
> (vi) the method by which the refugee claimant was recruited and the refugee claimant's opportunity to leave the organization. […]

[28] The test in *Ezokola* is meant to guard against an analysis of complicity that would exclude an individual from refugee protection "on the basis of mere membership or failure to dissociate from a multifaceted organization which is committing war crimes" (at para 74). The standard of proof to establish exclusion under Article 1F(a) of the *Refugee Convention* is "serious reasons for considering" – which is equivalent to the "reasonable grounds to believe"

standard and requires something more than mere suspicion, but less than proof on the balance of probabilities (*Mugesera* para 114).

[29] With respect to the RAD's finding that the NPF and the SARS have committed crimes against humanity, the Applicants submit that the RAD failed to consider their submission that the Niger Delta militants cannot be considered civilians. Therefore, in accordance with this Court's decision in *Bamlaku,* which *Mugesera* did not explicitly overrule, crimes against humanity could not have been committed against them. Given that the Principal Applicant is allegedly complicit in crimes against the Niger Delta militants, the RAD was thus required to consider whether the definition and exclusion discussed in *Bamlaku* applied in his case.

[30] The Applicants also submit that the RAD made an unreasonable finding in determining that the Principal Applicant made voluntary contributions to the crimes against humanity committed by the SARS. The Applicants argue that the RAD's decision misconstrued their evidence that the Principal Applicant had a civic duty to report the nefarious activities of the militants to the SARS, who could assist in curtailing the threats posed by the militants. The Applicants argue that the RAD ought to have considered the common law defence of necessity in this case (citing *Perka v The Queen,* 1984 CanLII 23 (SCC) at p 252). The Principal Applicant faced a life-threatening situation and acted under compulsion and by necessity to defend himself, his family, and his community from militant attacks.

[31] Furthermore, the Applicants argue that the evidence does not support the RAD's finding that the SARS and NPF had an overall criminal purpose – but only that they have 'renegade'

elements that commit crimes characterized as crimes against humanity. The evidence also does not establish that the Principal Applicant had knowledge of or intended to contribute to such a supposed criminal purpose. He only testified to hearing rumours and allegations about police brutality and, contrary to the RPD and RAD's findings, he was not aware that the NPF and SARS habitually engaged in human rights violations such as torture. The Principal Applicant was also only tangentially connected to the SARS, and it was thus unreasonable of the RAD to find that his contributions were significant.

[32] The Respondent submits that it was reasonable for the RAD to conclude that the SARS and the NFP committed crimes against humanity. The documentary evidence reveals widespread and systematic torture, ill-treatment and extra-judicial killings of Nigerian citizens by the SARS and the NPF. The Respondent also maintains that it was reasonable of the RAD to conclude that the Principal Applicant made a voluntary, significant and knowing contribution to the NPF and SARS by providing them intelligence on the activities of Niger Delta militants.

[33] The Respondent notes that the RAD explicitly considered the factors established in *Ezokola* in finding serious reasons for considering that the Principal Applicant was indirectly involved – and thus complicit – in crimes against humanity. There is no evidence that the SARS recruited the Principal Applicant or compelled him to provide information on an ongoing basis. There is also no evidence that he faced threats of adverse consequences if he were to cease collaborating with the SARS. Furthermore, while the Principal Applicant denied knowing about the human rights violations committed by the SARS, he admitted to hearing allegations of misconduct against the NPF and the SARS. It is sufficient that the Principal Applicant knew of

the crimes or criminal purpose of the NPF and the SARS, and knew that his conduct would assist the furtherance of their crimes. The RAD also reasonably concluded that the Principal Applicant knew that the SARS would act in a criminal manner towards the suspects identified through the intelligence he provided.

[34] I agree with the Respondent. The RAD and RPD both cited ample documentary evidence that the SARS and NPF have committed crimes of torture and extra-judicial killings across Nigeria. Upon reviewing the evidence, I find that it was reasonable of the RAD to determine that the crimes committed by the NPF and the SARS consisted of widespread and systematic attacks against the Nigerian population at large, and not solely the Niger Delta militants. It was thus reasonable of the RAD to find that it was not necessary to consider the issue of whether attacks solely against terrorists can be considered crimes against humanity pursuant to *Mugesera.*

[35] I also find that the RAD reasonably concluded that the Principal Applicant was complicit in crimes against humanity for voluntarily and knowingly making significant contributions to the crimes of the NPF and SARS. In his role as the deputy leader of the CDA, the Principal Applicant coordinated the collection and reporting of information about militants from multiple sources, which he willingly provided to the SARS "virtually every week". The SARS did not force the Principal Applicant to provide this information, nor is there any evidence that he faced adverse consequences if he cease collaborating with the SARS.

[36] Additionally, the Applicants' argument that the Principal Applicant acted under compulsion to combat crime and harm from militants in his community is not convincing. The

RAD found that these broad, implicit threats do not support a defence of duress, which is only available when a person commits an offence while under compulsion of a threat made to compel an individual to commit an offence. The RAD did not err in noting that the threat of harm from the militants in this case was not made to compel the Principal Applicant to act as he did, but rather in support of the militants' objectives in relation to the development of oil pipelines in the region. In response to the Applicants' argument that the Principal Applicant was performing his civic duty by collaborating with the police to prevent crime in his community, the RAD noted:

> […] While a citizen could arguably have a moral duty to report crime to the police, in my view, there is a significant distinction between the act of making a report to police based on personal knowledge from being a victim or witness to crime, and the active collection of intelligence through a network of informants over a period of several months. I do not accept that there was a moral imperative on the Appellant to act in the manner that he did in collecting intelligence and actively collaborating with the SARS.

[37] I find that the RAD made a reasonable distinction between reporting crime and the Principal Applicant's role in gathering and providing intelligence to the SARS over an extended period of time.

[38] Furthermore, the Principal Applicant testified before the RPD that he was not directly involved and therefore could not confirm that the crimes committed by the SARS and the NPF had occurred. However, he admitted that he had heard that the NPF had resorted to the use of torture and had killed people without reason in the administration of their duties. As such, I find it was reasonable of the RAD to conclude that the Principal Applicant cannot reasonably claim that he had no way of knowing that the SARS would act in a criminal manner towards the

suspects identified through the intelligence he provided. The criminal purpose of the NPF and the SARS is clearly discussed by the RAD in its decision:

> While crimes are not committed by the NPF and the SARS pursuant to official policy, it is nonetheless established to be a routine practice, and the evidence does not support a conclusion that these acts are only carried by rogue actors. If that were the case, one would expect it to be a relatively uncommon occurrence with meaningful efforts to identify, punish and prevent such behaviour; conversely, the evidence establishes that while mechanisms exist for the investigation of police misconduct, practically speaking they are highly ineffective such that the police continue to carry out these activities in a widespread and systematic manner with impunity.

[39] Based on the documentary evidence and the Principal Applicant's own testimony, I find that it was reasonable of the RAD to conclude that the Principal Applicant knew that the NPF and SARS commonly commit human rights violations against both criminal suspects and citizens at large. It was also reasonable of the RAD to find that the Principal Applicant provided information about the militants to the SARS with the hope and expectation that they would act on that information. His complicity was not based on "mere association or passive acquiescence" (*Ezokola* at para 85). I therefore find that the RAD did not err in concluding that the Principal Applicant is excluded from refugee protection under Article 1F(a) of the *Refugee Convention* for voluntarily making a significant and knowing contribution to the SARS' crimes (*Ezokola* at para 84).

B. *Internal flight alternative*

[40] The Applicants submit that the RAD imposed an excessive burden on them by finding their well-founded fears of returning to Nigeria to be speculative. It remains reasonable to

assume that the Principal Applicant will be summoned as a witness if the Niger Delta militants face legal prosecution. Furthermore, the Applicants submit that the RAD erred in assessing the reasonableness of the proposed IFA, particularly given the challenges the Associate Applicant would face in Abuja. These challenges include a language barrier, community acceptance, lack of accommodation, and economic hardship.

[41] The Respondent submits that it was reasonable of the RAD to find that the Associate Applicant has an IFA in Abuja based on the lack of evidence to establish that the Niger Delta militants are being prosecuted in court, that they have specifically threatened the Applicants, or that they have the means or the motivation to locate the Associate Applicant. Under the second prong of the IFA test, the RAD appropriately determined that the conditions in Abuja are such that it would not be objectively unreasonable for the Applicants to seek refuge there.

[42] With respect to the first prong of the *Rasaratnam* test, I find that the RAD reasonably determined that the Applicants' fear of persecution was speculative and they failed to establish a serious possibility of persecution in Abuja. There is no evidence that the Niger Delta militants are facing prosecution for the crimes they committed, or that the militants have the means and the motivation to locate the Applicants. Additionally, as noted by the RAD, several years have passed since these crimes were committed in 2016, and the Applicants did not provide any evidence of a summons or efforts by police to contact them to participate in any trial.

[43] In discussing the second prong of the IFA test, this Court in *Hamdan v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 643 notes at paragraph 12:

> […] the threshold for objective unreasonableness is "very high" and "requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in travelling or temporarily relocating to" the area where a potential IFA has been identified (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 (FCA), [2001] 2 FC 164, at para 15 (FCA) [*Ranganathan*]). Stated differently, objective unreasonableness in this context requires a demonstration that the claimant would "encounter great physical danger or […] undergo undue hardship in travelling" to the IFA (*Thirunavukkarasu*, above, at 598). In addition, "actual and concrete evidence of such conditions" must be adduced by the claimant for refugee protection in Canada (*Ranganathan*, above, at para 15).

[44] I find that the Applicants' evidence does not establish that the Associate Applicant would face unreasonable or unduly harsh conditions in Abuja that would jeopardize her life or safety. It was reasonable of RAD to reject the argument that the Associate Applicant would face language barriers, since she speaks English, and the argument that she would face unreasonable hardships related to finding employment and accommodation in Abuja, since she has a post-secondary degree and professional work experience. Overall, I find that the RAD adequately reviewed the evidence to conclude that it would not be unreasonable for the Associate Applicant to relocate to Abuja, and that she has a viable IFA in Nigeria.

V. **Conclusion**

[45] For the reasons above, I find that the RAD reached a reasonable conclusion in finding that the Principal Applicant is excluded from refugee protection under Article 1F(a) of the *Refugee Convention,* and that the Associate Applicant has a viable IFA in the city of Abuja, Nigeria. I therefore dismiss this application for judicial review. No questions for certification were raised, and I agree that none arise.

JUDGMENT in IMM-4005-21

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.

2. There is no question to certify.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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