Federal Court | Cour fédérale

Date: 20140130

Docket: IMM-12512-12

Citation: 2014 FC 104

Ottawa, Ontario, January 30, 2014

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

THARSAN SELLATHTHURAI

Applicant

And

THE MINISTER OF CITIZENSHIP AND IMMIGRATION CANADA

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicant's claim for refugee protection was denied by the Refugee Protection Division of the Immigration and Refugee Board of Canada (the Board). He now seeks judicial review of that decision pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the Act).

[2] The applicant seeks an order setting aside the negative decision and returning the matter to a different panel of the Board for redetermination.

Background

[3] Tharsan Sellathurai (the applicant) is a young Tamil man from Sri Lanka. On April 2, 2010, he left Sri Lanka and went to Thailand, where he boarded the M/V *Sun Sea*. He arrived in Canada on August 13, 2010. He then asked for refugee protection, claiming that he fears persecution if he is returned to Sri Lanka because he will be suspected of having been affiliated with the Liberation Tigers of Tamil Eelam [LTTE].

[4] His claim was heard on June 26, 2012 and the Minister intervened to oppose it. At the end of the hearing, the Board invited written submissions. The Minister took that opportunity, but the applicant's then-counsel did not. The applicant has since retained another lawyer to represent him for this judicial review.

Decision

[5] In a decision dated October 18, 2012, the Refugee Protection Division denied the applicant's claim. The Board decided that he was neither a Convention refugee under section 96 of the Act, nor a person in need of protection under subsection 97(1) of the Act.

[6] The Board stated that the determinative issues in this case were "the credibility of the claimant's subjective fear of persecution by the armed forces, CID and the EPDP and whether the claimant's prospective fear is well-founded." It also considered his risk profile and whether he was a refugee *sur place*.

[7] The Board decided that there had been a positive change in Sri Lanka since the end of the war. It relied heavily on the guidelines from the Office of the United Nations High Commissioner for Refugees [UNHCR], which advised that young Tamil males are no longer presumptively eligible for refugee protection. The Board later noted that the Federal Court confirmed that such a finding was reasonable in *Sivalingam v Canada (Minister of Citizenship and Immigration)*, 2012 FC 47, [2012] FCJ No 47 (QL) [*Sivalingam*]. Also, the government had lifted the state of emergency and it was clearing mines, recruiting Tamil people into the police force and allowing hundreds of thousands of internally displaced people to return home.

[8] However, the UNHCR guidelines still advise that people suspected of having links to the LTTE are at an enhanced risk and the Board considered whether the applicant's evidence supported such a risk. The Board noted that the applicant was arrested twice for suspected involvement with the LTTE. The first time was in January 2006 and he was rounded up because he was nearby when the LTTE bombed an army checkpoint. The second time was in March 2009, when he and many other young Tamil men in a camp for internally displaced persons were questioned after escaping LTTE-controlled territory in the final months of the fighting. In both cases, he was eventually released and the Board decided that he would not have been released

had the army genuinely suspected him of LTTE involvement. The Board also dismissed a third incident at a checkpoint in December 2009, since it was a routine stop.

[9] The Board noted that many young men were questioned about LTTE involvement after the war, but found that the applicant had never been involved with the LTTE and the government has now released thousands of actual LTTE cadres. The Board concluded that neither the army nor any paramilitary groups had any specific interest in the applicant as someone with ties to the LTTE when he was in Sri Lanka and that there was no serious possibility that he would be persecuted if he returned. Indeed, the Board later observed that the applicant left Sri Lanka legally despite being stopped, questioned and having his identity verified. Had he been under suspicion, the Board said that he would not have been allowed to do so.

[10] Further, the applicant said at the hearing that he feared the Eelam People's Democratic Party [EPDP], a paramilitary group that worked with the army. However, the Board did not believe that the applicant actually had this fear, since he never mentioned the EPDP in his Personal Information Form [PIF] and the Board did not accept his explanation for that omission. Further, the Board said that the EPDP had taken on a criminal mindset after the war and there was insufficient evidence that the applicant faced any personalized risk.

[11] Indeed, the Board found the applicant not credible and did not believe many of his claims. It said that "[t]he claimant's evidence, between the CBSA interview, the PIF, the CIC

forms and oral evidence, was not consistent." In particular, it noted that he told the CBSA that he did nothing with the LTTE and described in his PIF the ways he avoided recruitment. However, he said in his interview that the LTTE forced him to dig bunkers and decorate retail stores. Although he claimed that he had said this earlier but was misunderstood by the interpreter, the Board rejected this explanation because so much else was correctly translated.

[12] As well, the applicant said that his twin brother was tortured by the army in May 2010 and that sometime after Christmas in 2011, the army asked his father where he was. The Board did not believe these things happened and did not accept his explanation for why he had not said anything about these incidents earlier.

[13] The Board went on to consider whether he would face a risk as a Tamil returning after a failed refugee claim and found that he would not. It said that Tamils returning to Sri Lanka are treated the same as everyone else, whether or not they sought asylum elsewhere. It based this conclusion on reports from the Canadian High Commission and the United Nations and on examples of returnees from the United Kingdom. The Board recognized that Amnesty International reported the opposite, but noted that it was based only on the example of two brothers, both of whom were people smugglers and not ordinary failed refugee claimants. Although the government does monitor those it suspects have links to the LTTE, that is a reasonable precaution and the applicant will not be suspected in any event. The Board found that the applicant would not be targeted as a failed asylum claimant and would not face a risk to his life or a risk of torture or any other cruel and unusual treatment.

[14] Finally, the Board considered whether the applicant was a refugee *sur place* because he arrived on the M/V *Sun Sea*. The applicant said that the government of Sri Lanka believes all people who were on that vessel are LTTE members. The Board rejected that claim, saying there was not enough credible evidence to support it. Rather, the media reports were mixed, but less than ten percent of the passengers have been alleged to have links to the LTTE. Further, the Sri Lankan Ministry of Defence issued a press release saying that none of the Sri Lankan Tamils who sought passage to Canada are ex-LTTE combatants.

[15] The Board also considered a report from Amnesty International about the issue, which concluded the opposite. However, the Board noted that the Minister had submitted the sources for that report and a detailed analysis showing that Amnesty International had distorted the facts. In the absence of any submissions from the applicant's counsel, the Board accepted the Minister's conclusions and was not persuaded that there was any objective basis for the applicant's *sur place* claim. Further, there was no evidence that the applicant had been named in any media reports about the M/V *Sun Sea* nor that Canada had disclosed the identities of the M/V *Sun Sea*'s passengers to Sri Lankan authorities.

Issues

[16] The applicant submits six issues for my consideration:

1. Were the principles of natural justice breached in this case where the record before the Board was incomplete in that the applicant's submissions were not before the decision-maker?

2. Did the Board err in law in its analysis of change of country conditions?

3. Did the Board err in ignoring evidence, selectively relying on evidence or making a decision without regard to the evidence before it?

4. Did the Board err in its assessment of paramilitary group – EPDP?

5. Did the Board err in failing to exercise its jurisdiction?

6. Did the Board err in the application of risk pursuant to section 97 of the Act and exclusion based on generalized risk?

[17] The respondent says it boils down to one: "[w]hether the Applicant has demonstrated that the decision was either unreasonable or made in breach of a principle of natural justice?".

[18] I will reframe the issues as follows:

1. What is the standard of review?

2. Was the decision procedurally unfair?

3. Was the decision unreasonable?

Applicant's Memorandum of Argument

[19] At the hearing before the Board, the applicant's then-counsel said he would not make oral arguments but would instead submit written arguments to the Board. He never did. The applicant says in his affidavit that he was surprised by this and that his then-counsel also failed to provide the Board with documents about his brother's successful refugee claim in the United Kingdom.

[20] The applicant argues that this was a breach of natural justice, since the Board based the decision on the uncontested arguments of the Minister. Further, the Board was deprived of evidence since applicant's counsel did not submit the documents about his brother. The applicant says that made the hearing unfair, even if the Board itself did nothing wrong (see *Pramauntanyath v Canada (Minister of Citizenship and Immigration)*, 2004 FC 174, 39 Imm LR (3d) 243).

[21] As well, the applicant says that the test for a change in country conditions is that set out in *Winifred v Canada (Minister of Citizenship and Immigration)*, 2011 FC 827 at paragraph 32, 2 Imm LR (4th) 244 and it required the Board to consider whether a change was of substantial political significance. The applicant says the Board failed to do that since the power structure under which Tamil persons are persecuted still exists.

[22] Moreover, the applicant says that the Board painted a rosy picture of post-war Sri Lanka by ignoring all of the evidence which contradicted that view and he supports that claim by quoting from a number of critical documents, including a long excerpt from the U.S. State Department, *2011 Country Reports on Human Rights Practices – Sri Lanka* (24 May 2012) [DOS Report]. Citing several cases, the applicant says that ignoring such evidence was held unreasonable by this Court in the past.

[23] As well, the applicant says that the Board did not reject the applicant's evidence about his history of abuse and monitoring at the hands of the Sri Lankan army, but did not factor it into its analysis either. He says that is unreasonable. Further, the Board inferred from the fact that the applicant legally left the country that he was not suspected of having LTTE ties, but never considered the fact that he left with the assistance of an agent. A similar type of inference was rejected as unreasonable in *Rayappu v Canada (Minister of Citizenship and Immigration)* (24 October 2012), Ottawa, Court file IMM-8712-11 (FC) at paragraph 6 [*Rayappu*].

[24] The applicant also complains that the Board's decision regarding the EPDP was unreasonable and did not reflect the evidence that they were an arm of the state or at least operated with impunity.

[25] Indeed, the applicant says the Board failed to exercise its jurisdiction by not identifying the EPDP as an agent of persecution. He supports his position by pointing to *Nadarajah v*

Canada (Minister of Employment and Immigration), [1993] FCJ No 1415 (QL) at paragraphs 19 and 20, 72 FTR 97, a case where a board's decision was unreasonable since it failed to consider that the actions of the EPDP were tolerated by the state. The applicant says that this Court has stressed the importance of assessing collusionbetween the Sri Lankan government and paramilitary groups in *Gurusamy v Canada (Minister of Citizenship and Immigration)*, 2011 FC 990 at paragraphs 38 to 41, [2011] FCJ No 1217 (QL); and *Warnakulasooriy v Canada (Minister of Citizenship and Immigration)*, 2011 FC 830 at paragraph 49, 2 Imm LR (4th) 168. The applicant says that the connection is even stronger here since paramilitary groups collaborated in targeting, detaining and persecuting him. The applicant says the Board therefore neglected its duty by failing to properly assess this ground of the applicant's claim.

[26] Further, the applicant said that the Board erred by finding that the paramilitary groups choose their targets based on wealth. He says the record does not support that finding and so the Board was wrong to say it was only a generalized risk. Rather, he says that the applicant had been personally targeted by the EPDP because of his Tamil ethnicity and his perceived political view.

[27] For those reasons, the applicant asks the Court to set aside the decision.

Respondent's Memorandum of Argument

[28] The respondent says that competency of counsel can only be considered in exceptional circumstances and only where there is enough evidence to establish the exact dimensions of the problem (see *Huynh v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 642 (QL) at paragraph 23, 65 FTR 11 (TD); and *Gogol v Canada*, [1999] FCJ No 2021 (QL) at paragraph 3, 2000 DTC 6168 (FCA)). Here, there could be very good reasons why no submissions were made, all protected by solicitor-client privilege which was never waived.

[29] The respondent says that all of the other issues raised are reviewable on the reasonableness standard.

[30] The respondent then argues that the Board reasonably reviewed the country condition documents. It found that all Tamil males from the North should not be presumptively granted refugee status and the documents referred to by the applicant do not contradict that.

[31] As for the EPDP, the respondent says that it was the applicant's responsibility to demonstrate how risks identified in the country documents apply to him personally (see *Vaithiyanatha Iyer v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1435, [2012] FCJ No 1544 (QL)). He failed to do so, as his evidence on the subject was not credible. Because

of that, the respondent said that the applicant's discussion of personalized and generalized risk was purely hypothetical. In any event, the Board was entitled to consider that the EPDP was associated with the government as well as moving on to commit criminal activities without regard to ethnicity.

[32] Further, the respondent says that the Board reasonably rejected the applicant's credibility and the applicant failed to show that his identity as a Tamil man was alone enough to establish a serious possibility of persecution. Further, he had not proven that Sri Lanka suspected him of being involved with the LTTE and he was allowed to leave the country by both airport security and the Criminal Investigation Division.

[33] Finally, the respondent said that the Board's finding that the applicant had no *sur place* claim was reasonable.

Applicant's Reply

[34] The applicant replied that the Board did not in fact reject the applicant's claims that he suffered extra-judicial abuse at the hands of Sri Lankan authorities. Rather, the Board viewed only the routine checkpoint stop with suspicion and otherwise accepted the other incidents, including the frequent monitoring. He also says that his departure from Sri Lanka did not mean he was cleared of suspicion by the Sri Lankan army.

[35] Further, the applicant says that this was not simply a case where the applicant was displeased with counsel. Rather, the record was obviously incomplete and the applicant's former counsel has admitted his guilt by failing to intervene.

[36] Moving on, the applicant agreed that the standard of review for most issues is reasonableness, but noted that refugee determinations are law-intensive and that questions of procedural fairness attract the correctness standard.

[37] The applicant also says that the evidence ignored by the Board was significant. Despite the defeat of the LTTE and the end of the civil war, the violations of Tamil people's human rights continue. The applicant says there has not been any substantial or durable change and the documents ignored by the Board show that.

[38] As for the paramilitary groups, the applicant says the respondent mischaracterized his arguments. He repeats his argument that the paramilitary groups are agents of persecution connected to the state and says the Board erred by refusing to exercise its jurisdiction to analyze this aspect of the claim under section 96. As well, he says that since they had targeted the applicant, it was not just generalized risk.

Respondent's Further Memorandum of Argument

[39] The respondent adopted the contents of its first memorandum, but emphasized a few points.

[40] For competency of counsel, the respondent pointed out that even if counsel failed to submit documents about the applicant's brother's refugee claim, that means very little. Counsel did tell the Board about it and it was not necessarily incompetent not to elaborate. Every claim must be assessed on its own merits, so it would have had limited relevance.

[41] As well, the respondent included a section describing some of this Court's jurisprudence on other claimants from the M/V *Sun Sea*. The cases were divided, with some succeeding and others failing. The respondent says they have limited precedential value, since the reasonableness standard is flexible and may permit different outcomes on similar facts (see *PM v Canada (Minister of Citizenship and Immigration)*, 2013 FC 77 at paragraphs 16 and 17, [2013] FCJ No 136 (QL)).

[42] As for the country conditions, the respondent argues that the Board's conclusion that only people with certain profiles were at risk was reasonable and supported by *Sivalingam*. The evidence supported a finding that most Tamils can return to Sri Lanka without incident, unless

they are suspected to have links to the LTTE or fit another risk profile. As well, the respondent defended the *sur place* decision as reasonable.

[43] As for the EPDP, the respondent again said that the evidence showed that they were linked to the government during the civil war, but afterward became increasingly criminal, targeting people for their wealth, not their ethnicity. The respondent says the Board was entitled to rely on that evidence and conclude that the risk was generalized. Further, the respondent again emphasized that the Board had held that the applicant was not credible on this aspect of the claim.

[44] Finally, the respondent argued that the Board did not ignore any evidence. The bare fact that the record contains evidence contrary to a board's factual finding does not alone overwhelm the presumption that the Board considered all the evidence before it. Rather, whether such an inference should be drawn depends on how cogent and compelling the evidence is (see *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) at paragraphs 15 to 17, 157 FTR 35). The respondent says there is no general duty to specifically refer to all passages in the country documentation which may not support the decision (see *Sashitharan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1021 at paragraphs 10 and 11, [2004] FCJ No 1248 (QL)).

[45] Further, the respondent cautions that such a microscopic examination of the reasons is unwarranted and inconsistent with the reasonableness standard. Citing *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at paragraphs 14 to 18, [2011] 3 SCR 708 [*Newfoundland Nurses*] and *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at paragraph 54, the respondent emphasizes that adequacy of reasons is not a sufficient basis for setting aside a decision. Rather, the decision should be approached as an organic whole and should not be set aside unless the outcome is outside the acceptable range. Here, the respondent says the decision on the whole is reasonable.

Analysis and Decision

[46] **Issue 1**

What is the standard of review?

Where previous jurisprudence has determined the standard of review applicable to a particular issue before the court, the reviewing court may adopt that standard (see *Dunsmuir v New Brunswick*, 2008 SCC 9 at paragraph 57, [2008] 1 SCR 190 [*Dunsmuir*]).

[47] Whether the incompetence of counsel rendered the hearing unfair is an issue of procedural fairness. In *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraph 43, [2009] 1 SCR 339 [*Khosa*], the Supreme Court said that such issues are reviewable on a correctness standard. Persons affected by a decision must have the procedural

rights to which they are entitled, though sometimes an error will not attract relief if it "is purely technical and occasions no substantial wrong or miscarriage of justice" (*Khosa* at paragraph 43).

[48] The applicant also said that the Board failed to correctly apply the test for a change in country conditions because it failed to consider whether the changes in Sri Lanka were politically significant. Generally, where jurisprudence has established a test, panels of the Board must correctly understand the law. However, their decisions applying the law to the facts should be reviewed on the reasonableness standard (see *Ruszo v Canada (Minister of Citizenship and Immigration)*, 2013 FC 1004 at paragraphs 20 to 22, [2013] FCJ No 1099 (QL)).

[49] In this case, the applicant acknowledged at paragraph 40 of his memorandum of argument that the Board painted "a picture of the circumstances in Sri Lanka which give the appearance that the change of conditions in Sri Lanka are politically significant." I take that as an admission that if that picture is accurate (in other words, if the Board's factual findings are reasonable), then there has been a politically significant change. Therefore, it is not really necessary to consider what the test is or whether it should have been applied; his argument is really about the facts and reasonableness is the standard.

[50] As admitted by both parties, the remaining issues are all heavily factual and should be reviewed on the reasonableness standard (see *Dunsmuir* at paragraph 53; and *Qin v Canada (Minister of Citizenship and Immigration)*, 2012 FC 9 at paragraphs 32 to 37, [2012] FCJ No 14

(QL)). This means that I should not intervene if the Board's decision is transparent, justifiable, intelligible and within the range of acceptable outcomes (see *Dunsmuir* at paragraph 47; and *Khosa* at paragraph 59). Put another way, I will set aside the Board's decision only if I cannot understand why it reached its conclusions or how the facts and applicable law support the outcome (see *Newfoundland Nurses* at paragraph 16). As the Supreme Court held in *Khosa* at paragraphs 59 and 61, a court reviewing for reasonableness cannot substitute its own view of a preferable outcome, nor can it reweigh the evidence.

[51] I wish to first deal with a portion of Issue 3.

[52] **Issue 3**

Was the decision unreasonable?

The applicant argued that the Board erred because, although the Board did not expressly reject the applicant's stories about being repeatedly interrogated and called in, the reasons did not reflect the gravity of that treatment. I agree.

[53] Although the Board found that the applicant had serious credibility problems, it accepted at paragraph 26, that he told the truth about the questioning after the 2006 incident and being asked to sign in twice afterward. The Board also accepted at paragraph 27 that in March 2009, he was questioned for six hours at the Point Pedro naval camp, and then "questioned later after his transfer to the refugee camp and he was asked about the 2006 incident." His evidence on that

point was that over the five months he was there, he was questioned about 18 to 20 times and every time the officials accused him of being a Tiger and deserting out of fear. When he left the refugee camp, the applicant said in his PIF that it was on condition that he report to a local camp whenever required. Pursuant to that condition, he was questioned eight times after that and he had not been relieved of the reporting obligation by the time he decided to leave the country. The Board accepted this, saying at paragraph 27 that "the claimant complied with the condition to report to a local camp after he was released from the refugee camp in August 2009, and he was not rearrested."

[54] The Board reasonably found that the applicant's two arrests were both "the result of the claimant's place and time in relation to very particular events involving the LTTE." However, when deciding that he was never genuinely suspected of having links to the LTTE, it failed to consider the sheer number of times the applicant was questioned after those events. Having been questioned 26 to 28 times up to the date he left the country is not consistent with having been cleared of any genuine suspicion of being an LTTE member.

[55] Moreover, the fact that the applicant was able to leave the country does not mean he was not under suspicion. The decision that was reviewed in *Rayappu* drew that same inference but Mr. Justice Robert Barnes set it aside, saying the following at paragraph 6:

> It was not enough to consider whether there was an outstanding arrest warrant. The evidence indicates that there are other persons of more informal interest to the authorities who may not be wanted *per se* but are still viewed with suspicion. Young Tamil males with the kinds of experiences described by Mr. Rayappu might fit

> such a profile and thereby remain at risk for similar extra-judicial abuse.

[56] I agree and believe the same logic applies here. Altogether, I do not understand from the reasons or the record how the Board reached its conclusion without either rejecting or considering the applicant's account of how many times he was questioned. The decision is not transparent or intelligible and for that reason, should be set aside.

[57] Because of my finding on this issue, I need not deal with the other issue.

[58] Neither party wished to submit a proposed serious question of general importance for my consideration for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the matter is referred to a different panel of the Board for redetermination.

"John A. O'Keefe"
Judge

ANNEX

Relevant Statutory Provisions

***Immigration and Refugee Protection Act*, SC 2001, c 27**

72. (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is commenced by making an application for leave to the Court.	72. (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est subordonné au dépôt d'une demande d'autorisation.
…	…
96. A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,	96. A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :
(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themself of the protection of each of those countries; or	a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;
(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.	b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.
97. (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally	97. (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :
(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or	a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;
(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if	b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans

	le cas suivant :
(i) the person is unable or, because of that risk, unwilling to avail themself of the protection of that country,	(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,
(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,	(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,
(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and	(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,
(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.	(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

FEDERAL COURT

SOLICITORS OF RECORD

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