Federal Court

Cour fédérale

Date: 20140116

Docket: IMM-1468-13

Citation: 2014 FC 47

2014 FC 47 (CanLII)

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, January 16, 2014

PRESENT: The Honourable Mr. Justice Scott

BETWEEN:

TAREK MOHAMED KHALIFA
and
SAMAH SAYED ABDEL MEGUID

Applicants

and

MINISTER OF CITIZENSHIP
AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Introduction

[1] This is an application for judicial review of the decision of an immigration officer, rendered on January 31, 2013, refusing to grant the applicants a exemption from the requirement to obtain an

immigrant visa abroad on humanitarian and compassionate grounds, in accordance with subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA).

II. Facts

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[2] The applicants are Egyptian citizens. They have two Canadian-born, minor daughters. The applicant, Tarek Mohamed Khalifa, arrived in Canada on October 21, 2006, and the female applicant, Samah Sayed Abdel Meguid, arrived on October 28, 2006.

[3] On November 24, 2006, the applicants filed a refugee claim that was refused on September 21, 2009, on the ground that they lacked credibility. This decision was not disputed before the Federal Court.

[4] On September 20, 2010, the applicants filed an application for permanent residence for humanitarian and compassionate considerations. This application was dismissed by an immigration officer on January 31, 2013. This application for judicial review concerns that decision.

[5] On March 29, 2011, the applicants' Pre-Removal Risk Assessment (PRRA) application was also dismissed.

III. Legislation

[6] Section 25(1) of the IRPA provides:

25. (1) The Minister must, on request of a foreign national in Canada who is inadmissible or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

Payment of fees

(1.1) The Minister is seized of a request referred to in subsection (1) only if the applicable fees in respect of that request have been paid.

Exceptions

(1.2) The Minister may not examine the request if the foreign national has already made such a request and the request is pending.

Non-application of certain factors

(1.3) In examining the request of a foreign national in Canada, the Minister may not consider the factors that are taken into account in the determination of whether a person is a Convention refugee under section 96 or a person in need of protection under subsection 97(1) but must consider elements related to the hardships that affect the foreign national.

Provincial criteria

(2) The Minister may not grant permanent resident status to a foreign national referred to in subsection 9(1) if the foreign national does not meet the province's selection criteria applicable to that foreign national.

IV. Issues and standard of review

A. Issues

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[7] The parties identified the following issues:

1) Did the officer consider all the evidence filed by the applicants?

2) Did the officer apply the correct test in her assessment of the best interests of the children?

3) Did the officer fail to consider the impact of the prevailing situation in Egypt on the children?

[8] The Court considers that this application for judicial review presented the following questions:

1) Did the officer respect procedural fairness?

2) Did the officer apply the correct test in her assessment of the best interests of the children?

3) Is the decision reasonable?

B. Standard of review

[9] The Supreme Court, in *Dunsmuir v New Brunswick*, 2008 SCC 9 (*Dunsmuir*), at paragraph 57, stated that

> **57.** An exhaustive review is not required in every case to determine the proper standard of review. Here again, existing jurisprudence may be helpful in identifying some of the questions that generally fall to be determined according to the correctness standard (*Cartaway Resources Corp*. (*Re*), [2004] 1 S.C.R. 672, 2004 SCC 26). This simply means that the analysis required is already deemed to have been performed and need not be repeated.

[10] The Court, in *Thandal v Canada (Minister of Citizenship and Immigration)*, 2008 FC 489, determined, at paragraph 7, that the standard of review applicable to decisions relating to applications on humanitarian and compassionate grounds is that of reasonableness, while the standard applicable to questions of procedural fairness is that of the correctness (see also *Sun v Canada (Minister of Citizenship and Immigration)*, 2012 FC 206, at para 16 (*Sun*)).

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[11] As for the choice of test applicable to the assessment of the best interests of the children, in the context of an application based on humanitarian and compassionate grounds, it must be reviewed on a standard of correctness (see *Montivero v Canada (Minister of Citizenship and Immigration)*, 2008 FC 720, at paras 5 and 6).

V. Arguments of the Parties

A. The Applicants

Procedural fairness

[12] The applicants pointed out the fact that the immigration officer failed to note, in her reasons, that she had received the documents that were sent following the application of September 20, 2010, including the letter of July 3, 2011, the document entitled "Raisons humanitaires et motifs de compassion" and the letter of July 18, 2011. They point out, moreover, that the officer did not refer, in her reasons, to the documents entitled "Raisons humanitaires et motifs de compassion", nor those that were attached to the letter of July 18, 2011. They relied on *Koo v Canada (Minister of*

Citizenship and Immigration), 2008 FC 931, at para 23 (*Koo*), where the Court recalled the rule that the officer must take into account all of the documents presented to her.

[13] The applicants argued that the rules of natural justice required that the officer rule on all the evidence presented or to set out the reasons why she was not doing so. They claimed that the officer's failure to note all the documents filed in section 6 of her decision suggests that she did not consult or consider them. Further, according to the applicants, the officer neglected to note the reasons that led her to disregard these documents. That is why the applicants argued that procedural fairness was not respected, which would justify the intervention of the Court in this matter.

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Assessment criteria

[14] The applicants recalled that the immigration officer had to be [TRANSLATION] "alert, alive and sensitive" to the best interests of the children concerned by the application (*Baker v Canada (Minister of Citizenship and Immigration)*, [1999] SCR 817). The interests of the children had to be considered and weighed with the other humanitarian and compassionate considerations. The applicants argued that the immigration officer applied the wrong legal test to assess the best interests of the children. She should have instead verified whether the children or their parents would experience [TRANSLATION] "hardships" if the application for permanent residence for humanitarian and compassionate considerations was dismissed. Moreover, they claim that the test for hardships is not appropriate for assessing the best interests of the children. The applicants relied on *Sun*, above; *Beharry v Canada (Minister of Citizenship and Immigration)*, 2011 FC 110 (*Beharry*) and *Shchegolevich v Canada (Minister of Citizenship and Immigration)*, 2008 FC 527 (*Shchegolevich*)).

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[15] The applicants stated that the officer did not analyze the consequences of their deportation to Egypt on the daughters, who have never lived there and are 6 and 4 years old and specifically the resulting social, cultural and economic changes. They pointed out that the officer limited herself to considering the possibility that the children would be victims of female genital mutilation without, however, ruling on the other aspects described in the application. They argued that the fact that the officer limited her analysis in this way does not show that she was alert, alive and sensitive to the best interests of the children.

[16] The applicants considered that the officer made an error of law since she used the wrong test when she stated that the mother of the children had not faced hardships in completing her education or finding a job and that the applicants failed to explain why it would be different for their daughters. Similarly, the officer allegedly erred in assessing the prevailing situation in Egypt since she argued that the applicants had the burden to explain the nature of the hardships that they would face (*BL v Canada (Minister of Citizenship and Immigration)*, 2012 FC 538).

Reasonableness

[17] The applicants then stated that the officer failed to take into account the hardships raised by the applicant and his spouse if they were limited to filing their claim from Egypt. They placed particular emphasis on security, access to education and health services. The applicants claimed that this was another error reviewable by the Court.

B. The Respondent

[18] The respondent argued a preliminary objection on the admissibility of Exhibit “B” of the affidavit of Tarek Mohamed Khalifa, i.e. a letter dated July 3, 2011. He argued that since this document was not in the file submitted to the officer, it cannot then be considered by the Court. The respondent referred to the decisions *Nyoka v Canada (Minister of Citizenship and Immigration)*, 2008 FC 568, at para 17 (*Nyoka*); *Jakhu v Canada (Minister of Citizenship and Immigration)*, 2009 FC 159, at para 18 and *Lalane v Canada (Minister of Citizenship and Immigration)*, 2009 FC 6 at para 20 (*Lalane*), in support of this claim.

[19] The respondent then recalls the discretionary nature of the exemption provided in subsection 25(1) of the *IRPA* and the burden resting on the applicants to show that the hardships that they would face if they had to submit their residence application from Egypt, would be unusual and undeserved or disproportionate. The respondent refers to the decisions *Legault v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 125, at paras 23 to 27 (*Legault*); *Tikhonova v Canada (Minister of Citizenship and Immigration)*, 2008 FC 847, at para 17 and *Begum v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1015, at para 12.

[20] He also pointed out that the exercise of weighing humanitarian factors belongs to immigration officers and, if they take into account relevant factors, the Court must then confirm their decisions even if it had made a different assessment of the factors and made a different finding (see *Legault*, above, at para 11).

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Procedural fairness

[21] The respondent argued that the officer considered all of the evidence and clearly stated in her reasons the humanitarian and compassionate considerations raised by the applicants, i.e. their integration into Canadian society, their connections with Canada, the best interests of the children and the general adverse conditions prevalent in Egypt (evidence raised by the applicants in the letter dated July 18, 2011). The respondent reiterated his objection to the admissibility of the letter of July 3 on the ground that it was not before the officer.

[22] The respondent referred to the grounds contained in the officer's decision showing that the various factors raised by the applicants in support of their application were duly considered by her. The respondent referred, as an example, to the fact that the officer considered the allegations of genital mutilation and discrimination toward women raised by the applicants in their document entitled [TRANSLATION] "Raisons humanitaires et motifs de compassion". The respondent also pointed out the fact that the officer had noted the applicants' allegation that the Canadian government could probably not help their daughters if needed, an allegation contained in the letter of July 18, 2011. And finally, he recalled that the officer stated that she considered all of the evidence submitted in support of the application.

[23] The respondent recalled the existence of the presumption that an administrative decision-maker has considered all of the evidence. He also pointed out the case-law rule establishing that the officer does not have to note every piece of evidence considered in her reasons, or the reasons leading her to accept or refuse each piece of evidence filed in support of an application. The

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respondent relies on the following decisions: *Placide v Canada (Minister of Citizenship and Immigration)*, 2009 FC 1056, at para 44 and *Anand v Canada (Minister of Citizenship and Immigration)*, 2007 FC 234, at para 21 (*Anand*). Finally, he explained that an administrative decision-maker is not required to comment on each piece of documentary evidence submitted, unless it goes directly against the decision rendered (*Anand,* above, at para 21 and *Kulasekaram v Canada (Minister of Citizenship and Immigration)*, 2013 FC 388, at para 41 (*Kulasekaram*)).

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Assessment criteria

[24] The respondent stated that the officer's analysis is in accordance with the principles set out by the Supreme Court and by the Federal Court of Appeal. He pointed out the fact that even though the administrative decision-maker must give substantial weight to the best interests of the children, this does not mean that the interests will always outweigh other considerations, or that there will not be other reasons to dismiss the application. The respondent relies on *Legault,* above, at para 12, which states that

> 12. ... It is not because the interests of the children favour the fact that a parent residing illegally in Canada should remain in Canada (which, as justly stated by Justice Nadon, will generally be the case), that the Minister must exercise his discretion in favour of said parent. Parliament has not decided, as of yet, that the presence of children in Canada constitutes in itself an impediment to any "refoulement" of a parent illegally residing in Canada.

[25] The respondent then argued the principles of case law relating to the assessment of the best interests of the children and referred to the decisions *Kisana v Canada (Minister of Citizenship and Immigration)*, 2009 FCA 189 (*Kisana*) and *Hawthorne v Canada (Minister of Citizenship and Immigration)*, 2002 FCA 475 (*Hawthorne*). In *Kisana*, above, Justice Nadon, at paragraph 42,

recalled the key principles contained in paragraphs 4 to 8 of *Hawthorne*. The respondent found that those cases have established that an officer is presumed to know that in general it is in the best interests of the children to live with their parents in Canada. It is therefore not determinative to compare the better life in Canada and life in the country of origin when assessing the best interests of the children.

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[26] The respondent pointed out that there is no formal requirement to describe and analyze facts and factors. Further, the decision-making process is discretionary (see *Khoja v Canada (Minister of Citizenship and Immigration),* 2010 FC 142, at paras 47 and 48). He argued that the applicants cannot criticize the officer for neglecting to considerer the situation of their daughters if they stayed in Canada, while they clearly showed that they intended to bring them to Egypt.

[27] Moreover, the respondent noted the failure of the applicants to submit evidence that clearly established that their departure would have harmful consequences on their daughters if they had to stay in Canada without them. The respondent referred to *Garas v Canada (Minister of Citizenship and Immigration)*, 2010 FC 1247, which specified that the argument that the officer did not review the consequences on the children if they were to stay in Canada without their mother had to be rejected when this scenario was not suggested in the record (see paragraph 44 of this decision). The Court, in this matter, at paragraph 46, recalls that:

> **46.** … The officer does not have the responsibility to consider all possible scenarios that could possibly result from the applicant's removal, nor does she have to address issues that are purely speculative. The officer's role is to assess the special circumstances that the applicant raises and to determine whether they warrant the application of an exceptional exemption.

[28] The respondent argued that it became reasonable for the officer to find that the best interests of the applicants' children would not be compromised if their parents had to apply for permanent residence from outside Canada, because she had identified and considered the various factors concerning their best interests.

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[29] The respondent claimed that it was up to the applicants to raise these grounds in a concrete manner, with evidence supporting them. The applicants should have proved the harmful consequences of a return to Egypt on their daughters' safety, access to education and health services. The respondent reiterated that the burden of proof is on the applicants. They must present their humanitarian and compassionate grounds and file evidence to concretely establish the merits of any claim. Failure to do so makes it reasonable for the officer to find that the claim is without merit (*Persaud v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1133, at paras 63 and 64).

Reasonableness

[30] The respondent rebutted the applicants' argument that the officer did not consider the revolution in Egypt. He reiterated that she did not have to assess speculative matters and referred again to *Garas*, above, at paragraph 46. The applicants raised the general adverse conditions that all citizens of Egypt face, both adults and children, without establishing a direct connection with their personal situation or without filing concrete and objective evidence in support of their claim, failing which the respondent points out that every national of a country with problems would have to be assessed positively, regardless of the individual's personal situation, and this is not the aim and

objective of a humanitarian and compassionate exemption (*Dorlean v Canada (Minister of Citizenship and Immigration)*, 2013 FC 1024, at paras 35 and 36 and *Singh v Canada (Minister of Citizenship and Immigration)*, 2013 FC 1075, at paras 38 and 39).

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VI. Analysis

[31] The Court recognizes the merits of the respondent's preliminary objection relating to the admissibility of Exhibit "B" of the affidavit of Tarek Mohamed Khalifa, i.e. the letter dated July 3, 2011. The case law and the rules of this Court clearly establish that evidence that is not before the decision-maker cannot be considered (see *Vong v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1480, at para 35 and *Nyoka*, above, at para 17).

[32] The affidavit of Sheila Markland, filed on May 24, 2013, persuaded us that the letter filed on July 3, 2011, by the applicants, was never placed in the tribunal record and, therefore, was not put before the officer.

1) Did the officer respect procedural fairness?

[33] The Court found that the officer respected the rules of procedural fairness for the following reasons. The applicants alleged that the officer should have noted that she had received the documents sent following the application of September 20. Moreover, on reading the officer's reasons, there was no doubt that these elements were considered. The applicants relied on *Koo,* above, in support of their claim. The Court wants to stress that this decision does not impose an

obligation on the officer to list all the documents received, only the obligation to consider all the information submitted before her (see paragraph 23 of this decision).

[34] The Court also rejects the applicants' claim that the officer had to rule on all the evidence or that she had the obligation outline the reasons for which she did not do so. An administrative decision-maker is not required to comment on each piece of documentary evidence unless it goes directly against the decision rendered (see *Anand*, above, at para 21 and *Kulasekaram*, above, at para 41). In *Terigho v Canada (Minister of Citizenship and Immigration)*, 2006 FC 835, it is stated at paragraph 9 that:

> **9.** There is generally a presumption that a tribunal, such as an officer conducting an H&C assessment, will have considered all of the evidence that was before it. But, where there is relevant evidence that contradicts the tribunal's finding on a central issue, there is an obligation on the tribunal to analyse that evidence and to explain in its decision why it does not accept it or prefers other evidence on the point in question. The greater the relevance of the evidence, the greater the need for the tribunal to explain its reasons for not attributing weight to them: *Cepeda-Gutierrez v. Canada* (*Minister of Citizenship and Immigration*), (1998) 157 F.T.R. 35, [1998] F.C.J. No. 1425 (QL) (T.D.); *Hilo v. Canada* (*Minister of Employment and Immigration*) (1991), 130 N.R. 236, 15 Imm. L.R. (2d) 199 (F.C.A.). [Emphasis added.]

[35] The Court cannot agree with the applicants' claim that the officer failed to consult or consider the documents filed because they were not listed in section 6 of the decision. This section instead notes the external sources consulted by the officer, in this case, documents such as the "Country Reports on Human Rights Practices" of the U.S Department of State (see applicants' record, page 11). Therefore, the absence of a list of documents filed by the applicants does not mean that they were not consulted or considered.

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[36] The Court considered the document entitled "Raisons humanitaires et motifs de compassion " submitted by the applicants, and the letter from counsel for the applicants of July 18, 2011. A reading of the documentary evidence shows that the subjects addressed by the officer correspond in all respects to the evidence submitted. Therefore, two of the four pages of the first document relate to female circumcision while the following documents entitled "La situation contrastée des femmes égyptiennes" and "Économie Égypte : Pour l'indépendance financière des femmes et la liberté de choisir" relate to the lower status of women in the labour market in Egypt, followed by a third document that deals with terrorism. The letter of Mr. Beauchemin draws the officer's attention to the level of education of his clients, their integration into Canadian society, the travel advisory issued by the Department of Foreign Affairs and International Trade on the current situation in Egypt and the Convention on the Rights of the Child of which Canada is a signatory.

[37] Therefore, the applicants were not able to reject the presumption that the officer did not take into account all of the evidence contained in the record. The Court found that there was no breach of procedural fairness.

2) Did the officer apply the correct test in her assessment of the best interests of the children?

[38] The applicants alleged that the immigration officer applied the wrong legal test to assess the best interests of the children. They claimed that she did not have to analyze the hardships faced by the applicants' daughters if they had to return to Egypt. The case law cited by the applicants does not prohibit officers from considering and analyzing the general hardships that the applicants will

face, but they specify that the applicable test is that of "unusual or disproportionate" hardship (see *Beharry* above at para 11 and *Shchegolevich*, above, at para 12). Moreover, contrary to the applicants claims, *Sun,* which they cite, refers to the hardships that the children are exposed to (see paras 17 and 45). Indeed, *Sun* (at paragraph 17), refers to the Federal Court of Appeal decision *Hawthorne* above at paragraph 6:

> 6. [in an H&C application] the officer's task is to determine, in the circumstances of each case, the likely degree of hardship to the child caused by the removal of the parent and to weigh this degree of hardship together with other factors, including public policy considerations, that militate in favour of or against the removal of the parent. [Emphasis added.]

[39] Therefore, the officer did not err simply because she analyzed the hardships to which the children would be exposed. The Court also wants to point out that the officer did not apply the test of "unusual or disproportionate" hardships in her analysis of the best interests of the children.

[40] In sum, the Court does not accept the applicants' claim that the officer applied the wrong legal test.

3) Is the decision reasonable?

[41] The Court found that this decision is reasonable for the following reasons. *Beharry*, above, states, at paragraph 14, that:

> **14.** … immigration officers are presumed to know that living in Canada can afford many opportunities to a child that may not be available in the child's country of origin. The task of the officer is thus to assess the degree of hardship that is likely to result from the removal of the child from Canada, and then to balance that hardship against other factors that might mitigate the consequences of

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> removal: see also *Ruiz v. Canada (Minister of Citizenship and Immigration),* 2009 FC 1175, [2009] FCJ No. 1474, at para 31. [Emphasis added.]

[42] When the officer considered the best interests of the children she noted that:

> [TRANSLATION]
> The applicants raised the best interests of their 2 daughters who were born in Canada, aged 4 and 6 years old. [T]hey stated that if they were to be removed to Egypt, they would be faced with a very different world than they know, where discrimination toward women is pervasive. There, they would have fewer chances to pursue higher education and find a good job. They also point out that female genital mutilation (FGM) is generalized and that the daughters could be victims of it. Finally, they add that because of their dual citizenship, Canadian by birth and Egyptian by descent, the Egyptian government would probably not let the Canadian government intervene in favour of the daughters if needed.

[43] It appears from this excerpt of the decision that the officer was aware of the hardships listed by the applicants and of the consequences that could result from the removal of the children from Canada. The officer then considered the other elements of the record to weigh these hardships.

[44] Indeed, the officer noted that the mother of the children went to university and obtained a baccalaureate while she was in Egypt, while arguing that there is no evidence that helps to consider that it would be different for the daughters. The mother of the children also did not state that she had difficulty finding employment. She did not submit any evidence to establish that her daughters would experience a different environment. As to the risk of female genital mutilation, the officer noted that this type de practice has diminished and that the applicants did not indicate that it is part of their family culture, that the female applicant had been a victim of it or that there had been pressure for the daughters to undergo such a procedure. According to the reports consulted by the officer, Egypt has criminalized this practice. The officer’s finding on this topic falls within the range

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of possible outcomes since no concrete evidence was placed in the record that would lead one to believe that the young girls truly were at risk of experiencing such harm. The Court cannot accept the applicants' claim that the officer failed to consider the risks other than that of female genital mutilation.

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[45] Finally, the Court agreed with the officer's analysis relating to the applicants' claim that the Government of Canada cannot intervene on behalf of their children given their dual citizenship. The officer rightly noted that the applicants did not explain what they feared or why the Egyptian government could not help the children if the situation called for it.

[46] Based on the foregoing, the officer correctly applied the test described in *Beharry* and *Hawthorne,* above.

[47] The officer considered the situation in Egypt in the section [TRANSLATION] "Adverse conditions in Egypt" of her reasons. She correctly noted that the applicants failed to present evidence establishing how, because of the recent and generally prevalent conditions in Egypt, they would be personally subjected to hardships justifying granting the requested exemption.

[48] In *Pierre v Canada (Minister of Citizenship and Immigration)*, 2010 FC 825 (*Pierre*), the Court recalled that both personalized and generalized risk are relevant factors in assessing an application on humanitarian and compassionate grounds (see paragraph 33 of the decision). At paragraph 34, the Court also referred to Justice Harrington's decision in *Chand v Canada (Minister of Citizenship and Immigration)*, 2009 FC 964, at para 6, where he stated:

> **6.** In considering the best interests of the children, the Officer not only took into account Dr. Pilowski's opinion but also country conditions. He accepted that both the children and the parents might suffer trauma if returned to Guyana and are acutely afraid about their future. However, the point the officer made, which was quite reasonable, is that there are a great many victims of crime in Guyana and if, as country reports indicate, abuses are rampant in the schools, the Chands would not find themselves in an unusual situation. They should not be in a better position because they left Guyana, while others had to stay behind. As stated in *Ramatar v Canada* (*Minister of Citizenship and Immigration*), 2009 FC 362,[2009] F.C.J. No. 472, it is not enough to be a likely victim of generalized crime. There must be something more. [Emphasis added.]

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[49] The Court, in *Pierre*, above, concluded by stating, at paragraph 35, that:

> **35**. It is clear to the Court that the officer was aware of the general country conditions in St. Lucia, but could not find the existence of unusual and/or disproportionate hardship in the absence of something more than that which impacts all St. Lucians.

[50] The Court agreed with the respondents' arguments that the allegation of the risks must be linked to the applicants' personal situation, otherwise every national from a country with problems would have to be assessed positively, and this is not the objective of this type of exemption (see *Lalane,* above, at para 1).

[51] The officer, in this decision, was aware of the general situation in Egypt, but found that [TRANSLATION] "[the applicants] did not state, however, how the new conditions would cause them unusual and undeserved or disproportionate personal hardships that could justify granting the requested exemption". Unfortunately, the applicants did not raise or file evidence to establish that they would find themselves in a worse situation than that of other Egyptians.

[52] In matters of judicial review, it is not the Court's role to substitute its assessment of the evidence to that of the first-instance decision maker (see para 31 of *Pierre*, above). Its role, in this case, is limited to verifying whether the officer's decision falls within the "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (see *Dunsmuir*, above, at para 47). The officer, having analyzed correctly all the evidence submitted to it, the Court has no grounds to intervene. The application for judicial review is therefore dismissed.

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JUDGMENT

THE COURT DISMISSES this application for judicial review and **FINDS** that there is no question of general importance for certification.

"André F.J. Scott"

Judge

Certified true translation

Catherine Jones, Translator

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FEDERAL COURT

SOLICITORS OF RECORD

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