

**LA COMMISSION DE L'IMMIGRATION
ET DU STATUT DE RÉFUGIÉ
(SECTION DU STATUT DE RÉFUGIÉ)**

**IMMIGRATION AND REFUGEE BOARD
(REFUGEE DIVISION)**

File/Dossier: A99-01121

**HUIS CLOS
IN CAMERA**

REVENDICATRICE CLAIMANT
XXXXXXXXXX

DATE(S) DE L'AUDIENCE DATE(S) OF HEARING
27 March 2000
27 July 2000

LIEU(X) DE L'AUDIENCE PLACE(S) OF HEARING
Ottawa, Ontario

DATE DE LA DÉCISION DATE OF DECISION
29 August 2000 (rendered)
11 September, 2000 (signed)

QUORUM CORAM
Ian J.Kagedan

POUR LA REVENDICATRICE FOR THE CLAIMANT
N/A

AGENT D'AUDIENCE REFUGEE CLAIMS OFFICER
Susan Lindsay

REPRÉSENTANT DÉSIGNÉ DESIGNATED REPRESENTATIVE
XXXXXXXXXXXXXXXXXXXX

REPRÉSENTANT DU MINISTRE MINISTER'S REPRESENTATIVE
N/A

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Ian J. Kagedan
Presiding Member

The following are my decision and reasons in the claim of XXXXXXXX, file number XXXXX. My decision with reasons are rendered from the bench without the parties being present.

XXXXXXX was born in Beirut in 1975. She is a citizen of Lebanon. Her parents were divorced in 1987 or 1988. Her mother and siblings immigrated to Canada and are now all Canadian citizens. A psychologist's report before me at Exhibit R4, received by me on the 22nd of August of this year, indicates among other things that the claimant has an almost absent ability for conceptual thinking, cannot read or write in her mother tongue, is capable of basic self care and simple, concrete tasks and "definitely is not capable of leading a totally independent life." Other evidence before me is evidence provided by the claimant herself but as well by her designated representative, her brother XXXXXXXXXXXX, and by her mother who appeared as a witness before me.

Upon the departure of her mother and siblings to Canada the claimant was left initially in the custody of her father who subsequently left her in the custody of his parents and sister; that is to say, her grandparents and aunt. The claimant's evidence is that she was abused by the aunt from time to time through beatings and denial of food. Her grandfather was cognizant of her problems but was unable to effectively intercede on her behalf. Since her departure from Lebanon her grandfather has died. Her grandmother is elderly and infirm and is cared for by the aunt in question.

Analysis

The claimant, through her designated representative, alleges a well-founded fear of persecution on the grounds of her membership in the particular social group, "Mentally handicapped people." Psychological evidence at Exhibit R4 establishes that the claimant is mentally handicapped and is not capable of independent living. I accept as credible, evidence

of the claimant, the designated representative and the witness that the claimant's living situation in Lebanon until her departure was marginally adequate and that the claimant was the victim of occasional abuse. I also accept as credible evidence from the designated representative and the witness that the only person who was in a position, and even then, incapable, of interceding on her behalf -- that is to say her grandfather -- has passed away.

Documentary evidence before me in Exhibits R1, R2, R3 and R5 suggest that the government of Lebanon has made sincere efforts towards improving the situation of the mentally handicapped in that country, but those efforts are fundamentally compromised by a lack of financial resources, in particular a result of the country still recovering from decades of warfare and as well, still effectively under occupation by Syrian forces.

It is apparent to me from the documentary evidence before me and, as well, it is within my specialized knowledge, having heard very many claims against Lebanon over many years, that even what support exists for people in the claimant's situation is heavily dependent on the active involvement of family members. The claimant is clearly not capable of acting on her own behalf, neither in acquiring support or seeking protection. The evidence suggests as well that those family members in Lebanon who had provided her with shelter in the past who remain are not inclined nor are they necessarily capable of providing her even with the level of support which she had enjoyed previously. I will note as well, of course, that support was tinged with abuse.

The claimant's situation is further complicated and compromised by the fact that she is a female and given her handicap, would be especially vulnerable to sexual exploitation in view of the evidence at Exhibit 1, Tab 1, page 10 and other exhibits.

Against this evidentiary background and mindful of the particular situation of the claimant, in my view a number of the claimant's fundamental human rights stand to be compromised should she be returned to Lebanon. In particular, those include the following: The Universal Declaration on Human Rights at its article 3 speaks to the right of every person to life, liberty and security of person. The International Covenant on Economic, Social and

Cultural Rights, particularly in its articles 11 and 12, speak to the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. As well, the United Nations General Assembly Declaration on the Rights of Mentally Retarded Persons broadly addresses rights of the claimant which stand to be compromised, particularly in its paragraphs 3, 5 and 6. Paragraph 3 refers to a right to economic security and a decent standard of living. Paragraph 5 refers to the right to a qualified guardian when this is required to protect the individual's personal wellbeing and interests and paragraph 6 speaks to the right to protection from exploitation, abuse and degrading treatment.

In my view, notwithstanding the sincerity of efforts by Lebanon to expand resources for the protection of individuals such as the claimant, the protection which would be available to her in Lebanon is not adequate.

On the basis of the foregoing, I conclude that the claimant faces more than a mere possibility of persecution in Lebanon on the grounds of her membership in the particular social group mentally handicapped persons and, as well, in association with her membership in the particular social group women. Having thus found, I conclude that the claimant is a Convention refugee.

“Ian J. Kagedan”

Ian J. Kagedan

Dated at Ottawa this 11th day of September 2000.

KEYWORDS - REFUGEE DIVISION - PARTICULAR SOCIAL GROUP – DISABILITY – WOMEN REFUGEES – GENDER – GENDER-RELATED PERSECUTION - HUMAN RIGHTS – INTERNATIONAL INSTRUMENTS - FEMALE – BENCH REASONS - POSITIVE - LEBANON