



Immigration and
Refugee Board of Canada
Refugee Protection
Division

Commission de l'immigration
et du statut de réfugié du Canada
Section de la protection
des réfugiés

RPD File No. XXXX

Client ID XXXX

NOTICE OF DECISION

[Immigration and Refugee Protection Act, subsection 107(1)]
[Refugee Protection Division Rules, section 67]

Harry Dortelus
Member

In the claim for refugee protection of:

LLLL
MMMM
NNNN

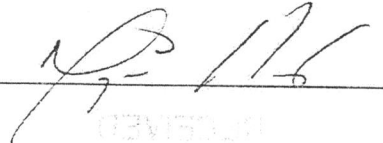
The claim was heard on the 18th day of November 2013.

The Refugee Protection Division determines that claimants are **Convention refugees and therefore accepts the claim.**

The transcript of the reasons for the decision is attached.

December 11th, 2013

Registrar



Copie Conforme
Certified True Copy

N. Jensemp
Greffier - Registrar



Mr. **LLL**, **MMM** and **NNN**, I have examined your refugee status claim and all the evidence provided and I am ready to render my decision.

You will receive a written decision shortly by mail. The written version may contain corrections or may refer to jurisprudence and other pertinent exhibits submitted in support of your claim.

LLL, you are the oldest member of this family, you were assigned as the designated representative for your younger sister Muska since she's only 17 years old. You understood very well what was implied by declaring you the designated representative.

Mr. **LLL**, **MMM**, **NNN**, you claim that you are citizens of Afghanistan and you are seeking refugee status under sections 96 and 97 of the *Immigration and Refugee Protection Act* (the Act).

The summary of your allegations may be summarized as follows.

Mr. **LLL**, you are the principal claimant. You are an Afghan citizen of the Pashtun tribe and you are a Sunni Muslim and so are your sisters. You escaped the country with your two sisters, and **MMM**, because you opposed your sisters' arranged marriages and you helped them to escape. All of you, at the time in Afghanistan, were living under the same roof with your father and his two wives, including three other siblings.

In 2011, a man named **P**, the uncle of your step-mother, asked your father to marry one of the claimants. Your father accepted, but asked **P** to wait for **M** to become older and to finish school. In 2011, another man named **O** also asked to marry your younger sister **K**. Then, at that time, you again opposed that request.

In 2002, the men, **O** and **P**, kept insisting to marry your sisters and they even went to the village elders to pressure them in order to pressure your father to accept the forced arranged marriages. At that time, again, you remained opposed to the proposition. The Taliban became involved and warned your sisters not to pursue going to school and they were also told to stop their studies.



You left to go to Kabul in April 2013 where you stayed at your aunt's place. You then pretended to your father that you were going to visit your aunt, but the idea was to escape in order to prevent your sisters' arranged marriages. You left Kabul for Dubai in July 2013 and you went to the United States. From there, you came to Canada in July 2013, the 12th, with the help of smugglers.

Your current fear is that all of you are afraid to go back to Afghanistan because **M** and **N**, you fear to be forced to marriage **P** and **O** who are older men and you don't want to be forced to marry them, and you also fear the repercussions from your father, the men and also the village elders.

DECISION

After considering all of the evidence, the Tribunal finds that you are "Convention refugees" because of your social group as young girls from Afghanistan who would be forced to marry older men in a polygamist environment and for you, Mr. **L** as the social group would be a family member of your sisters.

The main issues in the analysis identified by the Tribunal were your identity and the credibility of your fear.

ANALYSIS

Identity

All three of you arrived in Canada on the 12th of July without proper documentation. You were smuggled in.

In August, you told the Tribunal that you consulted a lawyer when you tried to ask for asylum. According to the file, your asylum claim was dated 17th of September, 2013. You did not give any explanation of why you didn't ask asylum earlier.



When it comes to the clear identity, you submitted C-1¹, C-2² and C-3³ which are the tazkiras for you, the principal claimant Mr. **LLL**, your sister **AMM** and **NNN**. Those documents are very basic and the dates they contain are approximate, except for the year.

However, you have testified that you have tried to get proper documents from your country, but since you escaped by fear from your village, it was hard for you to obtain the school certificates and the original documents from your father since you haven't been in touch with him since April 2013. You also explained that you tried to obtain the documents from photocopies that you have from the Afghan Embassy in Ottawa, but you did not receive any help from the Consulate authorities.

Based on the above, the Tribunal concluded that you were in good faith. You testified under oath in regards of your respective identity. The Tribunal was satisfied with the level of preponderance of probabilities that you are who you say you are.

Credibility

There were several discrepancies in the principal claimant's, Mr. Baheer, testimony regarding your itinerary. You stated that you stayed in the United States for two weeks; however in the schedule 12, Exhibit A-1, it's indicated one week. On the other hand, you also indicated that you stayed in three different places from the beginning of the year, according to your schedule A, question 12, from January 2013 until you left your country in July 2013.

, during your testimony, you told the Tribunal that from your village in Zakhil, you went to Kabul twice. Those facts are not clear and there were major discrepancies in the testimony and the explanation that you gave was not adequate as per the Tribunal. However, given the circumstances, the Tribunal concluded that those incidents in your claim would not be considered to be determinative in deciding your claim.

¹ Document 4 – Exhibits C-1 to C-17, exhibit C-1: Afghan national ID -

² Document 4 – Exhibits C-1 to C-17, exhibit C-2: Afghan national ID -

³ Document 4 – Exhibits C-1 to C-17, exhibit C-3: Afghan national ID -

LLL
MMM
NNN

~~NNN~~ was able to testify in a timely fashion and was forthright regarding her fear to marry a man not of your choosing, Commander Yousef, a man chosen by your father and who was much older than you are. You explained that another man, Spangle, was also chosen to marry your younger sister Muska and she also refused.

You explained that you went to Kabul to escape the forced marriage of your sister and you are now, not well received since you have helped them to escape. You would fear for your safety in your country.

The Tribunal believes your story in regards of the forced marriages in Afghanistan. The documentary evidence clearly indicates that schooling young girls and forced marriages are things that are prevalent in Afghanistan. By going against your parent's wishes and the elders', including the two men wanting to marry you, that would cause you great danger if you return to your country.

The Tribunal concludes that it is a fundamental right for a woman to marry a man of her choosing and the fear of persecution that you have indicated, is greater than a mere possibility in all the three cases.

Although, Mr. Baheer, your brother, the principal claimant here today, was not forced into a marriage himself, the Tribunal is of the opinion that he may fit into the category of a special social group under Section 96 of the Convention, thus he also is a "Convention refugee" under Section 96 of the Act.

CONCLUSION

Based on the oral testimony and the documentary evidence, the Tribunal concludes that you are "Convention refugees" as members of a particular social group.

"Edited by the Refugee Protection Division for spelling, syntax and grammar"

/msv