

EKSAMEN I JURIDISKE VALGEMNER

VÅR 2016

Dato: Tirsdag 10. mai 2016

Tid: Kl. 10:00 – 14:00

JUS5530/JUR1530 Refugee and Asylum Law

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

Please read the facts and answer the question. You should refer to the documents provided within the annex. You should also make references to the readings and cases we have covered in the class. Good Luck!

Facts:

Aamir is a 30 year old man from the Uruzgan province in Afghanistan. This province has a Pashtun ethnic majority and it experienced the continuous presence of the Australian ISAF coalition forces for 11 years, but now has a strong Taliban presence in 80% of the area. Aamir is a member of the Hazara ethnic group and Shia religion. He claims that he is easily identified as a Hazara, given his Asiatic physical features. He has had some years of religious education but has worked as a farmer on his family's land for 13 years. Sometimes the Australian forces asked him to serve as an interpreter for them. He states that two Taliban Mullahs accused him of being a spy for both ISAF and the Afghan Security Forces and fired their guns at him, yelling "People have died in drone attacks due to your treachery in helping ISAF and the Afghan Security Forces!" He left Afghanistan and moved to Pakistan where he lived for some time before moving to Iran for two years. In Pakistan and in Iran, he worked within industry. He later moved back to Pakistan and decided to travel to Australia by boat. His wife, Amena (also Hazara/Shia), and young child remain in Pakistan, albeit without citizen status and in danger of being returned to Afghanistan. While in Afghanistan, Amena had volunteered for an NGO which sought to support the establishment of schools for girls. Taliban Mullahs also defined her as a traitor and infiltrator of Western values. She lost her entire family in Afghanistan due to a drone attack on her village.

Aamir claims that he is certain that the Taliban will target him, and emphasizes that they have engaged in kidnappings and beheadings in the region. "They are criminals!" he asserts. He also suggests that ISIS has increased its activities in the region, also pursuing assaults, violence, and



killings. "You can't send me back! I will die! The Taliban will say that I ran away and must be held accountable!" he exclaims.

Questions:

B.A. students answer ONLY question 1. M.A. students answer questions 1 AND 2.

1. Would Aamir qualify as a refugee according to the 1951 Convention on the Status of Refugees? Would he qualify for humanitarian protection?

2. You have just learned that Aamir's wife Amena has been smuggled into Australia. She claims that she doesn't want to go back to Afghanistan or Pakistan as she alleges that she will be unable to survive on her own- "Women are treated like dogs there, I will be destroyed" she declares. The local police have informed you that Amena was caught stealing women's hygienic products at the grocery store. She was charged with larceny and ordered to compensate the store by the court. You have been asked to discuss whether Amena would be entitled to protection under the 1951 Convention on the Status of Refugees or humanitarian protection.

Annex:

1) The 1951 Convention on the Status of Refugees:

<https://www1.umn.edu/humanrts/instate/v1crs.htm>

2) The UN Convention Against Torture:

<http://www1.umn.edu/humanrts/instate/h2catoc.htm>

3) The US State Department Country Report for Afghanistan sets forth:

The result of the exams will be announced thuesday 31th May, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.

Oslo, 10.05.2016