

## **EXAM**

### **JUS5530 - Refugee and Asylum Law (MA)**

Spring 2017

Date: 8 May

Time: 10:00 - 14:00

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Please read the facts and answer the questions. You may refer to cases and literature in your analysis. Good Luck!

#### **Facts:**

Danyiar is a 23 year old Muslim man from Uzbekistan. He grew up in the countryside and married Madina when he was 19 years old. They had four children. Every autumn, the entire family picked cotton for the state. Marina was told that she would lose her teaching position in a state school if they did not contribute to the harvest. In 2014, Danyiar became depressed because he hated seeing his wife and children be overworked. "The children are getting sick from picking cotton!" he declared to Madina. Danyiar's father told him to emigrate and said that he would watch over the family for him.

Danyiar reluctantly left for Russia in search of a job. "I will send for you" he promised Madina. In Russia, Danyiar worked in a construction site. He was very lonely without his family and spent most nights on the computer. He began to visit a website run by an expat Uzbek group which sought to expose the truth about Uzbekistan and study religious literature which was banned in Uzbekistan. Danyiar discussed ideas from the website with his co-workers at the construction site. One of his co-workers became concerned and spoke to the manager about Danyiar's possible ties to extremism. The manager contacted the Department of Federal Migration Service. In 2015, the Russian prosecutor charged Danyiar with violation of Article 282.2 "Organizing the activity of an extremist community." Danyiar insists that all he did was talk about the ideas in the website, he claims he never organized any actions. The Regional Court sentenced him to three years in a prison colony in the north-west region of Russia. They notified the Uzbekistani authorities of his interest in the website. The Uzbekistani authorities declared Danyiar to be engaged in "anti-state activities" and placed him on a wanted list for violation of the Criminal Code, article 244-1 "Production and dissemination of materials containing a threat to public security and public order". He was sentenced in absentia by a Criminal Court in Uzbekistan. In 2016, the Russian Ministry of Justice declared Danyiar to be "undesirable", given that his presence was considered to constitute a real threat to public order. The Russian Federal Migration Service ordered Danyiar to be deported. Danyiar started crying "Don't send me back to Uzbekistan! They will torture me! I want asylum!"

Back in Uzbekistan, Madina was suffering terrible abuse by her father-in-law. “You are a terrible wife and mother” declared the father-in-law, beating her repeatedly in front of the children. As she was bleeding from her ear, she went to the hospital. The doctor treated her and told her that she had lost partial hearing permanently. Madina went to the local Mahalla authorities, instead of the police. The Mahalla authority told her to forgive her father-in-law, be patient, and correct her own mistakes. She asked them if they could provide legal aid so she could file for a protection order against her father-in-law. The Mahalla denied her request. “I am so afraid that he will beat me to death!” she exclaimed. When she came home, her father-in-law yelled at her for contacting outsiders. “You are disloyal to this family! If you ever do this again I will kill you!” he exclaimed. She took the children and left for Moscow in search of her husband. She was stopped on the bus in Moscow and detained. She filed an asylum request with the Department of Federal Migration Service.

Russia has ratified the 1951 Convention on the Status of Refugees and Protocol, the European Convention on Human Rights, and the Convention Against Torture, but not the Council of Europe Convention on preventing and combating violence against women and domestic violence.

**Question 1 (BA students and Masters students):**

You are a case officer at the Russian Department of Federal Migration Service. You have been asked to write a memo analyzing Danyiar’s asylum claim according to the definition of a refugee in the 1951 Convention on the Status of Refugees. You are also asked to determine whether or not he may be sent back to Uzbekistan according to human rights law.

**Question 2 (Masters Students only):**

You are also asked to assess Madina’s asylum claim in accordance with the 1951 Convention on the Status of Refugees and whether or not she may be sent back in accordance with human rights law.

## Annex

1. Human Rights Watch 2017 Report on Uzbekistan
2. European Convention of Human Rights
3. 1951 Convention on the Status of Refugees
4. UN Convention Against Torture
5. Report on Domestic Violence in Uzbekistan
6. Council of Europe Convention on preventing and combating violence against women and domestic violence

