



Memo in Support of Asylum Application

Name: SARABI, Abbas
Date: March 11, 2023
Country: Afghanistan

Biographic/Entry Information

The applicant is a 45-year-old male native and citizen of Afghanistan who was paroled into the United States, at Washington, Dulles, on DATE, until DATE.

Basis of claim

The applicant fears the Taliban will kill him on account of his imputed political opinion - anti-Taliban human rights defender.

One-Year Filing Deadline

The applicant had until DATE to apply for asylum. The applicant established his date of entry by clear and convincing evidence. He is timely filing his asylum application on DATE. Therefore, he is in compliance with the deadline.

Summary of Testimony and Credibility

The applicant stated credibly in his personal statement that the Taliban threatened him because of his reporting on Taliban human rights abuses through the Human Rights Foundation (HRF).

The Taliban first threatened the applicant, an ethnic Hazara, after the publication of a report that detailed the Taliban's repression of girls and the media. The Taliban sent the applicant a letter, calling him a traitor and infidel for working on the report and for working for a U.S.-led NGO. They insisted he leave his job immediately. They sent several similar letters and threatened the applicant and his wife via text messages, again calling him a traitor, an infidel, and stating "your family will pay." (where was report publicized, how publicly publicized? how visible was the applicant?)

The threats escalated when the Taliban threatened the applicant's wife in person. On that occasion, two men dressed like Taliban (?) followed the applicant's wife and son to the child's school. When the applicant's wife exited the school, the two men blocked her path, glared at her, and called her a Hazara infidel. One of them said "we know your husband is spreading lies that

are against Islam. If he does not stop, you might not find your son here when you come to get him here.”

Fearing for their lives, the applicant and his family fled from Kabul to Bamyan and back to Kabul. Despite changing their phone numbers, the Taliban kept sending them threatening text messages. Increasingly fearful, he and his family went into hiding. The Taliban attacked the applicant’s cousin when they went looking for the applicant at his home. They told his cousin to tell the applicant that “his time would be coming soon.” The Taliban killed the applicant’s supervisor at the HRF because of his work with the Foundation. The applicant fled several months later, with his wife and children, during the withdrawal of U.S. military forces from Afghanistan.

Focused Analysis

To receive asylum, an asylum-seeker must show past persecution or a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

PAST PERSECUTION

The acts described by the applicant amount to past persecution on account of imputed political opinion - anti-Taliban human rights defender. The numerous threats by the Taliban against the applicant over a prolonged period of time is harm serious enough to constitute persecution. The Taliban killing his boss and attacking his cousin reinforced his fear that they would follow through on their threats. The Taliban are notorious for retaliation killings of their perceived enemies’ family members. The applicant was so fearful that the Taliban would kill him, his wife, and his children, that he moved several times and changed his phone number several times. The applicant established that the harm he suffered was on account of his imputed political opinion because the Taliban threatened him when he reported on Taliban human rights abuses.

According to USCIS, “[s]erious threats made against an applicant may constitute persecution even if the applicant was never physically harmed. Under some circumstances, a threat may be sufficiently serious and immediate to constitute persecution even if it is not explicit.” RAIIO Training Module Definition of Persecution and Eligibility Based on Past Persecution. RAIIO Combined Training Program, RAIIO Directorate Officer Training, pgs. 14-15, 12/20/2019.

Thus, the applicant has established that he is a refugee.

A preponderance of the evidence fails to establish that there has been a fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution if he were to return. Country conditions corroborate the applicant’s claim. The U.S. State Department, citing a report by the UN Special Rapporteur, states that: “Afghan human rights defenders were under direct threat by the Taliban, including gender-specific threats against women, beatings, arrests, enforced disappearances, and killings. The report noted that defenders described living in a climate of constant fear, with the most at-risk groups being defenders documenting alleged war crimes; women defenders, in particular criminal lawyers; cultural rights defenders; and defenders

from minority groups. The Taliban raided the offices of human rights and civil society organizations, searching for the names, addresses, and contacts of employees, according to the report. United States Department of State Country Reports on Human Rights Practices - 2022. "Afghanistan." Bureau of Democracy, Human Rights, and Labor, February 25, 2022. <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/afghanistan>.

Amnesty International reports that:

Human rights defenders faced intimidation, harassment, threats, violence and targeted killings. A spike in attacks that began in late 2020 continued into 2021. According to the Afghan Human Rights Defenders Committee, at least 17 human rights defenders were killed between September 2020 and May 2021, while hundreds more received threats.

From late August, the Taliban occupied all 14 offices of the Afghanistan Independent Human Rights Commission, forcing its staff to flee the country or go into hiding. Door-to-door searches by Taliban fighters looking for human rights defenders and journalists were reported, and NGO workers and their families were beaten.

Amnesty International Report 2021/22: The State of the World's Human Rights - Afghanistan. <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanist-an/>:

A preponderance of the evidence fails to establish that the applicant could avoid future persecution by relocating within his country and that, under all the circumstances, it would be reasonable for him to do so. Since the persecutor in this case is the government, it is presumed that the applicant's fear of persecution is countrywide.

WELL-FOUNDED FEAR

If you find that what happened to the applicant in the past does not rise to the level of persecution, he still has a well-founded fear of persecution in the future. The applicant has established all four prongs of the Mogharrabi test:

1. he **possesses** a protected characteristic - imputed political opinion - anti-Taliban human rights defender.
2. the persecutor is **aware** that he possesses the characteristic. The Taliban threatened him after the report he worked on was published. They warned him and his wife that he "would pay" if he did not stop working for the U.S.-led NGO. They continued to threaten him by text even after he relocated twice.
3. the persecutor has the **capability** of punishing the applicant. The Taliban is the government and holds complete power to enforce their will over the applicant throughout the country.

4. the persecutor has the **inclination** to punish the applicant. Again, according to the Amnesty International, “at least 17 human rights defenders were killed between September 2020 and May 2021, while hundreds more received threats. From late August, the Taliban occupied all 14 offices of the Afghanistan Independent Human Rights Commission, forcing its staff to flee the country or go into hiding. Door-to-door searches by Taliban fighters looking for human rights defenders and journalists were reported, and NGO workers and their families were beaten.”

CONCLUSION

The applicant has established that he is a refugee. There are no mandatory or discretionary factors that make the applicant ineligible for asylum.

A NOTE ON NEXUS TO A PROTECTED GROUND

The applicant asserts that the Taliban may have been equally motivated to kill him on account of several protected grounds, not just [imputed political opinion] as analyzed above.

The Taliban is a predominantly Pashtun, theocratic group that governs Afghanistan according to its ultraconservative interpretation of Islam. Politics, religion, ethnicity, and gender policy are inextricably intertwined for the Taliban. The Taliban persecutes all those it perceives as adversaries. [insert your specific facts here] It called the applicant and his wife Hazara infidels and warned the applicant to stop his work after research he conducted appeared in a report by an American NGO that highlighted the Taliban’s repression of girls and the media.

Thus, the Taliban may have targeted the applicant not only because it believed that the applicant was critical of the way the Taliban governed the country (persecution on account of political opinion or imputed political opinion), but also because it thought that the applicant disagreed with the Taliban’s interpretation of Islam (persecution account of religion or imputed religious beliefs).

The Taliban’s reference to the applicant and his wife being Hazara infidels could reasonably be interpreted to mean that the Taliban was motivated to harm the applicant because of his race or ethnicity (Hazara not Pashtun); because he held different religious beliefs (Shia not Sunni) and/or that he held different social and political views (social liberalism and democracy not conservative autocracy/theocracy).

Thus, the applicant is a refugee because of persecution and a well-founded fear of persecution on account of race, religion, and political opinion.