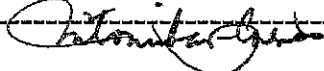


EN BANC

G.R. No. 249387 – REHMAN SABIR, *Petitioner*, v. DEPARTMENT OF JUSTICE-REFUGEES AND STATELESS PERSONS PROTECTION UNIT (DOJ-RSPPU), *Respondent*.

Promulgated:

August 2, 2022

X----------X

CONCURRING OPINION

LEONEN, J.:

I agree with the *ponencia* that this case must be remanded for a proper disposal. The determination of refugee status is a *sui generis* proceeding, where the protection officer shares the burden with the applicant in establishing their claim for protection under the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention).¹ I wish to emphasize the rigor required in evaluating applications for refugee status determination.

The Department of Justice-Refugees and Stateless' Persons Protection Processing Unit (DOJ-RSPPU) is mandated to assist and protect asylum seekers.² Each protection officer must meet the demands of their duties. Their analysis cannot be limited to the words used by applicants in their statements. They should show sufficient knowledge and understanding of why the applicant is fleeing their home countries, refusing to avail of protection there, and seeking refuge in a foreign land. To do this, a protection officer must examine the profiles, personalities, and motivations of each applicant and understand their subjective fears. They must assess the credibility of these fears against the objective situation of those similarly situated in the country of origin. Only then can we be confident that necessary assistance and protection have been extended to those fleeing persecution.

Under the 1951 Refugee Convention, refugee status is generally given to a person who is outside their country of nationality or habitual residence, but who is unable to return or avail of its protection, because of a well-founded fear of persecution “for reasons of race, religion, nationality, membership of a particular social group or political opinion[.]”³ The most

¹ *Ponencia*, pp. 13–15.

² DOJ Department Circular No. 058-12 (2012), sec. 5.

³ 1951 Convention Relating to the Status of Refugees, art. 1(2), July 22, 1981, *available at* <<https://www.unhcr.org/4ae57b489.pdf>> (last accessed on August 1, 2022) states:
(2) As a result of events occurring before 1 January 1951 and owing to well[-]founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or

important element in an application for refugee status is a well-founded fear of persecution. The Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection⁴ provides that an applicant must show a good reason why they fear persecution.

Fear is highly subjective. It requires assessing the credibility of an applicant's state of mind, personality, and other psychological factors.⁵ To be well founded, it must be supported by objective evidence, which generally comprises the conditions in the country of origin. Its coverage is not limited to those who were actually persecuted, but also extends to those who wish to avoid the risk of persecution.⁶ Also, persecution need not be based on personal experience, and may be drawn from the experience of others similarly situated.⁷ The applicant's statements should be understood within the context of the conditions of their country of origin.⁸

As held in *Immigration and Naturalization Service v. Cardoza-Fonseca*,⁹ the standard required to establish a well-founded fear is only a reasonable possibility. While a foreign case, it is persuasive and serves as a useful guide in our reading of the well-founded-fear requirement.

In *Immigration and Naturalization Service*, the United States Supreme Court affirmed the reversal of the immigration judge's ruling that the Nicaraguan asylum seeker had to establish a clear probability of being subjected to persecution upon deportation. It interpreted the "well-founded fear" standard in Article 208(A) of the Immigration and Nationality Act of 1952¹⁰ in line with the intent of the drafters of the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees (1967 Protocol).

Based on this, the United States Supreme Court held that an asylum seeker need not establish that they would actually be persecuted upon deportation. It was sufficient "that, so long as an objective situation is established by the evidence, it need not be shown that the situation will

political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

⁴ Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees (Handbook), p. 12, par. 45.

⁵ Id. at 11-12, pars. 38-41.

⁶ Id., pars. 38 & 45.

⁷ Id. at 12, par. 43.

⁸ Id., par. 42.

⁹ 480 U.S. 421 (1986).

¹⁰ The United States Congress adopted the "well-founded" fear standard under the 1951 Convention and 1967 Protocol and intended its refugee law to conform to these international instruments.

probably result in persecution, but it is enough that persecution is a reasonable possibility.”¹¹

Here, petitioner Rehman Sabir applied for refugee status based on religion-based persecution due to his Christianity and refusal to accept the Qur’an.

Religion has no universally accepted definition. It is not limited to traditional religions and includes beliefs with similar institutional characteristics or practices.¹² A well-founded fear from persecution due to religion may include restrictions in the exercise of religious freedom, discrimination, forced conversion, or forced compliance or conformity with religious practices.¹³ Due to the complex nature of applications grounded on religion-based persecution, the United Nations High Commissioner for Refugees (UNHCR) issued Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees. It provides the relevant inquiries that may be asked to the asylum seeker:

14. Each claim requires examination on its merits on the basis of the individual’s situation. *Relevant areas of enquiry include the individual profile and personal experiences of the claimant, his or her religious belief, identity and/or way of life, how important this is for the claimant, what effect the restrictions have on the individual, the nature of his or her role and activities within the religion, whether these activities have been or could be brought to the attention of the persecutor and whether they could result in treatment rising to the level of persecution.* In this context, the well-founded fear “need not necessarily be based on the applicant’s own personal experience”. What, for example, happened to the claimant’s friends and relatives, other members of the same religious group, that is to say to other similarly situated individuals, “may well show that his [or her] fear that sooner or later he [or she] also will become a victim of persecution is well-founded”. Mere membership of a particular religious community will normally not be enough to substantiate a claim to refugee status. As the UNHCR Handbook notes, there may, however, be special circumstances where mere membership suffices, particularly when taking account of the overall political and religious situation in the country of origin, which may indicate a climate of genuine insecurity for the members of the religious community concerned.¹⁴ (Emphasis supplied, citations omitted)

In response to the continuing sectarian and religiously motivated violence among religious minorities in Pakistan, the UNHCR also issued the

¹¹ *Immigration and Naturalization Service v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1983).

¹² Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol Relating to the Status of Refugees (Guidelines On International Protection No. 6), item no. 4, April 28, 2004, available at <<https://www.unhcr.org/publications/legal/40d8427a4/guidelines-international-protection-6-religion-based-refugee-claims-under.html>> 3 (last accessed on August 1, 2022).

¹³ Id. at 4–5, item no. 12.

¹⁴ Id. at 5, item no. 14.

Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan (Eligibility Guidelines).¹⁵ It identified Christianity as one of the vulnerable minority groups that may need international refugee protection:

UNHCR considers that members of the Christian community, including in particular those targeted by militant groups or charged with criminal offences under the blasphemy provisions, victims of bonded labour, severe discrimination, forced conversion and forced marriage, as well as Christians perceived as contravening social mores, may, depending on the individual circumstances of the case, be in need of international refugee protection on account of their religion, ethnicity, (imputed) political opinion, and/or other relevant grounds.¹⁶ (Citations omitted)

Notwithstanding the UNHCR's recognition of the vulnerability of Christians in Pakistan, in *AK and SK (Christians: risk) Pakistan CG v. Secretary of State for the Home Department*,¹⁷ the Upper Tribunal on Immigration and Asylum Chamber of the United Kingdom denied the application for refugee status of two siblings who fled from Karachi, Pakistan due to risk of persecution from extremist groups. AK angered his students while discussing Jesus and Prophet Mohammed in relation to Charles Dickens's novel entitled, "A Christmas Carol."

In evaluating the applicants' claims, the tribunal examined the history of Pakistan, its people, its system of government, its constitution, and relevant laws affecting the practice of religion, especially on blasphemy. It then assessed the risk of persecution that Christians and their supporters faced using the existing country information and reported data from local and international groups. After a careful examination of the objective data, the applicants' subjective claims were evaluated.

The tribunal concluded that the applicants' fears of persecution were not well founded. It did not find their statements credible and did not give weight to the documents they presented, as these appeared to be fabricated and belatedly introduced. Moreover, the applicants were educated and from a well-off family, and did not fall within the vulnerable categories of Christians in Pakistan. The tribunal held that "Christians in Pakistan are a religious minority who, in general, suffer discrimination but this is not sufficient to amount to a real risk of persecution."¹⁸

¹⁵ Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan, January 2017, HCR/EG/PAK/17/01 (Eligibility Guidelines), available at <<https://www.refworld.org/pdfid/5857ed0e4.pdf>> 4 (last accessed on August 1, 2022).

¹⁶ Id. at 45.

¹⁷ UKUT 00569 (IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), December 15, 2014, available at <https://www.refworld.org/cases,GBR_UTIAC,549962d94.html> (last accessed on August 1, 2022).

¹⁸ Id. at 75, par. 240.

AK and SK shows that mere membership in a particular religious community is generally insufficient to successfully claim refugee status. Each religion-based claim must be carefully evaluated based on the circumstances of the applicants.¹⁹ The Eligibility Guidelines provides that an asylum claim from a member of a religious minority from Pakistan requires a careful examination of the possible risks using a “fair and efficient status determination procedures and up-to-date and relevant country of origin information.”²⁰

In this case, however, the protection officer’s evaluation of the application is sorely lacking. The protection officer relied on petitioner’s use of words, without a deeper examination of his meaning when, as the *ponencia* pointed out, petitioner has indicated that he does not easily understand English.²¹ Moreover, the protection officer neglected petitioner’s personal situation. He alleged that he was economically dependent on his family. He was unemployed because he was a Christian who only finished up to 10th grade due to financial constraints.²²

Additionally, the protection officer should not literally interpret petitioner’s characterization of his step-uncle Raja’s attempts to convert him to Islam as merely persuasion. Petitioner narrated that Raja was trying to convert him to Islam at least twice or thrice a week, each time he visited his house.²³ The frequency of these attempts to convert him culminated in an aggressive confrontation, with threats to his life. The cumulative impact of these persuasions amount to a forceful conversion to Islam, or at least a forceful compliance with its practices, amounting to religion-based persecution.

The protection officer also did not seem to have examined the objective situation of Christians in Pakistan. The *ponencia* noted that the DOJ-RSPPU’s ruling only relied on one source, which was the United Kingdom’s Country Information and Guidance on Christians and Christian Converts in Pakistan.²⁴ Hence, I agree with petitioner that there was no objective determination of the Christians’ situation in Pakistan.

It also does not appear that the risk that petitioner could face should he be deported to Lahore, Pakistan was considered. The protection officer did not consider the gravity of the accusation, the identity of his accuser, and all the other relevant allegations relating to his forced conformity or conversion to Islam.

¹⁹ Guidelines On International Protection No. 6, p. 137, item no. 14.

²⁰ Eligibility Guidelines, p. 4.

²¹ *Ponencia*, p. 24.

²² *Id.* at 3.

²³ *Id.*

²⁴ *Id.* at 25.

Significantly, the protection officer missed the identity of petitioner's accuser. Raja was not merely his step-uncle, but was alleged to be a *maulana* or a preacher in the mosque.²⁵ A *maulana* is a form of address to a learned Muslim scholar.²⁶ If petitioner's allegation is found credible, it may increase the risk of his persecution given that a *maulana* occupies an esteemed and respected status in the community.

Similarly, the gravity of the accusation against petitioner cannot be discounted. Raja accused him of insulting the Qur'an after he had accidentally dropped it on the floor while rejecting his step-uncle's attempts to accept it. This may be considered a grave offense, especially by Raja, a *maulana*. The Qur'an is the primary source of Islamic law and the very foundation of the religion.²⁷ It is the most sacred text for Muslims, one that they consider to be a miracle.²⁸ Raja's display of violence when he grabbed the kitchen knife and told petitioner that "he is now dead"²⁹ is consistent with the attitude of the predominantly Muslim population against blasphemy of religious minority groups.

Pakistan's blasphemy laws are strongly criticized internationally for "fuelling extremist violence and targeted attacks against individuals from religious minority groups."³⁰ Aside from criminal prosecution under Section 295-C of Pakistan's criminal laws, which punishes one with death, as petitioner alleged,³¹ an accusation of blasphemy exposes a religious minority to serious risk of violence from non-state actors:

Accusations of blasphemy may carry serious risks for the person accused as well as their families, irrespective of whether the person concerned is subsequently charged with an offence against the blasphemy laws. Individuals accused of blasphemy have reportedly been subject to death threats, assaults, including mob attacks, and assassinations by community members or members of the security forces, either before they are arrested and tried in court, or even after they have been acquitted, forcing some to go into hiding or to flee in fear of their lives. Some persons accused of blasphemy are reportedly tortured or killed while in police custody or detention. Prison officials have reportedly stated that detainees accused of or convicted of blasphemy are at high risk of attacks by other detainees or even prison staff. In many cases, individuals are reportedly kept in solitary confinement or isolation as a form of protection, sometimes for many years at a time.³² (Citations omitted)

²⁵ Ponencia, p. 3.

²⁶ MERRIAM-WEBSTER DICTIONARY, "Maulana," <<https://www.merriam-webster.com/dictionary/maulana>> (last accessed on August 1, 2022).

²⁷ Irshad Abdal-Haqq, *Islamic Law: An Overview of Its Origin and Elements*, 7 J. ISLAMIC L. & CULTURE 27, 39 (2002).

²⁸ Id. at 44–45.

²⁹ Ponencia, p. 3.

³⁰ Eligibility Guidelines, p. 11.

³¹ Ponencia, p. 4.

³² Eligibility Guidelines, p. 17.

The UNHCR identified Christians in serious risk of mob violence especially in petitioner's community in Lahore, Pakistan:

b) Treatment of Christian Individuals by Non-State Actors

Attacks and incidents of mob violence targeting Christians reportedly continue to occur throughout the country; analysts attribute the violence in part to the growing influence of Sunni extremist ideology. Militant groups have conducted attacks in particular during church services or religious processions. In September 2016, four armed men reportedly attacked a Christian residential area in Peshawar, known as Christian Colony, leaving one man dead; police reportedly intervened, killing the four militants. In March 2016, a suspected suicide bomber killed at least 72 people in a local park in Lahore on Easter Sunday; a splinter group of the Pakistani Taliban reportedly claimed responsibility and announced that the attack had targeted Christians, although there were many Muslims among the victims. On 15 March 2015, a militant group reportedly bombed two Christian churches in Lahore while the churches were full of worshippers participating in a Sunday service, killing an estimated 14 to 17 people and wounding at least 70. In response to the attack, Christians protested on 16 March 2015; the protest reportedly became violent and the Christian protestors reportedly killed two Muslims; civil society groups estimated that the police arrested more than 500 Christians alleged to have participated in the killings. Residents of the Christian neighbourhood Youhanabad in Lahore reported fearing retaliation and further violence.

Christians have also reportedly been subject to targeted attacks and killings by members of society.

Christians reportedly continue to face illegal occupation and desecration of their places of worship and graveyards, and in some cases their stores and businesses. For example, in January 2016, two churches on the outskirts of Lahore were reportedly subject to arson attacks. In November 2015, Gawahi Television, a Christian Web TV station in Karachi was reportedly the target of an arson attack, and its studios and equipment completely destroyed in the fire; the station had reportedly informed the authorities that it had received threats prior to the attack. In May 2015, an armed group reportedly vandalized a Christian church in Punjab, and injured six people, including the pastor.³³ (Citations omitted)

This is consistent with petitioner's narration of his fears when he explained that his step-uncle's "accusation will be reported to the local Muslim community and that the community will likely gang up on him to kill him."³⁴ He added that "the [g]overnment cannot do anything about it."³⁵ The protection officer should have assessed the credibility of these statements based on the objective situation in the local community in Lahore, Pakistan.

³³ Id. at 41-43.

³⁴ *Ponencia*, p. 4.

³⁵ Id.

I recognize that the DOJ-RSPPU has the primary jurisdiction to evaluate applications for determining refugee status. However, this Court should not hesitate to compel the agency to properly discharge its duties, especially to asylum seekers fleeing violence. Again, in refugee status applications, the burden of proof is shared between the applicant and the protection officer.³⁶

Here, the DOJ-RSPPU did not examine the subjective and objective components of petitioner's fears within the context of Christians' situation in Pakistan. There was no indication that petitioner's account on this matter was not credible. It bears emphasis that actual persecution, or the actual filing of blasphemy charges, is not always required to conclude that one's fear of religion-based persecution is well founded. *Immigration and Naturalization Service* teaches that once an objective situation has been established by the evidence, the threshold of the persecution required is only a reasonable possibility, not actual persecution.

In any case, should petitioner not obtain refugee status under the 1951 Refugee Convention, there is no basis to immediately deport him.

There is a growing state practice toward preference for voluntary, rather than forced, returns.³⁷ On October 10, 2003, the UNHCR Executive Committee reached a consensus on unsuccessful asylum seekers, or those "found not to be in need of international protection":

(a) Reaffirms the right of everyone to leave any country, including his or her own, and to return to his or her own country as well as the obligation of States to receive back their own nationals, including the facilitation thereof, and remains seriously concerned, as regards the return of persons found not to be in need of international protection, that some countries continue to restrict the return of their own nationals, either outright or through laws and practices which effectively block expeditious return;

.....

³⁶ DOJ Department Circular No. 058-12 (2012), sec. 9 states:
SECTION 9. Burden of Proof. — The responsibility of proving a claim to refugee or stateless status is a shared and collaborative burden between the Applicant and the Protection Officer.
The Applicant has the obligation to provide accurate, full and credible account or proof in support of his/her claim, and submit all relevant evidence reasonably available.
A finding that the Applicant is a refugee is warranted where he or she has met the definition of the refugee.

The finding that the Applicant is stateless is warranted where it is established to a reasonable degree that he or she is not considered a national by any State under the operation of its laws. This involves the examination of the nationality laws of the country with which the Applicant has a relevant link (by birth, descent, marriage or habitual residence).

³⁷ United Nations High Commissioner for Refugees (UNHCR), *The removal of failed asylum seekers: international norms and procedures*, December 1, 2007, available at <<https://www.refworld.org/docid/4c2472eb0.html>> (last accessed on August 1, 2022).

(c) Reiterates that return of persons found not to be in need of international protection should be undertaken in a humane manner, in full respect for human rights and dignity and, that force, should it be necessary, be proportional and undertaken in a manner consistent with human rights law; and emphasizes that in all actions concerning children, the best interests of the child shall be a primary consideration[.]³⁸

The Philippines, through DOJ Department Circular No. 058-12, displays this preference for voluntary returns of asylum seekers who were denied refugee status. Section 14 provides that upon the application's denial with finality, the applicant shall be given sufficient time to leave the country.³⁹ This provision should be read in its plain and literal meaning. We should not engage in unnecessary construction when the words of a statute or rule are clear.⁴⁰

Thus, while I agree that the State has an inherent power to deport an alien from its territory, the power to remove an asylum seeker must be exercised with caution, and as a last resort.

Deportation is an exercise of police power to remove "undesirable aliens whose presence in the country is found to be injurious to the public good and domestic tranquility of the people."⁴¹ While it is not criminal in nature, it is an extraordinary and harsh administrative proceeding with severe and cruel consequences, amounting to punishment.⁴² The grounds for deportation are enumerated under Section 37 of the Philippine Immigration Act.⁴³ The denial of an asylum claim does not fall under any of these

³⁸ Executive Committee of the High Commissioner's Programme, *Conclusion on the return of persons found not to be in need of international protection No. 96 (LIV) - 2003*, No. 96 (LIV), October 10, 2003, available at <<https://www.refworld.org/docid/3f93b1ca4.html>> (last accessed on August 1, 2022).

³⁹ DOJ Department Circular No. 058-12 (2012), sec. 14 states:
SECTION 14. Finality of Decision. — Where the application is denied with finality, the Applicant shall be afforded sufficient time to leave the country unless he/she holds another immigration status or the Commissioner has authorized his/her continued stay. Any immigration proceeding that has been suspended pursuant to Section 7 hereof may be reactivated.

⁴⁰ *Philippine Amusement and Gaming Corporation v. Philippine Gaming Jurisdiction, Inc.*, 604 Phil. 547 (2009) [Per J. Carpio Morales, Second Division].

⁴¹ *Board of Commissioners v. Dela Rosa*, 274 Phil. 1157, 1206 (1991) [Per J. Bidin, En Banc] citing *Lao Gi v. Court of Appeals*, 259 Phil. 1247 (1989) [Per J. Gancayco, First Division].

⁴² *Commissioner Domingo v. Scheer*, 466 Phil. 235, 283 (2004) [Per J. Callejo, Second Division].

⁴³ Commonwealth Act No. 613 (1940), as amended, sec. 37 states in part:

SECTION 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien:

(1) alien who enters the Philippines after the effective date of this Act by means of false and misleading statements or without inspection and admission by the immigration authorities at a designated port of entry;

(2) Any alien who enters the Philippines after the effective date of this Act, who was not lawfully admissible at the time of entry;

(3) Any alien who, after the effective date of this Act, is convicted in the Philippines and sentenced for a term of one year or more for a crime involving moral turpitude committed within five years after his entry to the Philippines, or who, at any time after such entry, is so convicted and sentenced more than once;

(4) Any alien who is convicted and sentenced for a violation of the law governing prohibited drugs;

grounds. There is also no showing that petitioner's presence in the country offends public order. Even if his refugee status application should be denied, there is simply no basis to order his deportation.

I agree with Justice Alfredo Benjamin Caguioa that international human rights law and international customary norms provide our non-refoulement obligations, which apply even to unsuccessful asylum seekers.⁴⁴ Following the principle of non-refoulement, before removal measures are implemented, we have a positive duty to ensure that the unsuccessful asylum seeker will not be exposed to danger of serious human rights violations or to irreparable harm or risk of torture and other cruel treatment.⁴⁵ Before they are removed, we must ensure that they are prepared to return to their country of origin or to a third state.⁴⁶

This duty primarily falls on the DOJ-RSPPU, whose mandate is to find durable solutions for refugees and stateless persons.⁴⁷ This extends even to those whose applications are pending and those who were denied refugee status with finality. However, DOJ Department Circular No. 058-12 does not provide the mechanisms for the removal of the asylum seeker after

(5) Any alien who practices prostitution or is an inmate of a house of prostitution or is connected with the management of a house of prostitution, or is a procurer;

(6) Any alien who becomes a public charge within five years after entry from causes not affirmatively shown to have arisen subsequent to entry;

(7) Any alien who remains in the Philippines in violation of any limitation or condition under which he was admitted as a nonimmigrant;

(8) Any alien who believes in, advises, advocates or teaches the overthrow by force and violence of the Government of the Philippines, or of constituted law and authority, or who disbelieves in or is opposed to organized government or who advises, advocates, or teaches the assault or assassination of public officials because of their office, or who advises, advocates, or teaches the unlawful destruction of property, or who is a member of or affiliated with any organization entertaining, advocating or teaching such doctrines, or who in any manner whatsoever lends assistance, financial or otherwise, to the dissemination of such doctrines.

(9) Any alien who commits any of the acts described in sections forty-five and forty-six of this Act, independent of criminal action which may be brought against him: Provided, That in the case of an alien who, for any reason, is convicted and sentenced to suffer both imprisonment and deportation, said alien shall first serve the entire period of his imprisonment before he is actually deported: Provided however, That the imprisonment may be waived by the Commissioner of Immigration with the consent of the Department Head, and upon payment by the alien concerned of such amount as the Commissioner may fix and approved by the Department Head;

(10) Any alien who, at any time within five years after entry, shall have been convicted of violating the provisions of the Philippine Commonwealth Act Numbered Six Hundred and Fifty-Three, otherwise known as the Philippine Alien Registration Act of 1941, or who, at any time after entry, shall have been convicted more than once of violating the provisions of the same Act;

(11) Any alien who engages in profiteering, hoarding, or black-marketing, independent of any criminal action which may be brought against him;

(12) Any alien who is convicted of any offense penalized under Commonwealth Act Numbered Four hundred and seventy-three, otherwise known as the Revised Naturalization Laws of the Philippines, or any law relating to acquisition of Philippine citizenship;

(13) Any alien who defrauds his creditor by absconding or alienating properties to prevent them from being attached or executed[.]

⁴⁴ J. Caguioa, Concurring Opinion, p. 11.

⁴⁵ UNHCR, Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 26 January 2007, available at <<https://www.refworld.org/docid/45f17a1a4.html>> (last accessed on August 1, 2022).

⁴⁶ UNHCR, *The removal of failed asylum seekers: international norms and procedures*, December 1, 2007, available at <<https://www.refworld.org/docid/4c2472eb0.html>> (last accessed on August 1, 2022).

⁴⁷ DOJ Department Circular No. 58-12 (2012), sec. 5.

their application has been denied with finality. The Department of Justice and other relevant agencies need to formulate the rules on the effective return process and mechanisms for unsuccessful asylum seekers, accounting for our obligations under relevant international human rights instruments and customary norms.

ACCORDINGLY, I concur that this case should be remanded to the Department of Justice-Refugees and Stateless' Persons Protection Processing Unit for proper disposal in accordance with the guidelines outlined in the *ponencia*.



MARVIC M.V.F. LEONEN
Senior Associate Justice