

Federal Court



Cour fédérale

Date: 20251021

Docket: IMM-11645-24

Citation: 2025 FC 1707

Montréal, Québec, October 21, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

**DANIEL HARDONO
MELVIN HARDONO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Daniel Hardono and Melvin Hardono, are seeking judicial review of a decision dated June 13, 2024 [Decision] whereby the Refugee Appeal Division [RAD] dismissed their appeal and confirmed the Refugee Protection Division's [RPD] decision. MM. Hardono's claims for refugee protection under sections 96 and 97 of the *Immigration and Refugee*

Protection Act, SC 2001, c 27 [IRPA] were rejected because both the RAD and the RPD identified viable flight alternatives [IFAs] in Manado, in the province of North Sulawesi, and Jayapura, in the province of West Papua, in Indonesia.

[2] MM. Hardono submit that the RAD erred in its determination of viable IFAs. First, they claim that the RAD was selective about the evidence it used to support its determination that they had failed to provide sufficient evidence of a forward-looking risk of persecution based on ethnicity and religion. They argue that the RAD failed to conduct its own analysis of the documentary evidence and relied too heavily on the evidence used by the RPD. Second, they argue that the RAD unfairly relied on judicial notice to assert, without sufficient evidence, that the official end of the COVID-19 pandemic would have halted related anti-Chinese sentiment in Indonesia.

[3] For the reasons that follow, MM. Hardono's application for judicial review will be dismissed. Further to my assessment, I am not convinced that the RAD failed to grapple with contradictory evidence when considering whether or not MM. Hardono faced a forward-looking serious possibility of persecution in the identified IFAs. More specifically, I find that the RAD reasonably considered MM. Hardono's intersectional identities as being both Christians and of Chinese ethnicity. Moreover, the RAD did not inappropriately make use of judicial notice. In the circumstances, there are no grounds to warrant the Court's intervention.

II. Background

A. *The factual context*

[4] Daniel Hardono and Melvin Hardono are brothers. They are Indonesia nationals of Chinese ethnicity and are practicing Christians. Prior to their arrival in Canada, they were resident of Samarinda, in the province of East Kalimantan, in Indonesia.

[5] Before the RPD, they testified to facing discrimination from school onward by the greater Indonesian society due to their ethnicity, which worsened since the COVID-19 pandemic. They also testified that starting in 2016, churches in their area have been attacked and bombed without police intervention, leaving them in a state of fear.

[6] They also testified that in January 2020, they got into a traffic accident with a Muslim man and faced angry remarks and physical attacks from a growing crowd. Having been taken away from the crowd by a police officer, they felt coerced to pay him and the Muslim man a bribe to avoid further trouble. MM. Hardono testified that the Muslim man and a group of people hung around their house afterwards, and that they received racist and threatening phone calls they believe were from that same Muslim man.

[7] In December 2021, MM. Hardono left Indonesia with valid Canadian visas and claimed refugee protection based on their fear of anti-Chinese and anti-Christian persecution in Indonesia. Their parents subsequently came to Canada in 2023 and also made claims for refugee protection.

[8] In February 2024, the RPD rejected MM. Hardono's refugee claims, as it found that they could avail themselves of IFAs in Manado, in the province of North Sulawesi, and Jayapura, in the province of West Papua. Both cities are located on different islands than Samarinda — where MM. Hardono resided — and are composed of a Christian majority.

B. *The RAD's Decision*

[9] MM. Hardono appealed the RPD's decision to the RAD and argued that the RPD erred in its IFA analysis. First, they submitted that the IFAs proposed by the RPD were selected with only their profile as Christians in mind, without explaining how these places would also be safe for them as people of Chinese ethnicity. Second, they claimed that the RPD was selective in its treatment of the evidence before it and focused only on evidence that suggested low risk for MM. Hardono in those IFAs, without addressing evidence to the contrary.

[10] The RAD dismissed the appeal and ruled that the RPD was correct in finding that valid IFAs existed for MM. Hardono in Manado and Jayapura.

[11] Regarding the first prong of the IFA test, the RAD first looked into the alleged anti-Chinese ethnic persecution in the IFA locations. Alike the RPD, the RAD cited a 2019 report from the Australian Department of Foreign Affairs and Trade [Australian Report], which explains that ethnic Chinese citizens in Indonesia face a low risk of violence and societal discrimination across Indonesia. The RAD also noted that MM. Hardono admitted before the RPD that their agents of persecution in Samarinda will not pursue them to the IFA locations. Despite articles submitted by MM. Hardono indicating that some Indonesian politicians display

anti-Chinese sentiments, the RAD was not persuaded that this was sufficient to conclude that MM. Hardono would face a serious possibility of anti-Chinese ethnic persecution in the IFA locations. The RAD further determined the Australian Report to be the “most relevant and direct country document on the subject” despite MM. Hardono arguing that the report does not account for unreported persecution. The RAD also noted that the World Health Organization declared the COVID-19 emergency to have ended in May 2023.

[12] With regards to the alleged anti-Christian religious persecution in the IFA locations, the RAD reviewed the country documentary evidence about the church attacks and found that none of the reported anti-Christian attacks occurred in the IFA locations having a majority Christian population. The RAD also found that there was little or nothing in MM. Hardono’s past history and activity indicating that they would face a serious future risk of eventually contravening Indonesia’s blasphemy law if they were to live in the IFA locations.

[13] In the end, similarly to RPD before it, the RAD found that MM. Hardono would not face a serious possibility of persecution or, on a balance of probabilities, a risk to their lives, a danger of torture, or a risk of cruel and usual treatment or punishment in the IFAs.

[14] Turning to the second prong of the IFA test, the RAD determined that MM. Hardono had not successfully proven that relocation to Manado or Jayapura would be objectively unreasonable or unduly harsh for them in their circumstances.

[15] As such, the RAD concluded that the RPD correctly determined that MM. Hardono have viable IFA locations and thus rejected their refugee claims.

C. *Standard of Review*

[16] The Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] established a presumption that reasonableness is the applicable standard in all judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [Pepa]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]), unless the circumstances lend themselves to the application of an exception to this presumption (*Canadian Society of Authors, Composers and Music Publishers v Entertainment Software Association*, 2022 SCC 30 at para 28; *Vavilov* at paras 33–64, 69–72).

[17] It is not disputed that the standard of reasonableness applies to the Decision and to findings regarding the existence of a viable IFA (*Reyes c Canada (Citoyenneté et Immigration)*, 2025 CF 1248 at para 15; *Canelas Galindo c Canada (Citoyenneté et Immigration)*, 2025 CF 1117 at para 14; *Mba v Canada (Citizenship and Immigration)*, 2025 FC 1098 at para 13; *Gonzalez Vargas v Canada (Citizenship and Immigration)*, 2025 FC 419 at para 19; *Vishist v Canada (Citizenship and Immigration)*, 2024 FC 1908 at para 17; *Sachdeva v Canada (Citizenship and Immigration)*, 2024 FC 1522 at para 10; *Nijjar v Canada (Citizenship and Immigration)*, 2024 FC 1501 at para 18; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1483 at para 22; *Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 at para 19 [Valencia]; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 14; *Ambroise v Canada (Citizenship and Immigration)*, 2021 FC 62 at para 6; *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 5 [Olusola]; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17 [Singh 2020]).

[18] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Pepa* at para 46; *Mason* at para 8; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).

[19] As part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). Flaws must be more than superficial for the reviewing court to overturn an administrative decision. Before a decision can be set aside on the basis that it is unreasonable, the reviewing court must be satisfied that “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100). An assessment of the reasonableness of a decision must be robust, but it must remain sensitive to and respectful of the administrative decision maker (*Mason* at para 8; *Vavilov* at paras 12–13). Reasonableness review is an approach anchored in the principle of judicial restraint and in a respect for the distinct role and specialized knowledge of administrative decision makers (*Mason* at para 57; *Vavilov* at paras 13, 75, 93). In other words, the approach to be followed by the reviewing court is one of deference, especially with respect to findings of facts and the weighing of evidence. Absent exceptional circumstances, a reviewing court will not interfere with an administrative decision maker’s factual findings (*Mason* at para

73; *Vavilov* at paras 125–126, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55).

[20] The onus is on the party challenging the decision to prove that it is unreasonable.

III. Analysis

[21] MM. Hardono submit that the RAD made two legal errors in its Decision. First, they argue that the RAD was selective about the evidence it used to support its determination that they had failed to demonstrate a forward-looking risk of persecution based on ethnicity and religion. Furthermore, they claim that the RAD relied too heavily on the evidence used by the RPD, thus failing to conduct its own analysis of the record. Second, they maintain that the RAD unfairly relied on judicial notice to assert, without sufficient evidence, that the official end of the COVID-19 pandemic would have halted anti-Chinese sentiment in Indonesia.

[22] In response, the Minister of Citizenship and Immigration [Minister] argues that the RAD thoroughly considered all grounds raised on appeal and reasonably dismissed the appeal. The Minister further submits that the RAD is presumed to have considered the entire record before rendering its decisions and that it was under no obligation to address every document contained in the National Documentation Package [NDP]. According to the Minister, the RAD could reasonably find that MM. Hardono had not demonstrated how they were or could be subject to persecution and their position solely amounts to a disagreement with the way the RAD weighed the evidence regarding viable IFAs.

[23] I agree with the Minister.

A. *The applicable test on IFA determinations*

[24] In *Singh 2020*, the Court reminded that “the analysis of an IFA is based on the principle that international protection can only be offered to refugee protection claimants in cases where the country of origin is unable to provide to the person requesting refugee protection adequate protection everywhere within their territory” [emphasis added] (*Singh 2020* at para 26). If a refugee claimant has a viable IFA, this will negate a claim for refugee protection under either section 96 or 97 of the IRPA, regardless of the merits of other aspects of the claim (*Olusola* at para 7).

[25] Two criteria must be established, on a balance of probabilities, in order to find that a proposed IFA is reasonable: (i) there must be no serious possibility of the claimant being subject to persecution or harm in the part of the country in which the IFA exists; and (ii) it must not be unreasonable for the claimant to seek refuge in the IFA, upon consideration of all their particular circumstances (*Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA), [1992] 1 FC 706 (FCA); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA), [1994] 1 FC 589 (FCA) [*Thirunavukkarasu*]).

[26] When an IFA is established, the onus is on the refugee claimant to demonstrate that the IFA is inadequate (*Thirunavukkarasu* at p 597; *Salaudeen v Canada (Citizenship and Immigration)*, 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 at para 24; *Olusola* at para 9).

[27] MM. Hardono do not contest the RAD's analysis concerning the second prong of the IFA test. I am satisfied that the RPD and the RAD properly concluded that it would not be unreasonable for them to relocate to one of the two IFA cities. Therefore, the only issue before the Court is the reasonableness of the RAD's first-prong finding that MM. Hardono would not face a serious possibility of persecution or a likely risk of harm in the IFA locations.

B. *The serious possibility of persecution or likely risk of harm in the IFA locations*

[28] With regards to the first prong of the IFA test, MM. Hardono submit that the RAD engaged in a selective analysis of documentary evidence, accepting evidence that supports its conclusions but ignoring contradictory evidence without explanation. More specifically, they argue that the RAD unfairly ignored evidence which ran contrary to its conclusions without engaging with or providing an explanation for why it preferred one part of the document over the other. They contend that the RAD's failure to grapple with clearly contradictory evidence before it renders the Decision unreasonable.

[29] Despite the able arguments made by counsel for MM. Hardono, I am not persuaded that the Decision is unreasonable. It is a well-settled principle that administrative decision makers are presumed to have weighed and considered all the evidence before them unless proven otherwise (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36, application for leave to the Supreme Court dismissed, no 36508 (November 19, 2015); *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1; *Valencia* at para 25). In the same vein, a failure to mention a particular piece of evidence does not mean that it was ignored (*Pepa* at para 47; *Vavilov* at para 91; *Newfoundland and Labrador Nurses' Union*

v Newfoundland and Labrador (Treasury Board), 2011 SCC 62 at para 16; *Valencia* at para 25), and a failure to mention evidence that runs contrary to the tribunal's decision does not necessarily make it unreasonable (*Khir v Canada (Citizenship and Immigration)*, 2021 FC 160 at para 48 [*Khir*]; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 24).

[30] It is true that, when an administrative decision maker does not properly deal with evidence squarely contradicting its findings of fact, the Court may intervene and infer that the decision maker overlooked the contradictory evidence when reaching its conclusion (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425 (QL) at para 17; *Hernandez Cortez v Canada (Citizenship and Immigration)*, 2021 FC 1392 at para 29). However, the failure to consider specific evidence must be viewed in context and this can only be sufficient to overturn a decision when the evidence is critical and squarely contradicts the decision maker's conclusion, and where the reviewing court determines that its omission means that the decision maker disregarded the material before them (*Khir* at para 48; *Torrance v Canada (Attorney General)*, 2020 FC 634 at para 58).

[31] Here, I do not agree that the RAD “unfairly ignored an abundance of evidence” as submitted by MM. Hardono. The RAD specifically acknowledged the articles submitted by MM. Hardono but found that they were not sufficient to support a conclusion that they would face a serious possibility of anti-Chinese or anti-Christian persecution in the IFA locations. In other words, the RAD simply gave more weight to the Australian Report. I cannot find that the RAD

overlooked critical evidence as the articles singled out by MM. Hardono do not squarely contradict the RAD's finding.

[32] In this regard, the words of Justice Régimbald in *Salim v Canada (Citizenship and Immigration)*, 2023 FC 1059 are worth citing:

[45] The RAD came to this conclusion after conducting a *de novo* analysis of all of the evidence submitted by the Applicants including their oral testimony. It then decided to base its conclusion on the Australian DFAT report to support its position that there was insufficient evidence that the Applicants would face a serious forward-facing risk of persecution. The RAD was entitled to proceed as it did as this objective evidence was not directly contradicted by other equally persuasive evidence (*Shala v Canada (Citizenship and Immigration)*, 2016 FC 573 at para 19).

[33] MM. Hardono argue that the Australian Report is not directly and specifically focused on the issue of Chinese Indonesian while other evidence they provided is, which renders the RAD's decision to ignore the latter in favour of the former all the more unreasonable. MM. Hardono also claim that the RAD unreasonably ignored evidence about the general, ongoing lack of religious freedom and presence of anti-Christian discrimination across Indonesia. They say that just because an area is predominantly Christian does not automatically render it a safe location for Christians, especially when the country as a whole is predominately Muslim.

[34] However, it is not the task of a reviewing court to reweigh the evidence on the record, or to reassess the decision maker's findings of fact and substitute its own. Absent exceptional circumstances, a reviewing court should not overturn findings of fact (*Mason* at para 73; *Vavilov* at para 125). MM. Hardono have not demonstrated any exceptional circumstance here. Moreover, the RAD was not obliged to comb through every document listed in the NDP in the

hope of finding passages that may support MM. Hardono's claim and specifically address why they do not, in fact, support their claim (*Jean-Baptiste v Canada (Citizenship and Immigration)*, 2018 FC 285 at para 19).

[35] More specifically, MM. Hardono claim that the RAD failed to grapple with their intersectional identities as Christian-Chinese Indonesians and rather considered these issues as completely separate. They argue that if the RAD had given proper consideration to highly relevant evidence, it would have found that MM. Hardono would remain at-risk minorities even within majority Christian areas of the country because they are of Chinese ethnicity.

[36] I am not convinced by this argument. Reading the Decision holistically, I find that the RAD properly addressed MM. Hardono's intersectional identities. The RAD considered both their profile as Christians and as Chinese ethnics. The RAD concluded that while the situation for Chinese-Christians in Indonesia may give rise to discrimination, this discrimination, even if cumulative, does not amount to persecution. Moreover, MM. Hardono did not provide any convincing evidence regarding the situation of Chinese-Christians in the IFA locations.

[37] As emphasized by counsel for the Minister at the hearing, the RAD refused MM. Hardono's refugee claim because of the existence of two viable IFA locations. MM. Hardono therefore had the burden to demonstrate that they were at risk of persecution in those two IFAs. They did not provide any evidence to that effect and even acknowledged that their agents of persecution had neither the motivation nor the means to find them in the IFA locations. More specifically, as pointed out by the RAD in the Decision, there is no evidence that the attacks

against Chinese churches and Christians they complained about were taking place in the IFA locations.

[38] When I read the Decision “holistically and contextually” and bear in mind that reviewing courts should strive to “to understand the reasoning process followed by the decision maker” in arriving at its conclusions (*Vavilov* at paras 84, 97), I am satisfied that the RAD could reasonably find that the objective evidence before it did not demonstrate that MM. Hardono faced a risk of persecution due to their Chinese-Christian identity in the proposed IFAs.

C. *The RAD’s use of judicial notice*

[39] In its reasons, when discussing the impact of the COVID-19 pandemic on anti-Chinese sentiment in Indonesia, the RAD indicates making use of judicial notice as follows:

[9] The appellants also argue that the RPD erred in assessing the risk of anti-Chinese ethnic persecution in the IFA locations by overlooking country documentary evidence about official anti-Chinese sentiment and about an uptick in societal anti-Chinese sentiment during the COVID pandemic. The RAD rejects these arguments and finds that the RPD did not err in failing to dwell on these articles. While the RAD acknowledges that these articles indicate that some Indonesian politicians display anti-Chinese sentiments, the RAD is not persuaded that fact is sufficient to indicate that the appellants face a serious possibility of anti-Chinese ethnic persecution in the IFA locations, when the most relevant and direct country document on the subject, the Australian report, clearly indicates that they will not. The RAD also takes judicial notice of the fact that the World Health Organization declared the COVID emergency to be at an end in May 2023 and the RAD therefore finds that there is not a serious possibility that the COVID pandemic would provoke anti-Chinese sentiment against the appellants in the IFA locations now.

[40] While MM. Hardono do not take issue with the first part of the last sentence of that paragraph — the declared end of the COVID emergency by the World Health Organization, they submit that the second part of the sentence is problematic. They say that there are two possible ways of interpreting the RAD’s sentence: either the RAD is taking judicial notice of both assertions, or the RAD is only taking judicial notice of the end of the COVID-19 emergency and then draws from it the conclusion that follows. They submit that, either way, the RAD committed a reviewable error.

[41] I agree with MM. Hardono that the RAD could take judicial notice of the declared end of the COVID emergency by the World Health Organization. Paragraph 171(b) of the IRPA indeed provides that the RAD may take notice of any facts that may be judicially noticed. It is well recognized that a court may take judicial notice of facts that are either “(1) so notorious or generally accepted as not to be the subject of debate among reasonable persons; or (2) capable of immediate and accurate demonstration by resort to readily accessible sources of indisputable accuracy” (*R v Le*, 2019 SCC 34 at para 84, citing *R v Find*, 2001 SCC 32 at para 48). This is certainly the case for the declared end of the COVID-19 pandemic emergency.

[42] However, when it comes to the second part of the sentence, I do not accept either of MM. Hardono’s proposed reading of the RAD’s reasons. With respect, MM. Hardono’s proposed interpretation ignores the context of paragraph 9 and erroneously looks at the last sentence in isolation from the rest of that paragraph. In paragraph 9 of its Decision, the RAD addressed MM. Hardono’s claim that the “RPD erred in assessing the risk of anti-Chinese ethnic persecution in the IFA locations by overlooking country documentary evidence about official anti-Chinese sentiment and about an uptick in societal anti-Chinese sentiment during the COVID pandemic.”

In the last sentence, the RAD clearly says that it “also” (emphasis added) takes judicial notice of the end of the COVID emergency, after having previously found that articles indicating that some Indonesian politicians display anti-Chinese sentiments were insufficient to demonstrate that MM. Hardono faced a serious possibility of anti-Chinese ethnic persecution in the IFA locations, notably considering the Australian Report.

[43] So, when the RAD says that it “therefore finds that there is not a serious possibility that the COVID pandemic would provoke anti-Chinese sentiment against the appellants in the IFA locations now” (emphasis added), it is clear to me that the RAD’s conclusion flows from both its findings on the documentary evidence and the judicial notice regarding the end of the COVID emergency. The extract relied on by MM. Hardono is not an exercise of judicial notice nor a conclusion drawn from the end of the COVID emergency. It is a factual finding made by the RAD based on all the evidence discussed in the whole paragraph.

[44] As such, I reject MM. Hardono’s argument that the RAD misused judicial notice in its Decision.

IV. Conclusion

[45] For the reasons set forth above, MM. Hardono's application for judicial review is dismissed. I am satisfied that the Decision was responsive to the evidence, and that its findings regarding the IFAs in Manado, in the province of North Sulawesi, and Jayapura, in the province of West Papua, have the qualities that make the RAD's reasoning logical and consistent in relation to the relevant legal and factual constraints.

[46] There are no questions of general importance to be certified.

JUDGMENT in IMM-11645-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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