Federal Court  Cour fédérale

Date: 20251112

Docket: IMM-6621-24

Citation: 2025 FC 1812

Ottawa, Ontario, November 12, 2025

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

A.A., B.B., AND C.C.

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application by a Palestinian family living in Gaza City in the context of the ongoing humanitarian crisis in Gaza which persists notwithstanding the recent ceasefire agreement and the continued closure of the Rafah border crossing into Egypt. This application is for judicial review of the alleged failure of Immigration, Refugees, and Citizenship Canada [IRCC] to process the Applicants' applications for temporary resident visas [TRV] in a

sufficiently timely manner pursuant to s. 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*].

[2] As per the Federal Court of Appeal, an order of *mandamus* may not be issued unless and until an applicant meets all legal requirements to obtain the matter in respect of which *mandamus* is sought. In other words, an applicant must be entitled to the requested matter. Here, while I have every possible sympathy for the Applicants, given the horrible upheavals characterizing the operational context in Gaza since October 7, 2023, but given the specific conditions of the *Temporary public policy to facilitate temporary resident visas for certain extended family affected by the crisis in Gaza* [Policy] which the Applicants are required to satisfy, I am not persuaded the Applicants have established a clear right to *mandamus* in this case because they have not satisfied all conditions of the Policy. Therefore, and for the reasons which follow, this application will be dismissed.

[3] This case and two others decided today (*A.B. v Canada (Citizenship and Immigration)*, 2025 FC 1813 and *A.A., B.B., C.C., D.D., E.E. v Canada (Citizenship and Immigration)*, 2025 FC 1811 [*A.A et al.*]) raise issues in many, but not all, respects similar to those addressed in *A.B. v Canada (Citizenship and Immigration)*, 2025 FC 1514 [*A.B.*] and to which these Reasons will refer. *Mandamus* was not granted in *A.B.*

II. Facts

A. *The Policy*

[4] On December 22, 2023, the Minister of Citizenship and Immigration [Minister] announced the Policy which came into effect on January 9, 2024.

[5] The Policy was developed pursuant to s. 25.2 of *IRPA* to provide refuge for Palestinian nationals with relatives who are either Canadian citizens or permanent residents. These relatives act as "anchor relatives" for the applicants' TRV applications.

[6] The Policy allows delegated officers to exempt applicants from certain requirements. To be eligible, applicants must satisfy the conditions prescribed in Parts 1-3 of the Policy:

> **Part 1**
>
> 1. The foreign national:
>
> i. has submitted an application for a temporary resident visa;
>
> ii. was in the Gaza Strip on the day they submitted their application;
>
> iii. is a Palestinian Territory passport holder;
>
> iv. has identified an anchor, a Canadian citizen or Permanent Resident, who meets the requirements in Annex A;
>
> v. is the spouse, common law partner, child (regardless of age), grandchild, parent, grandparent or sibling of the anchor identified in condition iv. of Part 1;

vi. has a signed statutory declaration from the anchor identified in condition iv. of Part 1 in which the anchor attests that:

a. they have the intention to provide the support set out in Annex B for the foreign national and their family members as defined in section 1(3) of the Regulations, and

b. they have not accepted, and understand they are not to accept, any financial compensation from the foreign national and their family members;

vii. has submitted the application by electronic means (applied online) or with an alternate application format provided by the department if the foreign national or their representative indicated they are unable to apply online.

Part 2

2. The foreign national:

i. is a family member, as defined in subsection 1(3) of the Regulations, of a foreign national who has applied under this public policy and has been found to meet the conditions listed in Part 1;

ii. has submitted an application for a temporary resident visa; and

iii. has submitted the application by electronic means (applied online) or with an alternate application format provided by the department if the foreign national or their representative indicated they are unable to apply online.

Part 3

3. The foreign national

i. holds a temporary resident visa that was issued following facilitation under Part 1 or Part 2; and

ii. seeks to enter Canada as a visitor.

[7] Applicants who satisfy the above conditions are exempt from the requirements to not be financially inadmissible and to establish they would leave Canada at the end of their authorized period of stay. The Policy makes clear all other statutory and regulatory requirements continue to apply. It may be material that the Policy makes no provision for exempting Applicants under s 12(8) of the *Immigration and Refugee Protection Regulations* mentioned later under which biometrics and other matters may not be required where collection is impossible or not feasible.

[8] The application process under the Policy has three stages. First, the anchor relative completes a statutory declaration form and a consent to disclose personal information form and confirms their eligibility to act as an anchor and support the applicant for a year following their arrival in Canada.

[9] Second, the anchor submits a crisis webform with the declaration form, the anchor's government photo ID, proof of the anchor's Canadian citizenship or permanent residence, and proof the anchor lives or intends to live in Canada. IRCC reviews these submissions and issues a unique reference code for each applicant.

[10] At the third stage, the anchor submits the applicant's TRV application through the IRCC portal. Accompanying the regular TRV application is the unique reference code received at the initial application stage, the anchor's statutory declaration, the applicant's proof of relationship to the anchor, a copy of the applicant's travel documents or passport indicating their residence in Gaza, a consent to disclose personal information form, and an additional background information form for certain applicants.

[11] Once IRCC confirms the applicant is eligible and not inadmissible, it will forward the applicant's name to the Israeli and Egyptian governments to facilitate their exit through the Rafah border crossing so they may provide their biometric information at a collection facility. There are no such facilities in Gaza.

[12] Notably, in December 2023 when the Policy was issued, the Rafah crossing was open and applicants were able to leave Gaza and obtain the necessary biometrics as required by the Policy. However, the Rafah border crossing was closed on May 7, 2024. It remains closed to this day notwithstanding the recent ceasefire agreement.

B. *The Applicants' TRV Applications*

[13] The Applicants are three individuals: a mother, a father, and their young son. The Applicants currently reside in the Gaza Strip and had to evacuate their home on October 8, 2023,the day after the events of October 7, 2023. The Applicants have been displaced numerous times since and have lost several family members to the bombings in Gaza.

[14] Applications under the Policy opened on January 9, 2024. The Applicants' anchor relative [Anchor] submitted a webform for the Applicants' unique reference codes on the same day. The Anchor's submission included the required statutory declaration and other supporting documents. The Anchor received the Applicants' unique reference codes on January 12, 2024.

[15] The Applicants were unable to collect the required documents for their applications. These documents were in the Applicants' destroyed home which is located in an area with active

combatants. The Applicants also cite the pressure to apply before the limit on applications had been reached. As such, two of the Applicants were missing passports, and the third Applicant's passport was expired. Letters of explanation were submitted to address these deficiencies.

[16] On January 31, 2024, the Anchor submitted their incomplete applications. The Anchor received an automated response confirming submission on the same day.

[17] The Anchor inquired about the status of the Applicants' applications March 2025 and May 2025.

[18] The Global Case Management System notes indicate background checks are ongoing and biometrics are outstanding. At the hearing, counsel for the Applicants told the Court the preliminary security screenings for the adult Applicants has been completed. The adult male Applicant's preliminary security screening was completed on September 17, 2025 and the adult female Applicant's on January 8, 2025. The child may not be subject to security screening due to age. No decision has been rendered on their applications and the Applicants remain in Gaza.

III. Issue

[19] The issue is whether the Applicants have met the test for an order of *mandamus,* and in particular whether they have met all the conditions of the Policy as required by the Federal Court of Appeal.

IV. Relevant legislation

[20] Section 18.1(3)(a) of the *Federal Courts Act;* RSC 1985, c F-7 confirms the power of the Federal Court to grant an order of *mandamus:*

Powers of Federal Court	**Pouvoirs de la Cour fédérale**
(3) On an application for judicial review, the Federal Court may	**(3)** Sur présentation d'une demande de contrôle judiciaire, la Cour fédérale peut :
a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing; or	**a)** ordonner à l'office fédéral en cause d'accomplir tout acte qu'il a illégalement omis ou refusé d'accomplir ou dont il a retardé l'exécution de manière déraisonnable;

[21] Section 25.2(1) of *IRPA* authorizes the Minister to exempt foreign nationals from applicable criteria on public policy grounds:

Public policy considerations	**Séjour dans l'intérêt public**
25.2 (1) The Minister may, in examining the circumstances concerning a foreign national who is inadmissible or who does not meet the requirements of this Act, grant that person permanent resident status or an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister and the Minister is of the opinion that it is justified by public policy considerations.	**25.2 (1)** Le ministre peut étudier le cas de l'étranger qui est interdit de territoire ou qui ne se conforme pas à la présente loi et lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, si l'étranger remplit toute condition fixée par le ministre et que celui-ci estime que l'intérêt public le justifie.

[22] Section 12.8 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*] exempts the provision of biometric data among other things where it is impossible or not feasible:

Exemption — collection of biometric information impossible or not feasible	**Dispense — collecte de renseignements biométriques impossible ou impraticable**
12.8 A person who makes a claim, application or request referred to in any of paragraphs 12.1(a) to (m) is not required to provide, with respect to the claim, application or request in question, the information referred to in subparagraph 12.3(b)(i) or (ii), as the case may be, if the collection is impossible or not feasible.	**12.8** La personne qui fait une demande visée à l'un ou l'autre des alinéas 12.1a) à m) n'est pas tenue de fournir, à l'égard de la demande en cause, les renseignements prévus aux sous-alinéas 12.3b)(i) ou (ii), selon le cas, dont la collecte est impossible ou impraticable.

V. Submissions of the parties

A. *Admissibility of the Applicants' evidence*

(1) Affidavit of the lawyer

[23] The Applicants rely on the affidavit of a lawyer for evidence on the state of the humanitarian crisis in Gaza. The Applicants submit these facts are so obvious this Court may assume their existence. In the alternative, the Applicants ask the Court to take judicial notice of the humanitarian crisis in Gaza because these facts are "so notorious or generally accepted as not to be the subject of debate among reasonable persons": *R v Find*, 2001 SCC 32 at paragraph 48.

[24] The Respondent submits the Court should only rely on the affidavit of the lawyer and its exhibits for general background information. While the Respondent submits news articles are generally inadmissible hearsay, the Respondent concedes these articles were accepted as evidence in *A.B.* because they provide relevant and necessary background on the evolving situation in Gaza. I do so again here.

[25] As in *A.B.*, this affidavit is admissible for the purpose of providing general background information on the state of the crisis in Gaza. I will also take judicial notice of a serious humanitarian crisis in Gaza for the legal reasons set out in *A.B.* at paragraph 41, notwithstanding the intervening ceasefire agreement. Notably, the Rafah crossing – essential in relation to the issue of biometrics – remains closed.

(2) Affidavit of the law professor

[26] The Applicants also rely on an affidavit of Dr. Jamie Liew who they offered as an expert witness. Dr. Liew is a Professor of Law at the University of Ottawa. After objections were raised and after some back and forth at the very start of the hearing, the Applicants (properly in my view because no expert certificate was filed as required) withdrew their claim that the professor's evidence should be considered as an expert affidavit. After discussion at the hearing, the professor's affidavit was offered and accepted by the Respondent as only lay evidence. It was also agreed the only relevant exhibit was that setting out a previous IRCC policy, namely the *Temporary public policy for foreign nationals being airlifted from Afghanistan*. Paragraphs 16 and 17 were also agreed to be struck as impermissible opinion from a lay affiant.

B. *Mandamus*

[27] The Applicants seek an order of *mandamus* to compel IRCC to "complete" its decision on the Applicants' pending TRV applications. In this connection, Justice Little's determinations in *Wasylynuk v Canada (Royal Mounted Police)*, 2020 FC 962 at paragraph 76 are instructive:

> [76] *Mandamus* is an order that compels the performance of a public legal duty. The duty is typically set out in a statute or regulation. An order of *mandamus* is the Court's response to a public decision-maker that fails to carry out a duty, on successful application by an applicant to whom the duty is owed and who is currently entitled to the performance of it. The test for *mandamus* thus requires careful consideration of the statutory, regulatory or other public obligation at issue, to determine whether the decision-maker has an obligation to act in a particular manner as proposed by an applicant and whether the factual circumstances have triggered performance of the obligation in favour of the applicant.

[28] The test for *mandamus* is set out by the Federal Court of Appeal in *Apotex v Canada (Attorney General)*, [1994] 1 FC 742 (FCA):

1. There must be a legal duty to act;
2. The duty must be owed to the applicant;
3. There must be a clear right to performance of that duty:
    a. The applicant has satisfied all conditions precedent giving rise to the duty; and
    b. There was
        i. A prior demand for performance of the duty;
        ii. A reasonable time to comply with the demand unless refused outright; and
        iii. A subsequent refusal which can be either expressed or implied, e.g. by unreasonable delay.

4. Where the duty sought to be enforced is discretionary, certain additional principles apply;

5. No adequate remedy is available to the applicant;

6. The order sought will have some practical value or effect;

7. The Court finds no equitable bar to the relief sought; and

8. On a balance of convenience, an order of *mandamus* should be issued.

[29] Notably, this Court must be satisfied on all eight factors to issue *mandamus*: *Cheloei v Canada (Citizenship and Immigration)*, 2025 FC 820 at paragraph 13. I will analyse each as relevant.

(1) There is a public legal duty to act

[30] Section 25.2(1) of *IRPA* allows the Minister to develop exemptions for foreign nationals who are otherwise inadmissible to Canada and where public policy requires it. Once a policy has been developed under this section, the Applicants submit the Minister has a duty to render decisions in accordance with the policy. This duty is further informed by the statutory framework found in *IRPA*: *Dragan v Canada (Minister of Citizenship and Immigration) (T.D.)*, [2003] 4 FC 189 at paragraph 40.

[31] The Respondent concedes, and I agree, there is a legal duty to process TRV applications under the Policy. However, the Respondent submits officers do not have the discretion to depart from the express provisions of the Policy. As this Court found in *A.B.*, there is a legal duty to

process these applications, but no duty to process these applications within a particular timeframe: *A.B.* at paragraph 58.

(2) The duty is owed to the Applicants but not within a specific timeframe

[32] The Applicants claim they have a legitimate expectation to their applications being processed and decided in a timely manner. I agree, as I did in *A.B.*

[33] A legitimate expectation arises where there is a "clear, unambiguous and unqualified" representation creating the expectation that certain procedures will be followed: *Agraira v Canada (Public Safety and Emergency Preparedness),* 2013 SCC 36 at paragraphs 94-97; *Singh v Canada (Citizenship and Immigration),* 2021 FC 1379 at paragraph 36; *Canada Union of Public Employees v Ontario (Minister of Labour),* 2003 SCC 29 at paragraph 131. These expectations may arise from promises, representations, conduct, and past practices of the administrative decisionmaker.

[34] The Applicants submit the test for determining whether a legitimate expectation exists is "would a reasonable person think that the promise was serious, and should a reasonable person be entitled so to think?": *Apotex Inc. v Canada (C.A.),* [2000] 4 FC 264 at paragraph 128.

[35] The Applicants' say their legitimate expectation arises from three sources: the language of the Policy, the Government of Canada website and the Minister's representations, and the prior temporary policies developed for other emergency situations and crises. The Applicants submit the purpose of the Policy is to provide a refuge from the "volatile and unpredictable"

crisis in Gaza. The Government of Canada website outlines the eligibility criteria, procedures, and the Minister's representations as to the "new measures" to provide a "pathway to safety" which would be closely monitored and adapted as required. The Applicants submit the language of the Policy reflects the seriousness of the situation in Gaza.

[36] The Applicants also identify past temporary policies which were "created rapidly in an ad hoc manner, frequently in response to chaotic and dangerous emergency situations." The professor refers to a number of these policies in her affidavit where Canada has processed applicants "within relatively short timeframes in response to emergency situations":

> Professor Liew notes Canada's success in other special immigration measures to process applicants "within relatively short timeframes in response to emergency situations". These include the issuance of 9,357 visas in a period of eight months for nationals of Türkiye and Syria affected by the earthquakes in the region; the resettlement of more than 25,000 Syrian refugees in a period of four months following the war in Syria; and most notably, the issuance of 71,000 visas under the CUAET program in 40 days in response to Russia's invasion of Ukraine. To Professor Liew, the success of the aforementioned special immigration measures demonstrates Canada's "expertise, experience and operational capacity to design and implement temporary resident visas and permits to persons fleeing dangerous situations.

[37] According to the Applicants, a reasonable person would and should think the promise to provide refuge for Palestinian family members of Canadians was serious.

[38] This affidavit is now that of a lay witness and I find it generally offers some evidence sufficient to support their legitimate expectations as I found in *A.B.* at paragraph 63.

[39] The Respondent submits the Minister's acknowledgment of the situation in Gaza and prior temporary policies are insufficient to establish a clear, unambiguous, and unqualified representation as required. The Government of Canada website stated there were no guarantees the Applicants' applications would be processed or approved, and Canada does not decide who can leave Gaza. In reply, the Applicants note this information was not listed on the Government of Canada website at the time of their applications.

[40] Alternatively, the Respondent submits, if any representations were made by the Minister, they are not binding and do not entitle the Applicants to an order of *mandamus* per *Jia v Canada (Citizenship and Immigration)*, 2014 FC 596 at paragraph 92 per Gleason J:

> [92] In addition to having no entitlement to have their applications processed in the way they wish by reason of the relevant statutory criteria, discussed above, the statements made to them in form letters, manuals or websites simply do not give rise to any representation that would bind the respondent in respect of how long IIP applications would be in process or as to the priority within which they would be considered, for several reasons.

[41] With respect, I am satisfied the Applicants have a legitimate expectation to their applications being dealt in a timely manner. However, this obligation only arises once the Applicants meet the conditions of the Policy and provide their biometric information (which they have yet to do). I conclude again as I concluded in *A.B.* on this point, noting the operational context before Justice Gascon did not present the obstacles present in this case which I find frustrate the operation of the Policy:

> [64] The Applicant also relies on, and I agree *A.B.C.D. v Canada (Minister of Citizenship and Immigration)*, 2025 FC 1296 is an example of legitimate expectations arising from a similar policy for Afghan nationals. Justice Gascon confirmed his applicant had "legitimate expectations by virtue of adopting the Policy, which

> contains clear, unambiguous, and unqualified representations about the expedited application process" (at para 40).
>
> [65] The Respondent submits that no representations were made as to processing time, approvals, or who may exit Gaza. Having reviewed the record on this point, I am not persuaded any such representation was made.
>
> [66] That said, in the circumstances, I agree with the Applicant and Gascon J. that she had a legitimate expectation her TRV application would be dealt with in a "timely manner." Otherwise, the Policy could be nullified and promises of the Policy emptied of its effective content. However, the obligation to process her application under this Policy in a timely manner only arises when she meets the requirements of the Policy, leaves Gaza and provides her biometrics, albeit through no fault of her own she is unable to do any of this.

(3) There is no clear right to performance

[42] The Applicants submit they have a clear right to the timely processing of their TRV applications. However, the Respondent submits, and I agree, the Applicants have not satisfied all conditions precedent giving rise to this duty.

[43] It is not disputed that a condition of the Policy requires the Applicants to submit their biometric information. Due to the Rafah border closure, and through no fault of their own, the Applicants have not done so. That situation may change if attention is paid to s 12(8) of the *IRPR* which to date has not occurred.

[44] Therefore, with great sympathy for their circumstances, I am not satisfied they have fulfilled all conditions precedent or have established a clear right to performance of the duty. This is fatal to their application for *mandamus*.

(a) *Prior demand for performance*

[45] The Applicants submit their compliance with the application instructions should be construed as a prior demand for performance. However, considering the Applicants have not established a clear right to performance, it is not necessary to consider this issue.

(b) *Reasonable time to comply*

[46] The Applicants submit the Respondent has had reasonable time to comply with their demand as twenty-one months have passed since their TRV applications were made. Again, as noted above, the Applicants have not established a clear right to performance. It is not necessary to consider this issue.

(c) *Unreasonable delay*

[47] The assessment of unreasonable delay is informed by the factors from *Conille v Canada (Minister of Citizenship and Immigration) (1998)*, [1999] 2 FC 33 at 43: (1) the delay has been longer than the nature of the process required, prima facie; (2) the applicant and counsel are not responsible for the delay; and (3) the authority responsible for the delay has not provided a satisfactory justification.

[48] The reasonableness of the delay is a factually suffused contextual matter; there is no uniform length considered unreasonable. However, the Respondent acknowledges this Court has

previously found a delay of two or three years or more to be unreasonable: *Almuhtadi v Canada (Citizenship and Immigration)*, 2021 FC 712 at paragraph 37.

[49] The Applicants submit the delay has been longer than required by the nature of this process. Considering these applications are made under a special immigration measure and in response to an emergency, the Applicants submit the process is necessarily urgent and cannot be meaningful unless it is dealt with urgently as I understand them. The Applicants say a delay of twenty-one months does not reflect this level of urgency.

[50] The Respondents submit the process requires the Minister to carefully consider and assess all applications to maintain the integrity of Canada's immigration system. This is certainly the case. The Minister is responsible for maintaining public safety and security while promoting international justice and security. Denying access to persons otherwise inadmissible to Canada on the basis of criminality or a risk to security requires careful consideration and time: *IRPA* at paragraphs 3(1)(h) and (i); *Medovarski v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 at paragraph 10.

[51] Both the Applicants and Respondents submit they are not responsible for the delay, and I am satisfied neither party is responsible. The Applicants complied with the instructions and promptly provided the required information shortly after the applications opened. The Applicants cannot be faulted for their inability to access the designated biometric facility outside Gaza given the operational context on the ground, i.e. the closure of the Rafah crossing. Nor may the Respondents be faulted for the Applicants' failure to provide the necessary biometric data as this

Court held in *A.B.* at paragraph 70 given that is and has been from the outset a design choice of the Minister's Policy.

[52] The Applicants submit the Respondent has not provided satisfactory justification for the delay at all, let alone on how the delay is related to the Applicants' security or inadmissibility to Canada. They submit, even if the Respondent could provide an explanation as to the delay, this Court has held the justification of ongoing background or security assessments without further explanation is not adequate: *Abdolkhaleghi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 729 at paragraph 26.

[53] The Respondents rely on the aforementioned objectives and the Minister's obligation to uphold Canada's immigration system through careful assessments as a satisfactory justification for the delay. I agree. I also am of the view the root cause of the delay in this case is the closure of the Rafah border which makes it impossible for these Applicants to obtain and supply IRCC with their biometrics as required by the Minister's Policy.

[54] Perhaps s. 12.8 of *IRPR* will be considered at the request of the Applicants or otherwise; that is a matter discussed in more detail in *A.A. et al.*: However, s 12.8 is not raised in this case. I need not say more at this point except to note this file is still in the system and, should counsel be of the view s. 12.8 would assist her clients, it might be found useful to raise it with IRCC.

[55] Overall, I am not satisfied the delay is unreasonable. Indeed, it seems to me the clock on delay effectively stopped when the Rafah border closed in May 2024.

(4) No adequate remedy is available, no equitable bar to relief exists, and the order will not have practical value

[56] The Applicants submit there is no alternative remedy available because the Policy was created to circumvent the barriers in Canada's immigration system. Further, the Applicants submit there is no equitable bar to relief as they have complied with the IRCC's instructions and requests. The Respondent concedes there is no alternative remedy available and no equitable bar to relief but submits the order will not have practical value. I agree.

[57] While the Applicants suggest an order of *mandamus* would end their suffering, I am not persuaded. This is because the Rafah border crossing has been closed since May 7, 2024 and remains closed despite the conditions of the recent ceasefire agreement. Given the state of the law, to say otherwise is to offer false hope. Even if the Applicants' TRV applications were successful, they would not be able to leave Gaza without significant change in the operational context (or the Policy).

[58] In this connection, I discuss s. 12.8 of *IRPR* in *A.A et al* and note that here as well.

(5) The balance of convenience does not favour an order of *mandamus*

[59] The Applicants submit the balance of convenience favours the granting of *mandamus* because the "extreme risk" to the Applicants outweighs any risk experienced by the Minister in processing their TRV applications.

[60] The Applicants note prejudice to the Applicants and their family should be considered under the stage assessing whether the Applicants have a clear right to the performance of the duty: *Vaziri v Canada (Minister of Citizenship and Immigration),* 2006 FC 1159 at paragraph 52 citing *Blencoe v British Columbia (Human Rights Commission),* 2000 SCC 44 at paragraph 101. However, the Respondent submits a more recent case from this Court addresses the issue of prejudice under the balance of convenience assessment. As Justice Grant recently contemplated in *Majidi v (Citizenship and Immigration),* 2025 FC 680 at paragraph 28:

> [28] I agree that prejudice may, in some cases, be a relevant factor in determining whether a Court should issue a writ of *mandamus*. I am not convinced, however, that the high bar of "significant prejudice" necessarily flows from the abuse of process context to the *mandamus* context, or that a new, independent criterion is necessary to consider the issue of prejudice. As noted above, the mandamus analysis is already characterized by a comprehensive framework involving the 8-part *Apotex* test, plus the 3-part *Conille* test. In my view, the question of prejudice can easily be incorporated into the present framework, most appropriately under the balance of convenience stage of the analysis. Where the question of prejudice does *not* belong, in my respectful view, is in the assessment of unreasonable delay. I note that my colleague Justice Turley has very recently, and coincidentally, come to precisely this conclusion in *Tousi v Canada (Citizenship and Immigration)* 2025 FC 671 [*Tousi*]. I entirely agree with Justice Turley's conclusions on this issue, as set out at paras 13-17 of *Tousi*.
>
> [Emphasis added]

[61] The Applicants submit they, along with their family, have experienced significant prejudice:

> They are financially dependent on the anchor relative, but even with her assistance, they barely have enough food and water to sustain themselves. The food and water they are able to access is often contaminated. They are severely malnourished. The delay in processing their applications has prolonged the risk to the

> Applicants' lives and safety in Gaza, in a deadly and rapidly deteriorating warzone.

[62] The Anchor also claims to have experienced significant physical, emotional, and financial prejudice, noting how they feel "paralyzed by the thoughts of how my family is suffering and how hopeless I am to help my family." The Anchor has also spent thousands of dollars to finance these TRV applications and sustain their family in Gaza, having lost most of this money in transit.

[63] With respect, I am satisfied the Applicants and their family have experienced significant prejudice as a result of the delay to date. However, this delay is not attributable in any way to the Respondent.

[64] The Respondent submits the balance of convenience favours not granting *mandamus.* The Minister has a statutory duty to maintain the integrity of Canada's immigration system. With respect, I agree. This duty is served by the IRCC carefully and diligently reviewing all applications. Granting *mandamus* where necessary biometrics have not been collected entail risks which could be contrary to the interests of justice. This is an issue for the Minister to ponder.

[65] The Respondent also submits matters of foreign affairs and Canada's national interests are squarely within the purview of the Executive and not the Courts. The Respondent relies on *Canada v Boloh 1(A),* 2023 FCA 120 at paragraph 66, which may be seen as constraining

judicial protection of *Charter* rights of Canadians abroad, and by the same token, the ability of foreign nationals to obtain non-*Charter* judicial relief as requested here.

[66] It is also clear, absent *Charter* relief, this Court cannot set, vary or grant exemptions to government policies - see *A.B.* in this regard:

> [9] While I have every sympathy for the Applicant, given conditions of the Policy, and the Applicant's obligation to meet all of its conditions, I am unable to order *mandamus*. To do so would require the Court to rewrite the Policy, which is beyond the powers of the Court, and may only be done by the Minister. Indeed, the Federal Court of Appeal has just recently held "it is not the role of this Court to set, vary, or grant exemptions from governmental policy."
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> …
>
> [91] Very regrettably, and while I have every sympathy for the situation the Applicant and others like her find herself in, the Policy requires them to exit Gaza and deliver biometrics in approved manner to the Minister. To hold otherwise would be to impermissibly rewrite the Ministerial Policy. In effect, and with respect, the Applicant asks the Court to rewrite the Policy. That is not permitted on an application for *mandamus,* nor generally. Indeed, this law was very recently considered and confirmed in *Universal Ostrich Farms Inc. v Canadian Food Inspection Agency*, 2025 FCA 147 at paragraph 6: "it is not the role of this Court to set, vary, or grant exemptions from governmental policy." While this general proposition is correct, it is of course subject to *Charter* considerations; no *Charter* issues were advanced in this case.

C. *Declaratory relief*

[67] In addition to an order of *mandamus,* the Applicants seek declarations. There is no need to address these submissions because the Applicants have not established rights either to *mandamus* or to declaratory relief.

VI. Conclusion

[68] With respect and with the greatest sympathy for the Applicants, I am not satisfied they are entitled to an order of *mandamus*. The Applicants have not fulfilled "all" conditions precedent to the processing of their applications as required by the Federal Court of Appeal, because they have not provided their biometric information as required by the Policy. Therefore, this application for *mandamus* must be dismissed.

VII. Certified Question

[69] Neither party proposes a question for certification, and I agree none arises.

VIII. Costs

[70] At the hearing the Applicants abandoned their request for costs. Properly so: this is not a case for costs.

JUDGMENT in IMM-6621-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

3. There is no Order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6621-24
STYLE OF CAUSE:	A.A., B.B., AND C.C. v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	NOVEMBER 3, 2025
JUDGMENT AND REASONS:	BROWN J.
DATED:	NOVEMBER 12, 2025

APPEARANCES:

Debbie Rachlis	FOR THE APPLICANTS
Teresa Ramnarine	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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