2026 Wilson Moot Problem

Nadia Malik v. Canada (Immigration, Refugees and Citizenship)

Nadia Malik (pronouns: she/hers) is a 25-year-old refugee of Ushvani ethnicity who fled to Canada from Ruritania to avoid persecution. In March 2022, Nadia made a claim for refugee protection under ss. 96 and 97(1) of the *Immigration and Refugee Protection Act*. In April 2024, Nadia's claim was denied by the Refugee Protection Division ("**RPD**") of the Immigration and Refugee Board of Canada (the "**IRB**") in a written decision (the "**Decision**"). As a result of the Decision, Nadia will be removed from Canada and returned to Ruritania.[1]

The Decision was made with the assistance of an artificial intelligence tool called Maple. In June 2023, the RPD began using Maple as part of a pilot project to streamline and expedite the review and determination of refugee protection applications (the "**Directive**").

In March 2024, Nadia brought an application for judicial review of the Decision, on the grounds that the Decision was procedurally unfair and infringed her rights to life, liberty, security of the person, and equality under sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**").

In her notice of application, Nadia sought the following relief:

(a) a declaration that the use of Maple by the RPD rendered the Decision procedurally unfair;

(b) a declaration that the Decision infringed her rights to life, liberty and security of the person under section 7 of the *Charter*;

(c) a declaration that the Decision infringed her equality rights under section 15 of the *Charter*;

(d) a declaration that the infringements of section 7 and 15 of the *Charter* do not represent reasonable limitations on these rights; and

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[1] For the purposes of the Wilson Moot, mooters are to assume that the RPD Member was acting within the bounds of his delegated jurisdiction and that the Decision is final and not subject to statutory appeal. Mooters should also ignore any additional opportunities or procedures following an unsuccessful application which might enable an applicant to remain in Canada or otherwise apply for legal status in Canada. For greater certainty, mooters should not refer to statutes, orders, directives, or government policies other than those set out in the Official Problem.

(e) an order quashing the Decision and remitting it for re-determination before a different decisionmaker.

Nadia's application was heard by Madam Justice Georgina Maier in July 2024. Justice Maier accepted the following facts:

1.   Nadia was born and grew up in the northern region of Ushvania, in the country of Ruritania. Ushvania is home to members of the Ushvani ethnic minority, who have a history of persecution by members of the majority Ruritan ethnic group, who historically have controlled Ruritania's government and military organizations. Because of this history of persecution, Ushvania has seen several attempts at secession from Ruritania, often led by Ushvani paramilitary organizations.

2.   When Nadia was a child, her parents were involved with the Ushvani Freedom Fighters ("**UFF**") paramilitary group, which sought the establishment of an independent Ushvani state. Nadia attended a school that she acknowledged was "a hotbed of UFF activity". Nadia was advised several times that she should join the UFF for protection against possible attacks from the Ruritania National Army ("**RNA**"), but Nadia did not become directly involved with the UFF and carefully avoided UFF political meetings. Nadia's parents left the UFF in September 2020 as their tactics grew increasingly violent.

3.   In February 2021, the RNA began a campaign to eradicate the UFF. The RNA assaulted students at Nadia's school and many were shot, killed, or kidnapped by the RNA. The RNA introduced emergency legislation, which imposed mandatory curfews, limited freedom of movement, imposed regular security checkpoints, and forbade any political meetings or gatherings that the RNA deemed to be harmful to Ruritania's security.

4.   Nadia's family lived close to an RNA military base at time that the RNA began to actively target UFF members in Ushvania. In April 2021, Nadia's family moved to a different location in Ushvania as they were afraid that they would be targeted given their past association with the UFF.

5.   The RNA's Security Task Force arrested Nadia in August 2021 while she was on her way to a local market and questioned her to determine if she was a UFF supporter. Nadia informed the RNA that she had never been involved with the UFF and had no part in recent UFF activity against the RNA, which had resulted in the death of four RNA soldiers.

6.   Nadia was subsequently held for two weeks at an RNA detention center. During Nadia's interrogation, she was beaten and repeatedly sexually harassed by RNA soldiers who did not believe that she had no involvement with the UFF. They insisted that Nadia give them the names of the UFF leaders operating at her school, saying "all you Ushvani are UFF." Nadia produced a fake identity card which contained a different last name so she could not be connected with her parents' prior involvement with the UFF. Nadia was eventually released from captivity after being photographed and processed.

7.   After Nadia's arrest and assault, her parents planned to flee Ushvania and seek refuge in the neighbouring country of Demeris, where several members of the Ushvani ethnic minority had fled from RNA attacks. In October 2021, while en route to the Demeris/Ruritania border, Nadia's family's vehicle was stopped by several armed men who appeared to be paramilitaries supporting the Ruritanian government. One of the men recognized Nadia's parents as UFF supporters and opened fire on the vehicle. While fleeing the attack, Nadia's father was shot and killed, and Nadia's mother was severely wounded.

8.   Nadia's mother died from her injuries shortly after reaching Demeris. In February 2022, after living illegally in Demeris for several months, Nadia entered Canada and began her application to claim refugee status shortly after her arrival.

9.   The political landscape in Ruritania began to change starting in 2022, after Nadia had fled the country. In the first few months of 2022, the fighting between the RNA and the UFF intensified. The RNA eventually defeated the UFF, capturing all remaining territory in Ushvania which remained under UFF control by May 2022. In these final months of fighting, the UFF had forcibly recruited civilians, including women and teenagers, to fight the RNA and attacked any Ushvani civilians who tried to flee or otherwise avoid assisting the UFF's operations.

10.   The UFF conceded defeat in June 2022 and disbanded. The United Nations estimated that the conflict in Ushvania had resulted in the death of over 9,000 civilians in 2022 alone, although these tallies remained unofficial and unverified.

11.   In the immediate aftermath of the war, the situation for ethnic Ushvani in Ruritania remained highly volatile. The RNA had arrested and detained thousands of Ushvanis who were suspected of UFF involvement during the conflict. Many were arrested on limited

evidence and kept in camps under military control, with no independent international oversight. There were credible allegations of torture and sexual abuse committed against interned Ushvanis reported by organizations including the United Nations and Amnesty International.

12.   Later in 2022, the situation began to improve. In September 2022, nearly all interned women and children were released from RNA custody. Some adult male detainees began to be released as well following re-education and rehabilitation programs. As of July 2024, however, approximately 500 alleged former UFF combatants remained in RNA internment, where allegations of torture and abuse have continued. The situation for Ushvanis with suspected links to the UFF remains dangerous. Internment conditions are poor and former UFF members are still being apprehended by the RNA.

13.   The Ruritanian government insists that it treats all prisoners in accordance with international human rights law and has stated that only those suspected of insurrection and other serious crimes remained interned.

14.   For other Ushvanis, however, life has improved. Restrictions on freedom of movement within Ruritania have ceased and major roads in Ushvania have reopened. Tourists were permitted to visit Ushvania again as of October 2023, although strict security measures, such as military checkpoints in and out of Ushvania, remain in place.

15.   The human rights situation in broader Ruritania has improved as well. In November 2023, the Ruritanian government relaxed some of its emergency legislation and withdrew several provisions, including those dealing with the imposition of mandatory curfews in Ushvania and forbidding any political meetings considered harmful to national security. Limited Ushvani political representation in Ruritania's government has also been permitted for the first time in Ruritanian history. The Ruritanian government has publicly stated that associates, including family members, of former UFF supporters have been offered amnesty and will not be targeted for reprisal.

16.   Despite these reforms, the Ruritanian government continues to tightly control Ushvania. In January 2024, the Ruritania Prime Minister stated that the "reconstruction" of Ushvania remains a political priority, and that all "subversive elements" must be eliminated to achieve a lasting peace. RNA military leaders continue to have veto power over the

treatment and resettlement of displaced Ushvanis, and pro-government political and paramilitary groups monitor and control the local population in Ushvania.

17.   In February 2024, the United Nations High Commissioner for Refugees ("**UNHCR**") updated its Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Ruritania (the "**UNHCR Guidelines**"). The UNHCR Guidelines now state generally that Ushvanis are no longer presumptively eligible for refugee protection, but must rather be assessed on an individual basis, with particular attention being paid to past UFF association which may place Ushvanis at an increased risk of persecution, despite the improved political situation and the amnesty promise made by the Ruritanian government.

18.   In March 2022, Nadia made a claim for refugee protection status with the RPD. Due to an extensive backlog of refugee applications, Nadia's hearing was initially scheduled to be heard in November 2024.

19.   In June 2023, the Chairperson of the IRB issued the Directive (relying on delegated authority from the Minister of Immigration, Refugees and Citizenship), authorizing members of the RPD to use Maple to assist them in determining refugee claims as part of a pilot project to implement AI tools into IRB decision-making. Participation in the pilot project was and remains voluntary.

20.   Specifically, the Directive permits members to use Maple to read and process claimants' Basis of Claim ("**BOC**") forms, from which it generates a summary of the claim, identifies inconsistencies or gaps in the BOC narrative and potential questions for the member to ask the claimant, detects markers of plagiarism and fraud, and produces a summary of country conditions for the claimant's country of origin.

21.   Under the Directive, RPD members are required to disclose to claimants if Maple is used to decide their claim. The Directive also cautions that members must independently verify any input generated by Maple before rendering a decision on a refugee claim. While members may use Maple to assist with drafting a decision, the Directive stresses that any decision made remains that of the member.

22.   In September 2023, Nadia was informed that the RPD was able to accommodate her hearing earlier than initially scheduled. Nadia's hearing was scheduled for January 2024.

23.   In advance of her hearing, Nadia submitted a BOC form which stated, in part:

> I am fearful for my safety if I am forced to return to Ruritania. Although I am aware that the conflict between the RNA and the UFF has ended, the persecution of Ushvanis by the Ruritanian government continues. Several of my friends remain in internment camps where they are subject to torture and abuse. The Ruritanian government continues to seek out those who it suspects of being UFF supporters, even if the UFF itself has been disbanded.
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> My parents' prior involvement with the UFF places me in danger. My parents were killed by RNA supporters in front of me. I am worried that the Ruritanian government has records of former UFF members and is using those records to target Ushvani citizens. I was photographed and processed when I was detained by the RNA in August 2021 and provided false identification at that time. If the Ruritanian government is aware that I concealed my identity, and is able to connect me with my parents, I would almost certainly be arrested and interned.
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> The Ruritanian government's promise of amnesty to non-combatant Ushvanis is a fiction. The government uses this as a premise to obtain further information regarding former UFF members. Those providing information are interned while the government "investigates" their claims. As someone who fled the country, I am concerned that I would be subject to heightened scrutiny and internment if I am forced to return. I am especially fearful as I know first-hand that women who have been interned are at a high risk of sexual harassment and abuse.

24.   Issac Withers, a member of the RPD (the "**RPD Member**"), rendered the Decision denying Nadia's application for refugee protection in February 2024. Nadia's hearing lasted for two hours. At the hearing, Mr. Withers put several questions to Nadia about her BOC. While most of these related to specific events described in the BOC, her counsel objected to four different questions that had no apparent relevance to Nadia's story, including a question about a UFF-sponsored school located over 50 kilometers from Nadia's home and about the use of smugglers to escape Ruritania. Justice Maier inferred that most if not all of the questions Mr. Withers asked Nadia at the hearing had been generated by Maple.

25.   The Decision appended the Ruritania country conditions report generated by Maple and a summary of flags from Maple's review of Nadia's BOC, which noted two potential markers of misrepresentation or fraud in Nadia's application: "a) similar narrative to other BOCs from Ruritania; and b) inaccurate representations of country conditions". The most recent Maple update prior to Nadia's hearing was in January 2024.

26.   The Decision states, in part:

> I find that Ms. Nadia Malik does not qualify for refugee status in Canada and therefore must be returned to Ruritania. I do not believe that she has a well-founded fear of persecution. Ms. Malik's return to Ruritania would not subject her personally to a risk to life or risk of cruel and unusual treatment or punishment.
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> While Ms. Malik was forthcoming in answering questions, I have significant concerns regarding her credibility due to the similarity between Ms. Malik's application and other applications from Ruritania received between January 2021 and the present. I am aware that there is a significant and increasing issue with fraudulent refugee applications from Ruritanian applicants. These applications must be subject to additional scrutiny as a result.
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> For example, when I asked Ms. Malik if she was aware of any currently functioning internment camps in Ushvania, she answered that she understands that there are "more than 50" camps currently operating. This is not accurate. In fact, the latest country conditions report generated by Maple states that there is only one internment camp operational in Ushvania, which is being monitored by several international organizations, including the Red Cross. I understand that multiple Ruritanian refugee applications in recent months have artificially inflated the number of operational internment camps, suggesting to me that this information is being plagiarized between applications.
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> Additionally, Ms. Malik's evidence regarding the conditions in Ruritania are inconsistent with the improved socio-political realities in the country. Up-to-date evidence is more compelling as to the present situation in Ruritania and for Ushvanis. This evidence, summarized in the attached country conditions report, indicates that the civil war is over. Ushvanis are no longer subject to the persecutory acts that they had habitually suffered before Ms. Malik fled her country. In fact, amnesty has been extended to those associated with former UFF members, such as Ms. Malik.
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> While I accept that Ms. Malik may have a genuine subjective fear of harm on return to Ruritania, the actions of the government towards Ms. Malik do not suggest that she would genuinely be considered to have an association with UFF. Ms. Malik's evidence was that she was released from custody. Further, given the improvements that have occurred since 2022 in Ruritania, there is no longer an objective basis for her claim for refugee protection. I also find that Ms. Malik's claim that she might be subject to gender-based violence is not credible given the current political situation. The country conditions report for Ruritania states that women and children are no longer being targeted for reprisal since the conflict between the RNA and the UFF ended.
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> I do not find that Ms. Malik is a person in need of protection. I do not accept that there is any evidence that she would personally face a risk of torture, unusual treatment or punishment, or risk to her life if she were to return to

Ruritania, given the end of the civil war and significant improvement for Ushvanis in the country since Ms. Malik's departure.

Disclosure statement: This decision was drafted with assistance from Maple.

27.   Before the Federal Court, Nadia submitted an expert report from Dr. Julien Dupree, a professor at the University of Ottawa studying artificial intelligence. Dr. Dupree's evidence was accepted by the Court as follows:

   a.   The use of AI in decision-making poses structural, technical, and accountability risks. As a generative pre-trained transformer ("**GPT**") large language model ("**LLM**"), it is impossible to entirely understand, test, or explain the automated reasoning of the program. Features of the model and the code, including how the AI generates questions and drafts decisions, cannot be examined. Further, as an LLM, Maple uses self-supervised machine learning to constantly improve and revise its problem-solving capabilities and functionality, including its approach to detecting and validating fraudulent applications.

   b.   Maple is a licensed version of "Cognivus", a GPT LLM for legal adjudication and decision-making developed and maintained by Nexora Labs, a private technology company based in California.

   c.   Maple has been licensed by the IRB and specifically trained on past decisions from the IRB and the RPD. Maple has also been trained on judicial decisions from Canadian provinces. The Cognivus model itself was developed and trained on judicial and immigration decisions from multiple nations including Australia, New Zealand, the UK, USA, France, Italy, and Germany.

   d.   The IRB and Nexora Labs have stated the Cognivus and Maple AI models are updated regularly with new training data, information, and decisions every 4-6 months. Nexora Labs is unable to confirm how the model is instructed to consider the new information, only that the model is intended to stay up-to-date on current affairs and legal or political changes around the world. As Nexora Labs competes with multiple other tech companies to develop their respective LLMs, Nexora Labs does not publicly disclose its confidential business information and trade secrets it shares with the IRB.

e. Nexora Labs has confirmed that Cognivus and Maple are programmed to organize and group information and questions about applicants' countries of origin into discrete and pre-determined categories including "political stability", "violence", "economic growth", and "public health", among others.

f. A review and evaluation by Dr. Dupree's lab of written decisions published by the RPD that disclose the use of Maple has found that more than half of those decisions contain approximately 70% AI-generated text. Dr. Dupree reviewed the Decision and found that there are "strong indicators that the majority of it was generated by Maple".

g. There is a theory among AI scholars that certain strategies and approaches to submissions are more likely to be reviewed favourably by Maple. For example, some scholars have suggested that AI is more receptive to text generated directly by another AI model, rather than text translated from another language to English or French. There is also concern that Maple may "hallucinate", meaning it may generate text that appears correct, but is logically wrong or is factually untrue.

28. On cross-examination, Dr. Dupree admitted that some of this theory and concern has not been validated by high-quality peer-reviewed studies. He also conceded he has not observed any true "hallucinations" in published decisions from the RPD which have used Maple, although he maintained that he had noted many findings that he found to be illogical or inaccurate. Dr. Dupree also admitted that AI-detection software is imprecise and that text written entirely by a human can also be inaccurately flagged as containing AI-generated text.

29. Nadia also produced an expert report from Dr. Amber Wong, a professor at the University of Oxford specializing in human rights in Ruritania and neighbouring regions. Dr. Wong's evidence was accepted by the Court as follows:

a. While the human rights situation in Ushvania has improved in recent years, there have been several worrying trends in recent months which suggest a backslide. In particular, Dr. Wong testified that the Ruritanian government has begun to clandestinely re-open some previously closed internment camps in Ushvania, and that "at least one" of these camps is mixed gender. Dr. Wong estimates that there

are between 10 and 20 currently operating internment camps in Ushvania and that the Ruritanian government is actively trying to conceal their existence.

b. Dr. Wong also testified that the Ruritanian government has ignored many of their previous guarantees of amnesty for those associated with members of the UFF. In particular, Dr. Wong stated that certain family members of high-ranking former UFF members have been interned and interrogated for information. News of these interrogations has been actively suppressed by the Ruritanian government, and it is not widely reported outside of Ruritania.

c. Finally, Dr. Wong stated that as credible information is hard to obtain from Ruritania, Ushvanis often rely on information from other members of the Ushvani diaspora. This information is widely shared among Ushvanis, including through WhatsApp and Telegram channels. As a result, some expatriate Ushvanis repeat the same or similar information about conditions at home that they are unable to personally speak to. This information may at times be out-of-date.

30. On cross-examination, Dr. Wong admitted that it is very difficult to confirm the exact number of internment camps currently operating in Ushvania, and that the most recent official data from the Red Cross (from December 2023) stated that only one camp was operational. Dr. Wong further admitted that she is only aware of amnesty promises being withdrawn from family members of those who were actively involved in fighting on behalf of the UFF at the time of their arrest. Finally, Dr. Wong admitted that she is aware that several countries have seen a dramatic increase in the number of fraudulent refugee applications being made by Ushvanis, and that Ushvanis may be sharing information designed to improve their chances at being accepted for refugee status in Canada and elsewhere.

31. Linh Zhao, Chairperson of the IRB, provided evidence on behalf of the respondent that:

a. Since the introduction of the Maple AI software, the RPD has seen a dramatic increase in its efficiency and ability to process refugee claim applications. Because of Maple's ability to streamline the review of applications, the RPD has been able to hear more applications for refugee status and has been able to reduce the wait times between applications and hearings, and the time between hearings and decisions. Ms. Malik's application benefitted directly from these improved

timelines, having been heard ten months earlier than initially scheduled. Director Zhao stated that this was a direct result of Maple's implementation.

b. Before December 2023, processing times for applications for refugee status in Canada were approximately 2.5 years, and there was an existing backlog of around 100,000 claimants waiting for a hearing. Maple has already cut the processing time for applications by approximately 43% over the last two years, with efficiencies expected to increase over the next few years. The IRB expects to be able to hear and determine significantly more applications for refugee status per year with continued use and reliance on Maple.

c. The average duration of hearings has also increased by 20 minutes since the introduction of Maple. RPD members have reported that because Maple completes much of the work the member would otherwise have to do before and after the hearing, members can spend longer listening to the applicant during the hearing itself. Some members have informally reported they have been asking more questions during hearings because of Maple's prompting. The average length of written decisions published by the RPD since the introduction of Maple has increased as well, by an average of 150 words.

d. RPD members are required by the Directive to supervise and verify Maple's output at every step of the claim process. Use of Maple has varied by member; some members have readily adopted Maple and rely on its questions to applicants and its ability to suggest and draft decisions, while others have used it infrequently, and some have chosen not to use it at all. RPD members can determine for themselves whether to use Maple and whether they will use it for any particular application. In general, feedback from members has been that they feel better informed about applications before them because of the information generated by Maple.

e. The IRB and RPD have committed to conducting an annual human rights impact assessment of Maple, which will review the RPD's use of Maple and identify whether the program may need refinement to address biases.

32. On cross-examination, Director Zhao admitted that since the introduction and use of Maple, there has been an overall increase in rates of rejection of claims for refugee protection. The average acceptance rate for all refugee applications prior to the

introduction of Maple in 2023 was 70%. However, acceptance rates have been on a significant increase since 2019, increasing from 62% to 70% between 2019 and 2023. Since Maple was introduced, the acceptance rate across all applications has decreased to 66%. Director Zhao also admitted that while most countries have seen an increase in their rate of denial, claims from applicants from Ruritania have seen a disproportionate increase compared to denial rates before Maple's introduction. Specifically, for applicants from Ruritania, the rate of acceptance has dropped from 73% in 2023 to 58% at present. Director Zhao further stated that for certain countries there has been an increase in the refugee claim acceptance rate since Maple's introduction.

33.   Additionally, Director Zhao addressed the detection of markers of potential fraud for applications using and not using Maple. Across all applications, Maple is flagging indicators of potential fraud in 29% of BOCs. Maple is flagging indicators of potential fraud in 35% of BOCs from Ruritania specifically. The average rate of detection of potential fraud for RPD members not using Maple is 24% across all applications, although rates of detection vary across members. In general, Director Zhao stated that while plagiarism and similarity to other applications were the most important indicator of potential fraud, her understanding is that Maple was designed to identify multiple forms of fraudulent applications. She insisted that in all applications, it is essential for members to assess the credibility of the application as a whole, including the credibility of the *viva voce* evidence given by the claimant at the hearing.

Justice Maier granted Nadia application for judicial review in September 2024, holding, in part:

> The RPD's Decision breached Ms. Malik's right to procedural fairness. While I acknowledge that the use of AI software in other immigration contexts has not been found, in and of itself, to be procedurally unfair, context is important. Maple is being used in arguably the highest stakes immigration decisions – matters of life or death. I accept that the RPD Member's use of Maple in this case had a material impact on the decision to deny Ms. Malik's application. While there is ambiguity concerning how Maple processes and generates information, this ambiguity cannot save it from scrutiny where its output forms the basis for an administrative decision that has a significant impact on an individual's rights, as here.
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> I further find that the Decision was discriminatory on the basis of national or ethnic origin and sex, contrary to section 15 of the *Charter*. Ms. Malik's credibility and her BOC were called into question based on a perceived similarity to other BOCs and a perceived dissonance between Ms. Malik's fear of persecution and Maple's perception of the socio-political climate in Ruritania. I am satisfied that Maple is skeptical towards narratives similar to Ms. Malik's, and that this bias constitutes

unlawful discrimination under section 15 of the *Charter*. I am not convinced that there was sufficient intervention by the RPD Member in Ms. Malik's case to respond to the biases reflected in Maple's review of Ms. Malik's application.

I must therefore consider whether the Decision reflects a proportionate balancing of the *Charter* protection at issue. In my view, it does not. At its core, the RPD's statutory mandate must be centered around making informed, considered, and unbiased decisions on complex refugee applications. I accept the utility of the Maple program in addressing the backlog in Canada's immigration system and providing a uniform starting point for application review. However, improvements in efficiency cannot come at the expense of fairness and equality. To do so would run contrary to the values underpinning the refugee protection system internationally and in Canada, and contrary to *Charter* values. I accept that Maple has evidenced a bias in its programming against, at least, applicants from Ruritania based on the very manner in which it is trained and programmed.

I also find that Ms. Malik's section 7 right to life, liberty, and security of the person is engaged. Ms. Malik is at real risk of harm if she is returned to Ruritania. Maple, and by extension the Decision, minimized that risk in a manner that was arbitrary, overbroad, and therefore inconsistent with the principles of fundamental justice. Furthermore, the Maple outputs were arbitrarily accepted by the RPD Member, without any exercise of his discretion and appropriate consideration of Ms. Malik's evidence. I do not find that this reflects a proportionate balancing of Ms. Malik's section 7 rights against the RPD's statutory objectives.

The decision must be quashed and remitted for determination by another decision maker.

The Minister appealed the decision to the Federal Court of Appeal. In September 2025, a majority of the Federal Court of Appeal allowed the appeal. Writing for herself and Mr. Justice Faiz Esposito, Madam Justice Nasreen Haag held, in part:

The IRB's purpose in issuing the Directive and launching the use of Maple is to provide a uniform starting point for refugee application review and to increase the speed at which applications are processed and decisions are rendered.

The mere use of Maple to streamline the processing of Ms. Malik's application cannot, in and of itself, be a basis for finding that the decision to deny Ms. Malik's claim for refugee protection was not procedurally fair. The Directive makes clear that the RPD does not relinquish its decision-making authority to Maple – on the contrary, the human decision maker remains entirely responsible for the decision. There is no concrete evidence to suggest that the RPD's decision-making authority was delegated to Maple entirely in Ms. Malik's case; to hold otherwise would be purely speculative.

I find that the application judge erred in concluding that the RPD Member's decision was unreasonable. The decision did not violate either sections 7 or 15 of the *Charter*. While I accept that a person's right to life, liberty, and security of the person may be engaged where they are at risk of being subject to persecution,

these risks are not engaged on every denial of refugee protection or deportation order where the evidence does not support such a conclusion.

Here, I accept RPD Member's findings that Ms. Malik is not at risk of persecution if she returns to Ruritania. Deference is owed to the decision-maker at first instance: the role of the reviewing court is simply to assess whether the decision made reflects a proportionate balancing between the statutory objectives and the *Charter* protections at stake. Even if section 7 were engaged, the deprivation is consistent with the principles of fundamental justice.

I further disagree with the application judge that the RPD Member's decision engaged Ms. Malik's right to equality. The use of the Maple program allowed for an unbiased and objective consideration of Ms. Malik's application.

Madam Justice Matilda Bray wrote a dissenting opinion, holding, in part:

I find that the RPD Member's decision was not procedurally fair for substantially the same reasons as the application judge. In addition, contrary to my colleagues, I am not convinced that Maple has achieved its objective of improving efficiency and reducing bias. There is evidence that Maple is engaged in more than just data processing. Maple ignored Ms. Malik's evidence in preference for inaccurate findings about Ruritania. Ms. Malik has presented cogent evidence of Maple's outputs guiding the RPD Member's interpretation of Ms. Malik's evidence regarding her safety if she were to return to Ruritania and the ultimate decision in her application. The decision must be quashed on this basis alone.

Nadia has been granted leave to appeal the Federal Court of Appeal's judgment to the High Court of the Dominion of Canada on the following issues:[2]

(1) Did the use of Maple render the Decision procedurally unfair? The parties have agreed that the standard of review for this issue is correctness.

(2) Did the Decision infringe Nadia Malik's rights to life, liberty and security of the person under section 7 of the *Charter*?

(3) Did the Decision infringe Nadia Malik's equality rights under section 15 of the *Charter*?

(4) If the answer to either of issues (2) or (3) is "yes", is the infringement a reasonable limitation on those rights? The parties have agreed that the standard of review for issues (2), (3), and (4) is reasonableness.

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[2] Note that the High Court of the Dominion of Canada will not consider any legislative or adjudicative facts other than those found by Justice Maier.