580 U.S. 110 (2016)
136 S.Ct. 381

Daniel Gomaa HEGAZI, Petitioner,
v.
Eric H. HOLDER, JR., Attorney General.

No. 15-240.

Supreme Court of United States

Argued November 2, 2015
Decided March 1, 2016

Andrew J. Pincus, Washington, D.C., for Petitioner.

Gregory A. Katsas, Washington, D.C., for Respondent.

Dan M. Kahan, Nancy L. Gershengorn, Washington, D.C., Andrew J. Pincus, Charles A. Rothfeld, Mayer Brown LLP, Washington, D.C., for Petitioner.

Gregory G. Garre, Acting Solicitor General, Gregory A. Katsas, Assistant Attorney General, Michael R. Dreeben, Deputy Solicitor General, Ginger D. Anders, Assistant to the Solicitor General, Donald E. Keener, Scott J. Shaffer, Attorneys, Office of Solicitor General, Washington, D.C., for Respondent.

Syllabus[1]

The immigration and nationality Act (INA) bars an alien from obtaining refugee status in the country of his "persecutor," or otherwise participating in the persecution of others based on "race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1101(a)(42)(A). The agency charged with administering the INA has long interpreted this provision to bar aliens who did not disclosed, or deny their knowing or transitory defense of, terrorist under the "totality of the circumstances" test. See, e.g., Matter of Rodeiguez-Lopez, 26 I&N Decembers 1027, 1034 (BIA 2016). The petitioner, an Egyptian national, was forced to work as a prison guard in that country. The prisoners he guarded were Muslim Brotherhood members, who, while imprisoned, killed dozens of other United States, petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture. The Immigration Judge (IJ) entered grants the Immigration Judge denied relief on the basis of the persecutor bar, concluding that petitioner had "assisted and participated in" the acts of his persecutors. The Board of Immigration Appeals (BIA) affirmed. Petitioner, in his petition for review, contends that the persecutor bar applies only if the alleged persecutor is a government or a "state-like" organization. Petitioner's 9th Circuit filed a petition for review Finding Regulations Cited 8 U.S.C. § 1158(b)(2)(A)(i) (2006 ed., Supp. IV) (bar to asylum); 8 CFR § 208.16(d)(2) (2015) (bar to withholding of removal) Holding the same treaty.

Syllabus[2]

Held: The persecutor bar bars petitioner Hegazi from obtaining refugee status in the country of his persecutor, or otherwise participate in the persecution of others based on "race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1101(a)(42)(A). Petitioner's contrary reading of the statute, that the bar applies only if the persecutor is a government or a "state-like" organization, is inconsistent with the statutory text, the INA's structure, and the Convention Against Torture. Pp. 1 – 5.

(a) The statutory text, which bars an alien from obtaining refugee status if he was "assisted and participated in" the acts of his persecutors, "[a]ll Persons Created Equal" (1776), provides no exception for a "state-like" organization. Petitioner's reading of the statute, that the persecutor bar applies only if the persecutor is a "state-like" organization, is inconsistent with the statutory text, the INA's structure, and the Convention Against Torture. Pp. 1 – 5.

(b) Because the INA has not yet amended its Chevron decision to interpret the persecutor bar, the Court of Appeals must decide the question in the first instance. See, e.g., Gonzales v. Thomas, 547 U.S. 183, 186, 126 S.Ct. 2422, 165 L.Ed.2d 526. Although it is tempting for lawyers to rely on the treaties, we decide the case on the statutory text, because it is the statutory text that determines whether the alien is entitled to relief. See, e.g., Id., at 187, 126 S.Ct. 2422, 165 L.Ed.2d 526.

(c) Because the INA has not yet amended its Chevron decision to interpret the persecutor bar, the Court of Appeals must decide the question in the first instance. See, e.g., Gonzales v. Thomas, 547 U.S. 183, 186, 126 S.Ct. 2422, 165 L.Ed.2d 526. Although it is tempting for lawyers to rely on the treaties, we decide the case on the statutory text, because it is the statutory text that determines whether the alien is entitled to relief. See, e.g., Id., at 187, 126 S.Ct. 2422, 165 L.Ed.2d 526. Pp. 1 – 5.

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and the Fifth Circuit's decision in *Texas v. United States*, 809 F. 3d 134, 171 (CA5 2015) (*"*[a]ssuming *arguendo* that *Chevron* applies, we find that the Secretary's interpretation of the INA and accompanying ***[illegible] *Chevron* deference under *Auer* *[illegible] *Auer* deference"), *aff'd* *[illegible] *Texas* *[illegible] *Texas* *[illegible] *Texas

has been "consistently classified" as civil in nature, *Hansiades v. Shaughnessy,* 342 U.S. 580, 594, 72 S.Ct. 512, 96 L.Ed. 586 (1952); see also *Zadvydas v. Davis,* 533 U.S. 678, 720, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001) (KENNEDY, J., dissenting) (explaining that "`an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative'" (quoting *Landon v. Plasencia,* 459 U.S. 21, 32, 103 S.Ct. 321, 74 L.Ed.2d 21 (1982))). There is no warrant to read criminal-law requirements into a statute that is "nonpunitive in purpose and effect." *Zadvydas, supra,* at 690, 121 S.Ct. 2491. Further, the conclusory pronouncement in the Office of the United Nations High Commissioner for Refugees' Handbook on Procedures and Criteria for Determining Refugee Status ¶ 162 (reedited Jan. 1992), that "it has to be assumed, although this is not specifically stated, that the acts covered by the present clause must also be of a criminal nature," is insufficient to require criminal proof to deny withholding of removal, contra, *ante,* at 1175-1176 (opinion of STEVENS, J.). The United Nations handbook "is not binding on the Attorney General, the BIA, or United States courts." *INS v. Aguirre-Aguirre,* 526 U.S. 415, 427, 119 S.Ct. 1439, 143 L.Ed.2d 590 (1999).

[4] Because this Court should not delegate the interpretation of the persecutor bar's plain meaning to a federal agency, see *Board of Governors, FRS v. Dimension Financial Corp.,* 474 U.S. 361, 368, 106 S.Ct. 681, 88 L.Ed.2d 691 (1986), it is largely irrelevant whether the BIA properly relied on *Fedorenko v. United States,* 449 U.S. 490, 101 S.Ct. 737, 66 L.Ed.2d 686 (1981), in interpreting the statute, see *ante,* at 1166-1167 (majority opinion); *ante,* at 1169 (SCALIA, J., concurring). In any event, the BIA's construction of the INA's persecutor bar correctly reflected the text of the provision. There is no reason to remand the question to the agency when only one construction of the statute is permissible and the agency's original decision adopted that proper construction. See *National Cable & Telecommunications Assn. v. Brand X Internet Services,* 545 U.S. 967, 982-985, 125 S.Ct. 2688, 162 L.Ed.2d 820 (2005).

[5] Moreover, in the Refugee Act of 1980, which added the persecutor bar to the INA, Congress separately codified its desire to "promote opportunities for resettlement or voluntary repatriation." § 101(a), 94 Stat. 102, note following 8 U.S.C. § 1521. In 1996, when Congress reenacted the statutory text, it retained the persecution bar's broad language while again restricting other sections to voluntary conduct. See IIRIRA, § 304, 110 Stat. 3009-587 (relating to "voluntary departure"); § 402, *id.,* at 3009-656 (relating to "voluntary" participation in pilot programs for confirming employment eligibility); § 604, *id.,* at 3009-692 (providing for termination of asylum when alien "voluntarily" takes certain actions).