

1402684 (Refugee) [2015] AATA 3667 (12 November 2015)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1402684
COUNTRY OF REFERENCE: Bangladesh
MEMBER: Linda Symons
DATE: 12 November 2015
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection visa.

Statement made on 12 November 2015 at 6:36pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the Migration Act 1958 and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be Stateless, arrived [in Australia] by boat [in] July 2012. He was detained and subsequently issued with a Bridging visa [in] November 2012.
3. The applicant applied to the Department of Immigration and Border Protection (the Department) for the visa [in] January 2013 and the delegate refused to grant the visa [in] January 2014. He applied to the Tribunal on 17 February 2014 for review of that decision.
4. The applicant appeared before the Tribunal on 16 April 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Bengali and English languages.
5. The applicant was represented in relation to the review by his registered migration agent.
6. The issues that arise on review are whether Australia has protection obligations to the applicant under the Refugees Convention or under the complementary protection criterion.

RELEVANT LAW

7. The criteria for a Protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a Protection visa of the same class.

Refugee criterion

8. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

Complementary protection criterion

9. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a Protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

Section 499 Ministerial Direction

10. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

CONSIDERATION OF CLAIMS AND EVIDENCE AND FINDINGS

11. The applicant's claims in his visa application are summarised as follows:
- He was born in [his home] village, Habiganj district, Sylhet division, Bangladesh on [date]. He is a Sunni Muslim.
 - His parents were born in [their home town], Arkan State, Burma. They are both Rohingya. They met and married in Arkan State. He speaks a little Rohingya. His parents raised them speaking Bengali so they could fit into society.
 - About 35 or 40 years ago his father immigrated from Burma to Bangladesh. His father and his brother had a [product] business in Burma. They often quarrelled with Rhakine people. His uncle had a quarrel with the Police and disappeared the following day. His father assumed his uncle had been killed by the Police, Rhakine people or their own relatives who may have been jealous of their success in business.
 - His father got scared and sold everything he had. A few months after his uncle disappeared, his father left Burma for Bangladesh. He was fearful he would suffer the same fate as his brother. His father opened a [product] business in Bangladesh. He later started working in mosques. After 4 or 5 years, his father travelled to Burma to collect his mother and take her to Bangladesh. His father has returned to Burma a few times to inquire about his brother but has had no news. This was before he was born but may have been after as well.
 - He grew up in Habiganj. They were refugees and had no documents. Only about 10% of the refugees in Bangladesh are registered with UNHCR. His father did not want to register with UNHCR because he was afraid of being sent back to Burma. The UNHCR card did not have much value because it did not allow the holder to work legally. Many people obtained false UNHCR cards. From time to time Rohingya are returned from Bangladesh to Burma. If they are caught at the border they can be shot by either side.
 - His father worked conducting religious services in mosques. His father taught people how to read the Quran. His older [brother]now does this as his father is too old and not in good health.
 - He went to school near the mosque where his father worked. He did not have permission to attend public schooling. He had a little informal schooling in a school for refugees and disadvantaged children like orphans. He felt discriminated against as a refugee. People looked down on him.
 - When he was about [age] years old, he found out that his [brother]had wasted a lot of his father's money on paying people smugglers. He wanted to go to [another country]

and seek asylum but never left Bangladesh. His father also spent money trying to leave Bangladesh.

- When he was about [age] years, his [brother] became sick with a fever. He went missing for a while. After 5 or 6 months his father found him and brought him back. In the absence of his [brother], the burden of being the breadwinner fell on him. When he was about [age] years old he moved to Dhaka.
 - It was initially difficult to find work in Dhaka because he did not have any papers. He lived with a Bangladeshi family who took pity on him. After 6 or 7 months he found accommodation in a boarding house. He began working doing casual jobs such as cleaning. When he was [age] years old he started working in a [merchandise] factory and worked there for 5 years. Because he did not have any documents he was paid less than other workers. He learned English from [foreign] buyers. He went back to Habiganj for holidays.
 - His family decided he should leave Bangladesh. His family had nothing as his father and [brother] had wasted money trying to leave Bangladesh. He was chosen to try his luck. His [brother] made the arrangements for him to leave Bangladesh. He is not sure what he did.
 - After arriving in Australia, he found out that his parents had sold their house to raise money for his trip. They are renting now. His family is not in a good state. His parents are upset, stressed and grief stricken.
 - He fears that if he returns to Bangladesh he will suffer more discrimination and hardship because he is a Rohingya refugee. He will not be able to return to Bangladesh as he has no documents. He cannot go to Burma. He has never been there. His parents have no legal status in Burma.
12. The applicant attended an interview with the Department [in] September 2013 in relation to his application for a Protection visa. During the interview he re-iterated and expanded on his claims.
 13. [In] September 2013, the applicant's migration agent provided the Department with post interview submissions.
 14. The applicant has lodged with the Tribunal a copy of the Department's Decision Record dated [in] January 2014.
 15. On 9 April 2015, the Tribunal received written submissions from the applicant's migration agent. In these submissions she raised a new claim to the effect that the Burma should also be considered as a country of reference for the purpose of assessing the applicant's claims for protection.
 16. In her submissions, the applicant's migration agent stated that the applicant's claims under the Refugees Convention in relation to Myanmar (Burma) are as follows:
 - Ethnicity – Rohingya.
 - Religion – Muslim.
 - Nationality – Stateless.
 - Membership of a particular social group – Undocumented Stateless Rohingyas.

17. In her submissions, the applicant's migration agent stated that the applicant's claims under the Refugees Convention in relation to Bangladesh are as follows:
- Ethnicity – Rohingya.
 - Membership of a particular social group – Undocumented Stateless Rohingyas.
 - Membership of a particular social group – Rohingya refugees.
18. Following the hearing, the Tribunal received post hearing submissions from the applicant's migration agent in which she addressed some of the issues raised by the Tribunal during the hearing.

Does Australia have protection obligations to the applicant under the Refugees Convention?

19. The applicant gave evidence to the Tribunal that his migration agent prepared his visa application on his instructions. He stated that his instructions were true and correct and that he was satisfied that his visa application is accurate and complete. He did not wish to make any changes to his visa application.
20. The Tribunal discussed his claims with the applicant during the hearing. The Tribunal also discussed with him his family, where he lived in Bangladesh, his education, his employment, arrangements for his departure from Bangladesh and his departure from Bangladesh.
21. In considering the applicant's claims, the Tribunal has a number of concerns about his evidence. The Tribunal found some aspects of his evidence to be implausible and other aspects of his evidence to be vague. There were a number of inconsistencies in his evidence. This raises concerns for the Tribunal in relation to his credibility and the veracity of his claims. The Tribunal's concerns are referred to below.
22. In his visa application, the applicant claimed that his parents are Rohingya, were born in Myanmar, moved to Bangladesh before his birth, he was born and lived in Bangladesh and is a Stateless Rohingya. He was interviewed by an officer of the Department [in] July 2012. During that interview, he was asked what ethnic group he belonged to and he stated that his is Bengali. This is inconsistent with his claim that he is a Rohingya. The Tribunal put this information to the applicant, pursuant to s.424AA of the Act, and noted that it raised concerns in relation to the credibility of his claim that he is a Stateless Rohingya. He responded that he was born in Bangladesh and if people ask him he says he is Bangladeshi. He stated that his parents came from another country and his brother was born in another country. He stated that they are Rohingyas and do not have documents. This response does not address the issue raised with him.
23. The applicant was interviewed again by an officer of the Department [in] August 2012. During that interview, he was asked some questions about himself such as his religion, his ethnic group and his preferred language. He responded that his religion is Islam, he is a Bangladeshi and speaks Bengali. This is inconsistent with his claim that he is a Stateless Rohingya. The Tribunal put this information to the applicant, pursuant to s.424AA of the Act, and noted that it raised concerns in relation to the credibility of his claim that he is a Stateless Rohingya. He responded that he believes he said he was born in Bangladesh and is a Rohingya.
24. In post hearing submissions, the applicant's migration agent submitted that the Tribunal raised concerns that, during his first two interviews with the Department, the applicant's ethnicity is recorded as 'Bangladeshi'. This is not accurate. The information put to the applicant at the hearing was that in his first interview with the Department [in] July 2012 he stated that his ethnicity was 'Bengali' and in his second interview with the Department [in] August 2012 he stated that his ethnicity was 'Bangladeshi'. The applicant's migration agent

submitted that it is possible that the applicant misunderstood the word 'ethnicity' to mean 'where you come from' and so he said 'Bangladesh'. This does not explain why he answered 'Bengali' in response to the question about his ethnicity during the interview [in] July 2012.

25. The applicant has filed with the Tribunal a copy of the Department's Decision Record dated [in] January 2014. It indicates that during his interview with the Department [in] September 2013, he stated that his parents were fluent Rohingya speakers and that Rohingya was their first language. It indicates that he claims that his mother tongue is Bengali and he only speaks a few words of Rohingya. It indicates that he informed the Department that his parents wanted him to speak Bengali at home so he could fit into society. During the hearing, the Tribunal asked the applicant if he had learnt anything about the culture and practises of the Rohingya and he answered no.
26. The Tribunal raised as an issue with the applicant his lack of knowledge of the Rohingya culture and practises and poor knowledge of Rohingya language. He responded that he thinks his parents wanted them to fit into Bangladesh and did not wish to pass on their suffering to their children. In pre hearing submissions, his migration agent submitted that Rohingya refugees in Bangladesh have tried to assimilate and "disappear" into Bangladeshi society including trying to pass themselves off as Bangladeshis, trying to assimilate their language and letting go of cultural and religious practices. She submitted that second generation children may not speak Rohingya because their families have no intention of returning to Myanmar.
27. The Tribunal accepts that the applicant's parents may have wanted him to learn Bengali so that he could assimilate into the Bangladeshi society. The Tribunal also accepts that his parents may have let go of certain cultural practises so that it was easier to assimilate into Bangladeshi society. However, the Tribunal is of the view that it is implausible that if his parents' mother tongue is Rohingya this would not have been the language spoken in their home. The Tribunal also finds it implausible that the applicant's parents would not have taught the applicant anything about his cultural heritage even if they decided to let go of certain cultural practises.
28. The applicant has filed with the Tribunal a copy of the Department's Decision Record dated [in] January 2014. It indicates that during his interview with the Department [in] September 2013, he stated that his parents owned a house in Bangladesh and had done so for about 20 to 22 years. The delegate relied on this evidence, in part, to find that the applicant was a Bangladeshi and not a Stateless Rohingya as claimed. During the hearing, the applicant gave evidence that his father purchased the house in someone else's name. He stated it was sold to fund his trip to Australia. The evidence before the Tribunal indicates that the applicant's father had a [product] business which has now been taken over by his eldest brother. The evidence before the Tribunal also indicates that the applicant's father paid people smugglers for himself and his eldest son to travel overseas. The evidence also indicates that the applicant's father works as an Iman at the local mosque.
29. During the hearing, the Tribunal raised with the applicant the issue that his father's ability to own property, own and run a business, have sufficient income to pay people smugglers for himself and his eldest son to travel overseas and work as an Iman was not consistent with him being a Stateless, undocumented Rohingya in Bangladesh. The applicant responded that you do not need documents to work in a village mosque. He stated that some of the locals knew that his father was not a Bangladeshi but he reads the Quran well and many people like him. This response does not address the other issues raised by the Tribunal.
30. In post hearing submissions, the applicant's migration agent submitted that the [product] industry in Bangladesh is unregulated, anyone can be a [product operator], the applicant's father earned just enough money to support his family and have some small savings. The Tribunal accepts that the [product] industry in Bangladesh may be unregulated and that the applicant's father may not have required a licence to operate a [product] business. However, the applicant's response and his migration agent's submission do not address how his father

was able to earn and save sufficient money to purchase a house and to pay people smugglers for 2 people to travel overseas. The Tribunal does not accept that the applicant's father purchased a house in someone else's name or that he sold this house to fund the applicant's travel to Australia. The Tribunal is not satisfied, on the evidence before it, that the applicant's father is a Stateless and unregistered Rohingya.

31. In his visa application, the applicant stated that he worked for [a corporation] in Dhaka from approximately [year] to [year] making [merchandise]. The country information indicates that [corporation] is a group of [a number of] private companies which, in 2012, had an annual turnover of [millions of] US dollars. During the hearing, the Tribunal raised as an issue with the applicant that his stable work history and the unlikelihood that this company would risk its reputation by illegally employing people who do not have the right to work raised concerns in relation to his claim that he is a Stateless Rohingya. He responded that his employer was not aware that he was "illegal". He stated that the man who helped him to get the job organised some documents for him and gave them to his employer. He stated that the man was a broker and when his employer paid him, this man kept part of his income.
32. This evidence is inconsistent with the applicant's earlier evidence to the Tribunal that his employer knew he was not a Bangladeshi so he was paid half of what the other employees were paid. This raises further concerns in relation to the credibility of the applicant's claims that he was an unregistered, undocumented, Stateless Rohingya in Bangladesh.
33. The applicant's evidence is that he had no identification documents in Bangladesh. He stated that he worked from [year] to [year] and whilst living in Dhaka he travelled home by bus to visit his family on 3 or 4 occasions. He also gave evidence to the Tribunal that he never had any problems with the Bangladeshi authorities. The country information indicates that the government of Bangladesh has "taken various repressive and discriminative policies" towards Rohingyas "so that at one point they give up and leave" Bangladesh voluntarily.¹ In view of this country information, the Tribunal is of the view that it is implausible that the applicant could have lived in Bangladesh all his life, worked for several years and travelled in Bangladesh as a Stateless, unregistered and undocumented Rohingya and never had any problems with the Bangladeshi authorities. This raises further concerns in relation to the credibility of his claims.
34. The Tribunal discussed with the applicant his travel from Bangladesh to Australia. He stated that his brother made the arrangements for his travel. He stated that he travelled from Dhaka to Chittagong where he was given a white piece of paper and he was able to use this paper to travel to [Country 1] by aeroplane. He stated that it looked like a passport. When asked what name was on the passport, he responded that he did not see the passport or the name. When asked whether his photograph was in the passport, he responded that he did not know. When the Tribunal asked him further questions about this, he stated that he was given an envelope, told not to open it and was instructed to hand the envelope to the person.
35. The Tribunal asked the applicant who he was instructed to hand the envelope to and he responded that there was a man waiting for him in [Country 1] and he was told to hand him the unopened envelope. When asked whether the people smuggler accompanied him on the journey, he responded that he took him to Chittagong airport but did not go inside the airport. He stated that he was given a separate piece of paper which he was told to show them. When asked who he gave the piece of paper to, his answer was non-responsive. He stated that he did not know what was on the piece of paper. He stated that someone called him and asked him to go with him and sit in a room. He stated that 15 or 20 minutes later he was told to get on the plane. When asked again whether he was given a passport, he answered no. He stated that he did not go through a security check or immigration control.

¹ The Khilafah, *Plight of the Rohingya Muslims in Bangladesh*, 3 June 2015. (<http://www.khilafah.com/plight-of-the-rohingya-muslims-in-bangladesh/>).

36. The applicant gave evidence that after he got on the aeroplane “they” gave him another piece of paper which he was supposed to give someone in [Country 1]. He stated that he does not know who “they” are but they work at the airport. When asked what happened when he got off the plane in [Country 1], he responded that someone was supposed to meet him and take him somewhere. He stated that when he got off the plane someone saw him, took him outside through a side door and he did not go through immigration control.
37. The Tribunal finds the applicant’s account of how he travelled from Bangladesh to [Country 1] to be vague, contradictory and implausible. The Tribunal is of the view that it is implausible that the applicant could have travelled through 2 international airports in 2 different countries without going through security checks and immigration controls. The applicant’s evidence in this regard raises concerns in relation to his credibility and the veracity of his claims.
38. The applicant was interviewed by an officer of the Department [in] August 2012. During that interview, he was asked how he travelled to Australia. He stated that he used the services of a people smuggler who organised a passport, visa and airline ticket for him. He stated that his brother gave the people smuggler a photograph of him. When the Tribunal put this information to the applicant, pursuant to s.424AA of the Act, and noted that it was not consistent with his evidence to the Tribunal, he responded that he travelled from Bangladesh to Australia and had an internal flight in Indonesia.
39. When asked how he was able to travel on an aeroplane without a passport as he had earlier stated, the applicant responded that he was given an envelope and told not to open it. He stated that inside the airport “they” asked him to step aside and helped him. He stated that he forgot to tell the Tribunal that his brother gave him a photograph. He stated that he saw someone stamp the piece of paper and asked him to leave the building. When the Tribunal noted that this was different from his earlier evidence, he agreed. He offered no explanation for the inconsistency. These inconsistencies in the applicant’s evidence raise serious concerns in relation to his credibility and the veracity of his claims.
40. The Tribunal asked the applicant what he thought would happen if he returned to Bangladesh. He responded that his life would be finished. When asked why, he responded that his family have lost everything and if they find out he is returning to Bangladesh, they will be finished and he will be finished. When asked what he meant by “finished”, he responded that they are upset now and would be upset if he returns to Bangladesh. He stated that they may die. He stated that he does not know what will happen to him. Notwithstanding the claims made by the applicant’s migration agent on his behalf, his concerns about returning to Bangladesh appear to be for economic reasons. This raises concerns in relation to the credibility of his claims.
41. The applicant was interviewed by an officer of the Department [in] July 2012. During that interview, he was asked if he was seeking Australia’s protection and he answered yes. He was asked why and he stated “in Bangladesh they don’t pay a proper salary so I came to Australia”. The Tribunal put this information to the applicant, pursuant to s.424AA of the Act, and noted its concern that he may have come to Australia for economic reasons and not because he is a Stateless Rohingya. He responded that he was asked what he did in Bangladesh and stated that he used to work. He stated that he said if a local earned 6,000 taka he was paid half. He stated that he can work in Bangladesh and local people help him. This response is not consistent with the record of his response to the question why he is seeking Australia’s protection referred to above. In view of the Tribunal’s concerns about the applicant’s credibility, it is of the view that the record of interview made by the Departmental officer is the more accurate version of the applicant’s response to that question and the Tribunal places greater weight on this evidence.
42. The applicant’s response is also inconsistent with other evidence given by him and referred to in paragraphs 31 and 32 above. This raises further concerns in relation to the credibility of the applicant’s claims.

Findings

43. Having considered the applicant's claims, evidence, country information and the submissions made by the applicant's migration agent, the Tribunal is of the view that the applicant is not a witness of truth. The Tribunal is of the view that he fabricated his material claims for the purpose of obtaining a Protection visa. The Tribunal finds that the applicant is not a credible witness.
44. On the evidence before it, the Tribunal is not satisfied that the applicant is a Stateless Rohingya. It follows that the Tribunal does not accept any of his claims that flow from this.
45. The Tribunal accepts that the applicant was born in Bangladesh and is from Bangladesh. The Tribunal accepts that his mother tongue is Bengali and that he is a Muslim. The Tribunal accepts that he lived and travelled in Bangladesh without any problems from the Bangladeshi authorities. The Tribunal accepts that the applicant worked as a cleaner from [year] to [year] and in the [merchandise] industry in Dhaka from [year] to [year]. The Tribunal accepts that he worked in Bangladesh without any problems from the Bangladeshi authorities. The Tribunal does not accept that he was paid half or less than what other employees were paid for doing the same job.
46. The Tribunal accepts that the applicant's father owned a house in Bangladesh. The Tribunal does not accept that his father bought this house in someone else's name or that he sold this house to fund the applicant's trip to Australia. The Tribunal does not accept that his family have lost everything and have nothing. The Tribunal accepts that the applicant's father paid people smugglers for him and his eldest son to travel overseas. The Tribunal accepts that the applicant's older brother has taken over his father's [product] business and his job at the mosque.
47. The Tribunal does not accept that the applicant travelled from Bangladesh to Australia without a passport. Alternatively, the Tribunal does not accept that the applicant travelled from Bangladesh to Australia on a false passport. The Tribunal does not accept that the applicant travelled through international airports in Bangladesh and [Country 1] without going through security checks and immigration controls.
48. For the reasons given above and the above findings, the Tribunal finds that the applicant is a citizen of Bangladesh.
49. The applicant has not made any claims that he fears persecution, for reason of a Refugees Convention ground, if he returns to Bangladesh other than those associated with his claims that he is a Stateless Rohingya which the Tribunal has rejected. He claimed that his family would be upset if he returns to Bangladesh and they may die. The Tribunal is not satisfied that this claim has any nexus to the Refugees Convention.
50. In view of the above findings, the Tribunal does not consider it necessary to assess the applicant's claims against Myanmar particularly as he was not born there, has never claimed to have lived there and it is not his country of former habitual residence.
51. In view of the above findings, and in light of the Tribunal's finding that the applicant is not a credible witness, the Tribunal is not satisfied that he has a well-founded fear of Refugee Convention related persecution for any of the reasons put forward by him.
52. Having considered all of the applicant's claims, individually and cumulatively, and the evidence the Tribunal finds that there is no real chance that the applicant would be at risk of persecution on the grounds of race, religion, nationality, membership of a particular social group or any other Refugee Convention reason if he returns to Bangladesh now or in the reasonably foreseeable future. Therefore, the Tribunal finds that the applicant does not have a well-founded fear of persecution for a Refugee Convention reason. Accordingly, the Tribunal finds that he does not satisfy the criterion in s.36(2)(a) of the Act.

Are there substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia, there is a real risk that he will suffer significant harm

53. The Tribunal has considered the applicant's claims under complementary protection.
54. During the hearing, the applicant claimed that his family would be upset if he returned to Bangladesh and may die. The Tribunal accepts that his family may be upset if he returns to Bangladesh. However, the Tribunal does not accept that they may die for this reason.
55. The applicant also claimed that "in Bangladesh they don't pay a proper salary." The Tribunal has not accepted that he was paid half or less than what other employees were paid for doing the same job. The Tribunal accepts that his earning capacity in Bangladesh is less than in Australia. However, he was in steady employment in Bangladesh from [year] to [year] and was able to subsist and assist his family. His evidence to the Tribunal is that he is able to obtain work in Bangladesh and that locals help him. The Tribunal is therefore not satisfied that there is a real risk that he will face economic hardship amounting to significant harm if he returns to Bangladesh.
56. For the reasons given above, and in view of the above findings, the Tribunal is not satisfied that there is a real risk that the applicant will suffer significant harm for any of the reasons claimed if he returns to Bangladesh now or in the reasonably foreseeable future.
57. Having considered all of the applicant's claims, individually and cumulatively, the Tribunal is not satisfied, for the reasons given above, that the applicant will be arbitrarily deprived of life, the death penalty will be carried out on him, he will be subjected to cruel or inhuman treatment or punishment or he will be subjected to degrading treatment or punishment if he returns to Bangladesh now or in the reasonably foreseeable future.
58. Accordingly, the Tribunal is not satisfied that that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Bangladesh, there is a real risk that he will suffer significant harm as defined in s.36(2A) of the Act. Therefore, the Tribunal finds that the applicant does not satisfy the criterion in s.36(2)(aa) of the Act.

CONCLUSION

59. The Tribunal finds that the applicant does not satisfy the criterion in s.36(2)(a) or s.36(2)(aa) of the Act.
60. There is no suggestion that the applicant satisfies s.36(2) of the Act on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or s.36(2)(aa) of the Act and who holds a Protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2) of the Act.

DECISION

61. The Tribunal affirms the decision not to grant the applicant a Protection visa.

Linda Symons
Member