

1214595 [2014] RRTA 256 (10 April 2014)

DECISION RECORD

RRT CASE NUMBER: 1214595
COUNTRY OF REFERENCE: Bangladesh
TRIBUNAL MEMBER: Ms Christine Long
DATE: 10 April 2014
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431(2) 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 (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant who is a citizen of Bangladesh applied to the Department of Immigration for a protection visa [in] November 2011 and the delegate refused to grant the visa [in] August 2012. The applicant applied to the Tribunal for review of the delegate's decision [in] September 2012.

RELEVANT LAW

3. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of 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.
4. 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).
5. 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').
6. 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.

CLAIMS AND EVIDENCE

7. The Tribunal has before it the Department's file relating to the applicant which includes the applicant's application for protection visa, supporting documents and country information and the delegate's decision record. The Tribunal also has had regard to the material referred to in the delegate's decision. The Tribunal also has before it the applicant's application to this

Tribunal for review and materials and submissions produced to the Tribunal in support of that application.

Application for Protection Visa

8. In the application for protection visa the applicant states that he was born in Munshiganj in [Bangladesh]; he is of Bengali ethnicity and he is Muslim. He indicates that he was educated in his country between [certain years] and that he lived in Munshiganj at the same address from January 2001 until October 2011. He states that he married [in] 2004 and his wife and [child] reside in Bangladesh. Also he states that his [family members are] living in Bangladesh. The applicant indicates that his occupation prior to leaving Bangladesh was a businessman, that he worked on his own farm and paddy fields from 1985 until 2007 and that from 2007 until October 2011 he was the owner of a [business] in a market in Dhaka. He indicates that he left his country legally in October 2011 and travelled to Australia using his Bangladeshi passport which was issued in Munshiganj [in] 2010. He indicates that he entered Australia [in] October 2011 on a visa issued in his country [in] 2011 valid until [a date in] November 2011. He indicates that he attended at the Australian High Commission in Dhaka [in] September 2011 to get his visa to visit Australia. A copy of the applicant's passport issued in Bangladesh [in] 2010 expiring [2015] is provided.
9. In his application the applicant states that he left his country because he was targeted and persecuted by Awami League gangs/criminal gangs who have the protection of authorities because he was an active supporter and member of the BNP in his area. He states that he was [Official 1] of the BNP in [a location in] Munshiganj. He states that the Awami League filed politically motivated cases against him in Bangladesh and because of that he felt unsafe and arranged to leave his country. He states that he has been attacked in the past by Awami League supporters including members of the Haji Selim [gang]. He states that if he returns to his country he will be targeted again by Awami League supporters and their criminal militant groups; he will be harmed for exercising his freedom of expression. He will not get protection from the harm he fears in his country because those who are persecuting him have the support of the authorities. As the Awami League is in power the authorities, including the police, will not take any action to protect him and he will not be safe anywhere in Bangladesh.
10. In a submission dated [in] January 2012 from the applicant's advisor it is submitted that the applicant is owed protection in Australia as he has a well founded fear of suffering persecution in his country for the cumulative reasons of his political opinion and /or his imputed political opinion and his membership of a particular social group, namely businessmen who are members/supporters of the BNP and BNP supporters and members facing extortion and harm from Awami League miscreants. It is submitted that given the ongoing human rights problems and political instability in Bangladesh involving attacks on political opponents there is no effective protection or meaningful relocation options for the applicant in his country. The submission includes extensive references to country information in support of the applicant's claims including independent country information in relation to political violence and human rights abuses against BNP members/supporters by the Awami League and its supporters/ authorities including the police and the RAB. Relevant Tribunal decisions are also referred to in support of the applicant's claims for protection. It is concluded in the submissions that the applicant will be persecuted on return to his country as those the applicant fears consider that he holds a political opinion which is contrary to their political opinion. Also as a businessman he faces harm from extortion from Awami League activists who have attempted to extort money from him. Country information confirms that Awami League activists extort money from people and that they target BNP political activists

and businessmen. It is submitted that the applicant is a local supporter and member of the BNP and he will continue to support and be involved with political activities on return to Bangladesh. Political activists face harm from the ruling government, the Awami League. The authorities tacitly and/or actively support those Awami League supporters and miscreants who continue to harm BNP activists. It is not only high profile BNP political leaders but also local level BNP supporters and members who face serious harm from Awami League supporters. It is submitted that the applicant cannot get protection from the harm he fears in his country and cannot relocate to avoid harm there. It is submitted that the country information referred to supports the applicant's claims as do recent decisions of the RRT.

11. In a statutory declaration from the applicant declared [in] May 2012 the applicant provides his educational and background details stating that he comes from a family of BNP members/supporters. He states that he began to be involved in the BNP from 1987, became a member of the Jubo Dal of Madda Para Union in 1990, worked in support of his local candidate, whom he names, during the elections of 1991, was appointed [an official] of Jubo Dal (BNP) and became popular in his locality. He states that he was attacked by Awami League people in June 1996 and was injured; he was hospitalised for one month. He kept a low profile until 2001 but then became actively involved in the election campaign as [an official] of the Jubo Dal of Madda Para Union. He contributed financially to the BNP and during the 2001 elections distributed leaflets around the villages. In 2001 he was appointed [as a senior official] of the Jubo Dal and was [the senior official] from 2001 until 2007 working to promote BNP policies and strengthening the party at the grass roots level. BNP members were scared for their safety in 2006 during the caretaker government. He was appointed [Official 1] of the BNP in 2007 and during the general election in 2008 his role was to organise BNP meetings and processions and demonstrations and door to door campaigns. He started his [business] in Dhaka in 2007; the market was about one hour's drive from his place. He worked for the BNP vice president in the 2008 election and faced many problems from the Awami League members/supporters who threatened revenge. When the Awami League came to power they targeted and victimised BNP members and as a person with a political profile the applicant became a target of its criminal gangs. The Awami League framed false cases against BNP members and supporters. A false case was filed against him by the Awami League [in] 2009 after he supported the local candidate in local council elections. To avoid arrest he bribed authorities. His [business] started to blossom and then the supporters of Haji Selim started coming to his shop demanding money. He had no option but to give them money to avoid problems. He gave them money from 2009. He continued to support the BNP. Another false case was filed against him [in] 2011 and again [two days later]. He then started to stay in different places for his safety. He decided to leave his country to save his life and also he could not continue to pay money to Haji Selim's people. He got a visitor visa to come to Australia [and] arrived [in] October 2011. He cannot return to his country because of his local political profile and cannot relocate safely. He will be targeted and arrested if he returns as he has politically motivated cases pending against him. He will also be targeted by Haji Selim's supporters. A political colleague of his who is [position] of Jubodal in Munshiganj is missing. He fears he will be seriously harmed if he returns to Bangladesh.
12. The applicant submitted documents, described as follows, to the delegate in support of his claims- a national ID card issued [in] September 2008; a Trade Licence from the Dhaka City Corporation issued [in] September 2008 for [his business], showing yearly renewals up until 2012 on the payment of renewal fees; a document from [a senior official of the BNP] at Munshiganj dated [in] December 2011 stating that the applicant joined the party in 1990, that

he has had an extensive political career, that he is presently [Official 1] of [a certain location], that he has experienced going to prison and torture due to his political activities, that the Awami League has lodged “many harassing case against him”, that Awami League cadres are searching for him, and that he has been forced to flee overseas; an undated document from [a senior official] of the BNP, Jatiyotabadi Dala in similar terms; a document dated [in] February 2012 from [two senior officials] of the BNP stating that the applicant has been “fleeing around to escape inhuman threats” because of his political activities, that he is on “the list of harassments” by the ruling party and the police, that he had to flee his country to avoid harm because the ruling party was openly threatening him, that if he is seen in public he will be brutally tortured or arrested and imprisoned by police and/or killed as an extra judicial killing; there is another copy of the same letter signed by [an official] of the BNP dated [in] January 2012; there is a handwritten letter described as from [a senior official], BNP Central Committee dated in January 2012 stating that the applicant has had connections with the BNP for a considerable period and that during his political activities he “created animosity with the ruling party and was about to undergo political harassment” when he left his country for his personal safety; there are two documents, dated [in] May 2012, one document signed , the other unsigned, one document stamped with a letterhead of the BNP in Australia, the other unstamped, described as from a former [senior official] of the BNP in Australia supporting the applicant’s claim that he is a member of the BNP in Australia “since he arrived in Australia”; an income tax certificate from the Deputy Commissioner of Taxation in Dhaka dated [in] February 2010; documents headed Charge Sheet referring to First Information dated [in] 2011 and noted with various other dates [in] 2011 referring to the applicant as an accused person; a document described as a deposition referring to the applicant as an accused in relation to offences [in] 2011; a warrant for arrest for the applicant dated [in] 2011; a First Information Report dated [in] 2011 referring to offences of the applicant; a further Warrant for Arrest document naming the applicant as an accused but which appears to be uncompleted; a charge sheet naming the applicant and referring to a first information dated [in] 2011; a document described as deposition referring to the applicant as an accused person for offences occurring [in] 2011; a First Information Report document referring to offences committed by the applicant [in] 2011; a warrant for arrest document dated [in] 2011 referring to the applicant as the accused.

13. The applicant was interviewed by the delegate about his claims [in] May 2012.
14. [In] May 2012 the applicant’s advisers sent a further submission to the delegate referring to further recent country information on continuing human rights abuses in Bangladesh. The submission also addresses relocation stating that internal relocation is not feasible for the applicant.
15. [In] May 2012 the applicant’s advisors sent the delegate a further submission in support of the applicant’s claims addressing and enclosing additional country information including news reports and publications about political violence and human rights abuses by authorities/police in Bangladesh against BNP members. Included in the information is a copy of a document described as a page from [a publication] where there is a reference to two cases by the police against the [applicant].

Application for Review

16. In his application for review the applicant makes no new claims.

17. [In] November 2013 the applicant's adviser provided the Tribunal with copies of three photographs of the applicant described as photographs showing his political activities with the BNP/BNP leaders in Australia.

Tribunal Hearing

18. The applicant appeared before the Tribunal [in] November and [in] December 2013 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Bengali and English languages. The applicant was represented by his registered migration agent.
19. The applicant produced to the Tribunal his passport issued in Dhaka [in] 2010; a copy is placed on the Tribunal file. Following the first Tribunal hearing the Tribunal sent the passport for examination by a document examiner from the Department of Immigration and received a report dated [in] November 2013 in relation to the authenticity of the passport; the report is placed on the Tribunal file. The report concludes that the passport is a legitimately manufactured document, personalised in an appropriate manner, that has been altered. The alterations noted in the report include correction fluid present to obscure text and the replacement of a section of a page from another Bangladesh passport. It is concluded in the report that there is no evidence of alteration to the personal data in the passport including the photograph.
20. At the first Tribunal hearing the applicant produced six photographs described as showing his attendance at BNP activities in Australia.
21. The applicant also produced to the Tribunal at the hearing [in] December 2013 two photographs.
22. At the hearings the Tribunal spoke with the applicant about the documents and photographs that he produced in support of his application, his background in Bangladesh and his claims. The Tribunal also spoke with the applicant about his passport and the document examination report about his passport received by the Tribunal prior to the second hearing. Pursuant to s. 424AA the Tribunal gave the applicant particulars of the information in the document examination report that the Tribunal considered adverse to the applicant, explained why that information was relevant to its decision and the consequences for him of the Tribunal relying on that information, gave him the opportunity and time to comment on and/or respond to the information both at the hearing and following the hearing.
23. The Tribunal allowed the applicant further time after the hearing [in] December 2013 to make submissions and produce further materials.

Post Hearing materials received by the Tribunal

24. [In] January 2014 the applicant's advisers sent the Tribunal a document described as a translated copy of a newspaper [and the applicant and another person] is mentioned under the heading "members of the executive committee".
25. [In] January 2014 the applicant's advisers sent the Tribunal a copy of the receipt for payment by the applicant of the fees for his visa for Australia; the receipt shows that he paid these fees [in] September 2011 (payment receipt date).

26. [In] February 2014 the applicant's advisers sent the Tribunal further country information in support of the applicant's claims for a protection visa including relevant country information in relation to effective state protection and in relation to the difficulties of relocation for the applicant.

COUNTRY INFORMATION

27. In addition to the country information referred to by the delegate the Tribunal consulted the following independent country information about the prevalence of document fraud in Bangladesh; *UK Home Office Country of Origin Report, Bangladesh, 23 December 2011* at paragraph 32.

FINDINGS AND REASONS

28. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.
29. The applicant claims that he is a citizen of Bangladesh. He claims that he left his country and fears to return there because he was targeted and persecuted by the Awami League, Awami League activists, gangs/criminal gangs who have the protection of authorities because he was an active supporter, including a financial supporter, and member and office holder of the BNP, including the BNP in his area. He claims that Awami League gangs/activists extorted money from him in the past and as a businessman/businessman with connections to the BNP he faces harm from extortion from Awami League activists/gangs, including Haji Selim/ the supporters of Haji Selim if he returns to his country. He states that he has been attacked in the past by those he fears and that the Awami League has filed politically motivated cases against him, in 2009 and in 2011, and that warrants for his arrest have issued against him in Bangladesh. He claims that he will be again targeted and harmed if he returns to his country, by the present government, ie the Awami League, its members and supporters including activists and gangs supported by the government/authorities, because of his BNP activities and the positions he has held in the BPN. He claims that he had to go into hiding and move around from place to place to avoid harm in Bangladesh, from 2008 when the Awami League came to power, until he left his country to travel to Australia in 2011. He told the Tribunal that his wife's belongings were taken last year at gun point. He also told the Tribunal that his wife and child live in a relative's house because of safety concerns. He claims that he is a member of the BNP (BNP Jatiotabadi Dal) in Australia has been involved in BNP activities/demonstrations in Australia. The applicant claims that he cannot relocate to avoid harm in Bangladesh and that he cannot get protection from the harm he fears in his country.
30. The Tribunal accepts that independent country information, including the country information referred to by the applicant and his advisers, supports in a general way the applicant's claims that there is political violence and conflicts between opposing parties in Bangladesh and that sometimes those who are politically active/ those with a political profile are targeted for harm, including sometimes assaults and killings, by members of opposing political factions. It accepts that there are human rights abusees and extortion of those perceived to have money, including businessmen, in the context of the political violence that occurs in Bangladesh. Clearly however in relation to section 36(2)(a) the Tribunal must determine whether the applicant before it has a genuine fear founded upon a real chance of persecution for a Convention reason if he returns to his country and/ or, for the purposes of s.36(2)(aa) ('the complementary protection criterion') the Tribunal must determine whether

there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant in question being removed from Australia to a receiving country, in this case Bangladesh, there is a real risk that he will suffer significant harm in that country.

31. The Tribunal accepts that the applicant is who he claims to be, that he is Muslim and that he is a citizen of Bangladesh; his passport issued in his country [in] 2010 was produced to the Tribunal at the hearing and a copy is on the applicant's Tribunal file. The Tribunal finds that the applicant's passport has been altered as reported in the document examination report dated [in] November 2013 which was obtained by the Tribunal. Based on that report the Tribunal finds that there is no evidence of alteration to the personal data in the applicant's passport including the photograph. There is no evidence before the Tribunal as to why or when the applicant's passport was altered.
32. The Tribunal finds that the applicant is not a credible witness and that he has given untrue evidence of his claims for protection.
33. The Tribunal does not accept as true that the applicant did not know his passport was altered. The Tribunal informed the applicant at the second Tribunal hearing of the results of the document examination report obtained by the Tribunal; it explained that the results caused the Tribunal to have concerns about his credibility and offered him the opportunity to comment or respond to that information. The applicant told the Tribunal that he got the passport through a broker and he had no idea the passport was altered as he did not see or look inside it; he only saw the photo page. The Tribunal does not accept that this is true. The Tribunal does not accept that this is a reasonable or plausible explanation given that the passport is dated as issued [in] 2010 and has been in the applicant's possession for some time and has been used by him to leave his country and enter Australia according to the stamps in the passport.
34. The Tribunal finds that the applicant worked in his country in his [business] right up until the time he left his country to come to Australia and in the Tribunal's view this is not consistent with the applicant's claims that he was persecuted in his country and will be persecuted on his return there. It is not consistent with his claims about why he left his country and why he cannot return there. The applicant told the Tribunal that he was in hiding moving around from place to place in Dhaka to avoid harm and that his business closed before he left Bangladesh but he also said that his [business] was operating in Dhaka until two to three months before he left Bangladesh. In his application for visa at Question 40 on Form C he states that he was employed in his business from March 2007 until October 2011 when he left to travel to Australia. When the Tribunal queried how his business was running if he was in hiding in the places he claimed, from 2008, he said variously that his manager looked after the business and he contacted his manager mainly over the telephone, that he did not go there to his business after 2008 when Awami League supporters/gangs with the support of the Awami League started harassing him for money at the business, that he saw his manager at home sometimes and that he was last at the business in June 2011 when there were demands for more money and threats made to close the business. When the Tribunal queried his evidence that he was not at his business from 2008 until June 2011 he then said that he had a storage room and goods at another market in Dhaka where goods were prepared for sale and he went there once a week secretly. The Tribunal considers that the applicant changed and embellished his evidence to answer the Tribunal's concerns about it. The Tribunal finds that the applicant worked in his country in his [business] until October 2011 when he left his country to come to Australia.

35. The Tribunal does not accept as true that the applicant was in hiding at any time in Bangladesh as he claims for the reasons that he claims, including because he was being harassed for money by Awami League supporters/gangs with the support of the Awami League. In the Tribunal's view it is not consistent with the applicant's claims that he was in hiding in various places which he named around Dhaka, from 2008, that once a month, or once each two months, he visited his family in his local area in Munshiganj, by bus or auto rickshaw as he told the Tribunal. When the Tribunal queried how he managed to make those visits if he was in hiding he said that he did so secretly, that he saw his family at night only between 11pm and 5 am and he told them he was coming and they waited for him. The Tribunal does not accept as true that the applicant was travelling to his local area secretly from Dhaka to see his family as he claims.
36. Nor in the Tribunal's view is it consistent with the applicant's claims that he is of such interest to the Awami League and its supporters/activists in Bangladesh that he had to go into hiding to avoid harm there from 2008 that he was able to get his visa for Australia in September 2011 and exit his country using a passport/visa in his name issued by the authorities in his country. When the Tribunal asked the applicant about one of the documents he produced in support of his claims which is described as a warrant he said that one warrant issued in 2009 and the others were issued in 2011. He said that police came to his home but could not find him there as he was in hiding. When the Tribunal queried with the applicant how then he managed to leave his country with his passport and visa if authorities were interested in him to the extent that he claims, the applicant did not give the Tribunal a reasonable or plausible explanation. He stated variously that he had no trouble leaving Bangladesh as he was taken to the airport secretly, he had to sit in a seat near a particular gate, his passport was stamped when he left and he had no difficulties leaving because the people from his Party arranged it all. The Tribunal does not accept that the applicant's explanation is true.
37. Not without some doubt about the matter the Tribunal accepts that the applicant is a BNP supporter. The Tribunal does not accept however that the applicant has held the positions in the BNP in Bangladesh that he claims to have held; in the Tribunal's view his very general description at the hearing of the BNP activities he was involved in when he held those positions does not indicate that he had the profile that he claims to have as a BNP member in his country. He also told the Tribunal that although he gave financial support to the BNP he essentially stopped his activities with the BNP in December 2008 because he was in hiding and could not give his time to politics after the 2008 election; he could have been abducted or killed and he was advised by his Party not to get caught in the crossfire. He also said however that a couple of months before he came to Australia he joined the "long march", a public event when there was a problem between India and Bangladesh and he attended a conference in Dhaka with the leader from his locality about one month before he came to Australia. When the Tribunal asked him how he managed to be involved with the march and the conference in the months before he came to Australia given that he was in hiding at that time he said that he could do so as there were many people there at those gatherings. The Tribunal does not accept as true that the applicant was in hiding in his country at any time or that authorities in his country were interested in him as he claims for the reasons that he claims.
38. The Tribunal accepts that the applicant has attended some BNP meetings/activities in Australia; he told the Tribunal that he went to a BNP meeting in December 2011 after coming to Australia, that he is gradually getting known and has been nominated for a post in a committee to be formed. He said that he has attended meetings and that there is a

demonstration [next] Monday. He gave the Tribunal photographs of his attendances at the BNP meetings/activities in Australia. To the extent that the applicant makes the claim the Tribunal does not accept that the applicant fears harm in his country because of his attendances at BNP meetings/activities in Australia or that there is a real chance he will suffer harm amounting to serious harm, or a real risk he will suffer significant harm, in his country because of his attendance at BNP meetings/activities in Australia.

39. Given the concerns that the Tribunal has about the applicant's credibility the Tribunal does not accept as true that the applicant's family [have] had, or are having, difficulties in Bangladesh because of the applicant's situation to the extent that the applicant makes this claim. The Tribunal accepts that the applicant's wife has moved to stay with a relative since the applicant left his country as the applicant stated but the applicant told the Tribunal also that his wife and [child] go to the family home sometimes to see his (the applicant's) mother who is sick, that his [child] is attending school in the local area although it is troublesome for his wife to take [the child] to school and that his (the applicant's) brothers are living in the family home with a servant to look after his mother.
40. The Tribunal considered the documents, including the copies of newspaper articles and entries, that the applicant produced to the Tribunal in support of his claims. Given the Tribunal's concerns about the applicant's credibility, and the fact that he produced an altered Bangladeshi passport to the Tribunal and the Department and also given the country information about the prevalence of document fraud in Bangladesh which the Tribunal consulted and which it discussed generally with the applicant at the hearing, the Tribunal considers that the documents from Bangladesh produced by the applicant are not reliable evidence of the facts in them.
41. The Tribunal finds that the applicant has not given credible evidence about his claims. The Tribunal does not accept as true that the applicant left his country in October 2011 to come to Australia, and cannot return there, because he feared/fears harm in Bangladesh for the reasons that he claims. The Tribunal does not accept as true that the applicant was/will be targeted for harm by authorities, the police, Awami League members/supporters/activists or gangs supported by the Awami League because of his BNP membership/activities in Bangladesh or that as a businessman/businessman with BNP connections he faced and/or will face harm from extortion from Awami League activists/gangs in Bangladesh. Further the Tribunal does not accept as true that the applicant has been attacked in the past and/or that false cases were filed against him and/or that there were/are warrants for his arrest outstanding in Bangladesh. The Tribunal does not accept that the applicant was targeted for harm by those he claims for the reasons that he claims in Bangladesh or that there is a real chance he will suffer harm amounting to serious harm, or a real risk he will suffer significant harm, in his country for the reasons that he claims if he returns there.
42. In the Tribunal's view there is no plausible evidence before it that the applicant has suffered persecution in Bangladesh, or that he has a real chance of suffering persecution there, from political opponents, Awami League members/supporters/activists, gangs supported by the Awami League, authorities, the police or from anyone else, because of his political opinion or imputed political opinion, because he is a member of a particular social group, or for any other Convention reason, either now or in the reasonably foreseeable future, if he returns to Bangladesh.

43. Having regard to the above the Tribunal is not satisfied, on the evidence presently before it, that the applicant has a well-founded fear of persecution in Bangladesh within the meaning of the Convention.
44. Further in the Tribunal's view there are not substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, in this applicant's case, Bangladesh, there is a real risk that he will suffer significant harm for the purposes of s.36(2)(aa) ('the complementary protection criterion').

CONCLUSIONS

45. The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a).
46. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
47. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2) for a protection visa.

DECISION

48. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

Ms Christine Long
Member

Date: 10 April 2014