

0901219 [2009] RRTA 410 (7 May 2009)

DECISION RECORD

RRT CASE NUMBER: 0901219

DIAC REFERENCE: CLF2008/147994

COUNTRY OF REFERENCE: Bangladesh

TRIBUNAL MEMBER: Ms Philippa McIntosh

DATE: 7 May 2009

PLACE OF DECISION: Sydney

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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 and Citizenship 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 claims to be a citizen of Bangladesh, arrived in Australia and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter.
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal for review of the delegate's decision.
5. 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.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to 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).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.
18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.
20. The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal also received oral evidence from Mr X. The Tribunal hearing was conducted with the assistance of an interpreter in the Bengali and English languages.
21. Information provided by the applicant to the Department (DIAC)
22. The applicant provided both biographical details on the protection visa application forms and a written statement to the DIAC, and was also interviewed by the Minister's delegate.
23. The applicant is in his late 30s. He entered Australia on a Bangladesh passport containing an Australian sponsored visitor visa granted in Dhaka. His passport had been issued a few months prior to his departure
24. In biographical details he wrote that he had been born in Dhaka in Bangladesh and was a Moslem. He had divorced in Dhaka.
25. He provided a single home address in Dhaka from birth to a few months prior to his departure, and said that for those few months he had been living at "different places in Dhaka".
26. He stated that he had completed 14 years of education in Bangladesh. Of his employment history, he said that he had been employed for number of years as "general manager, marketing".
27. Of his relatives, he said that he had a sibling in Australia, who was an Australian citizen, and siblings in Bangladesh. His child was also in Bangladesh.
28. Of criminal charges pending against him, he said that the charge currently pending against him was "possession of arms and criminal investigation".(f10)
29. According to a copy of his passport, submitted by him, he had been issued with a Country A visa and had entered Country A. The passport contained exit and entry stamps.
30. In the written statement, he claimed to have been involved in BNP politics since his student days. He had participated in various activities arranged by the Jatiotabadi

Chattra Dal in his college and involved in various BNP activities in Dhaka. After leaving college he entered Jatiotabadi Jubo Dal politics. At the same time he served as an officer of the BNP's youth wing. As a Jubo Dal activist the applicant had close ties with an MP who lived in his area in Dhaka.

31. During his period as a Jubo Dal activist he faced threats from the Bangladesh Awami League. However these threats did not make him fearful for his life as at the time his party, the BNP, was in power and he was an assistant of Mr Y. The applicant had helped many people in his local area of Dhaka and also all over Bangladesh. All his progressive work had a negative impact on Awami League activists.
32. He claimed that from time to time he received threats from these activists, who also threatened his family members, saying that if their party came to power they would take revenge on the applicant.
33. He said that everything was "running well" until the BNP handed over power to the caretaker government. That night Awami League activists came to his house looking for him. He had realised this might happen so had gone into hiding. On that date he had received news from a party colleague of a clash between Awami League and Jammat-e-Islami activists. The Awami league killed Jammat activists and wounded others. In his absence, they harassed and "physically tortured" his family members and ransacked his house, threatening to take revenge on and kill the applicant. They also said that no one could protect him because his party was no longer in power.
34. He said that meanwhile he was employed as general manager, in a company owned by one of his friends. Although he was not "physically involved" with this company during his last few months in Bangladesh he was able to keep his position until leaving the country.
35. He claimed that in the meantime other changes had occurred in the caretaker government as a result of the army's support. A new chief adviser to the government was selected After this many political leaders and activists were arrested both from his party and from the Awami League. They were jailed on charges of corruption. All political leaders and activists became fearful and went into hiding to avoid arrest. Some went abroad. Both his MP friends, Mr Y and Mr Z, were arrested since when the applicant had been sought by the police, who also intended to arrest him. Party colleagues had notified him that the police wanted to interrogate him about these two men's activities as BNP leaders. He assumed this was because of his close ties with both men. From jail Mr Y advised the applicant to stay in hiding to avoid arrest. He also advised the applicant that doing this would help Mr Y to get out of jail. It did help Mr Y to be released, but the police were still searching for the applicant to interrogate him about Mr Z.
36. The applicant claimed that his life was still at risk of serious harm in Bangladesh for two reasons: firstly, his links with Mr Z and his activities as an assistant of Mr Y, and secondly his activities as a member of the Jatiotabadi Jubo Dal.
37. In evidence he submitted a letter purporting to be from Mr Y, and the copy of a newspaper report, a translation of which he undertook to submit (none was submitted). He claimed that it said that the police were searching for him in order to interrogate him.

38. The letter from Mr Y stated that the applicant had been his assistant for a number of years, and that because of his organisational abilities as a student leader he had also been held office in the Jatiotabadi Jubo Dal (Bangladesh Nationalists Youth party). He also said that he himself had been arrested and that since then the authorities were looking for the applicant, having arrested many of the party's leaders and jailed them on unspecified reasons. He confirmed that he had told the applicant to go into hiding until the political situation improved. He stated that on one occasion the Awami League had beaten and wounded the applicant, and had also filed a false case against him. He said that luckily the charge had been dropped during the period when the BNP was in power. He also said that the applicant had been an influential member of the party He believed that the then-caretaker government feared that he could "raise his vows against them", and that was why the police were searching for him. He also feared that if the Awami League came to power in the next election his party's leaders and colleagues would face more danger.
39. When interviewed by the DIAC he said that he himself had never engaged in violence
40. He also said that since going into hiding for fear of arrest his wife had left him and finally divorced him. He had a child, whom he could not see. He had not expected his family to break up. Politics had taken away his family happiness. Currently he was "mentally depressed and sick". When he saw that there was no other option in Bangladesh to save himself he came to Australia.
41. Further information provided to this Tribunal
42. The applicant submitted the following:
 - letter from the Bangladesh Jatiotabadi Dal Australia, confirming the applicant's claims, and stating that since the applicant's arrival in Australia he had become involved in a BNP politics here, attending regular meetings and participating in all other activities. It was claimed that he was a member of the BNP in Australia. He had told the author about the threats to him in Bangladesh. He also observed that BNP activists were currently being attacked in Bangladesh.
 - letter from high ranking officer of the BNP in Dhaka city (Mr K) He also stated that the applicant was personally known to him and confirmed the applicant's account of his political activities in Bangladesh. He stated that the applicant had been a member of the BNP of Dhaka city, as well as an active member of the youth party. He did not state when the applicant had been a member of these bodies.
 - letter purporting to be from the BNP Dhaka City Unit (undated). The author stated that the applicant was personally known to him and provided similar confirmation of his political history.
 - letter purporting to be from the Office Secretary of the BNP in Dhaka. The other gave a similar political history regarding the applicant and stated that he was now "on the run" because the police had "issued warrants against him".
 - Press reports about attacks on, or arrests of, BNP supporters.

43. In a letter, he stated that he relied on his previous submission lodged with the DIAC. He stated that significant changes have occurred in Bangladesh politics after the parliamentary election held there. The Awami league had won the election and formed government with their allies. Since then Awami league activists had begun to attack BNP activists across the country. They had also filed false and fabricated cases against many BNP leaders and activists. Some of these activists had begun to go into hiding and some had fled overseas. For these reasons he himself was fearful of being persecuted in Bangladesh. He claimed that his family members had told him the police had come to his house several times wanting to arrest him and saying they had received an allegation against him. His family members were trying to contact the police station to establish the nature of the allegation, but the police were not helping them because he was a BNP member
44. In confirming his attendance at a hearing, the applicant provided a contact telephone number for Mr Y in Bangladesh, stating that he wanted the Tribunal to take oral evidence from this person. He also stated that Mr W would be giving oral evidence at the hearing.
45. The Tribunal hearing
46. The applicant gave oral evidence of that he had been employed full-time for number of years. He worked six days per week. He had no other source of income apart from a small rental income from property he had inherited from his father.
47. He said that he had lived at his home in Dhaka with his wife and child. He never slept overnight at that address after arrest, staying in hiding at the houses of friends, political or work colleagues, mainly in Dhaka, until he came to Australia.
48. He said that he got divorced and his wife and child vacating the above house, owned by him, some six to seven months earlier. Currently his sibling lived in the upstairs part of the house and rented out the downstairs.
49. In the biographical details on the protection visa application forms he provided a single home address in Dhaka from birth to a few months prior departure, and wrote that then he had been living at "different places in Dhaka". However in his written statement to DIAC it was written that he went into hiding after arrest. Invited to explain this, he said that the information on the protection visa application form was an error.
50. He agreed that he was in hiding in fear of arrest, but that his main concern was that the R.A.B. had come for him at his home. He feared being killed in what was called "an encounter situation". His political leadership had told members to stop campaigning and switch off their mobile phones, and many had followed this advice. As to whether there was any other reason for his staying in hiding for so long, he said that he also feared members of the Awami League, the party which had recently come to power. For example he had been in a confrontation with the relative of a former Awami League leader who was a "professional killer", who "really controlled the whole of Dhaka city" and against whom there were "many cases" [Details of the confrontation have been removed as they may identify the applicant].

51. He said that while at college he had been attacked by members of the Awami League and cut with a blade of some sort. On this point he showed the Tribunal some deep scars. He said that this incident had been reported in the press at the time.
52. He also stated that when the BNP was in power, the army had encircled his house and arrested him as a result of false allegations made by members of the Awami League. He had been detained for [number] days in total and badly beaten during that period. He had been taken away for medical treatment, then been returned to the police station. The following morning he had been taken to court and refused bail. However the charge was ultimately dropped. Since then he had been much more careful than previously and there had been no further charges against him. However the police had been coming to his house all the time, particularly when the caretaker government was in power.
53. He said that he did not know if there was any current charge against him. However under section 54 of the Code of Criminal Procedure they could detain him merely on suspicion, without charge, as he understood had happened to other members of both the BNP and the Awami League
54. Of his relatives in Bangladesh, he said that he had siblings. As to whether his sibling had told him of any official enquiries being made recently about the applicant's whereabouts, he said that his sibling did not give him much information because his sibling was very angry with him for his involvement in politics. The police had also "disturbed" his sibling, which had added to this anger. His sibling had told him that some young Awami League supporters had come to the applicant's home (where his sibling currently lived) in recent months, but in fact most people knew that the applicant was not currently in Bangladesh. After the period of the caretaker government the police had also come to see the applicant's relative, asking for his address. The relative had told the applicant this news. The Tribunal asked him why police would bother his relatives, given that the authorities had issued him with a passport and allowed him to leave Bangladesh. He responded that because Bangladesh was not highly computerised, the police would not have been aware of his departure from the country.
55. The applicant agreed that after his detention he had successfully avoided being harmed by either police or members of the Awami League. Apart from not living at his home, he also rarely had to go to his office to perform his role as the marketing general manager. His boss was also a member of the BNP, and in fact the applicant sometimes lived at his home. His boss was willing to have meetings with the applicant elsewhere and to let him travel between the various factories and his accommodation without visiting the office much.
56. As to whether he would want to continue to be involved in politics if he returned to Bangladesh, he said that he would, despite the risk. However he considered it likely that, even if he did not, members of the Awami League would kill him anyway.
57. Of his close links with the MP, he said that he had helped the MP in his work. For example, with the assistance of the police, he had physically secured some land for him, who had bought it, and had dealt with the related paperwork for him. He said that he had visited the MP's home many times. Invited to provide his address, he said where he lived [that was consistent with evidence at website]. He said that he did not know the

MP's current whereabouts. He only knew he had been taken from jail to hospital. Of the vehicle the MP had owned, he said that he had owned a few, all of which were four wheel drives. He named them [his evidence was consistent with a press report]. He said that to his knowledge the MP was released from jail, although the two had not been in touch at that time. Of a press report located by the Tribunal indicating that the MP had been present at an event in Dhaka, the applicant reiterated that he did not know anything about the MP's current situation. As to what MP's current freedom might indicate for the applicant, he said that his impression was that the MP and a few other people had maintained "a kind of liaison" with the caretaker government and had then been candidates for election, although the BNP had not agreed to all this. However, because there had been so many allegations about the MP, he thought that he had probably ended up making some sort of deal with the new government.

58. As to his role as assistant to Mr K of the BNP, the applicant said that the two had been in close contact until the inception of the caretaker government. The applicant had been an assistant, a voluntary position which involved no regular hours. The applicant just provided assistance as required. He had generally visited Mr K's home once or twice each week, and went to the party office approximately once each week. As examples of the tasks he might perform, he said that this man might tell him of a coming meeting and who would be present so that the applicant could prepare for it. Also if people wanted to arrange a meeting with Mr K, the applicant or one of the other assistants would act as intermediary. As to Mr K's current circumstances, he described them as "good", saying that he was involved in political activities and was having no problems. He said he did not anticipate that Mr K would have problems because the government was claiming to be democratic and could not do anything to such a high-profile person.
59. As to the current circumstances of the other assistants, he said that they all were from Mr K's home district and he only knew they had gone away during the period of the caretaker government. Since the election of the Awami League government, Mr K had a new assistant. To the applicant's knowledge this person had had no problems. However he said that his own circumstances were somewhat different because everyone knew him as he had been with the party for a long time.
60. The Tribunal invited him to provide the original of an article which he claimed said that the police were searching for him. In evidence he provided the Tribunal with the original newspaper. He said that his relative had sent it to him. He read the article aloud and the interpreter present provided an interpretation which indicated that it said as follows: the police were looking for the applicant, who was a member of the BNP. They intended to investigate allegations and lay charges against him relating to his involvement with "terrorists and political miscreants". Prior to that, joint forces had arrested him. It had now been learned that he had a very close alliance with Mr Z. Because of the corruption of this BNP leader and the applicant's involvement with him, allegations of involvement with terrorists had been made. The applicant had now absconded, according to his family members, because of the police warrant. It had been learned that the police had conducted raids in Dhaka at the applicant's residence and some other places.
61. As to why he had initially told the Tribunal that there was no charge against him currently as far as he knew, given that this article indicated that the charge had been laid, he said that the fact was he really did not know whether a charge had actually been laid or not.

62. The Tribunal asked a number of questions about the Jubo Dal. He correctly named its president in 2006, Barkat Ullah Bulu, and the general secretary Mr Moazzem Hossain Alal. He correctly described the Jubo Dal committee structures and period of tenure and said that the chair could authorise them to run beyond their period of election (Suman, R.H. 2009 '9 out of 11 BNP bodies limping for years', *The Daily Star*, 29 January <http://www.thedailystar.net/story.php?nid=71238> – accessed 29 January 2009). He also correctly and readily answered questions about Mr K.
63. The Tribunal noted that he had been issued with a visa to enter Country A but had not done so for a further 12 days. As to the reason for the delay he said that he had had to travel by bus and had been unable to organise a ticket earlier. As to the purpose of his visit to Country A, he said that he had a ticket for his flight to Australia but no seat had been allocated to him yet. He received news that he was likely to be arrested within the next few days so had gone to Country A to avoid this. A secondary reason was that he wanted to meet some of the junior party leadership, who were in hiding there. As to why he had chosen to re-enter Bangladesh if he feared harm there, he said it was solely because his air ticket allowed him only to depart from Bangladesh, not from Country A.
64. Of his return he said that he had arrived in Bangladesh at dusk, but could not go to the house where he had been staying in order to get clothes. He had gone to another friend's house and slept for a few hours. He had got some money by selling his bike and at 8 p.m. had gone to the airport. Expressing considerable distress, he told the Tribunal that he had been unable to even see his child before he left.
65. The Tribunal discuss with him information from the Australian Department of Foreign Affairs and Trade (DFAT) that if an unfavourable police report was received after the issue of a passport, the passport would be cancelled. His passport was issued a few months prior his departure yet he remained in Bangladesh without its being cancelled. This could indicate that the police had had no interest in arresting him in that period and that he was not at risk of arrest at the time of his departure for Australia. In response he said that it was very easy to get a passport in Bangladesh. As to why it was not subsequently cancelled, he said that for five days after it was issued the police had come to his home, where his sibling was living, and spoken to someone there. He was unsure to whom they had spoken, but thought that perhaps his relative had given them some money and, seeing anyway that he was not there, they had taken it and done nothing further at the time.
66. As to his political activities in Australia, he said that he had been very active in BNP politics here. He told the Tribunal that his witness was a member of the Jubo Dal in Australia. In evidence he submitted, among other items, an article in a newspaper, which included a photograph of him and the witness at what appeared to be a public protest. He said that this photograph had been printed in the press in Bangladesh. The Jubo Dal in Australia considered it important that people in Bangladesh knew that the party was active abroad.
67. Invited to add anything further he considered important, he said that the Rapid Action Battalion and the police had "encountered" (meaning killed in alleged crossfire) numerous people since the election. This even included junior politicians. The Awami League were taking control of hostels. They were also preventing BNP supporters from winning government tenders, so that BNP business people were having difficulty maintaining their businesses. He said that even in remote areas BNP supporters' homes

were being wrecked. He said that the Awami League had made him a target because of his own activism. If someone was killed in some places he and others would go there with journalists and ensure that the story was published. He said that the political situation in Bangladesh was very bad and was characterised by the "politics of jealousy". The government had even taken over Khaleda Zia's residence and were trying to take over the party's central office. The BNP in opposition was in a "poor state".

68. Oral evidence of Mr X

69. The witness gave oral evidence that he was currently a senior member of the Jubo Dal in Australia. He said that he had been involved in student politics at University. He said that he had known the applicant by reputation in Bangladesh and had seen him in numerous demonstrations there but had not known him personally. He had seen the applicant in the company of the leaders. At that time he had regarded the applicant as an activist in the Jubo Dal.

70. When the applicant came to Australia the witness had received a telephone call from Mr Y, who had said that the applicant was in Australia. He asked the witness to help the applicant. Mr K had also rung him and asked him to help the applicant.

71. He said that he and the applicant had been involved in demonstrations in Australia, including one outside the consulate of Bangladesh in Sydney. He said that the applicant was even more active than himself and had been helping him a lot here. He said that he was worried about the applicant because the applicant had told the witness that the RAB was looking for him. His concern was that the applicant would be killed in "crossfire", in other words losing his life without a trial.

72. Evidence from other sources

73. Reports indicate that, following the declaration of a state of emergency in Bangladesh on 11 January 2007 and the installation of the military-backed caretaker government headed by Chief Adviser Fakhruddin Ahmed the following day, the Bangladesh Electoral Commission announced its intention to conduct a comprehensive review of the Bangladesh electoral roll, and to delay until late 2008 the parliamentary elections which had been originally scheduled for 22 January 2007. An International Crisis Group report from April 2008 indicates that in addition to conducting electoral reforms the caretaker government attempted to marginalise Awami League leader Sheikh Hasina and Bangladesh Nationalist Party (BNP) leader Khaleda Zia from the political arena. As part of what became known as the "minus-two" strategy, both leaders were arrested on various corruption charges, Hasina on 16 July 2007 and Zia on 3 September 2007, after earlier attempts to force the two women into exile failed. Both leaders were subsequently released, Hasina in July 2008 and Zia in September 2008 (Freedom House 2008, 'Freedom in the World: Bangladesh' – accessed 31 July 2008; International Crisis Group 2008, *Restoring Democracy in Bangladesh*, Asia Report no.151, 28 April; 'No B'desh polls 'for 18 months' 2007, *BBC News*, 5 April http://news.bbc.co.uk/2/hi/south_asia/6529517.stm – accessed 19 January 2009; 'Former Bangladesh PM is released' 2008, *BBC News*, 11 June http://news.bbc.co.uk/2/hi/south_asia/7447772.stm – accessed 15 January 2009; Mia, Salim 2008, 'Ex-Bangladesh PM freed, says party will contest polls', 11 September).

74. According to media reports the revision of the electoral rolls, from which up to 13 million fake voter identities had been purged, was completed in July 2008, and on 20 September 2008 Fakhruddin Ahmed announced that parliamentary polls would take place on 18 December 2008, followed closely by *upazila*, or sub-district, elections on 24 and 28 December. The election dates were revised after complaints and boycott threats by BNP leader Khaleda Zia. On 23 November the parliamentary polls were re-scheduled to 29 December 2008, and the *upazila* polls to 22 January 2009. The state of emergency was lifted completely on 17 December 2008, and the ninth elections for Bangladesh's National Parliament, the *Jatiyo Sangsad*, were held as scheduled on 29 December under tight security, with more than half a million police and security personnel deployed. The Awami League won by large majority, gaining 230 of 300 parliamentary seats, while the BNP won only 30. BNP ally Jamaat-e-Islami won two seats. Media reports were located to indicate that international observers, including the European Union Election Observation Mission, endorsed the election results, and despite initially disputing the credibility of the polls, Khaleda Zia conceded defeat. On 6 January 2009, Sheikh Hasina was sworn in as Bangladesh Prime Minister (for information on the electoral rolls and negotiations over election dates see Dummet, Mark 2008, 'Bangladesh voters' lists 'ready', *BBC News*, 22 July 2008 http://news.bbc.co.uk/2/hi/south_asia/7519619.stm – accessed 19 January 2009; 'JS polls on Dec 18' 2008, *The Daily Star*, 21 September <http://www.thedailystar.net/story.php?nid=55807> – accessed 9 January 2009; Dummet, M. 2009, 'BNP drops Bangladesh poll boycott', *BBC News*, 20 November http://news.bbc.co.uk/2/hi/south_asia/7740622.stm – accessed 16 January 2009; 'JS elections on Dec 29, upazila on Jan 22' 2008, *The Daily Star*, 24 November <http://www.thedailystar.net/story.php?nid=64700> – accessed 16 January 2009; Liton, Shakhawat 2008, 'Emergency out, rights in', *The Daily Star*, 17 December <http://www.thedailystar.net/story.php?nid=67449> – accessed 7 January 2009; Bangladesh votes under heavy security' 2008, *The Age*, 29 December <http://news.theage.com.au/world/bangladesh-votes-under-heavy-security-20081229-76jh.html> – accessed 7 January 2009; 'Total seats won by political parties (unofficial)' (u/d), Bangladesh Government web portal <http://123.49.39.5/result/report4.php?lang=en> – accessed 14 January 2009; 'Bangladesh election flawed: defeated PM' 2008, Yahoo7News website, 31 December <http://au.news.yahoo.com/a/-/world/5239381> – accessed 8 January 2009; 'Accept polls results to strengthen democracy' 2009, *The Daily Star*, 1 January <http://www.thedailystar.net/story.php?nid=69530> – accessed 8 January 2009; 'Khaleda accepts defeat in 'rigged' Bangladesh poll' 2009, *Daily Times*, 2 January http://www.dailytimes.com.pk/default.asp?page=2009\01\02\story_2-1-2009_pg20_1 – Accessed 8 January 2009; 'Liton, S. & Tusher, H.J. 2009, 'Hasina sworn in as PM' *The Daily Star*, 7 January <http://www.thedailystar.net/newDesign/news-details.php?nid=70372> – accessed 12 January 2009).
75. Jatiyatabadi (Jatiyotabadi) Jubo Dal
76. A brief overview of the creation of Jatiyatabadi Jubo Dal (JJD) says:
 The Bangladesh Jatiyatabadi Jubo Dal, the youth wing of the BNP, was started by Zia [General Ziaur Rahman] shortly after the formation of the BNP. Since coming to power, he had always laid emphasis on the necessity for a strong youth organisation to direct activities of the youth towards nation building tasks. ...The Jubo Dal had organized its branches at the district, thana and union level. Very soon it became the largest youth organisation having its close association with the official Youth Cooperative Complex and Village Defense Party

(Singh, N. K.(ed) 2003, 'Bangladesh Nationalist Parties (BNP): Origin and Development' in *Encyclopaedia of Bangladesh*, Anmol Publications, New Delhi, pp.269–270).

77. The official website of the BNP lists the Jubo Dal as one of the BNP's sub organisations. The website provides details of the President and General Secretary of the Jubo Dal. According to the BNP website the Jubo Dal President is Barkatullah Bulu and the General Secretary is Moazzem Hossain Alal ('Various committees formed in Bangladesh Nationalist Party' Bangladesh Nationalist Party (BNP) website <http://www.bnpsbd.com/committee.php?page=5> – accessed 14 January 2009; 'Jubo Dal' (undated), Bangladesh Nationalist Party (BNP) website http://www.bnpsbd.com/jubo_dal.php – accessed 14 January 2009).
78. Following the BNP's loss in the December 2008 parliamentary election, its Chairperson Khaleda Zia announced that "all committees of the party and its associate organisations would be dissolved and revamped through elections". According to the report the Jatiyatabad Jubo Dal has been operating without a valid committee since 2005. The report states that the tenure of Barkat Ullah Bulu and Moazzem Hossain Alal, the president and general secretary of Jubo Dal, expired in 2006. Moazzem Hossain Alal is reported to have said that "even many district committees are now running under expired committees" and that reorganisation would begin upon the official order from the BNP chairperson. The report also describes the Jatiyatabad Jubo Dal and Jatiyatabadi Chhatra Dal (the BNP student wing) as the "strongest fronts of the BNP" (Suman, R.H. 2009 '9 out of 11 BNP bodies limping for years', *The Daily Star*, 29 January <http://www.thedailystar.net/story.php?nid=71238> – accessed 29 January 2009).
79. Jubo (or youth) wings are a common feature of Bangladesh politics, and the opposing Awami League maintains its own youth group, the Awami Jubo League. Both the BNP and Awami League also maintain student fronts.
80. [information deleted: s.431]
81. Recent events
82. There are regular clashes between these Awami League groups and the Jubo Dal. Reports from January 2009 indicate that members of the Jatiyatabadi Jubo Dal had been victims of post election violence.
83. *The Daily Star* reported that Kausar Alam, a local Jubo Dal leader, died after being attacked. The report states that "Kausar's family alleged that he came under attack for being a Jubo Dal leader". *United News of Bangladesh* reported that a man had been arrested in connection with murder. He is reported to have attacked the Jubo Dal leader for campaigning for a BNP candidate ('Fatullah Jubo Dal leader succumbs to injuries' 2009, *The Daily Star*, 16 January <http://www.thedailystar.net/story.php?nid=71558> – accessed 29 January 2009; '1 held for killing of Jubo Dal leader' 2009, *United News of Bangladesh*, 19 January). *The Daily Star* reported that Jubo Dal convenor Matiur Rahman Babu had been murdered by "unidentified criminals". The report cites Babu's father as stating that "it was a planned murder and part of the on-going tortures on BNP activists across the country" ('Rajshahi Jubo Dal leader murdered' 2009, *The Daily Star*, 29 January <http://www.thedailystar.net/story.php?nid=71548> – accessed 29 January 2009). *United News of Bangladesh* reported that at least 10 BNP activists attending an election rally were injured in an attack allegedly by the supporters of the

Grand Alliance, an alliance led by the Awami League. One of the injured included Jubo Dal leader Kamal Uddin who was admitted to a private clinic with two others BNP supporters ('10 injured in attack by grand alliance men in Noakhali' 2009, *United News of Bangladesh*, 9 January). *BD News24.com* reported that a Jatiyatabadi Jubo Dal activist had been attacked in Kuliarchar by Awami League activists. The report states that he was admitted to hospital with wounds in the head, neck and hands. According to the report "a total of 11 people of Kuliarchar were injured during the last two days in post-election violence". An anonymous BNP leader is reported to have said that "AL activists and supporters were patrolling Kuliarchar localities, searching out and vandalising BNP activists' homes and stopping them from attending to their business". The report states that the Kuliarchar police chief had been suspended due to charges regarding his "failure to handle the riots erupting there". The Kuliarchar police sub-inspector is reported to have said that "they had brought the situation under control immediately after the incidents" and were trying to arrest the perpetrators of the violence ('Some post-polls violence continues' 2009, *BD News24.com*, 1 January <http://www.bdnews24.com/details.php?id=72650&cid=30> – accessed 30 January 2009). The *United News of Bangladesh* reported that in Khulna city "a local Jubo Dal worker was injured in an attack by Awami League activists" ('Jubo Dal man in AL attack in Khulna' 2009, *United News of Bangladesh Limited*, 1 January 2009).

84. Reports were located of numerous further incidents of violence occurring across Bangladesh in the wake of the parliamentary polls. An article published on 2 January 2009 indicated that "[a]t least four people have been killed and over 150 injured in post election violence across the country so far". A subsequent article published on 19 January 2009 indicates that "[a]t least 20 people have been killed and more than 1000 injured in different post-election violence across the country between supporters of the country's two main political parties", while also noting that according to police, "there have been four election-related deaths" since the December 29 election ('50 hurt in post-polls violence' 2009, *The Daily Star*, 2 January <http://www.thedailystar.net/newDesign/news-details.php?nid=69681> – accessed 8 January 2009; Rashid, M. 2009, 'Stop violence for peaceful Upazila election', *The New Nation*, 19 January <http://nation.ittefaq.com/issues/2009/01/19/news0019.htm> – accessed 19 January 2009).
85. Media reports were located to indicate that, owing to continuing incidents of post-election violence across Bangladesh, the *upazila* polls scheduled for 22 January 2009 would be held under heavy security. A article states that "[b]uoyed by their landslide victory in the 29 December general elections, the Awami League activists are dominating the campaigns for the upazila polls", and that candidates nominated for the upazila polls by the BNP and its allies had reportedly withdrawn from the race fearing that the local polls may not be free and fair ('Upazila electioneering picks up steam' 2009, *New Age*, 6 December <http://www.newagebd.com/2009/jan/06/front.html> – accessed 16 January 2009; Liton, S. & Islam, S. '5 lakh-strong security to guard UZ polls' 2009, *The Daily Star*, 8 January <http://www.thedailystar.net/newDesign/news-details.php?nid=70501> – accessed 8 January 2009; 'Army to be deployed in UZ polls' 2009, *The Daily Star*, 10 January <http://www.thedailystar.net/story.php?nid=70646> – accessed 12 January 2009).
86. Following the swearing into office of BNP parliamentarians on 15 January 2009, the BNP Chairperson and leader of the opposition in parliament, Khaleda Zia, "alleged

that 17 of her party leaders and workers have been killed so far in the AL's post-poll violence" ('BNP pledges to work with govt for nation's progress' 2009, *The Daily Star*, 16 January <http://www.thedailystar.net/story.php?nid=71529> – accessed 16 January 2009).

87. Subsequently a *Reuters* article reported that the Prime Minister had ordered a crackdown on student violence, including against supporters of her party, the Awami League, who had "fought battles among themselves and with rivals at Dhaka University and several others": (Ahmed, A. 2009, 'Bangladesh PM asks police to tackle campus violence', *Reuters*, 19 January).

88. Another article reported that, although candidates in the local elections must stand as independents, those affiliated with the Awami League won 306 of the 463 seats in the upazila elections held on 22 January 2009. The BNP had alleged the elections had been "grossly rigged" ('Hasina wins Bangladesh local vote' 2009, *BBC News*, 23 January http://news.bbc.co.uk/2/hi/south_asia/7847732.stm – accessed 25 March 2009). Another article reported that the Election Commissioner had said that "violence, seizure of polling stations and ballot-stuffing were done by Awami League men" in the upazila polls "[d]espite a relatively peaceful atmosphere (Liton, S. and Islam, S, 2009, 'Upazila polls influenced', *The Daily Star*, 23 January). A *Press Trust of India* article reported that violence following the local government polls had resulted in deaths, and that the Election Commission had "slammed Awami League for misusing offices giving rise to sporadic violence, leaving as many as 200 people injured and forcing the authorities to call off elections to six local government seats". According to the report:

At least three people were killed and over 150 injured in violence after local government polls in Bangladesh this week, with irked top leaders of ruling Awami League reportedly considering action against partymen after allegations of rigging and intimidation by them.

Police and newspaper reports today said at least three persons were killed in central Brahmanbaria, western Jessore and southwestern Faridpur districts while over 150 were injured in the countrywide post-election violence.

The Election Commission filed a case against a ruling party lawmaker and ordered legal action against a minister and several others for allegedly disrupting the polls...

Hasina's adviser H T Imam today told reporters that Awami League would launch an investigation into the allegations and take punitive measures if the charges were proved.

Controversy gripped the upazila polls with reports of rigging and violence. The EC slammed Awami League for misusing offices giving rise to sporadic violence, leaving as many as 200 people injured and forcing the authorities to call off elections to six local government seats out of 480 and postponing polls in a number of polling stations (Rahman, A. 2009, 'Three killed, 150 injured in post-poll violence in Bangladesh', *The Press Trust of India*, 24 January –).

89. An article from *BBC News* reported that the BNP appeared to be following a "pattern of behaviour in Bangladesh" in walking out of parliament and "preferring to voice its protest against the government in the streets rather than in the chamber (Dummett, M. 2009, 'Bangladesh opposition walks out', *BBC News*, 28 January). An article in *The Economist* reports on the BNP having walked out of parliament for a "bizarre" reason, and reports on the "dodgy" polling in the upazila elections. The article also notes that observers blamed both of the major parties for the violence following the Upazila elections:

... But unlike the general election, these polls were dodgy. Stuffing of ballot boxes, “capturing” of polling booths and voter intimidation were rife. Three people were killed, 150 injured. Observers blamed both parties (‘Back to Normal’ 2009, *The Economist*, 31 January).

90. A February 2009 report by a Bangladesh human rights organisation provides an overview of events. Amongst other observations, the report states that “the security forces should be more active in countering incidents of violence, particularly in the case of the reaction-counter-reaction type of violence observed between supporters of the two major political blocs”. Of violence following the parliamentary elections in 2008, the report states:

According to Odhikar’s documentation, 17 persons were reportedly killed and over 500 persons were injured in post-election violence in different places across the country this year, which is a continuation of the violence that commenced after the 9th Parliamentary Elections on 29 December 2008. In most cases, activists and supporters of the Awami League (AL) led Grand Alliance, and the Bangladesh Nationalist Party (BNP) led Four-Party Alliance were found to be involved in such clashes. In many districts, AL activists attacked the houses and shops of the BNP and Jamaat-e-Islami supporters and vandalised their property. This section of the report reflects the incidents of post-election violence that took place during the reporting period.

Type of violence

a. Killed-Injured: 17 persons (9 from BNP and 8 from AL) were reportedly killed and over 500 persons were injured due to retaliatory attacks by the supporters of the Four Party Alliance and Grand Alliance and, in particular, Awami League and BNP. ...

b. Role of the Police force: The security forces or police were very rarely recorded as being perpetrators or victims of the violence during this reporting period. While on the one hand this suggests that the security forces were not acting as agents fostering election-related violence, on the other hand this also suggests that they may not be playing an effective role in trying to counter the violence (on the assumption that more security forces would have been recorded as victims if this was the case). This seems to suggest that the security forces should be more active in countering incidents of violence, particularly in the case of the reaction-counter-reaction type of violence observed between supporters of the two major political blocs.

While Inspector General of Police Nur Mohammad claimed that there were only 13 incidents of violence in the whole country, hundreds of incidents of post-election violence were reported in the media throughout the country.

91. Of the violence related to the upazila elections in January, the Odhikar report notes:

a. Pre-election: As a continuation of the post-election violence after the national Parliamentary Elections, the Upazila Parishad election campaigning faced incidents of violence. Before the upazila elections of 22 January 2009, a total of 4 persons were reportedly killed and more than 800 persons were reported wounded.

...

During and After: Because of the clashes and anomalies by political activists as well as government officials, in many places the polling processes were stopped. In the violence, 14 persons (10 from BNP and 4 from AL) were reportedly killed and about two thousand persons were injured due to retaliatory attacks by the supporters of the Four Party Alliance and Grand Alliance and, in particular, supporters of Awami League and BNP (‘Monthly Human Rights Monitoring Report on Bangladesh – Dates covered: 01-31 January 2009’ 2009, Odhikar website, 1 February <http://www.odhikar.org/documents/January09.pdf> – Accessed 25 March 2009).

92. A *Reuters* article of 4 February 2009 indicates that:

Political rivals in Bangladesh hurled home-made bombs during clashes near the capital Dhaka on Wednesday, killing at least two people and wounding 20, police said.

Five weeks after going to the polls to end two years of rule by an army-backed interim government, there have been a number of politically charged incidents across the country.

On Tuesday, Home Minister Shahera Khatun ordered police to take immediate steps to stop the “gradual deterioration” of law and order.

The latest clash erupted between activists of the ruling Awami League and the Bangladesh Nationalist Party (BNP) in Munshiganj, 40 km (25 miles) south of the capital Dhaka. “Both the groups hurled home-made bombs during the clash and the victims died of splinter injuries,” Police Inspector K.M. Abdullah told Reuters. He said one of the victims was a BNP activist and the other was a member of the public.

Hundreds of BNP supporters later marched through Dhaka streets in protest against the violence, the first major anti-government protest since the election.

BNP officials urged the government to stop persecuting the opposition and demanded special security protection for their leader, former prime minister Begum Khaleda Zia (Ahmed, N. 2009, ‘Bangladesh post-poll clash kills 2, sparks protest’, *Reuters*, 4 February).

93. An article also dated 4 February 2009 reported that two BNP activists died following an attack by Awami League activists “in the latest of a series of political murders since elections five weeks ago, police said”. The BNP had said at least 17 of its activists had died at the hands of Awami League members since voting on 29 December. “Scores of Awami League members attacked the BNP activists ... The attack left two BNP activists dead and six injured. One died in a Molotov cocktail attack and the other was beaten to death,” a police spokesman reportedly said (‘Two more political murders in Bangladesh: police’ 2009, Agence France Presse, 4 February).

94. A February 2009 article provides a report on ongoing violence and other expressions of intolerance between the BNP and the Awami League:

A string of political murders, violent street protests and a parliamentary boycott all suggest that Bangladesh is quickly falling back into its old troubling ways after recent elections, analysts say.

The polls, won by the Awami League of Prime Minister Sheikh Hasina Wajed, were hailed by international monitoring groups as a huge success that crowned two years of relative stability under an army-backed government.

Voting was meant to usher in a new era of democratic rule but, just six weeks later, political violence is spreading across the country, with police saying more than two dozen people have been murdered.

Awami League officials who were out of power for seven long years are allegedly behind many of the deaths as they settle scores with activists of the defeated Bangladesh Nationalist Party (BNP).

Ataur Rahman, a political analyst at Dhaka University, says he can detect many symptoms of Bangladesh’s “ugly old-style politics.” “Our politics of revenge have come back again with a renewed vigour. Parties are settling scores, and students and political activists are feeling free to do whatever they can. We are again at our prejudiced best,” he said. “It shows that our politicians haven’t learnt anything in the past two years or from history.”

The BNP, which had won 2001 polls, has boycotted parliament – a favourite wrecking tactic used often throughout Bangladesh’s history of dysfunctional politics. The trigger for the

walkout was an apparently petty dispute about seating arrangements, but the BNP quickly brought proceedings to a standstill and shows no sign of backing down.

In another sign of trouble since the new Awami League government took over, thousands of student activists – a major political force in Bangladesh – have clashed with police almost every day, leaving hundreds of people injured. Many universities and colleges have been shut due to the street violence, which has also brought traffic chaos back to the country's main cities....

The interim government began a major campaign to clean up politics, including a UN-funded photographic electoral roll which knocked 13 million fake names off the register. But it failed in its efforts to end the dominance of Sheikh Hasina and BNP chief Khaleda Zia, who have maintained a debilitating rivalry for decades.

In all three elections since democracy was restored in the country in 1991, the losers never accepted the results and began a series of protests and strikes immediately after the polls.

“Expectations were high that both Awami League and BNP would this time start to behave differently,” Aminuzzman said. “But the ruling party is not making any concessions and its activists are on a violent rampage. The BNP has also shown intolerance. It seems the old revenge politics is back in its all fury.” (Alam, S. 2009, ‘Old ghosts return to haunt Bangladesh politics: analysts’, *Agence France Presse*, 12 February).

95. Another article reported that the BNP was to hold a convention on the violence that had occurred since the 2008 parliamentary elections. The BNP Secretary General had “recently claimed at least 31 leaders, workers and supporters of his party were killed by ruling party’s cadres after the elections”:

The main opposition BNP has taken an initiative to organise a national convention on post-election violence in a bid to create public opinion against “torture and repression on their supporters” across the country after the December 29 elections.

...

Party insiders say a documentary is being prepared on leaders and workers of the party who were killed or injured by their political opponents. Besides, posters, leaflets and booklets might be published for creating public opinion against the cruelty experienced by BNP supporters after the polls.

Asked about the initiative, Ferdous Ahmed yesterday told *The Daily Star*, “The convention will be organised with a view to presenting post-election violence against BNP activists across the country.”

He said the convention might be held late this month or early March and they are now collecting information, video footages and photographs of their leaders and supporters who were tortured.

BNP Secretary General Khandaker Delwar Hossain has recently claimed at least 31 leaders, workers and supporters of his party were killed by ruling party’s cadres after the elections (Suman, R. H. 2009, ‘BNP to hold convention on post-poll violence’, *The Daily Star*, 13 February).

96. A *Reuters* article reported on the government’s strong response to ongoing political violence on university campuses, as follows:

Bangladesh Prime Minister Sheikh Hasina ordered law enforcement agencies on Wednesday to arrest unruly students on university campuses, where violence has erupted since she took office last month.

“Arrest anyone seeking to cause indiscipline and unrest in the universities and other campuses across the country,” Hasina said at a rally of students belonging to her Awami League in Dhaka.

More than 200 students were injured over the past month in Dhaka and elsewhere as rival groups of students aligned with political parties clashed on campus.

The Awami League’s student unit has been disbanded at Jahangirnagar University, near the capital Dhaka, following battles between rivals using bombs and guns, police and university officials said (‘Bangladesh PM orders arrest of unruly students’ 2009, *Reuters*, 18 February).

97. An article reported the BNP’s decision to return to parliament and its concerns over a number of issues including “repression on their leaders and activists and violence unleashed by Chhatra League”. (‘BNP returns to JS soon’ 2009, *The Daily Star*, 23 February <http://www.thedailystar.net/newDesign/news-details.php?nid=77081> – accessed 24 March 2009). Another article in March 2009 reported that five people were injured in a clash between activists of Awami League and BNP in Narayanganj. Seriously injured BNP leader Habibullah Master and his son Mamun were hospitalised. Police said that during the four-party alliance rule, BNP leader Habibullah harassed his rival Awami League leader Anwar Hossain by filing false cases. In that case Anwar Hossain was jailed released recently. To take revenge, a group of criminals led by Anwar Hossain attacked Habibullah and his son. A case was filed with Sonargaon Police Station in this connection (‘AL, BNP clash in N’ganj: 5 injured’ 2009, *The Daily Star*, 10 March <http://www.thedailystar.net/story.php?nid=79194> – accessed 26 March 2009).
98. An article from *The Press Trust of India* reported that a “money-laundering case” had been filed by the Anti-Corruption Commission against the BNP leader’s son (Rahman, A. 2009, ‘Money-laundering case against ex-Bangla PM Zia’s son’, *The Press Trust of India*, 17 March). A report in *The Daily Star* mentioned the arrest of a BNP leader under the Special Powers Act (SPA) for “making anti-state statements and threatening the police” (‘Ex-dy speaker Siddiqui held’ 2009, *The Daily Star*, 22 March <http://www.thedailystar.net/newDesign/news-details.php?nid=80786> – accessed 26 March 2009). An article in March reported the arrest of the BNP’s Labour Affairs Secretary in what the BNP leader referred to as a “false and politically-motivated case” (‘Poll Debacle: Losers blame local BNP leaders in Ctg’ 2009, *The Daily Star*, 24 March <http://www.thedailystar.net/newDesign/news-details.php?nid=81135> – accessed 26 March 2009). Another article in *The Daily Star* reported that the Anti-Corruption Commission had asked a BNP parliamentarian (and wife of a former BNP communications minister), to provide a “wealth statement” (‘Operation of ACC notice against BNP lawmaker’ 2009, *The Daily Star*, 24 March 2009 <http://www.thedailystar.net/newDesign/news-details.php?nid=81109> – accessed 26 March 2009). A further article in March reported BNP accusations against the Awami League for “torturing and filing ‘false’ cases against their activists” (‘Sylhet BNP accuses AL of harassment’ 2009, *The Daily Star*, 24 March <http://www.thedailystar.net/newDesign/news-details.php?nid=81012> – accessed 26 March 2009).

FINDINGS AND REASONS

99. The applicant has submitted his passport in evidence, on the basis of which the Tribunal is satisfied, and finds, that he is a citizen of Bangladesh There is no evidence indicating

that he might hold the nationality of any other country and the Tribunal is satisfied that he does not.

100. The applicant gave his oral evidence in an apparently open and frank manner. He was familiar with the BNP and Jubo Dal to a degree consistent with his claimed involvement with them. His account of his confrontation with Awami League supporters as a student and his detention by police also appeared credible. The Tribunal has also had regard to the evidence from his witness at the hearing, which appeared similarly reliable. The Tribunal is satisfied that the applicant's was a truthful account of the events that led to his decision to leave Bangladesh.
101. The Tribunal therefore accepts that the applicant was a long-standing political activist with the youth wing of the BNP, being the Jubo Dal, in Dhaka. The Tribunal also is satisfied that he has been consistently politically active since his arrival in Australia and that if he returned to Bangladesh he is sufficiently dedicated to his political beliefs that he would continue to actively participate in BNP related political activities in some way.
102. The Tribunal is satisfied that the harm feared by him, which includes a threat to his life or significant physical harassment or ill-treatment by political opponents, amounts to persecution.
103. As to whether his fear is well-founded, the Tribunal considers reliable the evidence above indicating that since the December 2008 election there has been a string of "political murders" and a wave of political violence in Bangladesh, coupled with doubts that the police were playing an effective role in controlling it (Odhikar 2009). Although both the BNP and the Awami League supporters appear to be involved, as both perpetrators and victims, Awami League officials and supporters are likely to already be responsible for many injuries or deaths as they "settle scores" with activists of the defeated BNP. As was noted by a political analyst at Dhaka University, the "politics of revenge" has returned with "renewed vigour", and parties are "settling scores", while students and political activists are "feeling free to do whatever they can"
104. All the reports about political violence since the election point to a considerably increased risk of serious harm to individuals with the applicant's political profile.
105. The Tribunal accepts that some members of the Awami League in Dhaka are well aware of the applicant's political views and past activism and may be motivated to harm him as other opposition activists have been harmed. The Tribunal also accepts that, wherever the applicant might try to settle in Bangladesh, his continued political activism would have the potential, under the current circumstances, to attract an assault or some other form of harm. On that basis the chance is not remote that the applicant will face some serious harm on return to Bangladesh, wherever he may live, by members or supporters of the Awami League.
106. The Tribunal therefore considers that his fear of persecution is well-founded. The reason for that harm would plainly be his political opinion as a longstanding activist within the BNP and/or its youth wing.
107. For the above reasons, the Tribunal finds that the applicant has a well-founded fear of Convention-related persecution in Bangladesh.

CONCLUSIONS

108. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore he satisfies the criterion set out in s.36(2)(a) for a protection visa.

DECISION

109. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

Ms Philippa McIntosh
Member

<p>I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the Migration Act 1958. Sealing Officer's I.D. PMRTJA</p>
