



IMMIGRATION AND REFUGEE BOARD  
(REFUGEE PROTECTION DIVISION)

LA COMMISSION DE L'IMMIGRATION  
ET DU STATUT DE RÉFUGIÉ  
(SECTION DE LA PROTECTION DES RÉFUGIÉS)

IN PRIVATE  
HUIS CLOS  
**TA3-13049**  
**TA3-13050**  
**TA3-13051**

2005 CanLII 77880 (CA IRB)

PRINCIPAL CLAIMANT(S)

XXXXX XXXXX  
XXXXX XXXXX  
XXXXX XXXXX

DEMANDEUR(S)

DATE(S) OF HEARING

**July 7, 2004**  
**November 16, 2004**  
**February 17, 2005**  
**April 12, 2005**

DATE(S) DE L'AUDIENCE

DATE OF DECISION

**October 4, 1005**

DATE DE LA DÉCISION

CORAM

**Y. Makonnen**

CORAM

FOR THE PRINCIPAL CLAIMANT(S)

**Ian Wong**  
**Barrister and Solicitor**

POUR LE(S) DEMANDEUR(S)

REFUGEE PROTECTION OFFICER

**Linda Hart**

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

XXXXX XXXXX

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

"You can obtain, within 72 hours, a translation or a copy of these reasons for decision in the other official language by writing to the Editing and Translation Services Directorate of the IRB, 344 Slater Street, 14th floor, Ottawa, Ontario, K1A 0K1 or by sending a request to the following e-mail address: [translation.traduction@irb.gc.ca](mailto:translation.traduction@irb.gc.ca) or to facsimile number (613) 947-3213."

"Vous pouvez obtenir la traduction ou une copie de ces motifs de décision dans l'autre langue officielle dans les 72 heures, en vous adressant par écrit à la Direction des services de révision et de traduction de la CISR, 344, rue Slater, 14e étage, Ottawa (Ontario) K1A 0K1, par courrier électronique à l'adresse suivante : [translation.traduction@cisr.gc.ca](mailto:translation.traduction@cisr.gc.ca) ou par télécopieur au (613) 947-3213."

XXXXXX XXXXXX (principal principal claimant) XXXXXX XXXXXX and XXXXXX XXXXXX (minor principal claimants) are citizens of Bangladesh and they claim refugee protection pursuant to ss.96 and 97(1) of the Immigration and Refugee Protection Act (IRPA).

**Allegations**

The principal principal claimant, who represents also the minor principal claimants, alleged as follows:

Because of her membership in a particular social group, namely divorced single women with children, she and her family were persecuted “by local hooligans, mastans and other people” and her XXXXXX vandalized and stolen in XXXXXX, XXXXXX, Bangladesh. The agents of persecution took advantage of the fact that the principal principal claimant was “living alone with two minor children and with nobody there to protect her.” The principal claimant identified the agents of persecution she is mostly afraid of as XXXXXX, XXXXXX, XXXXXX, XXXXXX and XXXXXX, persons who are well known in the area for committing serious crimes. The Mastans (Mafia) sexually harassed the principal claimant on the street and her children were also threatened. The principal claimant was employed as a XXXXXX and XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX sponsored by an NGO and she supplemented her income by XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX. The principal claimant also

faced problems from local XXXXX XXXXX XXXXX (who had the support of local officials) who demanded that she sell to them a XXXXX XXXXX XXXXX XXXXX at an unreasonably low price. The principal claimant outlined in her PIF narrative a number of different types of problems she had experienced at the hands of the agents of persecution including the occupation of her XXXXX by XXXXX XXXXX in 1992; forcible entry and damage to XXXXX by unknown groups in XXXXX 1994 and XXXXX 1998; four feet of her XXXXX were taken away by XXXXX XXXXX XXXXX XXXXX in XXXXX 2000; XXXXX (a next door neighbour) a local Mastan, and his friends threatened the principal claimant and physically injured her son in XXXXX / XXXXX 2001 and in XXXXX 2002 threatened that he would kidnap and kill her sons because the principal claimant XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX; XXXXX also extorted the XXXXX XXXXX money from the principal claimant's XXXXX; in XXXXX and XXXXX 2002, the principal claimant and her children were threatened on the street by unknown persons and in XXXXX 2003, she and her cousin XXXXX were kidnapped by XXXXX XXXXX nephew but later let go without being harmed. In her amended PIF narrative<sup>1</sup> submitted on August 27, 2003 the principal claimant alleged also that in the evening of XXXXX XXXXX, 2002 when she was close by XXXXX

---

<sup>1</sup> Exhibit C-6.

residence, she was grabbed by three to four people, blindfolded, taken away and raped by three men. The principal claimant did not report the incident of rape to the police while she reported most of the above listed incidents she had experienced at the hands of the agents of persecution. The minor claimants rely on the principal claimant's story the details of which are contained in her PIF narrative and the addendum to it.

### **Determination**

XXXXX XXXXX, XXXXX XXXXX and XXXXX XXXXX are neither Convention refugees nor persons in need of protection because the principal claimant has not met the burden of proof of demonstrating with sufficient credible or trustworthy evidence that they would face a serious possibility of harm should they return to Bangladesh at present because of the alleged reasons. My reasons are as follows:

### **Analysis**

In order for the principal claimants to be determined to be in need of refugee protection in Canada, the evidence must establish that they have good grounds for fearing serious harm pursuant to Sections 96 or 97 of IRPA should they return to Bangladesh at present. The standard of proof to be applied in assessing whether the claimants have good grounds for fearing persecution for at least one of the grounds in the Convention refugee definition is set out in Adjei.<sup>2</sup> In assessing the credibility of the evidence

---

<sup>2</sup> Adjei v. Canada (Minister of Employment and Immigration), [1989] 2 F.C. 680 (C.A.) at 683.

presented by the claimants in support of their refugee claims, I am mindful of the decision of the Federal Court of Appeal in Maldonado<sup>3</sup> wherein the Court stated, in part, that “...when a claimant swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there be reason to doubt their truthfulness”. I am further guided by the principle established by the F.C.A. in Dan-Ash<sup>4</sup> that such presumption of truthfulness may be rebutted by the existence of contradictions in the evidence presented by the claimant, and that it is a valid basis for a finding of lack of credibility. In line with the decision of the Federal Courts in Castroman,<sup>5</sup> Bakare,<sup>6</sup> and Basseghi,<sup>7</sup> I also consider significant inconsistencies and omissions in the principal claimant’s evidence to be pertinent in determining the credibility of the principal claimant. The evaluation of the credibility and probative value of the evidence must be made with regard to the totality of the evidence, including what is generally known about the conditions and laws of the country<sup>8</sup> the claimant is from, as well as the experiences of similarly situated persons in that country.<sup>9</sup> In assessing the principal claimant’s

---

<sup>3</sup> Maldonado v. Canada (Minister of Employment and Immigration), [1980] 2 F.C. 302 (C.A.).

<sup>4</sup> Dan-Ash v. Canada (Minister of Employment and Immigration) (1988), 93 N.R. 33 (F.C.A.).

<sup>5</sup> Castroman v. Canada (Secretary of State), [1994], 27 Imm. L.R. (2<sup>nd</sup>) 129 (F.C.T.D.).

<sup>6</sup> Bakare, Abeni v. M.E.I. (F.C.T.D., no. IMM-1603-93), Reed, January 19, 1994.

<sup>7</sup> Basseghi, Kourosch v. M.C.I. (F.C.T.D., no. IMM-2227-94), Teitelbaum, December 6, 1994.

<sup>8</sup> Sathanandan v. Canada (Minister of Employment and Immigration), [1991], 15 Imm. L.R. (2<sup>nd</sup>) 310 (F.C.A.).

<sup>9</sup> Chaudri v. Canada (Minister of Employment and Immigration), (1986), 69 N.R. 114 (F.C.A.).

credibility, I am also mindful of the decision of the Federal Court of Appeal in Orelien<sup>10</sup> in which the Court held that, it is necessary that the claimant establish that evidence is probably credible or trustworthy, not just possibly so. I take also into consideration the various factors that could impact on the principal claimant's testimony including cultural differences, level of education, level of sophistication, testimony given through the filter of an interpreter and hearing-room anxiety.

The issues identified at the outset of the hearing were identity, credibility, failure to claim elsewhere, agents of persecution, internal flight alternative (IFA) and state protection. However, credibility emerged as the determinative issue. I accept that the claimants are citizens of Bangladesh on the strength of identity and other documents that were submitted<sup>11</sup>.

The principal claimant attributed a well-founded fear of persecution at the hands of the alleged agents of persecution because of her membership in a particular social group, namely divorced single women with minor children and also in connection with her XXXXX. The principal claimant has not presented sufficient credible or trustworthy evidence in support of her allegations. I have noted numerous deficiencies in the principal claimant's evidence, more than sufficient to rebut the presumption of truthfulness and which, in fact, seriously undermine the credibility of the principal

---

<sup>10</sup> Orelien v. Canada (M.E.I.) [1991], 15 Imm. L.R. (2<sup>nd</sup>) 1 (F.C.A.).

claimant as a credible and trustworthy witness.

Firstly, the principal claimant in her PIF and oral testimony stated that she is a divorced single woman. In order to corroborate her allegation of her matrimonial status or a divorced single woman, she presented what is purported to be a “Notice of Divorce”.<sup>12</sup> The document was sent for verification and the Canadian High Commission in XXXXX after conducting investigation concluded that the Notice of Divorce “appears to be false”.<sup>13</sup> Furthermore, the principal claimant’s CVV application of XXXXX 2003 and the initial interview record show that she was a married woman and her profession “house wife”.<sup>14</sup> When the Immigration Officer asked why her husband was not applying for CVV, the principal claimant changed her story by saying she was divorced. In this regard I note also from the principal claimant’s oral testimony that she obtained a U.S. visitor’s visa by presenting herself as a married woman. In light of the foregoing and having regard to other serious credibility concerns outlined in the following paragraphs, I conclude, on a balance of probabilities, the principal claimant has failed to establish her identity as a divorced single woman with sufficient consistent credible or trustworthy evidence. In this regard, I am not persuaded by counsel’s submissions<sup>15</sup> on this point where he attempts to justify misrepresentation of relevant facts because it is beneficial to

---

<sup>11</sup> Exhibits R-2, C-4.

<sup>12</sup> Exhibit C-4, item 5

<sup>13</sup> Exhibit R-8



the claimants.

Secondly, the principal claimant, in order to corroborate allegations of the number of serious incidents she had experienced in Bangladesh at the hands of the alleged agents of persecution and in support of the refugee claims, submitted to the panel several documents contained in Exhibit C-4. Among these documents, items No. 5, 16, 17, 19, 20, 21, 22 were sent by the Board to the Canadian High Commission in XXXXX for verification. The Immigration Program Manager from the High Commission in his e-mail of XXXXX XXXXX, 2004 reported the following results of the verification:

We went to the Police Station Of XXXXX, in XXXXX on XXXXX XXXXX and XXXXX 2004.

The four letters (64, 66, 68 and 70) of incidents were presented to the police officers in charge and these are the results:

- The registry of XXXXX 2000 was consulted and there is no entry no. XXXXX.
- For the whole month, there is no plaintiff name or victim name fo XXXXX XXXXX.
- The day of XXXXX XXXXX 2000, the entries number is XXXXX to XXXXX.

The other case numbers of the letters do not exist:

- no XXXXX for XXXXX XXXXX 94, no XXXXX for XXXXX XXXXX 94, no XXXXX for XXXXX XXXXX 98, and no XXXXX for XXXXX XXXXX 00.

The explanation is simple, they do never have for one month more than a few hundred cases, and each month the sequential number starts from 1.

---

<sup>14</sup> Exhibit R-9

<sup>15</sup> Exhibit C-9

We were explained that they could not have 1113 cases for the first XXXXX days of XXXXX 1994 and then 16 cases for the next 14 days (XXXXX XXXXX 94). The same applies for the XXXXX XXXXX 98 with 2160 cases, and for the XXXXX XXXXX 00 with 1417 cases. These appears to be bogus cases numbers.

The stamps

The stamps showed on the top right corner of the letters (66-70) are either in English or Bangladeshi, and signed by the “duty officer” as per the stamp’s title.

-The genuine English version at the police station is titled “Officer-in-charge” (with the hyphens)

-The one on the letter read “Duty Officer” (no hyphen). They never had such a stamps with the title “Duty Officer”.

-The genuine English version at police station’s name is “XXXXX”, the one on the letter reads “XXXXX”. There is a spelling mistake (N instead of M) on the stamp of the letters.

The Bangladeshi stamps on the letters (64-68) are not of the same format as the one they use.

-The name “XXXXX” is on the stamps on the letters

-The name “XXXXX” does not appear on the genuine stamp of the police station.

-The name XXXXX, the writing is separated on the stamps of the letters, were it is not on the genuine one of the police station.

The signatures on the stamps:

The signatories of the duty officers in the four letters are not known to the all consulted senior police officers we have met. One had been in this station since 1990. Also according to them, the stamps of the police station on the letters are totally fraudulent.

The letter addressed to the Police Commissioner (54-55).

The letter addressed to the Police Commissioner on XXXXX XXXXX 92, and signed by the applicant is of concerns.

-There is no mention of the police station were the “Entry no. XXXXX, XXXXX / XXXXX /92 is from.

-There is no such general terms and location in XXXXX for “XXXXX Metropolitan Police”.

- The written notes of the alleged commissioner is not accompanied by any stamps as it is the usual practice  
-These written notes are in English, but all interim operational correspondence/instruction are written in Bangladesh language.<sup>16</sup>  
[emphasis added]

The principal claimant was provided with the above and asked for her comment on the result of the verification. In her written comment of December 30, 2004<sup>17</sup> and in her oral testimony, the principal claimant was insistent that the document she submitted are genuine and suggested that the Canadian officials in XXXXX probably have not done an appropriate verification in the sense that they did not personally check the Police Station Complaint Logbook but relied only on the statements of the police officials, and in general contested the methodology employed in the verification. The principal claimant wrote that she had “noticed mismatched entry number and wrong spelling in the stamp on the XXXXX XXXXX 00 complaint” after the result of the verification, but she is not convinced that the police did not know the signatures on the documents in particular that of XXXXX XXXXX. The principal claimant wrote, “it is now obvious that any possible mismatch of the entry members, stamps and signatures on my copies of the complaints I submitted to IRB were the deliberate acts of police”.<sup>18</sup> When asked for explanation as to how and why the police would have taken such step to corrupt the documents in question,

---

<sup>16</sup> Exhibit R-3.

<sup>17</sup> Exhibit C-7

<sup>18</sup> Exhibit C-7, page 2.

the principal claimant testified that the police might have fake stamps and they might have wanted to help those people who were after her XXXXX. The principal claimant was not able to elaborate on this point except to repeat her speculation based on the general perception of police corruption in Bangladesh. The principal claimant also contested the result of verification relative to the language used for internal correspondence or the terms used to identify the XXXXX police, however, except for her own allegations she was not able to provide reliable documentary evidence which may counter the findings of the Canadian Immigration Manager in XXXXX.

As pointed out in the RPO's observations,<sup>19</sup> the staff of the Canadian High Commission in Dhaka who conducted the research of the genuineness of these documents are well experienced in authenticating potentially fraudulent documents and have in place appropriate procedures and methodology for this purpose. In this regard, I am not persuaded by counsel's argument concerning the alleged flaw in the methodology employed by the Commission.<sup>20</sup>

Together with the comments on the results of the verification of the documents, the principal claimant submitted a new document<sup>21</sup> pointing out that this document "does not have any stamp or monogram of XXXXX Police" and is allegedly leaked to the

---

<sup>19</sup> Exhibit R-7

<sup>20</sup> Exhibit C-8

<sup>21</sup> Exhibit C-7, pgs 5-6

principal claimant after the result of the verification through a police officer.<sup>22</sup> The principal claimant insisted that the Board send this document also to XXXXX for verification for purpose of signature, comparison and log entry number verification. The principal claimant should have submitted all documents in support of her claims prior to the commencement of the hearing and it is too late in the process to initiate a new verification exercise particularly of a document the source of which can not easily be identifiable (no police stamps or monogram). It is reasonable to expect the principal claimant to produce evidence which directly focuses on these documents which were already verified rather than to introduce still another document which on the face of it appears to be problematic concerning its origin and also obtained illegally as mentioned by the principal claimant herself. The panel has before it the result of verification of at least five documents submitted by the principal claimant and therefore does not see any need to send additional documents for verification. At any rate, the Board is under no duty to obtain further official verification of each and every document.<sup>23</sup> The burden is on the principal claimant to submit trustworthy documents in support of her claim. Having carefully considered the principal claimant's written comments and oral

---

<sup>22</sup> Exhibit C-7, page 1.

<sup>23</sup> Culinescu, Rodica-Luciana v. M.C.I. (F.C.T.D., no. Imm-3395-96), Joyal, September 17, 1997, Allouche, Sofiane v. M.C.I. (F.C.T.D., no. Imm-973-99) Pinard, March 17, 2000.

testimony as well as taking into account Counsel's submission<sup>24</sup> concerning methodology and the result of the verification of the documents in question, on a balance of probabilities, I find the principal claimant's explanation not to be credible and trustworthy. Consequently, I conclude, on a balance of probabilities, that the documents in question are fraudulent. The presentation of fraudulent documents in support of a claim to refugee status is a serious matter. It seriously undermines the integrity of the claimant's overall evidence in support of the claim. In the case at hand, the issues surrounding the principal claimant's XXXXX, to which the documents in question are related is central to her claim since the main reason for the alleged persecution of the principal claimant by the agents of persecution was because of their interest in her XXXXX. Submitting a false or irregular document may have a serious impact on the weight assigned to other documents provided by the principal claimant and most importantly, it seriously undermines the overall credibility of the principal claimant. I note also that documentary evidence disclosed by the RPO also indicates that Bangladesh is named as the "most corrupt nation" and illegal documents and means of human trafficking are estimated to generate \$10 Billion a year in profits.<sup>25</sup>

Thirdly, in connection with her XXXXX XXXXX, the principal claimant testified that

---

<sup>24</sup> Exhibit C-8

she had the XXXXX in her possession between 1992 and 2002 when she left Bangladesh. However, in a later testimony, as the principal claimant stated that her father gave her the XXXXX in 1991, she was asked to explain the inconsistency between her oral testimonies concerning the year she acquired the XXXXX. The principal claimant was not able to offer satisfactory explanation except to say she meant to say she lived on the XXXXX from 1992 to 2002. For the inconsistency in her oral testimony and for lack of satisfactory explanation, I draw an adverse inference as to the credibility of the principal claimant as a credible or trustworthy witness.

Fourthly, the principal claimant was asked why she had not sold her XXXXX and moved to a safer part of Dhaka or even joined her father who lived elsewhere if it were true that she had faced so many problems because “another factor that may have a contributing role in my problem is the fact that my XXXXX is in an area inhabited by people of lower or no education...these people have a negative attitude about women living alone and independent of all male influence”.<sup>26</sup> The principal claimant’s straightforward answer was she was afraid that the mastan will take away all the money from the sale of the XXXXX and she would not be able to get anything. However, in her PIF narrative, the principal claimant wrote that the reason why she did not want to sell her XXXXX was the price offered was “below market price” and that also “she did not

---

<sup>25</sup> Exhibit R-1, TAB 8.4.1, TAB 8.1.1.

wish to give a commission to the Mastan, something that is demanded where there is a sale of XXXXX involved.”<sup>27</sup> She also wrote “before I left Bangladesh, I requested my brother-in-law to look for a lawyer but he discouraged me from doing so saying that I will not be able to get money because I will have to pay at least 50% of the sale price to the Mastan”. The principal claimant was asked for explanation for the discrepancy between her oral evidence (i.e. the mastan will take away all the money from the sale of the XXXXX) and her PIF evidence (i.e. she had to pay at least 50% commission to the Mastan). The principal claimant was not able to offer a satisfactory explanation for the inconsistency in her evidence. From this inconsistency in her evidence and for her failure to provide satisfactory explanation for the inconsistency, I draw a further adverse inference as to the credibility of the principal claimant as a credible or trustworthy witness.

Fifthly, the principal claimant submitted a significant addendum to her original PIF narrative in which she alleged that she was kidnapped and raped by three men on XXXXX XXXXX, 2002. The principal claimant stated that she omitted the significant evidence from her original PIF because she did not want to reveal this incident to her relatives here in Canada who were helping her in preparation of her PIF for fear of being stigmatised/humiliated as a victim of rape. However, she had to reveal it to her sister-in-

---

<sup>26</sup> Exhibit C-1, PIF narrative, page 15.



law because of the misunderstanding surrounding her medical exam where HIV was mentioned and eventually her lawyer and brother were aware of it and subsequently she submitted the PIF addendum focusing on the incident of rape. The principal claimant initially testified that only her sister-in-law and probably her brother (through his wife) were aware of the incident of rape and she never discussed it with anyone except the sister-in-law. However, when confronted by questions from the RPO and when the panel member referred to her PIF addendum where she wrote “since my lawyer and my relatives in Canada now know about the rape...” (emphasis added),<sup>28</sup> the principal claimant modified her story by saying that her second brother, other sister-in-law and their children were probably aware and furthermore added that her first brother asked her to write out in Bengali about the incident and he translated it to English. The principal claimant had not offered a satisfactory explanation for the inconsistency in her evidence. Furthermore, when asked, the principal claimant was not able to provide satisfactory explanation why and how her two siblings, (one a Canadian citizen, and observer at the hearing) and her relatives would stigmatise and humiliate her simply because she was a victim of rape. It is not reasonable to expect, especially among educated Canadian citizens and permanent residents, that siblings and relatives would humiliate a woman for being a victim of rape. Taken together with the inconsistent evidence as to who in

---

<sup>27</sup> Ibid, page 3.

Canada is aware of the incident of rape, earlier serious credibility concerns and lack of satisfactory explanation for fear of humiliation by relatives, on a balance of probabilities, I find it implausible that the principal claimant omitted the incident of rape from the original PIF because of the alleged fear of stigmatisation and humiliation by her relatives in Canada. It is reasonable for the panel therefore to infer that if the alleged incident of rape actually took place, the importance of it dictates that it should have been mentioned, particularly given the maturity and sophistication of the principal claimant who has a master's degree from a university. In light of the foregoing, I draw an adverse inference as to the credibility of the principal claimant as a credible witness for omission from the original PIF and significant addendum to the PIF concerning the alleged incident of rape and for failure to provide satisfactory explanation.

For all these reasons, I find that the principal claimant is not a credible or trustworthy witness. In view of the above, I therefore conclude, on a balance of probabilities, that there is insufficient credible or trustworthy evidence that the principal claimant or her family faced any problems in Bangladesh as alleged at the hands of the alleged agents of persecution and that there is no sufficient credible or trustworthy evidence that the alleged agents of persecution would be interested in the principal claimant at present. In light of the numerous and significant discrepancies in the

principal claimant's evidence on issues central to her claim, as highlighted in the preceding paragraphs, I conclude, on a balance of probabilities, that the principal claimant is not a credible or trustworthy witness and her evidence in general lacked credibility. In applying Sheikh<sup>29</sup>, I extend my finding to all relevant evidence emanating from the principal claimant. Guided by the ruling of the Federal Court in Maximilok<sup>30</sup>, I further find that my finding of a general lack of credibility of the principal claimant negates the subjective fear of the principal claimant. Concerning the principal claimant's lack of subjective fear, I further note the fact that the principal claimant did not leave sooner the alleged place of persecution although she was allegedly persecuted from 1992 to 2003, particularly following the alleged gang rape on XXXXX XXXXX, 2002. Although the principal claimant obtained a visa for the United States on XXXXX XXXXX, 2002, she left the country only in XXXXX 2003, that is three months after the alleged gang rape. In the absence of a satisfactory explanation, which the principal claimant was not able to offer, such a long delay in departing the place of persecution is not consistent with the behaviour of a person with well-founded subjective fear. I note also that the principal claimant stayed in the U.S. for approximately four months and failed to seek protection in the U.S. for which she was not able to offer satisfactory

---

<sup>29</sup> Sheikh, Abdulhakim Ali v. Canada (Minister of Employment and Immigration) [1990] F.C. 238 (C.A.).

<sup>30</sup> Maximilok, Yuri v. M.C.I. (F.C.T.D., No. IMM-1861-97) Joyal, August 1998.

explanation. Once again, this is behaviour not consistent with that of a person with a subjective fear.

The evidence before me points rather in a different direction rather than the allegation of the principal claimant, in the sense that the principal claimant did not come to Canada in search of international protection from serious harm but rather to immigrate to Canada as a skilled worker as presented in her application for permanent residency<sup>31</sup>. In this regard the principal claimant in her PIF narrative wrote: “I reasonable expected to come to Canada by late 2001 or early 2002 having made my application as a skilled worker in 1999. When my case was not finalized and after the problems of late 2002 and early 2003, I realized that I would have to leave Bangladesh immediately and that I could not afford to wait any longer for my skilled worker application to be approved.”

As stated by the Federal Court of Appeal in Urbanek<sup>32</sup>

the appellant’s [principal claimant’s] position is based on a fundamental misconception of Canada’s refugee determination system; the purpose of that system is to provide safe haven to those who genuinely need it, not to give a quick and convenient rout to landed status for immigrants who can not or will not obtain it in the usual way.

Finally, in the course of the oral testimony, the panel noted the fact that the principal claimant’s responses to questions were generally confused and not precise.

---

<sup>31</sup> Exhibit R-6.

<sup>32</sup> Urbanek v. Canada (M.E.I.) [1992], 17 Imm, L.R. (2<sup>nd</sup>) 153 (F.C.A.) at 154.

Questions had to be repeated on a number of occasions and she answered questions with considerable hesitation and evasiveness. The panel, therefore, draws another adverse inference on the principal claimant's demeanour during her testimony.

The panel also considered whether the principal claimant is a person in need of protection because of risk to her life or a risk of cruel and unusual treatment or because she faces a danger of torture. The principal claimant adduced neither other evidence, nor does the documentation support a finding that she faces a serious possibility of persecution or a risk to her life or a risk of cruel and unusual treatment or punishment should she return to Bangladesh. I conclude also that no credible evidence was adduced that would support a finding that the principal claimant faces a danger of torture.

In considering the totality of the evidence before me, including the PIF, the oral testimony of the principal claimant, the submissions of counsel, and the RPO's observation, as well as having regard to the Chairperson's Guidelines on Women Refugee Principal claimants Fearing Gender-Related Persecution, I find that, on a balance of probabilities, the principal claimant has not presented sufficient credible or trustworthy evidence that if she were to return to Bangladesh at present she would face a serious possibility of persecution at the hands of the alleged agents of persecution and for the alleged reasons, or that she would personally face a risk to her life or a risk of cruel and unusual treatment or punishment or that there are substantial grounds to believe that

she would personally be subjected to a danger of torture. The claims of the two minor claimants are joined to that of the principal claimant and based on her claim that failed. The claim of the principal claimant having failed and absent of any relevant evidence to distinguish the claims of the two minor claimants, the claims of the two minor claimants must fail as well.

### **Conclusion**

Based on the foregoing, I find that there is not a serious possibility that the claimants would face any risk of serious harm as alleged if they were to return to Bangladesh at present. For the foregoing reasons I conclude that XXXXX XXXXX, XXXXX XXXXX and XXXXX XXXXX are not Convention refugees and not persons in need of protection. I therefore, reject their claims.

“Y. Makonnen”

---

Y. Makonnen

DATED at Toronto this 4th day of October 2005

REFUGEE PROTECTION DIVISION / SOCIAL GROUP / GENDER / VIOLENCE  
AGAINST WOMEN / GUIDELINES / PROOF / AUTHENTICITY / EXPERT  
EVIDENCE / OMISSIONS / PERSONAL INFORMATION FORM /  
CONTRADICTIONS / FEMALE / CHILDREN / NEGATIVE / BANGLADESH