



**RPD File No. / N° de dossier de la SPR : MB7-08006**

*Private Proceeding / Huis clos*

**Reasons and Decision – Motifs et décision**

<b>Claimant(s)</b>	XXXX XXXX XXXX	<b>Demandeur(e)s d'asile</b>
<b>Date(s) of hearing</b>	February 19, 2019	<b>Date(s) de l'audience</b>
<b>Place of hearing</b>	Montreal, Quebec	<b>Lieu de l'audience</b>
<b>Date of decision and reasons</b>	March 26, 2019	<b>Date de la décision et des motifs</b>
<b>Panel</b>	Ludmila Pergat	<b>Tribunal</b>
<b>Counsel for the claimant(s)</b>	Rezaur Rahman	<b>Conseil(s) du (de la/des) demandeur(e)s d'asile</b>
<b>Designated representative</b>	N/A	<b>Représentant(e) désigné(e)</b>
<b>Counsel for the Minister</b>	N/A	<b>Conseil du (de la) ministre</b>

2019 CanLII 132739 (CA IRB)

## REASONS FOR DECISION

[1] The Claimant, **XXXX XXXX XXXX** is a 46-year-old female, a national of Bangladesh. She alleges to have a well-founded fear of persecution on the grounds of imputed political opinion. She is claiming refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act* (IRPA).

### IDENTITY

[2] The Claimant's identity was established, to the Tribunal's satisfaction, by her original Bangladeshi passport seized by Immigration and Citizenship Canada. Citizenship and Immigration Canada (CIC)<sup>1</sup> submitted photocopies of the Claimant's passport. Based on the passport and her testimony, the Tribunal is satisfied that, on a balance of probabilities, the Claimant has established her identity.

### DETERMINATION

[3] The Tribunal finds that, on a balance of probabilities that the Claimant is neither a "Convention refugee" nor a "person in need of protection" pursuant to section 97(1)(b) of the IRPA.

### ALLEGATIONS

[4] These are some of the events linked directly to the Claimant.

[5] The Claimant is the wife of an **XXXX XXXX XXXX XXXX XXXX XXXX** in Dhaka, Bangladesh. She alleges that he has been targeted by his political opponents, supporters of the ruling party, the Bangladesh Awami League (AL). Her husband's political opinion and closeness with the Bangladesh Nationalist Party (BNP) caused him to be harassed at different times since 2008, by **XXXX XXXX XXXX XXXX** that would file false cases against him.

[6] She alleges that her daughter was kidnapped and sexually assaulted by politically affiliated XXXX. Her son was also abducted and assaulted by the persecutors and was released after her husband paid the demanded ransom.

[7] Both her children came to Canada and made claims for refugee protection. The Claimant came to Canada with her daughter when she made her claim for refugee protection and then returned to Bangladesh.

[8] Her husband upon whose problems the Claimant bases a large part of her claim for refugee protection, came to Canada to be with his son who made a claim for refugee protection. The Claimant's husband stayed with the adult children while the Claimant returned to Bangladesh to collect monies from tenants. He went back to Bangladesh after the Claimant returned to Canada to be with her siblings. Her husband is still in Bangladesh.

[9] Both adult children were granted refugee protection at different times.

[10] The Claimant alleges that she was subjected to threats and assaulted because she fought for justice and stood up against the persecutors.

[11] The Claimant alleges that her whole family was scared when in XXXX 2012, her husband received a threatening letter from a person called XXXX, and was told to downsize his business if he wanted to live a better life with his family. The Claimant's husband complied. He reported the incident to the police.<sup>2</sup>

[12] In XXXX and XXXX 2016, her husband was harassed by XXXX XXXX XXXX XXXX XXXX and forced to pay protection monies in exchange that their apolitical son not be harassed. Nonetheless, her son was kidnapped and released after her husband paid a bribe. Her husband sent his son to the U.S. to study and told him not to claim refugee protection otherwise he would not be able to study and become a successful person. He accompanied him and then returned to Bangladesh.

[13] On XXXX XXXX, 2016, the Claimant's daughter was the victim of harassment, "eve-teasing". The three to four men, allegedly known XXXX XXXX, surrounded her and pushed her to the ground. They abused her with dirty language and told her not to scream and told her that

they would release pictures on social media that they took of her with their cellular telephone if she tried to disclose what they did to her. After her daughter was treated at a clinic,<sup>3</sup> the Claimant brought her to Canada to claim refugee protection. The incidents were reported to the police.<sup>4</sup>

[14] The Claimant's husband joined the Claimant and their two children in Canada on June 23, 2017. The Claimant returned to Bangladesh to take care of the business while her husband was in Canada. She arrived in Bangladesh on XXXX XXXX, 2017, to collect monies that some of their customers and tenants owed them.

[15] The next day, their manager told the Claimant that the same XXXX XXXX who demanded money from the Claimant's husband came to get more money. She told her manager to tell them that her husband will take care of the matter and not her. The goons left after abusing the manager with filthy language.

[16] On XXXX XXXX, 2017, the Claimant went to Jhikatala, to collect rents from tenants who lived in apartments owned by the Claimant and her husband. Her rickshaw was attacked by three unknown men near her office when she was returning from collecting rents. She did not recognize them but believed that they were the same people that threatened the Claimant and her husband and attacked her son and daughter. She went to see a doctor<sup>5</sup> for first aid and filed a police report.<sup>6</sup> The physical attack frightened her and the threat to her life and security became real.

[17] The Claimant left Bangladesh on XXXX XXXX, 2017, going to the U.S. since she had a visa for the U.S., reached the Canadian border on July 21, 2017, and claimed refugee protection.

## ANALYSIS

[18] The Claimant submitted a five and one half page narrative. Some of the events relate to her daughter and her son. The basis of her claim, according to her narrative, is based on her husband being an affluent, XXXX XXXX XXXX XXXX in Dhaka associated XXXX XXXX XXXX. Her son and daughter have made separate refugee claims.

[19] Before proceeding to the analysis of this claim, the Tribunal must state that the narrative is written by the Claimant. The Tribunal has not had the opportunity to question neither her

husband nor her children. The Claimant did not submit any statement or affidavit from her husband to corroborate her allegations concerning him. She did not submit any statements or affidavits from her adult children to corroborate her story or copies of the decisions rendered by a separate Tribunal in each case.

[20] The Tribunal believes that family declarations and copies of decisions from the IRB were available to the claimant. Consequently, the Claimant's story will be judged only on her testimony both written and oral as well as corroborating documents submitted. The major part of her story relates to the alleged issues that the children had. They are both adults. Both are presently in Canada. Both their claims have been accepted. The Tribunal draws a negative inference that the Claimant did not call them as witnesses so that the Tribunal could have had the opportunity to question them in relation to their mother's allegations.

[21] In analyzing this claim, the Tribunal considered the *Chairperson's Guidelines for Women Refugee Claimants Fearing Gender Related Persecution* and is cognizant that female refugee claimants may have difficulties in demonstrating that their claims are credible. As such the Tribunal considered and applied these guidelines during the hearing, as well as in assessing the weight given to both the oral and documentary evidence before it.

[22] The Tribunal has taken into account the psychological report<sup>7</sup> submitted by the Claimant.

[23] In this particular case, the Claimant is an educated woman, according to Immigration documents, owned her own company in 1998 and works with her husband in his business.

[24] The Tribunal believes, in this particular case, that the Claimant is not being targeted for political reasons rather because her husband is a XXXX XXXX in several areas of Bangladesh who is seen as having money to contribute to the ruling party.

[25] Testimony given under oath is presumed to be truthful, unless there is a reason for doubting its truthfulness.

[26] There were several issues in this claim that the Tribunal does not find credible. For example:

[27] The Tribunal asked the Claimant what she feared if she were to return to Bangladesh. She responded that once she returned, she would demand justice or trial for what happened to her children which was feared. The Tribunal asked if her husband asked for justice to which she responded that she was the one dealing with the police. The question was repeated and this time she responded that she was a witness. The Tribunal asked if she was present when her son was kidnapped. She said that she was not a witness. The Tribunal asked if she was there when her daughter was assaulted. She responded no.

[28] There are several problems with the Claimant's responses. At first she said that she was feared because she would seek justice. However, when she returned to Bangladesh, she went to Jhikatala to collect rent from tenants who lived in apartments owned by her husband and herself. She did not go to seek justice. The second problem with the issue of seeking justice, the Claimant stated that it was she that dealt with the police; however, it was her husband that went to the police to report the kidnapping of his son. The husband is not at the hearing today to question however, if a police report submitted by the Claimant<sup>8</sup> was made by her husband which confirms that he and the Claimant both went to the police at different times. The Tribunal is not questioning whether or not the son and daughter had been subject to any violence. The Tribunal believes that the Claimant returned to Bangladesh for financial reasons.

[29] The Tribunal believes that the Claimant wanted to get her children out of Bangladesh to give them a better life and she and her husband would maintain the business interests in Bangladesh to support them financially. This is further supported by her narrative when she said that her husband told his son not to claim refugee protection in the U.S. because he would not be able to go to school and become a successful person. According to this statement in the narrative, which was not negated by any other evidence, demonstrates that the concern for the son was to get a good education and become successful and not to flee Bangladesh and seek protection as a refugee in the U.S.

[30] The Claimant left Bangladesh when she was assaulted by several unknown men whom she said she could not recognize but she believes that they were the same people who threatened the Claimant and attacked her son and daughter. She became frightened and left for Canada after seeing a doctor<sup>9</sup> and filing a police report.<sup>10</sup>

[31] The Tribunal believes that the attack on the Claimant could have been random violence and not a politically motivated act as alleged, that XXXX XXXX XXXX came to the office when she returned from Canada. The Claimant said she was a witness to the events of her son and daughter. When asked specifically if she was there when the incidents occurred, she responded no. The Tribunal believes that she tried to embellish the situation in an effort to mislead the Tribunal that she was feared by the authorities and would seek justice when in fact she was not a witness to either of the events.

[32] Even though the Tribunal could not question the husband as to the reason for his return, the Claimant did testify that her husband went in and out of Bangladesh, returned for the last time to Bangladesh sometime in 2017, once the Claimant returned to Canada. As of today's hearing, February 19, 2019, her husband still lives in the same home in Dhaka and still runs his business from the same place. The Claimant alleges that he goes to his business and home with body guards.

[33] The Tribunal does not find the Claimant credible. Although it believes that the husband is very careful and has body guards, it is not unusual for a XXXX XXXX XXXX in a corrupt country to have body guards. The Claimant went back to Bangladesh from Canada to collect rents, the rents still have to be collected and properties and other interests maintained as part of running a successful business just as paying bribes is common in corrupt countries, in this case Bangladesh. Consequently, he is able to live and work in Bangladesh as the Tribunal believes the Claimant would be able to do.

[34] The Tribunal finds that the Claimant has established that, on a balance of probabilities, she is the wife of a XXXX XXXX XXXX XXXX XXXX XXXX in Bangladesh. The Tribunal believes that her husband was targeted for extortion because of this success. The Tribunal does not dispute the threatening letter<sup>11</sup> sent to her husband. The Tribunal also believes that her children left Bangladesh because of kidnapping and assaults. However, the Tribunal also finds that the Claimant used these events to embellish her story to mislead the Tribunal.

[35] The Claimant has not been specifically targeted by XXXX and his men for extortion, theft, and her vast business interests with her husband. The Claimant alleged that she was being targeted because her husband is a XXXX XXXX in Bangladesh and because he was not in

Bangladesh to provide the extortion money demanded. He did accompany his son once to the U.S. and once to Canada. He returned to Bangladesh on two occasions, in order to continue operating his business from the same place in Dhaka in order to support his family. Those are not the actions of someone that fears for his life. Even though the Claimant's husband is not a Claimant in this claim, according to the testimony of the Claimant, his story is central to this claim thus his actions as alleged by the Claimant affect her claim.

[36] The Tribunal finds that by extension, the Claimant is also not in danger since she also re-availed herself to her alleged country of persecution to conduct business, was able to travel to Jhikatala to collect rents and conduct other business.

[37] For these reasons, I find that the risk to her life and her risk of cruel and unusual treatment are risks faced generally by persons from Bangladesh.

### **Internal Flight Alternative**

[38] When Chittagong was proposed as an IFA, the Claimant responded that she could not go there because the internet was poor. She did not say that she could not live there because she will be found by her alleged persecutors. Her concern was for whether or not there was good connectivity to the internet from Chittagong. She also said that her home was in Dhaka.

[39] The Tribunal finds that there is a viable internal flight alternative for the Claimant in Chittagong. The Tribunal has considered the totality of the evidence, and finds that there is not a serious possibility of persecution for the Claimant in Chittagong, nor is it unreasonable for the Claimant to relocate.

[40] "In order to be considered a Convention refugee, an individual must be a refugee from a country, not from a region of a country. Therefore, where an IFA is found, a claimant is not a refugee or a person in need of protection."<sup>12</sup> Claimants are expected to avail themselves of a safe haven in their own country where they would be free of persecution, unless they can show that it is objectively unreasonable for them to do so. It is not a matter of the Claimant's convenience or the attractiveness of the IFA, but whether one should be expected to make do in that location before traveling half-way around the world to seek a safe haven in another country.<sup>13</sup>



[41] Chittagong was suggested as a possible IFA location for the Claimant. The Claimant is fortunate that she would be able to continue to conduct business and have means to support herself in an IFA in Chittagong. If she cannot find a means of support, her husband is supporting her in Canada and can support her in Chittagong.

[42] The test for IFA is two prong:<sup>14</sup> "[T]he Board must be satisfied, on a balance of probabilities, that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists" and "[C]onditions in that part of the country [considered to be an IFA] must be such that it would not be unreasonable, in all the circumstances, [including those particular to the claimant] for the claimant to seek refuge there."

[43] Both questions must be answered in the affirmative for an IFA to be viable.

[44] The Tribunal finds there is no serious possibility that the Claimant will be persecuted in Chittagong because, more likely than not, the unknown persons that assaulted her and that she is afraid of would not find her in Chittagong. Not having good internet is not a reason not to be able to live in Chittagong.

[45] "Bangladesh's total land area is 130,168 sq. km with an estimated population of 166,280,712"<sup>15</sup>, and her persecutors would be hard-pressed to know where to begin to look. Chittagong itself is a city of over 4.5 million inhabitants.<sup>16</sup> Bangladesh's poor infrastructure, including a telephone system that is "inadequate for a modern country"<sup>17</sup> would also hamper any search for the Claimant in Chittagong. Chittagong is over 200 kilometers from the Claimant's hometown of Dhaka.<sup>18</sup> While members of the AL live throughout Bangladesh, there is little evidence of what their network constitutes or whether the party coordinates non-politically in different regions of the country. The Tribunal finds that the Claimant has not presented sufficient objective evidence that the reach of the agents of persecution extends to Chittagong or other parts of Bangladesh.

[46] The tribunal having come to the conclusion that the Claimant is not able to establish that there is a serious possibility that she would be persecuted by the XXXX XXXX, turned to look at all the evidence submitted to determine if the Claimant is a person in need of protection. The Tribunal analyzed the claim from the perspective of a person in need of protection and has

determined that the Claimant faces neither a risk to life nor a risk of cruel and unusual treatment or punishment nor is she a person in need of protection as defined in the *Immigration and Refugee Protection Act* (IRPA).

## CONCLUSION

[47] Having considered all written and oral testimony, the Tribunal finds that the Claimant has not discharged her burden of proof that she will be persecuted on the grounds of imputed political opinion or any of the other grounds of the Convention.

[48] Based upon the above analysis, the tribunal determines that **XXXX XXXX XXXX** is neither a “Convention refugee”, as defined in section 96 of the IRPA nor a “person in need of protection” as defined in section 97(1)[8] of that law.

*Ludmila Pergat*

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**Ludmila Pergat**

March 26, 2019

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**date**

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<sup>1</sup> Document A-2, Immigration documents, Port of Entry notes.

<sup>2</sup> Document C-12, police complaint by Claimant’s husband dated XXXX/2012.

<sup>3</sup> Document C-10, medical report of the Claimant’s daughter.

<sup>4</sup> Document C-13a, police complaint by Claimant dated XXXX/2016; Document C-14a, police complaint by Claimant dated XXXX/2016.

<sup>5</sup> Document C-7, medical report of the Claimant.

<sup>6</sup> Document C-6, police complaint dated XXXX/2017 (not translated).

<sup>7</sup> Document C-8, psychological report.

<sup>8</sup> Ibid, note 2.

<sup>9</sup> Ibid, note 6.

<sup>10</sup> Ibid, note 5.

<sup>11</sup> Document C-11, threat letter sent to Claimant’s husband.

<sup>12</sup> *Calderon v. Canada (Citizenship and Immigration)*, 2010 FC 263, citing *Sarker v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 353.

<sup>13</sup> *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.).

<sup>14</sup> *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.).

<sup>15</sup> Document 3, National Documentation Package for Bangladesh (31 October 2018), item 1.9.

<sup>16</sup> Document 3, NDP for Bangladesh (31 October 2018), item 1.3.

<sup>17</sup> Document 3, NDP for Bangladesh (31 October 2018), item 1.3

<sup>18</sup> Document 3, NDP for Bangladesh (31 October 2018), item 1.1.