



**IN THE SUPREME COURT OF NAURU**  
**AT YAREN**

Case No. 12 of 2025

IN THE MATTER OF an appeal  
against a decision of the Refugee  
Status Review Tribunal TFN  
T24/00484, brought pursuant to s 43 of  
the *Refugees Convention Act 2012*

BETWEEN

**AL 25**

Appellant

AND

**THE REPUBLIC**

Respondent

Before: Justice Ian Freckelton

Appellant: Mr A Aleksov

Respondent: Mr L Brown SC

Date of Hearing: 3 June 2025

Date of Judgment: 8 August 2025

**CATCHWORDS**

APPEAL — illogicality – unreasonableness – unreasonableness – adequacy of reasons - APPEAL DISMISSED.

## JUDGMENT

1. This matter is before the Court pursuant to s 43 of the *Refugees Convention Act 2012* (“the Act”) which provides that:

(1) *A person who, by a decision of the Tribunal, is not recognised as a refugee may appeal to the Supreme Court against that decision on a point of law.*

(2) *The parties to the appeal are the Appellant and the Republic.*

...

2. A “refugee” is defined by Article 1A(2) of the *Convention Relating to the Status of Refugees 1951* (“the *Refugees Convention*”), as modified by the *Protocol Relating to the Status of Refugees 1967* (“the *Protocol*”), 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 to, 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 to or, owing to such fear, is unwilling to return to it ...*

3. Under s 3 of the Act, “complementary protection” means protection for people who are not refugees but who also cannot be returned or expelled to the frontiers or territories where this would breach Nauru’s international obligations.
4. The determinations open to this Court are set out in s 44(1) of the Act:
  - (a) *an order affirming the decision of the Tribunal;*
  - (b) *an order remitting the matter to the Tribunal for reconsideration in accordance with any directions of the Court.*

5. The Appellant filed an Amended Notice of Appeal dated 13 May 2025 against the decision of the Refugee Status Review Tribunal (“the Tribunal”) decision of 27 February 2025 (“the decision”), seeking that the appeal on a point of law should be allowed and that the matter be remitted to the Tribunal and that pursuant to section 44(2)(b) of the Act, the decision of the Tribunal be quashed.

## BACKGROUND

6. The Appellant is a Bangladeshi national aged 27. He is from a village in the Jessore district in southwestern Bangladesh.
7. He is married and has a young son and is a Sunni Muslim.
8. He arrived in Australia on 16 February 2024 and on 19 February 2024 he arrived in Nauru.
9. On 5 March 2024 the Appellant applied for a refugee status determination, claiming that:

- a) His father is a leader of the Jamaat-e-Islami (“JI”) party;
- b) He is not a voter in Bangladesh but supports his father’s politics;
- c) Supporters of the Awami League (“AL”), at that time the ruling party, threatened to kill the appellant unless his father stopped supporting JI.
- d) He was never physically attacked but “mentally [he] was constantly physically abused”, leading him to decide to leave Bangladesh for Australia;
- e) His father sold their land and house and borrowed money from loan sharks to pay for the appellant’s journey and the appellant has to pay interest on the loan every month.
- f) If the appellant does not repay the loan, the loan sharks will attack his family and he will have to sell his kidney or blood to repay them;
- g) The loan sharks in Bangladesh do not currently know that he cannot repay them but the police will not be able to protect him from the loan sharks and can be bribed;
- h) The police in Bangladesh are controlled by the AL, so he cannot seek their protection; and
- i) He cannot relocate within Bangladesh to escape harm, as members of the AL exist throughout the country, as do the loan sharks who have networks throughout Bangladesh.

10. On 6 September 2024 the Acting Secretary determined that the Appellant was neither a refugee nor a person in respect of whom complementary protection was owed.

11. On 12 September 2024 the Appellant lodged an application for review of the decision by the Acting Secretary with the Tribunal.

12. On 13 December 2024 the Appellant appeared before the Tribunal. He was assisted by an interpreter in the Bengali and English languages, as well as by a representative who attended the hearing.

13. On 27 February 2025 the Tribunal affirmed the determination of the Secretary.

14. The Tribunal noted that the Appellant claimed that since his departure from Bangladesh, AL activists have attacked and injured his father and younger brother, forcing them to move to another location for three months.<sup>1</sup>

15. The Appellant claimed to the Tribunal that his father borrowed two sums of money: one secured and the other unsecured through a loan shark who charged 10 per cent interest per quarter on the loan and which gives the loan shark the right to seek legal redress from the Appellant’s father in the event of default. The Appellant also claimed to have promised verbally to sell his kidney or blood if the loan cannot be repaid. He fears that as he and his father will struggle with repayments, the loan

---

<sup>1</sup> Tribunal Reasons, at [13].

shark may now demand he make good on his promise to sell his organs or otherwise kill or harm him.<sup>2</sup>

16. The Tribunal accepted that the Appellant broadly shares his father's religious and political values; and that he accompanied his father to some events, although he has not been a formal member of JI, and has never voted,<sup>3</sup> but it was not satisfied that he had "the time, energy or motivation to become more involved in his father's political work, and it is not satisfied that he was an active member or participant, actual or perceived."<sup>4</sup>
17. It also did not accept that the Appellant faced credible death threats or warnings in Bangladesh or departed in fear of persecutory harm or proscribed treatment (including being killed).<sup>5</sup> It found that the Appellant appeared to expand his claims over time and that he exaggerated his involvement in his father's political and social work, and how he was perceived.<sup>6</sup>
18. The Tribunal also did not accept that AL supporters have in the past, or will in the reasonably foreseeable future, target him because of his low-level political interests or his links with his father.<sup>7</sup>
19. The Tribunal was troubled by the Appellant's claim that officials had failed to issue him a national ID card, given information before the Tribunal about the importance of such a card. It observed that:

The applicant's somewhat nonchalant evidence on this issue leads the Tribunal to question whether he was in fact denied a smart NIC on political grounds; and/or whether he continued to hold an older form NIC (which he would have had to obtain when turning 18, in July 2015). Taking all of this into account, the Tribunal does not accept that local officials denied the applicant essential documentation on political grounds, thereby denying him the opportunity to access certain basic services and transactions.<sup>8</sup>

20. It did not accept that the Appellant's father was beaten up on a number of occasions, or that he was subject to credible threats of serious harm, or that he had to move around in order to evade officials or political opponents.<sup>9</sup>
21. The Tribunal accepted that the Appellant's father has an outstanding loan but did not accept that it was from a loan shark or that the creditor was disreputable.<sup>10</sup> It accepted that his father may struggle with loan repayments but found that if the appellant returns to Bangladesh, there is no reasonable possibility of the lender or

---

<sup>2</sup> Tribunal Reasons, at [15].

<sup>3</sup> Tribunal Reasons, at [41].

<sup>4</sup> Tribunal Reasons, at [44].

<sup>5</sup> Tribunal Reasons, at [15].

<sup>6</sup> Tribunal Reasons, at [52].

<sup>7</sup> Tribunal Reasons, at [15].

<sup>8</sup> Tribunal Reasons, at [53].

<sup>9</sup> Tribunal Reasons, at [54].

<sup>10</sup> Tribunal Reasons, at [72].

anyone else persecuting him. It did not accept that there is any verbal agreement or associated expectations that the creditor will force him to sell his kidney or take similar extreme measures to raise money to repay the loan, on his return to Bangladesh.<sup>11</sup>

22. It made the following findings:

The Tribunal proceeds on the basis that it is possible, though far from certain, that during Mr R's and his father's discussions about a possible loan, the applicant told Mr R verbally that he would be prepared to sell his kidney or his blood in the event of a default. At hearing, the applicant said that Mr R had initially refused to lend the money. The Tribunal finds that it was in that context that the applicant made such a statement, i.e. to impress on Mr R his sincerity and to persuade him to change his mind.

The Tribunal does not accept that any such statement resulted in the applicant being subject to any enforceable legal obligation to sell his kidney (etc.) in the future. Importantly, it also did not lead to any expectation on Mr R's part that he had a right to demand this of the applicant, or to take extra-judicial steps to enforce it. The Tribunal also takes into account the applicant's evidence at hearing that Mr R knew the purpose of the loan, to fund the applicant's travel abroad. As the Tribunal flagged at hearing, it does not make much sense for Mr R to accept as security for a loan the body parts of a person whom he knew would be outside the country, and whose return was uncertain.<sup>12</sup>

## **THIS APPEAL**

23. The Appellant's Amended Notice of Appeal dated 13 May 2025 asserts that:

1. The Tribunal failed to comply with s34(4)(d) in that it did not refer to the evidence on which it based its findings at Reasons [44], that much of the applicant's evidence was "generalised" in a way that supported an inference adverse to his credit as a witness of truth.
2. The Tribunal did not consider the appellant's evidence at Transcript page 17.32-38, relating to Reasons [52] or did not comply with s34(4) in not supplying adequate reasons to explain why the appellant's explanation was not accepted.
3. Reasons [52] is affected by illogicality, irrationality or legal unreasonableness.
  - a) The appellant's father's ability to take on a JI leadership in 2016, to sustain a program of works and followers, and later qualify for both a secured and an unsecured loan is not rationally affected by the nature of the harassment from Awami League activists.
  - b) Put another way, whether or not the appellant's father was harassed by AL activists does not have any rational or probative connection with whether his father was able to take on a JI leadership role. It also has no connection with whether the father was able to obtain a loan.
4. Reasons [53] is affected by illogicality, irrationality or legal unreasonableness, in that there is no intelligible basis to have found the appellant's evidence to

---

<sup>11</sup> Tribunal Reasons, at [84].

<sup>12</sup> Tribunal Reasons, at [74]-[75].

be “nonchalant”, or alternatively, the Tribunal failed to comply with s34(4)(d) in that it did not refer to the evidence which is supposedly “nonchalant”.

5. Reasons [75] is affected by illogicality, irrationality or legal unreasonableness.
  - a) The offer to sell a kidney or other body part, as security for the debt, was made in a context where the lender was dubious about the ability to repay, but also in a context where the appellant was setting off for Australia. There is no mention of Nauru.
  - b) It would have been strikingly obvious to the lender that the offer to sell a body part had currency only if the appellant was returned to Bangladesh; only then could Shylock take his pound of flesh.
  - c) In failing to deal with this obvious point, Reasons [75] represents an attempt to dance around a highly confronting feature of this case, which is that upon any return to Bangladesh, an expectation had been created in favour of the lender that repayment was back-stopped by the appellant’s offer to sell a kidney.
  - d) It was irrational for the Tribunal to ignore the obvious points that whilst the appellant remained overseas, it is likely that he could work to earn money and repay the debt.
6. The Tribunal failed to afford procedural fairness to the appellant by not having the interpreter at hearing translate important documents (reasons [77])
7. The Tribunal failed to comply with s34(4), or its decision is affected by illogicality, irrationality or legal unreasonableness, in that the Tribunal adopts faulty reasoning.
  - a) To the extent that reasoning can be discerned, it might be that: (i) there have been extensive changes in Bangladesh at the national level; (ii) these changes might have impacted the appellant’s local area; (iii) the appellant has not shown that the national level changes have not impacted his local area.
  - b) That reasoning does not amount to a valid “reason” under s34(4)(a), or is illogical, irrational, or unreasonable, as it effectively applies a sort of “onus” in connection with the information about changes at national level, that the appellant should show that those changes have not flowed down to his area.
  - c) However, the evidence before the Tribunal was that prior to the disempowerment of the Awami League in 2024, the JI were suppressed with violence by government actors under control of the Awami League (in the ICG Report). Those changes at national level are uncertain and mosaic in their application to local levels.
  - d) The appellant’s evidence was that there were not any material changes in his local area based on recent conversations with his family.
  - e) The Tribunal was required to assess whether there was a reasonable possibility that, in light of this evidence, the Awami League might cause harm to the appellant.
  - f) Put another way, there was an insufficient probative basis in the evidence to support a conclusion that changes at the appellant’s local level had in fact taken place.
8. The Tribunal did not adequately consider [109]-[128] of the appellant’s written submissions.

9. The Tribunal failed to afford procedural fairness in not notifying the appellant of the country information at footnote 12 Reasons [59].
20. At the hearing, the Appellant abandoned Grounds 1, 6 and 9 and refined Ground 2 by amending it to a claim of failure to give adequate reasons.<sup>13</sup>
21. Thus, the Appellant relied upon the amended Ground 2 and Grounds 3, 4, 5, 7 and 8.

## SUBMISSIONS ON BEHALF OF THE APPELLANT

### Second Ground

22. On behalf of the Appellant Mr Aleksov of counsel relied upon the judgment of Brady J in *AJ 24 v Republic of Nauru*<sup>14</sup> in respect of the adequacy of reasons pursuant to its statutory obligations arising from section 34(4) of the Refugees Convention. His Honour reasoned as follows:

146. Section 34(4) of the Act requires the Tribunal to “refer to the evidence or other material on which the findings of fact were based”. The Tribunal here did not comply with that obligation. There is no reference by the Tribunal to the evidence or other material on which the following findings of fact at [69] and [70] were based:

(a) The finding summarised at 143(e) above that the AL has lost the backing of institutions such as the police which means it can no longer operate with impunity;

(b) The finding summarised at 143(f) above that the AL are not current powerbrokers or that they could act with impunity as they had in the past; and

(c) The finding summarised at 143(g) above that those at the local level are not still subject to AL administrators or security authorities who can continue to act with impunity.

147. The Tribunal did not refer to any country information in support of those findings. There was evidence before the Tribunal which was counter to those findings, including from the Appellant and also the evidence noted above about Hasina’s judges, bureaucrats, police and military commanders remain in substantial control at the local level. I do not accept the Republic’s submission that the evidence of the Appellant at T20 lines 25 to 30 of the Tribunal transcript is evidence which supports the conclusions at 143(e) to (g). Regardless, the Tribunal referred to none of that evidence in its decision. *It is simply not possible to know what evidence was relied on by the Tribunal on this issue, and why.*

148. In an analogous fashion to the observations of the Australian High Court in *DL*, s 34(4)(d) of the Act requires that the Tribunal discharge its obligation in a manner to permit the parties, and this Court, to understand the evidential basis for the decision. *I am unable to understand the basis for*

---

<sup>13</sup> Transcript, at p2.

<sup>14</sup> [2025] NRSC 15.

*the findings recorded at 143(e) to (g) because I do not understand what evidence, if any, formed the basis of the Tribunal's findings of fact in that regard. It may be that the Tribunal considered the evidence that ran counter to the conclusions at 143(e) to (g) and rejected that evidence. Perhaps the Tribunal considered those conclusions nevertheless to follow ineluctably from the fact of the fall of the Hasina government regardless of evidence to the contrary. Or maybe those conclusions were simply based on speculation or conjecture. In the absence of compliance with the requirements of s 34(4)(d) of the Act however, I simply do not know if that is so. [emphasis added]*

23. Mr Aleksov argued that there was a comparable flaw in paragraph [52] of the Tribunal's Reasons which reads as follows:

on the applicant's evidence that his father, despite his long-term JI membership, his local leadership position from 2016 and his strong following, was able to sustain his family and property interests in the area over a long period. In other words, the applicant did not explain adequately why AL activists (and in his father's case, the police) failed to take decisive action against him and his father, when there had been ample opportunities for them to do so.<sup>15</sup>

24. Mr Aleksov's argument was that the reasons of the Tribunal were non-compliant with section 34 because the Tribunal did not identify what it was about the Appellant's explanation (about the failure of AL to take action against him and his father) was inadequate given that the Appellant had explained that his father was popular and so, if he was attacked, people would become angry and so the influence of AL would diminish.<sup>16</sup>

### **Ground Three**

25. Mr Aleksov contended that the Tribunal's reasoning at dot point two in paragraph [52] was also illogical, irrational or unreasonable. The relevant paragraph reads as follows:

The applicant appeared to expand his claims over time, and the Tribunal is not satisfied that his father sustained a number of beatings, or that he later stayed with friends or relatives to avoid harm from local officials or AL activists. On the contrary, his father's ability to take on a JI leadership in 2016, to sustain a program of works and followers, and later qualify for both a secured and an unsecured loan, all suggest that any harassment from local officials or AL activists was limited, and did not amount to persecution or proscribed treatment.

26. He argued that the Appellant's father's ability to take on a JI leadership position in 2016, to sustain a program of works and followers, and later qualify for both a

---

<sup>15</sup> Tribunal Reasons, at [52], dot point 1.

<sup>16</sup> Transcript, at p11.

secured and unsecured loan was not rationally affected by the nature of the harassment from AL activists. Put another way, he asserted that, whether or not the Appellant's father was harassed by AL activists does not have any rational or probative connection with whether his father was able to take on a JI leadership role and does not have a connection with whether his father was able to obtain a loan.

27. At the very least, he argued, the Appellant's father's ability to secure a loan is not connected to the claimed beatings.

#### **Ground Four**

28. Mr Aleksov argued that paragraph [53] of the Tribunal's Reasons is also affected by illogicality, irrationality, or legal unreasonableness. Relevantly, paragraph [53] reads as follows;

Strikingly, the applicant did not present any express claims based on local officials' alleged refusal to grant him a smart NIC, but only referred to it in passing (when explaining why he did not have formal JI membership or voter ID). This is surprising given DFAT information that national ID cards are required to obtain various services and complete various transactions. The applicant's somewhat nonchalant evidence on this issue leads the Tribunal to question whether he was in fact denied a smart NIC on political grounds; and/or whether he continued to hold an older form NIC (which he would have had to obtain when turning 18, in July 2015). Taking all of this into account, the Tribunal does not accept that local officials denied the applicant essential documentation on political grounds, thereby denying him the opportunity to access certain basic services and transactions.

29. He argued that there is no intelligible basis to have found the Appellant's evidence to be "nonchalant". He asserted that nonchalance may not have been the concept intended by the Tribunal, as the context reveals that it was deployed by the Tribunal critically, and the term "flippant" may have been closer to what the Tribunal intended. However, he conceded that it was not for the Appellant to rewrite the Tribunal's reasons.

30. In the alternative, Mr Aleksov argued that the Tribunal failed to comply with s34(4)(d) of the Refugees Convention in that it did not refer to the evidence which it regarded as "nonchalant".

31. In oral argument, Mr Aleksov argued that there was illogicality or irrationality in the Tribunal's reasoning process in wrongly expecting the Appellant to make a protection claim assertively that he was persecuted by not being given a national identity card<sup>17</sup>

#### **Ground Five**

---

<sup>17</sup> Transcript, at p17.

32. Mr Aleksov argued that paragraph [75] of the Reasons is also affected by illogicality, irrationality, or legal unreasonableness. Paragraph [75] reads as follows:

The Tribunal does not accept that any such statement resulted in the applicant being subject to any enforceable legal obligation to sell his kidney (etc.) in the future. Importantly, it also did not lead to any expectation on Mr R's part that he had a right to demand this of the applicant, or to take extra-judicial steps to enforce it. The Tribunal also takes into account the applicant's evidence at hearing that Mr R knew the purpose of the loan, to fund the applicant's travel abroad. As the Tribunal flagged at hearing, it does not make much sense for Mr R to accept as security for a loan the body parts of a person whom he knew would be outside the country, and whose return was uncertain.

33. Mr Aleksov argued that the offer to sell a kidney or other body part, as security for the debt was made in a context where the lender was dubious about the ability to repay, but also in a context where the Appellant was setting off for Australia.
34. Mr Aleksov asserted that it would have been strikingly obvious to the lender that the offer to sell a body part had currency only if the Appellant was returned to Bangladesh – only then could Shylock take his pound of flesh. He asserted that in failing to deal with this obvious point, paragraph [75] of the Reasons constitutes an attempt to dance around a highly confronting feature of the case – that upon any return to Bangladesh, an expectation had been created in favour of the lender that repayment was back-stopped by the appellant's offer to sell a kidney.

## **Ground Seven**

35. Mr Aleksov argued that paragraph [100] of the Tribunal's Reasons failed to provide adequate reasons in compliance with s34(4), or is affected by illogicality, irrationality, or legal unreasonableness in that the Tribunal adopted faulty reasoning.

36. Paragraph 100 reads as follows:

These points do not assist the applicant. First, the representative's submissions refer to UNHCR commentary on the cessation of refugee status where it has been granted previously; the Tribunal's task is to determine whether the applicant has a well-founded fear of Convention-related persecution in the reasonably foreseeable future. Second, the applicant's assertions that political changes have not taken root in Chaugachha is unsubstantiated; it does not sit well with other aspects of the applicant's evidence about local politics; and it does not sit well with country information that the changes in parts of the Bangladesh bureaucracy have been profound. Third and most significantly, they do not address the Tribunal's findings that the applicant has had only a marginal involvement with the JI and is not a person of adverse interest to anyone.

37. Mr Aleksov asserted that to the extent reasoning can be discerned in what is stated by the Tribunal, it might be that: (i) there have been extensive changes in Bangladesh at the national level; (ii) these changes might have impacted on the Appellant's local area; (iii) the Appellant had not shown that the national level changes have not affected his local area.
38. He argued that this reasoning does not amount to a valid "reason" under s34(4)(a), or is affected by illogicality, irrationality or unreasonableness as it effectively applies a form of onus in connection with the information about changes at national level: that the Appellant should show that those changes have not flowed down to his area.
39. However, Mr Aleksov asserted, the evidence before the Tribunal was that prior to the disempowerment of the AL in 2024, the JI was suppressed with violence by government actors under control of the AL, as stated in the ICG Report. Those changes at a national level, though, he said, are uncertain and mosaic in their application to local levels.
40. Mr Aleksov noted that the evidence of the Appellant, based on conversations with his family, was that there were not any material changes in his local level.
41. The flaw, it was argued on behalf of the Appellant, was that the Tribunal was required to assess whether there was a reasonable possibility that, in light of this evidence, the AL might cause harm to the Appellant. Put another way, there was insufficient probative basis in the evidence to support a conclusion that changes at the Appellant's local level had in fact taken place.

## **Ground Eight**

42. Mr Aleksov maintained that there was no mention of country information, in particular from "The Conversation" in the Tribunal's reasons, although this was the most recent information available to the Tribunal. He said that it should be inferred that the Tribunal did not consider that aspect of the submissions in the sense of not engaging with or evaluating that material sufficiently, or otherwise not attending to the submissions with sufficient effort: "This is because the Tribunal does no more than mention the evidence of the submissions but does not address the detail of the submissions in its Reasons."<sup>18</sup>

## **SUBMISSIONS ON BEHALF OF THE RESPONDENT**

### **Ground Two**

43. Mr Brown of Senior Counsel for the Respondent asserted that the Tribunal plainly considered the Appellant's evidence that AL supporters had not taken the opportunity to attack him or his father because his father was popular in the village

---

<sup>18</sup> Submissions, 6 May 2025 at [34].

and the people who supported him would retaliate (at paragraphs [51]-[52 of the Reasons)

44. He asserted that it was clear that the Tribunal doubted the veracity of the Appellant's claims of past harm in circumstances where the Appellant's father has been able to continue with his activities. It accepted (at [94]) that the Appellant's father experienced some harassment that "affected him" but did not accept that he had been subject to credible threats to kill or harm him. Thus, the Tribunal reasoned that it was not persuaded by the Appellant's account as to why neither he nor his father had been harmed and there were AL activists available to commit the harm. Mr Brown made the point that the Tribunal was not obliged to accept uncritically all that the Appellant said and it could not be impugned for such an approach.<sup>19</sup>

45. He identified that the Tribunal was unpersuaded that there were any credible threats to harm the Appellant

### **Grounds Three, Four, Five and Seven**

46. It was said by the Respondent to be open to the Tribunal to engage in the reasoning in which it did engage and to make the findings which it made on the material before it.

47. Mr Brown noted that the Tribunal chose its words carefully in accepting (at [94]) that the Appellant's father may have suffered some harassment and criticism and that the previous government's conduct "may have affected him"; however, this fell short of persecution. He contended that what the language used by the Tribunal plainly means is the reservations based on its reasoning were not overcome by the explanation given by the Appellant at the hearing in relation to the support commanded by his father.<sup>20</sup>

48. He urged in respect of Ground 3 that the second dot point in paragraph 52 be read in context with the remainder of paragraphs 51 and 52. He argued that it was open to the Tribunal to reason in the way that it did and that in substance the Tribunal found that the Appellant's father was able to get on with his life and that it doubted the seriousness of the harm that the Appellant said that he suffered – "one of the things your father was able to do was to go and get both secured and unsecured loans."<sup>21</sup>

49. In respect of Ground 4 Mr Brown argued that the concern of the Tribunal was that the impact of not having a national identity card was not put squarely as part of the Appellant's claim. He urged that the Appellant was "fixed with what the agent's done and in any event, what is plain is this matter, which the Tribunal said it's

---

<sup>19</sup> Transcript, at p29.

<sup>20</sup> Transcript, at p29.

<sup>21</sup> Transcript, at p31.

surprised about given the gravity of the consequences that it would have for the applicant.”<sup>22</sup>

50. In respect of Ground 5, Mr Brown argued once more that the reasoning adopted by the Tribunal was open to it and was unimpeachable.<sup>23</sup>

51. In respect of Ground 7, Mr Brown contended that the Tribunal had not engaged in a reversal of onus but that it simply had not accepted the account proffered by the Appellant.

## **Ground Eight**

52. Mr Brown identified that the submissions of 9 November 2024 were extensively referred to by the Tribunal in paragraphs 12, 38, 86-87, and 99-100. He asserted that the only inference that is open is that the Tribunal considered the country information and to the extent that it did not refer to certain matters, it did not consider them to be material.

## **CONSIDERATION**

### **Ground 2**

53. It was argued on behalf of the Appellant that the Tribunal did not explain adequately why AL activists (and in his father’s case, the police) failed to take decisive action against him and his father, when there had been ample opportunities for them to do so. However, I find no defect in the Tribunal’s reasoning at para [52] of the Tribunal’s Reasons. Straightforwardly, the Tribunal identified that neither the Appellant nor his father had been the subject of serious adverse conduct or reprisal, although there had been many opportunities over a lengthy period for such conduct.

54. Under the heading “Threats and harm in Bangladesh” (at paras [466] ff) the Tribunal reviewed the claims by the Appellant about actions the Appellant said had been taken against him and his father. It is clear that it was dubious about the accounts that the Appellant gave over time. Amongst other things, it queried the Appellant (at [49]) about how his father had been able to continue living in his family home as household head and undertaken his political work. It noted that his father had not been hospitalised at any time in spite of what the Appellant claimed were the injuries he had suffered (at [50]) and it was concerned about how it could be that AL did not target his father (at [51]). This led the Tribunal to be unpersuaded that there in fact had been credible threats against the Appellant.

55. At para [52] of its Reasons, the Tribunal noted the absence of “decisive action” being taken against the Appellant’s father, although there was the opportunity for AL activists to do so, when he remained in the family home and undertaking

---

<sup>22</sup> Transcript, at pp32-33.

<sup>23</sup> Transcript, at p33.

political work. It did not find the Appellant's explanation of the failure to take such action "adequate", namely that JI supporters would have reacted angrily (at para [51]). This was a finding that was open to the Tribunal; this reasoning is neither inadequate nor a breach of its obligation under section 34.

### **Ground 3**

56. A similar concern was raised on behalf of the Appellant in respect of the second dot point in paragraph [52]. In this regard the Tribunal doubted the accuracy of the Appellant's accounts about violence he said had been perpetrated toward his father or that the Appellant stayed with friends or relatives to avoid harm. It reasoned that his father's taking on a JI leadership role, continuing a program of works and followers and then obtaining a loan (both secured and unsecured) all suggested that any harassment against him was of a low order. Thus, the Appellant was not believed. This line of reasoning was open to the Tribunal – each issue, including being able to obtain a loan, was an indication of his continuing to function within his community without major impediment - and does not contain any logical or other flaw.

### **Ground 4**

57. This ground relates to the last dot point in para [53] of the Tribunal's reasoning where the Tribunal doubted the alleged refusal to grant the Appellant a smart NIC card. In short, the Tribunal did not find the Appellant's position on the issue to be persuasive given the importance of such cards. As part of its evaluative process, the Tribunal took into account the way in which the Appellant responded to the issue being raised with him, classifying it as "nonchalant". It was entitled to take into account the way that the Appellant framed his claim in determining whether or not it should accept his account, especially in the context of other information that national ID cards are required to obtain various services and to complete various transactions. In short it was not persuaded by it.

58. The fact that it so found in the circumstances does not constitute a breach of section 34(4)(d) of the Act. Nor was its reasoning illogical, irrational or unreasonable.

### **Ground 5**

59. This ground relates to further assertions of illogicality, irrationality or unreasonableness in respect of paragraph [75] of the Tribunal's Reasons.

60. The complaint made on behalf of the Appellant lacks merit. The Tribunal (at [74]) accepted that it was possible (no more than this, noting its expressed doubts about the Appellant's credibility) that the topic of the Appellant being prepared to sell his kidney or blood if he defaulted on the loan sought from the creditor. The Tribunal found that the offer from the Appellant was in the context of the Appellant trying to impress the creditor of his sincerity given, according to the Appellant, the creditor initially declined to provide the loan.

61. The Appellant informed the Tribunal that the creditor was aware of the purpose of the loan, namely to fund his travel abroad. This resulted in further doubts about the Appellant's account because, as it stated, it did not make sense for the creditor to accept as security for the loan body parts of a person, as asserted by the Appellant, who would leave the country and may or may not return.

62. The Tribunal's reasoning in this respect is not illogical, irrational or unreasonable.

## **Ground 7**

63. This ground again asserts illogicality, irrationality and unreasonableness, together with a breach of section 34(4)(d).

64. At paragraph [95] of its Reasons the Tribunal found no reasonable possibility of the Appellant being subject to persecutory harm for any reason associated with his and his family's association with JI. It gave its reasons for this, placing particular weight on its assessment of past events and the conditions applying in his home area. At paragraph [96] it further explained that country information about recent developments in Bangladesh also played a role in its assessment. It explained this, noting the change in government and many AL figures and agents, including police officers, having gone into hiding, suggesting they no longer dominated the political landscape and were no longer able to act with impunity.

65. The Tribunal explored with the Appellant at paragraph [97] the impact of these changes in his area and identified anomalies in his evidence about the support for AL in his area. It stated (at paragraph [98]) that it was conscious of the need for caution in extrapolating changes at the national level to the local and observed, again relevant to the Appellant's credibility, that it sensed the Appellant was resisting the proposition that circumstances had eased politically in his home area.

66. In carefully worded reasoning, at paragraph [99] the Tribunal considered submissions made on behalf of the Appellant, as well as his statements, and found that they did not assist him at paragraph [100]. The Appellant was postulating that contrary to the general country information about the improvement in political circumstances after the change in government, the changes had not percolated to the Appellant's home area. It found his assertions not to "sit well" with other aspects of his evidence or other country information about the depth of the political changes throughout Bangladesh. Finally, and it stated "most significantly", the Tribunal (at paragraph [100]) stated that the assertions of the Appellant failed to address the fact that, anyway, the Appellant had only a marginal involvement with the JI and was not a person of adverse interest to anyone.

67. The Tribunal's reasoning in this regard was carefully considered, expressed and transparent. It did not constitute a reversal of onus. Nor did it fall into the class of reasoning identified by Brady J in *AJ 24 v Republic of Nauru*<sup>24</sup>. It was not illogical, irrational or unreasonable and it did not constitute a failure to comply with section 34(4)(d).

---

<sup>24</sup> [2025] NRSC 15 at [146]-[147].

## Ground 8

68. This ground maintains that it should be inferred that the Tribunal did not consider the aspect of the submissions relating to an article published on 7 December 2024 in *The Conversation* or other material relied upon by the Appellant in the sense of not engaging with or evaluating that material sufficiently, or otherwise not attending to the submissions referring to this with sufficient effort.
69. Firstly, the submissions of 9 November 2024 were extensively referred to by the Tribunal - in paragraphs 12, 38, 86-87, and 99-100. The article in *The Conversation* was referred to in paragraph 126 of the submissions on behalf of the Appellant dated 9 November 2024<sup>25</sup> which ultimately went little further than to express concern about the various problems facing Bangladesh and the need for the new government to grapple with “governance problems, political instability, religious extremism and a fragile economy.”<sup>26</sup>
70. On a fair reading, the fact that the Tribunal did not explicitly engage with the article in *The Conversation* in the circumstances, or discuss in detail all parts of the country information provided by the Appellant, does not amount to a relevant failure to deal with the issues raised by the Appellant or a failure to engage with the Appellant’s written submissions of 9 November 2024 under the heading “Recent Development in Bangladesh”. It is clear that it apprised itself of the submissions. It is open to infer that the Tribunal’s failure to refer to specific components of the information, such as the article in *The Conversation*, is because it did not consider them to be material

## CONCLUSION

71. Under section 44(1)(a) of the *Refugees Convention Act 2012* (Nr), the appeal is dismissed and the decision of the Tribunal dated 26 February 2025 is affirmed

Ian Freckelton

-----  
Justice Ian Freckelton  
Dated this 8<sup>th</sup> day of August 2025



<sup>25</sup> Court Book, at pp154-155.

<sup>26</sup> This was referred to in exchanges with the Tribunal: see Court Book at .234.