



IMMIGRATION AND REFUGEE BOARD
(REFUGEE PROTECTION DIVISION)

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

s.19(1)

IN PRIVATE
HUIS CLOS
TA5-00150

CLAIMANT(S)

DEMANDEUR(S)

DATE(S) OF HEARING

March 7, 2006

DATE(S) DE L'AUDIENCE

DATE OF DECISION

March 7, 2006

DATE DE LA DÉCISION

CORAM

CORAM

Suparna Ghosh

FOR THE CLAIMANT(S)

POUR LE(S) DEMANDEUR(S)

**F Semafumu
Assisting without fee**

REFUGEE PROTECTION OFFICER

N/A

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

N/A

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

N/A

CONSEIL DE LA MINISTRE

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is a 45 year-old female from who claims to be a Convention refugee on the basis of her membership in a particular social group, namely, bisexuals. She also claims to be a person in need of protection from a danger of torture, or risk to life, or cruel and unusual treatment or punishment. The Chairperson's Gender Guidelines¹ have been considered by the panel.

DETERMINATION

The Refugee Protection Division (RPD) has determined that the claimant is not a Convention refugee or a person in need of protection. For reasons which follow, the panel finds the claimant lacks credibility.

ANALYSIS

Background

According to the claimant, she has always been bisexual. Her first relationship with a married man, with whom she was pregnant at the time, ended in 1986 when he realized her sexual identity; she claimed he would not have divulged this to anyone because he was married. She worked in a hotel where she had a room. In 2004, she was allegedly discovered by workers in the hotel in a compromising position with another woman, whose family blamed the claimant for his behaviour, and threatened to harm her, precipitating her escape to Canada in 2004.

¹ Chairperson's Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution: November 1996, as continued in effect on June 28, 2002, pursuant to section 159(1)(h) of the *Immigration and Refugee Protection Act*.

Written and oral evidence, and immigration documents

There are several inconsistencies between the claimant's testimony, her Personal Information Form (PIF) narrative, and the information she provided to an immigration officer (IO) when she made her claim.

Agents of persecution or harm – The claimant stated that the two men who discovered the claimant with [redacted] held both the claimant and [redacted] but they managed to run away; this is not mentioned in her PIF narrative, because she was nervous, and not everything is included in her story.

The claimant testified that she ran home after the incident, and was chased by [redacted]'s brothers; she told the IO during her interview:²

... two of the girl's brothers came in my yard and I had to run because they had weapons and they are very violent.

This information is not in the claimant's narrative; once again she attributed the omission of this significant detail from her written evidence, regarding her agent of persecution or harm, who were allegedly the reason why she fled from her country, to her nervousness and depression.

According to the claimant's testimony, when she was chased, she ran to [redacted]'s house, who took care of the claimant's children; [redacted] is also bisexual, and the claimant was sexually involved with her as well; there is no mention in her narrative of this relationship with [redacted] again because she was nervous. She testified that the next day, on [redacted], 2004, [redacted] went to the claimant's house to get the children's clothes; there she

² Exhibit M-1, Record of Examination.

saw s mother, Mrs. s two brothers, and the police; apparently, heard Mrs. saying that the claimant was involved with her daughter.

It was pointed out to the claimant that there is no mention in her narrative of seeing Mrs. and her family, as well as the police, at her place; that she told the IO during her interview that when went to the claimant's house, her husband told her Mrs. and the police were there, and looking for the claimant. The claimant repeated, without answering the question that the people noted above were there, and that did not talk to them.

To the IO the claimant said that she was also afraid of the father of her older daughter, who is a police officer; however, her narrative makes no mention of her fearing this man with whom she was involved 20 years ago, in 1986; in fact, she testified he would not divulge her bisexuality, because he was already married at the time of their involvement. She said, without addressing the omission that, he is still a police officer, and since the police now know about her, she is afraid of him too.

To substantiate her fear, the claimant said Mrs. threatened her, and her dogs were poisoned; again, neither her narrative, nor her interview with the IO noted this crucial information; however, she told the psychologist about this incident.³

The claimant's interview with an IO was her first opportunity to describe why she fears to return to her country. Question 31 clearly requires that **all the significant events and reasons** that led to the claim be set out in the narrative. The panel finds who it is the

³ Exhibit C-2, Dr. s report of 2005.

claimant fears and why is pivotal to the claim. The numerous inconsistencies regarding her agents of persecution or harm discount the validity of her story.

Relationship in Canada - The claimant stated that she was now in a relationship with [redacted], with whom she was also involved when [redacted] was in [redacted] before 1990.⁴ There is no mention about her same-sex relationship with [redacted] either during her interview with the IO, or in her narrative; she said she did refer to [redacted] as her girlfriend. It was pointed out to her that she referred to [redacted] in her narrative as a girlfriend too, but described her as just a friend in her testimony; she said she believed she had mentioned it.

The omission of such a critical component of the claimant's account from her written evidence further reinforces the panel's finding above that the claimant lacks credibility. The panel has given little weight to documents emanating from such evidence.⁵

Hiding - The claimant testified that to protect herself, she had to hide with a friend at [redacted] from [redacted], 2004 to [redacted], 2004, when she left her country. Question 11 of her PIF, and the immigration documents,⁶ however, state that she was at [redacted] from [redacted] 2004; she said this was a mistake. Question 7 of the immigration documents,⁷ requires that a complete list of addresses be provided for each month in the past 10 years. The panel finds the discrepancies between her written and oral evidence further reflect negatively on her credibility.

⁴ Exhibit C-2, C-3.

⁵ Madahar, Makhan Singh v. M.C.I. (F.C.T.D., no. IMM-400-99), Blais, October 21, 1999.

⁶ Exhibit M-1, Schedule 1, Background Information, question 7.

⁷ Exhibit M-1, Schedule 1, Background Information.

Under the circumstances, the panel finds there is insufficient credible or trustworthy evidence that the claimant has a well-founded fear of persecution by reason of any of the enumerated Convention grounds. The panel also finds the claimant is not a person in need of protection pursuant to sections 97(1)(a) or 97(1)(b) of the *Immigration and Refugee Protection Act*.

CONCLUSION

In view of the above, the Refugee Protection Division has determined that the claimant is not a Convention refugee or a person in need of protection.

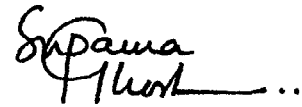
"Suparna Ghosh"
Suparna Ghosh

DATED at Toronto this 7th day of March, 2006.

Under the circumstances, the panel finds there is insufficient credible or trustworthy evidence that the claimant has a well-founded fear of persecution by reason of any of the enumerated Convention grounds. The panel also finds the claimant is not a person in need of protection pursuant to sections 97(1)(a) or 97(1)(b) of the *Immigration and Refugee Protection Act*.

CONCLUSION

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Suparna Ghosh

DATED at Toronto this 7th day of March, 2006.