



RPD File No. / N° de dossier de la SPR : TB1-19094  
TB1-19126

*Private Proceeding / Huis clos*

## Reasons and Decision – Motifs et décision

**Claimant(s)**

XXXX XXXX XXXX  
XXXX XXXX XXXX

**Demandeur(e)(s) d'asile**

**Date(s) of Hearing**

January 16, 2013

**Date(s) de l'audience**

**Place of Hearing**

Toronto, Ontario

**Lieu de l'audience**

**Date of Decision**

August 26, 2013

**Date de la décision**

**Panel**

M. Yaacov

**Tribunal**

**Counsel for the  
Claimant(s)**

Ceri P Forbes  
(Barrister and Solicitor)

**Conseil(s) du / de la / des  
demandeur(e)(s) d'asile**

**Tribunal Officer**

N/A

**Agent(e) de tribunal**

**Designated  
Representative(s)**

XXXX XXXX XXXX

**Représentant(e)(s) désigné(e)(s)**

**Counsel for the  
Minister**

N/A

**Conseil du ministre**

[1] XXXX XXXX XXXX and her daughter XXXX XXXX XXXX claim refugee protection pursuant to sections 96 and 97 of the *Immigration and Refugee Protection Act*<sup>1</sup> (IRPA). The adult claimant was appointed as her daughter's designated representative.

## ALLEGATIONS

[2] The adult claimant is an Eritrean citizen of Tigrinya ethnicity born in XXXX. XXXX at the time of her birth was a part of Ethiopia.

[3] The minor claimant is the adult claimant's daughter and she was born in XXXX. The adult claimant does not know where her husband is since she left Eritrea.

[4] The claimants are Jehovah's Witnesses. Jehovah's Witnesses have been banned from practicing their religion for several years in Eritrea and if they are discovered by the authorities they are subjected to detention and physical and mental abuse.

[5] Her faith does not allow the adult claimant to serve an earthly authority. In Eritrea, there is mandatory government service for all those over 18. The claimant does not wish to serve as it is against her religion. Those who avoid government service are also imprisoned and face all kinds of terrible abuses.

[6] The claimants fled Eritrea in order to escape religious persecution.

[7] In XXXX 2011, they traveled to XXXX Sudan where an agent was arranged to bring them to Canada. They arrived in Toronto on XXXX XXXX, 2011 and made a claim for refugee protection inland on November 18, 2011.

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<sup>1</sup> *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, as amended, sections 96, 97(1) (a) and 97(1)(b).

## DETERMINATION

[8] The claimants are neither Convention refugees, nor persons in need of protection.

## ANALYSIS

### Identity

[9] As the adult claimant did not provide acceptable documents to establish her identity and that of her daughter and as the adult claimant did not testify credibly with respect to questions pertaining to her identity and that of her daughter, the panel determines that the claimants have not established their respective identity on a balance of probabilities.

[10] The adult claimant testified in Tigrinya which she identified as her first language in her Personal Information Form (PIF) and which is one of the official languages of Eritrea. However, Tigrinya is not a language exclusively spoken in Eritrea as the Tigrinya people are the traditional inhabitants of the area known as the Highlands<sup>2</sup>, a region which straddles the countries of Eritrea and Ethiopia. Tigrinya is a Semitic language also spoken by the Tigreans of Ethiopia.<sup>3</sup>

[11] The only documents submitted to establish the claimants' identity were their birth certificates.<sup>4</sup> The birth certificates are prepared in English only, and only the mother's name appears on the birth certificates as there is no space where to enter the child's father's name. The claimants' address shown on the birth certificates is an address in XXXX which is the adult claimant's alleged birth place, however, according to their PIFs, at the time of registration both claimants resided in XXXX.

[12] The adult claimant testified that she obtained the birth certificates in English for no particular reason other than that she wanted them in English.

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<sup>2</sup> Exhibit R/A-1, National Documentation Package (NDP), Eritrea, 8 June 2012, Item 1.2, The Europa World Year Book, 2012, "Eritrea", pp. 1680.

<sup>3</sup> Exhibit R/A-1, NDP, item 2.4, United Kingdom Home Office, August 17, 201, Paragraph 19.04.

<sup>4</sup> Copies of these birth certificates are found in Exhibit R/A-2, "Information received from CIC.". The originals are held by CIC.

[13] According to the adult claimant, she attended to register her birth herself, was not asked to provide any identity document to prove who she was and provided the information required orally.

[14] The minor claimant's birth certificate indicates that she was born in XXXX on XXXX XXXX, 2004 and that her birth was registered on XXXX XXXX XXXX 2004. The adult claimant testified that she also applied personally for her daughter's birth certificate, that she was not asked for a hospital certificate, and that the XXXX XXXX Hospital where her daughter was allegedly born did not issue her a hospital certificate or other document establishing that the child was born there.

[15] According to the United States (US) Department of State (DOS report):<sup>5</sup>

Registration of a new birth within the first three months of a child's life requires only a hospital certificate; after three months the parents must present themselves to the local (zoba) authorities with the child and three witnesses. If not registered a child cannot attend school but can receive medical treatment at hospitals. An increasing number of persons registered their children within the three-month period to avoid complications.

[16] The adult claimant's testimony about how she registered her birth and that of her daughter was inconsistent with relevant information found in the country condition documents on that issue and the panel finds that the claimants' birth certificates were either improperly obtained or were forged, and that they are not acceptable documents for establishing the claimants' identity and country of citizenship.

[17] In the case of *Yip v. M.E.I.*,<sup>6</sup> the Federal Court held that the claimant has the fundamental obligation of establishing his or her identity, on a balance of probabilities. The claimants have not discharged this obligation.

## Credibility

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<sup>5</sup> Exhibit R/A-1, National Documentation Package (NDP) for Eritrea, (June 8, 2012), item 2.1, United States Department of State, May 24, 2012, pp. 24.

<sup>6</sup> *Yip, Fu On v. M.E.I.* (F.C.T.D., no. A-921-92), Nadon, October 27, 1993.

[18] For reasons set out below, the panel also finds that the adult claimant's allegations and testimony were not credible on a balance of probabilities.

[19] The adult claimant testified that she and her daughter entered Canada with fraudulent British passports acquired in XXXX. However, she could not recall important identity information contained in the passports or the questions she was asked when she went through customs. Moreover, according to the adult claimant she cleared customs without a customs form. The adult claimant's testimony about the manner in which she and her daughter entered Canada was at best improbable and the panel disbelieves her testimony on that subject.

[20] Asked how she made the trip from XXXX to XXXX with her daughter, the adult claimant testified that she and her daughter walked 4 hours to a location where she hired a car to go to XXXX. The adult claimant could not provide details about where she walked to, how much she paid to hire the car or how much money she had on her person when she set out on her trip. Asked whether she was asked for documents by persons in authority, the adult claimant answered in the negative.

[21] According to the United Kingdom's Operation Guidance Note for Eritrea, freedom of movement is heavily restricted in Eritrea.

All car and bus passengers must show identification cards at military roadblocks before each town of significant size. National service conscripts who cannot present authorisation to travel to a particular location are arrested. Access to border areas is strictly regulated: persons with identification cards showing residence outside the general area are subject to questioning; arrest is likely if they cannot adequately justify their presence.<sup>7</sup>

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But also ordinary citizens required government permission for most travel within the country and to change their places of residence. The government severely restricts travel to the border regions and even bans bus services to certain towns near the border with Ethiopia. Military police periodically set up surprise checkpoints in

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<sup>7</sup> Exhibit R/A-1, item 2.11, United Kingdom Home Office, *Operational Guidance Note: Eritrea*, August 2012, 2.4.4.

XXXX and on roads between cities to find draft evaders and deserters. Police also stopped persons on the street and detained those who were unable to present identification documents or movement papers showing they had permission to be in the area.<sup>8</sup>

[22] The adult claimant's account that she and her daughter left Eritrea undetected was vague and inconsistent with prevailing country conditions and the panel disbelieves her testimony on that subject.

[23] The claimant alleged that she was employed in XXXX yet she testified that she did not have a national identity card. She explained that she had been issued a national identity card at the age of 18 but had lost it before she obtained her birth certificate. She also testified that even though she did not have an identity card from at least 2003 until 2011 this had not caused her any problem as she had not travelled. According to the United Kingdom (UK) Country of Origin Information (COI) Report for Eritrea:<sup>9</sup>

ID cards are compulsory for anyone over the age of 18. They are issued by the Department of Immigration and Nationality in a standard format. They contain: full name, date of birth, place of birth, address and a photograph of the holder. ID cards need to be carried at all times. If found not to be in possession of an ID card, individuals will be detained until such time as one can be produced. They rely on friends or guards to inform their family of their detention [...] by virtue of Article 51 of the T/Criminal Procedure Code of Eritrea, the police and army are empowered to carry out routine checks on individuals unless the person concerned is a member of the diplomatic community. Individuals have to produce their ID card and demobilisation papers...

[24] The adult claimant's testimony on the need, and specifically her need, to have an identity card significantly departed from information contained in the country condition documents and the panel disbelieved her testimony on this point.

[25] When asked where her birth town of XXXX was located, the adult claimant testified that XXXX is in the East then added that she did not remember. Asked how long she lived in XXXX, the adult claimant could not recall. Asked whether she had attended school in XXXX

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<sup>8</sup> Ibid.

<sup>9</sup> Exhibit R/A-1, NDP, item 2.4, United Kingdom Home Office, August 17, 201, Paragraph 27.01.

or just in XXXX, the adult claimant answered that she had only attended school in XXXX. According to information provided in her PIF,<sup>10</sup> she attended elementary school in XXXX and high school in XXXX and the panel disbelieves the adult claimant's testimony that she was schooled in Eritrea.

[26] The adult claimant confirmed that the minor claimant had received her immunization shots<sup>11</sup> while in Eritrea yet when she was asked where her daughter's immunization certificate was she testified that she had not kept it and gave no valid reason as to why. The adult claimant's explanation for not having kept her child's immunization record was not reasonable and further diminishes her credibility.

[27] According to the adult claimant's testimony, her daughter had begun attending school before they left Eritrea. However, she was unsure as to how many years her daughter had attended school, could not remember the name of her daughter's school and did not remember what she had been required to do to register her daughter in school. When asked specifically whether she had to provide her daughter's birth certificate to register her in school, the adult claimant answered that she had not been asked to provide it.

[28] According to the DOS, a child whose birth has not been registered cannot attend school but can receive medical treatment at hospitals.<sup>12</sup> The adult claimant's testimony was inconsistent in this regard with the information available in the country condition documents and the panel disbelieved the claimant's testimony about her daughter's schooling in Eritrea.

[29] When the panel questioned the adult claimant about the circumstances in which she joined the Jehovah's Witnesses, she could neither remember when nor where in XXXX she was baptised. As was the case in other areas of the panel's enquiry, the adult claimant could

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<sup>10</sup> Exhibit C-1, Personal Information Form (PIF), Question 6.

<sup>11</sup> Information contained in UK C.O.I. at paragraph 22.19 (data is for 2009 which is the most recent year available), indicates that the percentage of one-year-old children in Eritrea who have been immunized against tuberculosis, diphtheria, pertussis, tetanus, polio, measles, hepatitis B and haemophilus type b is 99%; Ibid.

<sup>12</sup> Supra note 3, pp. 24.

not provide any details about a key event in her life and the panel disbelieves the adult claimant's claim that she was baptised as a Jehovah's Witness in XXXX.

[30] The adult claimant testified that she received a recruitment letter requiring her to report for national service in 2008 and that her fear of the consequences for refusing to comply were instrumental in her departure from Eritrea. Yet even though in her capacity as a woman with a young child she stood to receive an exemption<sup>13</sup> there is no evidence that she responded to the recruitment letter by requesting an exemption. Nor is there evidence that in the three intervening years between receipt of the recruitment letter and her departure from Eritrea she took any steps to escape the reach of local authorities by leaving her home or her job for instance. As with other aspect of the adult claimant's account of her life in Eritrea and of the motives for her departure, she could not provide context beyond the bare bone of having faced national service recruitment.

[31] On the whole, the adult claimant proved noticeably more successful at recollecting information which required memorization such as information about the history and principles of the Jehovah's Witnesses or the districts of XXXX, than at recollecting basic facts about her own life.

[32] A psychiatric report was prepared by Dr. XXXX XXXX which notes that the adult claimant exhibits complex post traumatic stress. Dr. XXXX attributed these symptoms to a vulnerability "since childhood to the risk of State persecution on grounds of ethnicity and religious commitment, and increasingly exposed as a young to the consequences of risk of punishment by the Government for her conscientious objection to military service in an ongoing military conflict."<sup>14</sup> The panel, after careful review of the evidence including the adult claimant's oral testimony, is not satisfied on a balance of probabilities that the adult claimant's symptoms are attributable to the causes outlined by Dr. XXXX report. Rather the panel has concluded on a balance of probabilities that the circumstances and events which the adult claimant claims precipitated her refugee claim and that of her daughter did not occur.

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<sup>13</sup> Exhibit R/A-1, NDP, item 8.1, Request for Information Report (RIR) No. ERI104179E., September 4, 2012.

<sup>14</sup> Exhibit C-3, pp .2.



[33] Hence the panel finds that the adult claimant's allegation and testimony were not credible on a balance of probabilities.

[34] The claimants having failed to establish their identities on a balance of probabilities and the panel having found that the adult claimant was not credible on a balance of probabilities, the panel further finds that the claimants have not established that there is a serious possibility that they will be persecuted if removed to their country of citizenship.

[35] Nor have the claimants established on a balance of probabilities that they will face a danger or torture, risk to their lives or risk of cruel and unusual treatment or punishment if removed to their country of citizenship.

## CONCLUSION

[36] Based on the foregoing analysis, the panel finds that the claimants are neither

*(signed)*

**"M. Yaacov"**

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**M. Yaacov**

**August 26, 2013**

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**Date**