



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

NEPAL

IAA reference: IAA16/01224

Date and time of decision: 22 December 2016 13:12:00

Fraser Syme, Reviewer

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 473EC(2) of the Migration Act 1958 and replaced with generic information which does not allow the identification of an referred applicant, or their relative or other dependant.

Background to the review

Visa application

1. The referred applicant (“the applicant”) claims to be a member of the Brahmin caste, from Nepal. [In] November 2015 he lodged an application for a safe haven enterprise visa (“SHEV”). [In] October 2016 a delegate of the Minister of Immigration (“the delegate”) refused to grant a SHEV to the applicant.
2. The delegate accepted the applicant is a Hindu Brahmin and that the applicant’s wife was a Buddhist Gurung. The delegate accepted too the applicant’s in-laws had harmed him in the past because the applicant and his wife are in an inter-caste marriage. The delegate accepted as well the applicant was a general member of the *Rastriya Prajatantra Party* (“RPP”) and that Maoists suspected the applicant was responsible for the death of a Maoist Commander in 2005. The delegate found it was reasonable for the applicant to relocate to Kathmandu where he had relocated once before, and that the applicant would not face a real chance of further harm.

Information before the IAA

3. I have had regard to the review material referred by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
4. The applicant did not provide and I have not obtained any new information.

Applicant’s claims for protection

5. The applicant’s claims are contained in the information referred to the IAA. They can be summarised as follows:
 - He is a Hindu Brahmin and his wife is a Buddhist Gurung. Due to his inter-caste marriage, he was harmed by his relatives, in-laws and Nepali society.
 - He is a general member of the RPP. He was harmed in the past by Maoists.
 - He moved to Kathmandu to escape harm, he then went to work in [country 1].
 - After the applicant returned from [country 1], a Maoist relative told the applicant the Maoists are still looking for him. The applicant then moved between Nepal and [Country 2] before coming to Australia.

Refugee assessment

6. Section 5H(1) of the Act provides that a person is a refugee if, in a case where the person has a nationality, he or she is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Well-founded fear of persecution

7. Under s.5J of the Act 'well-founded fear of persecution' involves a number of components which include that:
- the person fears persecution and there is a real chance that the person would be persecuted
 - the real chance of persecution relates to all areas of the receiving country
 - the persecution involves serious harm and systematic and discriminatory conduct
 - the essential and significant reason (or reasons) for the persecution is race, religion, nationality, membership of a particular social group or political opinion
 - the person does not have a well-founded fear of persecution if effective protection measures are available to the person, and
 - the person does not have a well-founded fear of persecution if they could take reasonable steps to modify their behaviour, other than certain types of modification.

Background

8. The applicant's claims for protection have changed overtime. Between his entry interview, SHEV application and SHEV interview, the applicant provided widely different evidence as to his dates of residence in his home village, Kathmandu, [country 1] and [Country 2].
9. At his entry interview, he claimed he was a Hindu, a Brahman and the son of [Country 3 national]parents and that he was single. He stated he was unable to find work in Nepal, so he went to work in [Country 2]. Then he came to Australia. He answered that he had no involvement in any political activities in Nepal.
10. After applying for a SHEV, the applicant wrote a letter dated September 2015 in which he recanted the information in his entry interview as being things he was taught to say by his agent. The letter repeated the claims in his SHEV application, that he feared harm from Maoists due to his pro-RPP political opinion and he feared harm from relatives due to his inter-caste marriage.
11. In his SHEV application, he again claimed to be a Hindu and a Brahman. He claimed to be a general member of the RPP and that he had been harmed by Maoists because he did not listen to their warning to leave the RPP. The Maoists threatened to harm his family if he approached the Nepali authorities. He also was harmed by his relatives for marrying his wife, from a different caste – which is against his religion. To avoid further harm, he and his wife went to Kathmandu. He then went to work in [country 1]. After returning to Nepal, things were still unsafe for him from the Maoists, so he came to Australia via [Country 2], Thailand and Indonesia.
12. At the SHEV interview, the applicant made different claims. Maoists harmed in him 2005 because they blamed him for the death of a Maoist commander. The applicant was visiting his [relative] at the same time a Maoist commander was killed in a battle with the Nepali army. The Maoists suspected the applicant tipped off the army of the commander's whereabouts because the applicant knew the commander, the applicant spoke to the commander about 5 days before the battle and the Maoists knew the applicant was a member of the RPP. The applicant then went to Kathmandu and [country 1]. On his return from [country 1], a relative of his who is in the Maoists told him the Maoists were still looking for the applicant and he

sometimes received calls from private numbers So, he moved between living in Kathmandu and [Country 2] until he was able to come to Australia. At the SHEV interview, he made new claims too regarding being in an inter-caste marriage. His wife is Buddhist and Gurung. His in-law beat him up at the time of his wedding and he was saved by his [relatives] who took him to hospital. His in-laws will try to take his wife back under Gurung custom and will kill him if he returned to Nepal. He added his relatives discriminated against him because of his marriage. They would not eat or drink from his hands. He is also discriminated against to by Nepali society. They keep him out of festivals and their home. He added his wife told him someone was looking for his [child], so his [child] had to change schools.

13. The applicant's admission he provided false claims in the past, together with his inconsistent and varying evidence regarding his claims of past harm and of his whereabouts causes me to have significant concerns regarding the credibility of his claims generally. However, for the purpose of this decision, I am willing to extend to the applicant a very generous benefit of the doubt and accept: he was a general member of the RPP; Maoists suspected him of involvement in the death of the commander in 2005/06; he is a Hindu Brahman and his wife is a Buddhist Gurung, and his in-laws beat him at the time of his wedding (the date of which he has said was in 2004/05). Having gone through all of the various dates he provided, I find the applicant and his wife relocated to Kathmandu in 2005/06. He went to [country 1] to work in 2009, where he stayed for 29 months and returned to Nepal in late 2012 early 2013. He then spent time between Nepal and [Country 2] and left Nepal to come to Australia in around June 2013.
14. Finally for the sake of completeness I note the review material includes only English translations of the supporting documents the applicant provided to the department. However, on listening to the SHEV interview, I am satisfied he provided the Nepali versions of these documents to delegate.

Membership of RPP – Maoists, opponents of RPP

15. I accepted above the applicant was a general member of the RPP and that he was harmed by Maoists in 2005/06 after being accused of causing the death of a Maoist commander. I accepted too the applicant then moved to Kathmandu.
16. I note the country information quoted by the delegate the RPP is a pro-Monarchist, pro-Hindu party, which puts it in opposition to the ruling parties, including the Maoists. I note too the information in the DFAT report ¹ regarding the Maoists role in Nepali politics since Nepal became a republic in 2008 and that the communists are part of the current coalition government elected in 2013. DFAT also reports there is a low risk of harm in Nepal for reason of political opinion and that there is room for people to have active political opinions within Nepal's diverse political parties and views.
17. The evidence before me is after the applicant relocated to Kathmandu in 2005/06 he was not harmed again by the Maoists. He travelled to Saudi Arabia and [Country 2] using his Nepali passport. Maoists have been part of the ruling government since 2008. That the applicant was not stopped by the Maoists at the airport/border when traveling to or from Saudi Arabia and [Country 2] indicates to me he is not someone who is of interest to the Maoists. I am not persuaded by his explanation that is because it is local Maoists in the village of his [relative] who wish to harm him and not the central party. If the local Maoists had an interest in the applicant, they could have use the party structure to locate the applicant. I note the passage of

¹ DFAT Country Information Report Nepal April 2016", *Department of Foreign Affairs and Trade*, 21 April 2016, CIS38A8012676

time since the death of the Maoist commander in 2005. I note the applicant lived in Kathmandu from 2005/06 to 2008/09 and again from 2012 to 2013 without experiencing any harm from the Maoists. I am not persuaded the local Maoists or the Maoists in general continue to have any interest in the applicant regarding the death of the Maoist commander. The applicant provided vague evidence about his relative who is a Maoist telling the applicant to be careful. I am not satisfied that warning means there is a real chance of harm to the applicant. The applicant provided vague evidence too of his receiving phone calls from private numbers and of his wife changing his [child's] school because unknown people were looking for the applicant's [child]. Again, on the evidence before me I am not satisfied either of those incidents is related to a threat of harm to the applicant from local Maoists or the Maoists generally. I accept if the applicant returns to Nepal, he will continue to have a pro-RPP political opinion and will be a general member of that party.

18. Having regard to the above, I consider there to be only a remote or speculative chance and therefore not a real chance the applicant will face serious harm from the local Maoists or Maoists generally or any other political opponents of the RPP because of the applicant's pro-RPP political opinion and/or an actual or imputed anti-Maoist political opinion and/or because he was suspected of causing the death of the Maoist commander in 2005, now or in the reasonably foreseeable future if the applicant returns to Nepal.

Inter-caste marriage – relatives, in-laws, Nepali society

19. The applicant claims under Gurung customs, his in-laws could take his wife back and he fears they may do so. I accepted above the applicant was harmed by her relatives at the time of their marriage. He also claims his own relatives are opposed to his marriage and discriminate against him. He fears his in laws may kill him if he returns to Nepal.
20. I am mindful of information in the DFAT reports regarding harm to people in inter-caste marriages, particularly in rural areas. I note to that discrimination on the basis of caste or religion is illegal in Nepal and that societal attitudes are improving, although there has also been a politicising of caste and ethnicity.
21. The evidence before me is the applicant married his wife in 2004/05 and that they moved to Kathmandu also sometime in 2005/06. She lived alone in Kathmandu while the applicant was in Saudi Arabia and [Country 2]. He told the delegate his wife continues to live in Kathmandu with their [child]. The evidence before me does not indicate the applicant or his wife have suffered any harm from the applicant's relatives or in-laws since 2005/06 or at any time from Nepali society. On the evidence before me, I am not satisfied there is a real chance the applicant will suffer serious harm from his relatives, his in-laws and/or Nepali society, because his wife is a Buddhist Gurung and he is a Hindu Brahmin and/or they are in an inter-caste marriage, now or in the reasonably foreseeable future if he returns to Nepal.
22. I have had regard to all of the evidence before me and I have considered the applicant's claims individually and cumulatively, as well as considering the personal circumstances of the applicant. I am not satisfied the applicant has a well-founded fear of persecution from the local Maoists, Maoists generally, other political opponents of the RPP, his relatives, his in-laws and/or Nepali society, for reason or combination of reasons in s.5J(1)(a), now or in the reasonably foreseeable future, if he returns Nepal.

Refugee: conclusion

23. The applicant does not meet the requirements of the definition of refugee in s.5H(1). The applicant does not meet s.36(2)(a).

Complementary protection assessment

24. A criterion for a protection visa is that the applicant is a non-citizen in Australia (other than a person who is a refugee) in respect of whom the Minister (or Reviewer) is satisfied Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the person being removed from Australia to a receiving country, there is a real risk that the person will suffer significant harm.

Real risk of significant harm

25. Under s.36(2A), a person will suffer 'significant harm' if:

- the person will be arbitrarily deprived of his or her life
- the death penalty will be carried out on the person
- the person will be subjected to torture
- the person will be subjected to cruel or inhuman treatment or punishment, or
- the person will be subjected to degrading treatment or punishment.

26. I found above on the credible evidence before me that the applicant singularly or cumulatively does not have a real chance of serious harm from the local Maoists, Maoists generally, other political opponents of the RPP, his relatives, his in-laws and/or Nepali society. For the same reasons, and applying the authority in *MIAC v SZQRB*² I am not satisfied the applicant will face a real risk of significant harm if he is removed Nepal.

Complementary protection: conclusion

27. There are not substantial grounds for believing that, as a necessary and foreseeable consequence of being returned from Australia to a receiving country, there is a real risk that the applicant will suffer significant harm. The applicant does not meet s.36(2)(aa).

Decision

The IAA affirms the decision not to grant the referred applicant a protection visa.

² (2013) 210 FCR 505

Applicable law

Migration Act 1958

5 (1) Interpretation

...

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly

...

cruel or inhuman treatment or punishment means an act or omission by which:

- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
- (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;

but does not include an act or omission:

- (c) that is not inconsistent with Article 7 of the Covenant; or
- (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

degrading treatment or punishment means an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the Covenant; or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

receiving country, in relation to a non-citizen, means:

- (a) a country of which the non-citizen is a national, to be determined solely by reference to the law of the relevant country; or
- (b) if the non-citizen has no country of nationality—a country of his or her former habitual residence, regardless of whether it would be possible to return the non-citizen to the country.

...

torture means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

- (a) for the purpose of obtaining from the person or from a third person information or a confession; or
- (b) for the purpose of punishing the person for an act which that person or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating or coercing the person or a third person; or
- (d) for a purpose related to a purpose mentioned in paragraph (a), (b) or (c); or
- (e) for any reason based on discrimination that is inconsistent with the Articles of the Covenant;

but does not include an act or omission arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

5H Meaning of refugee

(1) For the purposes of the application of this Act and the regulations to a particular person in Australia, the person is a refugee if the person:

- (a) in a case where the person has a nationality—is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or
- (b) in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Note: For the meaning of well-founded fear of persecution, see section 5J.

...

5J Meaning of well-founded fear of persecution

- (1) For the purposes of the application of this Act and the regulations to a particular person, the person has a well-founded fear of persecution if:
 - (a) the person fears being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
 - (b) there is a real chance that, if the person returned to the receiving country, the person would be persecuted for one or more of the reasons mentioned in paragraph (a); and
 - (c) the real chance of persecution relates to all areas of a receiving country.

Note: For membership of a particular social group, see sections 5K and 5L.
- (2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.

Note: For effective protection measures, see section 5LA.
- (3) A person does not have a well-founded fear of persecution if the person could take reasonable steps to modify his or her behaviour so as to avoid a real chance of persecution in a receiving country, other than a modification that would:
 - (a) conflict with a characteristic that is fundamental to the person's identity or conscience; or
 - (b) conceal an innate or immutable characteristic of the person; or
 - (c) without limiting paragraph (a) or (b), require the person to do any of the following:
 - (i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;
 - (ii) conceal his or her true race, ethnicity, nationality or country of origin;
 - (iii) alter his or her political beliefs or conceal his or her true political beliefs;
 - (iv) conceal a physical, psychological or intellectual disability;
 - (v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
 - (vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.
- (4) If a person fears persecution for one or more of the reasons mentioned in paragraph (1)(a):
 - (a) that reason must be the essential and significant reason, or those reasons must be the essential and significant reasons, for the persecution; and
 - (b) the persecution must involve serious harm to the person; and
 - (c) the persecution must involve systematic and discriminatory conduct.
- (5) Without limiting what is serious harm for the purposes of paragraph (4)(b), the following are instances of serious harm for the purposes of that paragraph:
 - (a) a threat to the person's life or liberty;
 - (b) significant physical harassment of the person;
 - (c) significant physical ill-treatment of the person;
 - (d) significant economic hardship that threatens the person's capacity to subsist;
 - (e) denial of access to basic services, where the denial threatens the person's capacity to subsist;
 - (f) denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.
- (6) In determining whether the person has a well-founded fear of persecution for one or more of the reasons mentioned in paragraph (1)(a), any conduct engaged in by the person in Australia is to be disregarded unless the person satisfies the Minister that the person engaged in the conduct otherwise than for the purpose of strengthening the person's claim to be a refugee.

5K Membership of a particular social group consisting of family

For the purposes of the application of this Act and the regulations to a particular person (the first person), in determining whether the first person has a well-founded fear of persecution for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in paragraph 5J(1)(a); and
- (b) disregard any fear of persecution, or any persecution, that:
 - (i) the first person has ever experienced; or

- (ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

5L Membership of a particular social group other than family

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person's family) if:

- (a) a characteristic is shared by each member of the group; and
- (b) the person shares, or is perceived as sharing, the characteristic; and
- (c) any of the following apply:
 - (i) the characteristic is an innate or immutable characteristic;
 - (ii) the characteristic is so fundamental to a member's identity or conscience, the member should not be forced to renounce it;
 - (iii) the characteristic distinguishes the group from society; and
- (d) the characteristic is not a fear of persecution.

5LA Effective protection measures

- (1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:
 - (a) protection against persecution could be provided to the person by:
 - (i) the relevant State; or
 - (ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and
 - (b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.
- (2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:
 - (a) the person can access the protection; and
 - (b) the protection is durable; and
 - (c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

...

36 Protection visas – criteria provided for by this Act

...

- (2) A criterion for a protection visa is that the applicant for the visa is:
 - (a) a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the person is a refugee; or
 - (aa) a non-citizen in Australia (other than a non-citizen mentioned in paragraph (a)) in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm; or
 - (b) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (a); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant; or
 - (c) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
 - (i) is mentioned in paragraph (aa); and
 - (ii) holds a protection visa of the same class as that applied for by the applicant.
- (2A) A non-citizen will suffer **significant harm** if:
 - (a) the non-citizen will be arbitrarily deprived of his or her life; or
 - (b) the death penalty will be carried out on the non-citizen; or
 - (c) the non-citizen will be subjected to torture; or
 - (d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
 - (e) the non-citizen will be subjected to degrading treatment or punishment.

- (2B) However, there is taken not to be a real risk that a non-citizen will suffer significant harm in a country if the Minister is satisfied that:
- (a) it would be reasonable for the non-citizen to relocate to an area of the country where there would not be a real risk that the non-citizen will suffer significant harm; or
 - (b) the non-citizen could obtain, from an authority of the country, protection such that there would not be a real risk that the non-citizen will suffer significant harm; or
 - (c) the real risk is one faced by the population of the country generally and is not faced by the non-citizen personally.

...

Protection obligations

- (3) Australia is taken not to have protection obligations in respect of a non-citizen who has not taken all possible steps to avail himself or herself of a right to enter and reside in, whether temporarily or permanently and however that right arose or is expressed, any country apart from Australia, including countries of which the non-citizen is a national.
- (4) However, subsection (3) does not apply in relation to a country in respect of which:
- (a) the non-citizen has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the country.
- (5) Subsection (3) does not apply in relation to a country if the non-citizen has a well-founded fear that:
- (a) the country will return the non-citizen to another country; and
 - (b) the non-citizen will be persecuted in that other country for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (5A) Also, subsection (3) does not apply in relation to a country if:
- (a) the non-citizen has a well-founded fear that the country will return the non-citizen to another country; and
 - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the other country.

Determining nationality

- (6) For the purposes of subsection (3), the question of whether a non-citizen is a national of a particular country must be determined solely by reference to the law of that country.
- (7) Subsection (6) does not, by implication, affect the interpretation of any other provision of this Act.

91W Evidence of identity and bogus documents

- (1) The Minister or an officer may, either orally or in writing, request an applicant for a protection visa to produce, for inspection by the Minister or the officer, documentary evidence of the applicant's identity, nationality or citizenship.
- (2) The Minister must refuse to grant the protection visa to the applicant if:
- (a) the applicant has been given a request under subsection (1); and
 - (b) the applicant refuses or fails to comply with the request, or produces a bogus document in response to the request; and
 - (c) the applicant does not have a reasonable explanation for refusing or failing to comply with the request, or for producing the bogus document; and
 - (d) when the request was made, the applicant was given a warning, either orally or in writing, that the Minister cannot grant the protection visa to the applicant if the applicant:
 - (i) refuses or fails to comply with the request; or
 - (ii) produces a bogus document in response to the request.
- (3) Subsection (2) does not apply if the Minister is satisfied that the applicant:
- (a) has a reasonable explanation for refusing or failing to comply with the request or producing the bogus document; and
 - (b) either:
 - (i) produces documentary evidence of his or her identity, nationality or citizenship; or

- (ii) has taken reasonable steps to produce such evidence.
- (4) For the purposes of this section, a person produces a document if the person produces, gives, presents or provides the document or causes the document to be produced, given, presented or provided.

...

91WA Providing bogus documents or destroying identity documents

- (1) The Minister must refuse to grant a protection visa to an applicant for a protection visa if:
 - (a) the applicant provides a bogus document as evidence of the applicant's identity, nationality or citizenship; or
 - (b) the Minister is satisfied that the applicant:
 - (i) has destroyed or disposed of documentary evidence of the applicant's identity, nationality or citizenship; or
 - (ii) has caused such documentary evidence to be destroyed or disposed of.
- (2) Subsection (1) does not apply if the Minister is satisfied that the applicant:
 - (a) has a reasonable explanation for providing the bogus document or for the destruction or disposal of the documentary evidence; and
 - (b) either:
 - (i) provides documentary evidence of his or her identity, nationality or citizenship; or
 - (ii) has taken reasonable steps to provide such evidence.
- (3) For the purposes of this section, a person provides a document if the person provides, gives or presents the document or causes the document to be provided, given or presented.

...