

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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This response was prepared by the Research & Information Services Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. This research response may not, under any circumstance, be cited in a decision or any other document. Anyone wishing to use this information may only cite the primary source material contained herein.

Questions

- 1. What documents would a Bangladeshi national need to present at Dhaka airport in order to board a flight to Australia?**
- 2. Could an individual present only a Bangladeshi passport if the Electronic Transit Authority (ETA) they held was granted for another passport in their name and was recorded electronically?**
- 3. In what circumstances would both passports be stamped with the exit stamp on the same date?**

RESPONSE

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- 3. In what circumstances would both passports be stamped with the exit stamp on the same date?**

Specific answers to these questions could not be located; nonetheless, some relevant information on exit procedures when travelling to Australia, Bangladeshis travelling with two passports, and corruption at Zia International Airport was located. Information in this response is provided in sections on: documentation needed to board a flight to Australia;

Bangladesh citizens travelling under dual citizenship; and corruption at Zia International Airport, Dhaka.

Documentation required to board a flight to Australia

Information sourced from the Department of Immigration and Citizenship website states that passengers from all countries other than Australia and New Zealand must present “a valid visa or authority to enter Australia (including electronic visas)”, but does not provide information on whether a passenger not holding a valid visa could board a flight in another country:

Travel documents required for all other travellers

All travellers other than Australian and New Zealand citizens need to present the following documents to officers in immigration clearance:

- a valid passport or other acceptable travel document
- a valid visa or authority to enter Australia (including electronic visas)
- a completed and signed Incoming Passenger Card, including health and character declaration.

See: Passenger cards

Anyone who arrives without a valid travel document, visa or authority to enter Australia, may be refused entry to Australia or delayed until their identity and claims to enter Australia have been confirmed (‘Travel Documents for Entry to Australia’ (undated), Australian Government Department of Immigration and Citizenship website <http://www.immi.gov.au/managing-australias-borders/border-security/travel/documents/> – Accessed 9 April 2009 – Attachment 1).

The Department of Foreign Affairs and Trade ‘Smart Traveller’ website states that: “International airlines have an obligation to ensure that they only carry appropriately documented passengers to Australia”. Nonetheless, this source does not state that passengers without appropriate documentation are unable to board a flight to Australia (Australian Department of Foreign Affairs and Trade (undated), ‘Travel Information for Dual Nationals’, DFAT [smarttraveller.gov.au](http://www.smarttraveller.gov.au/tips/dualnat.html) website <http://www.smarttraveller.gov.au/tips/dualnat.html> – Accessed 23 April 2009 – Attachment 2).

A DIAC publication titled ‘Australia’s Entry Requirements’ sets out the responsibilities of carriers “to ensure that only correctly documented passengers or crew board planes for travel to Australia”, and states that: “Carriers which bring inadmissible passengers or crew (eg. No passport, expired visa, no visa held, or false documentation) to Australia may face prosecution under the Migration Act 1958 or have financial penalties imposed on them”:

The Department of Immigration and Citizenship (DIAC) seeks to work closely with carriers to ensure that only correctly documented passengers or crew board planes for travel to Australia. Prior to boarding passengers or crew, carriers are expected to:

- ensure that the passport or travel document presented by the passenger or crew member is acceptable for entry into Australia, that the passport is valid, and that the passenger or crew member is the rightful holder
- confirm if the passenger or crew need a visa, and if they do, that the visa is valid and

- provide advance passenger information for every passenger and crew on board the aircraft to Australian Immigration Authorities via the APP system.

Carriers which bring inadmissible passengers or crew (eg. No passport, expired visa, no visa held, or false documentation) to Australia may face prosecution under the Migration Act 1958 or have financial penalties imposed on them unless they can demonstrate that all reasonable steps were undertaken at check-in to ensure that all passengers or crew had acceptable travel documents.

The responsibility for deciding whether to carry a passenger or crew lies with the carrier in every case (Department of Immigration and Citizenship 2007, 'Australia's Entry Requirements', DIAC website, September http://www.immi.gov.au/media/publications/visa-entry/_pdf/Aus_Entry_Req_part1.pdf – Accessed 23 April 2009 – Attachment 3).

The DIAC website also provides information on the Advance Passenger Processing (APP) system, under which “airlines must provide the Department of Immigration and Citizenship (DIAC) with information on all passengers and crew, including all transit passengers, travelling to Australia”. The relevant sections of this document have been excerpted below, and the full document is provided as Attachment 4:

In January 2003, Australia introduced mandatory Advance Passenger Processing (APP). Under these arrangements, airlines must provide the Department of Immigration and Citizenship (DIAC) with information on all passengers and crew, including all transit passengers, travelling to Australia.

This information is collected at check-in through the APP system and transmitted to Australia for use by border agencies prior to the arrival of the aircraft. The data transmitted to Australia is cross-checked against Australia's immigration databases.

The benefits of mandatory APP are:

- to confirm to airlines that a passenger or crew has the authority for travel to Australia
- to reduce fines on airlines for carrying inadmissible or inadequately documented passengers to Australia
- to facilitate arrival processing for passengers and crew
- to provide Australian Immigration Authorities with Advance Passenger Information (API) and
- to enhance Australia's border security.

Airlines that do not provide APP on all passengers and crew including transit passengers may be subject to financial penalties.

...All passengers and crew must be APP processed.

This section provides an overview of how to process different types of passengers. It is important to understand that the layout of airline screens and commands used to capture APP information may vary from airline to airline. These instructions should therefore be used as a guide only.

Some airlines will capture passenger and crew information by scanning the machine-readable zone of a passport. Other airlines may require check-in agents to key the data or automatically

transfer data from their computer reservation system. The minimum data required for APP processing is:

- passport number
- nationality code (ICAO), as stated in the passport or travel document and
- family name – first four letters only or full family name.

If DIAC systems cannot match the passenger from the minimum data, the check in agent may be prompted to provide the passenger's full details. Full details include:

- passport number
- nationality code (ICAO) as stated in passport or travel document
- full family name
- given names
- date of birth and
- sex.

2.1 Passport holders

All passport holders (excluding passengers who hold a Document of Identity or a Document for Travel to Australia (DFTTA)) should initially be processed for APP using minimum data.

To APP process for passengers as passport holders enter:

- passport number
- nationality code (ICAO) as stated in the passport or travel document
- family name – first four letters only or full family name
- travel document type (P) and
- transit field information – if the passenger or crew is entering Australia this field should be set to 'N', if the passenger or crew is transiting Australia this field should be set to 'Y'. See Section 2.8 for further information on processing transit passengers.

APP response:

Where the passenger or crew member is known to DIAC's systems, the check-in agent should receive an 8501 – 'OK TO BOARD' response in most cases.

...2.2 Document for Travel to Australia holders

The Document for Travel To Australia (DFTTA) is designed for single entry only to Australia. An example of a DFTTA is shown on Page 6.

It is important for airlines to check the following features of a DFTTA when presented at check-in:

- original DFTTA is presented. A photocopy of a DFTTA presented by a passenger is not deemed to be a valid travel document
- signature and photographs of the person/s intending to travel to Australia are valid and

- valid visa is attached on the bottom left hand corner of the document.

If the DFTTA does not conform to all of the above features, check-in staff should seek advice from the Australian Airline Liaison Officer if available, or contact the Australian Entry Operations Centre (EOC), (see Page 21 for contact details).

To APP process a passenger as a DFTTA holder:

If there is only one person travelling on the DFTTA

From the visa label's machine readable zone (example of a visa label shown on Page 7), enter:

- document number (on the top right hand corner of DFTTA)
- nationality code (ICAO) as stated on the visa label and
- family name – first four letters (only) or full family name.

Where the passenger is known to DIAC's systems, the check-in agent should receive a 8501 – 'OK TO BOARD' response.

If the details entered do not match the details stored on DIAC's system a 8510 – 'CONTACT EOC' response will be returned.

...6 System down procedures

Australian law requires airlines to provide APP data on all passengers and crew travelling to Australia. If carriers fail to do so they may be subject to financial penalties. By complying with APP requirements, airlines may avoid penalties in the case of systems down.

...6.3 If an airline cannot access the APP system and the ETA system

- report the matter immediately to the EOC in Australia using SITATEX or email
- allow Australian and New Zealand passport holders to board
- for all other foreign nationals, manually check to see if their passport or travel document contains a valid visa label
- if there is no visa label, confirm the passenger holds a valid national travel document and ask them if they hold an electronic visa
- if the passenger answers 'YES', board the passenger and
- if the passenger answers 'NO', contact the EOC.

If the check-in agent has any doubts consult the Australian ALO, where possible, or contact the EOC in Australia (Department of Immigration and Citizenship 2007, 'Australia's APP – Advance Passenger Processing System', DIAC website

http://www.immi.gov.au/media/publications/visa-entry/pdf/APP_Guide_full_manual.pdf – Accessed 23 April 2009 – Attachment 4).

The website of Visas Australia (a UK-based visa agency which specialises in travel from the UK to Australia) states that: "You will not be able to board your aircraft without a valid visa/ETA":

Who requires a Visa?

You will require a visa to enter into Australia unless you are a New Zealand passport holder or you are continuing your journey within 8 hours of arrival, hold a valid onward ticket and you are not leaving the transit lounge.

Please note that:

All Australian Visas have to be obtained prior to departure. You will not be able to board your aircraft without a valid visa/ETA and passports/travel documents ('Australian Visa Requirements' 2008, Visas Australia website <http://www.visas-australia.com/visas/visa-requirements.asp> – Accessed 9 April 2009 – Attachment 5).

According to advice received from the Department of Foreign Affairs and Trade in July 2008, Zia International Airport is “networked for electronic movement records” (Department of Foreign Affairs and Trade 2008, *DFAT Report: 850 – RRT Information Request BGD33475*, 17 July – Attachment 6).

Bangladesh citizens travelling under dual citizenship

A 2005 article on dual citizenship, sourced from the ‘Law and our Rights’ section of the Bangladesh newspaper *The Daily Star*, states of Bangladeshis holding two passports that “[i]t is up to the person concerned to choose one of the passports for travel” (Rashid, H. 2005, ‘Nationality and citizenship: Some issues’, in ‘Law and our Rights’, *The Daily Star*, 30 April <http://www.thedailystar.net/law/2005/04/04/opinion.htm> – Accessed 14 April 2009 – Attachment 7).

In an October 2008 opinion piece on Bangladeshi holders of dual citizenship, sourced from the *News From Bangladesh* news monitoring website, the author states that he has “heard horror stories where immigration police at ZIA seized the Bangladesh passport of dual citizens on the grounds that they were travelling in and out of Bangladesh on their Bangladesh passport which did not have a visa for the country of their second citizenship”. The author goes on to claim that: “Since their second passport is ample proof to Bangladesh departure immigration that the dual citizen will not be deported at the expense of the Bangladeshi tax-payer (the only “public interest” referred in the constitution), there is also no justification in harassing a person for not having a visa on their Bangladesh passport when travelling out of Bangladesh on their Bangladesh passport”:

I have heard horror stories where immigration police at ZIA seized the Bangladesh passport of dual citizens on the grounds that they were travelling in and out of Bangladesh on their Bangladesh passport which did not have a visa for the country of their second citizenship. Clearly this is a gross violation of the constitutional right of the Bangladeshi traveler on several grounds. The authorities first and foremost need to understand that no one has the right to stop a free Bangladeshi citizen from either entering or leaving Bangladesh. As I pointed out earlier, this is our birth right protected by our sovereign constitution. Secondly, seizure of Bangladesh passport – proof of Bangladesh citizenship – is another violation of our constitutional right. No one – save a judge in the higher courts – has the authority to take away the citizenship of a Bangladeshi.

Therefore, the airport authorities at ZIA need to restrain their immigration staff from violating our rights – presumably out of sheer ignorance of the relevant laws. Given that a Bangladeshi does not lose their citizenship simply by virtue of acquiring a second citizenship it seems utterly ridiculous that they not be allowed to travel in and out of Bangladesh on their Bangladesh passports. Since their second passport is ample proof to Bangladesh departure immigration that the dual citizen will not be deported at the expense of the Bangladeshi tax-payer (the only “public interest” referred in the constitution), there is also no justification in

harassing a person for not having a visa on their Bangladesh passport when travelling out of Bangladesh on their Bangladesh passport (Bashar, S. 2008, 'Travelling on Bangladeshi Passport by Dual Citizens', *News From Bangladesh*, 20 October <http://www.bangladesh-web.com/view.php?hidRecord=226541> – Accessed 14 April 2009 – Attachment 8).

Corruption at Zia International Airport

The following comments on corruption in Bangladesh, and on corruption at Zia International Airport in particular, are sourced from a 2002 Transparency International Bangladesh report, hosted on the United Nations Public Administration Network website. The report names Zia Airport immigration officials as being among the perpetrators of corruption:

Corruption has become a widespread practice in Bangladesh. Very few institutions are free of corrupt practices. Bribery serves as a locomotive to get a job done. In order to implement a project or move a file concerned officials have to be bribed. Inhibition about bribery has almost disappeared. The negative impact of corruption can be felt at all levels of the society.

...Most corruption incidents in Uttara revolve around Zia International Airport. Officials of different government offices such as civil aviation, customs, immigration and police operating within the airport perpetrate such corruption ('BAC Report Part I: Executive Summary' 2002, United Nations Public Administration Network website, (source: Transparency International Bangladesh), 18 June

<http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan004887.pdf> – Accessed 23 April 2009 – Attachment 9).

An April 2009 report from the *News from Bangladesh* website provides an update on corruption at Zia International Airport. While not mentioning immigration officials directly, the report nonetheless alleges that there is a "risky" security situation at the airport due to a private security company overseeing "the gates of concourse halls of incoming and outgoing passengers". The report quotes "[a] senior official of Civil Aviation Authority" who "alleged that lease of security to the private company and inadequacy of scanning and other machines contribute to many unexpected incidents like fleeing of some BDR¹ mutineers abroad through Zia":

Massive irregularities continue at the Zia International Airport in the absence of anti-graft drives by the ACC and administrative actions by the government.(The BD Today)

A section of unscrupulous officials of Civil Aviation Authority and customs have been indulging in corruptions and illegal activities for long but anti-graft watchdog remains silent astonishingly.

...Most risky is that Civil Aviation Authority has leased the duty of maintaining security in the gates of concourse halls of incoming and outgoing passengers to a private security company namely Group-4.

A senior official of Civil Aviation Authority alleged that lease of security to the private company and inadequacy of scanning and other machines contribute to many unexpected incidents like fleeing of some BDR mutineers abroad through Zia ('Massive irregularities continue at Zia Intl Airport' 2009, *News From Bangladesh*, (Source: *The BD Today*)18 April

¹ The Bangladesh Rifles (BDR) is a paramilitary force mainly involved in border protection. In February 2009 thousands of BDR soldiers staged a mutiny, killing 77 people, including many senior BDR officers.

<http://bangladesh-web.com/view.php?hidRecord=258554> – Accessed 23 April 2009 – Attachment 10).

An April 2007 article from *The Daily Star* provides an instance of corruption at Zia International Airport involving a customs inspector taking a bribe to assist a passenger in evading a tax payment:

A customs inspector was arrested while allegedly taking bribe from a passenger at Zia International Airport yesterday evening.

Official sources said a team of army-led joint forces caught Nawab Ali Akhand red-handed while he was taking money from a Bangladeshi passenger.

Custom sources said Nawab demanded Tk 15,000 from Iqbal Haque, who came from the USA at noon, for helping him in evading tax ('Customs officer held at ZIA while taking bribe' 2007, *The Daily Star*, 27 April

<http://www.thedailystar.net/2007/04/27/d70427014524.htm> – Accessed 23 April 2009 – Attachment 11).

A June 2004 report from the 'Law and our Rights' section of *The Daily Star* states that the "Rapid Action Battalion will soon be posted to Zia International airport to check all kind of criminal activities", after a ministerial meeting on "fake passports and visas":

The Rapid Action Battalion (RAB) will soon be posted to Zia International Airport to check all kinds of criminal activities. The force will also check trafficking in women and children through the airport, sources in the home affairs ministry said. A high-level meeting on 16 June at the ministry on foreign trips with fake passport and visas made the decision. State Minister for Home Affairs Lutfozzaman Babar chaired the meeting that discussed the overall situation at the airport ('RAB to keep vigil at ZIA Int Airport' 2004, 'Law Week', in 'Law and our Rights', *The Daily Star*, 20 June

<http://www.thedailystar.net/law/2004/06/03/week.htm> – Accessed 23 April 2009 – Attachment 12).

List of Sources Consulted

Internet Sources:

Google search engine <http://www.google.com.au>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. 'Travel Documents for Entry to Australia' (undated), Australian Government Department of Immigration and Citizenship website <http://www.immi.gov.au/managing-australias-borders/border-security/travel/documents/> – Accessed 9 April 2009.
2. Australian Department of Foreign Affairs and Trade (undated), 'Travel Information for Dual Nationals', DFAT smarttraveller.gov.au website <http://www.smarttraveller.gov.au/tips/dualnat.html> – Accessed 23 April 2009.
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4. Department of Immigration and Citizenship 2007, 'Australia's APP – Advance Passenger Processing System', DIAC website http://www.immi.gov.au/media/publications/visa-entry/_pdf/APP_Guide_full_manual.pdf – Accessed 23 April 2009.
5. 'Australian Visa Requirements' 2008, Visas Australia website <http://www.visas-australia.com/visas/visa-requirements.asp> – Accessed 9 April 2009.
6. Department of Foreign Affairs and Trade 2008, *DFAT Report: 850 – RRT Information Request BGD33475*, 17 July.
7. Rashid, H. 2005, 'Nationality and citizenship: Some issues', in 'Law and our Rights', *The Daily Star*, 30 April <http://www.thedailystar.net/law/2005/04/04/opinion.htm> – Accessed 14 April 2009.
8. Bashar, S. 2008, 'Travelling on Bangladeshi Passport by Dual Citizens', *News From Bangladesh*, 20 October <http://www.bangladesh-web.com/view.php?hidRecord=226541> – Accessed 14 April 2009.
9. 'BAC Report Part I: Executive Summary' 2002, United Nations Public Administration Network website, (source: Transparency International Bangladesh), 18 June <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan004887.pdf> – Accessed 23 April 2009.
10. 'Massive irregularities continue at Zia Intl Airport' 2009, *News From Bangladesh*, (Source: *The BD Today*), 18 April <http://bangladesh-web.com/view.php?hidRecord=258554> – Accessed 23 April 2009.
11. 'Customs officer held at ZIA while taking bribe' 2007, *The Daily Star*, 27 April <http://www.thedailystar.net/2007/04/27/d70427014524.htm> – Accessed 23 April 2009.
12. 'RAB to keep vigil at ZIA Int Airport' 2004, 'Law Week', in 'Law and our Rights', *The Daily Star*, 20 June <http://www.thedailystar.net/law/2004/06/03/week.htm> – Accessed 23 April 2009.