

0801567 [2008] RRTA 480 (1 October 2008)

DECISION RECORD

RRT CASE NUMBER: 0801567

COUNTRY OF REFERENCE: Ethiopia

TRIBUNAL MEMBER: Paul Fisher

DATE DECISION SIGNED: 1 October 2008

PLACE OF DECISION: Melbourne

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Ethiopia, arrived in Australia in the 2000s and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa some weeks later. The delegate decided to refuse to grant the visa and notified the applicant of the decision and her review rights by letter.
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant subsequently applied to the Tribunal for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

6. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
7. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee 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 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 or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.
18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

Background:

20. The applicant is a national of Ethiopia. She arrived in Australia in the 2000s and lodged a Protection Visa application some weeks later.
21. Her reasons for claiming to be a refugee are set out in Part C of the Protection Visa application form. The applicant states that she is seeking protection in Australia so she does not have to go back to Ethiopia.
22. In response to the question *Why did you leave that country*, the applicant writes that she came here to visit her relative (Person 3) but back in Ethiopia she didn't feel safe.
23. In response to the question – *What do you fear may happen to you if you go back to that country*; the applicant stated as follows:

[information about the applicant's statement amended in accordance with s.431 of the Act as it may identify the applicant]

If I go back to Ethiopia my fear is that they will treat me bad. The government and my school. When I was there, there was fighting between students because of ethnic groups there was fighting and killing even we lost friends and my ethnic group is more scared because we are separated from Ethiopia so life is so complicated living, learning everything is hard for us because they want us to leave Ethiopia because they think that we don't belong to Ethiopia but we born in Ethiopia and we grown up in Ethiopia but we are living scared for our life.

So many thing happening to my family, so many bad things happened by this problem my Parent 1 is killed when I was young because of this and my relatives are killed because of this. We survived because we lived with my grandparents Grandparent A died few years ago now our Grandparent B is getting old but I get a chance to get into university and that is the worst experience I have ever got.

There was fighting between students from my ethnic groups. Students are killed and it is a dangerous time for me.

Me and my relatives we all grown up together like sisters and brothers in our grandparents house. Because their parents are killed too. When Person 3 meet his/her spouse life changed for him/her after they get married in Ethiopia and he/she came here to live in Australia and they wear helping with a lot of thing.

They even invite me to come here and visit them after I came here I feel very safe that I never been before and I am so happy.

24. In response to the question *Who do you think may harm/mistreat you if you go back*; the applicant has responded as follows:

First I think the government and the other ethnic groups even when I get in school and for so many other social life we have get with in a lot of problem.

25. In response to the question *Why do you think this will happen to you if you go back*, the applicant stated as follows:

Because it has been like this even when I was there and I have some family who died because of this problem. I have friends in school who died because of this problem and even when I was living in there I was still scared for my life I even stopped school I take withdrawal and I stop school because I was fear for my life I was even sick because I was stress after. The fight in school it was very dangerous for me so I can't continue my studies so I stopped school for some months until I came here.

26. In response to the question *Do you think the authorities of that country can and will protect you in you go back? If not, why not*; the applicant has responded as follows:

[information about the applicant's statement amended in accordance with section s.431 of the Act as it may identify the applicant]

No they don't protect me because they are against with my ethnic group even if I am born and grown up in Ethiopia my family was in this ethnic group so with this ethnic group the government has war before years back so they send every people who is in this ethnic group and who is lived in Ethiopia to the other country so they are not happy with us living in Ethiopia.

When everything was peace Eritreans were living together with Ethiopians they can live everywhere in Ethiopia and they are joined with other ethnic group by marriage and friendship. But suddenly the Eritreans want to separate from Ethiopia and they want to have their own territory they even start fighting because of lands between Ethiopia and Eritrea and this fight is getting stronger and stronger and end up in war and a lot of people died both Eritrea and Ethiopian. And the Ethiopian government starts sending Eritreans to their countries and there was a lot of torching and it was so bad. But there was a lot of mixed people like me who is born from both Ethiopians and Eritreans and if your parent is Eritrea it will be even more complicated that is why it hard to live when things are in that way and the people whom you lived with think about you badly and the government don't protect me they are even the worst.

And I cannot go to Eritrea because my Parent 2 is an Ethiopian belonging to Ethnic Group N and Eritreans don't accept those ethnic groups and Parent 1 is already dead so if I go to Eritrea they will kill me and I don't be safe even in Eritrea because I am half Ethiopian and I don't have nobody in Eritrea.

27. The application form was accompanied by a certified copy of the applicant's birth certificate, which notes that both her father and mother are of Ethiopian nationally, and also by a certified copy of the bio-data page of her passport issued in the 2000s. Both documents show that the applicant was born in City X in Ethiopia, consistent with her Protection Visa application form.

28. The application form also states that the applicant speaks, reads and writes in Amharic and English; that she belongs to the Eritrean Ethnic Group N and that she is of the Christian religion. The only member of her family unit listed in the application is her Parent 2 who is shown as widowed.
29. The applicant, subsequently, submitted a Form 80 Personal Particulars for Character Assessment, which also lists her deceased Parent 1 having been an Eritrean citizen born in City Y.
30. The visa application was refused without the applicant having been interviewed. The delegate noted that the applicant had been born in City X, Ethiopia, and has not experienced any persecution at the hands of government authorities. She has had access to education; speaks, reads and writes Amharic and English and appears to have resided with her Parent 2, who is Ethiopian, for a number of years at the same address in City X. The delegate considered that the applicant had never been discriminated against because of her family links to Eritrea and it appears that the country information referred to, confirmed her right to remain in Ethiopia. The delegate, therefore, did not accept that the applicant was persecuted on grounds of her race, ethnicity, or for any other Convention ground.
31. A number of documents, of some relevance, appear of the departmental file subsequent to the departmental decision. A letter from the Australian Red Cross addressed to the Onshore Protection Section of the Department of Immigration and Citizenship and faxed, along with a Statutory Declaration by the applicant, only appears to have made its way onto the departmental file some days later, although it is not clear when. The applicant's statutory declaration, made in support of an application for asylum seeker assistance ASA, includes the following:

[information about the applicant's statutory declaration amended in accordance with s.431 of the Act as it may identify the applicant]

I had stopped studying in Ethiopia several months before coming to Australia, because there was a lot of fighting between two ethnic groups at my university,. Although I did not belong to either of these groups it was very dangerous for me to continue studying as I am half Eritrean and both groups target Eritreans ... Approximately one month after I arrived in Australia I spoke with my friend back in Ethiopia who advised me that the fighting had worsened since I left Ethiopia. My friend advised me that she too had been forced to cease studying due to the fighting since my departure for Australia. At about the same time I spoke to a relative of mine in Ethiopia who advised me that my cousin had been taken by the Ethiopian government because he is Eritrean. As a result of the news from my friend and relative in Ethiopia I applied for protection.

Review Application

32. Meanwhile, the applicant applied for review of the departmental decision through her representative.
33. The Tribunal invited the applicant to appear at a proposed hearing scheduled for [date specified].
34. On [date specified], the Tribunal received a statutory declaration setting out the applicant's claims in more detail. The declaration variously states as follows

[information from the applicant's statutory declaration amended in accordance with s.431 of the Act as it may identify the applicant]

1. I was born in Ethiopia in City X, which is in a part of Ethiopia where the Ethnic Group P is dominant.
2. I am a Christian.
3. I am part Ethnic Group N and part Eritrean. Parent 2 is an Ethiopian of Ethnic Group N, born in Province C, Ethiopia. Parent 1 was an Eritrean of Ethnic Group O, born in Eritrea. Parent 2 is Christian and Parent 1 was also Christian.
4. My lawyer has shown me the statutory declaration I signed earlier this year for the purposes of applying for ASAS payments. In paragraph (iii) it is stated that I do not belong to the Ethnic Group O. This is incorrect. In fact, I am half Ethnic Group O on Parent 1's side. This ASAS statutory declaration was prepared quickly and does not fully explain my situation in Ethiopia I have explained my situation in detail to my lawyer and it is set out in this statutory declaration.
5. I am one of five siblings.
6. I omitted to include my siblings in question 11 of Form 866B and in the Form 80 because I did not realise their details were required. I spoke very limited English at the time I completed the forms and did not have the assistance of a lawyer at this stage. I also did not have an interpreter. I did not realise I needed to include my siblings details in the forms. No interpreter was used to complete the forms.
7. As I have stated above, I am half Eritrean and half Ethiopian. My parents met in the Province C of Ethiopia, which is near the Eritrean border. My Ethiopian Parent 1 was born in Province C. When he/she was young my Eritrean Parent 1 travelled from Eritrea to Province C for work. In Province C, he/she met Parent 2 and they married. After their marriage, they returned to Eritrea. My first two siblings (Sibling B and Sibling A) were born in Eritrea.
8. After a few years living in Eritrea, my parents moved back to Ethiopia. They settled in the town of City X, because there were better jobs for them there and because my grandparents had moved to City X. I think my grandparent B had moved there because he/she got a job. After moving to City X Parent 1 started work in a company and Parent 2 started work in an office.
9. The first years of my life were happy. During this time, my parents both worked and we were financially comfortable. All of us children attended School 1 (a primary and secondary school), in City X.
10. There were no problems that I was aware of for Eritrean people or people of mixed Ethiopian and Eritrean race like me and my siblings at this stage. Eritrea was actually a province of Ethiopia up until 1993.
11. During my first years, there were also not many problems between those of Ethnic Group P and other ethnic groups that I was aware of. My family at least did not experience problems.
12. When I was a very young child, Ethiopia was ruled by a military Marxist government, led by Mengitsu. However, in the early 1990s an alliance of mainly Tigrayan people in Ethiopia, including from the province of Eritrea, formed to overthrow Mengitsu. From 1992 onwards Ethiopia was ruled by the Ethiopian People's Revolutionary Democratic Front (EPRDF). The EPRDF was a coalition of a Tigrayan party, the Tigray Peoples Liberation Front (TPLF) and other ethnic groups. The TPLF was dominant group in the EPRDF.

13. Eritrea became a separate country in 1993. It was ruled by the EPLF, which was a Tigrayan dominated government.
14. At first, there were no problems for Eritreans living in Ethiopia (like Parent 1) or for mixed race people like me and my siblings that I was aware of.
15. However, in 1998 a war began between Eritrea and Ethiopia. This was when things really changed for my family and for me. My life became extremely hard after this.
16. During this war, most of the Eritreans in Ethiopia were expelled by the EPRDF government or fled from the country, in fear of their lives. People of Ethnic Group O who had previously been friends now became enemies depending on whether they were Eritrean or Ethiopian.
17. When the war first began, Parent 1 hid in Ethiopia for some months. He/she quit his/her job and moved from house to house of people he/she could trust. One day he/she came home to visit us and he/she was discovered in a house to house search by EPRDF government agents. I was playing outside when this happened but Parent 2 and Sibling A told me when I got home. After being arrested Parent 1 was imprisoned for a short time and then expelled to Eritrea.
18. We found out later that Parent 1 was to a refugee camp in Eritrea, with many other Eritreans who had been living in Ethiopia. We found this out through the Red Cross tracing service, as I have explained further on in this statutory declaration.
19. Our financial situation became very difficult after Parent 1 had to stop working. Parent 2 continued to work for a while after the war began but he/she had to stop his/her work also after Parent 1 left.
20. Sibling B and Sibling A (both of whom had been born in Eritrea) also went into hiding at the start of the war. My family did not get an opportunity to speak with them after they went into hiding but my Grandparent B told me that he/she found out that they escaped to Country Y. I have not had any contact with them since they went into hiding.
21. It was not possible for Parent 1 or my siblings to hide their Eritrean birth. Physically, Ethiopian people of Ethnic Group O look the same as Eritrean people of Ethnic Group O and both speak the same ethnic language . Other tribes are not always able tell the difference between Eritreans and Ethiopians of Ethnic Group O. However, people from within the tribe itself can tell the difference between Eritreans and Ethiopians of Ethnic Group O, because of slight differences in accent of the tribal language in Eritrea and Ethiopia. So, Ethiopians of Ethnic Group O for example those associated with the EPRDF would have been able to tell that Parent 1 and my two siblings were Eritrean from their accent. Also, Parent 1 and my two siblings did not speak the national language, Amharic, as their first language. This betrayed their Eritrean birth to other Ethiopians of Ethnic Group O and also to Ethiopians from other tribes, like the Ethnic Group P and Ethnic Group N.
22. In addition, City X is relatively small compared to Australian cities, and everyone knows everyone else's business. Therefore when the war started, everyone knew about Parent 1 and his/her birth place.
23. I and the other siblings born in Ethiopia were at slightly less risk than Parent 1 and my siblings born in Eritrea. Because we had grown up in Ethiopia we spoke Parent 2's language (Amharic) as our first language, with an Ethiopian accent. This is the national Ethiopian language and because we spoke this it was easier for us to hide. However, because of our Eritrean blood we were still in great danger.
24. It was also difficult in City X after the war because most people in that part of Ethiopia are of Ethnic Group P. There is great ill feeling Eritrean people and Ethnic Group P Ethiopians. There is also a history of conflict between Ethnic Group P and

Ethnic Group N which became stronger after the Eritrean Ethiopian war, as far as I can remember.

25. Our family was very easily distinguished from the Ethnic Group P people, who speak a different language.

26. After the war started, Parent 2 sent me and a few siblings to hide at my grandparents. I lived with my grandparents for the rest of my time in Ethiopia. Parent 2 was extremely fearful for the safety of my sisters and I and hoped we would be safe living with his/her parents, who belong to Ethnic Group N. Although we stayed with our grandparents, Parent 2 remained in the family home, to protect it from being confiscated by the government. Parent 2 thought that because he/she was an Ethiopian of Ethnic Group N he/she would be safe and he/she believed that because he/she belonged to Ethnic Group N no one would try and take the house away from him/her.

27. However, he/she was wrong. Soon after Parent 1 was expelled, EPRDF people came and forced Parent 2 out of our family home and confiscated it.

28. This caused Parent 2 great distress. He/she returned to live with us at our grandparent's house but he/she was not the same person he/she had been before. The strain of Parent 1 and his/her eldest children having left Ethiopia combined with the confiscation of the house impacted significantly on him/her. I was not very young at this time and remember very clearly the change in Parent 2's behaviour. I get very upset when I have to talk about Parent 2.

29. Two of my relatives also lived with us at Grandparent A's house. Parent 2 had siblings and both their spouses were also Eritrean. They all had Eritrean spouses because they had grown up in Province C and there were many Eritreans in Province C. Parent 2's siblings were Person 1 and Person 2. Person 2's spouse left for Eritrea before the war broke out and we found out he/she later died in Eritrea. Person 2 fled to City Z soon after the war. No one knew him/her there and he/she hoped his/her marriage to an Eritrean would remain undetected. He/She left his/her only child (Person 5) with his/her parents (my grandparents). Person 5 and he/she is in his/her 20's.

30. Person 1's spouse was expelled to Eritrea at the same time as Parent 1. Person 1 also left Ethiopia soon after the war began. Grandparent A has told us that he/she left because he/she was unable to tolerate living in a society that hated Eritreans and people who had been married to Eritreans. I don't know exactly where he/she went but my grandparents told us that he/she went to Europe. He/She left her child (Person 3) with his/her parents (my grandparents). Person 3 and I grew up together and are like siblings. We are very close in age

31. My two relatives, two siblings and Parent 2 and I all lived with my grandparents and had to survive on their pension. Things were extremely difficult for us financially. Also we lived in constant fear of being attacked or killed or arrested and expelled to Eritrea. We were fearful of all Ethiopians, both from the government and Ethiopian people generally. We particularly feared Ethnic Group P people as they were dominant in City X and had strong hatred towards Eritreans and also were against those of Ethnic Group N and all people of Ethnic Group O.

32. About one year after Parent 1 was expelled from Ethiopia, we discovered that he/she had died in the refugee camp. A neighbour also had Eritrean family and she used the Red Cross to trace their whereabouts. She found out through the Red Cross that Parent 1 and Person 3's parent had both died in Eritrea and she informed us of this.

33. The death of Parent 1 and Person 3's parent was extremely traumatic for all of us. Parent 2 lost his/her mind with grief after the death of my Parent 1. His/her mental state deteriorated quickly after he/she heard about the death. He/she became unable to communicate with the outside world, except for yelling and screaming and talking to

himself/herself. My grandparents had to organise for him/her to be admitted to a hospital. It was very frightening for me when this happened to Parent 2, especially so soon after learning of the death of Parent 1 I felt very alone in the world. My grandparents were old and I felt very fearful for the future of myself and my relatives. Parent 2 is still in the hospital. I used to visit him/her sometimes but he/she could not recognise me.

34. Because we were so poor Person 3 and my siblings and I had to stop attending the School 1. Person 5 was already finished school at this time. We then began attending the School 2.

35. My siblings and Person 3 and I had a very bad time at School 2. There was a lot of government propaganda at the time about Eritreans and how Eritreans were killing Ethiopians and everyone believed this and treated people from Eritrea as the enemy. We were constantly verbally and physically abused by the Ethiopian students of all ethnicities. For example other students would throw stones at us and yell at us. Sometimes they would not even allow us into class. After some months my siblings and Person 3 and I became too frightened for our safety and stopped attending school.

36. My grandparents approached School 1 to explain our predicament. The school allowed my siblings and Person 3 and me to attend
This was a religious school and the religious staff took pity on us.

37. I did not mention School 2 in my form 866C at question 37 because I was only there for a few months and didn't take any exams, so had no qualifications from that school. As I have explained elsewhere I did not have assistance from a lawyer or interpreter when filling out the protection visa application forms.

38. Although we were able to go to School 1, things remained extremely difficult for the several years after the war began. My siblings and relatives and I spent most of our time at home and maintained a very low profile. The only time we went out was to go to school and my siblings and my Person 3 and I always went together. At class and at the school dining room we were always isolated and taunted. We stayed together in a small group with the few other Eritreans of Ethnic Group O who were left in City X. Once Sibling C and Sibling D left the school it was just Person 3 and I at school together. Because of the stress of our situation it was very difficult for to concentrate on our studies.

39. There was a peace deal between Ethiopia and Eritrea in 2000. However problems continued for Eritrean people in Ethiopia and the Ethiopian government continued to expel people with Eritrean blood.

40. Also, the conflict between Ethnic Group P and other ethnic groups continued. It was very difficult for people not belonging to Ethnic Group P to survive in City X and such people were often forced out of City X.

41. Some years after the war my sister Sibling C married person of Ethnic Group P and left City X for City Z. My sibling met their spouse in City X. He/ she lived in the same area as our grandparents and he/she wanted to marry my sibling. He/she told my Grandparent B that my sibling would be safer away from City X in City Z. Because the situation was so dangerous for part Eritrean people there was no wedding ceremony or any public celebration of the marriage before my sibling left for City Z.

42. Around a year after this sibling was married, Person 5 also left my grandparent's house. He/she said he/she was going away to find a job and we never heard from him/her again. He/she left because things were so difficult for Eritrean people in City X.

43. My other Sibling D went missing some years ago. He/she left the house one day to visit a friend and never came home. My grandparents and Person 3 and I looked and looked for him/her but we never found out where he/she was or what had happened to him/her.

44. During the 2000s I was accepted at University to study. As I have explained, most of the people in City X are of Ethnic Group P and so the majority of the university students were belonged to this tribe. The Ethnic Group P people didn't want people of Ethnic Group O or of Ethnic Group N at the university and also didn't want Eritrean people there. For this reason, university was very difficult for me. There was a great deal of discrimination and prejudice towards non-Ethnic Group P students, especially the Eritreans. Things became even worse after the riots began in the 2000s as I have explained below.

45. A few years ago Grandparent A passed away. The only ones left in the house after this were Person 3 and me and my Grandparent B and a housekeeper.

46. A few years ago, Person 3 met an Australian man, Person 4, Person 3 and Person 4 formed a relationship and he/she came to Australia and married Person 3. He/she was granted a valid visa and travelled to Australia to live with Person 4 in Town D. Person 3 left Ethiopia for Australia. After Person 3 left, it was just me and Grandparent B living at home with the housekeeper. I was very lonely.

47. Shortly after Sibling 3 had left for Australia, there was a riot at my university between Ethnic Group P students and other ethnic groups. I was badly beaten and my friend was fatally wounded. My friend was half Ethnic Group O Eritrean and half Ethiopian. I managed to escape during the riots but I was hit in the back by a stone while I was running away.

48. The event that triggered the riots was the suicide of an Eritrean man. It was widely understood that this person suicided because he/she could no longer tolerate the isolation and discrimination experienced by Eritreans and people of mixed Eritrean and Ethiopian race in Ethiopia, especially in Ethnic Group P-dominated City X.

49. Some time before the riots started, a relative of our family (Person 6) escaped from a camp in Eritrea and returned to Ethiopia. He/she sought refuge at Grandparent B's house. Person 6 was young when he/she was expelled with his/her parents to Eritrea and spoke almost none of the national language of Ethiopia, so it was easy for the government to detect him/her as Eritrean at the start of the war.

50. After Person 6 had been staying with Grandparent B and I for a few months, the police came and arrested and detained him/her. He/she was kept detained for several weeks and then expelled back to Eritrea. Only the housekeeper was home with Person 6 when he/she was arrested. I believe it was probably one of our neighbours who exposed Person 6 because the house keeper said that this is what the police told him/her when they came to arrest him/her.

51. I can't remember if Person 6 was arrested before or after the university riots.

52. After the combination of the suicide, the riots and death my other friend and the arrest of Person 6, I became very distressed. I was very fearful for my safety and was unable to eat anything and became very weak. I had some pain in my kidneys prior to the riots and after the riots this became much worse.

53. I never went back to university after the riots. In the 2000s I filled out an application to have leave from university. I applied for sick leave, citing stress and kidney problems. I stated that I would return the next year. By this I meant the next school year. Realive 1 and my Grandparent B told me I should make a formal application for leave so that I could keep my status as a student in Ethiopia.

54. After the riots I spoke with my Person 3, who was living in Australia. I told her about all my problems. I told her I was very distressed and frightened. Person 3 spoke with Person 4 and they said they would help me come to Australia.

55. I knew that to travel to Australia I would need a passport. In Ethiopia, it is only possible to get a passport if you have an Ethiopian ID. A friend of Parent 2, who was an Oromo Ethiopian, obtained an ID for me. I gave Person 8 money and he/she paid a bribe to get me the ID. The ID did not specify that I was partly Eritrean. Once I had the ID, I was able to obtain a passport without problems. I applied for the passport in City Z where no one knew me.

56. Person 3 and Person 4 sent me an application form for a visitor visa. I filled it out and sent it to Country L. There were some initial problems my passport was returned to me without a visa. Person 4 emailed Country L to inquire about this and the embassy in Country L informed him/ her that I had to provide additional information about my university and that the application fee had not been paid. (I actually had paid the application fee but I think it must have been misplaced). After Person 4 informed me of his/her email correspondence with the embassy I sent them documents from the university confirming that I had withdrawn for health reasons. I also repaid the application fee. Eventually my visa application was accepted and my visa was granted.

57. The letter from the University regarding my withdrawal, stated that I withdrew because of "health problems with stress and kidney". I did have kidney problems in Ethiopia and these became very bad after the riots. I told the doctor in Ethiopia who conducted the health checks associated with my application for a visitor visa that I had kidney problems. The doctor sent me for a second check to a hospital in City Z. At the hospital check up no problems were found with my kidneys. I did not have any problems or pain in my kidneys after arriving in Australia. Therefore I have assumed the kidney problem is better and I did not mention it in my health check forms associated with my protection visa application completed here in Australia.

58. I was very happy to come to Australia as I was very fearful for my life in Ethiopia and very distressed by all the events from the past years. I knew I only had a visitor visa for a few months and so I would probably have to return to Ethiopia at the end of this time but I hoped that I might find some way to stay in Australia once I arrived in the country, because I feared for my life in Ethiopia.

59. I continue to be very frightened of returning to Ethiopia. I have spoken to Grandparent B and to friends in Ethiopia and they have told me not to return. Grandparent B has told me that if I return this will cause a problem for me and for the whole family. People in City X know I have left the country and if I was to return I would be in even more danger than before I left. I would be at risk of being detected at the airport and expelled to Eritrea. Even if I made it back to City X, I would face serious harm. I would face increased risks because people will be angry with me for trying to leave Ethiopia and also they will realise I obtained an Ethiopian ID by bribery. They will know this because people with Eritrean parents are not allowed to obtain Ethiopian IDs. This will cause additional problems for me.

60. I have also spoken with a friend (Person 7) from the university. Person 7 is an Ethiopian. He/she told me that it is still very dangerous in City X and that since the riots it is very unsafe at my university for people who are not of Ethnic Group P. He/she told me that since the riots, fights are continuing on at university and non-Ethnic Group P students are being targeted. Before the riots, things were difficult for non-Ethnic Group P students at the University but the situation has escalated and become extremely dangerous since the riots.

61. In summary I believe I remain at risk of being detained and either killed or expelled to Eritrea by the Ethiopian EPRDF government. There is still conflict between Eritrea and Ethiopia and Eritreans in Ethiopia are still targeted for persecution and are still expelled from the country. A good example of this is the recent expulsion of my relative (Person 6). As well as being at risk from the government, I believe I am at risk of harm from other Ethiopian people, who hate Eritreans because of the history of conflict between the two

countries. I don't believe the government will protect me from this as they are opposed to Eritreans and are agents of persecution themselves.

62. I also believe I am at risk of Harm from Oromo people, who are in conflict with Amhara people and Tigrayan people (both Eritrean and Ethiopian). Oromo people are dominant in City X and I am at serious risk from them there.

63. Over the years, my entire family has either died or disappeared or left City X because of the problems for Tigrayans and Eritreans and non Oromo there. The only one left there is my Grandparent B and he/she is very old and unable to look after me properly. Soon he/she will pass away and then I would be the only one left if I was returned to Ethiopia. So, as well as being at risk because of my race and ethnicity, I would be at risk as a single Ethiopian woman, without male protection.

64. In addition to being at risk in City X, I am also at risk through out Ethiopia because I am part Eritrean and a single woman. As a single woman I would be very vulnerable to being attacked or abducted by Ethiopian men. The Ethiopian government would be unable to protect me from this. As an Eritrean I am at risk throughout Ethiopia from the EPRDF government and from Ethiopians who are opposed to people of my race.

65. If I am expelled to Eritrea, I will be at risk of harm as a single woman without any family and especially without male protection. I would also be at risk of serious harm because I am half Ethiopian. My first language is Amharic. The Eritrean government would be unable to protect me from harm on the basis of my gender and would be unable and unwilling to protect me from harm on the basis of my Ethiopian race. In fact the government itself, as well as other Eritreans, would actually target me for harm.

66. I have lived in fear for my safety every day for the past ten years. Coming to Australia and being able to walk outside without fear has been such a relief for me. I am terrified of being returned to Ethiopia for all the reasons stated above and am very stressed about this possibility.

35. Later the same day, a further letter from the review applicant's representative was received, correcting or clarifying a couple of points relating to the above statutory declaration. The letter notes that the applicant's birth certificate was obtained through irregular means, as was the ID card, and lists her Parent 1 as being Ethiopian precisely in order to ensure she would be able to obtain an Ethiopian passport and escape the country. The other information on the certificate is correct.
36. Some days later, the Tribunal received a facsimile from the applicant's representative apologising that legal submissions she had been intending to file, were not able to be provided before the hearing because her computer had crashed and the submission was not recoverable at this stage, but foreshadowing that she would seek further time at the hearing to provide post-hearing submissions by the end of the following week and apologising for any inconvenience to the Tribunal.

Tribunal Hearing

37. The applicant appeared before the Tribunal in 2000s to give evidence and present arguments. The Tribunal also received oral evidence from Person 3, who is the applicant's relative. The Tribunal hearing was conducted with the assistance of an interpreter in the Amharic (Ethiopian) and English languages.
38. The applicant was represented in relation to the review by her lawyer, who is also a registered migration agent. The representative attended the Tribunal hearing.

39. At the start of the hearing, the applicant's representative made preliminary submissions. She submitted that the applicant has a well-founded fear of persecution in Ethiopia on the basis of her race or nationality, being partly Eritrean and partly Ethiopian. Therefore, and in terms of race, she is part Ethnic Group N and part Ethnic Group O Eritrean. She is also a member of a particular social group, being a person of a mixed parentage, or a member of other possible sub-sets of that social group, such as single Eritrean/Ethiopian women or Eritrean/Ethiopian women without male protection.
40. The representative submitted that the applicant is at risk of persecution by private individuals and the government cannot protect her because laws in Ethiopia for the protection of women are not adequate and also, with respect to ethnicity, the applicant's main fear is from the people of Ethnic Group P in the region and the government is unable to protect her from that risk. With respect to her race-based fear, this is from the Ethiopian government and also within the community and there is a risk of being detained and possibly sent to Eritrea by the government.
41. The applicant is said to be at risk throughout Ethiopia, at least on the basis of the race and social group claims, because in Tigrinya relocation is not an option for her. If she is sent to Eritrea she has a well-founded fear of persecution there for reasons of her mixed race.
42. The applicant was asked about her family background. She said that her Parent 1 had died in a camp in Eritrea. Her two siblings had fled to Country Y and she had had no news of them since. Her third sibling, she confirmed that he/she had simply disappeared after going for a walk one day and they had never seen or heard from him/her again. The applicant was asked which hospital her Parent 2 was staying at in Ethiopia and she said he/she is at the Hospital A in City Z.
43. The applicant was asked whether she speaks any of the language of Ethnic Group O but she said she speaks almost none of this language. Asked what language he/she had spoken to her Parent 1 in, she said Parent 1 had spoken to her in Amharic, although Parent 1 spoke to the elder children in the language of Ethnic Group O..
44. Asked about her surviving Sibling C, who apparently lives in City Z, she confirmed that he/she had married some years ago but that he/she has no children. His/her spouse works but he/she is not working. Asked about the sibling's home, she said he/she lives in a house, which has two bedrooms, dining room, a kitchen and a lounge room. She said that his/her spouse's relatives often come and she understands her sibling's spouse's relatives often come and visit and stay there. Asked whether she had stayed there, she said she had on a few occasions but only for one day at a time.
45. The applicant was asked whether her sibling had had any problems since he/she went to City Z. She said that he/she has been unable to work as he/she doesn't know people and he/she doesn't have much social life. He/she just spends his/her time at home. She was asked what her sibling's spouse's relatives think of her sibling but she said she's not sure. She, herself, has met some of them but only very briefly.
46. The applicant was asked whether she or her Sibling C speak any of the language of Ethnic Group P. She said she doesn't but she is not sure about her sibling – that he/she didn't speak any previously but he/she might now. She said that her Sibling C's spouse speaks Amharic. She, herself, doesn't speak any of the language of Ethnic Group P and

she only knows a little bit of the language of Ethnic Group O. She can understand more than she can speak. She confirmed that she spoke to her Parent 1 in Amharic.

47. The applicant was asked to elaborate on what had happened to her in Ethiopia and in particular, what problems she experienced at university. She said that in the past they used to learn peacefully and in good surroundings but then those who spoke the language of Ethnic Group O started to congregate by themselves and to reject them. A person committed suicide because he/she was so stressed about what was happening. He/she was half Eritrean and half Ethiopian. Asked when she recalled this happening, she thought it was in the 1990s on the Ethiopian calendar, which translates to the 2000s in the Western calendar, although she wasn't really sure.
48. The applicant was asked whether she had had any problems at the university campus before the person's suicide. She said that when they had rejected them from society during lunch, coffee breaks, etc, they started to feel stressed and then after the suicide there was a big problem. There was a fight and she was hit when they threw stones – she was hit on the back of her head. She felt very stressed and down.
49. She was asked whether there was any other negative behaviour towards her, for example, whether she was insulted or called names. She said they received lots of insults and arguments although she can't remember every one. She was very scared because people would shout and insult them, calling them traitors and troublemakers.
50. The applicant was again asked whether there were any problems before the riots she had mentioned. She said when they would go to the library or café or sit at tables, if someone came and sat with us someone else would say, don't sit with them – they are traitors. She was referring to half Eritrean and half Ethiopian students.
51. The applicant was asked how many others in this situation there were and she said she knew several people. She was asked whether everyone knew about them and she said, yes, because the students tended to stay together in their own ethnic groups.
52. The applicant was asked to clarify the sequence of events in terms of whether her recollection was correct, with respect to the timing of the university riots, because the only report the Tribunal could find, which referred to such an event seemed to suggest that it happened in the 2000s, which was before her relative, Person 3, came to Australia, whereas she seemed to have suggested it was after Person 3 came to Australia. The applicant was asked whether she was sure Person 3 had come out here before the riot. She said that she remembered that when Person 3 had called up, she used to tell him/her things that were happening and although she is not sure, she thinks the problems had already started before Person 3 left although she thought that the major incident had occurred later.
53. The applicant was asked whether Person 3 had also studied at the university. She said that he/she had not – that he/she had been getting ready to come to Australia, a process which took a few months. Asked what he/she did during this period, she said that he/she had just stayed at home.
54. The Tribunal read out the reference it had found on the internet to a riot at the University and asked the applicant to comment on the timing of it. She said she just

remembered that Person 3 came to Australia and when she called him/her, she told him/her what had happened.

55. The applicant was asked whether, perhaps, Person 3 might have gone away anywhere before he/she came to Australia, but she said she didn't think so. She was asked whether Person 3's spouse had come to Ethiopia and, if so, where he/she stayed. She said that he/she had come to Ethiopia and that they had travelled around the country together although they didn't really stay in one place. She thinks he/she was there for a few weeks. She was asked whether she had spoken to Person 3 on the phone during this period and she said that she had. She was asked whether she could have told him/her about the riot then and she said she is not sure.
56. The Tribunal noted that the applicant's passport was issued in the 2000s but the email invitation from Person 4 is dated after and the Visitor Visa application was only lodged on after that also. The Tribunal noted that it might be seen as a lack of urgency and queried why the applicant had waited so long if the threat was as serious as she claims. The applicant said that she was stressed and worried and had medical problems. She was just taking her medicine and waiting to see what her relative would suggest. They were in touch on the phone and via email. Some of the conversations were in Amharic and some were in English. The applicant was asked whether she had talked about any of her problems, at that time, with her relative and she said that she had in MSN chat. She was asked whether they could produce copies of this correspondence. She said that when she signed out, the messages disappeared but she doesn't know whether her relatives kept copies at all.
57. The applicant was whether she had brought her original ID. She said that she had left the original in Town D with her sibling when she moved to City Z, and that the copy, submitted to the Tribunal had been faxed to her by her sibling. She offered to provide the original if necessary. The applicant was asked to read out the contents of the ID card in order for the Tribunal to gauge whether it would assist and a translation would be required. She did so, noting that it contained: her name; her age; her gender; her nationality (Ethiopian); her occupation (student); and; that it was issued by the local administration body which is above the administrative unit; that the family consists of one female; that it shows the administrative unit's telephone number and; the ID card issue date of the 1990s, and a signature in the administrative unit's authority seal. Asked how this was obtained, she said a friend of her Parent 2, who speaks Oromo and knows members of the administrative unit, arranged it for her. This was facilitated with the payment of a bribe of several hundred Birr and that when asked how much you would normally pay; she said she is not sure – maybe a lot less.
58. The applicant was asked how she had obtained her birth certificate. She said that the same person had organised this. After she had got the ID card, she suggested that she also needed a birth certificate, which also shows a date of issue. She was asked whether they were obtained before she got the passport. She said the ID card was obtained before she got the passport because this was used in order to get the passport. The birth certificate was only obtained after she got the passport. She said the ID card doesn't show her nationality but the birth certificate does and it deliberately shows her parentage as being Ethiopian on both sides, which is not, in fact, correct.
59. The applicant was asked what, if she already had her passport, was the purpose of getting a birth certificate also containing the incorrect information. She said she was

told that it would be good to have this overseas. She was asked, if there was no spot on the ID card indicating her father's nationality, why there was any need for her to get another document showing his nationality as Ethiopian or, indeed, why there was any basis for her to be concerned. She said that to get an ID card from the administrative unit in the ordinary sense, she would have had to fill out a form with all the details, including her parents' details. She did not fill out that form because she would have had to get the details of her Parent 1 and wouldn't have been able to get the ID card.

60. The applicant was then asked about how her Person 3 had obtained his/her travel documents. She said she understood that Person 3 had also got his/her passport in the same way
61. The applicant was asked what Person 3's ID card and birth certificate said about his/her Parent 2's nationality. She said she thinks his/her ID card doesn't say anything but the birth certificate is probably the same as hers. Asked whether the same person had assisted, she said yes.
62. The applicant was asked whether she had had any problems or difficulties departing Ethiopia. She said she was asked where she was going and then she was told to wait while they checked her documents. They then allowed her to go.
63. The Tribunal asked why, if the applicant hadn't experienced any difficulties departing Ethiopia, she thinks that she would experience problems on return. She said she believes this because her ID card was obtained through irregular means. After she came here, neighbours would have heard or come to know what she had done. The Tribunal said that if it accepted that, as it was inclined to do, she had had problems in City X and had had to pay a bribe to get an ID card there, this had, nevertheless, been sufficient for her to obtain a passport and in this sense the irregular ID card has clearly done its job. The Tribunal queried why it could not be expected to continue to do so. The applicant replied that when she had called her Grandparent B after she came to Australia, he/she had said not to come back because it was not good for her.
64. The Tribunal asked whether the applicant would have any objection to it contacting her cousin Person 3 or Person 3's Person 4 to take evidence from them directly. She said she is happy for the Tribunal to do so. She provided the Tribunal with Person 3's telephone number and the Tribunal called Person 3 to take evidence from him her.

Evidence of the Witness Person 3

65. The witness gave his/her full name, address and date of birth. He/she was asked whether he/she knew why the applicant had come to Australia. He/she said it was because she has got some problems and she came to stay with the witness for a time and look for some ways to come here. Because she was in a problem she looks for safety. She had stopped school for some reasons. The school had closed because of a riot and created problems. She was also sick because of kidney problems.
66. The witness was asked whether he/she had invited the applicant to come here in order to help her escape from her problems. He/she said he/she had because she was sick and her life was miserable and they thought she could come here and relax and think about her life.

67. The witness was asked where her Parent and the applicant's Parent 1 were from. She said that they were Eritrean. She was asked whether she and the applicant had any problems getting documents, given that one of their parents were Eritrean. He/she said that he/she had obtained her documents earlier than the applicant. He/she said his/her other parent is Ethiopian and a neighbour who knows that parent assisted and managed to get his/her ID card without much problem.
68. The witness was asked whether he/she recalled an incident at the university. He/she said he/she doesn't know exactly but, he/she thinks that before he/she came to Australia, the applicant had stopped school. He/she said that he/she understood that students had hit each other and made problems because of race. The students from Ethnic Group N and Ethnic Group P and Ethnic Group O hate each other. The applicant has an Eritrean Parent 1 and a Parent 2 from Ethiopia who belongs to Ethnic Group N and his/her own parents are the same.
69. The witness was asked whether he/she was there when the riot happened. He/she said the problem started before he/she left but he/she thought the particular incident had happened after he/she came to Australia – that was about several months ago.
70. The witness was asked what he/she understood happened to the applicant in the riot. He/she said that the applicant had told him/her that she had a bad association with other students. He/she was asked whether the applicant or any of her friends had been injured or killed. He/she recalled that when the applicant had spoken to him/her on the phone, she said that she and some of her friends had been beaten, and one of her friends was killed.
71. Asked whether he/she knew about the circumstances of the applicant's sibling. He/she said that he/she knows her sibling and he/she understood that he/she is married and lives with his/her spouse in City Z. He/she is not sure what happens in City Z – it maybe better than City X but he/she doesn't really know in any detail.
72. Person 3 was asked whether he/she thought the applicant would be safe if she went to live with her sibling in City Z. He/she said he/she doesn't think the sibling would support her because he/she lives for himself/herself there.
73. He/she was asked whether he/she thought there was any risk of the applicant being sent to Eritrea and he/she replied that she was not born there and she has never lived there and that she speaks almost none of the language of Ethnic Group O.
74. At the suggestion of the applicant's representative, Person 3 was asked how he/she managed to obtain the ID card with a relative's support. He/she said that because he/she was born and had grown up in City X, the neighbours knew him/her and his/her grandparent helped. He/she was asked whether he/she had completed a form mentioning his/her parent's Eritrean nationality when applying for the ID card. He/she said that he/she doesn't think any form had been completed. However, he/she took his/her grandparent and parent to the administrative unit and there was no problem. It was not obtained illegally but they just explained everything. He/she said that this was a long time ago. The form – the card – has been renewed since then.
75. The witness was asked whether he/she had had any trouble renewing the ID card and he/she said once you get the card there is no problem to renew it.

Further Evidence of the Applicant

76. The applicant was asked about her fears of being expelled back to Eritrea. She said that if they know that her Parent 1 was Eritrean, it would probably happen to her. She was asked why they would expel her back there given that she has been allowed to live there all her life and has now been issued with a passport and was born in Ethiopia.
77. The applicant said that in City X she was underage and didn't need an ID card and lived as a student without problems. However, if she goes back now and wants to live interstate and doesn't have a family, she would have problems.
78. The applicant was asked what sort of purposes an ID card is required for and she said it can be required to look for a job or to go to school or if something happens. It was pointed out to the applicant that she had gone to City Z to get her passport using her ID card and been successful. The applicant said the ID card is only valid for some months and after that she would have to renew it. She was asked where the expiry date was and she said it was on the back so that wasn't included in the fax copy sent to the Tribunal. The Tribunal indicated that it would like a certified copy of the full ID card together with the translation.
79. The applicant was asked about relocation in terms of going to reside with her sibling and whether this would be a safe option, enabling her to avoid the persecution she feared. She said she did go to City Z for a short time to get her passport but she doesn't have a very close relationship with her sibling and she doesn't think she could live with him/her because they live separate lives. In any case, even if she tried, she doesn't think her sibling's spouse would allow her to and she wouldn't feel safe living with her sibling.
80. The applicant was asked why she didn't think her sibling's spouse would allow it and she said he/she doesn't know about her condition and anyway, since her sibling married him/her, he/she hasn't had much to do with the rest of her family. She was asked what her sibling's spouse did and she said that he is in business. She was asked how well off and she said she is not sure but from what she has seen she doesn't think they are particularly well off – they appear lower class. His/her relatives seem poor. She was asked whether they own their house and she said she thinks so. She was asked whether she has ever stayed with them for more than one night and she said she has not.
81. The applicant was asked to respond to her Person 3's evidence about having obtained the ID card and renewed it. She said that she had thought that he/she got the ID card at the same time as her but as she said, he/she had got it with the help of witnesses. For him/her to renew it, it might have been easy but the applicant doesn't think it will be easy to renew her own ID card because she had got it the other way. The representative suggested that the relative had got the ID card much earlier – this might have been easier then, before there were problems?
82. The applicant was asked whether there was anything else she wished to say about the ID card and she said that if she goes back and they find out about her Parent 2's nationality then they will put her in a camp and it's a bad life if that happens. The applicant was asked whether she had had any difficulties in the past as a result of not having her ID card. She said that most of her life she has been either at home or at school and she has never travelled. When she was a student, she had a school ID card,

which she used whenever ID was necessary. Because she was underage then it was not so much of an issue.

83. She was asked again what she would need an ID card for if she went back now and she said she would need it for everything – for her social life; for travel; for job hunting; for doing courses or school or; even to rent a house from the administrative unit.
84. She was asked whether her sibling has an ID card and she said she thinks he/she has. She was asked how he/she got it and she said she is not sure but his/her spouse probably helped him/her and anyway they have their own house.
85. The Tribunal then summarised its concerns to the applicant and her representative.
86. It noted firstly that it had difficulty accepting that there would be a problem with the applicant's documents being accepted, and that, for example, it was impossible for her to renew her ID card in the ordinary fashion as claimed. The Tribunal noted that after first obtaining her ID card, the applicant had then used it to get a passport and that this indicated that other government agencies had accepted it. Even though the ID card had been obtained irregularly, it might be open for the Tribunal to conclude that it would simply be a formality to renew it, particularly when the evidence of the applicant's cousin was taken into account.
87. The Tribunal secondly put to the applicant that even if she were at risk of persecution in City X it may be reasonably open for her to relocate safely elsewhere in Ethiopia where she would not face a real chance of serious harm capable of amounting to persecution. Whether the applicant went to reside with her sibling or whether she just simply went to a predominately Ethnic Group N area where no-one knew about her Parent 2's ethnicity, it may be that she would be safe in such a location.
88. Finally, the Tribunal suggested that it was not aware of country information suggesting that a person such as the applicant would, if she returned to Ethiopia, face a real chance of being removed to Eritrea and, in the absence of any such information.
89. The applicant was invited to respond either orally or in writing to these concerns and, after consultation with her representative, it was indicated that further submissions would be lodged. It was agreed they would be lodged within weeks or a further extension would be sought.

Post-Hearing Submissions

90. The Tribunal received a letter by fax and mail from the applicant's representative enclosing legal submissions and a further statutory declaration by the applicant, and also foreshadowing the provision of additional documents once a further translation had been obtained. The letter notes that a translation which had been obtained was incomplete and evidently inaccurate.
91. The submission included the following:

[information about the applicant's statutory declaration and submissions amended in accordance with s.431 of the act as it may identify the applicant]

9. The applicant does not recount experiencing any significant difficulties in Ethiopia until the 1990s, when the Ethiopian Eritrean War began. At this time, she was young. Shortly after the war began, the applicant's Parent 1 was expelled to Eritrea where he/she later died in a refugee camp. The applicant's Parent 2 appears to have become extremely mentally unwell as a result of this and is currently in a psychiatric hospital in City X. At the Tribunal hearing, the applicant identified this hospital as Hospital A. Parent 2 no longer recognises the applicant. As was apparent from the applicant's presentation at the Tribunal hearing, she becomes very distressed when talking about Parent 2. The applicant's two eldest siblings, who were born in Eritrea and spoke the language of Ethnic Group O as their first language, fled the country around the same time as Parent 1 was expelled. The applicant has had no contact with them since but believes that they may be in Country M.

10. After the war began, Parent 2 sent the applicant and her Ethiopian born siblings to live with their grandparents (the parents of Parent 2). Parent 2 initially stayed to protect the family home but after it was confiscated by the authorities she also lived with the applicant's grandparents until he/she became mentally unwell and was admitted to hospital.

11. The applicant lived with her Ethiopian grandparents from the outbreak of the war until she left Australia (although for some of this time it was only Grandparent B as Grandparent A had passed away). Initially, the applicant's Ethiopian born siblings and some relatives also lived in the house. These relatives were also of mixed Eritrean/Ethiopian race, with Eritrean parents. Over the years, one of her siblings (Sibling C) left City X for City Z (accompanied by and protected by her spouse who belonged to Ethnic Group P) and her other sibling (Sibling D) disappeared. Her elder relative (Person 5) also left Ethnic Group P-dominated City X and the family lost contact with him/ her.

12. The applicant's Grandparent A died in the 2000s, and her relative, Person 3, left Ethiopia for Australia at around the same time. The applicant resided alone with Grandparent B from then until she left Ethiopia.

13. From 1990s onwards, the applicant experienced ongoing harassment and discrimination in City X, particularly at school and later university, but also in the wider community, from Ethiopians of Ethnic Group P, for reason of her partly Eritrean race and also for reason of her ethnicity (Ethnic Group O and Ethnic Group N). The applicant instructs that ethnic tension between Ethnic Group P and other Ethiopian tribes escalated after the Eritrean Ethiopian war.

14. The applicant also lived in constant fear of arrest and physical harm and deportation to Eritrea from the EPRDF Ethiopian government and its agents, for reason of her Eritrean race. She experienced physical violence from government security forces.

15. In the section 424AA request, the Tribunal Member questioned whether or not the applicant's fear of expulsion to Eritrea was well founded. The applicant is adamant that she was at risk of expulsion to Eritrea and that she would remain at risk of expulsion if returned. She has articulated these fears in both her statutory declarations.

16. It is submitted that given the ill treatment she has experienced since the 1990s and the disappearance and/or arrest and expulsion of family members (Parent 1, Sibling D and her relative Person 6) her fear of being arrested and deported for reason of her Eritrean race is very understandable. It is also submitted that the country information regarding this issue is not conclusive and there is some evidence that the applicant would be at risk of deportation. In particular, the

Advisory Panel on Country Information Evaluation Report of the UK Home Office Report for Ethiopia notes that there is inadequate information about the treatment of persons of Eritrean descent living in Ethiopia. It notes further that given the large numbers of asylum seekers in the UK claiming to be of Eritrean descent and to have been deported to Eritrea or to face dangers of deportation, further research is required in this area.¹ Further submissions are provided below on this issue in response to the section 424AA request.

17. The applicant's situation reached a head when riots broke out between Ethnic Group P Ethiopians and other ethnic groups at a university in City X. The applicant has instructed that people with Eritrean heritage were particularly targeted. The applicant was injured in these riots and her Eritrean friend was killed.

18. It is noted that there was some confusion at the Tribunal hearing about the likely dates of the riots described by the applicant in her original statutory declaration. In the applicant's original statutory declaration she stated [date specified] as the date of the riots. However, she stated this as her best effort to identify a time frame, at our request when assisting her to prepare her statement that she try to remember the time period of the riots. The applicant has explained in her second statutory declaration that she has had difficulty remembering dates from that period and was additionally confused by the requirement to translate from the Ethiopian to Western calendar. The applicant has explained to us that during the period after the riots she became very emotionally distressed and physically unwell which contributed to her difficulty recalling dates from the period.

19. All the applicant can be sure of is that her relative Person 3 was in Australia when the riots occurred, so she now believes they must have been some time in the 2000s, given the advice of the Tribunal Member, which has been confirmed by Person 3; that Person 3 left Ethiopia in the 2000s. The only internet reference to riots at the university named by the applicant that we have been able to find is the website referred to by the Tribunal Member, which reports riots on [date specified]. The applicant and Person 3 have both confirmed that there were problems at the university including small scale violence prior to Person 3 leaving for Australia and prior to the riots referred to by the applicant in her original statutory declaration. It is possible the internet report is a reference to one of those incidents and that the later riot was not reported.

20. It is submitted that it is also possible that the internet dates are incorrect, possibly because of the different dating of both months and years in the Ethiopian calendar. The applicant has been a credible witness and has stuck consistently to her version of events - namely her description of the riots and her statements that the riots occurred soon after Person 3 left Ethiopia for Australia. The applicant appears genuinely confused about the discrepancies between her evidence and the internet reports and it is strongly submitted that her evidence should be accepted.

21. Around the same time as the university riots, a relative who had been living with the applicant and her Grandparent B, seeking refuge from Eritrea, was informed on by neighbours and was arrested and expelled back to Ethiopia. This increased the applicant's fears that she herself would be arrested by the EPRDF government and/or its agents. It also drew attention in her neighbourhood and the wider community to her family's links with Eritrea, which caused her stress and fear for her own safety. Her fears for her safety, combined with the trauma of the

¹ Advisory Panel on Country Information APCI 9.3 Evaluation Report of Home Office Report on Ethiopia, 11 April 2007 by Laura Hammond and Tess Hicks, Juno 2007, p 5.

university riots, her ongoing distress at the loss of so many family members and the traumatic events of the past ten years culminated in her becoming physically and emotionally unwell. She did not return to university after the riots and in the 2000s applied formally for a leave of absence.

22. The applicant spoke with her relative, Person 3 about her problems and consequently Person 3 and their spouse, Person 4, assisted the applicant to come to Australia. Details of the process are set out in the applicant's two statutory declarations.

23. At the Tribunal hearing Person 3 was asked whether he/ she and his/ her spouse invited the applicant to Australia to assist her to escape. Person 3 stated that he/she and his/her spouse brought the applicant to Australia because she was sick, life was miserable and they thought she could come here to relax and think about her life. Earlier in the questioning, Person 3 stated that the applicant came to Australia because she had some concerns and problems and she needed a "safe way".

24. It is submitted that Person 3's surprise and fear when giving telephone evidence to the Tribunal should be taken into account in considering some of the evidence she/he gave. Person 3 is clearly very fearful of the possibility of being returned to Ethiopia and this may have impacted on him/ her. The possibility that the quality of the interpreting was not high should also be considered.

25. I met with Person 3 and the applicant together recently and they clarified that the applicant did come to Australia to protect her safety and they both hoped she might be able to stay here, although they realised that this might not be possible, given the applicant was only on a temporary visa. They stated that the focus at the time of making the original visa application was to get the applicant out of Ethiopia. When explaining the situation Person 3 stated to me simply, through an interpreter "I lost many family members and I prefer not to lose her too."

26. In order to travel from Ethiopia, the applicant had to obtain an Ethiopian passport. She has explained that to obtain an Ethiopian passport she first had to obtain an Ethiopian ID. She has explained that after obtaining the ID and then the passport, she also obtained an Ethiopian birth certificate. She has explained that people with Eritrean lineage are not permitted to obtain Ethiopian ID or birth certificates so she had to obtain her ID and birth certificate through a woman of Ethnic Group P (Person 8) with government contacts and influence. She provided some explanation of the process for obtaining ID at the Tribunal hearing and has given further significant and, in our view, credible detail about the process of applying for ID in her second statutory declaration. It is clear from her accounts that she would have to reapply for ID if she was to return to any part of Ethiopia other than City X, and even in there she would have to reapply, rather than simply renew the ID, unless Person 8 would again agree to verify that the applicant was a resident of his/her house (which the applicant considers would be unlikely).

27. The applicant's relative, Person 3, also gave evidence at the hearing about his/ her own application for ID and his/her renewal of ID. Person 3 explained that he/she had some difficulties applying for ID but he/she did not have as many problems as the applicant, having applied earlier. Person 3 also told the Tribunal that he/she was able to renew his/her ID without difficulty. It is important to note however that the perspective of "difficulty" of an Ethiopian of a minority race and ethnicity would be very different from an Australian person's perception of experiencing "difficulty" obtaining official documents.

28. It is important to note that that the reason Person 3 did not have major difficulties getting ID or renewing ID was because of the assistance he/she obtained from an influential person of Ethnic Group P, Person 8, who is the same person who assisted the applicant to obtain her original ID and to then renew it. For the reasons set out in her statutory declaration, it is likely that the applicant will not be able to rely on Person 8 for this support if she is returned to Ethiopia.

29. Country information set out below indicates that the citizenship status of Ethiopians of mixed Eritrean and Ethiopian race is complex. It is submitted that even if mixed Eritrean/ Ethiopian race people in Ethiopia are legally entitled to citizenship, country information indicates that obtaining official recognition of this through documents like ID, birth certificates and passports, may not in practice be easy for these people.²

30. Once the applicant obtained her ID, she had no difficulties obtaining a passport (which she applied for in City Z, because of her anonymity there). She has explained that with valid ID it is relatively easy to obtain a passport. The applicant's passport was issued in the 2000s. The applicant obtained an Ethiopian birth certificate after this. She has explained in her statutory declaration that she obtained this Ethiopian birth certificate to avoid any problems, for example at the airport when coming to Australia - she obtained the birth certificate through Person 8. She has explained that as she already had her passport and ID it was not difficult to get the birth certificate.

31. The applicant applied for her visa in the 2000s At the hearing the Member noted the delay between the passport grant and the email invitation from the Person 4 and the subsequent application for a visa by the applicant. It is submitted in relation to the issue of delay that the applicant was without family support (other than Grandparent B), without financial means and was unwell physically and emotionally during the time that she was arranging to leave Ethiopia This may have delayed her arrangements. She explained at the Tribunal that she was waiting for her health to settle down before making the visa application.

32. There could also be other reasons for the delay. For example, Person 3 has only been married a relatively short time to his/her spouse and it is clear from talking with Person 3 that he/she is very fearful herself of being returned to Ethiopia. The power differentials between Person 3 and his/her spouse should be taken into account. It is possible that Person 3 may have initially been hesitant to ask his/her spouse to help bring the applicant to Australia, due to Person 3's own fears of possible consequences for his/her own relationship. We have not directly asked Person 3 about this but further information can be provided if required.

33. The applicant's visa was granted in the early 2000s and she departed for Australia soon afterwards. She applied for a protection visa some weeks later after being advised by a friend that the situation in City X is still very unsafe, particularly because of the unrest between Ethiopians and Eritreans and after being advised by Grandparent B that it would be unsafe for her to return and would cause problems for the family.

92. The applicant's further statutory declaration includes the following

² Advisory Panel on Country Information APCI 9.3 Evaluation Report of Home Office Report on Ethiopia, 11 April 2007 by Laura Hammond and Tess Hicks, June 2007, p. 5.

[information about the applicant's statutory declaration amended in accordance with s.431 as it may identify the applicant]

1. I made a statutory declaration on [date specified] in support of my claims for a permanent protection visa in Australia. I attended a hearing at the Refugee Review Tribunal (RRT) on [date specified] At the hearing, the Tribunal Member raised a number of issues. I am now making this extra statutory declaration to respond to the issues raised.
2. I was not happy with the interpreter at the Tribunal hearing. I felt that she did not translate properly. I know that the Tribunal Member told me I should indicate this if it was a problem, but at the time of the hearing I was too overwhelmed by the whole process to let my lawyer or the Tribunal Member know about my concerns.

Riot Issues

3. At the Tribunal hearing, the Tribunal Member asked me if I was sure that the riots at my university occurred after my relative Person 3 had left Australia I said yes that I was sure, because I remembered talking with Person 3 about the riots and the problems that resulted for me after the riots by telephone when Person 3 was already in Australia The Tribunal Member drew my attention to the fact that Person 3 had not arrived in Australia until [date specified] and told me that the only internet reports he had found of riots at my university related to riots some months earlier.
4. In my first statutory declaration, I specifically stated that the riots occurred in [date specified], just after Person 3 had left for Australia As I have stated above, it is correct that the riots occurred just after Person 3 had left Australia. As Person 3 left in [date specified], my statement in my previous statutory declaration that the riots occurred in [date specified] is wrong. I don't know why I said that month. My lawyer was pressing me to try to remember times when things happened when I prepared my first statutory declaration and I tried my best to do this but it was hard to get the dates exactly right The Ethiopian years and dating of months are different to the Australian ones. I tried my best to remember when things happened in Ethiopian time and then translate that to Australian dates but it was not for easy for me. I'm not sure what months the riots were but all I know is they were after Person 3 left. I know this because I specifically remember telling him/her about them over the telephone. Given that Person 3's passport says she left Ethiopia in [month specified], the riots must have been sometime after that but I'm not sure of the dates exactly.
5. With respect to the riots in the internet reports referred to by the Tribunal Member, I do not know why the dates of those reports are different It is possible the dates are wrong because of the confusion between Ethiopian and Western dates. Also there were problems and smaller riots at the university before the riots that caused me to leave. It is possible that the internet reports are referring to those earlier problems but I don't know. The internet report talks about a riot where several people were injured. At the riot that caused me to leave university, many more people than that were injured.

ID Card Issues

6. The Tribunal Member said to me at the hearing, that I had managed to obtain an ID card in Ethiopia and had used this to get a passport. He stated that this indicated that the ID card was recognised by government agencies as a genuine ID card. He suggested that I would be able to renew the ID card if I returned to Ethiopia, as it would be recognised as a valid document. He also noted earlier in the hearing that my relative Person 3 told the Tribunal in his/her telephone evidence that he/she had not had difficulty renewing his/her ID card in Ethiopia.
7. I do not believe that I would be able to renew my ID card easily if I returned to Ethiopia. By way of background, Ethiopia is divided up into provinces (there are nine states and two other special municipal regions, Dire Dawa and Addis Ababa). Each

province has its own different type of ID card. For example the ID card for Oromia Province is different to the ID card for Addis Ababa They are in different languages and look different. The Oromo ID cards are written in Oromo and Amharic, with a logo for Oromia on the front. To the best of my knowledge the City X ID cards are in Amharic only. On the front cover of my Oromia ID card it is specifically written, in Oromo and Amharic, the words "Oromo Government Zone" "City X City Administration" "Administrative unit ID Card No. #####".

8. ID cards are issued by local government offices ("kebeles") within the provinces and special administrative regions. In Province R, at least in the area where I was living, the exact kebele office that granted the ID card is specified on that ID. The telephone number of that kebele is also specified. So, on my ID card, it states the relevant kebele number, and a few lines below this on the ID card it states the kebele phone no. The ID card also specifies the house number of the holder of the ID, within the kebele area. My ID card specifies my house number. This is actually the house number of my friend Person 8 (the one who helped me get my ID as I explain below). When Person 8 applied for my ID card he/she specified that I was living with him/her. Each house has its own kebele file. Because Person 8 told the authorities I was living with him/her when he/she applied for my ID card, I am registered in Person 8's kebele file, not Grandparent B's kebele file. Person 8's registration no. is specified next to the photograph on my ID card.

9. To the best of my knowledge, to obtain a new ID in the kebele where I was living in you had to have at least some witnesses. One witness is required to confirm that the applicant's address is true (such as a neighbour) and another witness has to be the head of the house hold where the applicant will be living, to confirm that they will take responsibility for the applicant, as a guarantor. When I first obtained my ID, Person 8, attended the kebele office with Grandparent B. I did not go with them. Person 8 organised everything for me, including, to the best of my knowledge, the completion of the application form for the ID.

10. To the best of my knowledge in Province R, to renew an ID card you have to go back to the exact kebele office where the original ID card was granted. It is specifically stated on the back of my ID card that to renew it, the confirmation by the signature and seal of the authorised kebele official is required. To the best of my knowledge, when renewing an ID, you also have to prove you are still living at the same address. To the best of my knowledge, the head of the house where you live has to go to the kebele office with the applicant to prove that the applicant still lives in that house. In some case the applicant does not even have to attend, if someone influential is able to obtain the ID for them.

11. On the back of my ID it is stated that if a person moves house they must return the ID to the kebele office. To the best of my knowledge, if you move house, even within the same kebele area, you would have to return your ID reapply for an ID card. You could not simply renew the ID.

12. My ID card was issued in [date specified]. I know this, because I am sure I made arrangements to apply for ID after the riots, which was after Person 3 had left Australia, which was in [date specified]. Also, on the back of my ID card it states the date of issue. This is in the Ethiopian calendar. This is different in Western time.

13. I organised with a friend of our family, Person 8, to make my ID card application soon after the university riots. I made the application for the ID card as the first step in attempting to leave Ethiopia, after speaking with my relative Person 3 .

14. My ID card was renewed once, some time in the 2000s. Person 8, who assisted me to get the ID card in the first place, also got it renewed for me. He/ she did this at the same time as she got me an Ethiopian birth certificate. I explained at the Refugee Review Tribunal hearing that I obtained my birth certificate after I obtained my passport. When I was making plans to leave Ethiopia, Grandparent B thought that it would be very

important for me to have an Ethiopian birth certificate. I discussed this also with my relative Person 3 in Australia and he/she agreed that it would be a good idea for me to have a birth certificate, in case I came across any problems, for example when leaving Ethiopia at the airport.

15. In order for him/her to apply for a birth certificate for me, I gave Person 8 my ID card, my passport and a photograph. He/she returned these documents to me a week or two later, along with an Ethiopian birth certificate in my name, specifying my parents as Ethiopian. As I will explain later in this statutory declaration, Person 8 worked for the a Council so he/she had contacts and the ability to obtain official documents more easily than other people. When Person 8 returned my ID card and the other documents, my ID card had been renewed. Person 8 informed me he/she had needed to renew the ID card in order to obtain the birth certificate. I assume he/she renewed it at the kebele office where it was issued as it is specifically stated on the back of the ID card that it must be confirmed each year by the signature and seal of the authorised kebele officer and when Person 8 gave the ID card back to me, it seemed to have been signed and stamped again by the kebele officials.

16. However, as I did not go with Person 8 to renew the ID card I do not know about the details of how she renewed it and I did not ask much about it. I believe Person 8 was able to renew my ID card without encountering any major problems because of his/her influence as person of Ethnic Group P with government contacts, due to his/her work in the City X City Council.

17. I do not believe I would be able to renew my ID or obtain a new ID if I returned to City X Many people in City X know that I have left Ethiopia and gone to Australia. Word travels quickly of people's affairs in Ethiopia. Grandparent B has told me that many people are talking about me and asking questions amongst themselves about how I got an ID, how I got a passport and how I managed to get out of Ethiopia. I believe that because of this, if I returned to City X, Person 8 would be unlikely to be willing or able to help me again, with the officials, as he/she did previously. I think it would be too risky for her to assist me now, when there is much more attention upon me and when many people know about my escape from Ethiopia and are angry about it.

18. Without Person 8's assistance, it would be impossible for me to renew my ID. This is because I would need Person 8 to confirm I am still living with him/her in order to renew my ID. It would also be very difficult for me to apply for a new ID card without Person 8 to help me. In Province R it is very difficult for non Oromo people to obtain official government documents without help from Oromo people. It is even more difficult for Eritrean people.

19. The Tribunal Member asked Person 3 if he/she had any problems getting his/her ID card in Ethiopia. Person 3 said that he/she had some problems but because he/she applied earlier than me her problems were smaller than mine. To the best of my knowledge Person 3 applied for his/her ID about a few years before me, around 2000's. Person 3 has confirmed this approximate date with my Representative. The Tribunal Member asked Person 3 whether he/she had to do anything unusual to get his/her ID. Person 3 told the Tribunal Member that he/she obtained her ID using witnesses and with relatives' support. Person 3 stated that because his/her parent was Ethiopian and people in the Kebele neighbourhood knew his/her parent this made things easier. When asked for more detail, Person 3 stated that neighbours and friends of his/her Grandparent B who had known his/her mother and had known Person 3 while he/she was growing up, assisted him/her.

20. Person 3 has explained to me and to my Representative that he/she went to the administrative unit office to get his/her ID around a few years ago and that he/she attended with Person 8 (the Oromo person who also helped me) and with our Grandparent B and some other Oromo witnesses, who had known his/her parent.

21. By way of additional information I would like to explain that Person 8 lived near us and had known Person 3's parent before Person 3's parent fled Ethiopia. As I have stated already, Person 8 works in an administrative role for the City X city council so therefore he/she knows many kebele officials and thus was in a position to influence them.

22. The reason I asked Person 8 for help to get my ID card, was because I remembered that he/she was the one who helped Person 3. When Person 8 helped Person 3, he/she didn't need money from Person 3 to bribe to the kebele officers. However, by the time I needed to apply for an ID, it was much more difficult to get ID and I had to give Person 8 money to use to bribe the kebele officers. I only found out after the RRT hearing that Person 3 did not have to pay a bribe. I found this out during a conversation we had after the hearing when we discussed what he/she had said to the Tribunal. As I said to the Tribunal at the hearing, I had thought Person 3 paid a bribe because I had paid a bribe. As I said, I thought Person 3 got his/her ID the same way I did but in fact, as he/she told the Tribunal Member, he/she didn't have to pay a bribe. It was enough that he/she had Person 8 to assist him/her.

23. Person 3 has told me that he/she never disclosed that his/her parent was Eritrean to the administrative unit officials. Whereas for my ID card application, I did not go to the administrative unit office at all and everything was done by Person 8, Person 3 has told me and my Representative that he/she actually went to the administrative unit office with Person 8 and the other witnesses. He/she stayed outside the office however, whilst Person 8 went inside and negotiated with the administrative unit officials so Person 3 didn't hear what he/she said.

24. Person 3 has told me and my lawyer that he/she had to fill out a form to apply for his/her ID. He/she filled this out before Person 8 went inside the office to obtain the ID card. Person 3 has told me and my lawyer that he/she stated on the form that his/her parent was from Ethiopia.

25. As I've stated above, I did not fill out any forms myself but I remember once when I went to Person 8's house to discuss my ID card application he/she was organising some forms for me. I believe he/she filled out the necessary paperwork on my behalf.

26. At the hearing, Person 3 also told the Tribunal Member that he/she had no troubles renewing his/her ID card. However, it is important to know that Person 8 went with Person 3 to renew his/her ID card. For reasons I have explained above, I think it would be very difficult for me to get Person 8 to go with me to renew my ID card if I was returned to Ethiopia.

27. At the hearing Person 3 was quite stressed. He/she has told me and my Representative that he/she was not expecting a call from the Tribunal and it frightened him/her. I think this may have affected some of the evidence she gave. For example, when the Tribunal Member asked Person 3 who went to the administrative unit office with his/her to get the ID, he/she mentioned (through the interpreter) his/her parent as one of the people. In fact, as I stated in my earlier statutory declaration, Person 3's parent fled Ethiopia when Person 3 was a young girl and now lives in Europe. Person 3 has confirmed this with my Representative. My lawyer and I have asked Person 3 about this since the hearing and he/she has told us that he/she cannot even remember referring to his/her parent. He/she has said he/she may have made a mistake because of the stress. It is also possible that the interpreter made an error. I only remember hearing the reference to Person 3's parent from the interpreter. I can't remember what Person 3 said in Amharic. I was worried about the reference by the interpreter after the hearing and mentioned it to my lawyer on our way back to the office.

28. It was more difficult for me to get an ID card that it was for Person 3, because by the time I applied (in 2000's, around a few years after Person 3 applied in around 2000's):

- there was more tension between Ethiopia and Eritrea so there was more hatred towards people known to have Eritrean heritage;
- The administrative unit officials were more suspicious about giving ID to Eritreans because of increased tension between the two countries;
- The officials at the administrative unit were different (there are regularly elections appointing administrative unit officials and often officials will change).

29. There was also more awareness in the neighbourhood of my family's Eritrean heritage by the time I applied for my ID. I'm not exactly sure why. All I know is that after my Grandparent A died in 2000's, things became more difficult for me and Person 3. Without our Grandparent A to shield us, things were harder. This could be why awareness about our heritage increased. It could also be because of the fact that my relative (Person 6) had moved into our house some time in 2000s, which caused increased awareness of my family links with Eritrea and increased the stress on our family. Person 6 was very obviously from Eritrea As I stated in my fist statutory declaration, he/she had spent many years in Eritrea and spoke very little Amharic. Also increasing tension between Eritrea and Ethiopia in the 2000s could also have contributed to the increased awareness about my Eritrean heritage.

30. I also do not think I will be able to obtain an ID card in any other part of Ethiopia. The only other part of Ethiopia that the Tribunal Member suggested I could live is City Z so I will give some information about difficulties getting an ID card in City Z. However, similar difficulties would apply also to other parts of Ethiopia.

31. At the hearing, the Tribunal Member spoke with me about relocating to City Z and suggested I could obtain an ID card and live safely there. I do not believe I would be able to get an ID card in City Z or any other part of Ethiopia. As I have explained above, on the back of my ID it is specifically stated that if I move I must return the ID to the local kebele that issued it. The City X ID would not be valid in City Z and production of the ID in City Z would not automatically entitle me to a City Z ID.

32. To get ID in City Z, I would have to make a completely new application for an ID. I would have to again prove that my parents are Ethiopian and also I would have to prove my new address. To the best of my knowledge, to get ID in City Z, you need three witnesses to say they know you and to verify your address and one of these witnesses needs to be the head of the household where you are residing. Preferably, it would need to be the owner of a house.

33. The only people I could possibly take with me to get an ID card would be my sibling and his/her spouse and a member of his/her family. As I stated at the RRT hearing, I think it is highly unlikely that my sibling's spouse would allow me to stay long term with them. I also do not think he/she or his/her family would vouch for me to assist with the ID card application, for the same reasons I have set out below in explaining why I cannot live with my sibling and his/her spouse in Ethiopia.

Fear of Persecution in City X (Province R) and City Z

34. I do not believe I would be safe in City X, or City Z or any other part of Ethiopia.

Persecution in City X

35. If I return to City X I will be in serious danger. I believe it is very dangerous for people with Eritrean heritage in City X. All of my family members with Eritrean heritage, except for me, have been arrested and deported or have left City X since the Ethiopian Eritrean war began in 1997/1998.

36. Many people know of my Eritrean heritage in City X. There are only limited numbers of people with Eritrean heritage in the area and people know of us.

37. I have survived in City X up until now because I have spoken Amharic and lived with my Amhara Grandparent B (and, until the 2000s, my Amhara Grandparent A). As a young person dependant on my grandparents (after the 2000s my Grandparent B only), I was able to avoid major attention but I still had problems. I hardly went out except to go to school and later, university. At school other students knew I was Eritrean and I faced harassment and bullying. As I have explained below, I also faced problems outside school, for example I received insults and abuse on the streets from other people (calling me names like "betrayers" and "problem maker"). I also had difficulties with government security forces which I explain a bit about below.

38. When I got to university the problems got much worse and I believe as I get older and have to live independently they would intensify. My Grandparent B will pass away sometime in the next few years and things would become worse for me. Finally, as I have explained above, the situation between Ethiopia and Eritrea has escalated recently and this increased animosity between the governments of Ethiopia and Eritrea puts me at greater risk.

39. My problems will be even greater than other Eritreans if I am returned to City X now, because as I stated above, people in the community now know about my flight from Ethiopia. I fear that Ethiopians and in particular Ethiopians of Ethnic Group P in City X will be even more likely to try and harm me because of their anger at my attempts to leave Ethiopia. As well as increased insults and harassment I would be at greater risk of being informed on to the government.

40. I think that there is a high risk that on return to City X I would be arrested by government officials and deported to Eritrea. I do not agree with statements made by the Tribunal Member at my hearing that deportation to Eritrea is unlikely.

41. Even if I am not arrested and deported, I will certainly face ongoing harassment and abuse from Ethiopian people who know me as I did in the past in City X I will not be able to return to university. I am fearful I will become very depressed (as I was for the last year of my life in Ethiopia). I am scared of becoming mentally and physically unwell. My Grandparent B is old and cannot care for me. I am especially scared of this because of what happened to my Parent 2.

42. The main reason I fear arrest and deportation by the government if I return to City X is because of my Eritrean heritage. The main reason I fear ongoing mistreatment and abuse and possibly being informed on to the government from Ethnic Group P people in City X is also because of my Eritrean heritage. However, a secondary problem for me in City X and throughout Province R is that my ethnicity is mixed Ethnic Group N Ethiopian and Eritrean of Ethnic Group O and I have no Ethnic Group P heritage and don't speak the Ethnic Group P language. People who are not of Ethnic Group P in City X and throughout Province R are in the minority and face discrimination and harassment and abuse. For example at university whilst the Eritreans had the most problems, things were also very difficult for non-Ethnic Group P Ethiopians. Non-Ethnic Group P people (even Ethiopians) also have problems dealing with the regional Province R government and obtaining official documents like ID cards. However, their problems are not as great as Eritreans and it's easier for them.

Persecution in City Z

Reasons I cannot live with my sibling

43. At the RRT hearing the Tribunal Member said that I might be able to safely relocate away from City X, where I am not known and my Eritrean heritage is now known. He suggested that I might be able to relocate to City Z and live with my sibling and his/her spouse who is of Ethnic Group P. I do not agree that I could live safely in City Z.

44. My sibling has not had much contact with our family in City X since he/she married his/her spouse. I believe that this is because he/she does not want to draw attention to the fact that he/she has Eritrean blood and that he/she is not of Ethnic Group P. I believe my sibling is not completely secure in his/her relationship with his/her spouse. I believe my sibling has limited contact with our family in City X to protect himself/herself from problems with his/her spouse and his/her family.

45. Also, since the RRT hearing my Grandparent B has told me that my sibling is having more problems with his/her spouse. My sibling has told my Grandparent B that he/she and his/her spouse have been unable to conceive a child which is causing marital problems.

46. Because of the stress my sibling is under and his/her fears for his/her marriage, I do not think he/she would welcome me in his/her house. I think my sibling would be very worried that this might increase his/her marital problems and increase the chance of separation. I also do not believe his/her spouse would allow me to live in the house in any case. For these reasons, I do not believe I would have anywhere to live in City Z.

47. I said at the RRT hearing that I have spent a total of about a few nights at my sibling's house in City Z. These visits were all associated with my application for a passport and a visa and my flight from Ethiopia. I only stayed one night at a time. It was not pleasant for me to stay there. My sibling's spouse ignored me and I could tell from his/her manner towards me that he/she did not want me there. Some of his/her relatives also live with my sibling and his/her spouse. They also did not speak with me and only spoke the Ethnic Group P language, even though they also speak Amharic. They spoke a little to my sibling but were not friendly with him/her. My sibling has told me that his/her spouse's family have made it clear they would have preferred his/her spouse to marry a person of Ethnic Group P. I only stayed overnight each time and left early each morning.

48. As stated above, I do not think my sibling would welcome me into his/her house and I do not think his/her spouse or his/her family would allow me to remain there long term. Further, as I have explained above, I think it highly unlikely my sibling's spouse or any of his/her family members would vouch for me and my identity at the local kebele office. This would mean, for the reasons I have explained above, that I would be unable to obtain ID.

49. If I went to City Z, I would therefore be all alone, with no where to live and without ID. An ID is needed in Ethiopia by adults to get accommodation, to study, to get a job and to get medical care and for all other official purposes. So, without an ID and without family support or ability to earn an income I would be extremely vulnerable. Whilst I didn't have an ID for most of my time in City X (my first kebele ID was issued in the 2000s), it was not such a problem for me. Young children rarely need ID. My Grandparent B did everything for me as a child. Also at school I had school ID and at university I had university ID.

Risks from the government in City Z

50. In City Z and City X there is a special government force which is appointed to check people's ID and generally to monitor civilian activities. Back when I was in City X, I was very scared of the members of this force. Once a force member hit me, just for looking at him.

51. In City Z, I would be at risk of being detected without ID from the special government forces. These forces are called something along the lines of "the federal police" in City Z but they have different names in other areas. If the special forces found me without ID my safety would be in great danger. I would be at risk of being beaten and detained, just for being without ID. In addition, it is possible inquiries would be made about me and that my Eritrean heritage would be discovered, which would place me at real risk of being sent to Eritrea. I have given extra information below about why I do

believe that I am at risk of arrest, physical harm and possible deportation to Eritrea, despite what the Tribunal Member said at my hearing about this being unlikely in his view.

Other Risks in City Z

52. I believe that as well as risks for the government, I would be at risk from ongoing discrimination and abuse from Ethiopians in City Z, if they become aware of my heritage. As I explain below it is likely my heritage would be discovered, even in City Z.

53. Also, aside from my racial background, I believe that as a single woman alone and without family support I would be very vulnerable to physical or sexual abuse from Ethiopian men on the streets of City Z. I would also be at risk of being abducted and forced into a marriage.

54. There is a large amount of violence towards women in Ethiopia and the government and police don't properly protect women from this. The main protectors for women are family members. In City X, I had my Grandparent B to protect me. I lived in his/her home and although he/she was old, this provided me with some safety. In City Z I would have no one to protect me. I have explained above why my sibling and his/her spouse would be unlikely to protect me. I would be extremely vulnerable and I am very frightened about this possibility.

Risk of Deportation to Eritrea

55. At the RRT hearing, the Tribunal Member said that he did not believe that there was a real risk of me being deported to Eritrea by the Ethiopian government. He said that he did not think this was a strong part of my claim for refugee status. The Tribunal Member said that whilst he realised people born in Eritrea had been returned there, he had difficulty accepting that someone born in Ethiopia and speaking only Amharic would be at risk of being sent to Eritrea by the government.

56. I do not agree with this. With respect to my fears if I returned to City X, I have explained the reasons why I think I am still at risk in that city already in this statutory declaration.

57. With respect to City Z, I strongly believe that once people become aware I have Eritrean blood, I will be at serious risk of being arrested and deported to Eritrea I believe it would be difficult to hide my Eritrean heritage for long. Without ID, I would be vulnerable to being detected, for the reasons I have explained above, about the special government forces. Also, it is important to be aware that City Z is not far by car from City X and many people know of me and my heritage in City X and many people travel between the two cities. Even If I successfully hide my identity for a while, I believe I will eventually be discovered, and once I am discovered I will be in even more trouble from the government. They will punish me for lying about my identity as well as for being Eritrean.

58. I strongly believe that if government officials discover I am from Eritrea I will be deported.

59. The fact I was born in Ethiopia may mean that I am at less risk of being detected that if I had been born in Eritrea However, for reasons I have stated above, I believe it will only be a matter of time before my heritage is discovered. Once I am detected, I do not think the government will draw much of a distinction between me as an Eritrean born in Ethiopia and Eritreans born in Eritrea. In Ethiopia, any Eritrean heritage is a problem. If it is Eritrean heritage on the paternal side, this causes even greater problems than if it is Eritrean heritage on the mother's side.

60. It is true that my Parent 1 was deported a long time ago, during the beginning of the war between Ethiopia and Eritrea and that since that war there was a peace deal.

However, deportations have been ongoing and in the last few years the tension between Eritrea and Ethiopia has increased to an extent that people are fearful of another war breaking out, which has increased animosity towards Eritrean people in Ethiopia and increased risks to people like me of being arrested and deported.

61. As I have stated in my earlier statutory declaration, I have lived in fear for my safety every day for many years. I am terrified of being returned to Ethiopia.

93. The Tribunal subsequently received a further letter from the applicant's representative enclosing a copy of the applicant's ID card with the incomplete translation, and foreshadowing the provision of a further translation.
94. The representative subsequently advised the Tribunal that she was still having difficulties obtaining a translation of the ID card, and also indicating that she intends to submit a report from the applicant's counselor an independent organisation as soon as it became available, and asked the Tribunal to await the report before making a decision.
95. A few weeks later by fax and by mail the Tribunal received the following report from the organisation.

Psychological Assessment Report on the Applicant

[Information about the psychological assessment report amended in accordance with s.431 as it may identify the applicant]

Thank-you for requesting a psychological assessment report on the applicant for the purposes of her application for refugee status, which is currently before the Refugee Review Tribunal. In this report I will address the applicant's current mental state and whether her current state bears any relationship to her pre-migration experience.

DESCRIPTION OF CLIENT

The applicant is a young Ethiopian woman of part Ethnic Group N Ethiopian ethnicity and part Eritrean Ethnic Group O descent who was referred to this organisation for psychological assessment. I assessed her and have seen her on several occasions for several sessions, initially for assessment and now for continuing therapy,

PERSONAL HISTORY

The applicant was born in City X, Ethiopia on [date specified], of five children born to Parent 1 (an Eritrean of Ethnic Group O) and Parent 2 (an Ethiopian of Ethnic Group P ethnicity). Her two siblings were born in Eritrea and the other three, including the applicant, were born in Ethiopia.

TRAUMATIC EXPERIENCES

At a young age racial tensions surfaced between Eritreans of Ethnic Group O and Ethiopians of Ethnic Group O and her Parent 1 was arrested at the family home by EPRDF (Ethiopian People's Revolutionary Democratic Front) government agents, and expelled to a refugee camp in Eritrea where he/she died some months later. Her two siblings escaped to Eritrea. The Applicant, her remaining siblings and several relatives moved to live with their grandparents. Her Parent 2 followed but suffer severe psychological problems to the point of requiring psychiatric hospitalization in Ethiopia, where he/she remains to this day. The next few years were marked by a series of trauma's, abuse and the death of a friend. The Applicant's entire family has either died, disappeared, migrated or left the home town of City X because of the domestic political situation. Only her Grandparent

B. remains in Ethiopia and he/she is very old and unable to look after himself/herself. The applicant, herself was subjected to ethnically motivated physical attacks and social abuse causing her to live in constant fear of being further attacked, killed, arrested or expelled to Eritrea.

At a young age, the applicant and her relative were subjected to several months of constant physical and verbal abuse as they made their way to their School 2. The attacks were by Ethiopian students of all ethnicities against students of Eritrean ethnicity. The applicant says a group of up to 14 students at any one time would surround them, hit, punch, throw stones at them and push them to the ground. The applicant says on one occasion she hit her head on the ground and was unconscious for a few seconds. She stated that she bears scars from these incidents of bullying. Terrified, she said they refused to attend the school and were eventually accepted back to School 1, where they experienced prejudice and isolation.

The applicant says that as a teenager she was stopped for I.D. papers by the EPRDF's Rapid Action Force (Fetno Derash). Unable to produce them the officers beat her publicly in the street.

In the 2000s The applicant attended a university near City X to study. Racial tensions were high at the university so that students of Ethnic Group O, of Ethnic Group N and of Eritrean descent were constantly being taunted and isolated. The applicant says eventually a riot broke out over the suicide of an Eritrean student, after which the students of Ethnic Group P ordered the minority students to leave. She says she witnessed two riots during which the students of Ethnic Group P targeted the minority students, such as herself. The first riot was quelled quickly by police. She says the second riot was sparked by the suicide of a fellow Eritrean student. During this riot the applicant says she and another person were trapped in her dormitory and hid beneath a bed while a 60-strong student mob swarmed outside his/her building. She described the mob as "animals" attacking students with swords, iron bars and stones. When she made her escape via a back exit in the ablutions block, part of the mob chased her while throwing stones. She was hit in the back by a large stone. This was painful for some time and required treatment from a natural therapist. She believes she was saved by merging into a crowd of other students fleeing the university. She said she witnessed fellow students with bloodied faces and says she truly feared for her life and describes this as the "scariest moment in my life". She says she returned home to her Grandparent B and they both held each other tight and cried for some time. The applicant said, although her traumatic ordeal lasted only a short time it "felt like hours". During the riot she said her friend, Friend 7, (also half Ethnic Group O Eritrean and half Ethiopian) was killed. The applicant says for the next few months she was too afraid to venture from her house and when she eventually did so she covered her face with a scarf and remained highly vigilant and fearful.

Shortly before or after the riot, the applicant says Person 6, a family relative living with her Grandparent B and herself, was arrested at their home and expelled to Eritrea. Following these series of events she became very distressed, fearful for her safety, and unable to eat. The applicant is unable to recall the order in which these two events occurred.

MENTAL STATE AND PSYCHOLOGICAL FUNCTIONING

It is my opinion that the applicant is suffering from trauma symptomatology and anxiety caused by the series of highly traumatising events, previously described, which happened to both herself and which she witnessed happening to others over a several year period.

She reports distressing, unexpected and vivid intrusive memories, flashbacks and nightmares pertaining to these events, particularly of the violent beatings she received at a young age from fellow school students; aged as a teenager from the government group; and during the university riots in the 2000s, all of which were described earlier in this report. The applicant says while experiencing these intrusive memories and flashbacks she feels both mentally and physically present so that she relives the experience of being pushed, beaten, hit with stones, falling onto broken, glass and verbally abused as though it is happening to her in the present. She can look up and see the face of the abusing students looking down upon her. She says she relives the physical pain as well as the fear she felt at the time. During memories and flashbacks of the university riot she can hear students shouting and others screaming in pain. She also sees the faces of students with blood streaming down their faces. She remembers looking around the door of her dormitory where she was hiding and seeing a man hitting a woman in the back with an iron bar. The cruelty on the man's face remains vivid and is a common image in her flashbacks. That image also appears frequently as an intrusive memory in the moments before she drifts off to sleep and causes her to wake with a start. The applicant also hears voices yelling: "catch her" and "hit her" and she thinks to herself: "They're going to catch me, they're going to get me." She says she feels herself flinch and shake with shock and the fear of being killed before becoming aware of her present surroundings. "I look around and tell myself that I'm here now and it's OK".

These memories and flashbacks occur frequently throughout the day and can last between several minutes to much longer so that she usually loses small periods of time but generally only minutes. The applicant says the fear that these evoke prevent her from functioning normally on a day-to-day basis so that her concentration, sleep and motivation to carry out normal daily tasks are somewhat impaired. Despite this, The applicant is able to travel alone on public transport to her appointments.

The applicant also reports almost nightly nightmares regarding the physical attacks. She says she dreams of being hit by stones and wakes with a shock. She also reports frequent hypnagogic experiences, particularly when travelling by train to Town D, (hypnagogic experiences are hallucination-like sensations experienced while first falling asleep). She says she frequently wakes with a start to discover she has been yelling out and fellow travelers are, staring at her. The applicant also reports feeling startled, shocked or frightened for no apparent reason.

The applicant's traumatic losses and personal experiences of being physically and verbally abused have caused her considerable and ongoing anxiety. It is my belief that The applicant suffers from intense anxiety, which is daily accompanied by levels of panic.

She describes moments, possibly every second day, when she feels unable to breathe and thinks she is dying. She experiences sweaty palms and pain in her chest. This usually occurs when she is experiencing the intrusive memories and flashbacks about the attacks or experiencing extreme worry about her RRT hearing.

The applicant is also experiencing depression marked by depressed mood, disturbed sleep, weight loss and poor appetite, poor concentration, excessive crying, and diminished interest in daytime activities. For example, during our sessions while recounting her experiences in Ethiopia, her intrusive memories and her difficulty in functioning normally, The applicant becomes quietly distressed and cries easily and frequently. She says she cries a lot during the day,

every day. She says she was once sociable among her own ethnic group and was also an avid reader. She says she now socialises very little and often finds it difficult to be among others. She also has difficulty concentrating on more than one sentence of an Amharic novel at any one time. She says she used to sleep about eight hours per night and now tends to sleep just two hours each night, generally between 4 and 6am. She has also lost six to seven kilograms over the past few months.

The applicant reports the evenings as the most difficult, hearing frequent external voices, generally that of her Parent B reassuring her that she'll be fine. At other times she feels she is being followed in the house and checks the locks on all the doors and windows and under the bed. She also reports seeing shadows during the day. These experiences cause her to feel that she's developing chronic and severe mental health problems similar to those of her Parent B so that she fears she too might be committed to a psychiatric hospital. However, and importantly, although the applicant reports feeling extremely frightened at these times, later when she is calmer and able to reflect upon them she knows that people were not actually in the house but that it was some inexplicable fear that caused the experience.

The applicant also reports episodes whereby she feels as though she is not actually present in the here and now and not fully aware of her body. On occasions she feels as though she is back in Ethiopia in the midst of her family. She says people in Australia have told her that at times she has become disengaged from the conversation and begun talking about things not connected to the current conversation. She has no recollection of this actually occurring. From her description of these experiences I believe they are best described as experiences of dissociation whereby psychologically she escapes the terror of her current intrusive memories to a psychological place of comfort. This is quite a common symptom of Post Traumatic Stress Disorder.

The applicant also reports occasional experiences of body dysmorphia so that for between two and 30 minutes her left arm appears to be "humongously" larger than the other and this distortion continues even when looking in the mirror. On other occasions and while holding a drinking glass, she perceives the glass to be much larger or smaller in size than in reality. The applicant says this occurs at least once a week when she feels overwhelmed by the intrusive memories mentioned earlier. At this point in time I believe these to be experiences of de-realisation, i.e. a sense that the environment around her feels unreal, which are common in anxiety disorders. However, whether any of these experiences reflect more serious psychopathology needs to be monitored.

HER MENTAL HEALTH AT THE TIME OF THE RRT HEARING

You've asked me to address specifically whether The applicant might have been psychologically unwell at the time of her Refugee Review Tribunal hearing and how that might have affected her cognitive functioning. Anything I say in respect to that has to be asserted tentatively because I did not do so by the benefit of assessing her at the time. However, I can draw some inferences from both her current mental state and the history she has provided.

From the history she's provided it appears her functioning declined after the riots. Furthermore, from what she's told me she does not appear to have deteriorated significantly in the past few months. With respect to the applicant's cognitive impairments, I can describe how she is now and one might infer she was in a similar state during the hearing. She is capable of giving a reasonably ordered and chronological account of her life. She was able to give a description of the traumatic events, albeit, she was quite reluctant to do so for fear of re-

experiencing the memories and became significantly distressed while offering her account. When she did recount the events she quickly and easily became distressed, quietly crying as she spoke.

My qualification to what I've just said concerns the applicant's confusion regarding the chronology of events around the university riots in the 2000s. For example, she says she cannot recall in which order the university riots or the forcible arrest of her relative, Person 6, from her family home occurred. This may be related to a common problem people with PTSD have in providing a detailed chronology of events in situations whereby they have experienced high levels of distress. Owing to the distressing nature of the events, there were times during interviews when her attention would lapse and such lapses can produce transient forgetfulness. This could also occur during the RRT hearing process.

The applicant states she remains in great danger because of her Eritrean ethnicity and is deeply fearful for her safety if returned to Eritrea I am concerned for her mental well-being should she be returned given those fears and her fragile mental status coupled with a lack of long-term and ongoing family support and her parent's history of mental illness.

96. The Tribunal contacted the applicant to enquire about the delay with the translation, and was informed that the agency (or an interpreter engaged by it) had initially refused to translate the document because it had formed the impression that it had been altered, but that they had now agreed to provide a translation.
97. Some time later the Tribunal received a further submission from the representative by fax with respect to the difficulties obtaining the translation, which arose out of the perception that the ID card had been altered which was earlier expressed to the representative as a belief that the owner of the ID card had altered it, together with the translation in question. The translation includes the following notation with respect to the applicant's age and the date of issue of the ID card: *Date altered by hand on copy supplied – access to original not provided*. The submission points out, correctly, that the agency has no expertise in document analysis, that the AUSIT code of ethics requires interpreters and translators to refrain from “voicing any opinion, solicited or unsolicited on any matter or person or in relation to any assignment”, and that in any event, even if the document has been altered there was no basis for assuming that the applicant was responsible for the alteration.
98. The submission was accompanied by a further, dated statutory declaration by the applicant which addresses two areas of possible concern, the timing of the riot in which she claims to have been injured, and the issues surrounding the ID card.
99. With respect to the riot, the applicant offers an alternative explanation for her belief that it had occurred after Person 3 left for Australia, which is that she is adamant she conveyed the news to Person 3 over the phone by could have done so while Person 3 was still in Ethiopia but touring around with his/her spouse Person 4, who had come to Ethiopia in the 2000s. However, the applicant also asserts that the internet report may simply relate to a different, earlier incident at the same university, as there was more than one riot, and the applicant is sure that many more people were injured during the riot she was caught up in that are described in that report.
100. With respect to the ID card, the applicant acknowledges that the writing on her ID card does appear to be quite dark, as if someone has traced over it, but that she is also

adamant that she did not tamper with it. The applicant refers to her earlier statutory declaration explaining how the document had been extended by Person 8, and that she recalls that the writing was darker when it was returned to her, but assumed that Person 8 or the Kebele official had done this to make it more legible. The applicant notes that the translator has alleged that the initial year of issue had been changed but asserts that this would not make sense firstly because she was still a student then, either at a college where she spent some months before university, or at the University itself. The applicant relied on her college ID issued to her in the 1990s when she was a teenager. As a student residing with her grandparent, the applicant had no need to obtain either housing or accommodation, two of the things for which official government ID cards are required, and therefore it was not essential for her to obtain such a card at that time, although she did experience problems for not having an official card, for example when asked to produce it by a government security officer, as recounted to the counselor. She is sure that she only first applied for the government ID card when she began to make plans to leave Ethiopia and needed the government card to apply for a passport. [Above dates in the Ethiopian calendar.]

101. The applicant adds that her Grandparent B has now sent a copy of her student ID card which she has passed this on to her representative, and also that she had some problems with security agents at one point because she did not have an ID card, as she has explained to her counsellor.
102. The Tribunal received via facsimile a submission from the applicant's representative noting, among other things, that the applicant had raised with the counselor's organisation the incident of having experienced problems with the security forces when she was a teenager, because she did not have an ID card. The representative points out that if the VITS allegation were true and the card was issued in 1990s, then the applicant would have had a card at that time and would not have experienced the problems she claimed to have experienced at that time. The submission indicates that the original ID card has been forwarded to the Tribunal so that an analysis can be provided if required.
103. The submission also:
 - reiterates the applicant's protection claims;
 - seeks to reconcile the evidence with respect to the timing of the riots;
 - asserts that the applicant is at increased risk of persecution because of her vulnerable mental and physical health, as evidenced by the counselor's report, and relying by analogy on *Weheliye v Minister for Immigration and Multicultural Affairs* [2001] FCA 1222 to make the point that the applicant's particular circumstances must be taken into account in assessing their vulnerability to serious harm; and
 - asserts, similarly, that the applicant's precarious mental and physical health may increase the seriousness of the harm she is at risk of encountering because the differential impact which discriminatory behaviour, for example, would have on such a vulnerable person as the applicant could raise the seriousness of such behaviour to the persecutory, relying on the authority of *SBTF v Minister for Immigration & Citizenship* [2007] FCA 1816.
104. 2000's the Tribunal received the applicant's original administrative unit ID card (with certified translation) and statutory declaration.

105. In the 2000's, the Tribunal received the submission of an earlier date, along with a scanned copy of the applicant's college ID card referred to previously.
106. some weeks later, the Tribunal wrote to the applicant pursuant to s.424(2) of the Act inviting her to:
- explain the use of the same photo on the applicant's student and kebele ID cards;
 - explain the apparent alterations to the student ID card;
 - provide the original and a translation of the student ID card, noting that the date of issue is obscured underneath the photo.
107. The letter also invited the applicant, pursuant to s.424A, to comment on the proposition that the kebele ID card appeared, as acknowledged by the applicant, to have been issued in [date specified]. As the passport was issued in [date specified], this appeared to undermine the applicant's assertion that she had only been able to obtain the passport after first having obtain the kebele ID card through irregular means, and potentially cast doubt on her claim only to have been able obtain a passport in reliance on the irregular ID card.
108. The Tribunal received a response from the applicant's representative variously asserting that:
- she had obtained a batch of passport-type photographs all at one for reasons of economy, and had then used them over a long period;
 - the student ID card was issued by the college administrator partly completed after payment of a fee, the student then had to submit the card with additional information for the teacher to complete the card, and that as some details were incorrectly recorded, the applicant had to take them back to the teacher to have them amended;
 - dates are not always written in a consistent fashion in Ethiopia. The issued date of the kebele ID card can be reconciled with the passport if the first date, [date specified], is taken as denoting [date specified], which corresponds to [date specified] This is said to be fit in with the chronology of the riots, followed by the applicant's decision to seek to depart Ethiopia after discussions with her relative, Person 3, which entailed: obtaining the kebele ID card; obtaining the passport in reliance on the ID card; applying for a visitor visa; and, just prior ton departure, obtaining the birth certificate and having the kebele ID card renewed. The submission correctly noted that the applicant had never asserted that the ID card was issued in [date specified] but had only relied on the Ethiopian date;
 - in any event, if the applicant's recollection of dates was inaccurate, this could be attributable to the trauma she has been diagnosed as having experienced.
109. The Tribunal received the original student ID card, the issue date of which could be seen underneath the photo

Country Information

110. The following extracts from CISNET documents relate to the circumstances under which Ethiopian ID cards are issued:

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If a person is seeking to obtain a Kebele ID card, the Kebele administration will check the details from its records and issue the ID card as per the records. However, if the person is not registered, the Kebele requires the person to present three people who can sign/testify to the fact that the applicant is residing in the particular Kebele. Upon the presentation of their testimonials in the presence of the Kebele official the person is issued an ID card. The details will initially be given by the applicant himself, which is then corroborated by the three individuals. The problem here is that the Kebele officials do not make any extra effort to verify the claims being made.

Another problem that comes with these ID cards is that when the individual leaves one Kebele, the Kebele relies on the individual to return the ID card. Clearance is then given to the individual so that he/she may obtain another ID card from another Kebele. But due to the lack of control and sometimes abuse of power, some individuals carry more than one ID card obtained from more than one Kebele.

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Kebele cards are issued to Ethiopian residents of a town/city who are over 18 years. Residents are 'expected' to apply for a Kebele card after 18 as it is an official form of identification in Ethiopia.

While DIMA in Nairobi recognises and accepts Kebele cards as a form of identification, they question the validity of the information contained in them.

111. The Tribunal has also had regard to the Forced Migration and Refugee Studies Program of the American University in Cairo's Working Paper No.7 entitled *Refugees and Asylum Seekers from Mixed Eritrean-Ethiopian Families in Cairo – 'The son of a snake is a snake'*, written by Louise Thomas (the Thomas report). The Thomas report was published in June 2006 and accessed by the Tribunal on 18 April 2008 from <http://www.aucegypt.edu/ResearchatAUC/rc/fmrs/reports/Pages/default.aspx>. It includes the following information relevant to the issue of whether people of mixed Ethiopian-Eritrean parentage face difficulties in Ethiopia:

6.5 Persecution in Eritrea and Ethiopia since the end of the war

The situation between Eritrea and Ethiopia is currently one of 'no peace, no war' and at the time of writing there is little evidence to suggest that much progress is being made towards a normalisation of relations between the two countries. The testimonies of refugees who have been in Ethiopia or Eritrea since the cessation of hostilities in 2000, and of those who have family members remaining in either country, indicate that the situation there for people of mixed parentage remains precarious, and has in some ways got worse since the end of the war. Government persecution does seem to have lessened, and deportations have largely ceased. However, while relations between Eritrea and Ethiopia remain so hostile, people from mixed families, especially those who evaded deportation during the war, and those returning from abroad, are still likely to be suspected of spying for the 'enemy' government. Importantly, many participants reported an increase in social hostility after the end of the war, and particularly after the names and numbers of soldiers killed in the war became known. As one participant explains, 'People's attitudes will not change in less than a century. Propaganda was necessary at the beginning of the war in order to gain people's support. Now hatred has been instilled on both sides and this will not go away, even with a change in government. It has gone too deep.'

6.5.1 *Persecution in Ethiopia since the end of the war*

6.5.1.1 *Government persecution in Ethiopia since the end of the war*

Five of the participants have been arrested in Ethiopia since the end of the war in 2000 on account of their family connections with Eritrea. Brief summaries of their experiences are below.

Having escaped deportation to Eritrea in 1998 MM, an Ethiopian with an Eritrean father, was arrested again in 2003 and beaten and threatened with death unless he admitted to being an Eritrean spy. 'They put a pistol to my head and told me that they would not beat me like before, but that they would shoot me this time. The face of the man was very cruel and I could tell that he was not afraid to do it. I was sure that he was going to die this time. Then they beat me with the butt of the gun, kept me for five hours and then released me.'

The Ethiopian authorities had attempted to deport HTT to Eritrea in 1999 but she had been turned back at the border by the Eritrean authorities and imprisoned again in Ethiopia before being released after severe torture. In 2003 she was at the home of a friend when another friend told her that the police were looking for her. She went into hiding and escaped to Sudan. After arriving in Cairo in 2005 she learned that her brother had been arrested and taken to prison accused of being a member of the Eritrean Development Association, and that the authorities were arresting other people with Eritrean connections in her community.

KAG, an Ethiopian woman, was harassed and raped by security officials between 2001 and 2004, and finally arrested because she was married to an Eritrean man who had been deported. She was accused of collaborating with her husband and supporting the EPLF. The specific implications of the vulnerability of this participant to sexual abuse is explained further in Paragraph 6.7.

SZT is an Ethiopian whose Eritrean father was deported during the war. She was arrested in 2003 along with five other Eritreans. She was kept in a cell for five days. The others arrested with her were taken for questioning but she was not. Her mother paid for her to be released from prison.

In 2002 YMK was arrested in Egypt where she had been living since 1993, and was deported to Ethiopia. Her Eritrean father had been deported from Ethiopia to Eritrea in August 1998 and later died as a result of the harsh journey. Her brothers and sisters were living in hiding in Ethiopia, afraid of deportation or arrest. Upon arrival in Ethiopia in 2002, security officials at the airport searched her luggage and discovered a letter from her Eritrean father. She was arrested and detained and beaten for five days, accused of being a spy for Eritrea. She was eventually released on conditions and her passport was confiscated. She tried to apply for a *kebele* ID card but the officials at the *kebele* told her that 'the son of a snake is a snake' and refused her a card. After several months during which she lived in hiding with the rest of her family she was arrested again, and this time detained and beaten for seven days. When she was released, her family helped her to obtain documents to escape to Egypt again.

These testimonies indicate that the Ethiopian authorities have continued persecuting people from mixed families since the end of the war in 2000. In fact, 11 of the 20 participants from Ethiopia left Ethiopia since the end of the war for reasons directly or indirectly related to their being from mixed families. While Eritrea and Ethiopia remain effectively enemies, people in Ethiopia with family connections with Eritrea will remain vulnerable to suspicion of collaboration and disloyalty.

6.5.1.2 *Social harassment in Ethiopia since the end of the war*

Participants present in Ethiopia after the end of the war have reported that social harassment and exclusion did not end with the war, and in fact got worse. As the full extent of the damage caused by the war and the names of casualties were published, people from mixed families became increasingly isolated and vulnerable.

MB, an Ethiopian with an Eritrean mother, reported that his situation in Ethiopia became worse after the war ended. Relations between Ethiopians, and particularly Tigrayans, and Eritreans deteriorated. He said that Tigrayans had taken over many of the businesses of deported Eritreans and he found it very difficult to continue his coffee trading business because the Tigrayans were trying to drive him out. S, an Ethiopian of mixed parentage who lived in Addis Ababa, reported that the situation for her and her family got worse after the war ended. Business became very difficult and people began to avoid the shop that she ran. YMK was deported from Egypt to Ethiopia in 2002. Having been arrested by the authorities on arrival because of her mixed Eritrean Ethiopian parentage she went into hiding with her mother's Ethiopian family. People in the community avoided her.

The social exclusion and harassment experienced by some of the participants in Ethiopia during and since the war has sometimes exacerbated the problems they have had with the authorities. KAG, who was harassed and raped by security officials between 2001 and 2004, was unable to turn to anyone for help because the community had turned against her due to her marriage to an Eritrean man. The combination of social exclusion and government harassment left her unable to cope in Ethiopia.

112. The UK Home Office's 18 January 2008 Country of Origin Information Report on Ethiopia accessed from <http://www.homeoffice.gov.uk/rds/pdfs08/ethiopia-220108.doc> on 23 January 2008 includes the following:

Eritreans In Ethiopia

21.34 The USSD report for 2006 states: "Most Eritreans and Ethiopians of Eritrean origin were registered with the Government and held identity cards and 6-month residence permits to gain access to hospitals and other public services. However, there were anecdotal reports that indigent Eritreans were denied the right to seek free medical services by government officials at the local level."

PROCLAMATION ON ETHIOPIAN NATIONALITY: ERITREANS IN ETHIOPIA

31.02 The United Nations High Commission for Refugees report Ethiopia: A Sociopolitical Assessment, a Writnet report written by Cedric Barnes, May 2006 [the UNHCR report] states: "It is clear that once war broke out between Ethiopia and Eritrea the definition of citizenship in relation to Eritreans or Ethiopians of Eritrean origin — the co-called dual nationals — gave rise to legally anomalous situation."

31.03 The UNHCR report continues: "The definition of Ethiopian citizenship especially in relation to people of Eritrean origin has also been regularized. In 2003 the Ethiopian government issued Proclamation No. 378/2003, Proclamation on Ethiopian Nationality which repealed the previous Ethiopian Nationality Law of 1930. A consideration of the Proclamation is useful in relation to the definition of Ethiopian Citizenship, and the rights to the citizenship and residence of dual nationals, Ethiopians of Eritrean origin, and full Eritrean citizens."

31.04 The Proclamation No. 378/2003 on Ethiopian nationality can be found on the UNHCR website:
<http://www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDLEGAL&id=409100414>

DIRECTIVE ON RESIDENCE FOR ERITREAN NATIONALS

31.05 The United Nations High Commission for Refugees report Ethiopia: A Sociopolitical Assessment, a Writnet report written by Cedric Barnes, May 2006 stated that: “Although the Nationality Proclamation clearly stated who was and who was not considered a national, it did not explicitly address the problem of dual nationality. However, in January 2004 the SIRAA issued a Directive on Residence for Eritrean Nationals in Ethiopia.”

31.06 The UNHCR report further continues: “This directive directly addresses the situation of Ethiopians of Eritrean origin, dual nationals, and Eritreans, in a way that the 2003 Proclamation on Nationality does not. Part 1 of the Directive notes: Numerous persons of Eritrean origin have continued to reside in Ethiopia since long before Eritrean independence. Since it has been found necessary to determine the residence of those Eritrean nationals who have continued to live in Ethiopia, the Security and Immigration and Refugee Affairs Authority has issued this directive.”

31.07 The UNHCR report further notes: “Part 2 of the Directive notes under Objective: The Objective of this Directive is to provide the means to any person of Eritrean origin who was resident in Ethiopia when Eritrea became an independent State [1993] and has continued maintaining a permanent residence in Ethiopia up until this Directive is issued to confirm whether he or she has acquired Eritrean nationality, and to determine his or her status of residence in Ethiopia.”

31.08 The UNHCR report also adds: “The document [the Directive] appears to infer therefore that the rights to Ethiopian citizenship of those expelled before the 2004 directive are not recognised by this directive (though the Proclamation does make provision for the reacquisition of Ethiopian citizenship).

31.09 The UNHCR report also notes: “Given these basic assumptions the Directive, (Part 2, Issues of Nationality and Registration) defines what constitutes Eritrean nationality. It also states how Ethiopian nationality is defined or acquired by those who have come to acquire Eritrean nationality by default:

- A Person having an Eritrean passport or documents [non-specified] conferring Eritrean nationality or person serving the Eritrean Government in a sector reserved exclusively for Eritrean nationals is considered as having Eritrean nationality.
- A person of Eritrean origin who has not opted for Eritrean nationality shall be deemed as having decided to maintain his or her Ethiopian nationality and his or her Ethiopian nationality shall be guaranteed.
- An Eritrean registered in accordance with this Directive and who desires to regain his or her Ethiopian nationality may be readmitted to his or her Ethiopian nationality based on Article 22 of the new Nationality Proclamation.”

113. The 2007 US Department of State Country Reports on Human Rights Practices released on March 11, 2008 include the following information on Ethiopia:

Human rights abuses reported during the year included: limitation on citizens' right to change their government during the most recent elections; unlawful killings, and beating, abuse, and mistreatment of detainees and opposition supporters by security forces; poor prison conditions; arbitrary arrest and detention, particularly of those suspected of sympathizing with or being members of the opposition or insurgent groups; detention of thousands without charge and

lengthy pretrial detention; infringement on citizens' privacy rights and frequent refusal to follow the law regarding search warrants; use of excessive force by security services in an internal conflict and counter-insurgency operations; restrictions on freedom of the press; arrest, detention, and harassment of journalists for publishing articles critical of the government; restrictions on freedom of assembly; limitations on freedom of association; violence and societal discrimination against women and abuse of children; female genital mutilation (FGM); exploitation of children for economic and sexual purposes; trafficking in persons; societal discrimination against persons with disabilities and religious and ethnic minorities; and government interference in union activities, including killing and harassment of union leaders....

Violent clashes between different ethnic clans during the year resulted in hundreds of deaths. ...

Most Eritreans and Ethiopians of Eritrean origin registered with the government and received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied indigent Eritreans the right to free medical services...

The government restricted academic freedom during the year, maintaining that professors could not espouse political sentiments. Authorities did not permit teachers at any level to deviate from official lesson plans and discouraged political activity and association of any kind on university campuses. Reports continued throughout the year of both uniformed and plainclothes police officers being present on and around university and high school campuses. The government arrested students and teachers during the year. Professors and students were discouraged from taking positions not in accordance with government beliefs or practices. There was a lack of transparency in academic staffing decisions, with numerous complaints from individuals in the academic community of bias based on ethnicity and/or religion. The freedoms of speech, expression, and assembly were frequently restricted on university and high school campuses.

National/Racial/Ethnic Minorities

There were more than 80 ethnic groups living in the country, of which the Oromo, at 40 percent of the population, was the largest. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

The military remained an ethnically diverse organization; however, Tigrayans increasingly dominated the senior officer corps. During the May 2005 elections and subsequent demonstrations, there were many reports of Tigrayan or Gambellan troops being used in Addis Ababa and other urban centers where the opposition was strong and where officials did not consider Amhara members of the armed forces sufficiently reliable.

There were occasional reports that officials terminated the employment of teachers and other government workers if they were not of the dominant ethnic group in the region.

Government and ONLF forces were responsible for widespread human rights abuses in the Somali Region (see section 1.g.).

Ethnic conflict in the western, southern, and eastern areas resulted in killings and injuries; however, there were far fewer such cases than in 2006, when hundreds of persons were killed and tens of thousands were displaced. There also were clashes among ethnic groups in the Oromiya, Benishangul-Gumuz, and Southern Nations, Nationalities, and Peoples regions.

On February 27, an ethnic conflict between the Guji and Burji groups in the Arero district of Oromiya Region resulted in two deaths and several injuries.

On May 19, a conflict over land rights between the Oromo and Gumuz ethnic groups in the Haro Limu district of Oromiya Region resulted in five deaths and an unknown number of injuries.

114. The following report, which was put to the applicant at hearing as being a possible reference to the incident in which she claims to have been caught up, is dated [date specified] and entitled [information deleted: s.431]

[information amended in accordance with s.431 as it may identify the applicant]

Violence flared at the University, with ethnically agitated chaos reportedly claiming a student's life, and injuring several others. Sources also disclosed that classes have so far not resumed and have been closed for more than a week now.

Ethnic Violence is becoming a common occurrence in Ethiopia; last week two buildings housing student dormitories at another university were burned down after ethnic violence erupted at the university. Analysts blame EPRDF's so called *ethnic federalism* for the rise in ethnic based violence in Ethiopia.

FINDINGS AND REASONS

Country of Nationality

115. The applicant claims to be a citizen of Ethiopia. She has produced documentary evidence of her background in Ethiopia, and entered Australia as the holder of what, subject to what is said below, is an apparently valid Ethiopian passport. The Tribunal finds on this basis that she is a national of Ethiopia and has assessed her claims against that country.
116. The Tribunal notes that the applicant's late Parent 1 may have been a national of Eritrea. Although some country information suggests that this might mean that the applicant herself is an Eritrean national or at least has an entitlement to an Eritrean citizenship, the practical reality appears at odds with such a view, as the following extract from the Thomas report at pp 20-21 explains:

4.3.1 Can people with Ethiopian parentage regain or obtain Eritrean nationality?

Eritrean officials have claimed that according to Eritrean law, a person who has one parent who is Eritrean is an Eritrean citizen by birth, regardless of whether or not they have any ID. 23 An Eritrean official told UNHCR that any person born to an Eritrean parent is an Eritrean citizen by birth regardless of their birthplace, residence, and whether they have voted in the referendum or paid taxes to the Eritrean government (UNHCR 2001c). However, the process of 'proving' Eritrean nationality can be difficult, and if proof is impossible to find or officials use the process of proving citizenship to exclude people, then the individual concerned, although an Eritrean national by birth, can hardly be said to enjoy the rights and protection of Eritrean nationality. A BDRL has official said 'it is difficult for deportees to meet the stringent Eritrean nationality requirements'

(UNHCR 1999). The testimonies of participants in this research would also seem to refute the claims of the Eritrean government, as none of the participants with mixed parentage have succeeded in obtaining Eritrean nationality or protection.

Several of the participants or their families report not being accepted as citizens by Eritrea despite their theoretical entitlement to citizenship. GGH is an Ethiopian with an Eritrean grandfather. The Ethiopian family of GGH were arrested and deported from Ethiopia to Eritrea in 1998. At the Eritrean border they were turned back to Ethiopia because they had no Eritrean ID. When they arrived back in Ethiopia they were arrested and imprisoned for six months. The whole family is now hiding in Ethiopia, without nationality status. HTT, whose father was Ethiopian and whose mother was of mixed parentage, was arrested in 1999 and deported to the Eritrean border. The Eritrean government refused to accept her and she returned to Ethiopia only to be detained a second time, beaten and interrogated before fleeing to Cairo. Another participant was forced to sign away her rights to future Eritrean citizenship during the war. ADS is from Eritrea and obtained an Ethiopian passport before the war began because she believed that she would never be accepted as an Eritrean by other Eritreans on account of her Ethiopian father. Despite never having been to Ethiopia she was arrested in 2000 and tortured by the Eritrean authorities, before being forced to leave the country and sign a document declaring that she never intended to return. When she applied for an Eritrean passport at the embassy in Cairo, she was told that the paper she had signed prevented them from issuing one to her. Despite never having been to Ethiopia, having lived her whole life in Eritrea, and being entitled to Eritrean citizenship under Eritrean law, she is now prevented from returning in the foreseeable future.

The attitude of the Eritrean embassy in Cairo seems to be at best obstructive to people of mixed parentage who apply for Eritrean passports or recognition, often refusing assistance outright or knowingly imposing impossible conditions. RAT, an Ethiopian with a father who is of mixed Eritrean Ethiopian parentage, visited the Eritrean embassy in Cairo in 2004 trying to obtain some form of identification. The embassy told her that she needed to obtain a letter from her father who had been deported to Eritrea stating that she was his daughter. She has no contact with her father and does not know whether he is dead or alive and so cannot fulfil this condition. She was not given the option of providing three witnesses and remains, therefore, without a means of obtaining Eritrean nationality. S was born in Asmara to an Eritrean father and an Ethiopian mother. She held Ethiopian citizenship until 1998. She approached the Eritrean embassy in Cairo in 1999 to try to obtain an Eritrean passport. They asked her if she had an Eritrean ID card and if she had participated in the referendum. She told them that she had neither and they refused her the passport.

117. In light of this information, the Tribunal finds that the applicant does not, for the purposes of s.36(3) of the Act, have a right to enter or reside in Eritrea, whether temporarily or permanently.

Assessment of Protection Claims

Basis of Claim

118. The applicant's claims are said to give rise to a real chance of persecution in both Ethiopia and Eritrea for a number of Convention reasons.

119. The circumstances of the applicant's family background, namely that she is of mixed Eritrean and Ethiopian parentage, were set out in her protection visa application, and elaborated upon in her subsequent written and oral evidence. This claim was also corroborated by the applicant's relative (Person 3) when he/she was telephoned, without prior warning, during the course of the Tribunal hearing. Although the claim might on one view be undermined by the contents of the statutory declaration lodged in support of the ASAS claim, the Tribunal accepts the applicant's explanation that the assertion in that declaration that she does not belong to the Ethnic Group P is not wholly accurate. The Tribunal therefore finds that the applicant is of mixed parentage as claimed.
120. As the Tribunal accepts, for the reasons set out below, that this claim gives rise to a real chance that the applicant will suffer persecution in Ethiopia in the reasonably foreseeable future, the Tribunal has not found it necessary to consider the other Convention bases which have been put forward.

Convention Nexus

121. The applicant has claimed to be at risk of persecution for a number of reasons including her race. In *Calado v Minister for Immigration and Multicultural Affairs* (1998) 81 FCR 450, the Federal Court, at 455, made the following observations with respect to this Convention ground:

When considering the meaning of the expression "race" in a case such as the present, it is appropriate to take into account the "popular" understanding of the term which accords importance to physical appearance, skin colour and ethnic origin. There can be no single test for the meaning of the expression "race" but the term connotes considerations such as whether the individuals or the group regard themselves and are regarded by others in the community as having a particular historical identity in terms of colour, and national or ethnic origins. Another consideration is whether the characteristics of members of the group are those with which a person is born and which he or she cannot change. These questions are discussed by Brennan J in *The Commonwealth v Tasmania* (1983) 158 CLR 1 at 243-244. At the latter page his Honour said:

As the people of a group identify themselves and are identified by others as a race by reference to their common history, religion, spiritual beliefs or culture as well as by reference to their biological origins and physical similarities, an indication is given of the scope and purpose of the power granted by par (xxvi). The kinds of benefits that laws might properly confer upon people as members of a race are benefits which tend to protect or foster their common heritage or their common sense of identity. Their genetic inheritance is fixed at birth; the historic, religious, spiritual and cultural heritage are acquired and are susceptible to influences for which a law may provide...

In that case his Honour was concerned with the meaning of the expression "race" in the Australian Constitution which in par (xxvi) confers power on the Commonwealth parliament to make special laws for the people of any race. Of course, in interpreting the conferral of a constitutional power it is appropriate that the term should be given a liberal and practical interpretation. In my view, a similar approach should be taken in considering the Convention in the present case.

122. The UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status* also provides some guidance, although it is not definitive: *Chan v MIEA* (1989) 169 CLR 379 at 392, per Mason CJ. It states, at paragraphs 68 and 70:

68. Race, in the present connexion, has to be understood in its widest sense to include all kinds of ethnic groups that are referred to as “races” in common usage. Frequently it will also entail membership of a specific group of common descent forming a minority within a larger population. Discrimination for reasons of race has found world-wide condemnation as one of the most striking violations of human rights. Racial discrimination, therefore, represents an important element in determining the existence of persecution.

70. The mere fact of belonging to a certain racial group will normally not be enough to substantiate a claim for refugee status. There may, however, be situations where, due to particular circumstances affecting the group, such membership will itself be sufficient ground to fear persecution.

123. The discussion of the Convention ground of “race” in both the *Handbook* and the Federal Court’s decision in *Calado* emphasise the broad nature of that term.
124. The Thomas report, at p.6, explains that there are competing views on the question of whether Eritreans constitute a race or just a nationality:

The question of whether ‘Eritrean’ should properly be referred to as an ethnicity or as a nationality is also complicated. Eritrea is made up of nine different ethnicities, and the dominant Tigrinya group in Eritrea, in fact, share many ‘ethnic’ characteristics with the Tigrayans of northern Ethiopia. Eritrea is a nation state containing these ethnic groups and so Eritrean should properly be called a nationality rather than an ethnicity. However, within Ethiopia, the term *gossa* is used to refer to the different ethnic ‘nationalities’ which make up Ethiopia; what western discourse might see as ‘ethnic’ groups. Ethiopians interviewed in Cairo told me that they see ‘Eritrean’ as a *gossa* in the same way as ‘Amhara’ or ‘Oromo’ When questioned whether they saw Eritreans as biologically different from Ethiopians, they affirmed that they did. This reinforces the evidence collected from testimonies, which reveals that parentage and blood relations have determined judgements of who is and who is not Eritrean far more than has formal possession of the nationality of either Eritrea or Ethiopia. It is therefore important to remember that, because at least some Ethiopians seem to believe that Eritreans form a separate ethnic group, it cannot be ruled out that Eritreans and people from mixed families have suffered persecution on the grounds of imputed ethnicity.

125. What can be drawn from this is that despite the applicant’s Parent 1 belonging to Ethnic Group P being in all likelihood ethnically homogeneous with Ethiopians of Ethnic Group P he/she is likely to have been perceived as having a discrete ethnicity, as a result of which the Convention motivation in this case can be said to derive from the applicant’s mixed race, whether actual or imputed. This is also relevant to the question of state protection [information deleted: s.431] – or at least failure of state protection – by the government which is necessary for the applicant to make out her claim.
126. The Tribunal is of the view that persecution on the grounds of imputed race can bring a claim within the scope of the Convention, even if that perception is mistaken, as it is well established that this can occur with respect, for example, in the case of other Convention grounds. The High Court has held that persecution may occur for perceived political opinion or perceived membership of a particular social group: see, for

example, *Chan v Minister for Immigration and Ethnic Affairs* (1989) 169 CLR 379 at 416 per Gaudron J and at 433 per McHugh J. The Full Federal Court in *WALT v Minister for Immigration and Multicultural Affairs* [2007] FCAFC 2 (Mansfield, Jacobson & Siopsis JJ, 22 January 2007 stated at [38] that there was no apparent reason in principle why persecution could not occur for imputed religious beliefs, as well as for imputed political beliefs or imputed membership of a particular social group. In *Ram v Minister for Immigration and Ethnic Affairs* (1995) 57 FCR 565, Burchett J stated at 568-9:

People are persecuted for something perceived about them or attributed to them by their persecutors...In this area, perception is important. A social group may be identified, in a particular case, by the perceptions of its persecutors rather than by the reality. The words "persecuted for reasons of" look to their motives and attitudes, and a victim may be persecuted for reasons of race or social group, to which they think he belongs, even if in truth they are mistaken.

127. Similarly, in *Saliba v Minister for Immigration and Multicultural Affairs* (1998) 89 FCR 38, the Court held at 49. :

... for Convention purposes, a claimant's political opinion need not be expressed outright. It may be enough that a political opinion can be perceived from the claimant's actions or is ascribed to the claimant, even if the claimant does not actually hold the imputed opinion.

128. The Tribunal therefore finds that the applicant's claims bring her within the scope of the Convention ground of race.

Real Chance of Serious Harm

129. The applicant says that she and other students of mixed Ethiopian and Eritrean parentage were attacked and beaten, and one of her friends was killed, in a racially motivated attack by other students at her university. This followed on from her having experienced discrimination, hostility and ostracism.
130. At the hearing, the applicant and her relative Person 3 gave evidence where requested in a detailed and largely consistent manner, and clarified to the Tribunal's satisfaction a number of aspects of the narrative of possible concern. The applicant's account of what happened to her appeared plausible, and was corroborated in important respects by Person 3, who was not even aware he/she would be called to give evidence. Corroboration occurred, for example, with respect to the applicant's mixed Eritrean and Ethiopian parentage, and with her having been discriminated against, harassed, and badly beaten. In the view of the Tribunal the spontaneous nature of Person 3's evidence and the lack of foreknowledge that she would be giving evidence tends to enhance its reliability.
131. Certain aspects of the applicant's claims are also supported by independent country information. The Thomas report tends to confirm, for example, that people of mixed Ethiopian and Eritrean parentage are targeted and can face serious harm in Ethiopia because of their Eritrean heritage. A relevant blog indicates that the incident in which the applicant claims to have been injured, or a very similar incident occurring during the same period, took place at the applicant's university. The CISNET reports tends to support the applicant's account of how ID cards are issued, how the normal channels for issuing such documents legitimately may in certain circumstances be circumvented,

and what an integral part the local Kebele plays in this process. Even the applicant's claim that her Parent 2 has been committed to a psychiatric institution finds some support: for example, an internet report accessed by the Tribunal refers to the institution in question in the following terms: [s431: information deleted].

132. The Tribunal notes that the applicant's evidence with respect to the precise timing of the incident in which she claims to have been seriously injured at her university are not supported by independent evidence. A number of explanations have been proffered for this. For example, it has been suggested that the report the Tribunal was able to locate may have been incorrectly dated owing to confusion between the two calendars. It is also possible, in the Tribunal's view, that the applicant's memory may not have been entirely reliable given the traumatic nature of the incident. She recalls discussing the incident with Person 3 on the telephone, but may possibly have done so not after Person 3 left for Australia (movement records indicate that she arrived in the 2000s) but some months earlier when Person 3 was travelling around Ethiopia with his/her Australian fiancé, whose movement records indicate that he/she was out of Australia when the reported riot at the university occurred. It may also be that there was another, more serious incident which occurred a month or so later, but which was not reported. The applicant suggests that many more than several people must have been injured in the riot she experienced. This is also possible; even the riot the Tribunal found reference to was only mentioned in one report which the Tribunal was able to locate, and no reference to it occurs, for example, in any of the major human rights reports, although the 2006 US State Department report for Ethiopia does refer to *continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern areas*. Thus, even if there was more than one incident, specific reports of the subsequent incidents may not necessarily be readily available.

133. The Tribunal formed the preliminary views expressed in the previous paragraph after the hearing, but was subsequently provided with additional evidence which reinforced those views considerably, in the form of the report which indicates that the applicant is displaying symptoms of PTSD consistent with her claims, and also capable of explaining some inconsistency or inadequacy of recall. For example, the author of the report states that in her opinion...

The applicant is suffering from trauma symptomatology and anxiety caused by the series of highly traumatising events, previously described.

134. The report goes on to describe a range of symptoms expressed by and observed in the applicant, including: intrusive memories; flashbacks; impaired concentration, memory and motivation; almost nightly nightmares with respect to the claimed physical attacks; intense anxiety and panic; breathing difficulties and the sense of dying; depression reflected in her depressed mood, disturbed sleep, weight loss and poor appetite, poor concentration, excessive crying and diminished interest in daytime activities; the sense of hearing voices and being followed; dissociation; and body dysmorphia.

135. Although the counsellor obviously cannot properly find that the claimed experiences actually occurred, it is clear that the applicant's symptomology is both consistent with the applicant's claims of past persecution, and capable of explaining difficulties the applicant may have had accurately recalling her experiences. In this regard, the Tribunal notes and places weight on its own applicable policy document, *Guidelines on the Assessment of Credibility*, updated as at August 2008, which includes the following:

- 5.3 Traumatic experiences including torture may impact upon a number of aspects of an Applicant's case including the timeliness of an application, compliance with immigration laws, or the consistency of statements since arrival in Australia. They may also impact adversely on an Applicant's capacity in providing testimony of such events.
- 5.4 There may be differences in evidence about the same event if provided by two or more persons. Such differences may be due to an individual's ability to recall an event and the emphasis and perspective placed on particular aspects of an event. The Tribunal should be mindful of these differences when assessing credibility.
- 5.5 A person may not be able to remember all the details of his or her personal history or reconstruct the chronological order of particular events. A person may remember events that affected him or her most in emotional or physical terms but not the time sequence. Such confusion and forgetfulness do not necessarily imply that a person is not telling the truth. However, contradictions, inconsistencies and omissions in evidence may, although not necessarily, mean that a person's evidence is unreliable and, therefore, lacks credibility. The lack of credibility of a person's account because it is unreliable does not necessarily imply that the person is dishonest.
- 5.6 A person may forget dates, locations, distances, events and personal experiences due to lapse of time or other reasons. A person may not reveal the whole of his or her story because of feelings of shame, for fear of endangering relatives or friends or because of mistrust of persons in positions of authority.
136. With respect to the issue of the kebele ID card, the Tribunal agrees with and accepts the submissions of the applicant's representative, both that the interpreting agency had no place commenting on the document submitted to it for translation, and also that the applicant's account of how that apparent alteration to the document may have occurred. In addition to the reasons provided by the applicant which argue for such a conclusion, the Tribunal makes the following points.
137. Firstly, the applicant has always maintained that the document was obtained through irregular means, and the country information indicates that this is commonplace, and so it should not be assumed that such a document would conform to some standard of perfection, even if Ethiopian documents generally could be held to such a standard.
138. Secondly, the applicant's date of birth has been consistently maintained as [date specified], and is shown as her age on all of the documents she has submitted. There is no evidence to suggest that this is not her age, and in the absence of any such evidence the Tribunal finds that the applicant was born on the date specified as claimed. She was therefore under 18 years of age when the ID card is *alleged* by the translator to have been issued. The CISNET report extracted above indicates that Ethiopians are not issued with kebele ID cards until they turn 18 years of age, adding weight to the applicant's claim that the card would not have been issued to her on [date specified], some months before she turned 18.
139. Thirdly, the Tribunal has examined the kebele ID card and observes that it appears that *all* of the handwriting on the part described as page 2 except the applicant's signature has been written over as if for emphasis, consistent with the applicant's claims. Furthermore, it is apparent that the translator has not in fact translated all of the back cover of that ID card, because above the signature against the [year specified] there

appears another signature and the [year specified] in the western calendar. There are also two stamps, one apparently corresponding to each year and signature, consistent with the applicant's claims at para 15, page 27 above.

140. The Tribunal therefore finds that the document was in fact issued, as it suggests on [date specified]. This corresponds to either one of either two dates in the Western calendar, depending on interpretations of the corresponding date and month. In either case, the date would be consistent with the applicant's age, which is also recorded on the ID card. However, if it were the latter date, this could undermine a key claim by the applicant, namely that the passport was only obtained *after* the kebele ID card had been secured by irregular means, and in reliance on that ID card. However, in light of all the other evidence, the Tribunal accepts as plausible the representative's explanation that the date was in fact rendered on that ID card to denote the [date specified]; thus it was obtained, as the applicant argues, after the campus riots and prior to the issuance of the passport.
141. The Tribunal also finds that the kebele ID card was renewed in the 2000s, which corresponds to the [year specified] in the Western calendar. The applicant has already explained that her aunt arranged to have the ID card renewed just before the applicant departed Ethiopia. The Tribunal infers from this that the ID card was extended between [dates specified], which period is all part of the Ethiopian. (Conversions performed by the Tribunal on via the online Calendar converter located at <http://www.funaba.org/en/calendar-conversion.cgi>).
142. With respect to the applicant's college ID card, it is apparent from the face of that documents that it was issued on one of two dates (see [109] above). The applicant stated in her original application form that despite completing secondary school in the 2000s, she did not commence university until later. The period when she was a teenager corresponds in part to chronological gap in her education history, during which period the applicant now states that she was attending a college (although this was not specifically mentioned, before, it was not necessarily material, and the Tribunal places no weight on this omission). Given that the applicant has also consistently maintained that she was not admitted to college while still a teenager, the latter dated appears more likely, and this is also consistent with the applicant's assertion about the manner in which dates can be recorded in Ethiopia. The Tribunal finds that that document was issued on [date specified], when the applicant was a teenager, and prior to her actually commencing university.
143. Overall, the Tribunal found the applicant's claims to be detailed, largely consistent, corroborated to a considerable degree by the evidence of her relative, Person 3, evidenced to at least some extent by supporting documents, the authenticity of which the Tribunal accepts, and consistent with much country information. Having regard to the foregoing, accepts the applicant's claims as set out in her protection visa application and outlined above.
144. The Tribunal also finds that the harm the applicant experienced at the applicant's university amounted to serious harm for the purposes of s.91R(2) of the Act, and is satisfied that it was inflicted for the Convention reason of her race, on account of her Eritrean background

145. In light of the country information before it, particularly the Thomas report, the Tribunal finds that there is more than a remote chance that the applicant will experience serious harm capable of amounting to persecution in the reasonably foreseeable future in the event that she returns to Ethiopia, and that for the purposes of s.91R, the essential and significant reasons for this is the Convention reason of her race, whether actual or imputed.

The Availability of State Protection

146. It is implicit in the applicant's account that the Ethiopian state, not to mention much of its populace, is possessed of a hostile attitude towards people of mixed Ethiopian and Eritrean parentage, and there is independent support for this proposition, as can be seen, for example, from the Thomas report. In the opinion of the Tribunal, to the extent that the threat of harm feared by the applicant comes from non-state agents, state protection from that harm is not available to the applicant.

Conclusion on Persecution

147. Accordingly, the Tribunal finds that the applicant faces a real chance of persecution in Ethiopia in the reasonably foreseeable future for the Convention reason of her race.

Internal Relocation

148. Although on her own account the applicant has experiencing problems only in her local area, the country information does not suggest that the problems experienced in Ethiopia by people of mixed Ethiopian and Eritrean parentage are confined to any particular region. Consequently, internal relocation may not necessarily be safe for the applicant. Furthermore, as the applicant has explained, the critical role of her ID card and the difficulties she says she will have extending it, which to some extent are borne out by the country information in the CISNET reports, could mean that if she does attempt to relocate within Ethiopia she may not necessarily be able to renew her ID card, which, as the country information indicates, is necessary if citizens are to access essential services such as health care or housing. Furthermore, the applicant is a single woman without male protection, whose mental health is clearly on the evidence before the Tribunal both fragile and at risk of deterioration if she returns to Ethiopia, and she has also explained that her sibling in City Z has neither the capacity, nor, in all likelihood the willingness, to accommodate her. In all the circumstances, the Tribunal considers that the option of safe relocation within Ethiopia is not one which is reasonably open to the applicant.

CONCLUSIONS

149. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2) for a protection visa.

DECISION

150. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

I certify that this decision contains no information which might identify the applicant or any relative or dependent of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D. rchadwick