

**0903079 [2009] RRTA 898 (14 September 2009)**

**DECISION RECORD**

**RRT CASE NUMBER:** 0903079

**DIAC REFERENCE:** CLF2009/11315

**COUNTRY OF REFERENCE:** Liberia

**TRIBUNAL MEMBER:** Wendy Boddison

**DATE:** 14 September 2009

**PLACE OF DECISION:** Melbourne

**DECISION:** The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

## 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 Liberia, arrived in Australia [in] December 2008 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] January 2008. The delegate decided to refuse to grant the visa [in] April 2009 and notified the applicant of the decision and his review rights by letter dated [in] April 2009.
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 applied to the Tribunal [in] April 2009 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 Part 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. The applicant appeared before the Tribunal [in] June 2009 to give evidence and present arguments. The Tribunal also received oral evidence from [Person 1].
20. The applicant was represented in relation to the review by his registered migration agent who attended the Tribunal hearing.

### *Protection visa application*

21. The applicant is aged 29 and was born in [location deleted: s.431(2)], Lofa County, Liberia. The applicant is a Christian and belongs to the Kissi Tribe. The applicant completed 12 years of schooling and between March 2007 and October 2008 he attended the [name deleted: s.431(2)] University studying Sociology. Between July 2006 and November 2008 the applicant was employed as a warehouse storekeeper with [Organisation A] in Monrovia.
22. The applicant claimed he left Liberia because he feared persecution from the Muslim Mandingo members of the LURD rebel group because he was a Christian and from the Kissi ethnic group. In 2007 he made a statement to the Truth and Reconciliation Commission about the crimes that had been committed against him and his family by the LURD during the civil war. After making the written part of his statement, members of the LURD tried to find him. If they had found him they would have killed him. If he returned to Liberia he felt that he would be killed and he would be harmed by Muslim Mandingo rebels from the LURD group. He did not believe that the government of Liberia could, or would, protect him as some members of the government used to be part of the rebel factions. He indicated that he would provide more details in a Statutory Declaration.
23. In a Statutory Declaration made [date deleted: s.431(2)] February 2009, the applicant stated that, either before he was born or when he was very young, his parents purchased some land from [Person 1] in [Location A], Lofa County. [Person 1] became their neighbour. The applicant's family lived on the land and farmed it. [Person 1] was a Muslim from the Mandingo ethnic group who were not friendly with the Kissi Christians. [Person 1]'s extended family was not happy that he had sold land to the applicant's family. They were verbally threatened by [Person 1]'s family and other members of the community tried to mediate between them, but the tension remained. The applicant's family lived on the land and farmed it from when he was born until 2003, except for periods where rebel fighting forced them to flee their village. The

applicant's education was often disrupted due to the war. In 1990 when the applicant was 10 his family started to move from place to place to avoid the fighting caused by the National Patriotic Front of Liberia (NPFL) – one of Charles Taylor's rebel groups. In 1992 the fighting intensified and the family stayed in the bush and ate whatever food they could find, such as wild fruits and vegetables. There were times when things would appear to return to normal and they could stay in the village, but this never lasted for more than a few months before they were again attacked by rebels. In 1992 the applicant's village was taken by the NPFL and the occupants were used as slaves. The applicant had to act as a porter for the NPFL. If he refused to work they would threaten to kill him. He was also forced to work as a farmer. As well as beatings by the rebels there was also random killing of people. The applicant witnessed his father being beaten many times and he saw people being killed. Whilst they were in the NPFL camp an argument arose between the applicant's father and a NPFL rebel who had borrowed money from him before the war. The applicant's father recognised the man and asked for his money back. The rebel became angry and threatened to kill the applicant's father. His father was put in a makeshift prison at the rebel base. He was held in a cell for three days and was very sick after he was released. In 1994 the NPFL rebel base was attacked by the United Liberation Movement of Liberia for Democracy (ULIMO). The applicant and his family escaped by running into the bushes. They survived by eating wild fruits and vegetables. The ULIMO rebels found the applicant's family and took them back to [Location A] where they were imprisoned in a large house and forced to make statements. After the applicant had made a statement about who he was and confirmed that he was not a rebel he was allowed to leave the jail. The applicant had to work as a slave for the ULIMO and he described the atrocities that they committed, particularly towards women. He described how a large number of people were executed and he was forced to dig a mass grave for the dead bodies.

24. In 1996 the ULIMO split into two rebel groups, both of which wanted to recruit the young men. The applicant and his brothers hid in the bush from the rebels. The rebels knew that the applicant and his brothers were missing and arrested his father. They jailed him for two weeks and beat him. At the end of 1996 a ceasefire was called in Liberia and the applicant and his brothers came out of hiding. The applicant was again forced to work as a slave – this time for the ULIMOK rebel group. In 1997 the rebel leader Charles Taylor won the election and became president. The rebel groups in Lofa County were in direct opposition to Charles Taylor. After the election his family was suffering and looking for food. They returned to their farm in [Location A]. They were sometimes attacked by rebel groups who took away their food. During this time the rebel groups reformed a new organisation called Liberians United for Reconciliation and Democracy (LURD). They came across the border from Guinea and began attacking villages.
25. [In] April 1999 the applicant's village in [Location A] was attacked. The family ran away to another town, [deleted: s.431(2)]. They heard from people who came from their home village that [Person 1]'s son, [Person 2], who used the rebel name [Alias 1], had burnt down their family home and was looking for the family. In about 2000 the family returned to [Location A]. They stayed with friends of the applicant's father until the house was rebuilt. In 2001 the LURD rebel groups were looking for boys to recruit. They would just grab boys from the street. Whenever there was recruitment raids occurring in town they could hear the guns and the children screaming so the applicant and his brothers hid in the bush.

26. In January 2003 the LURD headed by [Person 2] attacked [Location A]. The applicant and his family walked to another village called [deleted: s.431(2)]. When [Person 2] discovered that the family was not in the village he beat one of their associates who confessed to [Person 2] where they had gone. He led [Person 2] to them in the bush. Under the instructions of [Person 2] a group of about 20 men started beating the applicant's family. They also raped his mother and sisters and his fiancé. The applicant's father was shot by [Person 2] and when his mother refused to get up and move away from his body he shot her as well. The applicant's fiancé and brothers and sisters were taken away and he never saw any of them again. The applicant was then walked through the bush with the LURD rebels and at some point they were attacked by the anti-terrorist unit and everybody ran away. An old man named [Person 3] who was a hunter took the applicant to his hut deep in the bush. [Person 3] helped to treat the applicant's injuries and when the applicant had recovered [Person 3] taught him how to trap animals.
27. At the end of 2003 the rebels were coming towards the part of the jungle where the applicant and [Person 3] were living. [Person 3] refused to leave, but the applicant was scared and walked for over a month with a large group of people to Buchanan in Grand Bassa County.
28. From 2004 the applicant lived in Buchanan. The rebel faction Movement for Democracy in Liberia (MODEL) made the applicant make a statement about who he was and what had happened to him. He and the other men he was with were accused of being spies for the other rebel groups. They were held as prisoners and used as slaves. The applicant became a porter for the MODEL rebels. There was a civilian lady who lived close to the applicant and she told him that the MODEL rebels were going to arrest and kill them that night. The applicant fled when he heard this news. He and his friend, [Person 4], walked for about four days to Monrovia. A month after they arrived in Monrovia the Muslim and Christian war began.
29. The applicant tried to leave Monrovia and when he passed through a LURD roadblock he was seen by [Person 2] who ordered his men to beat him. The applicant was beaten with guns, sticks and machetes. They thought that the applicant had been killed in fighting between the LURD and the ATU. Whilst the applicant was being beaten fighting broke out between LURD rebels and another Christian militia rebel group. As the applicant was calling out to Jesus to help him Christian fighters knew that he was on their side and helped him. He managed to escape with his friend [Person 4]. The applicant was badly injured from the attack. He walked for two weeks until he and [Person 4] reached Gbarnga. They were unable to live in the town because there was a large population of Muslim people and LURD rebels. Most of the locals knew [Person 2] and it was dangerous for the applicant. They then walked to a village called [deleted: s.431(2)] where the applicant stayed. His friend [Person 4] returned to Lofa County. The applicant began living with [Person 4]'s uncle and he worked on his farm. One night [Person 4]'s uncle told the applicant that a group of men had come and looked for the applicant. The applicant believed that they were LURD rebels and so he was scared and left to hide in the bush. He returned during the day to help work on [Person 4]'s uncle's farm, but slept in the bush at night time. One night the rebels returned to [Person 4]'s uncle and asked where the applicant was. When the uncle would not tell them they beat him and his family. [Person 4]'s uncle then asked that the applicant leave. It was 2006 and the applicant walked back to Monrovia and began

living in a suburb called [deleted: s.431(2)]. The applicant stayed with friends that [Person 4] had introduced him to back in 2004.

30. After six months in Monrovia the applicant began working for [Organisation A]. He worked there as a warehouse storekeeper until November 2008. Once he gained this employment he moved to the suburbs in [location deleted: s.431(2)]. It was at this time that he had a relationship with a woman, [name deleted], and they had a son in January 2005.
31. One day when the applicant was in Congo Town he saw one of [Person 2]'s rebels. The rebel asked the applicant if he was living in the area as they were looking for him. After this the applicant was scared and moved to [deleted: s.431(2)] – another suburb of Monrovia. The applicant continued to go to work, but when he knew the rebels were looking for him he took a couple of weeks off before returning to work.
32. In March 2007 the applicant commenced a Bachelor of Arts at the [university deleted: s.431(2)] in Monrovia. He stopped studying in October 2008.
33. In May 2007 the applicant went to the Truth and Reconciliation Commission (TRC) in [Location B] and made a written statement about what happened to him and his family in the war. He had another appointment to read his statement on the radio for national broadcast, but he was too scared to return for the interview.
34. After the applicant made this statement [Person 2] visited the house where the applicant was staying, but he was not there. One of his friends recognised [Person 2] and fled from the house. The same day the applicant and his friends moved to [location deleted: s.431(2)]. They were told by friends that [Person 2] had robbed their house later that night. The applicant went to the police to tell them that he was being threatened and harassed, but they did not do anything. After this he lived at different friends' homes – moving from place to place. The applicant still received threats from [Person 2] and he knew that he was still trying to find him and kill him. [Person 2] wanted to kill him so he would not be able to make a radio statement at the TRC. Life continued like this until the applicant came to Australia.
35. The applicant claimed that he could not return to Liberia because he feared being killed by former members of the Muslim Mandingo LURD rebel group under the instructions of [Person 2] because he was a Christian and Kissi, and because [Person 2] had targeted and killed the applicant's family in the past.
36. The authorities of Liberia could not protect the applicant because they were corrupt and many of them had been part of rebel groups in the past and would not support people like the applicant. The police would not help him. In the past he had been to the police and he believed the police told the LURD rebels where he was because the rebels found him. There was nowhere in Liberia where he was safe.
37. [In] April 2009 the delegate refused the visa application. She noted that the applicant had claimed that their Muslim neighbour [Person 1]'s son, [Person 2], was known as [Alias 1] who was a LURD rebel leader and who killed the applicant's parents in 2003, and continued to target him until he departed from Liberia in December 2008. Country information indicated that [Person 2] was not known as [Alias 1] – he was known as [Alias 2] and [Alias 3] – whereas [Person 5], the LURD [position deleted: s.431(2)] in

Monrovia, was known as [Alias 1]. Further, [Person 2] was in hiding and then in self-imposed exile in Guinea from the end of 2003 to the end of 2004 so she did not accept the applicant's claim that [Person 2] saw the applicant and ordered his men to assault him when the applicant tried to pass through a LURD roadblock sometime in 2004.

*Proceedings before the Tribunal*

38. [In] May 2009 the Tribunal received, from the applicant's advisor, the following:

- A newspaper article entitled Profile Liberia's Rebels 20 March 2006 BBC News;
- A letter from the HSA Medical Advisor noting that the applicant had a history of depression, swelling of the right elbow with restricted flexion, a painful right wrist, and central and lower abdominal pain;
- A letter from St Mary's Medical Clinic Pty Ltd, dated [in] May 2009, stating that [the applicant] had told the doctor that he was tortured in Liberia and he listed the injuries sustained during that torture;
- Radiologist's report regarding x-rays undertaken on the applicant; and
- A Statutory Declaration by the applicant, dated [in] May 2009.

39. In his statutory declaration the applicant explained some of the naming traditions in Liberia and how some names were Muslim names and some names were Christian names. Common Muslim first names in Liberia included Sekou, Mohammad and Alahaji, and common Muslim family names were Donzo, Sherif and Kamara. The [Person 2] that the applicant had referred to was from the Mandingo Muslim Tribe in Lofa. The applicant had grown up with him and his name was a common name in Mandingo Muslim tribes throughout Liberia. The applicant did not know who the [Person 2] was who was mentioned in the delegate's decision. That [Person 2] was from Monrovia and the applicant had never heard the [Person 2] he referred to being called [Alias 2] or [Alias 3]. Names like [Alias 1], Rambo, Mosquito, Black Diamond and Killer were common names that were used across all the rebel factions, and within each group there might be many rebels called by the same name. If one rebel leader gained a reputation then other rebel leaders wanted to take the same name. The [Person 2] that the applicant referred to was known as [Alias 1] and he fought with LURD in [Location A] in Lofa County. The applicant did not know who [Person 5] was. From the time the applicant's family bought the land in [Location A], [Person 1's family] had been constantly ridiculed for selling their land to Christians. There had been a history of conflict between the two families. The sale was seen as sacrilegious - that a Muslim family had sold land to a Christian family, and pressure was put on [Person 1's] family to regain control of the land and this led to [Person 1's] family threatening the applicant's family.

40. In April 1999 when the LURD rebels first attacked in [Location A] the attack was led by [name deleted: s.431(2)]. Many of the LURD members were Mandingo Muslims and they specifically targeted the Christians and other minorities in the [Location A] area. The purpose of the attack was to rid the land of all Christian and minority group members. [Person 2] was one of the fighters and he burnt the applicant's house. The



applicant's family was targeted because they were a Christian family from the Kissi Tribe. The applicant's family peacefully enjoyed their land from 1980 until 1989 when there was an outbreak of war. They returned to their land in 2000, but continually received threats that the rebels would return. They were afraid that they would come back. From 2000 to 2003 there were continued attacks in the area and any time there was an attack they would leave and go and hide in the bushes. Since the applicant's house was burnt down in 1999 [Person 2] had advanced through the ranks of the LURD rebel group. He was made a general and put in charge of the rebels. He became known as [Alias 1]. In 2003 [Person 2] was the battlefront commander of the [name deleted: s.431(2)] unit of the LURD rebels who captured [Location A] and most of Lofa County. The LURD rebels were not successful in capturing and keeping the town of [Location A] in any of the attacks between 1999 and 2003 because the government soldiers and minority fighters had been able to regain control between each of the attacks. In the 2003 attack, the rebels were finally successful and gained control over [Location A]. As a general and leader of the attack, [Person 2] had the power to give orders and to tell other rebels to kill certain people. He himself could also kill anyone he wanted. The applicant believed that this attack allowed him to take over the family land. In the 2003 attack, [Person 2] came after the applicant's family specifically because of the land dispute and because of the religious hatred towards Christians. Since 2003 [Person 2] has occupied the applicant's family's land with the LURD rebels and the Mandingo Muslim Tribe.

41. In May 2007 statement takers from the TRC contacted the applicant to give evidence about what happened to his family during different LURD rebel attacks from 1999 to 2003, and about the mass graves that were made during this period. The TRC had found out about the applicant through his friend, [Person 4], who was living in [Location A] The applicant gave the TRC a written statement about what had happened to his family, and the mass graves. He was assured that the statement would be confidential. The applicant's name was put on the statement and he was sure that it was not kept secret because the threats began again straight after he gave his statement. The applicant believed that the TRC provided this information to the police and it was through the police that [Person 2] and the LURD rebels found out about his statement. He also believed that this was how they found out where he was living. The TRC also wanted the applicant to read the statement publicly, but he was too afraid to do this.
42. In April 2008 the Liberian government, as part of the TRC, formed a land negotiation or reform committee. This committee operated under the TRC and worked out who owned land by questioning neighbours. The applicant's neighbours went and questioned [Person 1's] family and said that they should not be occupying the land and that the applicant's family owned it. This heightened the risk to the applicant's safety.
43. [In] September 2008 the applicant was attacked by [Person 2] and a few other men who were armed with machetes and guns. They came to the house where the applicant was living at about 3.00 am. The applicant and his friends thought that they were armed robbers. However when [Person 2], called the applicant by name, the applicant realised who it was. They broke down the door and went straight for the applicant. They did not try to attack the applicant's friends, but his friends tried to protect him. The men started beating the applicant and he forced them off. They then said that they would arrest him. The applicant's friends said that they could not arrest the applicant as they were not officers. In Liberia when someone tried to arrest a person in the middle of the

night they were really going to kill you, so the applicant was really in danger. The applicant's friends started calling out, "armed robbers" and people from the community heard and came to see what was happening. At that point the men left, but [Person 2] threatened that he was going to come back and get him. The applicant sustained a broken tooth in the attack.

44. Since the [date deleted: s.431(2)] September 2008 attack the applicant never returned home. He went to the police and when the applicant mentioned [Person 2] they did nothing. The police were all ex-faction men or rebels. They would not help him. Since the death of his parents the applicant had lost his security. He could not stop the tribe from chasing him. He had to keep moving so they would not find him. Since the attack in September he had to leave his job, his school and the house he was living in. He could not keep living in constant fear for his life. The applicant did not mention this specific attack in his previous Statutory Declaration because he thought by stating "life continued like this until I came to Australia" would be sufficient to explain that life was not safe for him and he continued to receive threats from [Person 2]. This attack from [Person 2] was another in the long line of attacks and threats that he had suffered throughout the years. He did not realise it was important to go into detail about the attack. He provided the following summary of his claims:

- When his family purchased land from [Person 1's] family this exacerbated tensions between the Muslim and Christian community in [Location A], and made them a target of the LURD rebel groups;
- [Person 2's name] was a common Muslim name that was used in Liberia, and the [Person 2] the applicant referred to is known as [Alias 1] from [Location A] who led the [name deleted: s.431(2)] unit in the 2003 attack on [Location A];
- [Alias 1] was a common rebel name that was used in Liberia, and the applicant did not know who [Person 5] was;
- [Person 2] used the power he had gained within the LURD rebel group in 2003 to take control of the applicant's family's land; and
- The continued attacks and threats that the applicant received from [Person 2] and the LURD rebels culminated in the attack [in] September 2008, and made it clear to the applicant that he would be continually persecuted or killed if he remained in Liberia.

#### *Evidence at the hearing*

45. The applicant made a statement to the TRC in May 2007. The applicant completed a preliminary hearing that was like a questionnaire. He sat down with statement takers at his home in Monrovia and filled it in. The Tribunal indicated that its understanding was that statements to the TRC could be anonymous, confidential or public. The applicant made a confidential statement. He did not get a copy of the statement.
46. The statement takers asked standard questions including his name, time of incidents and he explained what took place. He gave his address and he was asked about his education level and his marital status.

47. When he finished the statement taker promised him that the information would be confidential and they would get back to him about the publishing of the statement. Normally if a person gave a statement to the TRC they could be called for a national state radio hearing. This entailed going to a government building and testifying openly.
48. It was put to the applicant that it was the Tribunal's understanding that if a person made their statement confidential they did not have a public hearing. The applicant responded that it depended on how useful the statement would be to the TRC because although at the beginning they gave you options later they tried to encourage you [to go public]. (Many had made confidential statements because they did not want to be persecuted by the State) If it was important and they really needed the information they would try to get you to give the evidence. It was put by the Tribunal that the TRC had the power to have hearings in private so that if they really needed the evidence they could take the oral evidence in private. The applicant responded that they had the power to take the evidence in private but if they really wanted people to know about what had happened they would try to convince you to give public evidence. He was told by the TRC that it was possible for them to change the statement from confidential to public.
49. The applicant was contacted by the TRC after the May 2007 incidents (his place was attacked by [Person 2] and the applicant continuously received threats from him) about giving evidence but at that time he was already facing persecution from [Person 2] so he refused due to fear for his own safety. In July 2007 someone came from the TRC and asked the applicant if he would make a recording so they could play it and as the applicant was having these problems he told the TRC that he was not interested.
50. When they said they wanted him to make a recording they meant they would give him options. After they took the statement he told them he continued to receive threats and he did not trust the confidential reports as his persecutors knew his address. The TRC said that he still had the option that they could have his evidence just on a tape and they would play it. By this they meant they would come and record an interview with him without asking him his name. The applicant declined to do this and told them that his persecutor was someone he grew up with and he knew him very well. They could have played the recording at any time they needed any particular evidence about the person in question, [Person 2]
51. The applicant could have chosen where the interview would be recorded. He was asked if this was a step between making a preliminary statement and then giving evidence at either a public or private hearing. He responded that after the preliminary hearing they would ask for a public hearing. The public hearing would either be recorded and they played it on state radio or they put it on the website or you went to their office and stood amongst the public and explained directly what happened to you. He was asked whether taping was different from a public hearing. He responded that taping also fell under the private hearing. The applicant never went to any public hearings for fear of his safety.
52. The public hearings were mainly held in Monrovia at the end of 2007 and 2008. It was put to the applicant that the TRC did not commence public hearings until 2008. He responded that he remembered that in late 2007 they had public hearings and the TRC was preparing for hearings but it was mainly 2008 when they had public hearings involving the important people such as the rebel leaders which gave them more focus.

53. The Tribunal discussed with the applicant that according to the TRC website it was declared open in January 2008 and started taking evidence in February 2008. The applicant responded that the preliminary hearings were held in 2007. Before the TRC started, and after it was announced that they were going to have TRC, there was much ground work before it actually started. They were getting reports and collecting evidence. It was put that it was true that they were taking statements in 2007 but the launch of the first hearings was in 2008. The applicant responded that the 2008 hearings were the very prominent people like Prince Johnson and rebel leaders who were feared but they were not published and they were taking statements in 2007.
54. The applicant was asked to go to a hearing but he would not go after they had promised that his statement would be confidential and he felt that they had broken that promise.
55. It was put to the applicant that the TRC did not start having hearings in Monrovia until July 2008. The timetable indicated that they commenced in Harper in February and went around the country side. The applicant responded that after they had broken their promise to him he was not following what the TRC was doing anymore. He had already put the TRC behind him. In 2008 he used to listen to State radio and hear people giving evidence.
56. The last time the applicant was in [Location A] was January 2003. He had not been back since that time. It was put that the applicant's family owned land in [Location A] about 20 years before the civil war started. They had peaceful enjoyment of the land from 1981. The applicant stated that the land was acquired by his family before he was born. His father moved to [Location A] in 1979 and given the applicant was born in 1980 it was likely the land was purchased around 1979.
57. Since 2003 [Person 2] and [Person 1's] family and the Muslims had been living on the land. The applicant due to fear for his safety had taken no steps to secure the return of the land. He had just tried to put the matter behind him. In April 2008 the land reform committee started questioning neighbours about people who were falsely occupying the land. That brought renewed threats to the applicant even though he was not part of this inquiry and had not instigated it. He had never asked about the land and he never intended to.
58. The applicant was working with the [Organisation A] since July 2006. Initially he was a casual worker and paid \$3 per day then in July 2007 he became permanent. He was paid \$120 monthly in cash. He worked there until he left Monrovia, except for the time that the situation was very hard for him and then he had to take off. The last time that he went to work was the end of October 2008 after the September incident. He was also attending university at that time. He stopped attending university in October 2008.
59. He was asked when he first planned to leave Liberia and he responded that he had been thinking about it for a long time but after the September incidents he had no option. He obtained his passport through bribery from the Ministry of Foreign Affairs. He asked an agent to get a passport after the September incident but it took some time, nearly a month, before he got the passport. It was noted by the Tribunal that his passport was issued in September. The applicant maintained that he was given the passport some time in October.

60. The applicant travelled to Australia with [Person 6]. She was not his girlfriend just a friend. She used to work with the applicant but she now worked for the [organisation deleted: s.431(2)] She left Australian in February 2009. She had already changed jobs before she returned to Liberia.
61. The applicant agreed that in his visitor visa application he had said that she was his girlfriend and that he was coming to spend Christmas with her in Australia. However she was just a friend, not a girlfriend. He was asked if she knew about the problems he was having with [Person 2] and he replied, "not deep into it". She knew of his injuries but not of his problem with [Person 2]. The applicant was asked if he had problems at work with [Person 2] He responded that [Person 2] did not know where he worked as it was confidential. It was confidential because the work was casual and so was his attendance at Uni. It was put that he had previously stated that since July 2007 he had been a permanent employee. He responded that he had to keep his work and attendance at uni very confidential and the information he was giving now he had not previously explained to anyone until he arrived in Australia
62. The Tribunal put to the applicant that if [Person 2] was coming to the applicant's home it would be easy for him to find out where he worked. The applicant responded that [Person 2] resided in [Location A] he was amazed that the applicant had moved from one place to another. [Person 2] was someone who the applicant did not go looking for.
63. [Person 2] was threatening the applicant through friends. His friend [Person 4] still lived in [Location A] and the applicant obtained information from him. [Person 2] carried out sacrifices on the family's land and when they did this or talked within the family [Person 4] would be there and would tell the applicant it was not safe for him to remain there as they were still angry with him.
64. The applicant agreed that that he was attacked by [Person 2] in September 2008 and he stated these were not like everyday attacks. He made sure that he kept out of the way by hiding. In September 2008 after the land reform (which happened in April) it took time for [Person 2] to find him and take action.
65. The applicant believed that [Person 2] had access to his TRC statement and he is sure that someone within the TRC told [Person 2]. This was very common in Liberia. It was put that the statement would have indicated where the applicant worked or at least his contact details at work. He responded that TRC did not ask for his work details but he did tell them that he was part time at Uni and working for [Organisation A]. It was put that if [Person 2] had access to the statement he could have found out where the applicant was working. The applicant responded that [Person 2] only found out his home address and he was not attacked at work.
66. He was asked what he meant by his statement that [Person 2] was threatening him daily. He responded that almost everyone who he met from [Location A] would tell him that it was a serious thing, [Person 2] kept threatening him, [Person 2] wanted to get rid of the applicant, [Person 2] attacked him and he still had the injuries from that attack.
67. He was asked if [Person 6] knew that he was being threatening daily and he responded that she knew some of the problems but in his society they did not elaborate or discuss at work problems with strangers. It was put that [Person 6] was not a stranger, he travelled to Australia with her and stayed with her in Australia. He stated that he found

it difficult to tell her about it. He was asked if she noticed that he was injured when he came to work after September 2008. He responded that after September 2008 he had to leave [Person 6] and he did not go to work. It was put that earlier he had said he went to work until October 2008. He then said that in his statutory declaration it mentioned that he did not go to work after the attack, he took some time off. After time off he went back to work as this was his only income and only means of survival. He went back to work in early October. [Person 6] did not ask what happened to him or why he was not at work for 2 weeks because it was school leave. After a day he reported the attack to the police but they did not take action. He treated his wounds himself and just acted like everything was normal.

68. [Person 6] invited him to come to Australia because she said she knew someone who could help him and she knew some of his problems. The applicant thought he could go to Australia and the government there would listen to him. The Tribunal asked why she did not put in a statement in support of his application and he did not respond. The applicant's adviser informed the Tribunal that they were not aware of the existence of [Person 6]. The applicant then stated that she did not provide a statement because she was not going to stay in Australia and the applicant did not think that it was a good idea for her to provide a statement. It was put to him that she was still in Australia when he lodged his protection visa application. He said that she was about to leave in a week. When he first arrived in Australia he stayed with [Person 6]'s Mum but he could not stay there after she left.
69. The applicant was asked why he had not mentioned that he was attacked [in] September at an earlier stage. He explained that this was because he had a psychological problem explaining these things and the immigration officer explained in his letter that he would have an opportunity to give further evidence so he just thought about giving the information. He stated that there was a paragraph at the end of his first statement where he said that things continued on like this until he came to Australia so he thought that would indicate that he was being persecuted.
70. [In] September the applicant was on [street and suburb deleted: s.431(2)] at his friends place where he was staying and they were armed robbed in the night. [Person 2] came with a few men and they knocked on the door. This did not occur at the applicant's own home. He was staying at these premises because he had to move from place to place. He had been staying at [street deleted: s.431(2)] for almost three months. Before that he lived in [Location B] and after the attack in [Location B] he moved and he never went back there again. He was asked why he provided the [Location B] address in his visitor visa application. He said this was because it was his family address that he used whilst he was in Liberia and he did not want to provide a conflicting address. He lived in [Location B] with some friends and kinsmen
71. During the 3 months that he was staying at [street and suburb deleted: s.431(2)] the applicant was going to work. When the applicant got the information from [Person 4] about the land reform problem he tried to stay out of the way.
72. On [date deleted: s.431(2)] September at 3am [Person 2] came to the house with people. They feared that they were armed robbers because armed robbery was prevalent in Monrovia. Staying in the house with the applicant that night were 8 people (including a husband and wife). When they heard the banging on the door and the yelling "open up" they thought that it was armed robbers. So everyone in the house got

up but the husband and wife did not come out of their room. The applicant heard his name being called and then he knew that it was not armed robbers but that it was [Person 2] They broke down the door and came in and started searching. When [Person 2] found the applicant they started fighting and he fought them off. They fought off [Person 2] and his men. [Person 2] and four other men came into the house and there might have been more outside. [Person 2] and his men were armed with machetes and guns, "AKs" They said they wanted to arrest the applicant and his friends said that they were not security officers and they could not arrest him. The Tribunal asked how he fought off 5 men armed with machine guns and machetes when he was unarmed. He responded that their intention was to arrest the applicant and take him to another location. In Liberia whenever you were attacked or arrested in the night it meant that they were going to kill you. The applicant was asked what stopped them from arresting him and taking him to another location. He responded that his friends said that they could not go and they all fought them off. When they got outside they were yelling "armed robbers armed robbers" and other people came but before he left [Person 2] was still threatening the applicant.

73. It was put to the applicant the Tribunal had difficulty accepting a group of unarmed men could fight off a group of men armed with guns and machetes. The applicant responded that this was very common in Liberian society, the applicant for example had grown up knowing rebels and being with rebels so he knew how to protect himself. They were not scared of arms because they had seen them since he was a child.
74. The applicant was asked that given [Person 2] wanted to kill him why didn't he kill him on this occasion. The applicant responded that by the will of God he was still alive. [Person 2] had tried to arrest the applicant to take him somewhere to be killed. Because normally in the applicant's society when people were killed they were taken a distance away. They did not just enter the house in Monrovia and kill you, they took you away.
75. The applicant was asked that given [Person 2] had been after him for years and years, why did he give up so easily. The applicant repeated that on this occasion they came to arrest him. The applicant and his friends insisted and after that [Person 2] and his men left.
76. [Person 2] wanted to kill the applicant because when the applicant's father acquired the land the Muslim people did not approve of it and the family received threats. The applicant understood now that [Person 2] wanted to get rid of him because of the TRC business and because the applicant belonged to a minority group. They were Muslims and they had been chasing him. Further [Person 2] had killed his parents and [Person 2] and his men saw the applicant as a threat. If [Person 2] killed the applicant he would have won and could take over the land without anyone asking about it.
77. The Tribunal put to the applicant that he did not want to claim the land, no one from his family wanted to claim it and no one from his family had lived on it for 6 years. It seemed that [Person 2] did not need to kill him to take over the land. The applicant explained that in his society he did not have power today but in the future he might, no one could tell that was why [Person 2] wanted to kill him. He was part of a minority group because Kissi people were a very small tribe and before the war many tribes in Liberia had trouble with other tribes. During the war this ended and religious things grew up and Kissi were one of the tribes that suffered the most in the war. [Person 2] would be out to kill Kissi people but in the applicant's case the land issue and TRC had

put him at more risk. He was more vulnerable because he had lost his parents who were his security.

78. The applicant had not contacted the TRC to obtain a copy of his statement. From July when they called him and wanted him to give evidence he stopped having any contact with the TRC. He was asked why he had not contacted TRC from Australia by email through their website and he responded that he did not think that it was possible. The adviser stated she believed that it might compromise the applicant if he asked for a copy of his statement. He was concerned about leaks in the TRC.
79. The issue of the name of [Person 2] was raised with the applicant and country information discussed with him. In particular, [source deleted: s.431(2)].
80. It was put that it was unlikely that there could be two [Alias 1's] and two [Person 2's] in the one in the one small rebel force. LURD only having 3000 members.
81. The applicant responded that the reports were not accurate. Only people on the ground knew the real story. LURD had more than 3000 troops. [Location A] alone had more than 6000 troops. He explained that there were more than 10 soldiers nicknamed "mosquito" if a fighter was considered particularly good or worthy of emulation then many other fighters adopted the same nickname. There would have been many [Alias 1's] LURD would have had more than two [Alias 1's] The background of the author of the report was discussed with the applicant. The applicant explained he had grown up with [Person 2] and known him from childhood so there was no way that he could miss (confuse) his name.
82. After the civil war [Person 2] was not disarmed the online reports were not accurate. They still had arms and were still terrorising the population and robbing people with those arms. [Person 2] was living with his family in [Location A]. [Person 2] was in Monrovia in September 2008 because people move all over the country and the rebel groups still held factional meetings. It was put it was over 300km from [Location A] to Monrovia. If [Person 2] was living in [Location A] why would he come to Monrovia . The applicant responded it was a 7 hours drive. [Person 2] would have been in Monrovia for a meeting. The applicant then stated that [Person 2] was usually in Monrovia.
83. After September 2008 the applicant lived in [deleted: s.431(2)] a suburb of Monrovia with a friend. He only had the clothes he was wearing. He was asked about continuing to attend work and he said that his friends provided him with clothes.
84. It was put to the applicant that the [Alias 1] the Immigration Department referred to was also active in [Location A]. The applicant had not heard of that [Alias 1] at all because he spent most of his time in the bush. The [Alias 1] that the applicant was aware of led the [name deleted: s.431(2)] (Muslim troops). He was shown a picture of [Alias 1] and said he did not know anything about this [Alias 1] The [name deleted: s.431(2)] was a fighting unit of the LURD like the "Wild Dogs" and the "Taliban".
85. Since the applicant made a statement to TRC he was attacked on 2 occasions, May 2007 and September 2008. In May 2007 he found out that the information he provided to the TRC had not been kept confidential. He told the TRC that his friend [Person 4]



had information regarding mass grave and [Person 4] spoke to the TRC. [Person 4] came to Monrovia and he saw [Person 2].

86. In May 2007 the applicant was living in [Location B]. [Person 4] told him [Person 2] came to the applicant's house and the applicant was not there. He asked if [Person 2] was on his own or with others and the applicant said the information he had was that [Person 2] came to the home asking for the applicant by his Kissi name saying he was looking for his friend. [Person 4] did not mention to the applicant whether he was armed at the time. [Person 2] did not speak to [Person 4] The people who [Person 2] spoke to told [Person 2] that the applicant lived there and [Person 2] said that he would come back. When the applicant heard this he could not take a risk. [Person 2] came back and armed robbed the house. The people at the house recognised him when he robbed the house that night. They showed [Person 2] the applicant's room. One of the girls in the house was raped by him. The applicant knew this because later he met people who were living in the house. [Person 2] did not go back to that house again as he learned that the applicant had moved out. He went to other places where the applicant had been and asked for the applicant but he moved. Whenever strange men asked about the applicant he moved.
87. Although [Person 2] could find out several different addresses where the applicant lived, he could not find out where the applicant worked. Even the people who the applicant lived with did not know where he worked. Jobs were not formal in Liberia in the way they are in Australia He was asked how his employment at [Organisation A] was not formal. He said that if you were at Uni you would not be a permanent employee of [Organisation A]. He then clarified that as he was at uni he was not working fulltime hours with the [Organisation A] The letter that was written by [Organisation A] was just a letter they provided for him. It was put to him that his bank account deposits suggest that he was working fulltime with the [Organisation A] He said the monthly deposits into his bank account were not his salary. When asked what the regular deposits in the bank account were he stated that he had his friends in Liberia and did other legal things to get money. The information in the [Organisation A] letter was not all true, the year he was fulltime and the position the letter stated he held was not true. He had not met the author of the letter. If the Tribunal contacted the [Organisation A] they would confirm the information was not correct.
88. The different versions that the applicant had provided as to when and in what capacity he was working for [Organisation A] were discussed with him. He stated he always worked part time but could not answer the question regarding the number of hours he worked. In August 2008 he was given the title of [details deleted: s.431(2)].
89. The applicant feared that if he returned to Liberia [Person 2] would find him and get rid of him because of the TRC and the religious problem. The authorities in Liberia had not passed a fixed law to protect the victims and survivors of the persecutors who made statements to the TRC. Many of the persecutors were now in government in powerful positions. [Person 2] would want to take revenge for what the applicant had said about him to the TRC.
90. The Tribunal referred to a transcript of the TRC that mentioned [Person 2] The applicant was aware that someone had mentioned [Person 2] in the public hearings of the TRC. But of the 17,000 who had been to the TRC the majority of them were ex fighters who were trying to protect themselves. The Tribunal explained that the

transcript it was referring to was a woman talking about someone being killed and she mentioned [Person 2] It was put that the transcript available online indicated that the majority of witnesses to the TRC were not ex fighters they were mostly women. The applicant agreed there had not been that many people giving verbal evidence.

91. The applicant was asked about his statement where he stated that the TRC went [Location A] looking at land claims. The land reform commission operated with the TRC They were in charge of settling disputes over land. The land reform committee went to the counties and formed a group of elders. He was asked as he was not making any claim over the land in [Location A] why would they investigate that land. He responded they investigated all land even the land belonging to those who were dead. They wanted to know how much land was being occupied by people who did not own it. During the war people seized other people's homes and land. The neighbours were relied on to provide evidence of ownership.
92. It was put to the applicant that he claimed the commission investigated disputed land but there was no actual dispute over this land. The applicant responded that the land committee first dealt with those who were in dispute and were fighting over land and then they dealt with all the other cases for people who had no power to fight for the land
93. [Location A] was mostly Muslim. It had a high Mandingo population whereas Liberia was mostly Christian. The applicant's neighbours who supported him in the land dispute were Christians. 80% of neighbours were Muslims and 20 % 2-3 families were Christian families.
94. The Christians were saying the land belonged to the applicant. The Muslim neighbours although they knew that the land was the applicant's because of the pressure they did not want to take sides. He then stated that the Muslims might have stated the land was not his.
95. The applicant was referred to his statement where he stated that in September 2003 [Person 2] tortured someone to find out where the applicant was. He was asked when [Person 2] was looking for the applicant in Monrovia what did he do to find the applicant. The applicant responded that he had no information.
96. In 2006 when he was in Congo Town the applicant saw one of [Person 2]'s rebels who asked if the applicant was living in the area. Prior to being seen on this occasion they thought that the applicant might be dead. After this encounter the applicant decided to leave. The rebel was outwardly friendly but the applicant knew he was with [Person 2] The applicant didn't know his name but the applicant remembered him and he remembered the applicant because they all grew up together.
97. The applicant then clarified that he and [Person 6] were partners and were still in communication. He described their relationship as intimate friends. In Liberia a persons' persecutors didn't persecute you when you were around an [type of organisation deleted: s.431(2)] as they could be taken before a [description deleted: s431(2)] Tribunal. The TRC made recommendations for people to go to the International Tribunal. He referred to the Amnesty International report about the TRC.

98. The letter from the [Organisation A] where it stated he was employed fulltime was incorrect as he was part time. He did not get paid leave from [Organisation A].
99. [Person 1] gave evidence that he lived in Australia since February 2005 and he had only met the applicant in Australia. [Name deleted: s.431(2)] was a common name in Liberia. It did not relate to any particular tribe but it was mostly a Muslim name. [Name deleted: s.431(2)] was a common Mandingo name. He knew of a [Person 2] in Lofa when he was growing up in the village. [Person 1] confirmed that Mosquito was a common fighting name and because someone is a good fighter others would adopt his name. [Person 1] was the leader of the [group deleted: s.431(2)].
100. The applicant's adviser submitted that the applicant did not fear persecution from the State but from private actors, the LURD rebels which his family had been enslaved by. There was a history of atrocities carried out against the applicant during the civil war and he was the only surviving member of his family. For the applicant the experience of the civil war was not over. He was targeted because of his minority group and because of his religion although it stemmed from a private land dispute it was still for reasons of a Convention ground. A Muslim group was incensed that land was sold to a Christian family. The Tribunal raised the issue that the land was sold nearly 30 years ago. It was submitted that time was immaterial in this case. If targeted for these reasons the threat would not diminish over time. The country information referred to ongoing land disputes and conflicts between ethnic minorities groups which continued unabated despite the cessation of conflict and the establishment of an elected government.
101. The medical evidence verified that the applicant had been injured. His evidence was consistent with his statutory declaration. It was not inconceivable that amongst rebel groups and factions that people would take up the same fighter name.
102. In the applicant's case the trigger might have been a land dispute but this dispute cut across ethnic and religious lines and these disputes did not go away with time. They were immutable.

*Post hearing submissions*

103. [In] June 2009 the Tribunal received:
  - A report from [name deleted: s.431(2)], Foundation House dated [in] June 2009;
  - A statement from [Person 6] dated [in] June 2009; and
  - An email from [Person 6] dated [in] June 2009, regarding the TRC in Liberia.
104. On 21 August 2009 the Tribunal invited the applicant to comment on certain information pursuant to s424A of the Act. The Tribunal also provided to the applicant some country information that was referred to at the hearing.
105. [In] September 2009 the Tribunal received a response from the applicant. He reiterated his claim that the same names are used by rebels and if someone was particularly admired then many other fighters might take his name. In relation to whether [Person 6] was his girlfriend he claimed that when asked by the Tribunal if she was his girlfriend he replied, friend. He did not realise that this meant something different in Australian

namely that he was not in a relationship with her. He stated that they were in a relationship and she knew everything that was going on with him.

106. In relation to his employment he stated that work arrangements were less formal in Liberia. He had no set hours with [Organisation A]. He had always worked part time for them as he attended university. The letter written by [Organisation A] in support of his visitor visa application was genuine.
107. He stated that LURD had more than 3000 fighters and he provided a United Nations Development Program, Liberia - Disarmament Demobilisation, Rehabilitation and Reintegration Programme (DDRR) activity report that stated the number of disarmed LURD combatants as at August 2004 was 18,187.

## **FINDINGS AND REASONS**

108. The applicant arrived in Australia on a validly issued Liberian passport and the Tribunal accepts that he is a national of Liberia.
109. The applicant claimed that he had a well-founded fear of returning to Liberia because he was being targeted by a former LURD general. He was being targeted by this general because of a long-standing land dispute between the applicant's family and the general's family, and because the general had found out that he had provided a statement to the Truth and Reconciliation Commission (TRC). The land dispute was founded in tensions between the Muslims and the Christians and the applicant feared persecution because he was a Christian and a member of the Kissi Tribe, which was a minority tribe.
110. The Tribunal had significant concerns about many aspects of the applicant's claims and evidence. The applicant provided a number of conflicting accounts throughout the process and, in particular provided contradictory evidence to the Tribunal.
111. In particular he provided a conflicting account as to whether he returned to his employment at the [Organisation A] after he was attacked in September 2008. At one stage in his evidence he stated he worked at the [Organisation A] until he left Liberia in December 2008. At another point he stated he did not return at all after the attack and when the inconsistency was discussed with him he stated that he took a short break and then returned to his employment. He also provided conflicting accounts as to whether he was a full-time or part-time employee of that organisation and whether he was a permanent or casual member of the staff. At one point he stated that he had started as a casual member in July 2006 and became permanent in July 2007. He later retracted this statement. Changes in his evidence were often in response to propositions put by the Tribunal, which highlighted some inconsistency in his account. For example, the Tribunal put to the applicant that if [Person 2] had been searching for the applicant and was able to find out where he was living, despite him moving to different friends' homes, that the general could surely find out where he was working. In response to this the applicant claimed that he was only a casual worker and that his employment with [Organisation A] was confidential. There appeared to be no reason for the applicant's employment to be confidential and he could not really explain why, or in what way, his employment was confidential.

112. In his post hearing submission the applicant claimed that although the letter from the [Organisation A], which he stated was genuine, stated he was a full time employee he was in fact part-time. There not being much difference in Liberia between full-time and part-time employment.
113. The applicant also changed his story about whether [Person 2] was usually in [Location A] or in Monrovia. Initially he stated that he was in [Location A], but when the distances between [Location A] and Monrovia were discussed with him he changed his account to [Person 2] was usually in Monrovia.
114. The applicant also gave a conflicting account about his relationship with [Person 6] Initially he stated she was not a girlfriend and, at one point, he said that he did not tell her about the attacks on him by [Person 2] because you did not tell strangers that sort of information (inferring that she was a stranger). However, later in his evidence he stated that she was his girlfriend and partner and that they were intimate friends. The applicant only appeared to concede that there was a close relationship after the Tribunal put to him that he had travelled to Australia with [Person 6], stayed at her residence in Australia, and that he had described her as his girlfriend in his Visitor Visa application. In his post hearing submission the applicant indicated that they were in a committed relationship and he stated that there had been a misunderstanding as to the use of the word “friend” at the hearing. This does not explain why he referred to her as a stranger. At the hearing he indicated that she did not know about the problems he had with [Person 2] and she did not mention them in her letter to the Tribunal yet in the applicant’s post hearing submission he stated that she knew everything that was going on with him.
115. Although some of these inconsistencies are in relation to relatively minor matters, when taken together with some of the other concerning aspects of the applicant’s evidence (discussed below), they do indicate that the applicant is not credible.
116. Much of the applicant’s evidence, when questioned by the Tribunal, was vague and lacking in detail. The applicant had claimed that [Person 2] had tortured someone in 2003 in order to find out the applicant’s whereabouts. The applicant claimed that whilst he was living in Monrovia he was aware that [Person 2] was constantly making threats as these were communicated to him. These threats appeared to have been made primarily in [Location A] and communicated by the applicant’s friend, [Person 4], despite the applicant’s later evidence that [Person 2] was generally in Monrovia. Although the applicant was aware of the threats that [Person 2] was making against him, when asked if he was aware whether [Person 2] was making inquiries or trying to get information about his whereabouts in 2008, he said he had no information.
117. According to the applicant’s claims, [Person 2] managed to track him down in Monrovia; as he obtained his address from the police and or the Truth and Reconciliation Commission. When [Person 2] went to this address the applicant was not there. The applicant stated that he then moved to a different friend’s place because he was concerned about [Person 2] looking for him. [Person 2] managed to find him at a friend’s place in [suburb deleted: s.431(2)]. This address had not been given to the TRC.
118. The Tribunal also found it somewhat implausible that [Person 2] was able to find out where the applicant lived and could track him to various friends’ homes, but did not

know where the applicant worked. He never attended at the applicant's workplace or followed the applicant from work to find out where he lived or to threaten him or even to attack him on the way home from work. Further, [Person 2] was unable to ascertain that the applicant was attending university and never confronted him at the university.

119. The Tribunal found the applicant's account of [Person 2] visiting his home in May 2007 was vague and lacking in detail. The applicant was not aware whether [Person 2] came to his home with other persons and he was not aware whether [Person 2] was armed at the time. When told that the applicant was not there, [Person 2] seemed content to leave the premises despite in the past having tortured somebody in similar circumstances to obtain information about the applicant, nor did [Person 2] wait at the premises for the applicant's return despite the applicant's claim that he was hunting him down to kill him. The Tribunal would have expected the applicant to find out more information about [Person 2]'s visit. The applicant claimed that after the attack on his home he left these premises and moved to [suburb deleted: s.431(2)], but later in his evidence the applicant claimed that when he was attacked at the premises at [suburb deleted: s.431(2)] in September 2008 he had only been living there three months.
120. The Tribunal also found some aspects of the applicant's evidence implausible. The applicant claimed sometime between 2006 and 2008 he was leaving Congo Town when he saw someone from [Person 2]'s rebel group who asked him if he was residing in Monrovia. Despite the fact that [Person 2] was apparently looking for the applicant and wanting to kill him and had been making threats against him, the members of the general's rebel group took no further action against the applicant and allowed him to leave.
121. The applicant claimed that [Person 2], together with at least four other armed men, came to his home in September 2008. The applicant, together with a number of other occupants of the house, although unarmed, managed to fight off the armed rebels. The applicant's friends told the General he could not take the applicant because they were not security forces. The Tribunal finds this account to be far-fetched. It does not accept that an experienced rebel leader, together with his men who were armed with AKs and machetes, would leave the premises when the unarmed occupants told them that they could not take the applicant away because they were not security officials. Given the applicant's claim that [Person 2] wanted to kill him, [Person 2] had the opportunity to do so and yet left with virtually inflicting no harm upon the applicant. The applicant claimed the reason why he was not killed was because [Person 2] wanted to take him somewhere else and kill him. The applicant could not explain how [Person 2] was thwarted from taking him somewhere else, how they prevented [Person 2]'s attack, or how they fought him off when they were unarmed and [Person 2] and his men were armed with AKs and machetes. The Tribunal does not accept that this incident occurred and finds that the applicant has fabricated this account. The Tribunal's view is reinforced by the fact that the applicant did not mention, or raise, this incident in his claims before the Department and only first raised them in a Statutory Declaration provided to the Tribunal. It appears that it was a significant incident in the applicant's claims to have been omitted. Further, the Tribunal finds that this claim is internally inconsistent with the applicant's initial Statutory Declaration, which stated that [Person 2] was looking for him as he wanted to kill him and if he found him he would do so. The applicant later claims that [Person 2] did find him in circumstances where he was armed and the applicant as not and did not harm him (apart from damaging a tooth).

The Tribunal accepted that the applicant had a damaged tooth but that the damage was not inflicted in the way that he has claimed.

122. Another implausible aspect of the applicant's evidence was his claim that since the attack on his home in September 2008 he had left those premises with only the clothes he was wearing, and that was all he had had from that time. This is despite his claim that he returned to work and university after the attack on his home and was also arranging his departure from Liberia.
123. The Tribunal also notes that the applicant's passport was issued [in] September 2008. The applicant claimed that it took nearly a month to get a passport which suggests to the Tribunal that the applicant had taken some steps to make arrangements to leave Liberia prior to the attack on him [in] September 2008.
124. The applicant's claims were also inconsistent with the country information available to the Tribunal. The applicant claims that in April 2008 the Land Reform Committee, or Commission, investigated the applicant's family's land and the takeover by [Person 2]'s family of that land. These inquiries led to increased threats by [Person 2]. The applicant further claimed that this Land Reform Commission somehow operated under the auspices of the Truth and Reconciliation Committee. The Tribunal refers to the Amnesty International Report, Liberia Towards the Final Phase of the Truth and Reconciliation Commission, July 2008, which was referred to by the applicant in his evidence to the Tribunal. That report does not indicate that there were any land dispute, commission, committee or land reform committee operating in conjunction with the TRC. A further report indicates that, due to a lack of funding and other administrative problems, the TRC was having difficulties undertaking the task that it was required to do under its own mandate. This suggests it was unlikely to undertake investigations outside its mandate. The Tribunal also notes that Human Rights Watch criticised the Liberian government in July 2009 because it had not established a land reform committee or commission, which it had promised to do (Letter to US Secretary of State Hillary Clinton in advance of her Africa Trip <http://www.hrw.org/node/84786>). Further, the country information indicates that the land reform commission was not established until June 2009. [[www.starradio.org.lr/content/view12158/61/](http://www.starradio.org.lr/content/view12158/61/)]. The country information available to the Tribunal indicates that land disputes had been a particular problem since, and during, the civil war in Liberia. There were concerns that contentious land issues could degenerate into extremely problematic situations if not addressed. The Tribunal notes that a special commission was set up to mediate persistent land disputes in the Nimba County because there were particularly violent disputes occurring in that County. That commission reported to the president in May 2009. There is no report of any land commission or committee operating in Lofa county. (Liberia: Uneven Progress in Security Sector Reform Africa report No 148, 13 January 2009. International Crisis Group).
125. The United Nations Security Council, in its report dated 10 February 2009 S/2009/86, noted that the continued delay in adopting the legislation (Land Commission Act Legislation) is a concern given the contentious nature of most land disputes, many of which have led to violent confrontations between opposing groups and communities.
126. The Tribunal also notes that, according to the applicant's evidence, [Person 2] had occupied the family's land since 2003 and the applicant had made no effort to reclaim the land and indicated that he did not wish to even attempt to reclaim this land. Due to

the fact that there was no land reform commission or committee conducting investigations at the time the applicant claimed and further, even if there were local inquiries into land issues, given the widespread nature of contentious land disputes the Tribunal is of the view that as there was actually no current dispute on this land and nobody was making a claim to this land, that it would receive an extremely low priority and the Tribunal does not accept that any investigations have been undertaken. Consequently the Tribunal does not accept that any investigation into the ownership of the land escalated matters with [Person 2]

127. Finally, there is the issue that was raised at the Departmental level as to whether [Alias 1]'s real name is [Person 2]. The Tribunal notes that the [source deleted: s.431(2)] notes that the [position deleted: s.431(2)] of LURD was [Person 5], also known as [Alias 1]. The [position deleted: s.431(2)] was [Person 2], also known as [Alias 3]. There were also the following references to [Alias 1] and '[Person 2]':
128. [Country information referring to 'Alias 1' and 'Person 2' deleted: s.431(2)]
129. [Country information referring to 'Alias 1' and 'Person 2' deleted: s.431(2)]
130. [Country information referring to 'Alias 1' and 'Person 2' deleted: s.431(2)]
131. [Country information referring to 'Alias 1' and 'Person 2' deleted: s.431(2)]
132. [Country information referring to 'Alias 1' and 'Person 2' deleted: s.431(2)]
133. The Tribunal accepts that [Person 2's names] are common names in Liberia. It notes that according to [report source deleted: s.431(2)], there are two [people with Person 2's first name] in the hierarchy of LURD and that there are also [three people with Person 2's surname]. The Tribunal also notes that the same report states: [information deleted: s.431(2)]
134. The Tribunal notes that the National Commission on Disarmament, Demobilization, Rehabilitation and Reintegration, fortnightly DDRR monitoring report provided by the applicant notes that 18,187 LURD combatants were disarmed. This included 3959 female combatants. A more recent report from November 2004 indicates 29,476 LURD were disarmed (7,774 being female)  
<http://www.lr.undp.org/DEX/DDRR%20Consolidated%20Report%20Phases%201,2,3%20-%207%20Nov%202004.pdf>.
135. A UNDP report noted :

This year, UNDP and its partners will complete the disarmament and demobilization of 53,000 combatants, including 1,000 women, 21,000 child and 1,400 disabled combatants, and prepare demobilized ex-combatants, through validation and verification, for reintegration assistance. UNDP will work with UNMIL and others to initiate stopgap and quick implementation projects in cantonment sites and communities of resettlement, and will establish five field offices and deploy counsellors to provide referral services to ex-combatants. UNDP will work to ensure that community-based programmes are tailored to address the needs of women and child ex-combatants and those associated with fighting factions, and will assist UNICEF as needed in the reintegration of child ex-combatants.  
<http://www.lr.undp.org/disarmament.html>



136. However James Brabazon's report noted:

In June 2002, the official number of LURD combatants given by the organization was 14,000. By October 2002, this had fallen to 5,000. Taking into consideration battalion reorganizations subsequent to the above structure, new recruits and combat casualties, it seems reasonable to assume that LURD's total number of men under arms numbers around 2,500 to 3,000, with an additional 500 or so unarmed logistical assistants.(page 10 supra)

137. The discrepancy can in part be explained by the fact that the DDRR program appears to take a wide view of "ex-combatants" including support staff as well as actual fighters. It could also be the difference between how many were under arms at any one time compared to the total number of combatants throughout the war. In addition the Tribunal notes that ex-combatants received training and integration allowances that would also be an incentive for claiming to be an ex-combatant even if involvement in LURD was peripheral.
138. The Tribunal however accepts that LURD's fighting force at any one time was greater than 3000. However when child soldiers and women soldiers are removed from the equation there would have been far less than 20,000 LURD combatants and unarmed assistants fighting at any one time. The Tribunal could find no reference to fighters adopting the same fighting names as successful fighters. Despite this the Tribunal accepts that on occasion another soldier may adopt the fighting name of a successful soldier but the Tribunal is of the view that it would be unlikely that soldiers of similar rank would do this in a relatively small fighting unit. Rather more junior fighters would want to emulate the senior successful fighters.
139. The applicant is claiming that there are two [Person 2]s and two [Alias 1]s in the senior levels of LURD, which is an organisation that has a relatively small fighting force and presumably correspondingly few generals. Further, the Tribunal has been unable to find any reference to a [Person 2] being a [Alias 1], despite there being quite detailed studies of the LURD Command structure. In these circumstances the Tribunal does not accept that there was a person called [Person 2] who was also known as [Alias 1].
140. For all of the above reasons the Tribunal finds that the applicant is not being targeted by a [Person 2] who is also known as [Alias 1] The Tribunal does not accept that the applicant is being targeted by a former LURD general. The Tribunal does not accept that there has been an attack on the applicant's home in September 2008 and May 2007. The Tribunal does not accept that, as a result of the applicant providing a statement to the Truth and Reconciliation Commission, he is being targeted by members of the LURD Rebel Group in Liberia. The Tribunal does not accept that there is a land dispute in [Location A] between the applicant and [Person 2's] family and that he is being targeted as a result of this land dispute.
141. The applicant claimed that he was at risk because he had provided a statement to the TRC The applicant had never given evidence in any public or private hearing, nor had his statement been publicised in any way by the TRC. The Tribunal had some doubts regarding the applicant's claim to have given a statement to the TRC due to his vague evidence about his dealings with the TRC and, further, because he had not made any efforts to obtain a copy of the statement he claimed he had provided to the TRC. The Tribunal acknowledges that [Person 6] has provided a statement saying that third parties are unable to obtain statements from the TRC and the Tribunal accepts that this

would be the case. However, as discussed in the hearing the applicant could have used a web-based email address to contact the TRC through their website and request a copy of his statement. Even if he was unable to obtain a copy of his statement he could have provided the response from the TRC to his request. The applicant also claimed that the TRC held public hearings in 2007 where the country information indicates that they did not commence their hearings until January 2008

([www.trcofliberia.org/hearings/schedule-of-trchearings/](http://www.trcofliberia.org/hearings/schedule-of-trchearings/) and US Department of State 2009, *Country Reports on Human Rights Practices for 2008-Liberai*, February).

142. Although the Tribunal does have some reservations about the applicant's evidence, it is prepared to extend him the benefit of the doubt and accept that he has provided a statement to the TRC regarding his experiences during the civil war. The Tribunal further notes that according to the applicant's claims he was forced into slavery and portorage for a number of rebel groups, including the MPSL, MODEL, the ULIMO and the ULIMOK. Further, he was forced to dig mass graves when working for these latter two groups. Although the applicant claimed his family was killed by LURD rebels, his statement presumably would have included all of experiences with all these rebel groups. The TRC has now closed down and its final report was published in June 2009.
143. The applicant has never given public evidence and he has not claimed that his statement has been published in any way. The Tribunal has not accepted that his statement was leaked to [Person 2] because it does not accept that [Person 2] has any interest in the applicant. More than 17,000 people gave statements to the TRC and although there are concerns about the confidentiality of some of that information and the protection of witnesses before the commission, the Tribunal does not accept that there is any real chance that the applicant who has only provided an unpublished statement would be persecuted in the reasonably foreseeable future by reasons of providing a statement to the TRC. He has not provided evidence that any aspect of his statement had been published. The Tribunal finds that this fear of persecution is not well-founded.
144. The UK Home Office Border and immigration Agency Liberia Operational Guidance Note , 3 September 2007 states:

Liberia was in a state of civil conflict from 1989 to 2003. This resulted in widespread displacement of its population, both within the country and into other countries throughout the region. In 1997 Charles Taylor was elected President, but his rule did not lead to stability and widespread civil conflict continued with those opposed to his regime. There were also widespread human rights abuses by government forces and militias supporting the Taylor government, particularly in Lofa County in the north of the country.

The Liberian civil war saw appalling human rights abuses by all sides. The warring factions used sexual violence and torture as weapons, and recruited child soldiers. President Taylor's regime was contemptuous of democratic principles and human rights. Arbitrary arrests, forced conscription and the reported torture and murder of suspected dissident sympathisers, human rights campaigners and journalists became commonplace. The civil war ended following the intervention of a regionally-led peacekeeping force. On 11 August 2003, President Taylor stood down from office and left Liberia. On 18 August, a Comprehensive Peace Agreement was signed in Accra by the main parties to the conflict. On 19 September, the UN Security Council approved the deployment to Liberia of a peacekeeping force of 15,000 troops, which remains in place.<sup>2</sup> On 14 October 2003, Gyude Bryant was inaugurated as Chairman

of the National Transitional Government of Liberia (NTGL) which was recognised by all factions involved in the civil conflict.

145. The United Nations Mission on Liberia Disarmament, Demobilization, Reintegration and Rehabilitation campaign states:

Phase I of disarmament began on 7 December 2003. UNMIL peacekeepers disarmed 13,490 combatants and collected 8,679 weapons and 2,650 unexploded ordnance, along with 2,717,668 rounds of small arms ammunition. Phase I was conducted mainly at Camp Scheffelin in Monrovia.

Phase II of the program, which targeted former combatants close to Monrovia, started on 15 April 2004 at the containment site in Gbarnga. Three other demobilization cantonment sites were established in Buchanan (20 April), Tubmanburg (25 April) and VOA in Monrovia (30 April). The cantonment sites were closed on 5 July in Buchanan, 26 July in Gbarnga, 8 September at VOA in Monrovia, and 14 September in Tubmanburg as the caseloads were completed at each of the sites.

Beginning in Zwedru on 9 July, Phase III established demobilization cantonment sites in more remote areas. In addition to Zwedru, sites were established in Ganta/Kpein (17 August), Voinjama (8 September) and Harper (29 September).

As at 15 February 2005, a total of 101,495 fighters have been disarmed and demobilized, consisting of 68,162 men, 22,370 women, 8,523 boys and 2,440 girls. Moreover, UNMIL peacekeepers had collected a total of 28,314 weapons and 33,604 heavy munitions of other categories. In addition, 6,486,136 rounds of small arms ammunition had been surrendered. <http://unmil.org/content.asp?ccat=ddrr>

146. The ARC website states:

With a new peace and the election of President Ellen Johnson-Sirleaf, life in Liberia is returning to normal. The work of restoring peaceful and productive communities is underway around the country.

During the 14 year civil war in Liberia (1989-2003), 700,000 people were killed, more than 300,000 fled the country, and another 500,000 fled to safer areas of the country. Most of these people have now returned to their homes, many of which were devastated in the war.

147. The Tribunal accepts that the applicant was a victim during the Liberian Civil War and that he was ill-treated. The Tribunal notes that “Lofa County saw some of the most intense fighting during the civil war and [information about Location A and source deleted: s.431(2)]
148. The Tribunal accepts that the applicant’s family members were ill-treated during the course of the civil war by rebel groups. The Tribunal accepts that the injuries, including psychological injuries that the applicant has as a result of his experiences during the war. However, the Tribunal notes that the war ended in 2003 and since that time strong leadership and a large UN presence has laid the foundation for a successful peace process. The majority of the former rebels have been disarmed and that there have been democratic elections.
149. The applicant has been residing in Monrovia since at least 2006 and has been employed by the [Organisation A]. US Department of State International Religious Freedom Report Liberia 2008 notes that it is estimated that as much as 40 percent of the

population practices either Christianity or Christianity combined with elements of traditional indigenous religious beliefs. Approximately 40 percent exclusively practices traditional indigenous religious beliefs. An estimated 20 percent of the population practices Islam. Christians live throughout the country. A majority of government officials are Christian; however, there is one Muslim cabinet minister, one Muslim Supreme Court judge, a few Muslim assistant ministers, and seven Muslim members of the legislature. The Government observes Easter and Christmas as national holidays. The Government mandates that public businesses and markets, including Muslim businesses and shops, remain closed on Sundays and major Christian holy days, an issue that Muslim leaders in the past brought to the Legislative Assembly and the Supreme Court to no avail. The Liberian embassy in the USA, on its website notes that Liberia is a Christian State, but Islam has many followers, especially in the north of the country, and tribal religions are practiced in some of the rural areas. ([http://www.liberianembassyus.org/?q=about\\_liberia](http://www.liberianembassyus.org/?q=about_liberia))

150. This information indicates that Christianity is the dominant religion in Liberia. The Tribunal acknowledges that the civil war has amplified some tensions between Muslims and Christians in Liberia. However the applicant had never been persecuted in the past on account of his religion. The LURD rebel group has been disarmed and The Tribunal finds that there is no real chance that he would be persecuted in the reasonably foreseeable future for reasons of his religion by the LURD rebels or others and that this fear is not well-founded.
151. The Tribunal also acknowledges that the Kissi Tribe is a minority tribe in Liberia. The World Directory of Minorities 1997, Minority Rights Groups (ed) London pp425-429 notes that they make up 3.3% of the population. The applicant claimed that the Kissi Tribe were persecuted, but provided no basis for this claim. Further, the Tribunal can find virtually no evidence that the Kissi Tribe, in particular, are singled out for persecutory treatment in Liberia. The Tribunal's searches included the following sources: US State Department, the Immigration and Refugee Board of Canada (the IRB) and the UK Home Office Amnesty International, Human Rights Watch International Crisis, Group freedom house, CISNET and IRIN. The Tribunal did note that Human Rights Watch World Report 2003 – Liberia Human Rights Developments <http://www.hrw.org/wr2k3/africa7.html>, accessed 11 March 2003 noted:

For their part, LURD forces committed some of their worst abuses against ethnic Kissi civilians, perhaps because the Revolutionary United Front (RUF) rebel group in Sierra Leone, which had a longstanding alliance with the Taylor government, formerly had its stronghold in an ethnic Kissi area in Sierra Leone
152. The Tribunal does not accept based on the country information, in the context of the end of the civil war, the disarmament of the LURD rebel groups and the lack of information regarding the targeting of the Kissi ethnic groups that the applicant faces a real chance that he would be persecuted in the reasonably foreseeable future for reasons of his membership of the Kissi tribal group and that this fear of persecution is not well-founded.
153. Even considered cumulatively the Tribunal does not accept, given that the current peace process has been well under way for a number of years and the fact Christianity is the dominant religion, that there is any real chance that the applicant would be persecuted in the reasonably foreseeable future for reasons of a combination of his Christianity and

membership of the Kissi tribal group. For these reasons the Tribunal finds that the applicant does not have a well-founded fear of persecution in the reasonably foreseeable future and that he is not a refugee within the meaning of the Convention.

## **CONCLUSIONS**

154. The Tribunal is not satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a) for a protection visa.

## **DECISION**

155. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

I certify that this decision contains no information which might identify the applicant or any relative or dependant 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. prrt44