

**0808669 [2009] RRTA 185 (17 March 2009)**

**DECISION RECORD**

**RRT CASE NUMBER:** 0808669

**COUNTRY OF REFERENCE:** Fiji

**TRIBUNAL MEMBER:** Nicole Burns

**DATE:** 17 March 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 Fiji, arrived in Australia applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and her review rights by letter.
3. The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.
4. The applicant applied to the Tribunal for review of the delegate's decision.
5. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

### **RELEVANT LAW**

6. Under s65(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.
20. According to her protection visa application the applicant was born in Town A, Province B, Fiji. Her religion is Church Z. Her ethnic group is Fijian. She came to Australia in the early 2000s. She worked in tourism in Fiji before coming to Australia. She has a family who stayed in Fiji. The applicant had visited Australia before.
21. It is stated that the applicant left Fiji because she is not happy with the interim government who has caused problems for her and her family. The instability following the coup in December 2006 greatly affected her work in the tourism industry and the overall cost of living. The applicant fears she will not be able to financially support her family. She also thinks that Fiji is unsafe because there is no democratically elected government and speaking or acting against the military government is perilous.
22. The delegate refused to grant the applicant a protection visa because she was not satisfied that she was of any interest to the Fijian authorities.
23. The applicant applied for a review of the delegate's decision. She submitted copies of a number of newspaper and internet articles about rights abuses and economic problems in Fiji post coup. She submitted a copy of her marriage certificate, passport, birth certificates of her children and letters from her children's education providers confirming their respective enrolments. She submitted a letter signed by the President of the Fiji-Australian Country Association Inc. who states that the applicant is an active member of their association in Town C. She also submitted a letter from Person 1, Minister at the Town C Church Z who states that the applicant has regularly attended his church since. He states that the applicant is not a member of the church, but assists with church activities. In a handwritten letter attached to the Minister's letter, the applicant states that she is a member of Church Z and during the December 2006 coup some Church Z members were taken by army personnel, tortured and died. She states in one case police officers have been charged, however in another case no military officers have been charged. She states that she fears for her life for giving information against Fiji's military-led government and fears that she could face the same fate as her "fellow brothers have faced".

## **The Tribunal hearing**

24. The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Fijian and English languages.
25. The applicant said she was born in Province B in Fiji but after several years there she moved to Nadi. She has a child who is an adult and is studying at the Education Institute Y, an adult child who is waiting to be enrolled at Education Institute X and a child at school. Her parents live in Nadi. She has several siblings, most of whom live in Nadi and a sibling who lives overseas.
26. The applicant was asked why she left Fiji. She replied that she has worked in tourism at a hotel for many years (with small breaks for maternity leave). The hotel was undergoing a renovation and she found herself out of work. She has Relative R in City D who sponsored her visit to Australia. She has worked casually in Town C since shortly after she arrived in Australia. The applicant was asked why she stayed in Australia. She replied that life is hard in Fiji, the price of goods has escalated and when the country is unstable it adversely affects her work in the tourism industry. After the December 2006 coup she was laid off for a few months because of low occupancy at the hotel. She sees how fortunate children are in Australia and how much government support they receive.
27. The applicant confirmed that the main reason she left Fiji was because the hotel was closing down. However she added that at the same time the government is military-led which can lead to instability, which further affects her work. She said after the coup she has been unable to access loans from the banks. The applicant was asked why. She said it was because she still owed money to the bank. She paid off her loan but her application for the next one was rejected.
28. The applicant was asked if she was directly affected in any way in the past by the interim government. She said she was not, however she is worried that she will be held liable because she has applied for a protection visa and spoken out against the military-led government in her application form. She said since the coup in 2000 she finds it hard to cope with the situation in Fiji, particularly to send her children to school and general financial difficulties.
29. When asked if there was any other reason why she feared returning to Fiji the applicant replied that she is a member of the Church Z since birth and during the December 2006 coup a few members of Church Z were beaten to death and died in custody in Suva. The applicant was asked if she knew them. She said one of them was from her church in Nadi. The applicant was asked why they were taken into custody. She replied that 'on paper' it was because of their alleged involvement with drugs. The military took them into their barracks, beat them and they died. The applicant was asked if she had any problems in the past in Fiji because she was a member of Church Z. She said she has not, or her husband or children.
30. When asked if she or her family had ever been politically active in Fiji, the applicant replied "never".

31. The applicant was asked what she fears will happen to her if she returns to Fiji. She replied that the first thing she is afraid of is losing her job. The hotel has reopened and she is on unpaid leave, however she is concerned that they will not keep her job for her. She thinks she will be able to get work, but it will take time. Her husband gets some work labouring but this has slowed since the recent floods in Fiji. The applicant said she is worried that she will not be able to financially support her children to complete their education
32. The applicant was asked the purpose of her visit to Australia previously. She said she came with a group of co-workers from the hotel to City D for a celebration. She was happy to return to Fiji at the time because they had a democratically-elected government running the country and everything was 'ok'.
33. The applicant was asked to explain the relevance of the newspaper articles she submitted to the Tribunal. She said they were a few Church Z members who were killed and about the poor situation regarding work in Fiji.
34. The applicant was asked what she thought would happen with the current interim government. She said she had heard that the election scheduled for 2009 was unlikely to take place. She does not know when Fiji will have a democratically-elected government again.
35. The applicant was asked to explain the nature of her involvement with the Fijian community in Town C. She replied that she helps with barbeques and fundraising to help support the Fijian community in Town C. The applicant said Relative S helped her get her work in Town C.
36. When asked, the applicant said she had no problems leaving Fiji on her own passport.
37. The Tribunal noted that the applicant's claims appeared to relate primarily to concerns about her ability to financially support her family on return to Fiji, not for any significant and essential Convention reason. The applicant said that after she went through the letters she had received from DIAC and the Tribunal regarding her application she thinks she has applied for the wrong visa and asked the Tribunal to help her. She said her Relative S in Town C, who is already a permanent resident in Australia, helped her with her visa application. The Tribunal told the applicant that it was not in a position to give her migration advice, but suggested she talk to the Department directly or seek advice from a registered migration agent.

### **Country Information**

38. The Tribunal has had regard to independent country information relevant to the applicant's claims for protection as follows.

#### *Politics & Rights*

39. The United States Department of State *Country Report on Human Rights Practices 2008 – Fiji* (released on 25 February 2009) states that:

Fiji is a constitutional republic with a population of approximately 828,000. The constitution provides for a ceremonial president selected by the Great Council of Chiefs and an elected prime minister and parliament. However, in 2006 the armed forces commander, Commodore

Voreqe Bainimarama, overthrew the elected government in a bloodless coup d'etat. In January 2007 the interim military government was replaced by a nominally civilian interim government ("the interim government") headed by Bainimarama as prime minister. Bainimarama and his Military Council controlled the security forces.

The interim government denied citizens the right to change their government peacefully. The judiciary was subject to political interference. The interim government engaged in intimidation of the media and restricted the right to assemble peacefully. Other problems during the year included poor prison conditions, attacks against religious facilities, government corruption, deep ethnic divisions, violence and discrimination against women, and sexual exploitation of children.

..The government or its agents did not commit any politically motivated killings; however, security forces were implicated in three unlawful killings.

...There were no reports of politically motivated disappearances.

40. A recent report in the Fiji Sun (19 January 2009) quotes the interim government in Fiji as informing the Pacific Islands Forum chairman Toke Talagi that there will be no election this year ([www.fijisun.com.fj/main\\_page/view.asp?id=13172](http://www.fijisun.com.fj/main_page/view.asp?id=13172)). The ABC news website reported on 27 January 2009 that the interim Prime Minister of Fiji had said that he planned to change the constitution before new elections were held, and that it did not matter if this took 5 to 10 years. ([www.abc.net.au/news/stories/2009/01/27/2475565.htm](http://www.abc.net.au/news/stories/2009/01/27/2475565.htm)). The interim Prime Minister was given an ultimatum by the Pacific leaders on 28 January 2009 that a date had to be set for new elections this year, or Fiji would be expelled from the Pacific forum ([www.abc.net.au/news/stories/2009/01/27/2475744.htm](http://www.abc.net.au/news/stories/2009/01/27/2475744.htm)).
41. In response to a request by the Refugee Review Tribunal, the Department of Foreign Affairs and Trade on 15 December 2008 provided the following report on the situation in Fiji for members or supporters of the opposition:

Further to advice provided in Suva reftel [6 March 2007], post has not received any additional information that would suggest polling officials or members of the Soqosoqo Duavata ni Lewenivanua Party (SDL) have been specifically targeted by the Republic of Fiji Military Forces (RFMF). Since post's earlier advice, there appears to have been a decrease in reports of regime opponents being intimidated, harassed and/or abused by the RFMF although some victimisation still occurs. High-profile SDL members and supporters (and other regime critics) are generally able to express publicly opposition to the interim government, albeit in careful terms. For example, a number of SDL members and other regime opponents are pursuing court cases challenging the regime, and SDL has recently joined a "Movement for Democracy in Fiji", which aims to put pressure on the interim government to return to democracy... We note, however, that the interim government has threatened (and, in the case of two newspapers, actually initiated) contempt proceedings against those criticising the judiciary and recent decisions made by the court...

Post continues to receive reports that some of those detained by the RFMF and/or police – regardless of the reason – have been subject to threats, intimidation, and abuse. We noted, however, it is more common for individuals to be detained by security forces in relation to criminal matters. We are not aware of any recent cases of the RFMF specifically targeting, detaining or intimidating regime opponents or SDL members. (CISNET CX16931)

42. Regarding freedom of religion the United States Department of State *Country Report on Human Rights Practices 2007 – Fiji* state that:

The constitution provides for freedom of religion, and the government generally respected this right in practice. Some municipal restrictions on opening hours for businesses during Christmas and Easter were imposed on all communities, not just those that were predominantly Christian.

43. The United States Department of State International Religious Freedom Report 2008 states that:

The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.

The Government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the Government during the period covered by this report.

...There were isolated reports of societal abuses or discrimination based on religious belief or practice.

#### *Role of the Police and Security Apparatus*

44. Regarding the role of the police and security apparatus in Fiji the United States Department of State *Country Report on Human Rights Practices 2008 – Fiji* states that:

The Ministry of Home Affairs, headed by interim Prime Minister Bainimarama, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. The RFMF is responsible for external security. The RFMF maintained that it has a broad constitutional responsibility for national security that also extends to domestic affairs; many constitutional scholars in the country rejected that assertion. In June the former deputy commander of the RFMF was appointed as police commissioner.

The police maintained a network of 31 stations and 54 police posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. Military personnel were assigned to accompany police patrols and jointly man roadblocks, blurring the lines of authority between the two forces.

The police internal affairs unit is statutorily responsible for investigating complaints of police misconduct. The interim government created a Fiji Independent Commission Against Corruption with wide-ranging investigative powers. The commission undertook numerous investigations of public agencies and officials, including some members of the police force. Some officers were removed from the force. However, impunity and corruption remained problems.

In most cases the interim government took no action against military or police personnel alleged to have committed abuses against coup opponents and prodemocracy activists.

#### *Freedom of Speech and Press*



45. There are recent reports of growing intimidation and threats to freedom of expression in Fiji. For example, "Journalists Warn Against Growing Culture of Intimidation in Fiji" in the Pacific Magazine of October 2008 site: ([www.pacificmagazine.net/news/2008/10/31/journalists-warn-against-growing-culture-of-intimidation-in-fiji](http://www.pacificmagazine.net/news/2008/10/31/journalists-warn-against-growing-culture-of-intimidation-in-fiji)); "Academic blasts political intimidation in Fiji" Radio Australia broadcast, site: ([www.radioaustralia.net.au/news/stories/200810/s2397701.htm?tab=pacific](http://www.radioaustralia.net.au/news/stories/200810/s2397701.htm?tab=pacific)); "Third Foreign Publisher deported from Fiji", ABC news website, ([www.abc.net.au/news/stories/2009/01/27/2474815.htm](http://www.abc.net.au/news/stories/2009/01/27/2474815.htm))

46. Regarding freedom of speech the the United States Department of State *Country Report on Human Rights Practices 2008 – Fiji* states that:

The constitution provides for freedom of speech and of the press, but the government did not fully respect these rights in practice.

The independent media were active and expressed a wide variety of views; however, the government warned media outlets against making "inciting comments," and most practiced some degree of self-censorship. The country's television news program production was owned and operated by Fiji One, one of two national noncable television stations. A trust operated on behalf of Fiji's provincial councils owned 51 percent of Fiji One; the remainder was privately held. The government owned the Fiji Broadcasting Corporation, which operated six radio stations, and also retained a shareholding of less than 20 percent in the *Daily Post* newspaper.

In February a newspaper photographer on assignment at a church in Suva was assaulted by soldiers in front of a large group of witnesses. He was taken to a military camp and detained for approximately one hour. In August RFMF personnel detained and questioned another newspaper reporter.

In August the FHRC's director hired a foreign NGO official with minimal media experience to undertake an assessment of the country's media. The study focused in particular on media independence and ownership. The major private media outlets and most journalists refused to cooperate with the assessment, criticizing the study as reflecting a progovernment bias and intended to intimidate the media. The draft report made a number of controversial proposals, including not renewing existing work permits for foreign media workers, a 7 percent levy on the media to fund a watchdog and media training body, and the adoption of new sedition legislation covering the media. At year's end the report had not yet been publicly released in final form.

#### *Race/ethnicity*

47. The UK Foreign and Commonwealth Office in a 2007 country profile of Fiji states that race relations are 'generally harmonious', although Indo-Fijians and ethnic Fijians live largely separate lives. The UK Foreign and Commonwealth Office also report that 'no racial violence occurred after the 2006 take-over'.
48. United States Department of State *Country Report on Human Rights Practices 2008 – Fiji* states that:

Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. The constitution notes that "the composition of state services at all levels must be based on the

principle of reflecting as closely as possible the ethnic composition of the population," but a nonjusticiable compact in the constitution also cites the "paramountcy" of Fijian interests as a guiding principle. The compact also provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority. The interim government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another; however, as of year's end, they remained in place.

## **FINDINGS AND REASONS**

49. Based on a copy of the applicant's passport on file, the Tribunal finds that she is a citizen of Fiji.
50. The applicant has claimed protection on the basis of the political instability in Fiji and the fact that Fiji does not have a democratically-elected government. Such instability has affected the applicant's capacity to earn an income in the tourist industry and, combined with an escalated cost of living, she fears she will not be able to financially support her family. She also claims to fear being targeted by the military because of her religion (as a member of Church Z) because they killed a few members of Church Z during the coup in December 2006.
51. The Tribunal accepts that the applicant is from Nadi, Fiji and has children. The Tribunal accepts that she is upset and worried about the lack of democracy in Fiji. The Tribunal accepts that the applicant is genuinely concerned about employment opportunities, and consequently her ability to provide for her children if she returns to Fiji.
52. The critical question however, is whether the harm the applicant fears is well-founded and is for one or more of the Convention reasons, as discussed below.
53. The Tribunal has considered the applicant's claims for protection based on a lack of democracy and general political instability in Fiji. At the hearing the applicant said she feared she would be 'held liable' on return to Fiji because she had spoken out against the interim government in her protection visa application. She confirmed that she had not spoken out against the interim government in any other way or at any other forum either in Fiji or Australia. She confirmed that she had never been politically active in Fiji, or her family. She said that her and her family had never been directly harmed by the interim government in the past. She claimed however, to have been affected post-coup 2006 because the general instability led to a decline in tourist numbers which resulted in her being temporarily out of work. The reason the applicant came to Australia was because her employer (i.e. the hotel) was closing down for due to renovations, not for any reason related to the broader political environment. Whilst the Tribunal accepts that the applicant has legitimate concerns about the political environment in Fiji, the applicant herself has not identified any specific problems that she suffered for reasons of political instability in Fiji in the past.
54. Looking to the future, country information supports the applicant's claims that an interim government (which is nominally 'civilian', however headed by Bainimarama and his Military Council) has led Fiji since the coup in December 2006 and appears reluctant to call for democratic elections in the near future. However country

information such as the DFAT advice of 15 December 2008 cited above indicates that opposition members and supporters are “generally able to express publicly opposition to the government” and that there “appears to have been a decrease in reports of regime opponents being intimidated, harassed and/or abused by the RFMF”. Based on the applicant’s evidence at the hearing the Tribunal finds that she does not have a political profile and has not spoken against the interim government, except to fill in her application form for her visa. Other than the assertions by the applicant that she would be at risk, the Tribunal does not have before it any clear evidence that people who criticise the interim government are targeted for serious harm or otherwise face discriminatory treatment in Fiji. The Tribunal finds that the applicant has not suffered serious harm because of her political opinion in the past in Fiji. On the available evidence the Tribunal does not accept that the applicant faces a real chance of suffering persecution in Fiji for reason of her political opinion and the broader political instability now or in the reasonably foreseeable future.

55. The Tribunal has considered the applicant’s fear that she would be unable to find a job and therefore be unable to financially support her family on return to Fiji. The Tribunal accepts that she is genuinely concerned about employment opportunities in her country. However, the Tribunal notes that the applicant was able to secure a reasonable job in the past (which she had worked in almost continuously), that she is still on leave without pay from the hotel, and there is no suggestion that she would be unable to find employment in her field and support herself financially again if she returned to Fiji. Her husband is also able to bring in an income, if somewhat limited. Further, there is no suggestion that the applicant would be denied employment opportunities for an essential and significant reason of her political opinion or religion or for any other Convention-related reason as she has been able to find employment in the past. The Tribunal finds also, on the applicant’s own evidence at the hearing, that she was denied a bank loan on the basis of her credit history, not for an essential and significant Convention reason. Therefore the Tribunal finds that there is no real chance that the applicant would be persecuted on return to Fiji now or in the reasonably foreseeable future in the form of being denied employment. Accordingly the Tribunal finds that such harm feared by the applicant is not for a Convention reason and is not well-founded.
56. The Tribunal has considered the applicant’s claim to fear persecution on the basis of her religion – i.e. as a member of Church Z. She claims that several members of the Church Z were arrested and killed by the military during the December 2006 coup and that one of them had attended her church in Nadi. Whilst the Tribunal accepts the applicant’s claim that a few Church Z members were arrested and killed during the coup in December 2006, there is nothing to suggest that they were targeted for the essential and significant reason of their religion. Country information such as the US Department of State’s report on international religious freedom for Fiji for 2008 cited above indicates that the government generally respected religious rights and freedoms. Whilst there was some reports of societal abuses or discrimination based on religious belief or practice, these reports were isolated. The applicant herself has not identified any specific problems that she suffered for reasons of her religion in Fiji. Based on such country information, the Tribunal finds that there is no real chance that the applicant would be persecuted on return to Fiji now or in the reasonably foreseeable future for reasons of her religion. Accordingly the Tribunal finds that such harm feared by the applicant is not well-founded.

57. In making its findings the Tribunal has had regard to the articles sourced from various newspapers and internet sources the applicant submitted during the review stage. In general the articles reported on human rights abuses since the December 2006 coup, particularly deaths in custody, as well as reports of restrictions on speech and press freedoms. There were also articles about the Methodist church speaking out against the interim government. There were no articles which specifically mentioned a few members of Church Z being arrested and killed. Therefore the Tribunal gives these articles little weight in considering the applicant's specific claims for protection.
58. The Tribunal has also had regard to the letters submitted from the Church Z and the Fiji-Australian Country Association. The Tribunal notes that both are letters of support and whilst they comment on the applicant's sound character, they do not mention any specific protection-related concerns. At the hearing the applicant said that the Fiji-Australian Country Association is focused on providing support to the Fijian community in Australia. The Tribunal therefore finds that it is not overtly political and there is no real chance that the applicant would be targeted by the interim government or any other actor on her return to Fiji because she has been involved with the association whilst in Australia
59. In considering all the circumstances of this case, the Tribunal finds that there is no real chance that the applicant would face persecution for a Convention reason if she returned to Fiji now or in the reasonably foreseeable future.

## CONCLUSION

60. 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

61. 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. lward