

1214224 [2014] RRTA 1 (7 January 2014)

DECISION RECORD

RRT CASE NUMBER: 1214224
DIBP REFERENCE(S): CLF2012/100766
COUNTRY OF REFERENCE: Lebanon
TRIBUNAL MEMBER: Sean Baker
DATE: 7 January 2014
PLACE OF DECISION: Melbourne
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431(2) of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

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 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 Lebanon, applied to the Department of Immigration for the visa [in] May 2012 and the delegate refused to grant the visa [in] August 2012.
3. The applicant appeared before the Tribunal [in] March 2013. This hearing was adjourned because of concerns the applicant's former representative had with the interpretation. The applicant appeared before the Tribunal [in] April 2013 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of a different interpreter in the Arabic and English languages.
4. The applicant was represented in relation to the review by her registered migration agent. The representative attended the Tribunal hearing.

CONSIDERATION OF CLAIMS AND EVIDENCE

5. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa.
6. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of 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).
7. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
8. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

9. The Tribunal notes the explanation of the ‘risk threshold’ in the Complementary Protection Guidelines, however, in considering s.36(2)(aa) it has proceeded on the basis that the ‘real risk’ test imposes the same standard as the ‘real chance’ test applicable in the context of assessment of the Refugee Convention definition following the Full Federal Court decision in *MIAC v SZQRB* [2013] FCAFC 33.
10. The issue in this case is whether the applicant, or her family, has been targeted by the Alawi or anyone else in Tripoli, and, if so, whether the applicant will be harmed in the future because of this. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.
11. The applicant claims that she is a Sunni Muslim. She claims that her son, [Mr A], was abducted by Alawi from their home in June 2011. She claims that he was held for three days, beaten very badly, and the abductors then left him on the street. She claims that she went to the police during the three days but they told her they were unable to do anything.

Interpreting issues

12. The applicant’s then representative raised concerns with the standard of interpretation in relation to several comments made in the first hearing – about what she was thinking when she fainted on the aircraft preparing to depart Australia, and details about why she thought the Alawis who had come and kidnapped her son had taken him specifically.
13. The hearing was adjourned and a new interpreter was provided for the second hearing. I spent time in this hearing making sure that the applicant was happy with the interpreter, and at the conclusion I checked whether the applicant or her representative had any concerns with the interpreting in the second hearing. The applicant said that she had felt rushed by the interpreter. I clarified whether she meant the interpreter in the first or second hearing and she confirmed she meant the first hearing. She and her current advisor indicated they did not have any concerns with interpretation in the second hearing.
14. I have considered this in my findings below. I have taken account of the identified interpreting issues, and have given the applicant the benefit of the doubt in relation to these issues. I do not accept that the interpreting issues were significant, or led to a situation where the applicant and I were unable to communicate, or that materially affected her evidence at the first hearing. I do not accept that the interpreter at the first hearing told the applicant she had to hurry up – as I put to her, this was not raised by her representative as one of the concerns with the interpreting, despite her claiming she raised it with her representative. I acceded to the applicant’s request to adjourn on the basis of the discrete and identified concerns identified above by her then migration agent, and have dealt with those accordingly. I do not accept that there were any issues with the interpretation in the second hearing, nor that the applicant felt she was not able to give her evidence.

Identity

15. On the basis of the applicant’s Lebanese passport, which I sighted at the hearing, I find that the applicant is a national of Lebanon. On this basis I also find that Lebanon is her receiving country. The applicant claimed that she has no right to enter and reside in a third country. There is no evidence before me to indicate otherwise. I find that the applicant does not have such a right.

16. On the basis of the applicant's testimony, I find that she is a Sunni Muslim who lives in Bab el Tabbaneh in Tripoli.
17. I accept that the applicant boarded a flight to return home to Lebanon but fainted as she suffered an anxiety attack.

Claimed past harm

18. I asked the applicant if anything had happened to her, her son [Mr A] or any of the rest of her family prior to June 2011, and she said nothing had happened.

Was the applicant's son kidnapped?

19. I have considerable concerns about whether this event happened, or happened in the way that the applicant claims it did, because her evidence at the hearings was vague and inconsistent, and because her son's kidnapping was not reported in the press, despite the conflict between the Sunni in Bab el Tabbaneh and the Alawi in the neighbouring suburb of Jabel Mohsen being heavily reported in the Lebanese press. The applicant was unable or unwilling to give me details about this event. Nor was she able to explain why it was not reported in the newspapers. She claimed that the newspapers would not worry about someone being kidnapped. When I put to her that I could find reports of others being kidnapped she did not answer. She was vague and unconvincing in claiming that she had gone to the authorities to report the kidnapping.
20. Kidnapping has again become a problem in some parts of Lebanon.¹ Most kidnappings of Sunnis are occurring in border regions of Lebanon.² There are also news reports of Alawites being kidnapped in Tripoli,³ wealthy business people,⁴ and foreigners⁵ being targeted for kidnapping due to their perceived wealth. As I put to the applicant, I could not find reports of her son's kidnapping, despite the long-running conflict between Bab el Tabbaneh and Jabel Mohsen being extensively reported in the Lebanese press. However, due to the concerns raised by the applicant's representative at the first hearing about the interpretation of her evidence about this event, specifically whether her son was targeted or not, I cannot discount the possibility that this event occurred. Despite my concerns I find that the applicant's son, [Mr A], was abducted by Alawis from their home [in] in June 2011. I find that he was held by them for 3 days and then returned. The applicant claims that this was because the Alawi thought he was dead.
22. The applicant was unable to give any clear reasons or explanations for why this had happened. She claimed that they singled him out from the family but she said she did not know why but claimed that there was nothing personal, that it was only because they are

¹ Anderson, S 2013 'The Syrian war is creating a massive kidnapping crisis in Lebanon' *The Atlantic*, 6 September <<http://www.theatlantic.com/international/archive/2013/09/the-syrian-war-is-creating-a-massive-kidnapping-crisis-in-lebanon/279414/>> Accessed 7 November 2013.

² Human Rights Watch 2013, *Lebanon: Tit-for-Tat Border Kidnappings*, 2 May <<http://www.hrw.org/news/2013/05/02/lebanon-tit-tat-border-kidnappings>> Accessed 18 July 2013 <Attachment>

³ <http://www.nna-leb.gov.lb/en/show-news/9427/>

⁴ Torbey, C 2012, 'Lebanon rocked by spate of kidnappings' BBC News, 22 September <<http://www.bbc.co.uk/news/world-middle-east-19673739>> Accessed 6 November 2013.

⁵ The Star Online 2013, 'Two Germans kidnapped in eastern Lebanon' 2 November <<http://www.thestar.com.my/News/Regional/2013/11/02/kidnap-german-lebanon.aspx>> accessed 7 November 2013

Sunni and the abductors were Alawi. She specifically denied that her son was involved in the fighting between militants from both the Sunni and Alawi communities in these two suburbs. Later it was suggested that the Alawi targeted her son because he is a Future Movement supporter. I do not accept this. The applicant's evidence was vague and unconvincing on this point. When we spoke of the kidnapping and subsequent treatment of her son [Mr A], she did not mention that the reason or a part of the reason for this was his political opinion or involvement, and stated that the only reason he was kidnapped was because he was Sunni. When I then asked her later in the second hearing whether [Mr A] had any political involvement she said he was not political but when there is a demonstration he goes. I asked if he was a member of the Future movement and she repeated that when there is a demonstration he goes out with them. She then said that he is a member of the future movement and had been targeted as a supporter of Hariri. I find the applicant's evidence on this point to have been prevaricating and vague, and I find that she is not credible in claiming that he is a member of the future movement. I find that he is, at most, an occasional attendee at rallies. I do not accept that [Mr A] has been targeted on the basis of his actual or imputed political opinion as a Future Movement supporter or a supporter of Hariri.

23. I find that the applicant's son was targeted for harm for the essential and significant reason of his religion, being Sunni, and the kidnappers being Alawi. I find that, as a Sunni, he may also be imputed to be a supporter of the Free Syrian Army and against the Syrian regime. On the basis of the information given by the applicant, I find that the applicant's son was targeted only for these reasons – and that he was not targeted personally for harm, but as a Sunni resident of Bab-el Tabbaneh.

Was the applicant threatened?

24. I accept that shortly after her son's kidnapping, the applicant was threatened by Alawi, she claims that there was a group of Alawi people [about] 200m from her house who threatened to kill her if she revealed information they would do the same thing to her as to her son. She said that they spat at her, and put guns at her head and threatened her.
25. I accept that the applicant was threatened shortly after her son's kidnapping, and had guns placed at her head. This is consistent with the country information about the short conflict in June 2011 between the suburbs.⁶ The applicant claims that these threats were linked to her son's kidnapping, also in June 2011. I do not accept that there was a link between this event and her son's kidnapping. This is for two reasons. When I asked the applicant if anything further had happened to her, her son [Mr A], or the rest of her family before she departed Lebanon for Australia in December 2012, she consistently claimed that nothing had happened to her personally or to her family other than some abuse on the streets. When I put to her towards the end of the second hearing that it had been six months between the kidnapping of her son and the threats to her and then her departure for Australia, she then claimed that she had been in hiding for these six months and moving from place to place. I put to her that she had not claimed this previously despite us discussing this time specifically. She said that I had not asked her a question about that. I do not accept this. We had specifically discussed this time period previously. I do not accept that the applicant or her family were in hiding or moving around during these six months. I find that from June 2011 until December 2011 when she departed, nothing happened to the applicant or her son or her family other than

⁶ Bidar, J, 2011 'Rival Tripoli residents united in wait for compensation' 27 September, *The Daily Star* <<http://www.dailystar.com.lb/News/Local-News/2011/Sep-27/149790-rival-tripoli-residents-united-in-wait-for-compensation.ashx#axzz2PFZU5jBE>> accessed 7 November 2013

some abuse on the streets. Because nothing happened for six months after the claimed threats, and the vagueness of the applicant about who threatened her, and how it was linked to her son's kidnapping, I do not accept that these two events are linked. I do not accept that the applicant was threatened because she was a member of her son [Mr A]'s family unit, or for any reason connected with her son. I find that the applicant was threatened for the essential and significant reason that she is a Sunni, and because of this would also be imputed to be a supporter of the Free Syrian Army and against the Syrian regime.

Was the applicant's family home shelled deliberately?

26. The applicant has claimed that her home [has] come under targeted and deliberate attack on two occasions, [in] 2012 and then again [in] 2013. The applicant has claimed that this is part of a vendetta, part of a personal targeted campaign against her and her family.
27. As I put to her, from the fighting in June 2011 there were some 4600 claims for compensation due to damage to houses in the [area], the focus of the fighting.⁷ I indicated to her that the country information such as this was suggestive that there was a great deal of property damage associated with the conflict between the neighbourhoods, and so I may consider that it had not been targeted to her or her family personally, but merely at the Sunni neighbourhood in which she lived. I asked why she thought it was part of a vendetta or targeted towards her and her family personally. She was unable to provide any clear or credible explanation why she believed this.
28. I have examined the photographs which the applicant claims show the damage to her house. The photographs indicate what appears to be superficial damage to an apartment. I questioned the applicant about this. She claimed there was a lot of damage, I indicated that the photographs did not appear to show this. I asked if she and her family had sought compensation if the house had been very badly damaged. She responded vaguely that they had, but said she had no documents associated with this. On the basis of this evidence I find that the applicant's house has been damaged, but not to the extent she has claimed.
29. The applicant's representative has sought to claim that because the applicant's house was between two houses that were not damaged, this indicates that the attack was targeted specifically at her or her family. I do not accept this. As noted above there were thousands of claims for property damage in the June 2011 conflict, I find that damage to houses in the conflicts between the neighbourhoods is part of generalised targeting of the buildings in the rival neighbourhoods, and is not more specific or personally targeted than that.
30. On the basis of the evidence before me, including the applicant's vague testimony and the country information, I do not accept that the applicant's house has been targeted as part of a vendetta against her, her son [Mr A] or her family. I find that the house has sustained some damage due to the crossfire between the two neighbourhoods. I do not accept that the house has been so damaged as to render it uninhabitable.

Has the applicant's son suffered further harm?

31. We spent considerable time talking about the applicant's son, [Mr A] at the hearings. The applicant, after claiming that nothing had happened to him after the kidnapping in June 2011,

⁷ Bidar, J, 2011 'Rival Tripoli residents united in wait for compensation' 27 September, *The Daily Star* <<http://www.dailystar.com.lb/News/Local-News/2011/Sep-27/149790-rival-tripoli-residents-united-in-wait-for-compensation.ashx#axzz2PFZU5jBE>> accessed 7 November 2013

and that he worked with his father selling [goods] on the streets, later in the second hearing sought to claim that he had been unable to do this work due to the danger to him, that he had stopped work so as to avoid harm. She then said that he worked early, and that he tried to avoid times when it was dangerous.

32. [In] November 2013 the Tribunal received a submission from the applicant's representative which included a claim that the applicant's son [Mr A] had been attacked twice since the hearing. Photographs of the applicant's son with some injuries were provided, but little detail was provided about the event, other than to say that he was attacked on his way home after work, and that as a result of the second incident he is unable to hear. The submission does not identify who attacked him, when he was attacked, whether the attackers identified him as a Sunni or personally. The submission goes on to claim that he was targeted because he is a Sunni and perceived to be a future movement supporter, but gives no reasons why this would be the case.
33. I accept that the applicant's son has been attacked on two occasions since the hearing in April 2013. I find however, that these events cannot be connected, on the basis of the evidence before me, to his kidnapping or to the threats received by the applicant. On the basis of the country information about the situation in Tripoli at the moment I accept that these attacks may have occurred because the applicant's son is a Sunni and was identified as such, but I do not accept that the applicant's son was targeted for anything more personalised than this generalised sectarian reason.
34. I do not accept that the applicant's son has stopped working or has modified his behaviour in any way because of the perceived or actual personal threat to him or his family. The applicant made these claims late in the hearings and I do not accept that she did not discuss this because these questions were not specifically asked of her. We discussed what had happened to her family after the kidnapping and she claimed that nothing had happened, and did not indicate that her son was in hiding or was not working or was doing anything to avoid harm. Further, in the latest submission it is claimed that Imad was harmed on his way home from work. I therefore find that the applicant's son has not modified his behaviour or stopped or lessened work because of personal threats to him.

Will the applicant be harmed on return, now or in the reasonably foreseeable future?

35. The applicant claims to fear harm from the Alawi. In the most recent submission it has also been claimed on her behalf that she fears harm from pro-Syrian regime Syrians who have fled the conflict in Syria and are now living in Lebanon.
36. On the basis of the evidence discussed above, and my findings above, I do not accept that the applicant or her son [Mr A] or her family are personally targeted in the sense that she has claimed. The applicant has tried to claim that there is nothing that her son or she has done or any reason they have been identified specifically, but then has tried to claim that her son and family are specifically targeted. On the basis of the applicant's evidence, what she has been willing to tell me, I find that the events that the kidnapping and attacks on the applicant's son [Mr A], and the threats to the applicant are related to each other solely on the basis of the applicant and her family being Sunni who live [in] Bab el Tabbaneh, the focus of the conflict between the two suburbs. This conflict has been exacerbated by the Syrian civil war, with the Alawi aligned with the Syrian regime and the Sunni aligned with the Syrian rebel forces. This has added an extra dimension to the historical tit-for-tat fighting between the suburbs. I specifically reject the claim that the applicant's home has been singled out for harm.

37. I do not accept that the applicant or her son or her family will be targeted for any other reason. Even if I did accept that the applicant's son was a Future Party supporter, as discussed with the applicant at the hearing, there is no independent evidence before the Tribunal to suggest that ordinary members or supporters of the Future Party are being targeted in Lebanon. There are some reports of high profile members being targeted, for example on 19 October 2012 a car bomb was detonated in Beirut, killing anti-Assad intelligence chief General Wissam al-Hassan.⁸ Likewise, the Tribunal was unable to locate any reports of Syrian agents kidnapping, detaining, harassing or mistreating ordinary Lebanese citizens who publicly criticise President Al Assad or the Syrian government.⁹ Independent country reports suggest that it is generally high profile anti-Syrian activists who are targeted. For example, Wissam al-Hassan as referred to above¹⁰ and in May 2012, prominent Sunni cleric Sheikh Ahmed Abdul Wahid, reportedly 'well-known' for his opposition to Syria's president, was shot dead by soldiers at an army checkpoint in the district of Akkar, northern Lebanon.¹¹
38. I find that the applicant's son has suffered harm in the past because of where they live and that this identifies them as Sunni. I find that the only harm that has befallen the applicant has been the threats she received in June 2011. I find she has not been harmed in any other way. The applicant fears that she and her family, as Sunni living in the conflict zone, will suffer harm amounting to serious harm in the future from the conflict with the Alawi.
39. I have considered the recent DFAT report on sectarian violence in Lebanon.¹² This indicates that

The Lebanese Armed Forces has regularly interceded to halt sectarian violence in Tripoli and restore law and order. However it has so far been unable to prevent effectively sectarian violence from breaking out, including by disarming the heavily-armed militia present in both Sunni and Alawite suburbs. In early December 2013, the Lebanese Armed Forces entered Jabal Mohsen and Bab al-Tabbaneh in an attempt to control sectarian fighting in these two suburbs. At the time of writing, fighting had nonetheless continued, with a number of casualties resulting.

In conclusion, DFAT assesses that Sunnis and Alawites living in the immediate vicinity of Syria Street, Tripoli, face a moderate risk of sectarian violence. Sunnis and Alawites living in other parts of Jabal Mohsen and Bab al-Tabbaneh neighbourhoods face a low risk of sectarian violence, given violence is more easily avoided. The risk of violence outside those neighbourhoods is lower and more easily avoided. Sunnis

⁸ 'Lebanon: Spiralling out of control?' 2012, *Al Jazeera*, 22 October

<<http://www.aljazeera.com/programmes/insidestory/2012/10/201210228380688792.html>> Accessed 20 November 2012; Walsh, NP, Jamjoom, M & Sterling, J2012, 'Lebanon on edge after anti-Syrian intel official killed by Beirut car bomb', *CNN*, 20 October <http://edition.cnn.com/2012/10/19/world/meast/lebanon-beirut-blast/index.html?hpt=hp_t1> Accessed 20 November 2012

⁹ Resources unsuccessfully consulted include DIAC database CISNET, UNHCR Refworld, ECOI and major governmental and non-governmental human rights reports, Google, Al Jazeera and Lebanese news sources.

¹⁰ Walsh, NP, Jamjoom, M & Sterling, J 2012, 'Lebanon on edge after anti-Syrian intel official killed by Beirut car bomb', *CNN*, 20 October <<http://edition.cnn.com/2012/10/19/world/meast/lebanon-beirut-blast>> Accessed 30 January 2013

¹¹ 'Analysis: Could Syria's Assad cause civil war in Lebanon?' 2012, *The Bureau of Investigative Journalism*, 29 May <<http://www.thebureauinvestigates.com/2012/05/29/analysis-can-syrias-assad-cause-civil-war-in-lebanon/>> Accessed 26 May 2013

¹² DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

and Alawites belonging to sectarian militia in Tripoli are at a high risk from sectarian violence.¹³

40. On the basis of the country information I accept that there is a real chance that the applicant, living [in Tripoli], will face sectarian violence, and that the level of state protection offered in this area is insufficient to prevent this sectarian violence.
41. I find that if the applicant were to return to her [home] there is a chance, which is not remote, that she would face serious harm amounting to persecution for the essential and significant reason of her religion, now or in the reasonably foreseeable future.

Relocation

42. The focus of the Convention definition is not upon the protection that the country of nationality might be able to provide in some particular region, but upon a more general notion of protection by that country: *Randhawa v MILGEA* (1994) 52 FCR 437 per Black CJ at 440-1. Depending upon the circumstances of the particular case, it may be reasonable for a person to relocate in the country of nationality or former habitual residence to a region where, objectively, there is no appreciable risk of the occurrence of the feared persecution. Thus, a person will be excluded from refugee status if under all the circumstances it would be reasonable, in the sense of ‘practicable’, to expect him or her to seek refuge in another part of the same country. What is ‘reasonable’ in this sense must depend upon the particular circumstances of the applicant and the impact upon that person of relocation within his or her country. However, whether relocation is reasonable is not to be judged by considering whether the quality of life in the place of relocation meets the basic norms of civil, political and socio-economic rights. The Convention is concerned with persecution in the defined sense, and not with living conditions in a broader sense: *SZATV v MIAC* (2007) 233 CLR 18 and *SZFDV v MIAC* (2007) 233 CLR 51, per Gummow, Hayne & Crennan JJ, Callinan J agreeing.
43. I spent a considerable time speaking with the applicant about whether she was able to relocate with her family to Beirut. She made a number of claims that this would be unsafe. The applicant claimed that it was well known that Beirut was full of Shia, that where she comes from in Tripoli there are a lot of Sunni but there are not many in Beirut and that Lebanon was very small. I put to her that country information indicated that Beirut had large areas of Sunnis and offered employment opportunities, and that sectarian conflict was not at the scale or level seen in Tripoli in her [area].¹⁴ I put to her that the Lebanese state does not restrict the rights of people such as her to relocate and that I may find she would not be harmed and could reasonably relocate to Beirut. In the further submission sent after the hearing dated [in] April 2013, a report of Sunni Sheikhs being attacked in downtown Beirut, reported on 18 March 2013 was provided as evidence that the city was not safe for Sunnis. It was also argued that the current political situation and the Syrian conflict spill over in Lebanon meant no part of Lebanon was safe.
44. I do not accept the claims that Beirut would be unsafe for the applicant. The country information indicates Beirut has both Sunni areas and mixed areas, and there is access to state

¹³ DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December, 4.10 – 4.11 <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

¹⁴ For example; DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December, Internal relocation <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

protection.¹⁵ Country information indicates that mixed suburbs and demarcation lines in Beirut are subject to ‘occasional’ sectarian fighting, that clashes are isolated and quickly controlled, and that the attack on the Sheiks raised above was condemned by Hezbollah and Amal who handed over suspects to the authorities.¹⁶ The Country information also indicates that Alawites are predominantly distributed in the suburb of Jabel Mohsen in Tripoli and in some areas of Akkar in the North of Lebanon.¹⁷ News reports do not indicate that there is the level of sectarian violence in Beirut compared to [the applicant’s area] in Tripoli. What the country information indicates to me is that there is some sectarian violence in Beirut, but it is sporadic and does not have the same intensity as that in Jabel Mohsen and the surrounding suburbs in Tripoli, that the authorities are able to exercise effective control in Beirut, that there has been cooperation by Hezbollah and Amal in some cases to defuse sectarian tension, and that there have not been a great many deadly attacks in Beirut in 2013.

45. On the country information I do not accept that the applicant or her family face a real chance or real risk of harm by Alawi (who are predominantly distributed in areas not near Beirut), Shia or anyone else in Beirut for any reason.
46. I have considered the specific circumstances of the applicant, individually and cumulatively. On the basis of the evidence before me, and my findings above, I find that there is no real chance that the applicant will be harmed for reasons of her religion, imputed political opinion or any other Convention reason if she relocated to one of the Sunni areas of Beirut. On the evidence presented to me I also find that such relocation in the circumstances of the applicant would be reasonable – she has been supported by her brother and her husband, who has a pension and also works. I find that in the circumstances of the applicant relocation to Beirut would not lead to a real chance of harm, and would be reasonable in all of her circumstances.
47. I therefore find that there is no real chance that the applicant will be persecuted for reasons of her religion or imputed political opinion or for any other Convention reason on return to another area of Lebanon such as Beirut, now or in the reasonably foreseeable future.

Complementary protection

48. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa).
49. On the basis of my findings above, I find that the applicant’s receiving country is Lebanon.
50. The applicant fears being arbitrarily deprived of her life or some other form of significant harm by the Alawi in Jabel Mohsen, or by Syrians who are pro-Syrian government.
51. On the basis of the reasoning above, I find that there is no real risk that the applicant will be harmed by Syrians who are pro-Syrian government.
52. On the basis of my reasoning above I do accept that there is a real risk that the applicant will be significantly harmed if she returns [to] Tripoli by the Alawi inhabitants of Jabel Mohsen.

¹⁵ DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December, 5.13, 5.15 <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

¹⁶ DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December, 4.25 <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

¹⁷ DFAT 2013, Thematic Information Report: Sectarian Violence in Lebanon, 18 December, 5.15 <<http://www.immi.gov.au/media/publications/pdf/dfat-tir-lebanon.pdf>> Accessed 7 January 2014.

53. However, under s.36(2B)(a) of the Act, there is taken not to be a real risk that an applicant will suffer significant harm in a country if the tribunal is satisfied that it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm.
54. On the basis of my reasoning above I find that the applicant could avoid the real risk of significant harm by relocating to Beirut, and that in all of her circumstances, such relocation is reasonable. I therefore find that I am not satisfied that I have substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Lebanon, there is a real risk that the applicant will suffer significant harm.
55. Having considered the applicant's claims individually and cumulatively, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
56. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

Conclusions

57. For the reasons given above, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a).
58. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
59. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

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

Sean Baker
Member