

0905553 [2009] RRTA 870 (16 September 2009)

DECISION RECORD

RRT CASE NUMBER: 0905553
DIAC REFERENCE(S): CLF2006/86414 CLF2009/73446
COUNTRY OF REFERENCE: Sri Lanka
TRIBUNAL MEMBER: Mary Cameron
DATE: 16 September 2009
PLACE OF DECISION: Melbourne

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

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of Sri Lanka arrived in Australia [in] June 2006 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] August 2006. The delegate decided to refuse to grant the visa [in] October 2006 and notified the applicant of the decision and her review rights
3. The applicant sought review of the delegate's decision and the Tribunal, differently constituted, affirmed the delegate's decision [in] March 2007. The applicant sought review of the Tribunal's decision by the Federal Magistrates Court and [in] May 2008 the Court set aside the decision and remitted the matter to the Tribunal to be determined according to law. [In] December 2008, the Tribunal, differently constituted, affirmed the delegate's decision. The applicant again sought review of the Tribunal's decision by the Federal Magistrates Court and [in] June 2009 the Court set aside the decision and remitted the matter to the Tribunal to be determined according to law.
4. 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
5. The matter is now before the Tribunal pursuant to the order of the Court.

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.
20. According to written submissions before the Tribunal the applicant was born in [location deleted: s431(2)] on the Jaffna Peninsula in the north of Sri Lanka on [date of birth deleted: s431(2)] She has six children, and was widowed in 1987. She worked as a [occupation deleted: s431(2)] until she retired to Colombo in 1995.
21. According to her statement of claims the applicant's niece who was in the applicant's care was recruited by the Liberation Tigers of Tamil Eelam (LTTE) during the 1980's. She was subsequently injured in the war and returned home. When she refused to rejoin the LTTE she was murdered by the LTTE. Subsequently the applicant spoke out in opposition to the tactics of the LTTE and became fearful for her own life before applying for retirement and moving to Colombo.
22. According to her statement of claims the applicant lived in Colombo without any significant difficulties until 2005. In 2004 she rented a room in her house to two Tamil boys from her home town of [location deleted: s431(2)]. The boys lived in her home until August 2005. During that month Minister Lakshaman Kathirgamar was assassinated. The LTTE was suspected and Colombo was under tight security. The Sri Lankan security forces searched the homes of Tamils for suspected LTTE members. The applicant's two tenants did not return home. The applicant's home was searched and she was questioned about the boys and told to bring them to the police station should they return.
23. The applicant claims that the boys did not come back, and it was then that the applicant became suspicious that they might have been involved with the LTTE. The police regularly returned to the applicant's home, and on several occasions took her in to the police station showing her people who had been arrested and asking whether she could identify the boys who had been her tenants They accused her of providing shelter to LTTE members and of lying to the police. On one occasion she was detained overnight. She was threatened that she could be killed, and was thrown against a wall. In a subsequent letter to the Tribunal, and in a statutory declaration provided to the Tribunal, the applicant has stated that she was not severely injured during interrogations by the security forces but was pushed and repeatedly hit with a rifle butt As a result, she experiences ongoing shoulder pain and immobility. According to her statutory declaration the applicant's daughter's father in law, [name deleted: s431(2)] went to the police station each time the applicant was taken there to argue on her behalf, because he was fluent in Sinhalese, but he was warned to desist.

24. According to her statement the applicant became very fearful. She was afraid of the security forces and thought that should she ever identify the boys who she had rented a room to, then she would also be at risk of being killed by the LTTE.
25. In December 2005 the applicant travelled to India to assist her daughter with a music project, returning to Sri Lanka in January 2006. The security forces continued their harassment of her, insisting that she knew the whereabouts of her past tenants. The applicant sold her house in [Suburb 1] and rented a house in [Suburb 2]. She rarely left the house as she did not wish to be identified by the authorities. In April 2006 the Sri Lankan security forces searched all of the Tamil houses in the area following a bombing of the Sri Lankan Army headquarters. The applicant's house was searched.
26. In April 2006 the applicant was granted a visitor visa, sponsored by her daughter, to visit Australia. Before the applicant left Sri Lanka in or about May 2006 she saw one of the Tamil boys who had previously been her tenants at a market near her home. The boy approached the applicant stating that she should provide accommodation for the boys again and allow them to keep their possessions in her house. The applicant was suspicious of the boys, suspecting their involvement with the LTTE. He was insistent. The applicant was very fearful, but was waiting for her daughter to travel from Australia to take her out of Sri Lanka. This occurred at the end of June 2006.
27. According to her statement the applicant fears returning to Sri Lanka because she may be harmed by the Sri Lankan security forces due to imputed sympathy for the LTTE. She also fears that she may be harmed or killed by the LTTE if she does not comply with their demands.
28. According to evidence provided to the Tribunal (differently constituted) the applicant's son [name deleted: s431(2)] went missing in or around May 2006 and his whereabouts were unknown until he was located in a prison in Kandy by the Red Cross. The applicant's daughter [Daughter 1] is in hiding outside Colombo with her husband and children. Another of the applicant's daughters is of unknown whereabouts. Two daughters are resident in Canada and Australia respectively.
29. According to a statutory declaration dated [in] August 2008, the applicant's daughter and son-in-law have been repeatedly questioned by the Sri Lankan authorities, and in December 2006 her son-in-law was arrested, interrogated and beaten. Her daughter was raped in police custody. The applicant was not aware of these incidents at the time of her protection visa application, as her daughter had not told her. According to a statement to the Tribunal (differently constituted) dated [in] December 2006, the applicant's daughter's father-in-law [name deleted: s431(2)] has been missing since December 2006, and the applicant is concerned that he has been harmed or killed as a consequence of his interventions on her behalf to the Sri Lankan security forces. According to her statement, the incidents of harm inflicted on members of the applicant's family and on other Tamil people known to the applicant since her departure from Sri Lanka have increased her fear of returning to Sri Lanka, for fear that she will be persecuted by the Sri Lankan authorities.
30. Documentary evidence before the Tribunal includes
 - a number of written statements setting out the applicant's personal history and the basis of her claims for protection

- a number of detailed written submissions from the applicant's current and former representatives setting out the legal grounds for the applicant's protection claims and including detailed country information in respect to the political situation in Sri Lanka, and in response to hearings conducted by the Tribunal (differently constituted)
 - a letter from [doctor's name deleted: s431(2)] dated [in] November 2006 referring the applicant for specialist psychiatric treatment
 - an undated note to the applicant's daughter from the Red Cross in respect to their efforts to trace the applicant's son in Sri Lanka
 - a letter from the Red Cross to the applicant's daughter dated [in] December 2006 in response to enquiries made about her missing brother
 - an undated letter from the applicant's daughter [Daughter 1], regarding the arrest and beating of her husband, the disappearance of the applicant's son, and describing threats made to [Daughter 1] by Tamil men in plain clothes about the whereabouts of the applicant
 - copies of documents in respect to the applicant's sale of her house in [Suburb 1]
 - several medical reports from psychiatrist [psychiatrist's name deleted: s431(2)] regarding the applicant's poor mental health, which includes major depression and anxiety, and her treatment with anti-depressant and anti-psychotic medication and psychotherapy
 - a letter from [doctor's name deleted: s431(2)] dated [in] February 2007 in respect to his treatment of the applicant's long term shoulder pain
 - messages from the applicant's son [name deleted: s431(2)] sent through the Red Cross tracing service to the applicant's daughter [Daughter 2]
31. Pursuant to s.425(2)(a) of the Act and for reason that the Tribunal considers that it should decide the review in the applicant's favour on the basis of the material before it, the applicant was not invited to appear before the Tribunal to give evidence and present arguments.

Country Information

32. The Sri Lankan Government formally withdrew from a ceasefire with the Liberation Tigers of Tamil Eelam (LTTE) on 16 January 2008. Following months of intense fighting, and rights abuses from both sides, the Government declared victory on 18 May 2009. However, many sources indicate ongoing violence and human rights abuses throughout the country.
33. Human Rights Watch World Report in 2008 highlighted a growing culture of impunity in Sri Lanka. It states that:

Government security forces are implicated in extrajudicial killings, enforced disappearances, forcibly returning internally displaced persons (IDPs) to unsafe areas, restricting media freedoms, apparent complicity with the abusive Karuna group, and widespread impunity for serious human rights violations. Hundreds of people have been detained under newly strengthened Emergency Regulations that give the government broad powers of arrest and detention without charge. The regulations have been used to conduct mass arbitrary arrests of ethnic Tamils in the capital Colombo, as well as to detain political opponents, journalists, and civil society activists.

...The Sri Lankan government fails to hold members of the security forces and non-state armed groups accountable for abuses. Key parts of the criminal justice system, such as the police and the Attorney General's Office, have not effectively investigated human rights violations or brought perpetrators to justice. Victims of abuses by security forces and non-state armed groups are apprehensive about complaining to the authorities for fear of retaliation, especially in the absence of functioning victim and witness protection mechanisms. A draft witness protection bill is still pending. (Human Rights Watch, World Report 2008 (released January 2008))

34. A travel warning issued by the UK Foreign & Commonwealth Office on 3 July 2009 indicates that the security situation, especially in Eastern Sri Lanka, is volatile with reports of paramilitary activity:

The conflict between the Government and the Liberation Tigers of Tamil Eelam (LTTE, or "Tamil Tigers") ended in May 2009. All territory in Sri Lanka is now under Government control. However, politically-motivated violence, abductions and criminality persist throughout the country, particularly in the north and east. The Government maintains its State of Emergency, under which it has extensive anti-terrorism powers. Heightened security measures including checkpoints are expected to remain throughout the country.

35. An article in *The Economist* in August 2009 states that:

The abuses that attended the army's campaign included alleged state-sanctioned murders and abductions of suspected enemies and intimidation of journalists, lawyers and aid workers. They are greatly diminished, but they continue." (The Economist August 8th, 2009)

36. Reports from a number of recent sources contain consistent information which indicates that Tamils are at risk of persecution by government and non-government actors in Sri Lanka. *The UK Home Office February 2009 Country of Origin Information Report* includes that:

"Tamils, whose national identity cards are written in Tamil, are instantly segregated at check points for a sometimes lengthy grilling. Members of the majority Sinhalese community have an easier time from the Sinhalese-dominated security forces. Tamil visitors to Colombo also need to register with police, who are fearful of Liberation Tigers of Tamil Eelam (LTTE) suicide bombers or assassins infiltrating the city of around 650,000 people...Tamil populated neighbourhoods in Colombo are also periodically cordoned off and swept by security forces, and Tamils have complained of mass arrests."

37. *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka, April 2009*, <http://www.unhcr.org/refworld/docid/49de0b6b2.html> addresses eligibility for international protection. Under the subheading "General Approach" the document advises:

In view of the extensive and reliable evidence of widespread targeted human rights violations against Tamils in and from the North, which has affected men and women of all ages, UNHCR considers that Tamil asylum seekers from the North of Sri Lanka should be recognised as refugees under the 1951 Convention, absent clear and reliable indicators that they do not meet the criteria in Article 1A(2).

38. The report also addresses the treatment of Tamils;

In Government-controlled areas, Tamils who originate from the North and the East, which are, or have been under LTTE control, are frequently suspected as being associated with the LTTE. For this reason, Tamils from the North and the East are at heightened risk of human rights violations related to the implementation of anti-terrorism and anti-insurgency measures. While this risk exists in all parts of Sri Lanka, it is greatest in areas in which the LTTE remains active, and where security measures are heaviest, in particular the North and parts of the East, and in and around Colombo.

Because of the heavy reliance of the LTTE on support and assistance of Tamils in areas which they have administered or controlled, which has included mandatory military training and recruitment of men and women and children, the use of civilians, including women in suicide attacks, and the requirement that civilians provide financial and other support for LTTE activities, few Tamils from these regions are without ties to the LTTE. Those who are vulnerable to suspicion of having LTTE ties are, therefore, not limited to individuals who are presently actively engaged in LTTE activities and/or carrying out acts related to the armed conflict. Categories of Tamils from the North and East who are most likely to be suspected of LTTE affiliations, and are, therefore, at significant risk of suffering serious human rights violations, include, but are not limited to:

- Young Tamil males, in particular those who are not able to establish their affiliation with the TMVP, or one of the other pro-Government Tamil groups
- Tamils, male or female, who were trained by the LTTE, in particular those who have served with LTTE fighting forces
- Tamils who are not in possession of proper civil documentation, such as National Identity Cards
- Tamils who have had contacts with the political offices that the LTTE opened in several areas of the North and the East after the signing of the Cease Fire Agreement of 2002
- Tamils who were born in the North or the East who and are outside of the region, in particular those who reside in or seek to enter Colombo.

FINDINGS AND REASONS

39. The applicant claims that she is a national of Sri Lanka and she arrived in Australia on a Sri Lankan passport. Therefore, for the purposes of the Convention, the Tribunal has assessed the applicant's claims against Sri Lanka as her country of nationality.
40. In determining whether an applicant is entitled to protection in Australia, the Tribunal must first make findings on the claims the applicant has made. This may involve an assessment of the applicant's credibility. In assessing credibility, it is important to be sensitive to the difficulties often faced by asylum seekers. The benefit of the doubt should be given to asylum seekers who are generally credible but unable to substantiate all of their claims. However the mere fact that a person claims fear of persecution for a particular reason does not establish either the genuineness of the asserted fear or that it is "well founded" or that it is for the reason claimed. It remains for the applicant to satisfy the Tribunal that all of the statutory elements are made out. Although the concept of onus of proof is not appropriate to administrative inquiries and decision making, the relevant facts of the individual case will have to be supplied by the applicant himself or herself, in as much detail as is necessary to enable the examiner to establish the relevant facts. A decision maker is not required to make the applicant's case for him or her. Nor is the Tribunal required to accept uncritically any and

all the allegations made by an applicant. (*MIEA v Guo & Anor* (1997) 191 CLR 559 at 596, *Nagalingam v MILGEA* (1992) 38 FCR 191, *Prasad v MIEA* (1985) 6 FCR 155 at 169-70.)

41. The applicant claims to fear persecution from the Sri Lankan authorities for reason of her identity as a Tamil from the north of Sri Lanka who is suspected by the authorities of associating with or supporting the LTTE. The Tribunal considers the applicant's fear of persecution is due to her Tamil ethnicity and her imputed political opinion as a supporter of the LTTE.
42. According to the applicant's evidence she has never supported the LTTE and spoke against the LTTE after the murder of her niece in [location deleted: s431(2)]. However she believes that a pro-LTTE political opinion is imputed to her by the Sri Lankan authorities for reason of her Tamil ethnicity and because she rented a room in her house to two suspected LTTE members between 2005 and 2006.
43. Independent country information such as UNHCR's guidelines and various analytical reports from the Human Rights Watch cited above, indicate that those perceived to support the LTTE, or to be sympathetic to the LTTE, have been arrested and harmed by the Sri Lankan authorities in the past. The Tribunal accepts that the applicant was repeatedly questioned and accused of supporting the activities of the LTTE by the Sri Lankan authorities during a period of several months commencing in August 2006. Although the Tribunal notes some inconsistencies in the applicant's evidence over the course of her application, the Tribunal has given limited weight to these inconsistencies in assessing the evidence in its entirety. In overall terms the applicant's evidence has been credible and consistent with the country information available to the Tribunal.
44. The Tribunal accepts that during her interrogation by the Sri Lankan security forces the applicant was mistreated and physically harmed on more than one occasion. It accepts that the applicant is in very fragile mental health with major depression and anxiety, and that her treatment by the Sri Lankan authorities contributed to a decline in her health. The Tribunal accepts that the applicant's son is in prison in Kandy, but does not for the purposes of the review make any findings as to why her son has been imprisoned. The Tribunal accepts that the applicant's daughter and her daughter's husband have been detained and physically harmed by the Sri Lankan security forces, and that her daughter's father in law is missing.
45. On the evidence before it the Tribunal accepts that members of the applicant's family, including her daughter and son-in-law and her son-in-law's father, have been targeted because the security forces suspected the applicant of being an LTTE supporter. The Tribunal considers these attacks against the applicant and her family were politically motivated and involved the imputation of a political opinion as an LTTE supporter to the applicant. The Tribunal therefore finds that the applicant was targeted by the authorities in the past for the essential and significant reason of her imputed political opinion.
46. The Tribunal has taken into account independent country information when considering whether the applicant has a real chance of persecution for reasons of her imputed political opinion if she returns to Sri Lanka now or in the reasonably foreseeable future.
47. The Tribunal accepts that the applicant originates from northern Sri Lanka. The Tribunal has before it documentary evidence in the form of the applicant's birth certificate and her identity card that she is a Tamil who was born in the northern Jaffna district. On the basis of the country information set out above the Tribunal finds that Tamils are at risk of persecution by

government and non-government actors in Sri Lanka The UNHCR Eligibility Guidelines of April 2009 unequivocally indicate that Tamils in Sri Lanka are at serious risk of harm because of their ethnicity and because of political opinions imputed to them. On page 17 of that report under the sub-hearing of 'Arbitrary arrest and detention' it is stated that law enforcement authorities in Sri Lanka have been widely criticised for engaging in arbitrary arrest and detention, and that most of those who are arrested are Tamils who are suspected of affiliation with the LTTE. Country information supports the applicant's evidence that anyone perceived to be linked in any way to the LTTE will face a real chance of persecution by the authorities.

48. The Tribunal considers the applicant, who it accepts has previously come to the adverse attention of the authorities because of her suspected involvement with the LTTE, and is identifiable as originating from the Jaffna region in the north of Sri Lanka, is vulnerable to being identified by the authorities on her return. The Tribunal finds that there is a real chance that she would suffer serious harm amounting to persecution within the meaning of s.91R(2) now or in the reasonably foreseeable future if she returns to Sri Lanka.
49. The Tribunal is of the view that the applicant's fears about what might happen to her in the future are well-founded. The applicant's claims are further supported by the country information set out above.
50. As the applicant fears persecution from the government security forces the Tribunal finds that the applicant would not be afforded adequate state protection from the harm she fears. She would also be unable to avoid the harm she fears by relocating elsewhere in Sri Lanka. The Tribunal notes that the UNCHR's Guidelines referred to above provide the following information in relation to internal relocation;

...Tamils from the North and East of Sri Lanka who flee either indiscriminate violence or targeted human rights violations are not considered to have a realistic internal flight alternative in any other part of the country. As noted above, Tamils from the North and East are at risk of human rights violations in all other parts of Sri Lanka, by Government actors or other pro-Government groups, because of real or imputed LTTE affiliations. (*United Nations High Commissioner for Refugees (UNHCR) 2009, 'UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka', April, pp. 21-23, 33-34*).
51. On the basis of the evidence before it and independent country information, the Tribunal is satisfied that the applicant's ethnicity and imputed political opinion are the essential and significant reasons for the applicant's claim of fear of persecution and that the persecution feared, including arrest, detention and physical abuse by the Sri Lankan security forces would involve serious harm to the applicant and would amount to systematic and discriminatory conduct.
52. Accordingly, the Tribunal considers that the applicant has a well-founded fear of persecution for a Convention reason in Sri Lanka should she return there now or in the reasonably foreseeable future.

CONCLUSIONS

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

DECISION

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

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