

1300632 [2013] RRTA 682 (10 October 2013)

DECISION RECORD

RRT CASE NUMBER: 1300632
DIAC REFERENCE(S): CLF2012/151384
COUNTRY OF REFERENCE: Lebanon
TRIBUNAL MEMBER: Alison Murphy
DATE: 10 October 2013
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] October 2012. He seeks to invoke Australia's protection obligations so that he doesn't have to return to Lebanon where he claims to fear harm from criminal gangs.
3. In particular the applicant claims that he left Lebanon because a group of criminal minded people wanted to him to join their criminal activities, including robberies, looting and thefts. The applicant claims that it is very common in Lebanon for criminal gangs to approach young men and seek to force them to join their groups. The applicant states that he refused to join them, after which the group was very annoyed and started to chase him wherever he went. He states that he had to escape many times to save his life and they threatened to kill him because they were afraid that he might give out their secret to higher authorities. He states that he had no option but to leave Lebanon to save his life.
4. The applicant claims that this group of people have harassed and threatened him in the past, that they threatened to kill him and that he is scared for his life in Lebanon. He states that if he returns, this group will again start to chase him and kill him when they get the chance and that he cannot live a life of hiding underground in the fear that he will be killed. He claims that they will find him anywhere he hides and kill him and that he won't be able to do anything against them. He claims that they know he knows their secret and this threatens them so they will take any opportunity to find and kill him.
5. The applicant states that he will recognise these people by their faces and their activities, that he is a big threat to them and they will not let him live because they will not feel safe continuing their criminal activities. He states that this is why they have tried to kill him many times before and he has narrowly escaped. He claims that if he goes back to Lebanon, he cannot escape much longer and will be killed.
6. The applicant claims that the authorities will not protect him because they are slow to respond and are highly influenced by power and money. He states that he would be killed before the authorities could help him, that the people he fears can influence the authorities by bribing them and that even after he is killed, those authorities will not take any action against them.
7. The delegate refused to grant the visa [in] December 2012, noting the following matters in the decision record:
 - That the applicant is a [male] born in [location], Lebanon who states that he reads, writes and speaks Arabic;
 - That the applicant arrived in Australia [in] June 2012 as the holder of a subclass 679 sponsored visitor visa and has not departed Australia since that time;

- That the applicant previously made two invalid protection visa applications [in] on 24 July 2012 and [in] September 2012 and was granted a bridging visa [in] October 2012;
- That in his invalid protection visa application made [in] July 2012, the applicant made a completely different set of claims, being that he was involved in a dispute in a nightclub with some men who were harassing his girlfriend, that one of the men was the son of a politician and the applicant's life was in danger as a result;
- That the applicant failed to attend his scheduled interview [in] December 2012 to discuss his protection claims;
- That the differences in the applicant's two sets of claims, together with the applicant's brief generalised statements lacking specific details or references to dates, locations or people, caused the delegate to consider that his claims lacked credibility and the delegate was not satisfied as to their truthfulness;
- That the delegate did not consider that the harm feared by the applicant was for a Convention reason, nor did the delegate accept there to be substantial grounds for believing that there is a real risk the applicant would suffer significant harm if returned to Lebanon.

8. On 5 September 2013, the applicant's representative lodged with the applicant a further statutory declaration in which the applicant claims in summary that:

- He fears harm from militants and hard-line Islamists who dominate North Lebanon and that have in the past threatened to harm him, stating that such radical groups are targeting the young Sunni population and pressuring them to join their militant operations with promises of money and glory. He states that many young men from his village and surrounding villages have fallen prey to these militant groups and have been brainwashed into fighting in Syria and that many have been killed while others who opposed the militant agenda have disappeared. He claims that Sunni radicalism is pervasive throughout North Lebanon with moderate Sunnis being subjected to daily threats, intimidation, extortion and kidnapping if they refuse to support such a radical agenda and that these groups also enjoy political cover from hardline Sunni politicians while Lebanese authorities refrain from confronting them, fearing further sectarian strife. These militants are threatening moderate Sunnis who condemn their actions and policies;
- He fears harm from radicals following a personal dispute in a [restaurant] with other young patrons, that dispute turning into a fight involving many patrons in which gunshots were fired and one of his attackers shot. He claims that he later found out that the victim was the son of a well-known member of [a particular] movement in North Lebanon and he subsequently received threats from the victim's family. He claims that he fears he will continue to be targeted by the victim's family and that he remains devoid of the protection of the authorities due to the fact that his foes enjoy widespread support from [organisation 1] and maintain political cover;
- That the current situation in Lebanon threatens his personal safety and his ability to subsist, that since his arrival in Australia there has been a dramatic intensification of sectarian and politically motivated tension in his country, that tit-for-tat kidnapping is

prevalent throughout Lebanon as well as intermittent sectarian attacks in Tripoli, car bombings and Syrian military strikes on Lebanese territory. He claims that the increase in religious fundamentalism is adversely impacting on the youth of Lebanon. Incidents of sectarian and politically motivated kidnappings are escalating in Lebanon with scores of innocent Lebanese citizens kidnapped by militants without the authorities being able or willing to bring the perpetrators to justice, due mainly to powerful political influences. Rising sectarian violence and the ongoing spate of car bombings target innocent bystanders. The Lebanese authorities have been ineffective in protecting the Lebanese people from Syrian military incursions or acts of sectarian violence caused by individual gunmen and militia. The procrastination of the Lebanese authorities to address the variety of economic, social, political and sectarian problems is an intentional political strategy which is aimed at further crippling the Sunni community and is assisting Hezbollah to achieve its objectives of economic, political and military dominance over Lebanon;

- That the dramatic surge of inflow of Syrian refugees into Lebanon has also resulted in chronic unemployment among the Sunni community and that the Lebanese government is not addressing this pressing problem. He claims that this is causing impoverishment of the Sunni Lebanese community with an estimated one million Syrian refugees in Lebanon, with the number increasing daily. His family have been impoverished as Syrian workers are taking over the jobs of the locals, there has been a severe deterioration of the security situation and widespread politically motivated kidnappings and extortion. His father and the rest of his family are currently being supported by his brothers who are Australian citizens;
- His ability to subsist is further threatened by the current economic situation which has been exacerbated by the high inflow of Syrian refugees, with the Lebanese population of one million accommodating over a million Syrian refugees and the closure of the border preventing Lebanese producers from selling their produce to Middle Eastern customers and depriving him of his ability to subsist. He claims that he Sunni population are bearing the brunt of the economic devastation before the vast majority of Syrian refugees are settling in sympathetic Sunni areas. There is little opportunity for work throughout Lebanon, including major centres such as Tripoli and Beirut and cheap Syrian labour has devastated the already fragile Lebanese economy;
- That in areas under the control of Hezbollah and Sunni militants, political opponents continue to be targeted with the central authorities powerless to offer them effective protection. In areas including his home town, there is a complete absence of law and order with gunmen roaming the streets and threatening civilians, targeting any actual or perceived opposition and subjecting individuals in their areas to ongoing significant harm, ranging from degrading treatment to torture and execution. His fears are compounded by the complete absence of law enforcement agencies upon whom he may otherwise be able to rely on for his personal protection;
- That there is orchestrated violence against Sunnis who are devoid of the effective protection of the Lebanese law enforcement agencies and that he would likely be subjected to degrading treatment including being denied universal rights to law and order, restriction of his liberties including movement, arbitrary detention, censure of his political and religious views, ongoing monitoring, denied the right to worship in mosques given threats of further bombings of religious institutions, harsh physical

mistreatment at the hands of individual militias or individual gunmen, deprivation of legal protection and processes in areas under control of the militias and gunmen which may ordinarily apply to Lebanese citizens, significant impediment on his right to earn a living, due to ongoing monitoring, restrictions and threats of outbreak of further violence, denied access to adequate health care due to pressure placed on system due to influx of refugees, subjected to militia and gunmen checkpoints which have been set up recently and mistreated at those checkpoints, subjected to extortion attempts by gunmen, exposure to escalating sectarian violence in Tripoli, Bekaa, Sidon and Beirut;

- He faces other forms of significant harm due to the absence of effective protection of Lebanese authorities including execution at the hands of militia and gunmen, detention without trial, torture, kidnapping, destruction of property and impoverishment;
 - He does not have sufficient funds to allow him to relocate within Lebanon, nor to start up his own business. His limited education will significantly impede on his ability to gain employment in the depressed and highly competitive Lebanese employment sector.
9. The applicant appeared before the Tribunal on 6 September 2013 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.
10. The applicant was represented in relation to the review by his registered migration agent.

CONSIDERATION OF CLAIMS AND EVIDENCE

11. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of 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.
12. 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).
13. 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').
14. 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 – to the extent that they are relevant to the decision under consideration.

15. The issue in this case is whether the applicant meets the criteria set out in either of s.36(2)(a) or s.36(2)(aa). For the following reasons, the Tribunal has concluded that the decision under review should be affirmed

Country of nationality

16. The applicant claims to be a national of Lebanon and travelled to Australia as the holder of a Lebanese passport. There is no evidence before the Tribunal to suggest that the applicant is a national of any other country and the Tribunal has assessed his claims against Lebanon as his country of nationality and receiving country.

Credibility

17. The Tribunal observes that 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 he satisfies all of the required statutory elements. 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, 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. 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.)
18. In determining whether an applicant is entitled to protection in Australia the Tribunal must first make findings of fact on the claims he has made. This may involve an assessment of the applicant's credibility and, in doing so, the Tribunal is aware of the need and importance of being sensitive to the difficulties asylum seekers often face. Accordingly, the Tribunal notes that the benefit of the doubt should be given to asylum seekers who are generally credible, but unable to substantiate all of their claims. The United Nations High Commissioner for Refugees' Handbook on Procedures and Criteria for Determining Refugee Status, Geneva, 1992, at paragraph 196 197 and 203 204 recognises the particular problems of proof faced by an applicant for refugee status and states that applicants who are otherwise credible and plausible should, unless there are good reasons otherwise, be given the benefit of the doubt. Given the particular problems of proof faced by applicants a liberal attitude on the part of the decision maker is called for in assessing refugee status.
19. On the other hand, as stated previously, the Tribunal is not required to accept uncritically any or all allegations made by an applicant. In addition, the Tribunal is not required to have rebutting evidence available to it before it can find that a particular factual assertion by an applicant has not been established. Nor is the Tribunal obliged to accept claims that are inconsistent with the independent evidence regarding the situation in the applicant's country of nationality (See *Randhawa v MILGEA* (1994) 52 FCR 437 at 451, per Beaumont J; *Selvadurai v MIEA & Anor* (1994) 34 ALD 347 at 348 per Heerey J and *Kopalapillai v MIMA* (1998) 86 FCR 547).

20. With these matters in mind, the Tribunal has had regard to the applicant's written claims for protection as well as the oral evidence of the applicant and materials submitted to the Tribunal in the course of review. There were a number of inconsistencies and improbabilities in the applicant's claims over time that caused the Tribunal to have significant concerns about the credibility of his claims, as a result of which some parts of his claims are not accepted.

The applicant's background

21. The applicant gave evidence at hearing that he was born in Hrar, Lebanon [date deleted] and that his family now lived in Akkar. He stated that his parents [and four siblings] remained in Lebanon, while one [sibling] resided in Dubai and [two brothers] lived in Australia. The applicant gave evidence that he completed [a course] in 2010 and worked as an [occupation] in Akkar for a time before travelling to Australia. The Tribunal accepts each of these things to be the case.
22. The applicant gave evidence that he travelled to Australia on a visitor visa [in] June 2012 and that he intended at that time to return to Lebanon, changing his mind about 3-4 months ago when the security situation in Lebanon deteriorated and explosions started in Tripoli. The Tribunal does not accept this to be true, noting that the applicant lodged an invalid application for protection [in] July 2012, only one month after arriving in Australia. The applicant then lodged a further invalid application for protection [in] July 2012, before lodging the current application [in] October 2012. Given that each of these applications were lodged prior to the applicant's evidence as to the deterioration in the security situation in Lebanon, the Tribunal does not accept that the events described by the applicant prompted him to seek protection. This, combined with the fact that the first of these claims was lodged within a month of the applicant's arrival in Australia, causes the Tribunal to find that at the time the applicant travelled to Australia in June 2012 he did not intend to return to Lebanon.

The applicant's claims of past harm

23. In a statutory declaration made 5 September 2013, the applicant claims to have been involved in a personal dispute with other patrons in a restaurant in [location], with the result that gunshots were fired and one of his attackers shot. He states that he found out later that the victim was the son of a well-known member of [a particular] movement in North Lebanon and he subsequently received numerous threats from the victim's family.
24. At hearing the applicant gave evidence that the incident occurred a few months before he left Lebanon for Australia when a few young men started talking to his girlfriend and a fight started. He stated that the man who was shot was the son of a [cleric] who had connections with the government. He stated that the police were not involved because no-one made a complaint and that the victim's family threatened him many times following that incident. He was unable to tell the Tribunal the name of the victim or his father, stating that he found out the victim's father was a [cleric] from the people who threatened him. When asked to describe the occasions on which he was threatened, the applicant stated that he was approached by three men in the street about two weeks later who told him if anything happened to the victim he would be in trouble, following which the applicant ran away. He stated that he was approached a second time by these people about a week later, who told him that he should thank god that nothing happened to the victim but that if something happened to his leg he would be punished. The applicant stated that he ran away again and that he experienced no further incidents in Lebanon.

25. The Tribunal raised with the applicant the issue of his credibility, noting that he had made a completely different set of claims in his protection visa application. The applicant denied making different claims, stating that he had always made the same claims. The Tribunal read to the applicant the claims contained in his protection visa application lodged [in] October 2012, being that he claimed to fear harm from a criminal gang who wanted him to join their criminal activities, including robbery, lotting and thefts and that he refused to do so, with the result that they were annoyed and started to chase him wherever he went as they were afraid that he might give out their secret to the authorities. The applicant stated that his protection visa application had been lodged by his first lawyer who was not very honest, leading him to change lawyers. He stated that he had never told his lawyer the things written in his protection visa application lodged [in] October 2012, rather he had told that lawyer the same story as he had told the Tribunal.
26. The Tribunal put to the applicant his claims in an earlier invalid protection visa application lodged [in] July 2012, noting that in those claims he stated that he was involved in a fight in a nightclub resulting in the injury of the son of a very powerful politician in Lebanon, rather than the son of a [cleric]. The applicant stated that this was the same incident as he described to the Tribunal and that the apparent inconsistency as to the identity of the victim's father was simply because the victim was the son of a [cleric] who was also backed by high level politicians.
27. The Tribunal noted that he had not attended his departmental interview to discuss his claims and the applicant stated that his previous lawyer had not told him anything about it. When it was put to him that the letter inviting him to the interview appeared to have been mailed to him at his [address], the applicant confirmed he lived at that address but stated that he did not read English so had referred all correspondence to his lawyer.
28. The Tribunal does not accept as credible the applicant's explanations for the changes to his claims over time, rather it considers that the applicant has manufactured his claims of past harm for the purposes of bolstering his protection claims. In making this assessment the Tribunal notes the markedly different descriptions the applicant has given of those events, including the identity of the persons involved, their motivations for harming him and the number of times he was threatened after that incident. The Tribunal further considers it implausible that an incident in which gunshots were fired at a restaurant would not have been reported to the police and that the applicant would not know the identity of the victim or his apparently well-known and prominent father. The Tribunal notes that the applicant claims in his statutory declaration that he received numerous threats from his victim's family, but told the Tribunal at hearing that he was approached twice in the street. The Tribunal does not accept that the applicant was involved in a fight in a nightclub or restaurant with the son of a [cleric] or the son of a Lebanese politician, nor does the Tribunal accept that the applicant was subsequently approached and threatened by persons associated with the victim. Further the Tribunal does not accept that the applicant was approached by criminal gangs in Lebanon to join their criminal activities, noting the applicant's evidence that he had not instructed his former lawyer to make such claims. It follows that the Tribunal does not accept that the applicant has a well-founded fear of harm from criminal gangs, a [cleric] or his family, a Lebanese politician or his family or any other person as a result of such an incident.

The applicant's claims to fear harm on the basis of his Sunni Muslim religion

29. The Tribunal has considered the applicant's claims to fear harm in the future from [a religious group] in Lebanon, noting his claims that radical [groups] are targeting the young moderate Sunni population in Lebanon and pressuring them to join their militant operations with promises of money and glory. At hearing the applicant gave evidence that [this religious group] and militants used to approach groups in Lebanon and try to brainwash people into going to fight in Syria, saying that they would be kidnapped or disappear if they didn't do so. When asked if he himself had been approached, the applicant stated that he had been approached by such a group in the street about five to six months before his departure in Lebanon asking him to fight in the name of his religion. The applicant gave evidence that he was with friends when they were approached by three men who spoke to each of them separately, telling the applicant that they would pay him to go and fight against the Syrian regime and that otherwise the Syrian regime may one day come into Lebanon and kill him and his family. The applicant stated that he told the men he would see and he was later told by his friends that they also made excuses, with none of them going with [the religious group].
30. The Tribunal put to the applicant that independent sources before it didn't indicate that extremist [groups] were making such approaches, nor that they were subjecting moderate Sunnis to daily threats, intimidation, extortion and kidnapping if they refuse to support them as he had claimed in his statutory declaration. The applicant stated that this was what was happening in Lebanon.
31. Independent sources before the Tribunal that radical [religious groups] operate in North Lebanon and have been linked to terrorist attacks, bank robberies and the 2007 clash with Lebanese security forces in the Nahr al-Bared Palestinian refugee camp. The influence of [this religious group] in Tripoli has reportedly increased in recent years and that most extreme [of this group] view Alawites, as well as Shi'a and other sects, as heretics and apostates¹ However there is no information before the Tribunal to suggest that [the group] target moderate Sunnis who refuse to subscribe to their radical agenda² Taken together with the serious concerns the Tribunal holds about the applicant's credibility, this leads the Tribunal to reject the applicant's claims to have been approached or threatened by [group] in the past noting that such claims were raised for the first time at the Tribunal hearing. Nor does the Tribunal accept on the evidence before it that there is a real chance that the applicant would be targeted for harm by such groups in the future. It follows that the Tribunal does not accept that the applicant has a well-founded fear of persecution from group or militants if he returns to Akkar on the basis of his Sunni religion.
32. In considering whether the applicant has a well-founded fear of religious violence from other groups in Akkar on the basis of his moderate Sunni religion, the Tribunal has considered country information indicating that the neighbourhoods in [Tripoli] have sustained a long-standing feud between Sunnis and Alawites which periodically erupts into violent clashes between armed militias from the two areas, resulting in death, injury and destruction of

¹ 'Syrian Unrest Raises Sectarian Tensions in Lebanon' 2011, Jamestown Foundation, UNHCR Refworld website, 4 August <http://www.unhcr.org/refworld/docid/4e3b95352.html>

² Searches were conducted of Lebanese and international news media, major humans rights reports, major foreign government reports, strategic security and intelligence groups, think tanks, peer-reviewed journals, tribunal resources, DIAC resources and general internet searches.

property on both sides.³ Reports before the Tribunal do not suggest that conflict has spread to other areas in Tripoli, nor that it extends to Akkar.

33. At hearing, the applicant also claimed to fear harm from Hezbollah on the basis of his Sunni religion. In his written statement the applicant claims that the failure of the Lebanese authorities to address the economic, social, political and sectarian problems in Lebanon is an intentional political strategy aimed at crippling the Sunni community and assisting Hezbollah to achieve its objectives of economic, political and military dominance over Lebanon. However independent sources before the Tribunal do not indicate that Sunnis are targeted for harm by Hezbollah in Akkar or elsewhere in Lebanon, rather sources indicate that despite tensions and divisions over Syria, Hezbollah is eager to avoid sectarian clashes in Lebanon⁴. According to a November 2012 International Crisis Group report both sides of Lebanon's political divide have shown considerable restraint.⁵ When this was put to the applicant at hearing, he stated that everyone knew the hatred that Hezbollah has for Sunnis.
34. Given that independent sources do not indicate that Sunnis are targeted for harm by Hezbollah in Akkar, the Tribunal considers the chance that the applicant will be targeted by Hezbollah to be remote, and therefore not real. It follows that the Tribunal does not accept that the applicant has a well-founded fear of persecution from Hezbollah if he returns to Akkar on the basis of his Sunni religion.
35. The applicant claims to fear harm on the basis of the ongoing conflict in neighbouring Syria. The Tribunal accepts that the Syrian uprising and the subsequent civil war have aggravated political and sectarian tensions in Lebanon.⁶ At hearing the Tribunal discussed with the applicant an incident in which car bombs reportedly exploded outside two Sunni mosques in Tripoli [in] August 2013, killing 42 and wounding hundreds. Reports indicate that suspects in those attacks have been questioned and that Syrian intelligence services have been implicated in that attack⁷ However there is no information before the Tribunal to suggest that such attacks are occurring in the Akkar region of Lebanon. Nor does the Tribunal accept that the violence and instability feared by the applicant is faced by him personally, nor that the general security situation in Lebanon and the events in Syria would expose the applicant to a real chance of persecution because of his Sunni religion or for any other Convention reason in Lebanon.

³ International Crisis Group 2012, *A Precarious Balancing Act: Lebanon and the Syrian Conflict*, 22 November, p.7, <http://www.refworld.org/docid/50af2c082.html>; 'Bound by conflict, the Syrian-Lebanon crisis' 2012, *Integrated Regional Information Networks*, 25 June, <http://www.refworld.org/docid/4fe9b31a2.html>.

⁴ Salem, P 2012, *Can Lebanon Survive the Syrian Crisis?*, Carnegie Middle East Center, December, p.1 <http://carnegieendowment.org/files/lebanon_syrian_crisis.pdf>

⁵ International Crisis Group 2012, *A Precarious Balancing Act: Lebanon and the Syrian Conflict*, Middle East Report No.132, 22 November <<http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/lebanon/132-a-precarious-balancing-act-lebanon-and-the-syrian-conflict.aspx>>, at p. 15.

⁶ Weir, E 2013, *Deluge of Syrian Refugees in Lebanon Awakens Old Sectarian Divisions*, Global Observer, 18 June <<http://www.theglobalobservatory.org/analysis/525-deluge-of-syrian-refugees-in-lebanon-awakens-old-sectarian-divisions-.html>>; International Crisis Group 2013, *Too Close For Comfort: Syrians in Lebanon*, 13 May, p.i

<http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Lebanon/141-too-close-for-comfort-syrians-in-lebanon.pdf?utm_source=lebanon-syria-report&utm_medium=3&utm_campaign=mremail>; Berneis, N & Bartl, J 2013, *Understanding the Heightening Syrian Refugee Crisis and Lebanon's Political Polarization*, Carthage Research Series, June, p.17 <[http://www.lbn-lb.org/UserFiles/carthage%201%20final\(1\).pdf](http://www.lbn-lb.org/UserFiles/carthage%201%20final(1).pdf)>

⁷ <http://en.ammonnews.net/article.aspx?articleno=22978>

36. On the evidence before it, the Tribunal does not accept there to be a real chance that the applicant would be subjected to serious harm on the basis of his Sunni Muslim religion if he returned to his village in the Akkar region, Lebanon, now or in the reasonably foreseeable future.

The applicant's claims to fear harm on the basis of his political opinions

37. The applicant claims in his statutory declaration to fear persecution on the basis of his political opinion if he returns to Lebanon, stating that Hezbollah and Sunni militants target persons for any actual or perceived opposition. At hearing, the applicant gave evidence that he did not have a political opinion, but rather feared war, persecution and the explosions in Lebanon. When asked if there was anything about himself that made him think he would be targeted in such incidents, the applicant stated that he feared the war and militias. Given the applicant's evidence, the Tribunal does not accept that the applicant holds or will be imputed to hold a political opinion.
38. For the reasons set out above, the Tribunal has not accepted there to be a real chance that Hezbollah or Sunni militants will target the applicant for harm on the basis of his moderate Sunni religion. While the Tribunal accepts that the applicant's Sunni religion may cause him to be imputed with an anti-Hezbollah political opinion, the Tribunal does not accept there to be a real chance that he will be targeted for harm on Hezbollah on that basis, noting the sources cited above indicate that Hezbollah is eager to avoid sectarian clashes in Lebanon and has shown considerable restraint.⁸ Nor does the Tribunal accept that the applicant will be targeted for harm by [a particular religious group] or Sunni militants on the basis of his actual or imputed political opinion, noting that there is no information before the Tribunal to suggest that [group] target moderate Sunnis who refuse to subscribe to their radical agenda⁹.
39. It follows that the Tribunal does not accept that the applicant has a well-founded fear of persecution if he returns to Akkar on the basis of his actual or imputed political opinion.

The applicant's claims relating to the general security situation and the influx of Syrian refugees into Lebanon

40. The applicant claims to fear harm in Lebanon arising out of the influx of refugees from Syria into Lebanon such as would affect his ability to subsist. The applicant claims that the dramatic surge of inflow of Syrian refugees into Lebanon has resulted in chronic unemployment amongst the Sunni community causing further impoverishment amongst the Sunni Lebanese community and that his family in Akkar are currently unemployed and being supported by his brother in Australia. He claims that his family is unable to support itself financially as they are no longer able to sell their produce due to threats from Syrian bombings and the closure of the Syrian border which effectively prevents them from selling their produce in neighbouring Arab countries.

⁸ Salem, P 2012, *Can Lebanon Survive the Syrian Crisis?*, Carnegie Middle East Center, December, p.1 <http://carnegieendowment.org/files/lebanon_syrian_crisis.pdf>; International Crisis Group 2012, *A Precarious Balancing Act: Lebanon and the Syrian Conflict*, Middle East Report No.132, 22 November <<http://www.crisisgroup.org/en/regions/middle-east-north-africa/egypt-syria-lebanon/lebanon/132-a-precarious-balancing-act-lebanon-and-the-syrian-conflict.aspx>>, at p. 15.

⁹ Searches were conducted of Lebanese and international news media, major humans rights reports, major foreign government reports, strategic security and intelligence groups, think tanks, peer-reviewed journals, tribunal resources, DIAC resources and general internet searches.

41. The Tribunal accepts there to be increasing pressures and tensions in Lebanon due to the growing numbers of Syrian refugees, placing increasing strain on Lebanon's water, sanitation, education and health care systems. Reports highlight increasing socio-economic problems for host communities, including growing competition for jobs and increasing food and housing costs affecting an estimated 1.2 million Lebanese citizens.¹⁰ However, the evidence before the Tribunal does not suggest that the instability the applicant is concerned about is faced by him personally or for any Convention reason. The Tribunal does not accept that the general economic and security situation in Lebanon would expose the applicant to a real chance of persecution for a Convention reason in Lebanon.
42. The applicant has made claims that Lebanon is otherwise lawless, that there has been a dramatic intensification of sectarian and politically motivated tension in his country and that tit-for-tat kidnapping is prevalent throughout Lebanon as well as intermittent sectarian attacks in Tripoli, car bombings and Syrian military strikes on Lebanese territory. The Tribunal has considered the article provided to the Tribunal by the applicant in support of his claims, confirming that the pressures on Lebanon include economic and sectarian pressures and that kidnappings, rocket attacks, clashes and bombings increasingly punctuate daily life¹¹ However while the Tribunal accepts that such events occur sporadically in parts of Lebanon, it considers that the chance that the applicant will be caught up in such violence if he returns to his home in the Akkar region to be remote, and therefore not real.
43. The applicant claims that in parts of Lebanon, including his home town, there is a complete absence of law and order with gunmen roaming the street and threatening civilians and subjecting individuals in those areas to significant harm ranging from degrading treatment to torture and execution. As discussed with the applicant at hearing, independent sources before the Tribunal do not bear out such claims and the Tribunal does not accept the applicant's home region of Akkar to be lawless. The Tribunal considers that the chance that the applicant will be harmed in such a manner if he returns to his home in the Akkar region to be remote, and therefore not real. Nor is there any evidence before the Tribunal that would support the applicant's claims that if he returns to Akkar he will be restricted in his movements, arbitrarily detained, that he will face ongoing monitoring or be denied the right to worship and the Tribunal does not accept there to be a real chance that any of those things will occur.
44. It follows that the Tribunal does not accept that the applicant has a well-founded fear of persecution for any Convention reason if he returns to his home in Akkar, Lebanon, now or in the reasonably foreseeable future.

¹⁰UNHCR 2013, *Lebanon: Regional Response Plan (RRP5) – Fact Sheet*, June <<http://reliefweb.int/sites/reliefweb.int/files/resources/RRP5Factsheet%2Bsectoraldashboards02072013.pdf>>; Van Vliet, S & Hourani, G 2012, *Refugees of the Arab Spring: The Syrian Refugees in Lebanon April 2011-April 2012*, The Center for Migration and Refugee Studies, American University in Cairo, August; World Vision 2013, *Under Pressure: The Impact of the Syrian Refugee Crisis on Host Communities in Lebanon*, July, pp13-14 <<http://wvi.org/sites/default/files/UNDER%20PRESSURE%20report.pdf>>; Berneis, N & Bartl, J 2013, *Understanding the Heightening Syrian Refugee Crisis and Lebanon's Political Polarization*, Carthage Research Series, June, p.15 <[http://www.ldn-lb.org/UserFiles/carthage%201%20final\(1\).pdf](http://www.ldn-lb.org/UserFiles/carthage%201%20final(1).pdf)>; Berneis, N & Bartl, J 2013, *Understanding the Heightening Syrian Refugee Crisis and Lebanon's Political Polarization*, Carthage Research Series, June, p.15 <[http://www.ldn-lb.org/UserFiles/carthage%201%20final\(1\).pdf](http://www.ldn-lb.org/UserFiles/carthage%201%20final(1).pdf)>; <<http://wvi.org/sites/default/files/UNDER%20PRESSURE%20report.pdf>>; Global Observatory, International Peace Institute, 18 June <<http://www.theglobalobservatory.org/analysis/525-deluge-of-syrian-refugees-in-lebanon-awakens-old-sectarian-divisions-.html>>

¹¹ <http://www.yalibnan.com/2013/09/03/threat-of-strike-on-syria-deepens-concerns-in-lebanon/>

Complementary protection

45. Section 36(2)(aa) of the *Migration Act* provides that a person may qualify for a protection visa where there are substantial grounds for believing that, as a necessary and foreseeable consequence of his or her removal from Australia to a receiving country, there is a real risk he or she will suffer significant harm.
46. In this case, the Tribunal has found that the applicant is a national of Lebanon and the Tribunal therefore finds that Lebanon is the 'receiving country' for the purposes of s.5(1).
47. For the reasons set out above, the Tribunal has not accepted the applicant's claims to have experienced past harm in Lebanon, nor has the Tribunal accepted that the applicant would be targeted for serious harm in the future by [a religious group], other militants, Hezbollah, Shias, Lebanese politicians or Syrian refugees. For the same reasons the Tribunal does not accept that there are substantial grounds for believing that, as a necessary and foreseeable consequence of his removal from Australia to Lebanon, there is a real risk the applicant will suffer significant harm on the basis from [groups], other militants, Hezbollah, Shias, Lebanese politicians or Syrian refugees.
48. The applicant has made claims that Lebanon is otherwise lawless, that there has been a dramatic intensification of sectarian and politically motivated tension in his country and that tit-for-tat kidnapping is prevalent throughout Lebanon as well as intermittent sectarian attacks in Tripoli, car bombings and Syrian military strikes on Lebanese territory. The Tribunal has considered the article provided to the Tribunal by the applicant in support of his claims, confirming that the pressures on Lebanon include economic and sectarian pressures and that kidnappings, rocket attacks, clashes and bombings increasingly punctuate daily life¹² However while the Tribunal accepts that such events occur sporadically in parts of Lebanon, it considers that the risk that the applicant will be caught up in such violence if he returns to his home in the Akkar region to be remote, and therefore not real.
49. The applicant claims that in parts of Lebanon, including his home town, there is a complete absence of law and order with gunmen roaming the street and threatening civilians and subjecting individuals in those areas to significant harm ranging from degrading treatment to torture and execution. As discussed with the applicant at hearing, independent sources before the Tribunal do not bear out such claims and the Tribunal does not accept the applicant's home region of Akkar to be lawless. The Tribunal considers that the risk that the applicant will be harmed in such a manner if he returns to his home in the Akkar region to be remote, and therefore not real. Nor is there any evidence before the Tribunal that would support the applicant's claims that if he returns to Akkar he will be restricted in his movements, arbitrarily detained, that he will face ongoing monitoring or be denied the right to worship.
50. The applicant claims to fear harm in Lebanon arising out of the influx of refugees from Syria into Lebanon such as would affect his ability to subsist. The applicant claims that the dramatic surge of inflow of Syrian refugees into Lebanon has resulted in chronic unemployment amongst the Sunni community causing further impoverishment amongst the Sunni Lebanese community and that his family in Akkar are currently unemployed and being supported by his brother in Australia. He claims that his family is unable to support itself financially as they are no longer able to sell their produce due to threats from Syrian

¹² <http://www.yalibnan.com/2013/09/03/threat-of-strike-on-syria-deepens-concerns-in-lebanon/>

bombings and the closure of the Syrian border which effectively prevents them from selling their produce in neighbouring Arab countries.

51. The Tribunal accepts there to be increasing pressures and tensions in Lebanon due to the growing numbers of Syrian refugees, placing increasing strain on Lebanon's water, sanitation, education and health care systems. Reports highlight increasing socio-economic problems for host communities, including growing competition for jobs and increasing food and housing costs affecting an estimated 1.2 million Lebanese citizens.¹³ However, the Tribunal has found that the instability feared applicant faced by the population generally and not by him personally. The Tribunal finds that there is taken not to be a real risk that the applicant will suffer significant harm in Lebanon as a result of the economic and security situation in Lebanon.
52. It follows that the Tribunal does not accept that there are 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 from any of these persons or groups.
53. 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).
54. 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).
55. 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).

¹³UNHCR 2013, *Lebanon: Regional Response Plan (RRP5) – Fact Sheet*, June <<http://reliefweb.int/sites/reliefweb.int/files/resources/RRP5Factsheet%2Bsectoraldashboards02072013.pdf>>; Van Vliet, S & Hourani, G 2012, *Refugees of the Arab Spring: The Syrian Refugees in Lebanon April 2011-April 2012*, The Center for Migration and Refugee Studies, American University in Cairo, August; World Vision 2013, *Under Pressure: The Impact of the Syrian Refugee Crisis on Host Communities in Lebanon*, July, pp13-14 <<http://wvi.org/sites/default/files/UNDER%20PRESSURE%20report.pdf>>; Berneis, N & Bartl, J 2013, *Understanding the Heightening Syrian Refugee Crisis and Lebanon's Political Polarization*, Carthage Research Series, June, p.15 <[http://www.ldn-lb.org/UserFiles/carthage%201%20final\(1\).pdf](http://www.ldn-lb.org/UserFiles/carthage%201%20final(1).pdf)>; Berneis, N & Bartl, J 2013, *Understanding the Heightening Syrian Refugee Crisis and Lebanon's Political Polarization*, Carthage Research Series, June, p.15 <[http://www.ldn-lb.org/UserFiles/carthage%201%20final\(1\).pdf](http://www.ldn-lb.org/UserFiles/carthage%201%20final(1).pdf)>; <<http://wvi.org/sites/default/files/UNDER%20PRESSURE%20report.pdf>>; Global Observatory, International Peace Institute, 18 June <<http://www.theglobalobservatory.org/analysis/525-deluge-of-syrian-refugees-in-lebanon-awakens-old-sectarian-divisions-.html>>

DECISION

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

Alison Murphy
Member