

071687545 [2007] RRTA 306 (30 November 2007)

DECISION RECORD

RRT CASE NUMBER: 071687545
DIAC REFERENCE(S): CLF2007/100712
COUNTRY OF REFERENCE: Philippines
TRIBUNAL MEMBER: Jennifer Ciantar
DATE DECISION SIGNED: 30 November 2007
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

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).

The applicant, who claims to be a citizen of the Philippines, arrived in Australia and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter.

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.

The applicant applied to the Tribunal for review of the delegate's decision.

The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

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.

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).

Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

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.

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.

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.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

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.

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.

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.

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.

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.

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

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.

With his application the applicant provided:

- A letter stating that the author has known the applicant for some years and he had been an active member of the KAMPI political party. He was one of the party members who was attacked and beaten up by NPC political party members as he was campaigning for the KAMPI political party. The applicant was hospitalised after the clash and he went into hiding as he was facing risk to his life from the Nationalist Party Coalition (NPC) political party who was planning to carry out a revenge attack.
- A copy of a Certification that the applicant personally reported that he had received information that suspicious unidentified persons were roaming around the applicant's vicinity and were believed to be armed with short firearms.
- A medical certificate that the applicant was admitted to hospital with injuries and was discharged.
- A submission in which the applicant claims that he was an active member of the KAMPI political party and he was involved in the party's functions and election campaigns. He was attacked by the rival political party, the NPC, when he was campaigning, and he was beaten up and suffered injuries and was hospitalised for a few weeks. This was a direct result of a difference of political opinion. When the applicant returned home he found that his home had been damaged and neighbours told him that members of the NPC had come to the applicant's home and enquired about his whereabouts and damaged his home. The applicant learned from reliable sources that NPC supporters planned to carry out revenge attacks and were searching to kill him, as he was on their hit list because of his involvement in the political clash. The applicant was terrified and went into hiding, living with different friends but he became suspicious and disturbed. When the applicant learned that a NPC supporter had been seen with a gun near the applicant's home the applicant reported the matter to the police but they took no action and the applicant later learnt that the NPC had the support of the local police. The applicant then faced economic hardship as he could not work as he was afraid that his enemies would trace his whereabouts and kill him. The applicant submitted that he faces a real chance of persecution from the NPC which also has a relationship with the police.

The applicant appeared before the Tribunal to give evidence and present arguments. The applicant did not request an interpreter and the Tribunal confirmed with the applicant that he did not require an interpreter.

The applicant was represented in relation to the review by his registered migration agent who did not attend the hearing.

The applicant stated that he waited a number of years to lodge a protection visa application as he was scared and he had no help. However, he decided he wanted to legalise his status. He has not been working but has done some babysitting and odd jobs for his friend.

The applicant confirmed that his parents are deceased. He has no siblings and he is single. He has a relative in the Philippines. His birthplace is the Philippines and he lived at the same address until after the political clash when people were looking for him so he moved around for a number of months, staying with friends. He worked for a few years, and he stopped work after the political clash. The Tribunal noted that on his application form the applicant states that he worked until earlier than that. The applicant stated that he is not sure now whether he worked until then or earlier but he thinks that he may have been unemployed at the time of the political clash. He was able to pay for his trip to Australia because a friend helped him. This was his first trip out of the Philippines.

The applicant stated that he joined the KAMPI party a few years ago because a friend or relative invited him to join. The Tribunal asked the applicant who is now in power in the Philippines. The applicant stated that it always changes. The Tribunal asked the applicant when the last national election was. The applicant stated that there are too many elections in the Philippines, as there are elections nationally, locally, regionally, for the president and the vice president; perhaps there had been a presidential election last year. The applicant stated that the president is Mrs Arroyo and she has had two or three terms and she is supported by the Kampi party. The Tribunal asked the applicant why he would have problems returning to the Philippines if he is a member of the ruling party. The applicant stated that there is no justice in the Philippines and he is frightened.

When asked what his role was in the party the applicant stated that he had been involved in campaigning, for example, he put up posters, gave an opinion, and gave money to people who were voting, as this is the way in the Philippines. The Tribunal asked the applicant if the NPC party had any other name as the Tribunal had not been able to locate a party called the Nationalist party coalition. The applicant stated that it is the rival party and it was the party of Fernando Poe, who was a rival for the presidency. The Tribunal asked the applicant if the NPC was also known as the Nationalist People's Coalition. The applicant stated that he knows the party as the nationalist party coalition.

When asked what had happened to him the applicant stated that he had been campaigning for a local election and he and a local fellow member were attacked. The Tribunal asked the applicant to give details about what had happened to him on the day of the clash. The applicant stated that they were campaigning and putting up posters. The Tribunal asked how many people were with the applicant and how many people attacked them. The applicant stated that they were attacked by several people or more and there were several persons with the applicant. The Tribunal asked the applicant where the attack took place and at what time of day. The applicant stated that there was a fight in the street, during the day, and the applicant was pushed and was injured. Others were also hurt. The Tribunal asked the applicant how the fighting ceased. The applicant stated that the fight stopped because local people helped. The Tribunal asked the applicant who had won the local election. The applicant said that three parties had been running including the Kampi party, the NPC and a third party, and the third party had won. The Tribunal put to the applicant that independent

information suggests that the Kampi party is in power locally. The applicant stated that he is not aware of this.

The applicant stated that he was hospitalised for a few weeks. When he returned home his house had been damaged and a neighbour said the damage was caused by NPC supporters. The Tribunal asked the applicant how NPC supporters would know him if so many people were involved in the street fight. The applicant stated that perhaps he had been at the front. The applicant stated that he is just an ordinary member of the party and party leaders told him what to do. He is not a party leader. The Tribunal put to the applicant that it was hard to understand why the NPC would look for him if he is just an ordinary party member and supporter. The applicant stated that even though he is just a local supporter he has a diplomatic way of getting people on side.

The Tribunal put to the applicant that in his statement he claims that he was on a hit list and people were looking for him in order to kill him. The applicant stated that he was told this by a friend and perhaps it was because of the clash. The Tribunal put to the applicant that it seemed unlikely that the NPC party would target all party members or supporters. The applicant stated that he does not know about this but he wants the Tribunal's assistance as he does not want to go back to the Philippines. It is hard to earn money and there is not much justice.

The Tribunal put to the applicant that in his statement he says that the friend saw someone with a gun near the applicant's home. The applicant confirmed that his friend told him he had seen someone with a gun and his friend told him that this person was an NPC supporter. The applicant did not see the person with a gun himself the applicant then went to the police but they did nothing and perhaps this is because they support the NPC. The applicant stated that nothing else happened to him and then he decided to come to Australia. He had stopped working because the friend saw someone near his house and he was scared. The police took no action. The applicant's friend obtained the certificate from the police on behalf of the applicant.

The Tribunal put to the applicant that independent information suggests that the Kampi party is part of the ruling coalition. The applicant stated that Mrs Arroyo does not belong to the Kampi party. She belongs to the Christian Democratic Muslim alliance. The Tribunal put to the applicant that a coalition is in power in the Philippines, which includes the Christian Democratic Muslim alliance, but also includes the Kampi party. The Tribunal asked the applicant what he fears if he returns to the Philippines. The applicant stated that there is no justice and he is scared. The applicant stated that he is scared of the NPC. The Tribunal asked the applicant if he could move to another town. The applicant stated that he does not want to return to the Philippines and he would be unable to work. The NPC might look for him, as they are rivals, and because of the street clash. The Tribunal put to the applicant that it was hard to believe that anyone would look for the applicant years later, because of one street fight that had involved several people. The applicant asked the Tribunal to assist him as he does not want to return to the Philippines. The applicant stated that he had no further comments and he does not need more time to respond.

Independent information

KAMPI and the NPC

No information could be located on a Philippine party known as the Nationalist Party Coalition (NPC). Information was located, however, on the Nationalist People's Coalition (NPC) and the *Nacionalista* Party (NP). According to the 2007 edition of *The Political Handbook of the World*: the Nationalist People's Coalition (NPC) "was formed prior to the 1992 balloting by right-wing elements of both the Liberal and *Nacionalista* parties" (p.980). KAMPI (the *Kabalikat ng Malayang Pilipino*; or Alliance of Free Filipinos) is the political vehicle of Philippine President Gloria Macapagal-Arroyo, who came to power in 2001 following the dismissal of former President Joseph Estrada, who was impeached over corruption issues. "[I]n May 2004, as it had in 2001, KAMPI won seats in the House of Representatives as part of a Lakas-led coalition" (Lakas being the *Lakas ng Kristiyanao t Muslim Demokrata*; or Lakas-Christian Muslim Democrats; or Lakas-CMD). The NPC was reportedly divided during the 2004 elections with some supporting the Arroyo ticket and others supporting "her principal opponent, Fernando Poe, and ran for Congress as participants in the opposition KNP alliance, while the majority participated in [Arroyo's] K4 alliance" (p.980) (Banks, A.S., Muller, T.C. & Overstreet, W.R. 2007, *The Political Handbook of the World*, CQ Press, Washington DC, pp.980-981).

The following extracts from a September 2006 report published by *The Economist* provides an overview of KAMPI's current position in Philippine politics and its relationship with the NPC:

Parties based around personalities

Political parties in the Philippines are based on personalities rather than ideologies. All those represented in Congress support the existing political and social structures, espouse a market economy (until it threatens sectoral interests), and are nationalistic, to varying degrees. There are thus continual shifts in allegiance. The president tends to attract a greater following in Congress than the election results would indicate, at least in the early years of a presidential term. In the final years of a presidential term of office the parties tend to splinter as presidential hopefuls emerge and the president has only limited patronage to offer.

Lakas and Kampi

Following the May 2004 congressional elections, the largest party in Congress is the pro-government Lakas, which was formed in 1992 to support the presidential candidacy of Mr Ramos. Its strength in Congress was eroded after the May 1998 election, which brought Mr Estrada to power, but surged once more in the 2001 mid-term election following the assumption of the presidency by the Lakas vice-president, Ms Macapagal Arroyo. Lakas won 91 of 212 directly elected seats in the House of Representatives in the May 2004 election. Although Ms Macapagal Arroyo won the election with the backing of Lakas, which she co-chaired with the speaker of the House of Representatives, Joe de Venecia, since the election she has attempted to revive her personal vehicle, Kampi, by persuading members of other parties to switch loyalties.

The NPC and the LP

The NPC was originally formed to support the presidential candidacy of Eduardo Cojuangco (a former Marcos crony) in 1992. In the 1998 election it backed Mr Estrada's presidential candidacy and was the largest component of the pro-administration coalition, LAMP. The NPC remained part of the pro-administration coalition led by Lakas under Ms Macapagal Arroyo, and won 58 seats in the May 2004 election. Together, the three main pro-administration parties have a solid majority in the House of Representatives.

The Liberal Party (LP), led by the president of the Senate, Frank Drilon, was founded in 1946 and was the party of Ms Macapagal Arroyo's father, Diosdado Macapagal, who was president from 1961 to 1965. The LP was previously part of the ruling coalition, but joined the calls for Ms Macapagal Arroyo's resignation in July 2005. The party won 29 seats in the 2004 election

(http://www.economist.com/countries/Philippines/PrinterFriendly.cfm?Story_ID=7901894)

A 2003 study published by the National Democratic Institute for International Affairs provides background on party politics in the Philippines.

Political parties in the Philippines are characterized by the absence of strong ideological agendas, and frequently shifting membership and alliances. Elections in the Philippines are among the most expensive in the world, and citizens' expectations of patronage and payments in exchange for political support contribute to rising costs. Money is necessary, through large donations from individuals or other sources -- sometimes linked to illegal activities -- to survive politically. Because of the personality-driven nature of campaigns and politics, donations are most frequently given directly to candidates, and parties are dependent on their representatives to remain financially viable.

...Observers of Philippine politics note that the president's extensive control over discretionary funds encourages legislators to switch to the party of the president. These legislators have greater access to state funds and can provide rewards and other perks to their constituents. Party switching results from and contributes to the lack of strong ideological party affiliations. Because political parties lack firm ideological bases and clear party platforms, politicians do not develop strong ties to parties and will change their party affiliation in order to advance their careers.

...Political Corruption in the Philippines

...Observers of Philippine politics note that patronage is a central characteristic of corruption in the Philippine political system. From the leadership of the barangay to the presidency, the political system has a well-defined hierarchy of authority that rests upon the exchange of favors. Under this patronage system, a patron distributes goods and services to a client, who rewards the patron with loyalty and support. In the Philippines, because there is a tremendous gap between the rich and the poor and the government does not adequately deliver public services to all areas of the country, patrons can fill the vacuum. In many cases, patrons have provided valuable services by meeting the needs of the public in their communities, but have also abused their positions to amass personal wealth and power.

...In the Philippines, pork barrel politics is a direct result of a culture of patronage and strong executive control over state resources. For example, the president controls the allocation of several discretionary development funds, most notably the Countryside Development Funds and Congressional Initiative Allocations. The president allocates these funds in exchange for the support of legislators and local government leaders for his or her agenda. This money then trickles down from the local government leaders to the clients below, each skimming part of the allotment. Eventually a percentage of these funds may reach the intended constituency in the form of government services or projects, and local leaders can use this "successful delivery" as part of their public relations campaigns. Some reports estimate that as much as 60 percent of these discretionary funds are lost to corruption before reaching the communities for which they were appropriated.

...Corruption also plagues the election process. Vote buying is widespread, and many candidates buy votes directly or pay opposition supporters not to vote. The practice has become an expectation, and perpetrators are seldom accused, arrested, or convicted. Frequently, voters regard the sale of their votes as the greatest direct benefit from

government. Parties also routinely violate campaign regulations and engage in both mundane violations – such as improperly displaying propaganda – and severe violations such as voter coercion.

A May 2005 article provides background on the relationship between KAMPI and the NCP. Perhaps of interest is that NCP leader “Danding has told his NPC members that they would now be free to affiliate themselves with whatever party they see fit. In practical terms, he is giving them a choice between Lakas and the emerging KAMPI”
(http://www.geocities.com/dapat_tapat/primeministergloria.html)

Politics, violence and the police and the military

In 2006 Amnesty International conducted a major review of political violence in the Philippines, finding “an increased number of killings of political activists, predominately those associated with leftist or left-orientated groups”. The military, in particular, is thought to be responsible for much of the violence. “The majority of the victims of political killings have been unarmed civilians, members of the legal political left, primarily *Bayan Muna*, *Anakpawis* and *Bagong Alyansang Makabayan* (BAYAN – New Patriotic Alliance), but including activists from a range of leftist sectoral or community organisations”. The report makes no mention of KAMPI or NPC supporters as victims or perpetrators of violence (Amnesty International 2006, ‘Philippines: Political killings, human rights and the peace process’, AI website, <http://web.amnesty.org/library/print/ENGASA350062006> – Accessed 16 August 2006 – Attachment 10; further info on targeting of leftists is at: \\NTSSYD\REFER\Research\Response\Syd2007\phl32251.pl.doc).

Some sources argue that KAMPI has received support from the police and the military. According to July 2007 report published on the website of the left wing Europe Solidaire Sans Frontiers (ESSF): “The GMA [Gloria Macapagal-Arroyo] regime’s reliance on the military, the police and systematic repression to prop-up its rule has led into a situation wherein the military blatantly resists civilian authority and the rule of law”
(<http://www.europe-solidaire.org/spip.php?article6982>)

[Section deleted under s431 of the Migration Act 1958.]

FINDINGS AND REASONS

Having sighted the applicant’s passport at the hearing, the Tribunal accepts that the applicant is a national of the Philippines.

The applicant’s case is based on the Convention ground of imputed political opinion. Essentially the applicant claims that he was an active member of the KAMPI political party and he was involved in the party’s functions and election campaigns. He claims that he was attacked by the rival political party, the NPC, when he was campaigning, and he was beaten up and suffered injuries and was hospitalised. When the applicant returned home he found that his home had been damaged and neighbours told him that the damage was caused by members of the NPC who planned to carry out revenge attacks and were searching to kill him, as he was on their hit list because of his involvement in the political clash. The applicant was terrified and went into hiding, living with different friends but he became suspicious and disturbed. He had to leave his job and was unable to work. When the applicant learned that a NPC supporter had been seen with a gun near the applicant’s home the applicant reported the

matter to the police but they took no action and the applicant later learnt that the NPC had the support of the local police.

The Tribunal accepts that the applicant has been a member of the KAMPI party. The Tribunal accepts that the applicant was campaigning for the KAMPI party and he was involved in a clash during which he was injured. However, the Tribunal is not satisfied that the applicant has a political profile of any kind or that he is of interest to the NPC as he claims. The Tribunal's reasons follow.

The Tribunal does not find the applicant's account of his experiences of being targeted by the NPC to be credible. The Tribunal accepts that the applicant may have been involved in campaigning for the KAMPI party. The applicant claims that he was targeted by the NPC after a clash between NPC supporters and KAMPI supporters during an election campaign. The applicant's evidence is that several people or more were involved in a street fight and the applicant was injured. The applicant's evidence is that he was an ordinary member of the party, not a leader. The Tribunal does not find it credible that the applicant would have been identified and targeted after this incident for no other reason than him being an ordinary member of the KAMPI party. The Tribunal put this to the applicant and he responded by stating that he does not know why he was targeted but perhaps it was because he was at the front. The Tribunal does not find this a plausible explanation, as it is highly unlikely that the NPC would target ordinary members of the KAMPI party for no particular reason. The Tribunal finds the applicant's evidence about why he would have been targeted by the NPC to be vague and lacking in detail. The Tribunal has noted the letter that the applicant provided with his claim, which states that the applicant was a member of the KAMPI party and he was beaten up after a political clash and he then went into hiding as he feared retaliation. However, this letter does not overcome the Tribunal's serious concerns about the applicant's own evidence.

The Tribunal accepts, based on independent information, that political parties in the Philippines are based on personalities rather than ideologies, there is considerable corruption and the President is personally very powerful, particularly in the early years of her term. Independent information indicates that Mrs Arroyo was elected president in 2004 and again in 2007 and that her party is the KAMPI party. The Tribunal is satisfied that the applicant is therefore a member of a party which has the personal support of the President and which has been part of the ruling coalition since at least 2004. Independent information also suggests that there is some support for Mrs Arroyo in the NPC: The NPC was reportedly divided during the 2004 elections with some supporting the Arroyo ticket and others supporting "her principal opponent, Fernando Poe, and ran for Congress as participants in the opposition KNP alliance, while the majority participated in [Arroyo's] K4 alliance". Although independent information also indicates that violence and corruption are not unusual during political campaigns, the fact that the applicant is a member of the ruling party, which is the personal party of the President, also leads the Tribunal to not be satisfied that the applicant has been targeted by the NPC, as the KAMPI party is likely to be in a comparatively powerful position.

When asked how he knows his house was damaged by the NPC the applicant was vague and unable to give any details except to say that his friend told him. The Tribunal is not satisfied that the applicant's house was damaged. The applicant also claims that a person with a gun was seen near the applicant's home and he reported this to the Police. A police certificate has been provided in support of this claim. The Tribunal accepts that the applicant made a report to the police but there is no evidence, other than the applicant's claim, that the person the

applicant saw was a member of the NPC or that he was specifically targeting the applicant. The Tribunal is not satisfied that the NPC was targeting the applicant and the Tribunal is also not satisfied that the incident where the applicant saw a person with a gun near his house has any connection with the applicant's political activities or political opponents.

The Tribunal has also considered the action of the police and whether their failure to assist the applicant is motivated by a Convention reason. The Tribunal is not satisfied that the applicant's evidence indicates that the police failed to provide the applicant with protection for a Convention reason. Whilst the Tribunal accepts that the police in the Philippines are subject to corruption and that the police have sided with the ruling party, in this case the applicant is also a member of the ruling party. The Tribunal does not accept that there is any evidence that the police would not, in individual cases, act to prosecute persons who were illegally bearing arms, threatening violence or attempting to assault or rob a person or their property. Whilst the Tribunal accepts that the police may have difficulty bringing the perpetrators of such offences to justice and that they may be inefficient and often corrupt, the Tribunal is not satisfied that the police would fail to protect the applicant in the future because of his political opinion or because he is a member of the KAMPI party or for any other Convention reason.

The Tribunal accepts that the applicant ceased work and that it is difficult to obtain work in the Philippines and the standard of living is comparatively low. The applicant asked the Tribunal a number of times for assistance to stay in Australia, as it would be economically difficult for him in the Philippines. The Tribunal is of the view that the applicant has come to Australia to improve his economic circumstances and not because he fears persecution in the Philippines. The Tribunal is not satisfied that the applicant ceased work because he was in hiding. Although the applicant claims in his statement that he ceased work after the clash, the applicant told the Tribunal that he was not sure whether he ceased work earlier. The applicant's evidence about when he ceased work was vague and inconsistent and the Tribunal is not satisfied that the applicant ceased work because he was being targeted by the NPC.

The Tribunal does not accept that the NPC is interested in the applicant for participating in political activities or for espousing his political opinion in the Philippines on the basis of his claimed involvement with the KAMPI party. The Tribunal does not accept that the applicant has been harmed in the past or that there is a real chance that he will be harmed for a Convention reason if he were to return to the Philippines now or in the reasonably foreseeable future for reasons of his real or imputed political beliefs or his membership of any particular social group, for the purposes of the Convention, or for any other Convention reason.

The Tribunal is therefore not satisfied that the applicant has a well founded fear of persecution within the meaning of the Convention.

CONCLUSIONS

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

DECISION

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

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D. prrt44