

1300778 [2014] RRTA 13 (9 January 2014)

DECISION RECORD

RRT CASE NUMBER: 1300778
DIAC REFERENCE(S): CLF2012/188021
COUNTRY OF REFERENCE: Lebanon
TRIBUNAL MEMBER: Hilary Lovibond
DATE: 9 January 2014
PLACE OF DECISION: Melbourne
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

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

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, a citizen of Lebanon, applied to the Department of Immigration for the visa on 11 September 2012 and the delegate refused to grant the visa on 18 December 2012.
3. The applicant is an unmarried [age] year old Sunni Muslim man born in [a certain location]. He arrived in Australia in 2012 as the holder of a sponsored visitor visa and continued a relationship which began in Lebanon in 2009 with H, his [relative]'s wife, an Australian citizen. The applicant is now living with H who has left her husband and is divorced. The applicant claims to fear that if he returns to Lebanon he will be killed by members of his extended family as his relationship with H has offended the family's religious norms, dishonoured and disgraced them. The delegate refused the application because she was not satisfied that there was a real risk the applicant would be significantly harmed and further, because she found that state protection would be available to the applicant sufficient to mitigate any risk that may remain.
4. The applicant appeared before the Tribunal on 25 October 2013 to give evidence and present arguments. The Tribunal also received oral evidence from the applicant's partner, H. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.

RELEVANT LAW

5. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa.

Refugee criterion

6. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
7. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of 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.

8. 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.
9. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
10. 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)). Examples of 'serious harm' are set out in 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.
11. 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.
12. 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.
13. 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 being persecuted for a Convention stipulated reason. 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.
14. 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. The expression 'the protection of that country' in the second limb of Article 1A(2) is concerned with external or diplomatic protection extended to citizens abroad. Internal protection is nevertheless relevant to the first limb of the definition, in particular to whether a fear is well-founded and whether the conduct giving rise to the fear is persecution.
15. Whether an applicant is a person in respect of 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.

Complementary protection criterion

16. 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').
17. 'Significant harm' for these purposes is exhaustively defined in s.36(2A): s.5(1). A person will suffer significant harm if he or she will be arbitrarily deprived of their life; or the death penalty will be carried out on the person; or the person will be subjected to torture; or to cruel or inhuman treatment or punishment; or to degrading treatment or punishment. 'Cruel or inhuman treatment or punishment', 'degrading treatment or punishment', and 'torture', are further defined in s.5(1) of the Act.
18. There are certain circumstances in which there is taken not to be a real risk that an applicant will suffer significant harm in a country. These arise where it would be reasonable for the applicant to relocate to an area of the country where there would not be a real risk that the applicant will suffer significant harm; where the applicant could obtain, from an authority of the country, protection such that there would not be a real risk that the applicant will suffer significant harm; or where the real risk is one faced by the population of the country generally and is not faced by the applicant personally: s.36(2B) of the Act.

Section 499 Ministerial Direction

19. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration – PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration.

CONSIDERATION OF CLAIMS AND EVIDENCE

20. The issue in this case is whether there are substantial grounds for believing that as a necessary and foreseeable consequence of his removal from Australia to a receiving country, there is a real risk the applicant would suffer significant harm. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

Has the applicant established his identity and background?

21. The applicant's evidence regarding his origins in [Town 1] in the Akkar District of northern Lebanon has been consistent throughout. He explained at hearing that his place of birth was recorded as [a certain location] so this was shown in his documents but he was born and lived all his life in [Town 1]. He has stated that he is one of [a number of] children, [some] of whom remain in Lebanon, in [Town 1], together with his [other family members] and extended family. [Some] of his siblings and a number of his uncles live in [Australia]. The Tribunal accepts on the applicant's evidence that his identity is as claimed and that he was

born and grew up in [Town 1], Akkar in northern Lebanon where much of his family still live and that the remainder of his family live in Australia. The Tribunal finds that the applicant's home district is Akkar.

22. The applicant has stated that he attended school in [Town 1] and finished year twelve in a [high school]. He has claimed that he qualified as [a tradesman] and worked for five years as [a tradesman] while studying to become an [occupation]. On the evidence before it the Tribunal accepts that the applicant qualified in Lebanon as [a tradesman] and worked in this trade before coming to Australia.

Country of reference

23. The applicant entered Australia as the holder of a Lebanese passport. On the basis of the applicant's evidence and copies of documents on his file, the Tribunal accepts that he is a national of Lebanon. There is no evidence before the Tribunal to indicate that the applicant has the right to enter and reside in a third country and the Tribunal finds that s.36(3) does not apply. The Tribunal has therefore assessed the applicant against Lebanon as his country of reference and receiving country.

What has happened since the applicant has been in Australia?

Relationship with H

24. The applicant has claimed that in 2009 he began a romantic and sexual relationship with H, who is his cousin and was the wife of his [Relative] A, while she was holidaying in Lebanon. The applicant made two unsuccessful applications for sponsored visitor visas to Australia in 2010 and 2011. A third application in 2012 was approved and he resumed his relationship with H shortly after arriving in Australia. At hearing, the applicant stated that they are living together and were married according to Muslim law three weeks earlier. Asked whether the marriage was registered in [Australia], the applicant said they were only married according to Islamic law; they were waiting for the Tribunal's decision to know how that would end up. Asked what difference the Tribunal's decision would make to his marriage the applicant said it wouldn't make a difference but he is waiting for the decision. The witness, H, also claimed that they are living together and had been married according to Islamic law. She stated that she was divorced [in] June 2013. Having regard to the oral and written evidence of the applicant and the oral evidence of H, the Tribunal accepts that the applicant is in an ongoing relationship with H which commenced when she was married to the applicant's [Relative] A.

Threats and harm from relatives in Australia

25. The applicant has claimed that his relationship with H has offended his family in a way that was initially based on religion but is now based on family, tribal and cultural mores. He has claimed that he has now been completely cut off by his family in Australia and in Lebanon, threatened and abused face-to-face, via Facebook and by phone and physically assaulted by his brothers and his [Relative] A. At his Protection visa interview with the Department the applicant claimed that he had an intervention order against two of his brothers and his [Relative] A. The Department's file contains at f.70 a copy of an intervention order effective from [September] 2012 to [September] 2013 which states that the applicant's [relative] must not commit family violence against the applicant, intentionally damage or threaten to damage his property or get any other person to do these things. Also on the Department's file at ff.55-63 are copies of police applications for family violence safety notices dated [August]

2012 naming the applicant as the protected person and two of the applicant's brothers and his [Relative] A as respondents, and at ff.64-68 a copy of an application and summons for an intervention order against the applicant's [Relative] A. The application outlines the relationship between the applicant and H and its subsequent discovery and states that after this the applicant was assaulted by unknown persons and received phone calls from concerned relatives and that the applicant fears that if he returns to Lebanon he will be killed "under Muslim law" by an uncle there with [number] years' experience in the military.

26. Asked who had threatened him he said he has a big family in [Australia] and everyone who belongs to [a certain family] or [another] family, all of them have threatened him. Asked how many people that was, he said it was 150 to 200. Asked if he meant he had received that number of threats he said yes, absolutely. Asked how many times he was threatened to his face, he said two months after he arrived in Australia it was daily for a period of twenty days because he was living with his brother and they started when they found out about the relationship. Asked when last someone made a threat to his face he said it was six months ago.
27. The Tribunal explained to the applicant that his evidence regarding having been threatened by 150 to 200 people seemed somewhat exaggerated and that it may not accept he had been threatened as he claimed. The applicant responded that the Tribunal may not believe him but the whole of his family should comply with the decision of the head of the family; his sister in Australia started to contact him again and her husband, H's brother, found out and they fought. The applicant said it is very hard on him and it has affected his mental and emotional situation. He has thought of killing himself because he doesn't know where to go or what to do. The Tribunal said that there are people and organisations that can help if he is having thoughts like that and that he should talk to a counsellor about how is he feeling.
28. Asked when the messages started on Facebook he said it was also two months after he arrived. He is still receiving them and he has one from H's eldest son. Asked why he had maintained a Facebook account if he was receiving threats on it, he said he is not using it. The Tribunal suggested that it seemed that if he were really concerned about the threats he might close the account down entirely to avoid it. The applicant responded that he wasn't aware he was on Facebook and he thought he deleted it. Asked if the message from H's son was current, the applicant said yes, it's new. The Tribunal explained that it had some difficulty in understanding why he had not removed himself entirely from Facebook if he was genuinely concerned about the threats. The applicant said that he removed H's son and he only received three of four threats on Facebook.
29. Asked about the threats he received by phone the applicant said two of his siblings phoned him and some relatives. The phone calls also started two months after he arrived and continued for about five months, till he moved from [one suburb] to [another suburb] then to [a different suburb]. Asked if he has contact with family members in Australia now he said no.
30. The applicant has claimed that he was slapped by his brother, asked to move out and was also assaulted by "unknown persons" in the street. The applicant has claimed that he was accosted by his [Relative] A, H's ex-husband, on [the street]. Asked what happened, he said A assaulted him and he ran away and called the police and the police drove him [home]. Asked what A did to him the applicant said he hit and slapped him and scratched him on his neck and body, causing him big injury. Asked if he required medical treatment, the applicant said no. Asked if this was the only time A had assaulted him physically, the applicant said

yes. The Tribunal asked about his earlier evidence that his [relative] had assaulted him before the intervention order was granted and the applicant responded that he didn't say his [relative] attacked him; it was his brother. The Tribunal asked whether the police took any further action against A as a result, given the intervention order against him would still have been in effect and by assaulting the applicant he would have breached it. The applicant said he didn't know if anything else happened to A; he has no-one and he is by himself.

31. Asked whether anything has happened to H as a result of their relationship the applicant asked for clarification. The Tribunal asked whether she had been threatened, harmed or assaulted. The applicant said yes, she has an intervention order against A as well. Asked what harm has been threatened or done to H the applicant said her family gave up on her and A used very degrading words to her and used to send her threatening messages. At hearing, H stated that she has an intervention order against A.
32. As discussed with the applicant at hearing, the Tribunal finds that he has significantly exaggerated his claims regarding the threats he has received. The Tribunal finds that this detracts to some degree from the credibility of his evidence. Despite this, the Tribunal accepts on the evidence before it that as a result of his relationship with H, the applicant has been cut off by family members in Australia and in Lebanon, had to move out of his brother's house and has been subjected to abusive messages on Facebook and threats of harm. The Tribunal accepts on the evidence before it that the applicant was slapped by his brother and involved in a physical and verbal altercation with A but notes that this occurred only once and that the applicant stated he did not require medical attention as a result and considers that this indicates the assault did not result in serious harm to the applicant.

Is there a real chance the applicant will be seriously harmed in the future?

33. The applicant has claimed that if he returns to Lebanon he will be killed by members of his extended family for bringing dishonour on the family or that members of his family who have connections with the military, police, government and customs will arrange to have him killed. Asked who would kill him he said his [eldest uncle] is a sheik; he is like the main controller of the family and everyone must comply with every word he says. Asked if this was the same [uncle] who had been in the army for many years the applicant said no. The Tribunal noted that he had not mentioned the uncle who is a sheik before when asked who he feared would kill him and the applicant responded that he did. The Tribunal said that previous evidence had related to his grandmother and his uncle who was in the army. The applicant said it is all his family members, not just his grandmother or his uncle; because of the current circumstances, now he has married H and they are living under one roof. Asked what difference it makes to his family if he is married, the applicant said they don't care for him any more whether or not he is married but they are going to get rid of him by any means.
34. Asked what it was about what he had done that would make them want to kill him, the applicant said the whole family will comply with what they family head says; it is like a judge's role. If he says kill this guy, they would do that. Asked why he would say they should kill him, the applicant said it's a family issue; forget about religion, he wants to kill him because he had a relationship with his [relative]'s wife. Asked whether the family head believed personally that he should be punished by death or whether it offended a religious norm or a family norm, the applicant said it is rejected from all aspects. First the relationship was completely unacceptable to the family's cultures and to religion. Then H got divorced and he could marry her but the family don't want that. They want to get rid of him because

he was in a relationship which offended and dishonoured them. This is the honour of the family; it is a tribal way of thought.

35. The Tribunal explained to the applicant that it had not been able to find any reference to men being killed for such a reason in Lebanon in the country information it had consulted. The applicant said that he had witnessed that a lot had been killed: it is like the state is like gangs. The Tribunal noted that if that was something that occurred for those reasons it was surprised that it was not mentioned in the sources it had consulted. The applicant responded that such things were not mentioned in the media; in his country they behave like gangs and if he wants to kill someone it is like hit and run; it is not reported in the media. The Tribunal noted that the country information indicated that the media and human rights organisations do report honour killings of women, although these are still relatively rare¹. The applicant responded that the Koran says that the male is treated equally to the female. The Tribunal said that this made it even more surprising that if honour killings of men are occurring, these are not being reported. The applicant responded that because officials like the President are Christian, the system is governed by Christianity and it doesn't intervene in the cultures of other religions and sects. The Tribunal noted that it understood that while the President is currently, and by tradition, a Christian, the Prime Minister is a Sunni Muslim and the head of the Senate a Shia Muslim.² The applicant said it was like problems with different sects.
36. At hearing, H claimed that her ex-husband, the applicant's [Relative] A, had sent her text messages stating that if it takes a lifetime, and whether it is in Australia or overseas, he will kill the applicant. Asked if she still had these messages H said they were on her old phone and they are now uploaded to iTunes but she can download them and send them to the Tribunal. The Tribunal asked that these messages be sent by email to the Tribunal's registry and explained that as it is easy to create messages, to be of evidentiary value they would need to be sent in a form which would allow the Tribunal to be satisfied that they came from the claimed source. H stated that she could do this and that the messages came from her ex-husband's phone number. The Tribunal asked the applicant to provide this evidence within seven days of the date of the hearing or if it could not be provided, to advise the Tribunal that this was the case. The applicant agreed he would do this. No such evidence or other correspondence was received from the applicant at any time after the hearing.
37. At hearing, H told the Tribunal that her ex-husband, the applicant's [Relative] A is currently in Lebanon and has gone there to arrange with contacts in the military to have the applicant killed if he returns. Asked how she knows this she said she doesn't know but she thinks this is what he is doing as the text messages he sent her said that he would kill the applicant. She stated that he may not have much power over the applicant in Australia but overseas he will absolutely have power; he is well-known in the community and has his elder brother and other people he knows well in the forces.
38. The Tribunal finds that in the circumstances the applicant's failure to produce corroborative evidence he claimed at hearing he could provide, and the fact that he did not contact the Tribunal as requested to indicate there was a problem in obtaining or providing this evidence reflects adversely on the credibility of this claim. The Tribunal does not accept, on the evidence before it, that the applicant's [Relative] A sent text messages to H stating that he

¹ *AFP*, 2010, "Lebanese man arrested for sister's 'honour killing'", 12 March, <http://www.google.com/hostednews/afp/article/ALeqM5jNjv5GZ-GAstQ2pZHW1ybSyuYzRQ> Accessed 24 October 2013

² Department of Foreign Affairs and Trade 2010, *Country Brief: Lebanon*, July http://www.dfat.gov.au/geo/lebanon/country_brief.html Accessed 30 November 2012

would kill the applicant. The Tribunal finds that H's claim that her ex-husband had gone to Lebanon to arrange with contacts in the military to have the applicant killed if he returns is speculative at best, and notes that she admitted she did not know this was the case but believed it was so because of the text messages he had sent her. On the evidence before it the Tribunal does not accept that the applicant's [Relative] A has gone to Lebanon to arrange for the applicant to be killed if he returns.

39. The applicant stated that H cannot go and live in Lebanon with him. H told the Tribunal that she cannot return to Lebanon as she could be held hostage and she has children who could be taken away from her. She stated further that she can't allow the applicant to go back. The Tribunal explained that it understood this would be a difficult situation but that the question of whether H was able to go to Lebanon with the applicant was not an issue that was relevant to the question of whether the applicant was owed protection in Australia. The applicant responded that he was going to be killed. The Tribunal explained that the issue before it was whether there was real chance of serious harm or a real risk of significant harm to him and it was not sure that this was the case.
40. The Tribunal notes that country information indicates that family and clan or tribal affiliations remain significant in Lebanon, particularly in relation to political allegiance.³ Country information also indicates that violence within and between families or clans remains prevalent, including in the applicant's home district of Akkar.⁴ As discussed with the applicant at hearing, the country information indicates that the state does make some effort to respond to complaints involving family disputes but and that while state agencies are frequently reported to have intervened in specific incidents, their actions are not always effective.⁵
41. The Tribunal notes that no specific country information was located in relation to the primacy of family and tribal culture and norms in Akkar, although reference was found to this in relation to Lebanon more broadly, as noted in the sources cited above and in relation to Shia Muslims in the Bekaa valley,⁶ but the Tribunal considers it is reasonable to infer that more remote areas outside the larger population centres may remain subject to greater influence from localised belief systems and mores. On the evidence before it the Tribunal accepts that

³ Bluhm, M 2008, 'Tribalism at its best: Analysts foresee long wait for unity government', *The Daily Star*, 24 June https://www3.nd.edu/~newsinfo/pdf/2008_06_24_pdf/Analysts%20foresee%20long%20wait%20for%20unity%20government.pdf Accessed 13 November 2013; Zein, M 2009, 'Fierce partisanship rules Lebanon, tears away at the state', *Al-Hayat*, 5 May, Lebanon Wire <http://www.lebanonwire.com/0905MLN/09050523DAH.asp> Accessed 15 November 2013

⁴ Moubayed, L 2013, *Establishing Conflict Resilient Communities in the North Of Lebanon: Community Conflicts In Northern Lebanon*, August, Partners for Democratic Change International & PeaceLabz <http://www.pdci-network.org/dev/wp-content/uploads/2013/10/Community-Conflicts-in-Northern-Lebanon-without-annex-B.pdf> Accessed 15 November 2013

⁵ *The Daily Star* 2013, 'Man killed in family feud in Lebanon's Akkar', 30 October <http://www.dailystar.com.lb/News/Lebanon-News/2013/Oct-30/236279-man-killed-in-family-feud-in-lebanons-akkar.ashx#ixzz2jv5gtsOo> Accessed 13 November 2013; *Naharnet*, 2013, 'Man Killed in Fighting with Sticks and Machetes in Akkar', 21 July <http://www.naharnet.com/stories/en/91343>, Accessed 7 November 2013; *Now Lebanon*, 2013, 'One killed, several injured in Akkar family feud', 21 July <https://now.mmedia.me/lb/en/lebanonnews/one-killed-several-injured-in-akkar-family-feud> Accessed 13 November 2013; *The Daily Star* 2013, 'Army detains 2 in fatal Akkar feud', 4 May, <http://www.dailystar.com.lb/News/Lebanon-News/2012/May-04/172319-army-detains-2-in-fatal-akkar-feud.ashx#axzz2kTthCb7e> Accessed 13 November 2013

⁶ Lavender, L & Petersen, J 2013, *Lebanon at Risk: Conflict in Bekaa Valley*, Civil-Military Fusion Centre, March https://www.cimicweb.org/cmo/ComplexCoverage/Documents/Reports/20130221_BekaaValley_Final.pdf Accessed 10 May 2013

the adverse reaction of the applicant's family to his relationship with H has been influenced to some extent by what he describes as family or tribal culture.

42. In accordance with the requirements of s.424AA the Tribunal put to the applicant the apparent lack of information regarding killings in the circumstances he described and explained the relevance of this information. The applicant said that he wanted to respond straight away. He stated that his uncle is involved in politics as [an official] in the Akkar area for the [name] Party and has very high connections in politics all over Lebanon; all his uncles have very good connections there. He went on to state that whether in intelligence or the army or the police, in any aspect in the state, including airport security, they have their own people there. He stated that they are not normal people; they are all connected to the state, police, customs. Asked if he meant that his family had connections to all the groups he had mentioned, the applicant said maybe they are leaving him alone now as they know there are rules and regulations but in Lebanon they are the state and the government and everything. They can pick him out from the airport.
43. The Tribunal accepts on the evidence before it that the applicant's relationship with H has generated significant disapproval and adverse reaction in his family. In light of the country information referred to above regarding the significance of family or clan custom, the Tribunal accepts that the applicant is genuinely fearful of his family's further reaction, in Australia or should he return to Lebanon. The applicant has claimed from the outset that he fears that one particular uncle who has served in the army for [number] years will seek to harm him. He has not explained why he fears this uncle in particular. Despite this, noting the consistency of his evidence, the Tribunal accepts that one of the applicant's uncles has a long period of service in the army and that the applicant fears this person may seek to harm him.
44. The applicant has asserted that his family has connections to multiple state agencies in Lebanon which will enable them to locate and harm or kill him immediately he enters the country. The Tribunal notes that as his application has progressed the applicant has claimed his family is connected with more and more agencies. These claims are vague, general and unsupported by any further evidence. The Tribunal does not accept on the evidence before it that the applicant's family has connections in the police, intelligence, airport security, customs and in high level politics throughout Lebanon.
45. The applicant claimed at hearing that his uncle, who he named, is a member of the [name] Party and [an official] for the Akkar district and has political connections all over Lebanon. He has given significantly greater detail about this uncle than about the many un-named family members he claims are connected with other agencies in Lebanon. Having regard to this contrast, the Tribunal accepts that the applicant's uncle is a member of the [name] Party in Akkar and holds a local level office within the party. The applicant has not elaborated on how or why his uncle's involvement with the [name] party might place him at risk of harm but has made a vague and general claim about him having connections throughout the country. On the evidence before it, the Tribunal does not accept that the applicant's uncle's involvement with the [name] Party would give rise to a real chance that he would be seriously harmed if he returned to Lebanon now or in the reasonably foreseeable future, including that his uncle's political connections would result in any increased interest or allow his family to follow and find him outside his home region.
46. The Tribunal explained to the applicant that it had significant doubts about whether there was a real chance that he would be seriously or significantly harmed or killed as he claimed if he

returned to Lebanon and that it may find there was not a real chance, or a real risk this would happen. The applicant responded that as he said before, all his family have given up on him.

47. On the evidence before it, the Tribunal accepts that the applicant would not be welcomed back by his family were he to return to Lebanon. The Tribunal has accepted that the applicant has been cut off by family members in Australia, had to move out of his brother's house and was subjected to abusive messages and threats on Facebook. The Tribunal has also accepted that the applicant was slapped by his brother, assaulted on the street by his [relative] and that he and H both obtained intervention orders against A. However, the Tribunal has also found that the assaults were isolated incidents and did not involve serious injury. The Tribunal also notes that the applicant was unaware of any follow-up action taken by the police in relation to the apparent breach of the intervention order by his [relative] and of the expiry of the intervention order. The Tribunal finds that this suggests the applicant himself did not give significant weight to the need for protection by an intervention order. In addition, the applicant has not provided the evidence he said he would provide regarding threats made to kill him wherever he was and no matter how long it took. The Tribunal finds that the above events in Australia do not provide strong support for the applicant's contention that his family will seriously harm or kill him if he returns to Lebanon. As discussed with the applicant, the country information does not support his claim that he is at risk of being killed for reason of his relationship with H having offended family norms and customs and further, the Tribunal does not accept the applicant's assertion that such killings occur but are not reported. The Tribunal finds that there is not a real chance that the applicant will be killed or seriously physically harmed for reason of his relationship with H if he returns to Lebanon now or in the reasonably foreseeable future.
48. The applicant has claimed that his extended family will prevent him from finding work anywhere in Lebanon. He stated at hearing that in the past he could have found work in Beirut but his family will make it impossible. The Tribunal put to the applicant that it found this was difficult to accept and it may not accept this was the case. The Tribunal has considered country information which indicates that family connections or *wasta*, a concept described as "rooted in the tribal structure of society"⁷ are extremely important in gaining employment⁸, that a very large proportion of Lebanese report using family links to secure jobs⁹ and that employment opportunities can be hindered when an individual lacks *wasta*, or connections.¹⁰ The Tribunal accepts on the evidence before it that the inability to rely on

⁷ The Lebanese Transparency Association 2005, *Youth Against Corruption*, May, p.27 <http://www.transparency-lebanon.org/publications/youthagainstcorruptionen.pdf> Accessed 18 November 2013

⁸ Halawi, D 2013, 'Widespread favoritism takes toll on economy', *The Daily Star*, 4 November <http://www.dailystar.com.lb/Business/Lebanon/2013/Nov-04/236734-widespread-favoritism-takes-toll-on-economy.ashx#axzz2kZu8Sjre> Accessed 14 November 2013; Dockery, S 2012, 'Lebanese graduates face tough economy, instability', *The Daily Star*, 1 June <http://www.dailystar.com.lb/News/Local-News/2012/Jun-01/175327-graduates-face-tough-economy-instability.ashx#axzz2kwpoWlyh> Accessed 18 November 2013; Galey, P 2011, 'USAID promises to empower civil society groups', *The Daily Star*, 16 September <http://www.dailystar.com.lb/News/Lebanon-News/2011/Sep-16/148903-usaid-promises-to-empower-civil-society-groups.ashx#axzz2kwpoWlyh> Accessed 18 November 2013

⁹ Robalino, D & Sayed, H 2012, *Republic of Lebanon Good Jobs Needed: The Role of Macro, Investment, Education, Labor and Social Protection Policies ("Miles")*, World Bank, December, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/03/20/000425962_20130320133437/Rendered/PDF/760080ESW0GRAY0C0Disclosed030200130.pdf Accessed 18 November 2013

¹⁰ Atallah, S 2013, *Finding a Job in Lebanon: The Hidden Cost of "Connections"*, The Lebanese Center for Policy Studies, 11 May <http://www.lcps-lebanon.org/featuredArticle.php?id=16> Accessed 15 November 2013; Mokbel, T 2013, 'Most students believe 'wasta' crucial', *Outlook*, 7 May <http://outlookaub.com/2013/05/07/most-students-believe-wasta-crucial/> Accessed 15 November 2013; Galey, P 2011, 'USAID promises to empower civil society groups', *The Daily Star*, 16 September <http://www.dailystar.com.lb/News/Lebanon->

family connections may make it more difficult for the applicant to find employment, particularly in his home district of Akkar. However, the applicant is a qualified [tradesman] who has worked in the trade for several years, as well as undertaking study towards a higher qualification. The Tribunal does not accept on the evidence before it that the applicant would be prevented by his family from finding any employment anywhere in Lebanon.

49. The Tribunal has considered whether the applicant would be subjected to other forms of harm which would amount to persecution if he returned to Lebanon. The Tribunal has accepted above that the applicant's family disapproves of his relationship with H and he would not be welcomed by his family should he return to Lebanon. The Tribunal has accepted that the applicant's family observes customs based on local, tribal norms. The Tribunal finds that based on these factors together the applicant may have difficulty finding somewhere to live in his home district. The Tribunal has accepted that the applicant may have difficulty finding employment, particularly in his home district. The Tribunal accepts that based on the treatment he has experienced to date he is likely to be ostracised and subjected to slurs and verbal abuse, should he return to his home district of Akkar. The Tribunal also accepts that if he returned to Lebanon H would not return with him and that this would cause the applicant emotional and psychological distress.
50. The Tribunal finds that none of these issues individually would constitute serious harm for the purposes of s.91R. However, the Tribunal is mindful of the need to consider the totality of the applicant's circumstances. The applicant stated at hearing that his situation has affected him mentally and emotionally and he has thought of killing himself and the Tribunal has had regard to this in considering how the applicant may be vulnerable to harm. The Tribunal finds that cumulatively, if the applicant returned to Akkar without H and were ostracised, verbally abused, unable to find accommodation and unable to find employment, these harms would together amount to serious harm in that they would be likely to cause psychological distress and threaten his ability to subsist. The Tribunal finds that there is a real chance that the applicant will be subjected to serious harm if he returned to his home district of Akkar, in Lebanon, now or in the reasonably foreseeable future.
51. The applicant has claimed throughout that he fears harm for reason of his relationship with H. He stated that initially this was based on his relationship having offended religious mores but is now based on family and tribal custom and culture. Asked at hearing why the head of the family would want to kill him, the applicant said it was "a family issue; forget about religion, he wants to kill me because of what I have done because I had a relation with my [relative]'s wife". In response to further questioning from the Tribunal as to whether the relationship offended religious or family values, the applicant said it was "rejectable from all aspects". On the evidence before it, the Tribunal finds that all of the harms the applicant fears derive from the same cause, namely his relationship with H and would occur because of a private family dispute. On the evidence before it, the Tribunal finds that none of the harms feared by the applicant would occur for the essential and significant reason of any of the five convention grounds. The Tribunal finds that there is not a convention reason for the harm feared.
52. The applicant has claimed that no state protection would be available to him as one sect will not intervene in the affairs of another; the President is Christian and it is as though the state is governed by Christianity. The Tribunal discussed with the applicant at hearing the fact that

country information¹¹ indicates that while the police and judicial systems are not perfect, the state does take action in relation to family violence. The applicant responded that the state does not intervene in the big tribes in Lebanon and laws do not apply there. The Tribunal has accepted above that family and tribal affiliations are highly significant in many areas of Lebanese life and that the applicant's family lives according to local, tribal norms and customs. The Tribunal also accepts that country information indicates that the military and security presence in Akkar is limited.¹² The Tribunal accepts that the applicant may not be afforded complete protection by the state, but notes that no state is required to guarantee the safety of its citizens from violence by non-state actors and that the Convention envisages "a reasonable level of protection, not a perfect one."¹³

53. The question then arises of whether protection will be discriminatorily withheld from the applicant by the authorities for a Convention reason. The applicant has not claimed that he would be denied protection by the state because of his relationship with H or because this relationship has transgressed social mores. Having regard to the country information referred to above, including October 2013 reports of a police manhunt in Akkar following a murder resulting from a family feud and May and July 2013 reports of military intervention to prevent escalation of two other family disputes, the Tribunal finds that while it may not be complete and despite family and tribal influence, state authorities do intervene in and take action against disputes within and between families in Akkar. On the evidence before it, the Tribunal finds that state protection would not be discriminatorily withheld from the applicant for a Convention reason.
54. The applicant has claimed that the Syrian intelligence services may target and kill him as a return favour to his family for assistance they gave when the Syrian army was in Lebanon before 2005. Asked about this claim at hearing, the applicant said his eldest uncle was an active member of the party when the Syrians were in Lebanon before 2005 but he is not sure if he is still involved. The Tribunal finds that this claim is vague and speculative and does not accept that there is a real chance the Syrian intelligence services will target and kill the applicant should he return to Lebanon now or in the reasonably foreseeable future.
55. As the Tribunal has found above that there is not a convention reason for the harm feared by the applicant and that state protection would not be discriminatorily withheld from him for a convention reason, the Tribunal has not considered further whether the applicant could relocate. The Tribunal finds on the evidence before it that the applicant does not have a well-founded fear of persecution for a convention reason.

¹¹ *The Daily Star* 2013, 'Man killed in family feud in Lebanon's Akkar', 30 October <http://www.dailystar.com.lb/News/Lebanon-News/2013/Oct-30/236279-man-killed-in-family-feud-in-lebanons-akkar.ashx#ixzz2jv5gtsOo> Accessed 13 November 2013; *Naharnet*, 2013, 'Man Killed in Fighting with Sticks and Machetes in Akkar', 21 July <http://www.naharnet.com/stories/en/91343>, Accessed 7 November 2013; *Now Lebanon*, 2013, 'One killed, several injured in Akkar family feud', 21 July <https://now.mmedia.me/lb/en/lebanonnews/one-killed-several-injured-in-akkar-family-feud> Accessed 13 November 2013; *The Daily Star* 2013, 'Army detains 2 in fatal Akkar feud', 4 May, <http://www.dailystar.com.lb/News/Lebanon-News/2012/May-04/172319-army-detains-2-in-fatal-akkar-feud.ashx#axzz2kTthCb7e> Accessed 13 November 2013

¹² Rifi, G 2012, 'Chaos Reigns In North Lebanon, Where Military has Lost Control', *Al Monitor*, 15 June <http://www.al-monitor.com/pulse/tr/contents/articles/politics/2012/06/is-the-army-testing-the-declarat.html#ixzz2kZqeOFER>, Accessed 14 November 2013

¹³ *MIMA v Respondents S152/2003* (2004) 222 CLR 1 at [117]

Is the applicant owed complementary protection?

56. The Tribunal notes the explanation of the ‘risk threshold’ in the Complementary Protection Guidelines. However, in considering s.36(2)(aa) it has proceeded on the basis that the ‘real risk’ test imposes the same standard as the ‘real chance’ test applicable in the context of assessment of the Refugee Convention definition following the Full Federal Court decision in *MIAC v SZQRB* [2013] FCAFC 33.
57. The Tribunal outlined to the applicant at hearing the complementary protection provisions and the forms of harm amounting to significant harm defined at ss.36(2A) and 5(1). The Tribunal explained to the applicant that if it accepted that he did face a real chance of serious harm but found that there was no convention reason for the harm he feared, his case would turn on whether he met the complementary protection provisions. The Tribunal asked the applicant whether there was anything else he wanted to tell the Tribunal and the applicant asked whether the Tribunal accepted that he and H were living together. The Tribunal said it did accept this.
58. The Tribunal has found above for multiple reasons that there is not a real chance the applicant will be seriously physically harmed or killed if he returns to Lebanon. For the same reasons, the Tribunal is not satisfied there are substantial grounds for believing there is a real risk the applicant will be arbitrarily deprived of his life. The applicant has not claimed that he will be subjected to the death penalty and on the evidence before it, the Tribunal is not satisfied that there are substantial grounds for believing there is a real risk the death penalty will be carried out on the applicant. The applicant has not claimed that he will be tortured, and the Tribunal is not satisfied there are substantial grounds for believing there is a real risk the applicant will be subjected to torture as defined at s.5(1).
59. The Tribunal has found above that if the applicant returned to Akkar he may be ostracised, verbally abused, unable to find accommodation and unable to find employment and that together, these factors would threaten his ability to subsist and cause psychological distress. However, the Tribunal has found that there is no convention reason for these harms. The Tribunal has considered whether these forms of harm, singly or cumulatively, would amount to cruel or inhuman treatment or punishment as defined in s.5(1), namely,
- an act or omission by which:
- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
 - (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;
- but does not include an act or omission:
- (c) that is not inconsistent with Article 7 of the [ICCPR]; or
 - (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the [ICCPR].
60. The Tribunal notes that although the definition of cruel or inhuman treatment or punishment refers to “an act or omission”, s.23(b) of the *Acts Interpretation Act 1901* provides that words in the singular number include the plural and words in the plural number include the singular, such that a number of acts or omissions intentionally inflicted could cumulatively amount to cruel or inhuman treatment or punishment where, when taken

together, those acts or omissions would inflict severe pain or suffering or pain or suffering which could reasonably be regarded as cruel or inhuman in nature.

61. If the applicant returned to Akkar, the Tribunal finds on the evidence before it that the harms to which he would be subjected would potentially leave the applicant destitute, homeless and psychologically distressed. The Tribunal has accepted above that if the applicant returned to Lebanon H would not return with him. The Tribunal notes that the applicant has spoken of having suicidal thoughts. The Tribunal finds that in the applicant's circumstances, and noting the significance of family and tribal affiliations in his home area of Akkar, the acts or omissions of the applicant's family would cause the applicant mental pain and suffering likely to be severe. The Tribunal finds that the pain and suffering would be intentionally inflicted on the applicant by his family members who would seek by their acts or omissions to harm the applicant.
62. The Tribunal has also considered whether the acts or omissions which would cause the applicant pain and suffering would be inconsistent with Article 7 of the ICCPR, which provides that '...no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation'. The Tribunal has had regard to the DIBP's Complementary Protection Guidelines and notes that they identify certain circumstances which would generally not be considered inconsistent with Article 7, such as deprivation of economic, social or cultural rights leading to a degrading condition of existence where this is due to "general economic and social factors". However, neither s.5(1) of the Act nor Article 7 of the ICCPR appears expressly to exclude from consideration harm arising from "general economic and social factors" and the Tribunal considers that the DIBP Complementary Protection Guidelines thus go beyond the wording of the legislation. The Tribunal finds that the pain or suffering caused by the acts or omissions of the applicant's family which would lead to him becoming destitute, homeless and possibly unemployed are not excluded from consideration.
63. The Tribunal has also found above that it is likely the applicant would be subjected to verbal abuse and slurs from his family. The Tribunal has had regard to the circumstances in which the applicant would likely find himself, including psychological distress and vulnerability and notes that that being publicly abused and having bad things said about him would be difficult and unpleasant. Despite this, on the evidence before it, the Tribunal is not satisfied that verbal abuse and slurs on their own would cause pain or suffering which could reasonably be considered severe. However, the Tribunal finds that together with the pain and suffering caused by being destitute, homeless and unemployed, verbal abuse and slurs would in the applicant's circumstances cumulatively give rise to severe pain or suffering which would be inflicted intentionally by his family and which would amount to cruel or inhuman treatment or punishment as envisaged by s.5(1). The Tribunal finds that there are substantial grounds to believe that as a necessary and foreseeable consequence of being removed from Australia to a receiving country, the applicant would be subjected to cruel or inhuman treatment or punishment.
64. The Tribunal has also considered whether the forms of harm to which it has found the applicant would likely be subjected on his return to Akkar would, singly or cumulatively, amount to degrading treatment or punishment as defined in s.5(1), namely,

an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the [ICCPR], or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the [ICCPR].

65. For the same reasons that are set out above in relation to cruel and inhuman treatment or punishment, the Tribunal finds that the acts or omissions of the applicant's family which would deprive him of economic and social rights are not excluded from consideration. On the evidence before it, the Tribunal is satisfied that the acts or omissions of the applicant's family which would lead to him being destitute, homeless and unable to find employment and to him being subjected to verbal abuse and slurs would cause and be intended to cause extreme humiliation which would be unreasonable and which would amount to degrading treatment or punishment as envisaged by s.5(1). The Tribunal finds that there are substantial grounds to believe that as a necessary and foreseeable consequence of being removed from Australia to a receiving country, there is a real risk the applicant would be subjected to degrading treatment or punishment.
66. Having regard to the findings above, it follows that the Tribunal is satisfied that there are substantial grounds for believing that as a necessary and foreseeable consequence of being removed from Australia to a receiving country there is a real risk the applicant would be subjected to significant harm.
67. The Tribunal has accepted above that family and tribal affiliations are highly significant in many areas of Lebanese life, that his home area of Akkar is dominated by family and tribal customs and mores and that the applicant's family lives according to local, tribal norms and customs. The Tribunal has also accepted that country information indicates that the military and security presence in Akkar is limited. For the purposes of its assessment under the Refugees Convention, the Tribunal has accepted that the applicant may not be afforded complete protection by the state, but that the Lebanese authorities do seek to intervene in and take action against family disputes in Akkar. However, for the purposes of s.36(2B)(b) under the Complementary Protection regime, the Tribunal notes with reference to the Court's decision in *MIAC v MZYLL* [2012] FCAFC 147 that it is necessary to ask whether the applicant could obtain from the relevant state authorities protection such that there would not be a real risk of him suffering significant harm. On the evidence before it, and particularly given nature of the harm to which the Tribunal has found the applicant is likely to be subjected, namely harm the Tribunal considers less likely to be mitigated by intervention by the state than for example, outright violence, the Tribunal is not satisfied that a level of protection would be available to the applicant that would reduce the risk of significant harm to less than a real one.
68. In accordance with s.36(2B)(a) the Tribunal has also considered whether in the applicant's case there might be taken not to be a real risk he will suffer significant harm because it would be reasonable for him to relocate to an area of the country where the real risk would not arise. The Tribunal has found that there is a real risk the applicant would suffer cruel or inhuman treatment or punishment or degrading treatment or punishment at the hands of his family if he returned to his home district of Akkar by virtue of becoming destitute, homeless, unable to find employment and being subjected to verbal abuse and slurs. The Tribunal has not accepted that the applicant's family has connections to and influence within multiple agencies of the state. It follows that the Tribunal finds the real risk of harm to the applicant is localised rather than nation-wide.

69. Asked at hearing whether there was anywhere he could live to be safe from the harm he feared, the applicant said no; nowhere in Lebanon is currently safe. He stated that the war in Syria has had a very bad effect and Hezbollah has influence everywhere. The applicant stated the only place he could live and work and be safe from his family is Beirut and there have been bombings everywhere. The applicant added that H could not come with him and that Lebanon is a small place and his family have connections everywhere. The Tribunal put to the applicant that as Beirut is a city of more than two million people, it may not accept this. The applicant responded that the Tribunal member had never lived there. The Tribunal explained to the applicant at hearing that if it did accept that he would be at risk of harm in his home region, it might find that he could relocate to avoid it.
70. The Tribunal has found that the applicant faces a real risk of significant harm at the hands of his family but that the real risk of that harm is localised to the applicant's home area of Akkar and that he could avoid it by moving to Beirut. The applicant has acknowledged that he could live safely from his family in Beirut and could work there. The Tribunal notes that the applicant is a qualified [tradesman] who has worked in the trade for a number of years. Notwithstanding the country information cited above indicating the significance of family ties or *wasta* to obtaining employment, the Tribunal finds the applicant's own statement that he could live and work in Beirut more compelling evidence that he would not be prevented from finding work in that city. While the applicant has also stated that his family could find him there the Tribunal also notes and gives greater weight to his own evidence that he could live and work in Beirut safe from his family. The Tribunal finds that the applicant could live in Beirut and avoid the real risk of significant harm in the form of cruel or inhuman treatment or punishment or degrading treatment or punishment he faces from his family in Akkar.
71. The applicant also claimed at hearing that he would not be safe in Beirut because of the impact of the war in Syria, the influence of Hezbollah and the bombings that have occurred. The Tribunal accepts that the war in Syria has had a number of distinct but interrelated adverse impacts on Lebanon.¹⁴ The Tribunal also accepts that the influence of Hezbollah within Lebanon remains significant.¹⁵ The Tribunal accepts that there has been sectarian violence including bomb blasts in Beirut in recent years and months.¹⁶ Having regard to the country information cited above, the Tribunal accepts that there is some sporadic generalised violence in parts of Beirut arising from political and sectarian tensions inflamed by Hezbollah's active involvement in the war in Syria and the pressures created by the influx of Syrian refugees to Lebanon. The applicant has not elaborated in any way on how these issues would cause him to be at risk of harm personally. On the evidence before it the Tribunal finds any sporadic, generalised violence occurring in Beirut would not give rise to a real risk that the applicant would be subjected to any harm, significant or otherwise.
72. The Tribunal has considered whether it would be reasonable, in the sense of practicable, for the applicant to relocate to Beirut. The applicant is a young man, qualified as [tradesman] and with a history of having been employed as [tradesman]. As noted above, the applicant has stated himself that he could live and work in Beirut and the Tribunal finds that in itself this acknowledgement imparts a degree of reasonableness to the proposition. The applicant

¹⁴ International Institute for Strategic Studies 2013, *Syrian war worsens Lebanon's malaise*, Strategic Comments, 4 September <http://www.iiss.org/-/media/Silos/Strategic%20comments/2013/Syrian-war-worsens-Lebanon--39-s-malaise/Syrian-war-worsens-Lebanon--39-s-malaise.pdf> Accessed 6 January 2014

¹⁵ Lavender, L 2013, *Blowback: The Unintended Consequences of Hezbollah's Role in Syria*, Civil-Military Fusion Centre, September https://www.cimicweb.org/cmo/ComplexCoverage/Documents/Reports/20130915_Hezbollah_Final.pdf Accessed 6 January 2014

¹⁶ *Ibid.*

also stated in responding to the Tribunal's questions regarding relocation that H could not return to Lebanon with him. The Tribunal explained to the applicant that while it understood this was a difficult issue for him, and may involve a degree of hardship as a result of their separation, the Tribunal is of the view that it remains reasonable for him to relocate.

73. While the Tribunal has found that any sporadic, generalised violence in Beirut would not result in a real risk of harm to the applicant, significant or otherwise, the Tribunal has also considered the extent to which any sporadic, generalise violence would affect the reasonableness of him relocating. The applicant has advanced no other reasons as to why he could not relocate to Beirut. Having regard to all of the matters noted above, including the applicant's age and his qualifications and previous employment together with the sporadic nature of any generalise violence that may occur in Beirut, the Tribunal finds that relocation to Beirut by the applicant would be reasonable in all the circumstances.
74. As the Tribunal has found that it would be reasonable for the applicant to relocate to an area of Lebanon where there would not be a real risk that he would suffer significant harm, the Tribunal finds further that pursuant to s.36(2B)(a), there is taken not to be a real risk that the applicant will suffer significant harm in Lebanon. It follows that the Tribunal is not satisfied there are substantial grounds for believing that as a necessary and foreseeable consequence of his removal from Australia to a receiving country there is a real risk the applicant will suffer significant harm.

Conclusion

75. 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).
76. 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).
77. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

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

Hilary Lovibond
Member