

**1318100 [2014] RRTA 126 (19 February 2014)**

**DECISION RECORD**

**RRT CASE NUMBER:** 1318100

**COUNTRY OF REFERENCE:** Ethiopia

**TRIBUNAL MEMBER:** Anthony Krohn

**DATE:** 19 February 2014

**PLACE OF DECISION:** Melbourne

**DECISION:** The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies section 36(2)(a) of the *Migration Act* 1958, being a non-citizen in Australia in respect of whom the Tribunal is satisfied Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol.

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

### SUMMARY OF CRITICAL FINDINGS

1. The applicant is a national of Ethiopia, an orthodox Christian, who fears persecution in that country by the Muslim family of his wife, and who seeks protection in Australia by the grant of a protection visa (“**the visa**”).
  - ❖ has well founded fear of persecution for reason of membership of a particular social group or groups, if he returns to his home area in Ethiopia;
  - ❖ cannot reasonably and safely relocate to another part of Ethiopia where he would be safe from persecution;
  - ❖ does not have a right to enter and reside in a third country.
2. The Tribunal therefore finds that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention<sup>1</sup> and that he meets a necessary criterion for the grant of a protection visa.

### CLAIMS AND EVIDENCE

3. The applicant’s claims were as follow.

#### **The applicant’s situation**

4. The applicant is a national of Ethiopia in his [age deleted], born in [City 1], where he grew up with his family. His father has a business and his family is not wealthy, but comfortably off. He speaks, reads and writes Amharic, English and Tigrinya. He and his family are Orthodox Christians. Several years ago, the applicant met and got to know a girl from a Muslim family. They came to love each other and decided to marry. The applicant’s family were happy with the match, but they knew that the girl’s family would never consent to the match, and so they married secretly, in a civil marriage, in 2012. The applicant provided to the Tribunal a copy of his civil wedding certificate (Tribunal’s file, folios 51-50).
5. The applicant’s wife went back to her family after the wedding, because the applicant was already about to leave for study in Australia. They planned that he would sponsor her to follow him to Australia.
6. The applicant’s wife’s family discovered their daughter was married to the applicant when they wanted her to marry a Muslim, and she said she could not, as she was already married. They beat and abused her, and the father of the applicant’s wife rang the applicant, and said that he would kill the applicant, unless the applicant converted to Islam, or divorced his wife. The applicant said he would not convert, nor would he divorce his wife.

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<sup>1</sup> 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. The applicant is in telephone contact with his wife every couple of weeks. She has confirmed that her family are furious about the marriage.
8. The applicant was upset and distracted by the situation of his wife, and the threats of his wife's father, and failed his studies in Australia. He wants to rescue his wife from her family, and live with her. The authorities in Ethiopia will not help; they would regard the treatment of the applicant's wife by her family as a family matter and would not intervene.
9. The applicant's wife's family have a religious or tribal network which would enable them to find and to harm the applicant if he relocated in Ethiopia, and he would suffer discrimination in employment, because of his marriage to a Muslim woman.

### **The delegate's decision**

#### *Whether protection under the Refugee Convention*

10. The Minister's delegate<sup>2</sup> ("**the delegate**") and the Tribunal accepted the applicant as a truthful witness, and his claims of marriage to a Muslim woman.
11. The delegate was not satisfied that the applicant's wife's family would kill the applicant, but was satisfied that if the applicant returned to his home area of Ethiopia he would have a real chance of serious physical harm at the hands of his wife's family. The delegate was satisfied that this harm would be for the reason of religion, a reason under the Convention
12. The delegate considered, however, that it was reasonable and possible for the applicant to relocate to a part of his country where he could survive and avoid harm from his wife's family. The delegate did not accept that the applicant's wife's family had a religious or tribal network which would enable them to harm him if he relocated, nor that he would suffer discrimination because of his marriage to a Muslim woman.
13. The delegate therefore found that the applicant was not a person to whom Australia had protection obligations under the Convention.

#### *Whether complementary protection*

14. The delegate did not accept that there was a real risk the applicant would be killed by his wife's family, and therefore did not accept that there was a real risk the applicant would suffer significant harm.
15. The delegate also considered that it was reasonable and possible for the applicant to relocate to a part of his country where he would not have a risk of significant harm.

### **Information from other sources about Ethiopia**

16. There are no country information assessments prepared by the Department of Foreign Affairs and Trade, expressly for protection status determination purposes, relating to Ethiopia, as at the date of the Tribunal's decision.<sup>3</sup>

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<sup>2</sup> The delegate of the Minister for Immigration and Border Protection for the purposes of section 65 of the *Migration Act 1958*.

*Relations between Christians and Muslims*

17. There is some evidence of tensions between Christians and Muslims in Ethiopia.
18. The *International Religious Freedom Report* for 2012, by the Bureau of Democracy, Human rights and Labor of the U.S. Department of State, relevantly says in part the following, relating to Ethiopia:

“There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice. In most regions, Orthodox Christians and Muslims generally respected each other’s religious observances and tolerated intermarriage and conversion. The Ministry of Federal Affairs, EIASC<sup>4</sup>, and civil society groups attempted to address extremism and the potential for sectarian violence through workshops and training of religious leaders, elders, and influential community members. Some members of the Muslim community, however, stated that the training program’s promotion of the “al-Ahbash” religious philosophy constituted government interference in religious affairs.

...

The EIASC continued to express concern about the increasing influence of some allegedly Saudi-funded Salafist groups within the Muslim community. The EIASC blamed these groups for exacerbating tensions between Christians and Muslims, and within the Muslim community.”<sup>5</sup>

19. In March 2007, there was a report of the killing of a Christian by Muslim extremists in a predominantly Muslim area of southern Ethiopia:

An Ethiopian evangelist was beaten and killed by Wahabbi Muslim extremists while evangelizing on the streets earlier this week, reported a Christian persecution watchdog group.

The Christian man, identified as Tedase, was on the streets with two young females evangelizing Monday afternoon on Merkato Street in Jimma, southern Ethiopia, when he was attacked by Muslim militants, according to International Christian Concern’s sources in Jimma.

Tedase was reportedly walking in front of a Wahabbi Mosque on Merkato street when a group of Muslims exiting the mosque confronted him and his party. The women ran away from the mob but Tedase continued to evangelize. The Muslims then pulled him into the mosque and “savagely” beat him to death with the intention to kill him, according to ICC’s sources.

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<sup>3</sup> The Tribunal is required, by Direction No. 56, made by the Minister under section 499 of the Act, to take account of any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that it is relevant to the decision under consideration.

<sup>4</sup> Ethiopian Islamic Affairs Supreme Council

<sup>5</sup> *International Religious Freedom Report* for 2012, by the Bureau of Democracy, Human Rights and Labor, of the U.S. Department of State.

<http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208148#wrapper>, accessed 11 February 2014.

“This was no accident or case of mob frenzy getting out of control,” noted ICC in a released report Thursday.

Sources speculate that Tedase was used as an example to scare other Christians in the area; Jimma Christians were in the midst of an evangelism campaign and news of the outreach had spread among Jimma residents as well as militant Muslim groups in the area.

Ethiopia was ranked third earlier this year in ICC’s “Hall of Shame” list of the world’s top ten persecutors of Christians.

ICC noted that Jimma is a Muslim-dominated area where local authorities are almost exclusively Muslim. The watchdog group also observed that Wahhabism was imported from Saudi Arabia.

Wahhabism is a reform movement of Islam that originated in Arabia in the 18th century. Followers adhere to an extreme literalist view of Sharia law, or Islamic laws.

(Riley, Jennifer 2007, ‘Evangelist Beaten to Death by Muslim Extremists Inside Mosque’ Christian Post website, 27 March.<sup>6</sup>)

### *Marriages*

20. While arranged marriages remain common in Ethiopia, and may be the rule in rural areas, many who live in urban areas do not have arranged marriages, although it is still important that the family approves the match.<sup>7</sup>

### *Marriage certificates*

21. According to the U.S. consular service, marriage certificates are available only to those physically present in Ethiopia, and requests for these should be addressed to the municipality where the marriage was registered.<sup>8</sup>

### *Marriages between Christians and Muslims*

22. The following article about a marriage between a Muslim Sudanese woman and a Christian Ethiopian man implies that such marriages are not the norm:

**Khartoum** - A Muslim Sudanese girl has married a Christian Ethiopian man in a ceremony backed by a controversial religious edict allowing Muslim women to marry non-Muslim men.

It was reported that the marriage of the Muslim woman and the Christian man, a mix prohibited by orthodox Islam, was recently sanctioned by a fatwa issued by contentious religious scholar Hassan Abdullah al-Turabi.

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<sup>6</sup> <http://www.christianpost.com/article/20070330/evangelist-beaten-to-death-by-muslim-extremists-inside-mosque.htm> - Accessed 22 September 2008

<sup>7</sup> Abadi, A. ‘Marriages and Wedding ceremonies in Ethiopia’ (undated) Ethiomedia website, <http://www.ethiomedia.com/newpress/marriage.html> - Accessed 18 February 2014.

<sup>8</sup> US Bureau of Consular Affairs n.d., *Country Reciprocity Schedule: Ethiopia* <[http://travel.state.gov/visa/fees/fees\\_5455.html?cid=9170](http://travel.state.gov/visa/fees/fees_5455.html?cid=9170)> Accessed 18 February 2013, copy of extract at folios 54-53 of the Tribunal’s file.

Al-Turabi was also the secretary-general of the opposition Sudanese Popular Congress.

The marriage ceremony was conducted in a church in al-Qadarif town on Sudan's eastern border with Ethiopia.

### **Bride's relatives divided**

It was reported that participants in the marriage festivities said the bride was "happy with her marriage to a Christian man and was convinced of the legitimacy of the idea that was backed by the fatwa of Dr al-Turabi".

The relatives of the bride were divided over such a step, that would render the woman an apostate under Islamic tradition.

Almost all Muslim scholars shared the understanding that Islam prohibited Muslim women from marrying non-Muslim men, but allowed Muslim men to take non-Muslim wives since children in both cases followed the religion of the father.

Abdul Fattah Idris, professor of comparative religious laws at the Azhar University, said: "Muslim women are prohibited by the sharia law [Muslim law] from marrying people of the book [Jews and Christians]."<sup>9</sup>

### *Unemployment, and poverty in Ethiopia*

23. The Ethiopian government has a programme of forced resettlement of people into villages which often lack the essentials for living.<sup>10</sup>
24. There are endemic results of malnutrition in Ethiopia, although some progress has been made towards reducing the high levels of hunger and malnutrition.<sup>11</sup>
25. There are reports of very high rates of poverty and unemployment outside [City 1], exacerbated by the Ethiopian government having recently prohibited citizens of the country from going abroad for work.<sup>12</sup>

### *Sudanese refugees in Ethiopia*

26. There are also recent reports that Ethiopia is housing over 80,000 Sudanese refugees.<sup>13</sup>

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<sup>9</sup> 'Muslim, Christian make history' 2006, News24 website (South Africa), 22 May

[http://www.news24.com/News24/World/News/0,,2-10-1462\\_1937118,00.html](http://www.news24.com/News24/World/News/0,,2-10-1462_1937118,00.html) – Accessed 24 September 2008

<sup>10</sup> See report "Ethiopia: forced Relocations bring Hunger, Hardship"

<http://www.hrw.org/print/news/2012/01/16/ethiopia-forced-relocations-bring-hunger-hardship?tr=y&auid=10168308>, accessed 18 February 2014, copy at folios of the Tribunal's file.

<sup>11</sup> World Food Programme ("WFP"), "10 Things Everyone Should Know About Hunger In Ethiopia", <http://www.wfp.org/stories/10-things-everyone-should-know-about-hunger-ethiopia>, Accessed 19 February 2013, copy at folio 56 of the Tribunal's file.

<sup>12</sup> [source deleted]

<sup>13</sup> Turkish Press.com: "42,000 S. Sudanese refugees in Ethiopia since December: UNHCR", <http://www.turkishpress.com/news.asp?id=389902>, accessed 19 February 2014, copy at Tribunal file, folio55..

## IS THE APPLICANT A REFUGEE?

### Criteria for a protection visa - section 36(2)(a)

27. The applicant has applied for a protection visa. Under section 65(1) of the *Migration Act* 1958 (“the Act”), a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied.
28. An applicant for the visa must meet one of the alternative criteria in section 36(2)(a), (aa), (b), or (c) of the Act.
29. 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 in respect of whom the Minister is satisfied Australia has protection obligations under the Convention.

### Definition of a refugee

30. Australia is a party to the Refugees Convention and, generally speaking, has protection obligations in respect of people who are refugees. Article 1A(2) of the Convention 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.

31. Is the applicant a refugee?

## FINDINGS AND REASONS

### Section 499 Ministerial Direction

32. The Tribunal is required, by Direction No. 56, made by the Minister under section 499 of the Act, to take account of policy guidelines prepared by the Minister’s department,<sup>14</sup> and any country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes,<sup>15</sup> to the extent that they are relevant to the decision under consideration. to the extent that they are relevant. The Tribunal has done so.

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<sup>14</sup> The relevant policy guidelines are *PAM3 Refugee and humanitarian - Complementary Protection Guidelines* and *PAM3 Refugee and humanitarian - Refugee Law Guidelines*.

<sup>15</sup> There are no country information assessments prepared by the Department of Foreign Affairs and Trade, and relating to Ethiopia, as at the date of the Tribunal’s decision.

## **Credibility**

33. The Tribunal finds that the applicant gave his evidence clearly, responsively and consistently with other material before the delegate and the Tribunal.
34. The Tribunal finds, by reference to all the material before it, that the applicant is a truthful and reliable witness of his own history and of the things known to him directly.

## **Nationality**

35. The applicant claims to be a citizen of Ethiopia and of no other country. (Minister's department's file, folios 61, 23.)
36. The Tribunal notes that the applicant entered Australia travelling on an Ethiopian passport in his own name. (Minister's department's file, folio 55.)
37. The Tribunal finds by reference to the applicant's evidence and claims about citizenship, that the applicant is a national of Ethiopia and of no other country.

## **No right to enter and reside in a third country - no bar under section 36(3)**

38. The Tribunal finds by reference to the applicant's evidence, his claims in the application for the visa, and to other evidence before it, that the applicant has claimed to have no right to enter and reside in any other country than his country of nationality, and that there is no evidence to the contrary. (Minister's department's file, folio 27.)
39. The Tribunal finds, by reference to the findings set out above, that the applicant does not have a right to enter and reside in any other country than his country of nationality, and that therefore section 36 (3) of the Act does not relieve Australia from having protection obligations in this matter.

## **State protection**

40. The Tribunal finds, as did the delegate, by reference to the material available to it, including the reports and evidence mentioned above, that the government and authorities of the applicant's country of nationality are not able and willing to provide the level of protection, which its citizens are entitled to expect according to international standards,<sup>16</sup> at least in relation to threats and violence in family and marital matters.<sup>17</sup>
41. The Tribunal concludes from these circumstances that the applicant's unwillingness to rely on the protection from the authorities of his country of nationality is therefore justified for the purposes of Article 1A(2) of the Convention.

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<sup>16</sup> See *Minister for Immigration and Multicultural Affairs v Respondents S152/2003* [2004] HCA 18; (2004) 222 CLR 1 at [27]- [29].

<sup>17</sup> See for example the *Country Reports on Human Rights Practices for 2012*, by the Bureau of Democracy, Human rights and Labor of the U.S. Department of State, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, Accessed 19 February 2014, extract at folios 62-61 of the Tribunal's file, relating to the failure of the authorities to protect women against domestic violence.



## **What if the applicant returns to his home area of his country of nationality?**

*If the applicant returns to his home area of [City 1]*

42. The Tribunal finds, by reference to the applicant's evidence, that he has married a Muslim woman without her family's consent, that they are furious, and that her father has offered the applicant three choices: conversion from Islam, divorce, or death. The applicant has refused the first two, and fears the third.
43. The Tribunal notes the evidence, cited by the delegate, of the 2012 report by the US State Department on Religious Freedom, that:

There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice. In most regions, Orthodox Christians and Muslims generally respected each other's religious observances and tolerated intermarriage and conversion. The Ministry of Federal Affairs, EIASC [Ethiopian Islamic Affairs Supreme Council], and civil society groups attempted to address extremism and the potential for sectarian violence through workshops and training of religious leaders, elders, and influential community members. Some members of the Muslim community, however, stated that the training program's promotion of the "al-Ahbash" religious philosophy constituted government interference in religious affairs.

...

The EIASC continued to express concern about the increasing influence of some allegedly Saudi-funded Salafist groups within the Muslim community. The EIASC blamed these groups for exacerbating tensions between Christians and Muslims, and within the Muslim community.<sup>18</sup>

44. In view of this evidence in the USW State Department report, the Tribunal remains doubtful whether the family of the applicant's wife may go so far as to kill the applicant, but, as stated above, the Tribunal is satisfied, as was the delegate, that if the applicant returned to his home area of [City 1], he would have a real chance of suffering serious physical harm, amounting to persecution, at the hands of his wife's family. This harm would be for the purpose for punishment, or to persuade him to convert, or to divorce his wife, or for all these purposes.
45. The Tribunal finds that this harm would be for reason of religion, demonstrated by the fact that the father of the applicant's wife offered the applicant the option of conversion to Islam, rather than divorce or death.
46. The Tribunal finds that the applicant will have a real chance of suffering this serious harm at the hands of his wife's family even if his wife does not escape from her family to join him; as long as the applicant lives, and refuses to divorce his wife, he is her husband, repugnant to her family because he is a Christian, and he prevents her family from arranging another marriage for her.

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<sup>18</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, International Religious Freedom Report for 2012, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>, accessed 18 February 2014.

47. It follows and the Tribunal finds that if the applicant returns to his home area in [City 1], he has well founded fear of persecution for reason of religion.

**Could the applicant reasonably relocate and live safely in another part of his country?**

48. The Tribunal has found that the applicant has a real chance of suffering persecution if he returns to the area where he lived before he left his country of nationality.
49. Depending upon the circumstances of the particular case, it may be reasonable for a person to relocate in the country of nationality or former habitual residence to a region where there is no appreciable risk of the occurrence of the feared persecution. The principles discussed by the court in *Randhawa v Minister for Immigration, Local Government and Ethnic Affairs* (1994) 52 FCR 437, per Black CJ at 440-1, require the Tribunal to determine whether the applicant can, reasonably in all the circumstances, live safely and free from a risk of such harm by resettling and living in another part of his or her the country of nationality.
50. In determining this question, the Tribunal has been mindful of the judgement in *MZYLH v Minister for Immigration & Anor* [2011] FMCA 888 (17 November 2011), where there was evidence that the applicant in that matter was suffering from severe depression and severe post-traumatic stress disorder. The court said at [137]-[138]:

***137. The Tribunal is required to consider the practical realities facing a person in determining whether it is reasonable to expect them to relocate. Those practical realities are not limited to matters related to persecution for a Convention reason:***

- *A well founded fear of persecution for a Convention reason having been shown, a refugee does not also have to show a Convention reason behind every difficulty or danger which makes some suggestion of relocation unreasonable.[146]*

***138. The issue is ... whether he could relocate within Pakistan and maintain himself given the state of his health. As Branson J said in NAIZ, the approach set down in Randhawa requires the Tribunal to consider the practical realities facing the Applicant to consider how, in a practical sense, he could reasonably be expected to relocate.[147]***

(Emphasis added.)

**Could the applicant safely and reasonably relocate within [City 1]?**

51. The Tribunal finds, that although [City 1] is a large city, within [region 2], the applicant's father has a well established and well known business, the Orthodox church (of which the applicant is a committed and practising member) has established institutions and community links, the Muslim community (of which the applicant's wife's family are members) has established institutions and community links, and therefore even if the applicant were to relocate within [City 1], there is a real chance that within the reasonably foreseeable future, the applicant's wife's family would find him, and that if they find them there is a real chance they will seriously harm the applicant.

*If the applicant's wife leaves her family to join the applicant*

52. The Tribunal finds, by reference to the applicant's evidence that he wants his wife to join him, and that he would try to arrange for her to leave her family and join him so that they could establish a home together.

53. The Tribunal finds that if the applicant's wife leaves her family, her father and family will engage in a furious and intense search for her and for the applicant, whose name they know. This will increase the chances of them finding the applicant and inflicting serious harm on him even if he and his wife move to a different part of [City 1].

*Conclusion - it is not safe for the applicant to relocate within [City 1]*

54. The Tribunal therefore finds that it is not safe for the applicant to relocate within [City 1].

**Could the applicant safely and reasonably relocate within Ethiopia but outside [City 1]?**

55. The Tribunal is not satisfied, by reference to the information available concerning Ethiopia, that the applicant's wife's family have a religious or tribal network which would enable them to harm the applicant if he relocates to another part of Ethiopia outside [City 1].
56. Nor is the Tribunal satisfied, by reference to all the material before it, that the applicant would suffer general discrimination in Ethiopia because of his marriage to a Muslim woman. The evidence is indeed that there is a high degree of toleration in Ethiopia between Orthodox Christians and Muslims, although there are some strains.
57. Nevertheless, the Tribunal gives weight to the evidence of poverty and unemployment being particularly severe outside [City 1], and indeed the precarious state of life through extreme poverty for a very large part of the population outside the capital, exacerbated by the Ethiopian government having recently prohibited citizens of the country from going abroad for work.
58. While it may be expected that some level of hardship may be endured for the sake of relocating in a place safe from persecution, the evidence is that there is very grave suffering for a very high proportion of the population outside [City 1]. The applicant has no friends or relatives or other connections outside [City 1] who could help him and his wife to relocate outside the capital, and to get a living. He is married and hopes to live with his wife, and they may have children for whom they would need to care. The Tribunal therefore does not regard it as reasonable in all the circumstances of the applicant for him to relocate with his wife to a place in Ethiopia outside [City 1], or even to do so alone, if he should be unable initially, or for some time, to arrange her escape from her family.
59. Having considered the factors outlined above, the Tribunal considers that in all the circumstances of the applicant's case, it is not reasonable and possible for the applicant to relocate from his home area of [City 1] to another part of his country where he would not have well founded fear of persecution.

*Conclusion*

60. It follows from the findings set out above, and the Tribunal finds, that the applicant has a well founded fear of persecution in relation to her country of nationality as a whole.

## **CONCLUSIONS**

### **Well founded fear of persecution for reasons under the Convention**

#### *In the applicant's home area*

61. The Tribunal finds, by reference to the applicant's evidence and the other material concerning the situation in the applicant's country of nationality, that in the home area of his country of nationality the applicant has well-founded fear of persecution for reason of religion.

#### *Not reasonable to relocate*

62. The Tribunal also finds that it is not reasonable and possible, in all the applicant's circumstances, for him to relocate to a part of his country where he would not have well-founded fear of persecution.
63. The Tribunal therefore finds that the applicant has well-founded fear of persecution for a reason under the Convention in relation to his country as a whole.
64. The Tribunal is therefore satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in section 36(2)(a) for a protection visa.

## **DECISION**

65. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies section 36(2)(a) of the *Migration Act 1958*, being a non-citizen in Australia in respect of whom the Tribunal is satisfied Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol.

Anthony Krohn,

Member.