

**071509463 [2007] RRTA 232 (19 September 2007)**

**DECISION RECORD**

**RRT CASE NUMBER:** 071509463

**DIAC REFERENCE(S):** CLF2006/7703

**COUNTRY OF REFERENCE:** Lebanon

**TRIBUNAL MEMBER:** Bronwyn Forsyth

**DATE DECISION SIGNED:** 19 September 2007

**PLACE OF DECISION:** Sydney

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

**STATEMENT OF DECISION AND REASONS  
APPLICATION FOR REVIEW**

This is an application for review of a decision made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).

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

The delegate refused the visa application on the basis that the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.

The applicant sought review of the delegate's decision.

**RELEVANT LAW**

Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.

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

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

#### Definition of 'refugee'

Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* [1989] HCA 62; (1989) 169 CLR 379, *Applicant A v MIEA* [1997] HCA 4; (1997) 190 CLR 225, *MIEA v Guo* [1997] HCA 22; (1997) 191 CLR 559, *Chen Shi Hai v MIMA* [2000] HCA 19; (2000) 201 CLR 293, *MIMA v Haji Ibrahim* [2000] HCA 55; (2000) 204 CLR 1, *MIMA v Khawar* [2002] HCA 14; (2002) 210 CLR 1, *MIMA v Respondents S152/2003* [2004] HCA 18; (2004) 222 CLR 1 and *Applicant S v MIMA* [2004] HCA 25; (2004) 217 CLR 387.

Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.

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

Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve "serious harm" to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression "serious harm" includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant's capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.

Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.

Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase "for reasons of" serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

Fourth, an applicant's fear of persecution for a Convention reason must be a "well-founded" fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a "well-founded fear" of persecution under the Convention if they have genuine fear founded upon a "real chance" of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A "real chance" is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

## **CLAIMS AND EVIDENCE**

The Tribunal has before it the Department file relating to the applicant, which includes the applicant's protection visa application and statement of claims, the delegate's decision. The Tribunal also has before it the Tribunal's file.

According to his protection visa application, the applicant is a Lebanese national in his early thirties. He completed a number of years of education and describes his profession before coming to Australia. He noted that he worked in several jobs for a period of time. He is a Shi'ite Muslim. He lived in different places from the mid 1990s until he arrived in Australia. The applicant noted in the application form that he did not have any difficulty obtaining travel documents and that he left Lebanon legally.

## ***Application***

The Tribunal has reviewed the applicant's files and is satisfied that the following is an accurate summary of the information on file:

...applicant claims that he was sponsored to come to Australia by his then fiancée whom he had met during a visit to Australia in a particular year. His fiancée was Christian but this did not cause any problems between them. Back in Lebanon he tried to locate his fiancée's natural father. He made numerous trips to other parts of Lebanon and "was confronted with a lot of questioning". At one stage he was "arrested" by a group in Tripoli who suspected him of being a spy and gathering information to be used against "the people in Tripoli". He was threatened, bashed and was asked hundreds of questions about his situation.

...arriving in Australia, his fiancée found out that she has a medical condition. Her subsequent medical condition did not allow for a marriage to take place and they parted amicably. The applicant spoke to a Departmental officer over the telephone and was advised to lodge "a humanitarian application".

...leaving Lebanon the applicant closed his business and sold his equipment. He states that the harm he would face upon returning to Lebanon is "the loss of income and a job". He is unable to relocate because he was beaten and questioned by "a political group" in Tripoli while searching for his former fiancée's relative. The Lebanese government is unable to protect him, or to find him a job or make an effort so that he can resume his previous job with the company he worked for. Since leaving Lebanon he has been frightened by the assassination of political leaders, even though he is not one. He is young and ambitious and considers the low wages paid in Lebanon to be a violation of human rights.

...applicant wrote to the Tribunal requesting that the hearing be postponed. He stated that his family's property was damaged and that his family have been forced to leave the area as a result of the latest war in Lebanon. This has caused him trauma and shock. He also stated that his de facto spouse is now pregnant and is suffering from medical complications.

Tribunal contacted the applicant by telephone and informed him that his request for a postponement has not been granted.

## **Tribunal's first hearing**

The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal is satisfied that the following is an accurate summary of the evidence provided:

...applicant stated that he came to Australia and met his former fiancée. Before returning to Lebanon his fiancée asked him to search for her natural father. From the father's surname the applicant concluded that he is from Tripoli. In the early 2000s he drove to Tripoli in search of his fiancée's relative. In Tripoli he saw a group of young men standing on the roadside. He stopped to ask them whether they knew of his fiancée's family. They asked him many personal questions. The applicant told them his name and that he had travelled from City A. They assumed that he was a member

of Hezbollah, which he was not, and punched him in the face. The applicant jumped in his car and left the area. He never returned to Tripoli and never again encountered the men. He said that he has many other stories about Lebanon.

...applicant was asked what he meant by this. He said when he was a teenager his father's business was visited by somebody from a high profile family who was accompanied by Syrian officers. They took assets of the business but refused to pay. His father was told that he would be paid the next day. When his father went to demand his money the following day, the man refused to pay. His father complained to a Syrian officer, but was insulted and threatened to be put in jail. He was subsequently told by another officer to forget about his money.

...applicant stated that in the 1990's during a military operation between the military and Hezbollah in City A his relative was injured. His relative was a member of a government agency based in Beirut. At the time of the operation he was on leave and was on his way to City A when his car was stopped by the military. They did not know his occupation and someone assaulted him and he subsequently developed a medical condition, but his employer refused to let him leave his employment. He added that his father died as a result of medical negligence in Lebanon. Life is not easy over there and he wants a good life. He said maybe he has no right to be a refugee, but he wants a good life. The Tribunal explained to him that its role is limited to determining whether he is a refugee or not.

...applicant stated that there is a war in Lebanon, all Shi'a areas are being bombarded and all his family are hiding in shelters.

#### Tribunal's second hearing

The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal also received oral evidence from the applicant's wife and sibling. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic (Lebanese) and English languages. The applicants were not represented and requested that a support person be present to assist.

At the hearing a copy of the applicant's Lebanese passport was taken and placed on file. The applicant also submitted a 3 page Travel Advice document on Lebanon prepared by the Department of Foreign Affairs (DFAT), which he had printed from the internet. According to the advice current at 29 July 2007:

- the security situation in Lebanon is highly volatile
- people are strongly advised not travel to the Tripoli area in Northern Lebanon or to Palestinian refugee camps or south of the Litani River, the Bekaa Valley and Mount Lebanon due to the uncertain security environment and danger posed by landmines

#### *Applicant's evidence*

The applicant told the Tribunal that his claims for protection were still the same as he had previously told the Tribunal.

He told the Tribunal that he had not returned to Lebanon for a few years. He said that it is not safe and he referred to the DFAT Travel Advice noted above before stating that there were many warnings about travelling to Lebanon.

The Tribunal noted evidence suggesting that there are Christian areas in the country's north that have largely been spared attacks and bombardment before asking the applicant why he could not relocate to North Lebanon. The applicant replied that the war had transferred to North Lebanon.

The Tribunal referred to independent information that the large scale hostilities between Hezbollah and Israel which began on 12 July 2006 had ended on 14 August 2006. The applicant replied that there was still a risk and fear of another war amongst Lebanese or between Lebanon and Israel. He said that they kill everybody and that he did not know why or what their goal was. He said that he had already lost his job in Lebanon and that it would be very risky for him return. He spoke about now having a wife and daughter that needed him.

Asked about his family in City A, the applicant told the Tribunal that it is a small family and that they had fixed the house and that they were rebuilding. He told the Tribunal that his family was living in Syria where they had to pay a lot of money to stay, but now they had returned to where they were living before in City A. He said that if he returned to Lebanon it would be too difficult to find a job and that he had already lost his business. He said he would not have a job or a future and that while he could live with his family it would be too difficult.

In terms of the Convention reasons, the applicant indicated that most of them would apply to him because of the political differences and he said there is always a fear because of religion. He said not all but some of the grounds applied to him.

He said that he is a Shiite Muslim and that he loves his family. He told the Tribunal that he did not know why some people in Lebanon wanted to make trouble. He indicated people would think if you are Shiite you must be with Hezbollah. He said he wanted to live in peace with his family and daughter. He later said that he was educated and young and that he could find many jobs in Australia to be able to support his family without any help.

#### *Applicant's wife evidence*

The applicant's wife told the Tribunal that she and the applicant married a year ago and that he was the father of her child. She said that her parent was Lebanese and that they were born in Lebanon. The Tribunal urged the applicant's wife to make use of the interpreter when she appeared to experience difficulties communicating in English, which she did.

The applicant's wife said she was under immense stress because her husband is everything to her, he speaks much better English than her, and she hoped the Tribunal could help her so that her husband could stay with her in Australia. She said that she could not live in Lebanon because it did not have a good health care system and having lived in Australia for a few years, she was used to the way of life in Australia. She said that she could not live in a war torn country where safety is an issue. She said

she felt that her child must live and remain in Australia and that her child needs their father.

#### *Applicant's sibling's evidence*

The applicant's sibling told the Tribunal that she was born in Lebanon and came to Australia after she was married. She said that her relative was a good person with an Australia Business Number to work.

She told the Tribunal that the war in Lebanon now is very bad. She said that she travelled to Lebanon recently for a period of time with her children who were scared there. She said her parents had already moved back to Lebanon from Syria when she travelled. She said she had to have an operation but because you cannot trust doctors in Lebanon she had the operation in Syria. The applicant's sibling told the Tribunal that it is very hard to get a job in Lebanon before going on to say that the company that the applicant used to work for had been bombed.

#### *Spouse visa application*

In view of their marriage, the Tribunal asked whether the couple had considered making a spouse visa application should the applicant not fall within the definition of a refugee. The Tribunal told the couple that it was not in the position to advise them and that they should seek advice from a registered migration agent.

Asked if there was anything further he wished to add in relation to his protection visa application, the applicant replied that if he returned to Lebanon he may also experience problems on the basis that some people do not like Syrians. He said while his wife was born in Lebanon she is a Syrian national. He said she came to Australia a few years ago. He asked the Tribunal to consider his wife and daughter rather than himself when making its decision.

## **INDEPENDENT EVIDENCE**

### **The war in Lebanon 2006**

Large-scale hostilities between the Shiite organisation Hezbollah in Lebanon and Israel began on 12 July 2006 and ended on 14 August 2006. The cessation of hostilities followed the adoption of *United Nations Security Council Resolution (1701) 2006* on 11 August 2006. In order to prevent the resumption of hostilities, resolution 1701 (2006) allowed for the deployment of Lebanese Armed Forces and up to 15 000 United Nation's Interim Force (UNIFIL) in southern Lebanon along the border with Israel. Four reports from the United Nations Secretary General on the implementation of resolution 1701 (2006) have been issued since 11 August 2006 – on the 18 August 2006, 12 September 2006, 14 March 2007, with the latest on 28 June 2007. These reports have noted that the parties have “largely complied with the cessation of hostilities” (12 September 2006) and that “there remains an enduring commitment by the Government of Lebanon and the Government of Israel to resolution 1701 (2006)” (28 June 2007) (United Nations Security Council 2006, *Resolution 1701 (2006)*, United Nations website, 11 August <http://daccessdds.un.org/doc/UNDOC/GEN/N06/465/03/PDF/N0646503.pdf?OpenEl>

ement – Accessed 8 August 2007; United Nations Security Council 2006, *Report of the Secretary-General on the implementation of Security Council resolution 1701 (2006)*, United Nations website, 12 September <http://daccessdds.un.org/doc/UNDOC/GEN/N06/518/67/PDF/N0651867.pdf?OpenElement> – Accessed 3 August 2007; United Nations Security Council 2007, *Report of the Secretary-General on the implementation of Security Council resolution 1701 (2006)*, United Nations website, 28 June <http://daccessdds.un.org/doc/UNDOC/GEN/N07/404/02/PDF/N0740402.pdf?OpenElement> – Accessed 3 August 2007). The Secretary General's report of 12 September 2006 provided estimates of the war's effects on human life and infrastructure in Lebanon and Israel. It also reported that after a few days from the ceasefire on 14 August 2006, ninety per cent of those displaced (around 900 000) had returned to their homes or close to them, but that up to 150 000 remained displaced.

### **Travel to and within Lebanon**

By late November 2006, Lebanese government sources indicated that temporary diversions had been established at all damaged crossings and that the Rafic Hariri International Airport was operating normally (*Rebuilding Lebanon Together...100 Days after*, 2006, Rebuild Lebanon – Human, Economic and Infrastructure website, 21 November, p.9 and 39 [http://www.rebuildlebanon.gov.lb/images\\_Gallery/Rebuilding%20Lebanon%20Together-4.pdf](http://www.rebuildlebanon.gov.lb/images_Gallery/Rebuilding%20Lebanon%20Together-4.pdf) – Accessed 3 August 2007). Beirut International Airport officially reopened on 8 September 2006, according to a report in the logistics and freight news magazine *Traffic World* (Gallagher, T.L. 2006, 'Beirut Airport Reopens', *Traffic World*, 8 September).

[details relating to travel restrictions around City A deleted in accordance with s.431]

### **Present conditions in City A**

[Details relating to the damage which occurred to City A deleted]

### **Treatment of Shiite Muslims in Lebanon**

No reports were found to indicate that Shiite Muslims face systematic danger or serious harm from other social groups, religious or political, in the City A area or remaining areas of northern Lebanon. The City A area and the eastern part of northern Lebanon bordering Syria have majority Shiite populations. The following map from the Just World News website shows the areas of Lebanon where Shiites are concentrated: southern Lebanon and the southern areas of Beirut, the northern Region B and areas surrounding City A:

(Source: Cobban, H. 1984-1985, 'The Shia community of Lebanon, part 1', Just World News website <http://justworldnews.org/archives/001160.html> – Accessed 6 August 2007)



While the United States Department of State's most recent report on religious freedom in Lebanon indicated the presence of generally amicable relations between religious communities within the total population, of which Shiites make up between 28-35 per cent, the report also points to tension periodically between the religious groups which may arise because of divergent political affiliations (US Department of State 2006, *International Religious Freedom Report 2006: Lebanon*, 15 September).

#### Recent tensions between Shiites and Sunnis

Information from late 2006 and 2007 points to increased tension and animosity between, in particular, Sunni and Shiite populations in Lebanon as a result of wider political differences, which began to emerge with the assassination of the former Prime Minister Rafik Hariri in February 2005. The 34-day conflict between Israel and Hezbollah described above added to these tensions by bolstering the legitimacy of, and support for Hezbollah, which in December 2006 initiated large scale strikes and demonstrations in Beirut calling for the Saniora government to resign. It was during these demonstrations from 1 December 2006 to late January 2007 that the most recent examples of clashes between Sunnis and Shiites within the context of political differences took place. However, the results of this increased tension between Sunnis and Shiites in terms of possible danger or harm to Shiites **has so far been restricted to Beirut and its districts where Sunni and Shiite populations are in close proximity** (Stinson, J. 2006, 'Lebanon feels heat of Sunni-Shiite friction', USA Today website, 7 December [http://www.usatoday.com/news/world/2006-12-07-lebanon-tension\\_x.htm](http://www.usatoday.com/news/world/2006-12-07-lebanon-tension_x.htm) – Accessed 7 August 2007).

### FINDINGS AND REASONS

The Tribunal accepts that the applicant is a national of Lebanon and that he is a Shi'a Muslim.

#### **Incident – imputed Hezbollah affiliation**

The Tribunal accepts that the applicant was assaulted by a group of young men when he travelled to Tripoli and asked the men whether they knew his then fiancé's father's family. The Tribunal accepts they assaulted him because they assumed he was a member of Hezbollah. However, as the applicant told the Tribunal, he did not belong to Hezbollah and his encounter with the group was a chance case of mistaken identity. The applicant told the Tribunal that he jumped in the car and left the area and that he never returned to Tripoli and that since that one incident he had never encountered the men again. The applicant's circumstances at the time of the assault were unusual. He was not from Tripoli and he was asking strangers questions about a person he did not know. As a result, the Tribunal is satisfied that the applicant's chance of experiencing harm at the hands of this group of men, or any other anti Hezbollah group, in the future for reason of his religion, imputed political opinion, or any other Convention reason is remote.

#### **Applicant's family's experiences**

The applicant told the Tribunal about unfortunate incidents that his family experienced in Lebanon. The first occurred when the applicant was a teenager and his

father had a business. He told the Tribunal that someone from a high profile family and Syrian officers took assets of the business but refused to pay and when his father pursued the matter he was insulted by the Syrian officer and threatened to be put in jail. In view of the fact that this event occurred several years ago, and the applicant did not speak about any more recent similar incident, the Tribunal is satisfied that there is not a real chance that the applicant will have a similar experience in the reasonably foreseeable future. The Tribunal is also satisfied that there is not a real chance that the applicant will suffer serious harm for a Convention reason as a result of his relationship to his father who, the Tribunal notes, has also since passed away.

The applicant also spoke about his relative being injured when he was a member of a government agency. He was stopped by the military who did not know his occupation and they assaulted him and developed a medical condition. It is not clear why his relative was assaulted several years ago. Based on the evidence before it, the Tribunal is not satisfied that the applicant's relative was injured for any Convention reason. The Tribunal is satisfied that there is not a real chance that the applicant will have a similar experience for a Convention reason in the reasonably foreseeable future. The Tribunal is also satisfied that there is not a real chance that the applicant will suffer serious harm for a Convention reason as a result of his relationship to his relative should he return to Lebanon in the future.

The applicant gave evidence that his father died of medical negligence. His sibling also spoke of the poor health care in Lebanon and not being able to trust doctors in Lebanon. It was not claimed, and the Tribunal is not satisfied, that the applicant's father received poor medical care for any Convention related reason. Based on the evidence provided, the poor health care is something everyone in Lebanon has to contend with and does not constitute persecution which requires systematic and discriminatory conduct.

### **Wars in Lebanon**

When the applicant appeared before the Tribunal he stated that there was a war in Lebanon, that all Shi'a areas were being bombarded and that his family was hiding in shelters. On the basis of the country information referred to above, the Tribunal accepts that at the time the applicant appeared before the Tribunal, there was a war between the Shiite organisation Hezbollah and Israel. The war began on 12 July 2006 and ended on 14 August 2006. The Tribunal accepts that City A, where the applicant's family resides, was bombed and sustained extensive damage. The Tribunal accepts that people were displaced and left homeless. The Tribunal accepts that the applicant's family was forced to leave City A and reside in Syria.

However, according to the independent country information referred to above, the war ended 14 August 2006 following the adoption of *United Nations Security Council Resolution (1701) 2006* on 11 August 2006. According to reports, by November 2006 most City A citizens had returned to the city, reconstruction work was apparent everywhere and small businesses were back up and running. During the hearing, the applicant told the Tribunal that his family had returned to where they were living before in City A, that they had fixed the house and were rebuilding. The applicant's sibling told the Tribunal that their family had returned to their home in City A by the time they travelled to Lebanon. The Tribunal has considered the Travel Advice by

DFAT that the security situation remains volatile and that some roads to City A remain damaged and require detours off the main highway. In view of the country information that the conflict ended over a year ago, that people have returned to the area, they have been rebuilding, and the applicant's sibling felt it was safe enough to travel to the area with their children, the Tribunal is satisfied that there is no longer a real chance that the applicant will suffer serious harm for a Convention reason if he returns to the area in the reasonably foreseeable future. The Tribunal does not consider it unreasonable for the applicant to have to use detours to gain access to City A, if necessary, and notes the county information above that Beirut international airport officially reopened on 8 September 2006.

The applicant claimed that he could not relocate to the north of Lebanon because the war had moved to north Lebanon. When the Tribunal noted that according to the independent information consulted the conflict officially ended on 14 August 2006, the applicant replied that there was still a risk and fear of another war amongst Lebanese or between Lebanon and Israel. He said that they kill everybody and that he did not know why or what their goal was. While not explicitly raised by the applicant, the Tribunal has considered more recent country information about increased tension and animosity between Sunni and Shiite populations within Lebanon. In view of that information, and the generally volatile security situation in the area, the Tribunal accepts that there is a real chance of further conflict and violence within Lebanon between Sunnis and Shiites. According to the information, any possible harm to Shiites has been restricted to Beirut and its districts where Sunni and Shiite populations are in close proximity. In view of the fact the applicant's family live in City A, the applicant did not specifically raise tensions between Sunnis and Shiites as an issue for his family, and the country information that possible harm to Shiites has been restricted to Beirut and its districts where Sunni and Shiite populations are in close proximity, the Tribunal is satisfied that there is not a real chance that the applicant will suffer serious harm in the future on the basis of a conflict amongst Sunnis and Shiites, if he returns to City A. The Tribunal is also not satisfied on the independent evidence before it that there is a real risk of conflict in the reasonably foreseeable future between another other groups within Lebanon that would affect or involve the applicant. In terms of the applicant's claims of a risk of another war between Lebanon and Israel, the Tribunal accepts, on the basis of the volatile security situation in the area, that there is a risk of further conflict with Israel. However, the Tribunal finds that the applicant, or Shi'a Muslims as a class of persons, would not be targeted for a Convention reason but rather that Hezbollah and the military would be targeted. As a result, the Tribunal is not satisfied that the applicant's fear of persecution on this basis in the reasonably foreseeable future is well founded.

### **Economic hardship**

The applicant also claimed that he would suffer harm if he returned to Lebanon on the basis of low wages, loss of income and lack of employment. He told the Tribunal that he closed his business and sold his equipment, that he no longer had a job with the company he worked for, that it would be difficult to find a job and that he had already lost his business. While the applicant's evidence about his lack of employment varied, at no time did he claim that the economic hardship he would face was due to any Convention reason. Based on the evidence provided, the economic hardship he would face does not constitute persecution which requires systematic and discriminatory

conduct. Further, the Tribunal is not satisfied that the economic hardship would threaten his ability to subsist to constitute serious harm. As a result, the Tribunal is satisfied that there is not a real chance that the applicant will suffer persecution on this basis should he return to Lebanon.

### **Syrian wife**

The applicant also claimed that he may suffer harm if he returns to Lebanon on the basis that some people do not like Syrians and while his wife was born in Lebanon she is a Syrian national. The applicant's wife has been living in Australia for a number of years. The Tribunal is satisfied that the applicant's chance of experiencing harm if he returns to Lebanon because someone may learn that his wife, now an Australian citizen and living in Australia for a number of years, holds Syrian citizenship is remote. As a result, the Tribunal is satisfied that there is not a real chance that the applicant will suffer persecution on this basis should he return to Lebanon.

### **Cumulative effect**

The Tribunal has also had regard to the totality of the applicant's claims and circumstances to determine whether, viewed cumulatively, the harm feared amounts to serious harm and whether there is a real chance of the applicant being persecuted. Even taking into account the cumulative effect of all these circumstances, the Tribunal is not satisfied that there is a real chance that the applicant will be persecuted for one or more of the convention reasons if he returns to Lebanon now or in the reasonably foreseeable future.

The Tribunal is satisfied that the applicant's fear of persecution in Lebanon for the reason of his race, religion, nationality, imputed political opinion, or any other Convention reason is not well-founded.

### **CONCLUSIONS**

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

### **DECISION**

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