

071844969 [2007] RRTA 331 (20 December 2007)

DECISION RECORD

RRT CASE NUMBER: 071844969
DIAC REFERENCE(S): CLF2007/122170
COUNTRY OF REFERENCE: Lebanon
TRIBUNAL MEMBER: Kira Raif
DATE DECISION SIGNED: 20 December 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, arrived in Australia and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter the same day.

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

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

RELEVANT LAW

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

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

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

Definition of 'refugee'

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

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

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997)

191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.

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

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

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

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

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

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

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

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

CLAIMS AND EVIDENCE

The documentary material before the Tribunal is contained in Tribunal case files 071844969 and the Departmental case file CLF2007/122170. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

The electronic records before the Tribunal indicated the applicant's immigration history.

Primary application

According to the Protection Visa application the applicant is a male born in Lebanon. He has completed a stated number of years of schooling. He listed his past occupation and he stated that he was unemployed. The applicant spouse and children remain in Lebanon. The applicant stated he speaks, reads and writes Arabic, English and French. In response to a question about his religion, the form indicates 'Sunni Muslim', which is crossed out and the words 'Jehovah Witness' appear in apparently different handwriting. The applicant had not initialled this change, unlike other changes on the application form.

When making the application the applicant provided a copy of his passport and a Statutory Declaration in English in which he made the following claims:

- He was born in Lebanon, is married and has children. He is a Lebanese national and has no other nationality. He is claiming persecution on the Convention related grounds of religion.
- He was born into the Sunni Moslem sect, however he is now undertaking Bible study for the purpose of preparation for Baptism and conversion into the Jehovah's Witness faith.
- He was first introduced to the Jehovah's Witness faith by preachers in Year 1. His interest into the faith grew and he started attending pray group meetings at a named Australian Congregation. Since Year 2 he has been attending intensive Bible study courses and he has been regularly attending the named Australian Congregation.
- He has been preaching to his wife and she has accepted the fact that he intends to be baptised. They have made plans that she too will become baptised after her arrival in Australia.
- He has instructed his wife not to tell anyone about his conversion to the Jehovah's Witness faith for fear of reprisals from close family members and relatives. His close family members are strict Muslims and would never accept his decision to convert to Christianity. Under Shariah law, his blood and the blood of his wife and children is considered halal. His close relative would not hesitate to harm the applicant or any member of his immediate family because under the Islamic Laws it is their duty to avenge their actions.

- They could never practise their faith in peace and their life will remain in danger as long as they refuse to denounce their new faith. The only alternative is that they have to practise their faith in a covert manner but they could never guarantee that they would not be discovered.
- The applicant could not rely on the Lebanese authorities for effective protection. Such case would be considered an honour crime under the Lebanese law, which does not prescribe proportional punishment for perpetrators of honour crimes, nor are apprehended violence orders available.
- The applicant remains deeply committed to his new faith and he intends to practise his faith in the prescribed manner. He intends to engage in preaching activities and other overt practises including distribution of religious material. Such actions would readily expose him as a follower of the Jehovah's Witness faith.

Application for review

When applying for review the applicant did not provide additional written material to the Tribunal.

The Tribunal wrote to the applicant pursuant to s 424A of the Act inviting his comments and response on information which the Tribunal considered may be a reason or part of the reason for affirming the decision under review. The Tribunal's correspondence referred to the applicant's immigration history and past applications and visa grants. This was said to be relevant as it may cause the Tribunal to find that his intention was to remain in Australia and that his protection visa application was made in order to remain in Australia. The Tribunal also referred to the need to be satisfied that the applicant's engagement in religious conduct in Australia was otherwise than for the purpose of strengthening his claims to be a refugee, as required by s 91R(3) of the Act. The Tribunal referred to the fact that when completing the application form, the applicant initially stated his religion as Sunni Muslim and then these words were crossed out and the words 'Jehovah's Witness' substituted. This was said to be relevant as it may cause the Tribunal to reject the applicant's claims that he was involved in religious study or activities in Australia and to reject his claims. Pursuant to s 424 of the Act, the Tribunal requested the applicant to provide evidence of his baptism and details of the congregation which he attended.

The applicant responded through his representative in a submission received by the Tribunal. The applicant states when he was introduced to the Jehovah's Witness faith and he is still attending Bible studies at the named Australian congregation. He states that he has not yet been baptised due to his limited reading ability as reading and understating the Bible is a core tenet of the faith and the elders want him to reach a certain level of understanding of the faith before the baptism. With respect to the information on the form, the applicant states that a migration agent's assistant had completed the form which the migration agent subsequently corrected. The applicant had not provided the details of the congregation he attended and an officer of the Tribunal contacted the applicant to seek that information. The applicant's advisor stated that the information would be provided in oral evidence by a witness who will attend the hearing.

The applicant was invited to appear before the Tribunal to give oral evidence and present arguments. On the afternoon prior to the day of the hearing the applicant's representative informed the Tribunal that the applicant was ill and would be unable to attend the hearing.

The Tribunal requested the applicant to provide a medical certificate to confirm his inability to attend the hearing before deciding whether the hearing should be postponed. No medical evidence was provided by the applicant prior to the hearing scheduled and the applicant did not appear at the time and place scheduled. The applicant subsequently provided a medical certificate stating that the applicant was receiving medical treatment and for a stated period he would be unfit to continue usual occupation or study. No information was provided with respect to the applicant's claimed illness or his inability to appear before the Tribunal to give evidence.

The Tribunal again wrote to the applicant inviting him to appear to give oral evidence and present arguments. The applicant appeared before the Tribunal a short time later. No other witness had attended the hearing to give oral evidence. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic (Lebanese) and English languages. The applicant was represented in relation to the review by his registered migration agent. The oral evidence before the Tribunal is summarised below.

The Tribunal noted that the applicant had previously indicated that witnesses would be available to give evidence on his behalf. The applicant said that witnesses were planning to give evidence but they were unable to attend due to work commitment and that they would provide written evidence. The Tribunal noted that it had requested contact details of the Congregation and these had not been provided on the basis that a witness will attend the hearing and given oral evidence and now such a witness was unavailable. The applicant had provided a telephone number of a witness, Mr W, and requested the Tribunal to take evidence from him. The Tribunal asked the applicant if Mr W was an Elder. He said that Mr W holds a respected position in the church and is listened to, he said that this person holds a position of responsibility in the Congregation and a decision-maker in the Congregation, one listens to his opinion.

The applicant confirmed that all the information he provided with his protection visa application and all information provided to the Department and the Tribunal was correct and that he did not wish to change anything. The Tribunal asked the applicant whether he was familiar with the statement which was provided with his protection visa application in English. He said that he was familiar with Arabic and not with English and that the statement had not been read back to him. He said that he lodged the application as a refugee because he has become a Jehovah's witness and he cannot return to Lebanon as a Jehovah's witness.

The applicant confirmed how many years he has completed of schooling. Since coming to Australia he worked in manual work. He said that at present he does not work much as his employment is on and off. The applicant confirmed his immigration history set out in the Tribunal's s 424A correspondence.

The Tribunal asked the applicant why he was fearful of returning to Lebanon. The applicant said that he joined Jehovah's witnesses and nobody knew about this fact. In Lebanon they do not like Jehovah's witnesses and if he goes there, he would get killed. His relationship with Jehovah's Witnesses is kept secret and if it is disclosed in Lebanon, he will be harmed. The Tribunal asked the applicant when he became involved with Jehovah's Witnesses and why. He said when he became involved. He said that he had a co-worker who always talked to him about Jehovah's Witnesses. He hated them in the past but once he discovered the truth, he wanted to go on with them.

The applicant said that he had worked with that co-worker for a number of months. He then said when he started working with that person and this person directed the applicant to the centre where the meetings were held. After that he introduced the applicant to Mr W and he now receives instructions from Mr W. The Tribunal asked the applicant when his co-worker started talking to him about Jehovah's Witnesses. He said when it was, in Year 1. The Tribunal noted that in his statement the applicant claimed that he was first introduced to Jehovah's Witness faith by preachers earlier in Year 1. The applicant said that it was correct. The Tribunal noted that he now claimed that he was introduced by a co-worker some time later and not by preachers at the earlier time. The applicant said that he did not know about the times when it happened. The Tribunal asked the applicant what he meant when he said that he was introduced to the faith by preachers. The applicant said that the preachers guided him to Jehovah's Witness and started to teach him about the faith. The Tribunal noted that the applicant's reference to being introduced to the faith by preachers may indicate that his first contact with the faith was through preachers and not through a co-worker. The applicant said that the co-worker started to tell him about them and he was curious about learning their faith and with time he discovered that they have the truth and he was convinced about their teachings and he decided to become a member of Jehovah's Witnesses.

The Tribunal asked the applicant what made him change his mind if he hated them in the past. He said that he was oblivious to the religion. The Tribunal asked the applicant if anybody had approached him in the past about Jehovah's Witnesses during his residence in Australia. He said that it was only his co-worker, he had no contact with Jehovah's Witnesses during his residence in Australia. The applicant said that he was completely unaware about Jehovah's Witnesses before, apart from the time when he met his co-worker and he directed him and set a goal for him. He started to be taught by them and he went to the church and was praying there, he found that they had a good lifestyle and a good understanding of life, for example in their faith there is no killing and no army conscription and no fighting and there is no harm and he appreciates these qualities, they know how to teach each other properly and there is mutual respect. The Tribunal asked the applicant whether he has made any inquiries about any other religion since being in Australia. He said that he did not. The Tribunal noted that it was odd that the applicant would become so involved with the first religion he came across in Australia even though he had hated it in the past and even though he had no contact with other religions in the lengthy period he spent in Australia. The applicant said that because he was first introduced to Jehovah's Witnesses, he saw that there was no hostility and no harm and there is complete respect, especially when he attended meetings at their centre. They gave him the impression that they were like fathers looking after the children and he liked their lifestyle. The Tribunal asked the applicant why he thought it was not the case with other religions. He said that he had done some studies of the Book and he liked it. He knows that there are differences in religions and their religion provides a concise explanation about facts, they know how to explain things, there were no issues with them in terms of explaining the religion.

The Tribunal asked the applicant what he meant by stating that he had done some studies of the Book. The applicant said that it is stated in the Book that on the third day Jehovah rose from the dead and went to a spiritual life, which is in heaven. The Tribunal asked the applicant why he had not been baptised even though he had been attending the congregation for some time. He said that he is still studying. He said that he is planning to be baptised, but the problem is that his studies slowed down because of his lack of learning abilities. It has been a long time since he has been at school and his reading is weak. The study has helped him to refresh his memory and the more he reads, the more he understands the religion. It

took him all this time because of the reading difficulty but once he gets better, he will get baptised.

The Tribunal asked the applicant what kind of religious involvement he has had since he joined the congregation. He said that he has full conviction that it is true. The Tribunal asked the applicant how frequently he has been attending the congregation. He said when he attends. In the meetings, they pray and read the bulletin or the Watchtower magazines, they raise issues and provide answers to questions that are asked and they learn from each other and they bring the Bible and explain the excerpts from the Bible. The meetings take about two hours and end with prayers. The Tribunal asked the applicant why he thinks he is still unable to be baptised if he had been attending such intensive sessions regularly for some time. He said that he wanted to be baptised but it is up to them to decide when they would give him the right time, especially as he needs more information and a better understanding of the religion.

The Tribunal asked the applicant what are the symbols of the Jehovah's Witness faith. The applicant read from a paper before him and said that Jesus gave up his earthly life to redeem Adam's descendants. The Tribunal asked the applicant why he needed to read from these materials to state what the symbol of Jehovah's Witness faith was. He said he needed it to understand it better. The Tribunal asked the applicant to remove the materials and again asked the applicant what the symbol of Jehovah's Witness faith was. He said that the faith consists of the fact that God is Jehovah and God sacrificed His son to redeem Adam. Jehovah's Witnesses talk about the redemption of the people and in order to get closer, they have to do it through prayers and they call upon God who grants their wishes. The Tribunal asked the applicant whether Jehovah's Witnesses believe in the cross as the symbol of their religion. He said yes, they believe in the cross because Jehovah was crucified on the cross. The Tribunal noted that Jehovah's Witnesses do not believe in the cross which they believe to be a pagan symbol and not a true Christian symbol. The applicant then said that Jehovah's Witnesses do not believe in the cross. The Tribunal asked the applicant how many people will ascent to heaven. He said that only one person, Jehovah. The Tribunal noted that the Jehovah's witnesses believe that 144,000 will ascend to heaven. The applicant said that he is still studying. The Tribunal noted that if he had been studying for some time, he may be expected to be familiar with such basic information. He said that they teach them from the magazine but he still has not reached that level. The Tribunal asked the applicant what are the main holidays of the Jehovah's witnesses faith. He said that they celebrate Jehovah. The Tribunal again asked the applicant what holidays are celebrated. He said that he did not know because he is still in the process of studying. The Tribunal asked the applicant in what circumstances people are allowed to divorce. He said that if one's spouse passes away. The Tribunal noted that it was hard to accept that the applicant would attend the congregation regularly over a period of time, including study sessions, if he is unable to state the basic information about Jehovah's Witnesses. He said that they only read newspapers and magazines in these sessions. The Tribunal asked the applicant if he was not reading about the Jehovah's Witness faith. He said that he was. The Tribunal asked the applicant why he was unable to state the information about Jehovah's Witness beliefs. He said that they believe in Jehovah. The Tribunal noted that it would not take an extended period of time for the applicant to gain that information. The applicant said that learning for the period he was learning is not enough to learn.

The Tribunal invited the applicant to speak about what he did know about Jehovah's Witnesses. He said that what he knows is that they do not kill or steal or rob, they do not

enlist in the army and they do not divorce, they do not commit adultery and do not enlist in the army and that is what he likes most about their belief. The Tribunal asked the applicant if he could state anything else about Jehovah's witnesses. He said that this is what he likes the most about Jehovah's Witness, they do not accept violence and say that God does not accept the killing of any soul. The Tribunal again asked the applicant if he could state anything else. He said that this was all he could state. The Tribunal noted that this did not appear to have the level of knowledge he could gain by attending the congregation for the period he had been attending. The applicant said how often he attends but those who attend more often have a greater level of knowledge, but a friend of his stays with him to ensure that he understands.

The Tribunal asked the applicant how he was able to preach to his wife, given his limited knowledge about Jehovah's Witness. He said that he preaches to her but she is in Lebanon and is severely sick. The Tribunal asked the applicant if he had preached to her. He said that he told her everything and she told him that he could do anything he wanted but he needed to send her money as she is receiving treatment for her illness. The Tribunal asked the applicant if that was the reason he was applying for the protection visa. The applicant said that he applied for the visa because he wanted to stay with them and also to provide treatment to his wife and it is better if she was treated here as one has to pay for medical expenses in Lebanon and it is better in Australia.

The Tribunal noted that if it accepted that the applicant attended study and prayer sessions of the Jehovah's Witness faith in Australia, it needed to be satisfied that he was engaging in such conduct otherwise than for the purpose of strengthening his claims to be a refugee. The applicant said that his witness can confirm the information. The Tribunal noted that while his witness may confirm that he attends the congregation, the Tribunal is concerned as to whether he is doing so for the purpose of strengthening his claims to be a refugee. He said that he wants to stay with them always. The Tribunal noted that the applicant remained in Australia for a number of years and he became involved with Jehovah's Witnesses only after his other Department applications failed and when he had no other options of remaining in Australia. The Tribunal noted that this remained of concern. The applicant said how long he had been with them and a lot of people are aware of that fact and that makes it risky if he returns to Lebanon. The Tribunal noted that if it was not satisfied that he engaged in the conduct otherwise than for the purpose of strengthening his claims, the Tribunal must disregard such conduct in Australia. The applicant said that he joined them and it is genuine and he wants to stay with them always.

The Tribunal asked the applicant if there was anything else he wanted to add with respect to his conduct not being for the purpose of strengthening his claims to be a refugee. The applicant said that what made him attached to them is that they do not kill or steal or enlist in the army and do not divorce and that made him attached to them, they have a good attitude toward people and they have good beliefs. The Tribunal asked the applicant whether he would not have similar beliefs as a Muslim. The applicant said that the problem with Islam is that they believe in these matters but they are allowed to marry up to four wives and they believe in polygamy, for example a family member is married to a number of wives and that is not legitimate in Australia. The Tribunal asked the applicant why, if he had such concerns about Islam, he had not made any inquiries about other religions after coming to Australia and why it took him many years to become involved with Jehovah's Witnesses. The applicant said that it is true that he had been here for many years but he got to know Jehovah's witnesses through the co-worker and it is shameful that the Islamic belief tolerates up to four wives. The Tribunal again asked the applicant why he had not made any inquiries about any

other religions if he thought there was something wrong with Islam. He said that it was due to lack of time, especially as his wife was sick and he needed to work hard to send her money for her treatment. The Tribunal noted that his lack of time did not seem to affect his involvement with Jehovah's Witnesses. He said that his engagement with them takes place in the evening, after work. The Tribunal asked the applicant why he had not done the same in the past years of residing in Australia. He said that he had no guidance, nobody directed him. The Tribunal pointed out that the applicant also said that he had made no inquiries. He said that he only made inquiries about Jehovah's Witnesses because Jehovah's Witnesses and Islam are very close. The Tribunal asked the applicant to explain how the two faiths were close. He said that Jehovah's Witnesses do not adore pictures or statues, crosses, the Virgin and that is what made him closer.

The Tribunal pointed out that there were a number of Jehovah's witnesses who are able to practise and engage in religious activities in Lebanon. The applicant agreed. The Tribunal asked the applicant why he would not be able to do the same. The applicant said that there is a problem in his village because of the villagers as they do not like people converting. The Tribunal asked the applicant if there was anything preventing him from living in another part of Lebanon. The applicant said that he has no money to live anywhere else. The Tribunal noted that the applicant had managed to live in Australia for many years and it may be easier for him to relocate within his own country. He said that there are a lot of wars in his country, there are a lot of problems in Lebanon and the situation there is bad, there is no work.

The Tribunal telephoned Mr W but he was unavailable. The Tribunal invited the applicant to provide a written statement from Mr W prior to the handing down of its decision.

The representative submitted that there are various degrees of conversion and knowledge in the faith. The applicant informed the Tribunal that the reason he has not been baptised is due to his limited knowledge. The applicant said that he has a problem with reading as his reading is very weak and they are giving him more time to prepare. The representative noted that the Tribunal asked the applicant about the symbols and holidays of the faith but these are not the basics of the faith and such basics are other issues with which the applicant was familiar, such as the death and resurrection of Jesus and these are the main tenets of the faith, rather than the symbol of the cross and the holidays.

The Tribunal pointed out that the applicant could provide additional material prior to the handing down of its decision and that the Tribunal remained concerned that the applicant did not provide details of the Congregation he attended as requested.

Evidence from other sources

The Jehovah's Witnesses was formed in the USA in the 1870's. In the early 1870's, a rather inconspicuous Bible study group began in Allegheny, Pennsylvania, U.S.A., which is now a part of Pittsburgh. Charles Taze Russell was the prime mover of the group. In July 1879, the first issue of the magazine *Zion's Watch Tower and Herald of Christ's Presence* appeared. By 1880 scores of congregations had spread from that one small Bible study into nearby states. In 1881 *Zion's Watch Tower Tract Society* was formed, and in 1884 it was incorporated, with Russell as president. The Society's name was later changed to *Watch Tower Bible and Tract Society*. Many were witnessing from house to house offering Bible literature. Fifty persons were doing this full time in 1888—now the average number worldwide is about 700,000.¹

¹ 'Their Modern Development and Growth' 2000, Watch Tower Website, http://www.watchtower.org/e/jt/article_02.htm - Accessed 14 March 2007

According to the Jehovah's Witnesses Worldwide 2005 Report, there were 3,585 Witnesses in Lebanon.² According to a 1996 report in *Al-Awasef*, the Jehovah's Witnesses are located in Southern Lebanon and conduct missionary activities by utilising Lebanese media and concentrate their campaign on poor students. The same report further states that "in 1965, the Arab League banned 'The Jehovah's Witnesses' Organisation because it was evident that it has connections with international Zionism and works in the interest of Israel".³

The US Department of State International Religious Freedom Report of 2006 argued that some evangelical denominations "are disadvantaged under the [Lebanese] law because legally they may not marry, divorce or inherit property in the country". The report further states that:

Formal recognition by the Government is a legal requirement for religious groups to conduct most religious activities. A group that seeks official recognition must submit a statement of its doctrine and moral principles for government review to ensure that such principles do not contradict popular values or the constitution. The group must ensure that the number of its adherents is sufficient to maintain its continuity. Alternatively, religious groups may apply for recognition through recognized religious groups. Official recognition conveys certain benefits, such as tax-exempt status and the right to apply the religion's codes to personal status matters. An individual may change religions if the head of the religious group the person wishes to join approves of this change.⁴

A DFAT report states the following with respect to the position of Jehovah's Witnesses in Lebanon:

- The Lebanese Constitution extends freedom of belief to all Lebanese citizens. However, the Jehovah's Witness Sect (JWS) is not one of the 18 religious sects recognised under the Constitution. As all family/personal status law is covered solely through the confessional courts of the 18 recognised religious sects, JWs do not have a court dealing with personal status issues. They cannot, therefore, legally marry according to their faith in Lebanon. They can, however, travel to Cyprus, marry there and register their marriage with the Ministry of Interior on their return. This is a recognised and frequently followed process by Lebanese couples not wishing to marry in a religious ceremony.
- ...Associations not recognised in law or which have "failed to acquaint the public authorities" with their existence, membership and aims are "reputed to be secret societies ... which shall be dissolved" The JWS cannot legally convene for public assembly or worship without prior approval from the Interior Ministry. The law also prohibits assembly "in a place open to the public" for groups of three or more persons "for the purpose of committing an offence" or for twenty or more persons "whose attitude is likely to offend public peace" In practice, however, the JWS are left in peace to assemble and worship. However, as advised by a contact at the Interior Ministry, they may be vulnerable to "hassle" from the security forces if, for example, someone held a grudge.
- Societal attitudes towards the JWS vary. In general, JWS proselytising is not welcomed amongst the population. In Lebanon, with its history of civil war and delicate religious balance, attempts to convert people to alternate faiths are frowned upon and are considered

² http://www.watchtower.org/statistics/worldwide_report.htm

³ 'The Jehovah's Witnesses in Lebanon' 1996, *Al-Awasef*, 22 June

⁴ US Department of State 2006, *International Religious Freedom Report for 2006 – Lebanon*, September

“trouble making” by the security authorities. However, we are not aware of any cases where such proselytising has resulted in criminal action being taken against JWs. Maronite Christians regard JWs as heretics and Christian contacts advise that Maronite priests regularly preach against the JWS.

- In a society where ‘contacts’ and family affiliations with people in power hold greater sway than legal processes, JWs could be more vulnerable to discrimination than those from recognised sects.⁵

FINDINGS AND REASONS

The applicant travelled to Australia on a valid Lebanese passport and claims to be a national of Lebanon. The Tribunal accepts that the applicant is a national of Lebanon and has assessed his claims against Lebanon as his country of nationality.

The Tribunal found the applicant not to be a credible witness. The applicant appears to have memorised some information about the Jehovah’s Witness faith and limited his answers to such information. The Tribunal is also concerned about the applicant’s apparent unwillingness to provide details of the Congregation which he attended.

The applicant claims that he had converted to Jehovah’s Witness faith and that he will be persecuted in Lebanon due to his faith and due to his conversion. The Tribunal does not accept that the applicant had converted to Jehovah’s Witness faith. The Tribunal is of the view that the applicant’s knowledge of the faith had been extremely rudimentary. He spoke of resurrection and salvation and stated that the Witnesses treat others well, abstain from army service, commit no violence or kill or steal and do not commit adultery or idolatry. This appeared to be the extent of the applicant’s knowledge about the faith. The applicant was unable to provide other information, such as who will ascend to heaven, whether the Witnesses believe in the cross or what holidays are celebrated.

The applicant explained that his limited knowledge is the result of his lack of study and his inability to read. The applicant’s advisor stated that these were not the basic principles of the faith and that the applicant had been able to state the basic principles. The Tribunal does not accept these submissions because the applicant claimed to have been attending the congregation regularly for some time and he claimed that in this period he participated in study sessions and prayers, including an intensive Bible study course and sessions where the congregants discuss and interpret excerpts from the Bible. The Tribunal is of the view that if the applicant did participate in these activities as claimed, he would be expected to have a greater degree of knowledge and understanding of the Jehovah’s Witness faith, whether or not such matters were central to the faith or more peripheral, particularly as participation in discussions would not necessarily require reading ability.

Thus, while the Tribunal accepts that the applicant has displayed some knowledge about the Jehovah’s Witness faith, the Tribunal does not accept that the level of knowledge is consistent with the applicant’s claimed frequent and regular participation in Jehovah’s Witnesses prayers and study sessions. While the Tribunal accepts that the applicant had very limited participation in the Jehovah’s Witness activities, leading to the limited knowledge he displayed, the Tribunal does not accept the applicant participated in religious activities for the

⁵ Department of Foreign Affairs and Trade 2006, *DFAT Report 483 – Lebanon: Jehovah’s Witnesses : RRT Information Request LBN30096*, 11 May; Raad, O. 2007, ‘No more Mandatory Military Service in Lebanon’, Ya Libnan website, 12 February

period stated or at any significant level. The Tribunal does not accept that the applicant had genuinely converted to the Jehovah's Witness faith or that he intends to convert to another faith from Islam and to undergo baptism. The Tribunal does not accept that the applicant has a genuine commitment to the Jehovah's Witness faith or that he will engage in the practise of this faith, or associate with other practitioners, in the future.

The Tribunal questioned the applicant about preaching to his wife. The applicant stated that he told his wife everything and she suggested to him that he could do anything he wished but to send her money for the treatment. The Tribunal does not agree that telling his wife everything would amount to preaching. Further, her response does not appear to be an agreement to convert to the Jehovah's Witness faith upon arrival in Australia, as the applicant claimed in his written submission. The Tribunal does not accept that the applicant had preached to his wife and that he had convinced her to convert upon her arrival in Australia.

The Tribunal has considered the applicant's motivation in engaging in Jehovah's Witness activities in Australia. The applicant claims that he hated the religion in the past although he knew nothing about it and that after he was introduced to it by his co-worker, he became attracted to it. The applicant also stated that despite his claimed dissatisfaction with Islam, he had not inquired about any other religion since coming to Australia due to lack of time. The applicant has not been able to explain to the satisfaction of the Tribunal why he had no time to make such inquires in the past several years but more recently he found time to regularly attend the Jehovah's Witnesses activities. The applicant also failed to explain to the satisfaction of the Tribunal why he decided to become involved with Jehovah's Witnesses, having expressed his hatred of their doctrine in the past and having no exposure to other religions.

Further, the Tribunal is most concerned about the timing of the applicant's claimed interest in the Jehovah's Witnesses faith. The applicant claimed that he became interested in the faith in Year 1, that is, at the time when he exhausted all avenues of appeal relating to his other visa applications. The applicant had not addressed this issue when it was raised in the Tribunal's s 424A correspondence and he has not been able to provide a satisfactory explanation in oral evidence. For these reasons, the Tribunal is not satisfied that the applicant engaged in religious activities in Australia otherwise than for the purpose of strengthening his claims to be a refugee. The Tribunal disregards such conduct in accordance with s 91R(3).

The applicant claims that he has been known to be associated with Jehovah's Witness practitioners in Australia and that is likely to cause him problems in the future. The Tribunal rejects that argument because the Tribunal does not accept, given its findings that the applicant's involvement with Jehovah's Witnesses in Australia was limited, that such involvement will be known in his village.

The Tribunal has rejected the applicant's claim that he has genuinely converted to Jehovah's Witness faith or that he has a genuine commitment to the faith. The Tribunal also disregard the applicant's religious conduct in Australia. The Tribunal finds that the applicant will not engage in Jehovah's Witness activities in the future if he were to return to Lebanon. The Tribunal finds that the applicant will not engage in prayers, study sessions, proselytising or any other Jehovah's Witness activities in the future and that he will not be associated with other Jehovah's Witness practitioners. Having assessed all of the applicant's claims singularly and cumulatively, the Tribunal finds that there is no real chance that the applicant will face persecution if he were to return to Lebanon now or in the reasonably foreseeable future because of his religion (real or perceived) or for any other Convention reason.

The applicant stated that the situation in Lebanon was not good, that there are no jobs and there is political instability. The Tribunal is of the view that these matters do not in themselves give rise to persecution for a Convention reason. The Tribunal had assessed the applicant's claims and found him not to be a person to whom Australia owes protection obligations.

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.

<p>I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the <i>Migration Act</i> 1958. Sealing Officers ID: PRRTIR</p>
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