

1000249 [2010] RRTA 304 (7 April 2010)

DECISION RECORD

RRT CASE NUMBER: 1000249

DIAC REFERENCE(S): CLF2009/108146

COUNTRY OF REFERENCE: Lebanon

TRIBUNAL MEMBER: Jane Marquard

DATE: 7 April 2010

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

1. 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).
2. 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.
3. 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.
4. The applicant applied to the Tribunal for review of the delegate's decision.
5. 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

6. 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.
7. 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).
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. 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.

10. 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.
11. 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.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

18. 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

19. The documentary evidence in this matter is contained in the Department and Tribunal files and relevant extracts are set out below.

Department file

20. In his application to the Department the applicant states that he was born in the 1960s, confirmed in a copy of his passport which shows that he was born in Town A, Lebanon.
21. He states that he speaks, reads and writes Arabic, English and French. He says that he is a Christian. He completed high school. He states that he worked as a tradesperson in Lebanon.
22. He left Lebanon and entered Australia on a valid visa. His parents and siblings live in Australia.
23. In his application, when asked why he left Lebanon he said that he immigrated in the 1980s from his home village, Town A, due to the civil war. He said that in that year he was shot in the arm because he is a Christian. He said that his father, Person 1, and his sibling, Person 2, were also shot and had similar injuries. He said that their main house in Town A was destroyed and has remained so.
24. He went on to say that for roughly two decades he and his family kept changing homes in Lebanon, having no real place to call their own. He said they found it hard living in Muslim dominated villages as they felt threatened.
25. The applicant stated that in the 1990s his parents migrated to Australia and he stayed behind with his sibling who was newly married. He said he was like an intruder there. He visited his parents two years after they migrated to Australia and found they needed his care.
26. When asked what he fears if he returned to Lebanon, he referred to three outcomes. Firstly, anxiety and depression for leaving his parents without care, living in a country without a home and with sad memories and where he does not feel secure. Secondly, financial hardship as there are no jobs and he needs to repay a loan in Australia. His wife quit his job to live with him. Thirdly, he fears insecurity as he has been shot at once and there is no guarantee that he will not be killed. He said he cannot go back to his hometown, Town A, as he would always have to watch his back for non-Christians.
27. When asked in his application who he thought may harm him, he said that it would be the people that harmed him the first time. He said they (Muslims) are stronger in the north of Lebanon where he used to live.
28. He said that the group that harmed him are the stronger force now. He said that financially it would be difficult and he may lose his house in Australia as it would be difficult to pay the

loan. He said that he has been out of the country for a long time and it would be difficult finding a job.

29. He said that the authorities could not and would not protect him if he returned. He said that they cannot even protect themselves. He said there is no proper authority to protect people, on the contrary they endanger people's lives if they are next to them by chance during a bombing. He said when they migrated initially the authorities did not protect him so why would they do so now as their power has not increased or changed since then.
30. In a letter attached to the application from Person 3, to the Minister for Immigration and Citizenship, it is claimed that the applicant is the spouse of a highly qualified Australian citizen. The letter states that the applicant has been in Australia for a long time, is well settled, established and his parents live here, who suffer serious medical conditions. The letter states that he attempted to have Condition 8503 waived but this was refused and no reasons given. The letter states that the applicant and his spouse live with his parents and separation would lead to extreme hardship. The applicant gave his documents to an agent who was illegal. The letter states that the applicant confronted burglars at a chemist and has been co-operating with police as a witness. The letter asks the Minister to waive Condition 8503 and lodge an application under spouse grounds while in Australia.
31. According to Departmental notes, the applicant arrived in Australia on a particular visa and condition 8503 was imposed on the visa. His visa expired and he remained an unlawful non-citizen until he was granted a Bridging Visa E almost a decade later. He has made a number of requests to waive condition 8503, both immediately before and after lodging his protection visa application.

Department interview

32. In an interview with the Department the applicant said that the information in his application was accurate. He confirmed that he had a current spouse application with the Department as he was recently married. His application was made six months after his marriage.
33. In the interview he stated that he applied for a protection visa as all his family live in Australia, he has respect for the people here and the liberty and human rights in Australia. He said his first reason is to help his parents.
34. He stated that in the mid-1970s his parents and a sibling were shot. In the early-1980s he was shot and his father's house was burnt down. He said it was very hard to live in Lebanon because the country was unstable.
35. The Department asked him why he did not apply for a protection visa when he travelled to Australia on two previous occasions in the late-1990s. He said he was told it was too difficult and applied for many visas and lost a lot of money to agents, and he followed the instructions of agents. When asked again why he did not apply for protection visas on earlier trips to Australia, he said that he lived in a different area which was safer.
36. He said that the threat of civil war in the 1980s was still the same today.
37. He confirmed a sibling still lives there and this sibling helped him when he lived there previously.

Department decision

38. The Department refused the application. In the decision the delegate referred to the interview with the Department in which the applicant stated that all details provided in his application were correct. The Department put to the applicant that on two occasions in the late-1990s he returned to Lebanon and on both occasions stayed there for over nine months. The applicant said in response that he resided in an area where the threat of attack did not exist and he was therefore safe. The delegate found that he did not have a genuine fear of persecution. It found that it would be reasonable to expect that the applicant would not have delayed applying for a protection visa when he last returned to Australia if he had a genuine fear.

Country information

Christianity in Lebanon

39. Sources indicate that, although the number of Christians in Lebanon has declined throughout the past several decades, Lebanese Christians retain a position of some political power. Lebanon's general election on 7 June 2009 resulted in the return to government of the coalition known as the March 14th alliance, a grouping of Sunni Muslim, Druze and Christian parties: see for example *The Economist* of 11 June 2009.¹
40. The US Department of State's report on religious freedom in Lebanon released in October 2009 indicated that, notwithstanding "periodic reports of societal abuses or discrimination based on religious affiliation, belief, or practice", "relationships among religious adherents of different confessions were generally amicable". The report noted:

Because parity among confessional groups remains a sensitive issue, a national census has not been conducted since 1932. However, the most recent demographic study conducted by Statistics Lebanon, a Beirut-based research firm, showed 28 percent of the population is Sunni Muslim, 28 percent Shi'a Muslim, 21.5 percent Maronite Christian, 8 percent Greek Orthodox, 5 percent Druze, and 4 percent Greek Catholic. Over the past 60 years, there has been a steady decline in the number of Christians as compared to Muslims, mostly due to emigration of large numbers of Maronite Christians and a higher than average birth rate among the Muslim population. There are also very small numbers of Jews, Baha'is, Mormons, Buddhists, and Hindus.

Of the 18 officially recognized religious groups, 4 are Muslim, 12 Christian, 1 Druze, and 1 Jewish... Divisions and rivalries among various groups date back many centuries, and while relationships among religious adherents of different confessions were generally amicable, group identity was highly significant in most aspects of cultural interaction.

...

The Constitution provides for freedom of religion and the freedom to practice all religious rites, provided that public order is not disturbed. The Constitution requires the state to respect all religious groups and denominations and guarantees respect for the personal status and religious interests of persons of every religious sect. The Constitution declares equality of rights and duties for all citizens without discrimination or preference, but stipulates a balance of power distributed among the major religious groups. The Government generally respected these rights in practice; however, there were some restrictions, and the constitutional

¹ 'A win for the West' 2009, *The Economist*, 11 June

[http://www.economist.com/world/middleeast-](http://www.economist.com/world/middleeast-africa/displaystory.cfm?story_id=E1_TPRPVGNG)

[africa/displaystory.cfm?story_id=E1_TPRPVGNG](http://www.economist.com/world/middleeast-africa/displaystory.cfm?story_id=E1_TPRPVGNG) – Accessed 10 December 2009

provision for apportioning political offices according to religious affiliation may be viewed as inherently discriminatory.

In most cases, the Government permits recognized religious groups to administer their own family and personal status laws, such as marriage, divorce, child custody, and inheritance. The “Twelver” Shi’a, Sunni, Christian, and Druze confessions have state-appointed, government-subsidized clerical courts that administer family and personal status law...

The Constitution provides that Christians and Muslims be represented equally in Parliament, the Cabinet, and high-level civil service positions, which include the ministry ranks of Secretary General and Director General. It also provides that these posts be distributed proportionally among the recognized religious groups. The constitutional provision for the distribution of political power and positions according to the principle of religious representation is designed to prevent a single confessional group from gaining a dominant position. The “National Pact” of 1943 stipulates that the president, prime minister, and speaker of parliament be Maronite Christian, Sunni Muslim, and Shi’a Muslim, respectively. This distribution of political power operates at both the national and local levels of government.

...

There were periodic reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Following the July-August 2006 conflict with Israel and continuing throughout the year, tensions between the democratically elected government of Fouad Siniora and the antigovernment opposition led by Hizballah resulted in greater political tension among religious groups. While this political climate contributed to periodic reports of tension and occasional confrontations between religious groups during the reporting period, most of this activity could be attributed to political differences and the legacy of the civil war.

41. The report also observed that Lebanon has continued to receive persons fleeing mistreatment and discrimination in neighbouring states on the basis of their religion, including Chaldean Christians from Iraq and Coptic Christians from Egypt and Sudan.²
42. An article dated 24 December 2006 in the *Houston Chronicle* spoke of “fears among Christians and some Muslims that the militant movement spreading throughout the region may transform Lebanon into an Iranian-style Islamic republic”, particularly in the period following the conflict with Israel in 2006, and observed that the Christian population of Lebanon was diminishing due to departures motivated by fears for the future and by perceptions of there being “a better chance to advance in more peaceful and affluent countries”. According to the article:

In Lebanon, the civil war that started in 1975 spurred hundreds of thousands of Christians to seek safety abroad. Christians are now a minority in a country where they used to be the largest religious group. A measure of stability returned to Lebanon when fighting ended in 1990, but that was shattered this summer. The conflict with Israel killed more than 1,000 people and caused an estimated \$4 billion in damage to the country’s infrastructure. Hezbollah, a private Islamic militia funded primarily by Iran, started the fighting when its forces crossed into Israel to ambush Israeli troops. The militia’s leading cleric, Sheik Hassan Nasrallah, launched the attack without any input from Lebanon’s elected coalition government, which includes many Christians, including the president, Emile Lahoud. The

² US Department of State 2009, *International Religious Freedom Report for 2009 – Lebanon*, October.

conflict stoked fears among Christians and some Muslims that the militant movement spreading throughout the region may transform Lebanon into an Iranian-style Islamic republic. “This last war made the Christians lose hope,” said Guita Hourani, a Lebanese Christian who is associate director of the Lebanese Emigration Research Center. “Hezbollah refuses to disarm, and they have a political plan and an ideology that does not fit with what Christians and most Lebanese want, which is a functioning democracy that is pluralistic and open. Space for freedom of expression and freedom of faith is being closed off.” Lebanese Christians were able to talk about their concerns before the war, but now they are afraid to speak freely, she said. “People are fearing for the future and trying to get out,” she said. “This war is going to impact the emigration of Christians more than anything we have seen. If other countries open their doors, there will be an exodus.”

Civil war looming?

The November assassination of Christian leader Pierre Gemayel and the push by Hezbollah to oust the government aggravated the situation, raising the specter of renewed civil war between the country’s Muslim and Christian populations. These problems are reflected throughout the Middle East. Circumstances differ in each country the Christians are quitting, but the results are the same. Christians are voting with their feet, leaving the lands where Jesus once walked.

..Christians also leave because they have a better chance to advance in more peaceful and affluent countries. Some can emigrate relatively easily because of family ties in the West. Many already speak English, making it easier to get jobs or places in good schools. The emigration has changed the makeup of Lebanon, where Christians were in the majority when the country achieved independence in 1943. Now they are a shrinking minority”

Conflict in [Town A]

43. [Town A] is part of the Miniyeh-Danniyeh District. The map published in the Mideast Monitor and sourced from Information International illustrates the regional religious demographics of Lebanon; Minieh-Dinnieh is listed as 87.64% Sunni Muslim and 12.22% Christian³ (the US Department of State estimates the overall Christian population at 21% and the combined Sunni-Shia Muslim population at 56%).⁴ It is noteworthy, however, that an official census has not been undertaken in Lebanon since 1932 due to the sensitivity of the issue of electoral representation according to confessional groups.
44. Maps on Spiegel Online News⁵ and the Lebanon Support website⁶, confirm that the Minieh-Dinnieh district is a predominantly Sunni Muslim area, though located close to districts with large Christian populations.

³ ‘Voter Registration by Sect’ in Farha, Mark 2008, ‘Demography and Democracy in Lebanon’, *Mideast Monitor*, vol. 3: 1, January-March

http://www.mideastmonitor.org/issues/0801/0801_2a.htm – Accessed 1 March 2010

⁴ US Department of State 2009, *International Religious Freedom Report for 2009 – Lebanon*, Section I, October

⁵ ‘Distribution of religious groups and parliamentary representation in Lebanon’ 2007, *Spiegel Online News*, 1 October <http://www.spiegel.de/international/spiegel/0,1518,457002-2,00.html> – Accessed 11 February 2010

⁶ ‘Mapping of Vulnerabilities in Lebanon (SE-1) (Deprivation Indicators, 1996)’ 2008, Lebanon Support website, June

45. No reports could be found of violence or discrimination specifically targeting Christians in [Town A]. Two reports were located describing a violent incident in [Town A] between Sunni militants and the Lebanese armed forces in 1999.
46. [Country information deleted in accordance with s. 431 as it may identify the applicant]
47. [Country information deleted in accordance with s. 431] Neither article states that the attack in [Town A] was intended to target Christians; indeed, both report that the militants attacked the Lebanese army, an institution comprising mainly Shia Muslim and Christian officers, and considered one of only a few truly national institutions.⁷
48. The article published in the *Middle East Intelligence Bulletin* notes that Takfir wa al-Hijra had gone virtually unmentioned in the Lebanese media until the group allegedly bombed four Orthodox Christian churches in and around Tripoli in October and November 1999. It further states that the group's leader, Bassam Ahmad Kanj (also known as Abu Aísha) is alleged to have received financial support from Osama bin Laden.⁸ The UK Home Office also notes the group's alleged links to *al-Qaeda*.⁹ While the bombing of Christian churches indicates that the group does on occasion target Christians in acts of terrorism, the UK Home Office's Country of Origin Report for Lebanon notes that Al-Takfeer Wal-Hijra "advocates the brutal torture and murder not only of 'infidels' but also of Muslims who do not adhere to the Takfir doctrines".¹⁰

Attacks in 1975 and 1981

49. No reports of attacks on [Town A] in either 1975 or 1981 were located. It is noteworthy, however, that in 1975 civil war broke out in Lebanon, resulting in violence between various armed militias spreading throughout the country, including to the Northern governorate in which [Town A] is located. The civil war was still underway in 1981. It is thus possible that fighting in the region may have affected the village of [Town A] and any Christians living there in 1975 and/or 1981.

1975 and Civil War in Lebanon

50. In April 1975 civil war broke out in Lebanon following a series of violent incidents and retaliatory attacks between Christians and Palestinians in Beirut. The violence gradually spread from Beirut to most parts of the country.¹¹

[http://www.reliefweb.int/rw/fullMaps_Sa.nsf/luFullMap/00BD785A71C24C8885257474007067B1/\\$File/ls_SEC_lbn080626.pdf](http://www.reliefweb.int/rw/fullMaps_Sa.nsf/luFullMap/00BD785A71C24C8885257474007067B1/$File/ls_SEC_lbn080626.pdf)- Accessed 10 February 2010

⁷ Immigration and Refugee Board of Canada (IRB) 2008, LBN102732.FE – *Lebanon: Treatment of Christians and availability of state protection for Christians; whether Hezbollah targets Christians in particular (2007-2008)*, 22 February

⁸ Gambill, Gary C. 2000, 'Syrian, Lebanese Security Forces Crush Sunni Islamist Opposition', *Middle East Intelligence Bulletin*, January

⁹ UK Home Office 2006, *Country of Origin Information Report – The Lebanon*, July, pp.100-101

¹⁰ UK Home Office 2006, *Country of Origin Information Report – The Lebanon*, July, pp.100-101

¹¹ US Department of State 2009, *Background note: Lebanon*, January

51. The incidents in Beirut that sparked the 1975 civil war occurred between Phalangist (right wing, predominantly Maronite Christian supporters of the Lebanese Social Democratic Party)¹² and Palestinian militiamen.¹³ The groups that came to constitute the two sides of the civil war, however, did not present a simple Christian-Muslim split. The Lebanese Front comprised groups in favour of maintaining the status quo in Lebanon, including the militias of various Maronite clans and religious orders. The Lebanese National Movement included groups desiring change in the country, and included a variety of militias from leftist organisations, the Palestinian Liberation Organisation (PLO) and Muslim militias.¹⁴

Violence in the Northern governorate – 1975

52. Several newspaper articles were located describing violence in the north of Lebanon in 1975, largely in and around Tripoli and the town of Zgharta, both of which are located adjacent to the district containing [Town A].
53. A 10 September 1975 article in the *New York Times* reported that for several days a force of 3000 armed Muslims had targeted a force of 2000 Christians holding hills and villages east of Tripoli.¹⁵ An article in the *New York Times* the following day, reports on fighting between Tripoli-based Muslims and Christians from Zgharta. The report states that 100 people had been killed as a result of nine days of fighting between the groups. The article also reports on an outburst of violence close to the Syrian border in the north.¹⁶
54. An article dated 14 September 1975 published in the *Chicago Tribune* states that eight people had been killed the previous night in machine gun and grenade fights in Tripoli; 10 more had died in conflicts in the Akkar region (also in the Northern governorate) and 500 families had fled across the border into Syria. The article also mentions the problem of private armies committing acts of violence, such as the murder of three Maronite priests in the north.¹⁷
55. An October 20 Article from Time Magazine reported on the fighting in Zgharta and a Muslim attack on a Christian village in the north of Lebanon resulting in 15 deaths and the destruction of 40 houses.¹⁸
56. The Muslim governor of northern Lebanon was assassinated in December 1975, according to a *Chicago Tribune* article from 21 December; the article also reports on continuing fighting

¹² 'Phalange Party' in Collelo, Thomas (ed.) 1987, *Lebanon: A Country Study*, US Library of Congress website, <http://countrystudies.us/lebanon/85.htm> – Accessed 10 March 2010

¹³ US Department of State 2009, *Background note: Lebanon*, January

¹⁴ United Kingdom Foreign and Commonwealth Office 2008, *Lebanon: Country Profile*, 25 November

¹⁵ Markham, James M. 1975, 'Shift is Rumoured in Lebanese Army', *New York Times*, September 10, accessed via ProQuest Historical Newspapers

¹⁶ Markham, James M. 1975, 'Strife Eases in North Lebanon as Army Moves In', *New York Times*, September 12, accessed via ProQuest Historical Newspapers

¹⁷ 'Gun battles in Lebanon leave 123 dead, 250 wounded' 1975, *Chicago Tribune*, 14 September, accessed via ProQuest Historical Newspapers

¹⁸ 'Lebanon: Bloody Round 4 in Beirut' 1975, *Time*, 20 October <http://www.time.com/time/magazine/article/0,9171,946564,00.html> – Accessed 10 March 2010

between Christian and Muslim groups in Zgharta.¹⁹ This is corroborated by a December 23 article from the *New York Times* reporting that Muslim militiamen in Tripoli continued to exchange mortar and rocket fire with Christians of nearby villages.²⁰

57. Searches were also conducted for violence in the Northern governorate in 1976. In 1976 Syria entered the civil war under the pretext of defending the Christian right (however from 1978 Syrian forces switched sides as the Christian right allied with Israel)²¹, marking the addition of 30,000 troops and their artillery and tanks to the conflict.²² A number of articles were located that report continuing violence in the north of Lebanon.²³ A 21 January report from the *New York Times*, for example, reports that “Lebanese Moslems and some Palestinian guerrilla forces...besieged or captured a number of towns and villages in the north, east and south”, and that “in the northern Akkar region...Moslem gunmen have been seizing government buildings, attacking security police posts and breaking into prisons...”.²⁴
58. 1975 was a particularly violent year for Lebanon generally as civil war began and conflict spread through the country. The information above demonstrates that fighting did occur in 1975 in various parts of the Northern governorate in which [Town A] is located, and that the violence continued into the following year. While reports of attacks targeting [Town A] in 1975 were not located, given the context of civil war and the various conflicts taking place in the Northern governorate, it is possible that the village may have been affected by or involved in the fighting.

Violence in the Northern governorate – 1981

59. Articles from 1981 on the conflict in Lebanon located illustrate continuing pressure from both internal militias and their external, foreign supporters in the Northern governorate (and many other areas). An April 17 article from the *Chicago Tribune*, for example, reports on the prevention of a major Israeli military incursion into northern Lebanon.²⁵ A December 11 article from the *New York Times* reports that the north of Lebanon had been bombed and raided by gunmen, leaving 21 people dead and 60 wounded. The article also reports on continuing violence in Tripoli and on a raid in a town with a mixed Christian-Muslim population near the Syrian border, in which members of three families were killed and a

¹⁹ ‘Slaying of Moslem politician perils Lebanon case-fire’ 1975, *Chicago Tribune*, 21 December, accessed via ProQuest Historical Newspapers

²⁰ ‘Lebanese Leaders Meet With Syrians Over Crisis’ 1975, *New York Times*, 23 December, accessed via ProQuest Historical Newspapers

²¹ ‘Lebanon’s Fifteen-Year War 1975-1990’ 1990, *Middle East Report*, pp. 23-25, RRT Library General Papers

²² See Fisk, Robert 1992, *Pity the Nation: Lebanon at War*, Oxford University Press, Oxford, pp. 81-91, for an account of Syria’s entry into the Lebanese civil war.

²³ See ‘Palestinians Move in Lebanese Clash’ 1976, *New York Times*, 7 March, accessed via ProQuest Historical Newspapers; Sijazi, Ihsan A. 1976, ‘Clashes in North Reported by Christians in Lebanon’, *New York Times*, 22 August, accessed via ProQuest Historical Newspapers;

²⁴ Markham, James M. 1976, ‘Strife in Lebanon Worsens as Town Falls to Moslems’, *New York Times*, 21 January, accessed via ProQuest Historical Newspapers

²⁵ ‘Israelis pound foes in air, sea attacks’ 1981, *Chicago Tribune*, 17 April, accessed via ProQuest Historical Newspapers

building was blown up. The article does not identify which groups were responsible for the violent incidents.²⁶

60. Searches were also conducted for reports of violence in the Northern governorate in 1982. Articles located indicated that the area continued to experience violence clashes and incidents between the various warring factions taking part in the civil war. An August 18 article from the *New York Times* reports on fears in Northern Lebanon that citizens would be caught in the middle of an anticipated drive by Israeli forces against Palestinians in the north. The article reports that Israeli armoured detachments were “deployed deep in northern Lebanon” Further, PLO troops were reported to have been stationed in the Zgharta area by Syrian forces without logistical support, resulting in the troops soliciting help from villagers. The article reports that many residents were fleeing, fearing an Israeli attack.²⁷ A 10 September article, also from the *New York Times*, reported that growing numbers of armed Palestinians were filtering into northern Lebanon from Syria and the Bekaa Valley in eastern Lebanon, heightening fears of further violence.²⁸
61. The information above demonstrates that as the civil war progressed in 1981 and 1982, so too did violence in the Northern governorate. While reports of attacks directly targeting [Town A] were not located, it is possible that the village was affected by the various conflicts in the area in 1981
62. No reports were found documenting any other further violent confrontations in [Town A] since [date] 1999.

Al Tefkir Wal Hijra

63. *Al Takfir Wal Hijra* (also *Takfir wa al-Hijra*, *Takfir wal Hijra*)²⁹ is a Sunni Islamic fundamentalist group that originated in Egypt in the 1960s as an offshoot of the Muslim Brotherhood.³⁰ Its name means “redemption and dawn of Islam” or “excommunication and

²⁶ ‘Around the World: 21 Killed, 60 Wounded in North Lebanon Unrest’ 1981, *New York Times*, 11 December, accessed via ProQuest Historical Newspapers

²⁷ Howe, Marvine 1982, ‘North Lebanon Fears Israeli Drive’, *New York Times*, 20 August, accessed via ProQuest Historical Newspapers

²⁸ Campbell, Colin 1982, ‘Northern Lebanese Residents Are Fearful of More Violence’, *New York Times*, 10 September, accessed via ProQuest Historical Newspapers

²⁹ Immigration and Refugee Board of Canada 2004, *LBN42851.FE – Lebanon: The Islamic group called Takfir wa al-Hijra or Hijra wa Takfir, including its geographical location, its activities and treatment of its members by the government authorities; whether there are factions or members of this group in the Lebanese community in Latin America (2000 – July 2004)*, 23 July

³⁰ Gleis, Joshua L. 2005, ‘National Security Implications of Al-Takfir Wal-Hijra’, *al Nakhlah*, Article 3, Spring http://www.ciaonet.org/olj/aln/aln_spring05/aln_spring05c.pdf – Accessed 10 March 2010. The Muslim Brotherhood was a religio-political organization founded in 1928 in Egypt that advocated a return to the *Qurán* and the *Hadith*. For a summary of the group’s aims and history, see ‘Muslim Brotherhood’ 2010, *Encyclopædia Britannica*, Encyclopædia Britannica Online, 9 March <http://www.britannica.com/EBchecked/topic/399387/Muslim-Brotherhood> – Accessed 10 March 2010

exile”³¹, and refers partly to the group’s core belief that almost all Muslims are non-believers because society has gone astray.³² The group adheres to a strict Salafi interpretation of Islam, that requires its followers to purify the world of infidels, and those considered heretics. This includes Arabs and Muslims who are considered not to be living in accordance with true Islam.³³ *Al Takfir Wal Hijra* is more a radical ideology than a formal organisation. There is no overarching central structure or single leader.³⁴ The group has factions in Europe and North Africa as well as the Middle East.³⁵

64. *Takfir Wal-Hijra* was active in Lebanon in the late 1990s and early 2000s. It was based in the Dinnieh area in northeast Lebanon and was accused by the government as being responsible for a series of bomb attacks against western targets in Beirut and Tripoli.³⁶ It was also accused of mounting a number of attacks against the Lebanese army in the early 2000s.³⁷ According to the online journal *al Nakhlah*, the group also took credit for the killings of Christian civilians in the Dinnieh area.³⁸
65. In late 1999 and early 2000 the group clashed with the Lebanese army in the village of [Town A] as described in earlier paragraphs.

³¹ Immigration and Refugee Board of Canada 2004, *LBN42851.FE – Lebanon: The Islamic group called Takfir wa al-Hijra or Hijra wa Takfir, including its geographical location, its activities and treatment of its members by the government authorities; whether there are factions or members of this group in the Lebanese community in Latin America (2000 – July 2004)*, 23 July

³² ‘Violent “Takfiri” Groups are back’ 2007, *Political Islam Online*, 12 October
<http://politicalislam.org/Articles/PI%20511%20-%20Violent%20Takfir%20Groups%20are%20back.pdf> – Accessed 10 March 2010

³³ Gleis, Joshua L. 2005, ‘National Security Implications of Al-Takfir Wal-Hijra’, *al Nakhlah*, Article 3, Spring http://www.ciaonet.org/olj/aln/aln_spring05/aln_spring05c.pdf – Accessed 10 March 2010

³⁴ , Joshua L. 2005, ‘National Security Implications of Al-Takfir Wal-Hijra’, *al Nakhlah*, Article 3, Spring http://www.ciaonet.org/olj/aln/aln_spring05/aln_spring05c.pdf – Accessed 10 March 2010

³⁵ Immigration and Refugee Board of Canada 2004, *LBN42851.FE – Lebanon: The Islamic group called Takfir wa al-Hijra or Hijra wa Takfir, including its geographical location, its activities and treatment of its members by the government authorities; whether there are factions or members of this group in the Lebanese community in Latin America (2000 – July 2004)*, 23 July

³⁶ Blanford, Nicholas 2003, ‘Lebanon targets Islamic radicals’, *Christian Science Monitor*, May 20 <http://www.csmonitor.com/2003/0520/p06s02-wome.html> – Accessed 10 March 2010

³⁷ Immigration and Refugee Board of Canada 2004, *LBN42851.FE – Lebanon: The Islamic group called Takfir wa al-Hijra or Hijra wa Takfir, including its geographical location, its activities and treatment of its members by the government authorities; whether there are factions or members of this group in the Lebanese community in Latin America (2000 – July 2004)*, 23 July

³⁸ Gleis, Joshua L. 2005, ‘National Security Implications of Al-Takfir Wal-Hijra’, *al Nakhlah*, Article 3, Spring http://www.ciaonet.org/olj/aln/aln_spring05/aln_spring05c.pdf – Accessed 10 March 2010

66. *Al Takfir Wal Hijra* target non-Muslims and Muslims alike, both in Lebanon and other Middle Eastern countries. In Lebanon the group targeted Christian pilgrims but also fought to overthrow Syrian and Lebanese governments.³⁹

Ahmed Fatfat

67. Ahmed Fatfat is a Lebanese politician, most recently elected as one of the Future Movement's candidate for the Department of Menyah- El Dannieh. According to his website (accessed at: <http://AhmadFatfat.com>), since 1996 he has served as an MP for the Northern governorate, as a member of a variety of Parliamentary Committees, as interim Minister of the Interior and Municipalities (2006) and as Minister of Youth and Sports.⁴⁰ Fatfat is a Sunni Muslim⁴¹ and has claimed that to have received death threats from Syria in the aftermath of the assassination of several anti-Syrian figures in 2005-2006.⁴²
68. No information was located linking Ahmed Fatfat with *Al Tefkir Wal Hijra*. Fatfat was criticised for legalising a pro-caliphate Sunni Islamist organisation while acting as Minister of Interior. The group, *Hizb ut-Tahrir* (Liberation Party), states its aim as to "lead the ummah [Islamic community] into a struggle with kufr [infidels], its systems and its thoughts so that Islam encapsulates the world".⁴³ It espouses anti-Shiite ideas and is outlawed in nearly every state in the Middle East.⁴⁴ In an article published in July 2006, David Schenker of the Washington Institute claims that the legalisation of *Hizb ut-Tahir* in Lebanon was part of a trend toward increased Sunni radicalism in the country. However it is noteworthy that Minister Fatfat legalised the group along with 10 other groups wishing to gain status as legitimate 'political organisations' including the Lebanese Peace Party, Nature Party, and Reform Party. In response to criticisms of his decision Fatfat's press office released a statement, saying "It's not possible for freedom and democracy to be partial or discretionary".⁴⁵ It is possible that Fatfat may be perceived by some as sympathetic to militant Sunni groups because of his treatment of *Hizb ut-Tahir*.

³⁹ Gleis, Joshua L. 2005, 'National Security Implications of Al-Takfir Wal-Hijra', *al Nakhlah*, Article 3, Spring http://www.ciaonet.org/olj/aln/aln_spring05/aln_spring05c.pdf – Accessed 10 March 2010; see also UK Home Office 2006, *Country of Origin Information Report – The Lebanon*, July, pp.100-101

⁴⁰ 'Dr. Ahmad Fatfat's Political Background' 2009, AhmadFatfat.com <http://ahmadfatfat.com/political-background> – Accessed 10 March 2010

⁴¹ Hourany, Youssef 2005, *Minister Ahmed Fatfat: Lebanon needs its youths to be reborn*, AsiaNews website, 8 November <http://www.asianews.it/news-en/About-us-127.html> – Accessed 8 March 2010

⁴² 'Anchor gloats at Lebanon killing' 2007, *BBC News*, 15 June http://news.bbc.co.uk/2/hi/middle_east/6755913.stm – Accessed 8 March 2010 ; McLeod, Hugh 2007, 'Lebanon: Climate of fear after killing of Lebanon MP', *Guardian*, 21 September

⁴³ Schenker, David 2006, *Lebanon: One Year after the Cedar revolution, the potential for Sunni-Shiite conflict in Lebanon*, Washington Institute for Near East Policy, 20 June

⁴⁴ Schenker, David 2006, *Lebanon: One Year after the Cedar revolution, the potential for Sunni-Shiite conflict in Lebanon*, Washington Institute for Near East Policy, 20 June

⁴⁵ Schenker, David 2006, *Lebanon: One Year after the Cedar revolution, the potential for Sunni-Shiite conflict in Lebanon*, Washington Institute for Near East Policy, 20 June

Relocation

69. [Town A] is located in a predominantly Sunni Muslim area [Country information deleted in accordance with s. 431]. Further, maps indicate that the village is located in an area bordering a large Christian settlement.⁴⁶ Thus [Town A] is geographically close to an area where a Christian could reside among those of the same faith.
70. The law in Lebanon provides for freedom of movement within the country, and reports indicate that the government generally respects this right for Lebanese citizens. Limitations are placed on the movement of Palestinian refugees.⁴⁷
71. Maps sourced from the *Mideast Monitor*⁴⁸, *Spiegel Online News*⁴⁹ and *Lebanon Support*⁵⁰ illustrate that the distribution of religious groups within Lebanon show a number of areas throughout the country where Christians predominate, and where a Christian could potentially relocate to. The concept of a “safe” place to reside in Lebanon, however could be viewed as arbitrary given the periodic occurrence of violent incidents throughout the country – as reported by the US Department of State, “Internal strife along confessional divides and between the government majority and the opposition continue[s] to plague the country... and militant groups committed violence against political figures and government institutions”.⁵¹

It is noteworthy, however that sectarian violence and terrorist attacks in Lebanon are more likely to be driven by inter-Muslim tensions⁵², Hezbollah’s conflict with Israel⁵³ and political divisions within the Christian population.⁵⁴ Thus while violence occurs episodically and Christians and Christian infrastructure are sometimes casualties, no particular group is targeting Christians specifically or exclusively.

⁴⁶ ‘Distribution of religious groups and parliamentary representation in Lebanon’ 2007, *Spiegel Online News*, 1 October <http://www.spiegel.de/international/spiegel/0,1518,457002-2,00.html> – Accessed 11 February 2010

⁴⁷ US Department of State 2009, *2008 Human Rights Report: Lebanon*, 25 February, section 2d

⁴⁸ ‘Voter Registration by Sect’ in Farha, Mark 2008, ‘Demography and Democracy in Lebanon’, *Mideast Monitor*, vol. 3: 1, January-March http://www.mideastmonitor.org/issues/0801/0801_2a.htm – Accessed 1 March 2010

⁴⁹ ‘Distribution of religious groups and parliamentary representation in Lebanon’ 2007, *Spiegel Online News*, 1 October <http://www.spiegel.de/international/spiegel/0,1518,457002-2,00.html> – Accessed 11 February 2010

⁵⁰ ‘Mapping of Vulnerabilities in Lebanon (SE-1) (Deprivation Indicators, 1996)’ 2008, Lebanon Support website, June [http://www.reliefweb.int/rw/fullMaps_Sa.nsf/luFullMap/00BD785A71C24C8885257474007067B1/\\$File/ls_SEC_lbn080626.pdf](http://www.reliefweb.int/rw/fullMaps_Sa.nsf/luFullMap/00BD785A71C24C8885257474007067B1/$File/ls_SEC_lbn080626.pdf)- Accessed 10 February 2010

⁵¹ See US Department of State 2009, *2008 Human Rights Report: Lebanon*, 25 February, section 2g

⁵² International Crisis Group 2007, *Hizbollah and the Lebanese Crisis*, Middle East Report No 69, 10 October, Section IA p. 1, Section IC pp.8-10 <http://www.crisisgroup.org/home/index.cfm?id=5113&l=1> – Accessed 25 February 2010

⁵³ See UK Home Office 2008, *Country of Origin Information Key Documents: Lebanon*, 14 April, Section 1 p. 7

⁵⁴ See Rubeiz, Ghassan Michel 2008, ‘Christian politics in Lebanon’, *Mideast Monitor*, January-March; and ‘Christian factions clash in north Lebanon, 2 dead’, *Reuters*, 17 September, 2008

72. Several articles were located that report on the growing number of Christians departing Lebanon after decades of violence and political uncertainty.⁵⁵ While some attribute rising Christian emigration to fears of increasing Islamisation and the strengthening of Hezbollah⁵⁶; “economic uncertainties” are also a contributing factor⁵⁷. Gregory Katz notes that “Christians also leave because they have a better chance to advance in more peaceful and affluent countries”.⁵⁸ Further, the desire to leave Lebanon due to violence and lack of opportunity is not exclusive to Christians, with “the exodus of young workers cross[ing] the religious spectrum”.⁵⁹

State protection

73. Religious freedom is protected under the Lebanese constitution. A range of reports, however, indicate that religious-based harassment and discrimination is often not prevented or punished by the state.⁶⁰

Human Rights Watch notes that:

More than a year after the end of the fighting that broke out in May 2008 between the Hezbollah-led opposition and pro-government groups, killing at least 71 people in two weeks, Lebanese judicial authorities have failed to hold accountable fighters responsible for attacks against civilians.

More than three years after the end of the war between Israel and Hezbollah, neither the Israeli nor the Lebanese government has investigated the violations of the laws of war committed by the warring parties.⁶¹

⁵⁵ See, for example: Katz, Gregory 2006, ‘The Silent Exodus: Vanishing Christians of the Mideast’, *Houston Chronicle*, 24 December, <http://www.chron.com/disp/story.mpl/world/4424050.html> – Accessed 12 February 2010 ; Hirst, Michael 2007, ‘Rise in radical Islam last straw for Lebanon’s Christians’, *Telegraph*, 12 April ; Ensor Josie 2009, ‘Christians tempted to emigrate as Lebanon grows increasingly ‘Islamized’’, *The Lebanon Daily Star*, 28 September; Khoury, Maroun 2009, ‘Sfeir confident about future of Lebanese Christians’, 27 April, *The Lebanon Daily Star*; Fil, Rana 2007, ‘Lebanon’s Exodus’, 11 December, *Newsweek*

⁵⁶ See, for example: Katz, Gregory 2006, ‘The Silent Exodus: Vanishing Christians of the Mideast’, *Houston Chronicle*, 24 December, <http://www.chron.com/disp/story.mpl/world/4424050.html> – Accessed 12 February 2010 ; Hirst, Michael 2007, ‘Rise in radical Islam last straw for Lebanon’s Christians’, *Telegraph*, 12 April; Ensor Josie 2009, ‘Christians tempted to emigrate as Lebanon grows increasingly ‘Islamized’’, *The Lebanon Daily Star*, 28 September

⁵⁷ Ensor Josie 2009, ‘Christians tempted to emigrate as Lebanon grows increasingly ‘Islamized’’, *The Lebanon Daily Star*, 28 September

⁵⁸ Katz, Gregory 2006, ‘The Silent Exodus: Vanishing Christians of the Mideast’, *Houston Chronicle*, 24 December, <http://www.chron.com/disp/story.mpl/world/4424050.html> – Accessed 12 February 2010

⁵⁹ Hirst, Michael 2007, ‘Rise in radical Islam last straw for Lebanon’s Christians’, *Telegraph*, 12 April

⁶⁰ US Department of State 2009, *International Religious Freedom Report for 2009* – Lebanon, Section 2d, October

⁶¹ Human Rights Watch 2010, *World Report Lebanon 2010*, 20 January

74. This recent history of state failure to pursue prosecution of violence perpetrated by religiously-affiliated political groups or militia raises doubts about the willingness and/or capacity of the Lebanese Internal Security Forces (ISF) to provide protection for those who have acts of violence committed against them on the basis of religious affiliation. This may be largely due to problems of resourcing⁶² rather than any systematic withholding of protection. A recent Canadian Immigration and Refugee Board report on the availability of state protection for Christians in Lebanon notes instances in 2008 where the army was deployed to protect predominantly Christian neighbourhoods from sectarian violence.⁶³
75. The ISF were debilitated following the withdrawal of Syrian backing in 2005, however reports from two years later indicate some recovery and rebuilding of capacity. A preliminary United Nations report from 2005 published on the Columbia International Affairs website stated that the Lebanese security services had “demonstrated serious and systematic negligence” and had “failed to provide the citizens of Lebanon with an acceptable level of security”.⁶⁴ By November 2007, however, *NOW Lebanon* reported that: “In the past two and a half years, the ISF has emerged as a robust force”, with the standing and efficacy force said to have changed from previous years when: “the ISF was systematically marginalized in favor of the Syrian-controlled army”.⁶⁵ Further, the United States has funnelled a considerable amount of funding and training into the ISF, providing \$80 million to over a four year period to strengthen capacity.⁶⁶ This is linked to the increasing incidence of armed groups targeting the ISF; according to three reports, the ISF is currently facing emerging threats from a range of militant groups⁶⁷, which in turn raises doubts about its capacity to protect its own citizens from acts of violence.

⁶² Under-resourcing of the ISF is noted in DIAC Country Information Service 2007, *Country Information Report No. 07/29 – Alawi Muslim Member of Syrian Ba’ath Party in Lebanon – CIS Request LBN889* (sourced from DFAT advice of 16 March, 16 March)

⁶³ Immigration and Refugee Board of Canada (IRB) 2008, LBN102732.FE – *Lebanon: Treatment of Christians and availability of state protection for Christians; whether Hezbollah targets Christians in particular (2007-2008)*, 22 February

⁶⁴ FitzGerald, Peter 2005, *Report of the Facti-Finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri*, 24 March, Columbia International Affairs Online (CIAO) website, <http://www.ciaonet.org/wps/cfr003/index.html>

⁶⁵ Ryan, B. 2007, ‘Securing Internal Security’, *NOW Lebanon*, 12 November <http://www.nowlebanon.com/NewsArticleDetails.aspx?ID=19296> – Accessed 2 March 2010

⁶⁶ Embassy of the United States Beirut 2009, *U.S. Embassy Inaugurates Enhanced Cybercrime Unit for the Internal Security Forces*, April 15, Embassy of the United States Beirut Lebanon website http://lebanon.usembassy.gov/latest_embassy_news/09pressreleases/prisf041509.html – Accessed 16 February 2010

⁶⁷ Ajemian, Pete 2008, ‘Interpreting the Terrorist Against Lebanon’s Army in the North’, *Terrorism Monitor*, Vol 6, Issue 19, Jamestown Foundation website http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=5198 – Accessed 16 February 2010; Saab, Bilal Y. 2008, *Al-Qa`ida’s Presence and Influence in Lebanon*, Combatting Terrorism Centre (CTC) Sentinel. November, Brookings Institute website; ‘Special Report: terror in Lebanon threatens national, regional security’ 2008, *Middle East Times*, 17 October http://www.brookings.edu/~media/Files/rc/articles/2008/11_lebanon_saab/11_lebanon_saab.pdf – Accessed 16 February 2010

76. The situation is further exacerbated by the sectarianism that pervades all aspects of Lebanese government and society, such as in the distribution of bureaucratic employment, including within Lebanese security bodies. A recent report by the Lebanese Transparency Association, for example, notes that:

The perennial concern as regards law enforcement in Lebanon is that those in power will use it as a political tool to protect the interests of traditional elites: sectarianism, as in all parts of the political process, is imbedded into the leadership positions of security agencies. The army commander of the military has always been a Christian Maronite and often remained close to the Christian elite. The chief of the ISF is often a Sunni Muslim, usually appointed with the Prime Minister's approval (who is also a Sunni Muslim). The position of the Christian army commander, however, retains the most power on the Lebanon's political scene.⁶⁸

77. Further, the sectarian divisions characterising social and political interactions in Lebanon greatly increase likelihood that citizens will seek protection within their own communities, rather than from the state. Ayman El-Amir reports in the *Al-Ahram Weekly* that:

...because of its long history of sectarian violence, politicians have manipulated their constituencies into believing that their very survival depends not so much on the rule of law in an egalitarian state system as on huddling together under the protection of a sectarian umbrella defended by armed militias. In this paradigm, every Lebanese believes that sectarian protection, not the law of the land, is the best guarantee of his interests and privileges.⁶⁹

78. The above information indicates that the ISF is not immune to the sectarian divisions within society, potentially affecting the impartiality with which it provides protection to its citizens, and further increasing the likelihood that Lebanese citizens will seek the protection proffered by their sectarian communities rather than from state bodies⁷⁰.

Hearing

79. The applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages. The applicant's wife was present as a support person. The applicant was unrepresented, and written documents were provided by Person 3, who was not present at the hearing.
80. The applicant confirmed that he was born in the 1960s in Town A, Lebanon. He said Town A is a village of around 1000 to 2000 homes, but "everyone" has left after 1975 and 1981. He said that the village is located in the north of Lebanon, and it was his family's home village. He confirmed it was part of the Miniyeh-Danniyeh District.
81. He said that he grew up as a Christian.

⁶⁸ Lebanese Transparency Association 2009, *National Integrity System Study: Lebanon 2009*, Transparency International and Lebanese Transparency Association, Section IX: 8, p.81 http://www.transparency-lebanon.org/publications/national_integrity_systems_en.pdf – Accessed 16 February 2010

⁶⁹ El-Amir, Ayman 2008, 'Skirting the precipice', *Al-Ahram Weekly*, Issue No. 897, 15 – 21 May, <http://weekly.ahram.org.eg/2008/897/re71.htm> – Accessed 16 February 2010

⁷⁰ See also International Crisis Group 2005, *Lebanon: Managing the gathering storm*, Middle East Report No 48, 5 December, p 6

82. The applicant said that he completed high school and after that worked as a tradesperson until he came to Australia. He lived in Town B prior to coming to Australia. This village is located ten minutes from Town C
83. He said that his parents and siblings live in Australia with their families. He said that in Lebanon he has one sibling who lives in Town B and another sibling who lives in Town D, which is located fifteen minutes from Town C The applicant said that he lived in Town D when he first left his area.
84. He confirmed that he visited Australia twice in the late-1990s.
85. He was asked to tell the Tribunal the main reason for coming to Australia most recently. He said that from the beginning he wanted to live in Australia with his family as it was safer in Australia. As his parents were elderly and as he was single he wanted to stay with them. He confirmed that he initially arrived in Australia on a tourist visa to visit his family. He confirmed that he remained in Australia unlawfully after his tourist visa expired, until he applied for a protection visa.
86. He confirmed that he married an Australian citizen The Tribunal asked him to confirm that he currently also had an application for a spouse visa filed six months after he got married. The applicant said that he did but his wife interjected that they did not He said that he was not sure. He said that Person 3 filled in forms for him and he is not sure what they were. He was asked if there was any reason he told the Department that he had applied for a spouse visa if he had not. He said that maybe he had said this.
87. His wife asked to speak and said that they had applied to the Department for the 8503 condition to be removed from the visa but this application was rejected twice. She indicated that she thought they needed this condition to be removed before they applied for a spouse visa. The Tribunal asked her if she had spoken to the Department about applying for a spouse visa and she said she had not because "he" filled in the papers and she did not have time.
88. The applicant was asked what happened to them in 1975. He said that 2000 soldiers invaded the village intending to strip the village, and his sibling was obliged to shoot at them, and the soldiers went away with his sibling. The soldiers took his sibling captive and held them, trying to find if they were involved in any Christian groups, but as they could not find out anything they released them. After this, a lot of terrorism happened in his village which forced his family to leave the village. He said that members of his family were shot in 1981, himself, his sibling and his father. He was asked who the soldiers were. He said that they were from a Muslim group in their district and were known to them personally. He was asked why they invaded the village and he said to kill the Christians and keep them out of there.
89. He was asked what happened in 1981. He said that his family all managed to escape by a miracle, even his mother who had injuries on her legs. He said that he himself had a bullet which missed his heart area. He said that his family were in town at the time. Soldiers were shooting indiscriminately at everyone and they all went down on the floor. The soldiers even shot and killed a baby of six months They were the same soldiers from 1975. He could not tell how many there were as fire was coming from everywhere. He said this incident took place in the morning. On of his siblings was overseas. Another sibling was in Australia. Everyone else in his family was there. He said that he and his mother were shot, as were his sibling and father. He said the bullet entered his arm. He said his sibling was shot in his leg, as was his father. He said that another sibling took his parents and the injured sibling to

hospital in the Christian area of Town D, some distance away. The applicant and a different sibling walked through the bush to another area called Town E, also a Christian area. Then they took a taxi to Town D and went to hospital. He was asked how long they stayed in hospital. He said his father was in hospital for six months and his sibling was in hospital for one month. The applicant was released that day.

90. He said that this shooting occurred because the Muslim group wanted to kick them out of the area because they were Christians. He was asked how he knew this. He said he was told they were splitting the houses up. He said that they were a fundamentalist Muslim group.
91. He was asked what the police and army did during these attacks. He said that forty eight hours after the incident the army gathered the rest of the village, including the rest of his family and took them to Town D. The army had taken the decision that the Muslim group would not allow anyone to stay there. He said one whole family, were assassinated. The incident was reported in the newspapers. He said his sibling in Country F read it in the newspaper thinking all their family were dead.
92. He was asked what happened to his house. He said that in 1981 his house was looted and a family from the Muslim group entered the house and took it over.
93. He was asked if Town A was totally Muslim now and he said it was.
94. He was asked if the police or army took action against the attackers. He said that the police arrested his sibling because they were worried the sibling would take revenge against the Muslim group.
95. He was asked what happened after that and he said that the family stayed in Town D for several years, and then they moved to Town B. Then after this his family came to Australia.
96. He was asked why they moved to Town B. He said that they were suffocating in Town D because they were asked to move by landlords because they were not given long leases, and they were not settled. His sibling had a car that was taken by force from a militia.
97. He was asked if these places were safer than his hometown. He said that they were.
98. He was asked why he said in his application that they found it hard living in Muslim dominated villages as they felt threatened. He was asked what Muslim dominated villages he felt threatened in and he said in Town A. He said that he remembers everything.
99. The Tribunal asked him what he fears if he returns. He said that he fears the "same people".
100. The Tribunal referred to his application in which he was asked what he feared if he returned. The Tribunal told him that although anxiety and depression for leaving his parents alone in Australia was an outcome he may fear, this was not classified as serious harm pursuant to the Convention. The Tribunal asked him if he wished to comment or respond. He said that it was personal – his own personal reasons.
101. The Tribunal asked him if he still fears living in Lebanon because it is insecure. He was asked in what ways it was insecure. He said that nothing has changed from thirty years ago to now.

102. The Tribunal told the applicant that in order to meet the requirements of the Refugee Convention, the persecution he fears must be systematic and discriminatory. If the harm he feared was a generalised fear of civil war then this persecution would not be systematic and discriminatory nor directed at him because of a Convention reason. The Tribunal asked him if he wished to comment or respond. He said that he saw a person shoot him, his sibling and father. He said this person still lives there in Town A, and he asked what he is meant to do.
103. The Tribunal asked him about the financial hardship he would suffer. He was asked if he was referring to the general financial conditions in Lebanon. He said it was personal and it would be hard to find a job, particularly as he has been out of the country for so long. He has a mortgage and needs to look after his parents, wife and baby and has a home loan. He was asked if he feared financial hardship for reasons of his Christianity He said that he did not. The Tribunal explained to him that under the terms of the Convention where there is financial hardship it must be for the essential and significant reason of religion, or one of the other Convention stipulated reasons. He said that he said that in the Christian areas there is no work at all.
104. The Tribunal asked him what he feared on the basis of being a Christian were he to return. He said nothing has changed, there are the same people and the funders of the fundamentalists are the same and they have part of the power in the government.
105. He was asked whether he could ask the police for help if he felt threatened. He said that the police cannot do anything for him in the past so how they could protect him.
106. He said he was aware that religious freedom was protected in Lebanon.
107. He was asked if he knew that the ISF have increased their strength in previous years and have had funding and training from the US. He said that he knew that but it did not make him feel safer. He said that in real life nothing changes, that is only the news. The proof for this is that people are being kidnapped, cars are being hijacked and the authorities are powerless. Two months ago, a bus was attacked. Everything is repeated, like the bus in 1975.
108. He agreed that 21% of people in Lebanon are Christians. He agreed that Lebanese Christians retain considerable power in Lebanon. He said the population is being reduced as Christians have fewer kids and are migrating. He was asked if it was not the case that in Lebanon's general election on 7 June 2009 the March 14th alliance of Sunni Muslim, Druze and Christians were returned to power. He said that everyone has gone separate and Syria has separated them. After the elections the groups separate.
109. He was asked if he wished to comment on the United States Department of State's report on religious freedom in Lebanon (released in October 2009). The Tribunal quoted the report as follows "notwithstanding periodic reports of societal abuses or discrimination based on religious affiliation, belief or practice, relationships among religious adherents of different confessions were generally amicable". The applicant said that it is true for the strong people but when distributing money then conflicts start between groups.
110. He was asked if he agreed that the Constitution provides that Christians and Muslims be represented equally in parliament, the cabinet and high level civil service positions and that the distribution of power operates at the national and local levels. He said that the minister must approve of the other person even if he is not of the same religion, especially if the minister for health has no degree.

111. He was asked if he wished to comment on the statement in the US Department of State report that there were only occasional confrontations between religious groups in Lebanon generally. He said that if the authors of the report went down on the ground they would see what is really happening.
112. He was asked if he agreed that Christians flee to Lebanon from Iraq, Egypt and Sudan. He said that perhaps they were persecuted there the same way he was persecuted before and they have no other chance to go anywhere.
113. He was asked to confirm his earlier statement that Town A is now totally Muslim as country information indicates that 12% of people there are Christians. He confirmed that the area is a predominantly Sunni Muslim area. He said it would be 20 Christian people who do not have a chance to go anywhere else. He confirmed that although it is a Sunni area it is close to areas which have large Christian populations such as those mentioned earlier. He said his wife's village was close by and was totally Christian. He said they had been attacked a little bit there because they bribed the Muslims there so as to be allowed to say.
114. He was told that the Tribunal had searched information about the Town A area and no reports of any violence were found and that the only report related to a confrontation between Sunni militants and Lebanese forces in 1999. He was asked if he wished to respond or comment. He said that the Sunni Muslims killed army members there in 1999.
115. He said that conflict calms down for a while and then killings occur in Lebanon. The Tribunal suggested that according to country information the violence is largely sectarian violence, and terrorist attacks are likely to be driven by inter-Muslim tensions, Hezbollah's conflicts with Israel and political divisions within Christians, rather than Christian/Muslim conflict. He was asked if he wished to comment. He said that the conflicts are between political groups but the minority groups suffer. The Tribunal said that information is that no particular group is targeting Christians specifically. He said that one example is that during the Hezbollah conflict they attacked the churches, and the archbishop's house was attacked.
116. He was asked to confirm that he visited Australia on two occasions in the late-1990s and then returned to Lebanon each time and stayed for over nine months. He was asked why he did not apply for a protection visa on those previous visits. He said he tried but no-one let him lodge an application as he was on a tourist visa. He was asked to confirm that in his interview to the Department he said that when he returned he resided in an area that was safe as a threat of attack did not exist. He said that was the case, but it was not 100% safe, as he was living in a Christian area, Town B, but they felt like they could not get out.
117. The Tribunal said that the fact that he returned there twice in the late-1990s and said at the Departmental interview that he resided in a safe area may be a reason for affirming the decision under review as it may lead the Tribunal to conclude that he did not have a genuine fear of serious harm and could safely relocate to another area of Lebanon. He was asked if he wished to comment or respond or if he needed further time. He said that he has only had the one chance, he lived with his sibling in their flat but now he cannot live there as his sibling has a bigger family.
118. The applicant was asked why he waited so long to apply for his protection visa if he feared serious harm on return. He said that there was no reason. When his visa expired he was told he had to return and then he tried many ways to fix his papers.

119. The Tribunal said the fact that he waited so long may be a reason for the Tribunal to affirm the decision under review, as it may be seen as an action of last resort rather than him genuinely fearing harm, and asked if he wished to comment or respond or would like more time to do so. He said of course.
120. The applicant was asked whether he could not move to a Christian area of Lebanon and live there safely. He said that anyone could move anywhere if they had money.
121. He was asked if he could work as a tradesperson in one of the Christian areas of Lebanon and he said there is no work and his sibling does not have any work there.
122. He was asked if his siblings could not live there safely. He said that a couple of months ago armed people were seen under his sibling's house and they were Palestinians who were fighting the army.
123. The applicant handed up a bundle of photographs showing the ruins of the family home in Town A. A relative visited there to take the photographs of the house.
124. The Tribunal referred to documents handed up at hearing indicating that Person 3 had contacted his previous agent and queried why the agent had not undertaken work paid for by the applicant. The Tribunal said that the applicant could report the agent to the migration agent's industry body. The applicant said his previous agent had threatened him.
125. The applicant's wife said she cannot take her baby to live unsafely in Lebanon. The applicant's wife said she cannot understand why so many Christians leave the country. The Tribunal said that the information indicates that many leave for financial reasons and safety. The wife and applicant agreed.
126. The Tribunal explained that in order to be a refugee the applicant needs to have a well founded fear of persecution based on a Convention reason. The applicant said they were shot so what other evidence is needed. The Tribunal explained that while past events are relevant the Tribunal needs to be satisfied that there is a real chance of persecution in the reasonably foreseeable future. The applicant said that the leader of the group is still there and is a minister of the government, and the funding is increasing. He said the name of this leader is Ahmed FatFat and he is leading the people who killed members of the army in 1999, and before that he was a Minister. He is also a member of the March 14 alliance.
127. The Tribunal explained that to be a refugee a person needs to be targeted as a Christian or for another Convention reason. The applicant said he could protect himself by staying in another village, but could be killed if he went to his hometown. He said he would be forced to visit his hometown to get birth certificates or other documents from the mayor. He said he would not be able to stay away. He said that he fears the group An Tekfir Wal Hijra and they have schools there. He was asked if members of this group were involved in the shootings of his family and he said they were, and have been involved in other shootings including the shootings of the soldiers, and the shooting in Kforabu in the last few years.
128. He was asked if there was anything further he wished to add. He said that he has a house and a mortgage and does not want to develop a bad record with the bank so he wants to stay here. His wife said that on a character check he has been a very good citizen.

FINDINGS AND REASONS

Nationality

129. The Tribunal accepts on the basis of his passport that the applicant is a national of Lebanon and is outside his country of nationality.

Convention nexus

130. The applicant claims to fear physical harm, torture and death because he is a Christian. If his claims are proven, the essential and significant reason for the harm would be religion.
131. He also claims to fear financial hardship because of low employment prospects in Lebanon, and because he has financial obligations in Australia. The applicant stated that he does not fear financial hardship because he is a Christian and nor did he claim economic hardship based on one of the other Convention reasons. The fear of financial hardship therefore is not for one of the reasons set out in the Refugees Convention.
132. The applicant also claimed in his statement to the Department to fear anxiety and depression for leaving his parents in Australia without care. This fear is not for one of the reasons set out in the Refugees Convention.

Serious harm

133. The applicant claims to fear physical harm, torture and death, all of which would amount to serious harm if his claims are proven.

Well-founded fear of persecution

134. The applicant claimed in his application that he left his village, Town A, because of the civil war. At hearing he referred to an incident in 1975 in which 2000 Muslim extremist soldiers invaded his village. He also referred to an incident in 1980 (later clarified to be 1981) in which his family was shot at, and he suffered an injury to his arm. Both his father and sibling suffered serious injuries. He claimed that the family home was destroyed. He claimed that these incidents were motivated by a desire by Muslim fundamentalists to kill Christians and keep them out of the area.
135. He claimed that the fundamentalist group responsible for these incidents is still strong in the north of Lebanon and that he fears being harmed or killed. He said that Town A is totally Muslim at the current time. He said he fears the group An Tefkir Wal Hijra which was instrumental in the earlier killings. He claimed that the state authorities cannot protect him because they do not have the capacity to do so. He said the authorities were unable to help his family in the past.
136. The Tribunal searched a variety of country information sources for evidence of attacks by fundamentalist Muslim groups on Town A in 1975 and 1981. No specific reports of attacks on Town A in these years were located. However reports were found (and detailed earlier in this decision) of civil-war related violence in the Northern governate in which Town A is located so it is possible that the village was affected by fighting in the region. 1975 was the year that civil war broke out in Lebanon and fighting spread across the country and was still underway in 1981. While the groups that came to constitute the two sides of the civil war did not present a simple Christian-Muslim split, in the north of Lebanon there were reports of

some incidents where Christian/Muslim fighting occurred. For example, an article on 10 September 1975 in the *New York Times* reported that for several days a force of 3000 armed Muslims had targeted a force of 2000 Christians holding hills and villages east of Tripoli. Another article referred to 100 people being killed as a result of nine days of fighting between Muslims and Christians around Zgharta. Other articles report on fighting in the north including one on 20 October 1975 from *Time* magazine which refers to an attack on a Christian village in the north resulting in 15 deaths and the destruction of 40 houses (for details of these articles see the country information paragraphs earlier in this decision).

137. In relation to the claimed attack in 1981, an article in 1981 in the *New York Times* referred to bombings and raids in northern Lebanon leaving 21 people dead and 60 wounded. This article referred to a village near the Syrian border with a mixed Christian-Muslim population in which members of three families were killed and a building blown up (Around the World: 21 Killed, 60 Wounded in North Lebanon Unrest' 1981, *New York Times*, 11 December, accessed via ProQuest Historical Newspapers). There were also reports of growing numbers of armed Palestinians filtering into northern Lebanon and troops being stationed in the Zgharta area.
138. In light of this country information, and the applicant's vivid oral evidence of the attacks, the Tribunal accepts the applicant's claims that his village was attacked by a fundamentalist Muslim group which may have been Al Tefkir Wal Hijra in 1975 and 1981 and that he and members of his family were shot and injured. The Tribunal accepts that his house was overrun and that his family had to leave the village, to relocate in Christian areas of Lebanon.
139. The Tribunal turns to the question then of whether there is a real chance of harm in the reasonably foreseeable future, in the context of these attacks some twenty nine years ago and taking into account the fact that the applicant was in Australia for many years before applying for a protection visa. The applicant claims that Al Tefkir Wal Hijra is still active and that Town A remains dangerous for Christian families.
140. Reports were located (and detailed earlier in this decision) which described a violent confrontation between Lebanese ISF and Tarkir wa al-Hajra in Town A. Five soldiers were killed. [Country information deleted in accordance with s. 431] No reports were found since then documenting violent confrontations in Town A.
141. The country information in relation to Al Tefkir Wal Hijra indicates that it is a fundamentalist group which believes in a strict adherence to Muslim principles and in purifying the world of infidels. In the early 2000s it was based in the Dinnieh area and accused by the government of being responsible for a series of bomb attacks against western targets in Beirut and Tripoli. According to the online journal *al Nakhlah* the group also took credit for the killings of Christian civilians in the Dinnieh area.
142. The region of Minieh-Dinnieh is listed as 87.64% Muslim. [Country information deleted in accordance with s.431] When put to the applicant that 12% of the region is Christian he suggested that there are only about 20 Christian families in total in Town A as most of them have fled. Given the fact that Town A is a Muslim stronghold and has a history of violence towards Christians, the Tribunal accepts the applicant's evidence that he fears serious harm if he were to return there. While the possibility of persecution occurring is not very high, there is real substantial basis for his fear, based on the history of attacks in the village and the political climate in the area generally, even though violence appears to be sporadic. The Tribunal is satisfied that the persecution involves serious harm, considering the activities of

Tarkir wa al Hajra in the past, and systematic and discriminatory conduct, in that Christians in that area may be targeted in a non-random and deliberate way, as they have in the past. Furthermore although the threat of harm is not the product of government policy it appears that in this region of Lebanon the government has failed or been unable to protect the applicant from persecution. There is a history of state failure to pursue prosecution of violence perpetrated by religiously-affiliated political groups or militia, which may be largely due to the problems of resourcing (Under-resourcing of the ISF is noted in DIAC Country Information Service 2007, *Country Information Report No. 07/29 – Alawi Muslim Member of Syrian Ba’ath Party in Lebanon – CIS Request LBN889* (sourced from DFAT advice of 16 March, 16 March))

143. In relation to the town of Town A therefore, the Tribunal accepts that the applicant has a well-founded fear of persecution were he to return there in the reasonably foreseeable future.

Relocation

144. The focus of the Convention definition is not upon the protection that the country of nationality might be able to provide in some particular region, but upon a more general notion of protection by that country: *Randhawa v MILGEA* (1994) 52 FCR 437 per Black CJ at 440-1. 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, objectively, there is no appreciable risk of the occurrence of the feared persecution. Thus, a person will be excluded from refugee status if under all the circumstances it would be reasonable, in the sense of “practicable”, to expect him or her to seek refuge in another part of the same country. What is “reasonable” in this sense must depend upon the particular circumstances of the applicant and the impact upon that person of relocation within his or her country. However, whether relocation is reasonable is not to be judged by considering whether the quality of life in the place of relocation meets the basic norms of civil, political and socio-economic rights. The Convention is concerned with persecution in the defined sense, and not with living conditions in a broader sense: *SZATV v MIAC* [2007] HCA 40 and *SZFDV v MIAC* [2007] HCA 41, per Gummow, Hayne & Crennan JJ, Callinan J agreeing.
145. Even if the applicant were at risk of persecution in Town A in the reasonably foreseeable future, the Tribunal is satisfied that it would be reasonable for him to relocate to a region where objectively there is no appreciable risk of the occurrence of the persecution. The applicant has lived in Christian regions of Lebanon in the past, which he said were safer. One sibling currently lives in Town D where he resided for several years. Another sibling lives in Town B where he previously resided for several years. The applicant indicated that he could protect himself by moving to another village.
146. The law in Lebanon allows for freedom of movement, a right which is generally respected.
147. Country information indicates that in Lebanon generally, Christians retain a position of some political power. The information suggests that while Lebanon is politically unstable, religious freedom is protected under the Constitution and Christians are proportionally represented in the political system under the “confessional” system. The US Department of State’s 2009 Report on International Religious Freedom in Lebanon indicated that notwithstanding periodic reports of societal abuses and discrimination based on religious affiliation, belief or practice, relationships among religious adherents of different confessions were generally amicable. There are a number of areas in the country where Christians predominate. Although there may be violence in Lebanon generally, the Tribunal is not satisfied that this

violence would be directed against the applicant for the essential and significant reason of his religion. Sectarian violence and terrorist attacks in Lebanon are more likely to be driven by inter-Muslim tensions, Hezbollah's conflict with Israel and political divisions within the Christian population and not targeted at Christians specifically. In considering relocation however the Tribunal must consider the applicant's safety generally in order to determine whether it is reasonable for him to relocate. The Tribunal finds that notwithstanding the fact that there is periodic violence in parts of Lebanon, in the applicant's circumstances the applicant would be able to safely and reasonably relocate to a Christian area where there is no appreciable risk of the persecution occurring

148. The finding that the applicant would be able to safely and reasonably relocate to another part of Lebanon is reinforced by the applicant's own evidence that he was able to live relatively safely in other parts of Lebanon from 1981 until he came to Australia. The applicant visited Australia twice in the late-1990s and on neither occasion did he apply for a protection visa. When asked by the Department about why he returned to Lebanon on these occasions he said that he lived in a different area of Lebanon which was safer, indicating that at that time there was no real chance of harm in that region. As set out in earlier paragraphs, the country information indicates that there are areas where Christians predominate and where there is relatively little conflict, (including those areas where the applicant resided in the past), and that it would be reasonable for him to relocate to one of those areas in the reasonably foreseeable future.
149. The applicant has submitted that he would be in danger if he returned to Town A from a Christian area, which he would have to do in order to get a birth certificate or other documents if needed. In light of the country information that there have been no documented violent confrontations in Town A since 1999 and the Tribunal's finding that the possibility of persecution occurring is not very high and that conflict is not constant, the Tribunal does not accept that he would be in danger in Town A if he made a fleeting visit to obtain a birth certificate or other document. The Tribunal is persuaded by the applicant's evidence that flare-ups of violence occur from time to time, and at other times there is calm, which implies that in periods of calm he may be able to visit the village, if it were the case that he could not obtain the documents through the post or other delivery means.
150. The applicant has also indicated that if he were to return to Lebanon generally it would be difficult for him to find a job and home. There is no suggestion by the applicant that it would be more difficult to find a job if he were to relocate rather than remaining in Town A, rather he suggested that the economic conditions in Lebanon are generally difficult. While the Tribunal has some sympathy for the applicant in this regard, given that he is now married to an Australian citizen who is pregnant, and has been in Australia for a number of years, establishing a business and buying a house, this is not a determining factor in whether relocation is reasonable. The Tribunal notes that the applicant's sibling in Lebanon has provided assistance to him in the past, and that it may be easier for the applicant to work and live in a Christian area than one where he is in a minority, notwithstanding the fact that he has said that his sibling has no work at the present time.
151. In light of country information that there are areas in Lebanon where Christians can live safely, and the fact that the applicant has been able to live in other Christian villages safely since 1981 and has family members there, the Tribunal is satisfied that it would be reasonable for him to relocate to a Christian region of Lebanon. The Tribunal finds therefore that the applicant does not have a well-founded fear of persecution should he return to Lebanon in the reasonably foreseeable future.

MINISTERIAL INTERVENTION

152. The Tribunal has had regard to the applicant's circumstances in considering whether the matter should be referred to the Minister under section 417 of the Act. The Tribunal has had regard to the length of time the applicant has been in Australia and his level of integration into the Australian community. The applicant has married an Australian citizen and their first child is due this year. His parents live in Australia and he resides with them, and has taken a strong caring role in their lives. He also has a number of siblings in Australia. The applicant has bought a house in Australia and expressed the desire to pay off his loan and take care of his wife, child and parents. Having regard to these circumstances and having considered the ministerial guidelines relating to the Minister's discretionary power under s.417, set out in PAM3 'Minister's guidelines on ministerial powers (s345, s351, s391, s417, s454 and s501J)' the Tribunal considers this case should be referred to the Department to be brought to the Minister's attention.
153. The Tribunal notes that this is not a case where the applicant is able to make a valid application for an onshore Partner (Temporary)(Class UK) visa as prescribed under r.2.12(1)(a). The applicant is unable to make a valid application for this visa as he entered Australia on a visa subject to Condition 8503.

CONCLUSIONS

154. 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 meet the criterion set out in s.36(2)(a) for a protection visa.

DECISION

155. 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 1958</i>. MLOZIN</p>
