

0904472 [2009] RRTA 856 (24 September 2009)

DECISION RECORD

RRT CASE NUMBER: 0904472

DIAC REFERENCE(S): CLF2009/19028

COUNTRY OF REFERENCE: Morocco

TRIBUNAL MEMBER: Diane Barnetson

DATE: 24 September 2009

PLACE OF DECISION: Sydney

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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 Morocco, arrived in Australia [in] November 2008 and applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa [in] February 2009. The delegate decided to refuse to grant the visa [in] May 2009 and notified the applicant of the decision and his review rights by letter dated [in] May 2009.
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 [in] June 2009 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 Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.
20. The applicant appeared before the Tribunal [in] August 2009 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Arabic and English languages.
21. The applicant was represented in relation to the review by his registered migration agent.

Protection visa application

22. In the protection visa application, the applicant indicated that he had the assistance of an agent registered with MARA in completing his application.
23. He claims to be a citizen of Morocco, born [date deleted: s.431(2)] 1977 in Safi, Morocco. He is a hairdresser. He indicated that he had lived at the one address in Safi, Morocco, in the previous ten years. He was self employed from March 2001 to October 2001 in Safi, and then worked for [business deleted: s.431(2)] in Safi from May 2002 to November 2008. He was unemployed from October 2000 to March 2001.
24. He was educated to secondary school level in Safi and completed his schooling in June 1998. He then studied hairdressing from September 1999 to September 2000.
25. The applicant indicated that he had no family members living in or outside Australia at the time of the application. He also indicated at question 10 of Form 866B, that he did not have any close relatives in Australia. However, at question 11, he indicated that his father was deceased, his mother and two sisters lived in Morocco and his other two sisters and one brother lived in Australia.
26. In a written statement dated [in] February 2009, the applicant claimed that while at school he was influenced by a teacher to become involved in Jammaat Al-Adl Wal-Ishan. This was a group formed in 1981, with reformist ideas based on Islamic thoughts. By the time he finished his senior education in 1998 he had become a prominent member. That year the group established its political sector. There were six members whose task was to attract new members through distributing flyers on the streets.
27. A lack of employment contributed to anger against the government. He decided to learn a trade and went to hairdressing college in early 1999 and became a qualified barber.

after 18 months. He then started his own salon. He started talking to his clients about the ideas and concepts of the group. He had a positive response and he recruited a high number of members.

28. He was watched and then detained for six days during which he gave no information about his friends. As a result, his licence was withdrawn and his salon closed down.
29. He then started working at a barber named [deleted: s.431(2)] while still carrying on his beliefs. He was careful who he spoke to, though; he felt he was under surveillance and all his movements were watched.
30. After the declaration by Nadia Yassine, the daughter of the group's founder, on 2 June 2005, that Morocco should become a republic and not a monarchy, members came under heavy surveillance and members were detained on a regular basis. He was detained on numerous occasions for several days of interrogation. From late October to early November the king visited Safi on a few days and the applicant was detained from mid September to mid November. This was done as a precaution so that they could not plot against the king. Their demands were always peaceful.
31. Life became more unbearable and they came under constant surveillance and would be detained, beaten and interrogated at every event of the king.
32. The applicant believed he had to get out of the country or he would spend the rest of his life in and out of prison and unable to settle down with his own family or establish a career and own his own salon. He asked his family to sponsor him to Australia. His need to flee became urgent prior to the king's next visit to Safi in November 2008. The authorities enquired about him but he was not there. He was told to report to them but he never went and tried to stay away from home. They delivered two more notifications but he did not go. He was granted his visa and came to Australia [in] November 2008.
33. The applicant is afraid to return to Morocco, as he knows he will immediately be detained for not reporting.

Review application

34. No further information was provided with the review application.

Other information

35. The Departmental records show that the applicant entered Australia on a sponsored family visitor visa, which was granted [in] October 2008 and was valid until [date deleted: s.431(2)] February 2009. He arrived in Australia [in] November 2009. He applied for a protection visa [in] February 2009.
36. The medical records dated [date deleted: s.431(2)] February 2009, completed by HAS Group, relating to his examination for his visa indicated that "*nil significant medical ...reported*".
37. The applicant's passport was issued [in] December 2006.

38. The applicant provided two documents titled “Convocation”, to the Department, one dated [in] September 2008 and the other [in] September 2008. These are in French and have not been translated.
39. [In] June 2009, the Tribunal wrote to the applicant, indicating that it had information showing his arrival in Australia and the date of his application for protection, and that the delay of 13 weeks, and the fact that his protection application was made two days before the expiry of his visitor visa, could have an adverse impact on the Tribunal’s decision. He was invited to comment by [date deleted: s.431(2)] July 2009. He did not respond to this invitation.

Country information

“The other major Islamist movement, the larger and more militant Al-Adl Wal -Ihsan (Justice and Charity), has refused to participate in the Moroccan political system, which it considers corrupt, with as much determination as the PJD has shown in striving to join it. Organized around the figure of its founder, Abdessalam Yassine, a combination of spiritual guide of the movement and charismatic leader, Al Adl Wal Ihsan is a complex and at times bewildering organization. In part, it is an organization in the mold of Morocco’s numerous traditional Sufi brotherhoods, non-violent and suffused with a strong current of mysticism, including a belief in the importance of dreams.

In part, it is a very political movement, with some of its leaders prone to using the radical language of dependency theory and Third World revolution. The two at times combine in ways that worry the Moroccan government. For instance, in early 2006 many of the movement’s followers started reporting that they had dreamt about a major but unspecified upheaval that would occur sometime before the year was out; this triggered a wave of arrests by security forces concerned that the dreams might be related somehow to an actual plot.

Yassine launched Al Adl Wal Ihasn in 1974, with an open letter to Hassan II attacking the legitimacy of the king as a political and religious leader. The organization has maintained this antagonistic position toward the monarchy ever since. The king, in the movement’s view, has used Islam to serve his own interests and maintain monarchical control rather than devote his efforts to serving the interests of the Islamic community. Abdessalam Yassine’s message of nonviolence and forthright opposition to the monarchy, reiterated constantly by his daughter Nadia Yassine (also an important figure within Al Adl), has won the father prolonged periods of imprisonment and house arrest and his daughter constant trouble with the authorities. While Al Adl continues to reject political participation, it has undergone changes recently that have led to speculation that it might be preparing to alter its position. First, while the aging Abdessalam Yassine has retreated increasingly into mysticism, other people in leadership positions are unquestionably moving in the opposite direction; they are political operatives, not mystics. Al Adl has also evolved organizationally, putting in place two separate leadership bodies for the movement’s two tendencies: the political Majlis al Shura, which provides the political and organizational direction of the movement, and the Majlis al Irchad (or Majlis al Rabbani), which provides spiritual (or ideological) guidance. This is not the same kind of separation between political party and religious organization that occurred

with the PJD and Al Tawhid, but it is perhaps the beginning of a change in that direction. The fact that the organization launched a new membership drive as the country started preparing for the 2007 elections certainly suggests at the very least a sensitivity to the political cycle.

(Ottaway, Marina 'Morocco: From top-down" Riley, Meredith 2006)

"Between May 24 and June 3, 2006, Moroccan authorities briefly detained between 300 and 400 members and leaders of the Islamist Justice and Charity group (Al Adl wal Ihsan), which is believed to be the largest (non-party) opposition group in Morocco. Mass arrests in several cities, quickly followed after the group launched an "open doors" campaign to recruit outside traditional recruiting areas such as mosques and universities..."

(Ibn Khaldun Center for Development Studies Civil Society and Democratization in the Arab World Annual Report 2007)

Hearing

40. At the hearing, the Tribunal took the applicant through his original protection visa application. He confirmed his date and place of birth, his address, education and occupation. He stated that he had his mother and sister living in Morocco and two sisters and one brother living permanently in Australia.
41. The applicant told the Tribunal that he opened his own hairdressing salon in March 2001, in Safi. He had one employee. It closed in October 2001; it was closed by the authorities.
42. The applicant told the Tribunal of his involvement in Jammaat Al-Adl Wal-Ishan. He became involved through his Arabic teacher at school, who invited the applicant and others to meetings at houses. This was in 1994, when he was 17 years old. The Tribunal asked him why he became involved. He said that he had friends and they had ideas to change the country for the better. The Tribunal asked about his involvement in the group. He said that he attended meetings many times and was convinced by the ideas. The Tribunal asked for details of these ideals. He said that they were trying to change the country for the better. Again, the Tribunal asked for details. The applicant said that they were not happy with the education system and wanted to change it. The Tribunal asked about the other ideals of the group. He said that it opposes the policies of the king, the social and economic policies. The Tribunal asked for specific examples of such policies and the group's alternatives. The applicant said that the king is the one who appoints the Prime Minister and he appoints the other ministers and it is not a democratic system so the group boycotts elections. The Tribunal asked whether the applicant could tell anything else about the philosophy and ideals of the group. He responded that it called for a democratic system, justice and fairness.
43. The Tribunal asked whether the applicant held any official positions in the group. He said that he did not. The Tribunal asked about his involvement. He said that he joined in 1994 and then in 1998, when the political arm was started, he had a role in that. There were six people allocated to printing and distributing leaflets. These were printed by a person at his home. The frequency depended on the situation in Morocco They distributed flyers at protests at particular times and particular places. The Tribunal asked for specific examples. The applicant said that there had been a big increase in

prices especially in the last couple of years, the group protested near the mayor's head office.

44. The Tribunal asked whether the applicant did anything else in the group. He said that he recruited members. There was nothing else.
45. The applicant said that his salon was closed because of his involvement in the group. He talked to the customers and one of them must have belonged to the authorities. He was arrested in October 2001 in Safi; he was taken from the salon. He was kept for six days and beaten and sworn at. They wanted him to give information about the group. He did not do so. They released him after six days because he would not admit anything.
46. The authorities took away his licence and closed the salon.
47. The applicant told the Tribunal that he was arrested in September 2007. He was sent a notice to his home to attend the police. He did so and was arrested. This was because of the protests arranged by Nadia Yassine which lead to a lot of arrests. The king was to visit Safi in October 2007 and the applicant was arrested in anticipation of this visit. He was released after the king left. He was kept for about two months.
48. The meetings of the group were banned. The security forces used to come and take members. The applicant fears that he will be arrested if he returns to Morocco. He received two summonses in 2008, he was asked to go to the security forces centre. He was afraid he would be arrested again, as the king was visiting Safi again in October and November 2008. He feared a repeat of his arrest in 2007. He did not go to the security centre, but left the town and stayed in the countryside about 100 kms away with his maternal aunt. He stayed there until he left for Australia.
49. The applicant said that his sister did the paperwork for his visitor visa. It was in about June 2008. The Tribunal asked why he applied then. He said that he had become known and wanted by the authorities and he wanted to leave.
50. The Tribunal asked the applicant about the two documents on the Department file titled "Convocation" and dated [in] September 2008 and [in] September 2008. The applicant gave the Tribunal the originals of these. The interpreter translated these as being an invitation from to the applicant to attend the office of the National Security at Safi, "on a matter of interest/importance" to the applicant. The applicant said that these notices were not the reason for his applying for a visitor visa to Australia in June 2008.
51. The Tribunal explained to the applicant that the Convocations, in themselves, did not appear to contain any threat to the applicant and there was no mention of any legal or criminal matters in it. The applicant said this was so, but that when he got such a notice in 2007 and responded, he was arrested. He was afraid the same thing would happen again in 2008.
52. The Tribunal asked the applicant whether he had any problems leaving Morocco. He said that his brother-in-law knows one of the high ranking officials at the airport security and he would have given him the date of departure and so he had no problems leaving.

53. The Tribunal raised with the applicant the fact that this had not been raised before and the significance in relation to the Tribunal assessment of his credibility. Also, in the interview with the Department, he said that he had no problems leaving. The applicant then clarified that he had no problems leaving because there were connections which helped. He did not see anyone himself, but there are two ways of leaving Morocco, by connections or bribery. He would not be involved in bribes. He was asked a specific question in the interview and gave a specific answer.
54. The Tribunal asked whether the applicant wished to respond to the issue raised in the Tribunal's letter [in] June 2009 to which he had not responded. The applicant said that he did go to see lawyers but did not feel comfortable with them. The main reason for the delay though was the \$10,000 bond paid and this made him hesitate to apply.
55. Following the hearing, the Tribunal wrote to the applicant, in relation to the apparent inconsistencies in his evidence regarding his departure from Morocco and invited him to respond in writing by [date deleted: s.431(2)] August 2009.
56. [In] August 2009, the applicant's representative wrote to the Tribunal in response to this letter. The representative said that the discrepancy in his information to the Department at their interview at the Tribunal at the hearing was due to the specificity of the question at the Department interview, as against his giving greater detail at the Tribunal hearing. The representative also stated that "*Despite [the applicant's] reference to the involvement of "connections" in his unhindered departure from Morocco, it is very possible that they did not actually need to intercede for him...he mentioned to his brother-in-law that he was leaving Morocco, and his brother-in-law asked him the date of his departure. Whether anything further occurred, our client has no knowledge...*"
57. The representative went on to say that the king had left Safi and this would have brought to an end the paranoid and excessive number of arrests which occur at the time of any such visit. The authorities may not have thought of sending his name to the airport and so preventing his departure, as the king had already left.
58. [In] September 2009, the applicant's representative sent the Tribunal a further submission. In that, he reiterated that the applicant's claims were genuine. His answers to the Tribunal's specific questions were clear and he responded with clarification when asked to do so.

FINDINGS AND REASONS

59. The Tribunal finds that the applicant is a citizen of Morocco, as evidenced by his passport. He is outside that country at this time.
60. The Tribunal is required to determine whether the applicant has a well-founded fear of persecution in Morocco and, if so, whether this is for one or more of the convention reasons. When determining whether an applicant is entitled to protection in Australia, a decision-maker must first make findings of fact on the claims he or she has made. This may involve an assessment of the applicant's credibility. When assessing credibility, it is important to be sensitive to the difficulties often faced by asylum seekers. The benefit of the doubt should be given to asylum seekers who are genuinely credible but unable to substantiate all of their claims. That said, the Tribunal is not required to

accept uncritically any or all allegations made by the applicant. In addition, the Tribunal is not required to have rebutting evidence available to it before it can find that a particular factual assertion by an applicant has not been made out. Indeed the Tribunal is not obliged to accept claims that are inconsistent with independent evidence regarding the situation in the applicant's country of nationality. *Randhawa v Milgea* (1994) 52.FCR.437 at 451, per Beaumont J, *Selvadurai v MIEA and ANOR* (1994) 34.ALD.347 at 348 per Heerey J and *Kopalapilli v MIMA* (1998) 86.FCR.547.

61. The Tribunal is required to make a determination as to whether the applicant has a well-founded fear of persecution for a convention-related reason if he were to return to Morocco.
62. The Tribunal has taken into consideration the evidence that the applicant has provided to the Department of Immigration that formed the applicant's claims for protection, along with the material submitted to the Tribunal at review.
63. The applicant claims to have been a member of the Jammaat Al-Adl Wal-Ishan since 1994, when he was 17 years old and still at school. He had become a "prominent" member by 1998, when he left school. The applicant claimed that he became involved in the political arm of the group when it was established in 1998. He was therefore active from its inception and remained active in that arm of the group for ten years. He has successfully recruited members at his workplace for some years. He has also distributed pamphlets and attended a protest at the local mayor's office.
64. When asked by the Tribunal about his reasons for becoming involved, his answers were quite vague: his friends were members and they had ideas to change the country for the better. He was not able to tell the Tribunal any significant details of the ideals of the group, other than that they were dissatisfied with the education system. The group opposed the social and economic policies of the king. The only example the applicant was able to give of these policies was the system of appointment of the government ministers by the king, which was not democratic, and so the group boycotts elections. The group called for a democratic system, justice and fairness.
65. He was involved in the distribution of leaflets. He was not able to give the Tribunal any examples of when he did this, other than the group protested outside the mayor's office because of rising food prices. The only other activity in which he was involved was recruiting members. He did not hold any official positions.
66. The Tribunal has considered the applicant's evidence that he was not an office holder in the organisation and that his role was limited to distributing pamphlets with six others and recruiting members, through his salon. However, this involvement, albeit limited, continued since 1994, a period of 14 years before his departure to Australia. After considerable questioning of the applicant by the Tribunal he gave some information, though this was generalised. Given the claimed lengthy and continuous involvement, and his claim to be a "prominent" member of the group, the applicant's apparent knowledge of the Jammaat Al-Adl Wal-Ishan, its ideals, philosophy and activities does not appear to reflect the degree of knowledge which a person with this lengthy active involvement would be expected to have.
67. Further, in the Tribunal's view, a person who actively and successfully recruited members for many years would be both knowledgeable and persuasive in his

description of the organisation. At the hearing, the applicant did not demonstrate such attributes and it was only after considerable questioning by the Tribunal that he gave any information, and then only limited and generalised.

68. The applicant indicated that an activity with the group was in distributing pamphlets, since the political arm was established in 1998. He did not provide any details of these activities, such as the nature of the pamphlets, the frequency of the distributions, other than their depending on the situation in Morocco. The one example he did give, that of the issue of the rising food prices and the protest at the mayor's office, was very vague.
69. The information before the Tribunal indicates that the applicant was able to depart Morocco without any problem. He stated this to the Department but said to the Tribunal that this was due to the intervention of his brother-in-law. However, in the letter dated 28 August 2009, the applicant's representative has indicated that "*he [the applicant] mentioned to his brother-in-law that he was leaving Morocco, and his brother-in-law asked him for the date of his departure...*" The applicant does not know if his brother-in-law intervened but thinks he may have. Alternatively, the airport authorities may not have been aware of him.
70. The Tribunal is of the view that the applicant's brother-in-law's involvement in his departure without problems is speculative. However, it is possible that the brother-in-law did intervene and this would explain the applicant's ability to leave Morocco without hindrance by the authorities.
71. The applicant applied for the protection visa [in] February 2009, which was a period of thirteen weeks after his arrival in Australia. It was also two days before his visitor visa was to expire. The applicant explained this delay as being due to his not being comfortable with his lawyers, but the main reason for the delay though was the \$10,000 bond paid and this made him hesitate to apply. The Tribunal accepts that discomfort with lawyers, together with the issue of the loss of a bond of \$10,000, could lead to delay in applying for a protection visa.
72. The Tribunal has concerns in relation to the applicant's evidence. However, the Tribunal is satisfied that the applicant's evidence about Jammaat Al-Adl Wal-Ishan, while generalised, has been consistent. The Tribunal has no reason to question the credibility of the applicant. The Tribunal is satisfied that the two "Convocations" provided by the applicant are genuine and, while they do not specifically indicate support for the applicant's claims of his facing the threat of detention, the Tribunal has considered the applicant's evidence that he responded to such a letter in 2007 and was arrested and that the same thing will happen again. The Tribunal is of the view that this could be the case, as the applicant claims. The Tribunal is therefore of the view that these documents are of some weight. There is a plausible explanation for the applicant's delay in applying for protection. There is also a plausible explanation for the applicant's unhindered departure from Morocco.
73. The Tribunal has therefore decided to give the applicant the benefit of the doubt. The Tribunal cannot be satisfied that the applicant is not a member of Jammaat Al-Adl Wal-Ishan. The applicant's evidence is consistent with the independent information before it in relation to the group. This information indicates that members of this group do suffer serious harm because of political opinion and this harm is systematic and discriminatory. This harm amounts to persecution for Convention purposes.

74. The Tribunal considered whether the applicant could avoid harm by relocating to another part of Morocco. However, the independent information before the Tribunal indicates that the harm to members of Jammaat Al-Adl Wal-Ishan occurs throughout Morocco and that it is not reasonable or safe for him to relocate.
75. The Tribunal also considered whether the applicant would be given adequate state protection in Morocco. As the harm to members of Jammaat Al-Adl Wal-Ishan is by the state, there is no adequate or effective protection available to the applicant in Morocco.
76. Accordingly, the Tribunal cannot be satisfied that the chance of persecution for the applicant is remote or insubstantial or a far-fetched possibility. Accordingly, the Tribunal finds that the applicant has a well founded fear of persecution, by authorities in Morocco, for reasons of political opinion.

CONCLUSIONS

77. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicant satisfies the criterion set out in s.36(2)(a) for protection visas.

DECISION

78. The Tribunal remits the matter for reconsideration with the direction that the applicant satisfies s.36(2)(a) of the Migration Act, being a person to whom Australia has protection obligations under the Refugees Convention.

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