

0803572 [2008] RRTA 362 (10 September 2008)

DECISION RECORD

RRT CASE NUMBER: 0803572

DIAC REFERENCE(S): CLF2008/38710

COUNTRY OF REFERENCE: Lebanon

TRIBUNAL MEMBER: Susan Pinto

DATE DECISION SIGNED: 10 September 2008

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 Tribunal has before it the Department's file relating to the applicant, which includes a copy of the delegate's decision record.
20. The applicant's passport, a copy of which was provided to the Tribunal, indicates that the applicant had visited Australia previously on the same passport.

Protection visa application

21. According to his protection visa application, the applicant is an adult age male from Lebanon. The applicant states that he had education in Lebanon and prior to his arrival in Australia he was employed as a tradesman. The applicant states that he resided in Lebanon for ten years prior to his departure for Australia.
22. In a statutory declaration attached to his protection visa application, the applicant states the following in relation to his claims to be a refugee:

...

5. My ethnicity is Lebanese and I was born a Sunni Muslim.

6. I joined the Hariri Future Party in [date], during the period known as the Cedar revolution. This was the period following the assassination of the former Lebanese Prime Minister Rafic El Hariri. The Cedar revolution called for the immediate withdrawal of Syrian troops from Lebanon. The campaign of peaceful demonstrations was successful in pressuring the Syrian troops out of Lebanon in May 2005.

7. I became an active member of the [location] branch of the Future party in [date].

8. My role within the branch was to attend meetings, distribute pamphlets and encourage people in [location] region to join the Future Party.

9. Although I lived in the [location] region, my work was in Beirut. I worked in various sites in the Beirut areas as I was a mobile tradesman.

10. My work would often take me to the West Beirut region and deep inside the Hizbollah stronghold of Dahiah.

11. My problems with Hizbollah started in [date]. This was after I had attended a rally in commemoration of the first anniversary of the death of Rafic Hariri.

12. Members of Hizbollah intelligence who also attended the rally had seen me attending the commemoration. On [date], whilst attending work at the Dahiah area, I was approached by 3 members of Hizbollah. I was severely beaten. I was fortunate that whilst I was being beaten a Lebanese army convoy was passing by and my

attackers fled. I was taken to hospital and treated for severe head wounds and cuts to my face.

13. After the attack I refrained from working in Beirut or other areas which were dominated by Shiite population.

14. Soon after the attack I received numerous telephone calls on my mobile from persons describing themselves as members of Hizbollah. They wanted that they will kill me if they catch up with me.

15. Members of Hizbollah visited the main head office of my employer in [an area of] Beirut. Fortunately, on that occasion I was not present. They wanted my employer not to engage my service any longer because this will bring trouble to the company. During their visit they stole a customer vehicle.

16. I applied for [an Australian] visa in [date].

17. Between the period [date] until the time of my departure from Lebanon in [date], I maintained an extremely low profile, residing in the mountainous village around my home town of [location]. This is an extremely isolated plantation area which rarely sees visitors.

18. I refrained from travelling to [home town] or any other main town or city for fear of being kidnapped by Hizbollah operatives.

19 I fear that if I return to Lebanon, I will be harmed by Hizbollah or their Shiite supporters.

20. The Lebanese authorities are not capable of offering me effective protection because Hizbollah is an armed military organisation who controls vast areas of Beirut and South Lebanon. Hizbollah also have operatives operating in north Lebanon, who are capable of harming me.

21. The situation in Lebanon is extremely dire, and there are increasing violent confrontation between Hizbollah and the Future Party supporters. I fear that Lebanon is heading towards all out armed confrontation between both groups.

Application for review

23. 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 (Lebanese) and English languages. The applicant was represented in relation to the review by his registered migration agent. The applicant's oral evidence is summarised below.
24. The applicant confirmed that he arrived in Australia on an Australian visa. He was sponsored by his close relative who is an Australian permanent resident. The applicant confirmed that he has previously visited Australia.
25. The applicant completed his schooling in Lebanon. Following High School, the applicant became a tradesman. He initially worked in one location, but subsequently worked in Beirut for about numerous years and also worked as a mobile tradesman. The applicant's house was in one location but he would live in Beirut during the week and go to his house at the weekends. When he was in Beirut, the applicant would say in a location. The place where the applicant worked is based in this location which is where the applicant last worked before

coming to Australia. The applicant worked for this business for several years and ceased working in 2007.

26. The applicant stated that the statutory declaration which he provided to the Department was prepared with the assistance of the applicant's migration agent. The applicant told the migration agent "his story" and it was written down.
27. The applicant confirmed that he is a Sunni Muslim. When asked why he feared returning to Lebanon, the applicant stated that he was in a party called Tayar Al Mostakbal. The applicant and others demonstrated after the assassination of Hariri and he was seen by Hezbollah members because he was working in their area. When asked what demonstration he was referring to, the applicant stated that the demonstration was in response to the assassination of Hariri, the former President of Lebanon. When asked when the demonstration was held, the applicant stated that it was in March 2007. When asked for the exact date, the applicant stated it was 14 March 2007. When asked what sort of demonstration it was, the applicant stated that it was a peaceful demonstration and it was held close to the area where Hezbollah party people operated and it was in the middle of Beirut in the Martyr's Square. The applicant stated that it was attended by up to a million people, but he does not know the exact number.
28. The Tribunal advised the applicant that the demonstration in relation to the anniversary of Hariri's death was held on 14 February 2007. The Tribunal showed the applicant a copy of a report from the Internet. The applicant stated that there were 2 demonstrations, it happened twice and it was called Azar's revolution and was held on 14 March. When asked what the demonstration held on 14 March was about, the applicant stated that it was because of the presence of Syria in Lebanon and because of weapons with Hezbollah. When asked again what was the purpose of the demonstration on 14 March, the applicant stated that they wanted the independence of Lebanon so that it could be a free state. The Tribunal stated that it found nothing about a demonstration on 14 March 2007, but it would conduct further searches in relation to this issue. The Tribunal also stated that the applicant had stated in his statement that he attended a demonstration in relation to the first anniversary of the death of Hariri and he had not said in his statement that he attended a demonstration in relation to Azar's revolution. The applicant stated that they are for the same reason. The applicant confirmed that about 1 million people attended the demonstration.
29. The Tribunal queried how the applicant would have been seen by Hezbollah when there were hundreds of thousands of people attending the demonstration. The applicant stated that it was because he used to go and work in the area. The Tribunal again queried how the applicant would have been seen by Hezbollah and how they would target him specifically when there were so many people attending the demonstration. The applicant stated that they did not pick him up on that day, but he was around in their area a few days later working and they picked him up. When asked why they picked him up, the applicant stated that it was because they target Tayar Al Mostakbal Party members and he is one of them. The applicant then stated that it was about 2 months later that he was picked up. He was sent threats and later they picked him up. The applicant stated that after the demonstration, they started sending threats that he should leave the Tayar Al Mostakbal Party. The applicant stated that the Tayar Al Mostakbal Party is the Arabic name for the Hariri Future Party and the leader of the Party was Saad El Hariri.
30. The applicant confirmed that he was sent threats by young people from Hezbollah. They began sending threats to him a few days after the demonstration, possibly 5 or 6 days after the demonstration. One day in 2007, a group of persons attacked the applicant and beat him up.

The applicant was in another area in Beirut. The applicant knew that the persons were Hezbollah because it was their area that he was in when he was attacked. When asked how they would have known that he was involved with the Future Party, the applicant stated that it was because he was working in that area he would talk about his involvement with the Party. The Tribunal expressed its doubts that the applicant would have previously spoken about his future involvement in the party, but Hezbollah members would then suddenly assault him because of that involvement in the party.

31. The applicant stated that he was beaten by people from Hezbollah. The applicant was beaten up by 3 people from Hezbollah. He knew that the people were from Hezbollah because no one except Hezbollah can walk around and carry weapons. When they were beating him up, the applicant was told that he would have to leave the area otherwise he would be killed. The applicant was threatened after he left the area and Hezbollah stole a car from Beirut. The applicant suffered wounds and bruises all over his body. When asked what sort of wounds he suffered, the applicant stated that the wounds were caused by the persons kicking and hitting him with their feet and their hands. The applicant's right elbow and his face had wounds and there were many bruises on his whole body and all of his body was aching and had pains. When asked whether he was seriously injured, the applicant stated that unless the army came to assist him he would have died. The applicant was also kicked in the head. He does not know the sort of weapons used but they hit him with the back of a gun. At hospital, the applicant was given treatment immediately and they checked his body and put band-aids on his bruises and wounds. The applicant stayed in hospital for one day and completed his recovery at home. The Tribunal asked why the applicant went to hospital in another city if the assault occurred in Beirut. The applicant stated that it is expensive to go to a hospital in Beirut and he could not afford it. In this city, his Party can help with his treatment. This could not occur in Beirut.
32. After the assault, the persons went to the place where he worked and stole a car and started threatening him. When asked when he went back to work, the applicant stated that he did not do any work after that. The Tribunal stated that he had previously said they started coming to the place where they worked and threatened him. The applicant stated that was before the incident, but he did not do any work after the incident. The applicant stated that before the incident they would telephone him and would come personally to his workplace.
33. The Tribunal advised the applicant that what he has told the Tribunal at the hearing is quite different than his statement. The Tribunal stated that in his statement he had said that after he was attacked he received telephone calls and the people started coming to his workplace, but he had told the Tribunal during the hearing that this occurred before he was attacked. The applicant said that they sent threats before and after and this was why he did not go back to Beirut.
34. The Tribunal queried why Hezbollah was so interested in him. The applicant stated that it was because some of them knew he was a member of the Future Party and they did not like it. When asked for further details regarding his involvement in the Party, the applicant stated that he would attend meetings and ask others to distribute pamphlets. The applicant stated that he became involved with the Party in 2005. He joined the branch of the Future party in Beirut but did not go to the Branch in Beirut. When asked why he joined the Future party in 2005, the applicant stated that he had previously been interested in politics. The applicant joined in 2005 because he liked what they used to do because they secure shops, try to educate people and do not carry any weapons or arms. When asked what he did when he

joined in 2005, the applicant stated that they talked to him about the guidelines of the party and what to do, and how he should participate.

35. The applicant confirmed that he was not involved with the Future Party in Beirut. The applicant knew someone at the Beirut headquarters who registered his name. When asked why he would register his name only, the applicant stated that it was a step to joining and after that time he was working with them. When asked to clarify how and where he registered, the applicant stated that he registered with the Beirut branch and started practising and participating in his home location. When asked what he did in this place, the applicant stated that he attended meetings and distributed pamphlets and publications. When asked when he began doing that, the applicant stated that he did that in 2007. The applicant stated that when he started with them in 2005, he was being prepared for the job he would be doing. The Tribunal queried why this would take 2 years. The applicant stated that gradually they told him what to do and he was with them from 2005. The Tribunal advised the applicant that he said in his statement that he became an active member of the party from 2007. The applicant stated that it was in 2005 that he became an active member of the local branch. The Tribunal stated that he had previously said that it was 2007. The applicant stated that the incident happened in 2007. The Tribunal stated that it was not asking him about the incident but about when he became an active member. The Tribunal queried why there were inconsistencies in relation to the date he became an active member. The applicant stated that he started with them in 2005 and he met with people and spoke with others about joining the Party.
36. The Tribunal stated that the document he provided stated that he became a member in a month in 2005. The applicant stated that was what they wrote but he became a member in one month earlier. The Tribunal showed the applicant a copy of the document he had provided to the Tribunal. The applicant stated that they put down a date, but he began with them in one month earlier. The representative submitted that the translation could be the later date.
37. The Tribunal queried whether the applicant was claiming that he had been attacked because he was a member of the Future party and because he had attended the demonstration. The applicant confirmed that the Tribunal's summary of his claims was correct. The Tribunal stated that there are inconsistencies in relation to his statement and his oral evidence and his evidence was also unsupported by the independent evidence in relation to attacks by Hezbollah. The Tribunal stated that although there were some conflicts in Beirut in May 2008, these incidents occurred after he had left Beirut. The applicant stated that other incidents had happened before that time. The Tribunal stated that there is no independent evidence supporting his claims and no information that Hezbollah targeted Sunnis simply for that reason. The Tribunal stated that the independent evidence indicated that Hezbollah has adopted an inclusive platform and has sought to appeal to Sunnis and Shias. The applicant stated that if nothing had happened to him he would not have left Lebanon.
38. The Tribunal further stated that in 2007 there were some attacks on prominent anti-Syrian Lebanese MPs who were members of the Future Party, but no indication as to whom initiated the attacks. The Tribunal stated that there is significant information from human rights groups and other sources relating to the situation in Lebanon and there is no information that ordinary people or ordinary members such as the applicant who has had a low level of involvement in the Future Party are attacked or targeted by Hezbollah. The applicant stated that there are some incidents and the Tribunal may not have that information. The applicant confirmed that there is a limited Hezbollah presence in his home area. The applicant stated that it is predominantly Sunnis but no-one knows who is Hezbollah. The Tribunal queried

why the applicant could not live safely in his home area. The applicant stated that they are all over Lebanon and he does not know what will happen to him. The Tribunal stated that it had considerable difficulty accepting that Hezbollah would be interested in a person such as him. The applicant stated that it may not be Hezbollah but there are people who are targeting him. When asked for clarification, the applicant stated that the persons could be from Hezbollah or anywhere else but they are always targeting him. When asked whether he was now saying that he did not know whether they were from Hezbollah, the applicant said that perhaps the Party was not personally interested but they may have sent some of their members to target him.

39. The applicant stated that he will be in danger in Lebanon and would not have left if he was not in serious danger. When asked why he waited until sometime in 2007 to make the application for the visa, the applicant stated that it was difficult for him to get to Beirut to make the application and his Australian relative also needed time to prepare for the application. The applicant did not know the procedures as to how to make an application for a visa. The Tribunal expressed its doubts that he would not know the procedures given that he had previously visited Australia. The applicant stated that he did not previously have any problems in Lebanon. The Tribunal queried why it was that if he was involved with the Hariri Party since 2005 he would suddenly have problems in 2007. The applicant stated that was when they started causing problems for him. The applicant stated that they began causing problems and the problems were hidden and not many people knew. When asked to explain what he meant by hidden problems, the applicant stated that no-one is allowed to approach their areas and they scare people. The government cannot negotiate with them and they carry arms. The Tribunal stated that Hezbollah comprises 18% of the seats of the Lebanese parliament and it was untrue to state that they would not negotiate with the Lebanese government. The applicant stated that they place too much pressure on the government.
40. The representative submitted that the events of May 2008 should dispel any theory that Hezbollah is a legitimate political party in Lebanon. Hezbollah attacked and killed 60 civilians in May 2008 and did not take any action because they feared that the Army would split. Hezbollah is still branded as a terrorist organisation and it was only after violence that they forced themselves into the Lebanese parliament. The fact that the applicant as a Sunni travelled to West Beirut and entered into their area would cause the applicant problems. Hezbollah has conducted random violence against ordinary citizens and are a "State within a State" and are a military force in Lebanon. The representative will provide more evidence about ongoing killings against Sunnis.
41. The Tribunal advised the applicant that it would write to him to address the issues that it had raised with him and that would give him an opportunity to comment in writing on those issues.
42. The applicant provided to the Tribunal a copy of a document from the Hospital in a city of Lebanon, stating that he was in need of rest for a day in 2007 because he is "suffering from various bruises to his body". The applicant also provided a copy of a letter from his former employer who states that the applicant has worked for him as a tradesman for a number of years and told him some time ago that he intended to leave work because of "receiving threats from unknown people with being killed for political reasons". The letter is signed by the owner of the business and 2 other persons.
43. The applicant also provided a copy of a statement from the Future Youth Movement stating that the applicant joined the movement on a day in 2005 and was issued with a membership

card proving his membership on the same date. The statement by the Director of the Future Movement in North Lebanon also states that “We particularly note his distinguished membership which he had proved through his diligent participation with loyalty and sincerity.

44. The Tribunal wrote to the applicant pursuant to s.424A. The Tribunal invited the applicant to comment on inconsistencies between his oral evidence and the independent evidence in relation to the date of the demonstration on which he claimed to have attended and other inconsistencies in relation to his oral evidence to the Tribunal and his evidence contained in his statement to the Department.
45. The applicant provided a response to the Tribunal’s s.424A letter. The applicant’s representative stated that he has been instructed to respond as follows.
 1. It is noted that on 14 March the Cedar (Arze) revolution is celebrated and on 14 February the death of the late former Prime Minister is commemorated.
 2. Both events usually attract a large rally in Martre Square in Beirut. The figure that our client quoted is the estimated figure that such rallies usually attract.
 3. It is also noted that both events are organised by the March 14 Block.
 4. We submit that the yearly rally which occurs on March 14th is the celebration of the birth of the Cedar (Arze) revolution as opposed to the commemoration of the death of Rafik Harriri which occurs on February 14th Figures quoted in the media estimate that both events usually attract numbers close to 1 million people.
 5. Our client denies that he stated in his oral evidence that he had completely stopped working as a tradesman after the attack. He suggests that this may be attributed to an interpretational error.
 6. Our client gave oral evidence that approximately 5 to 6 days after the demonstrations he began to receive threats. We contend that this is not inconsistent with what was stated in the statutory declaration, namely that soon after the demonstration he began to receive threats.
 7. Our client maintains that he became an active member of the Future party in 2005, and not 2007 as stated in the statutory declaration. We acknowledge that there has been a typing error made in the statutory declaration.
 8. Our client draws the Tribunal’s attention to worsening sectarian strife in Lebanon, where clashes between Sunni and pro Hizbollah Allawi’s continues unabated. Reports in [date] media confirm the killing of a Sunni Iman in the [location] region and the growing fears that sectarian and politically motivated killings will spiral out of control. Please refer to [website]
 9. Information on the March 14 and February 14 rallies can also be obtained from the official web site of March 14.

Independent evidence

General information on Hizbollah and relations between Sunni and Shi’a in Lebanon

46. The 2006 US Department of State report on religious freedom in Lebanon states that in Lebanon as a whole, relations between the various confessional groups are “generally amicable”:

The country, founded as a modern state in 1943, has an area of 4,035 square miles and a population of four million. Because parity among confessional groups remains a sensitive issue, a national census has not been conducted since 1932. However, according to three reputable demographic studies conducted over the past two years, 28-35 percent of the population was Sunni Muslim, 28-35 percent Shi’a Muslim, 25-39 percent Christian, and 5-6 percent Druze. Over the past sixty years, there has been a steady decline in the number of Christians as compared to Muslims, mostly through emigration of large numbers of the Christian Maronite community. There were also very small numbers of the Jews, Baha’is, Mormons, Buddhists, and Hindus....

...The generally amicable relationship among religious groups in society contributed to religious freedom; however, there were periodic reports of tension between religious groups during the reporting period, which may be attributed to political differences and the fact that citizens still struggled with the legacy of a fifteen-year civil war that was fought largely along religious lines (US Department of State 2006, *International Religious Freedom Report 2006: Lebanon*, 15 September).

47. An *Asia Times* article, dated 20 July 2006, indicates that Hezbollah is a “Lebanese Islamist Shi’ite group”, which is led by Hassan Nasrallah. It “was set up in 1982 to resist Israeli occupation of Lebanon during the brutal civil war. The group declared a political existence in 1985.” According to the article, “The political platform of Hezbollah calls for the destruction of Israel, but the group has successfully transformed itself from a radical extremist group into an effective political force that holds 18% of the seats in the Lebanese parliament.” It is stated in the article that:

In Lebanon, the group had first hoped to transform the whole country into a fundamentalist Shi’ite state. But it has now abandoned that objective for a more inclusive platform. About 60% of the 3.8 million population of Lebanon is Muslim, most of them Shi’ite. This is where Hezbollah draws its support. The rest of the population is almost all Christian. A 15-year civil war between Muslim and Christian groups ended in 1991.

48. The article also notes that “Hezbollah became the most powerful military force in Lebanon after Syria withdrew its troops last year. It now has a seat in the Lebanese cabinet.” Hezbollah had been “invited to join the government last July in the hope that the move would bring national unity to Lebanon as the country struggled for stability and peace” (Jamail, Dahr 2006, ‘Hezbollah’s transformation’, *Asia Times* , 20 July).

49. An International Crisis Group report dated 5 December 2005 notes the comments of a UN observer, who said that Hezbollah’s leader “Nasrallah repeatedly asserts that they have no conflict with the Sunnis”. According to the report:

By and large, Hizbollah has sought to dampen sectarian tensions. According to a UN observer, “they will not allow their people to be used in an inter-Lebanese fight. They are very keen to be seen as an inter-Lebanese group, and Nasrallah repeatedly asserts that they have no conflict with the Sunnis” (International Crisis Group 2005, *Lebanon: Managing the gathering storm*, Middle East Report No 48, 5 December, pp. 17-18).

50. An article dated 5 March 2004 indicates that one of Hezbollah’s nine members of parliament in Lebanon at that time was a Sunni Muslim (Sykes, Hugh 2004, ‘New era for Hezbollah’, *BBC News World Edition*, 5 March).

Rallies/Demonstrations – February/March 2007

51. A report from the Lebanese paper, *The Daily Star*, indicates that a rally was held on 14 March 2005 after the assassination of former Premier Rafik Hariri on 14 February 2005 and was attended by approximately 1 million people protesting against the Syrian presence in Lebanon.
52. No reports were found of a rally held on 14 March 2007, the day on which the applicant claimed he attended a rally/demonstration in which approximately 1 million people attended. According to this article from the Lebanese paper, *The Daily Star*, “the day passed quietly on the political and street levels”. The article states that a March 14 Forces meeting was cancelled, and the only events which took place on the day were “a concert held in memory of Kassir, a prominent figure and voice of the March 14 camp, and a dinner held in Downtown Beirut by the Future Movement Youth” (Ghazel, R. 2007, 'March 14 passes quietly amid stalemate', *Daily Star*, 15 March).
53. The Tribunal located several reports of a rally held in Lebanon on 14 February 2007. The excerpt from *The New York Times*, states the following in relation to the rally.

The military on Wednesday rolled out acres of razor wire and fashioned a no man's land to separate the hundreds of thousands of government supporters who poured into the center of this city from the hundreds of opposition supporters who have camped downtown since December. The occasion was the second anniversary of the assassination of the former prime minister Rafik Hariri. (*The New York Times*, 15 February 2007).

Attacks against supporters or members of the Hariri Party (Future Movement) in 2007

54. In June 2007, the most prominent attack on a member of the Hariri Party (Future Movement) occurred:

Beirut – Prominent anti-Syrian Lebanese MP Walid Aidu, one of his sons and two bodyguards were killed on Wednesday in a blast that rocked the waterfront areas of Lebanon's capital Beirut, Arabic satellite TV channel al-Arabiya and other networks said. Ten people are reported to have been killed and at least ten injured in the attack. Eido was a close ally of Lebanon's assassinated former prime minister Rafik Hariri and was a member of his son Saad Hariri's anti-Syrian Future Movement. Eido's death in the blast was confirmed by two Future Movement MPs Marwan Ahmedi and Akrah Shahib, according to al-Arabiya ('Anti-Syrian MP killed in Beirut seafront blast' 2007, AKI, 13 June).
55. The Tribunal also found the following reports of conflicts between Future Movement supporters and perceived pro-Syrian forces in 2007:

A fight in a university cafeteria was the spark that ignited Beirut's streets for the second day last week.

According to security sources, supporters of Sunni leader Saad Al-Hariri's Future Movement surrounded the Beirut Arab University after the fight turned into a brawl, refusing to allow Shia opposition supporters to leave. As the army tried to negotiate a lift of the blockade -- the university is in the Sunni area and Future Movement stronghold of Tarik Al-Jadida -- vanloads of Shia Amal supporters arrived.

Pitched street battles ensued between scores of rock and bottle-hurling youths. In the most worrying echo of the civil war, snipers appeared on roofs and picked off several opposition

figures in the melee below. (Fielder, L. 'Ghosts of the past' 2007, *Al Ahram Weekly* , 1 February, <http://weekly.ahram.org.eg/2007/830/re6.htm> - Accessed 30 July 2007 .

Mahmoud was killed in clashes Sunday in the Sunni neighborhood of Qasqas between Hizbullah and pro-Hariri Future Movement supporters, which also left two other Shiite youth, identified only by their family names as Shouker and Hammi, in critical condition at hospital. Earlier in the evening, as Mahmoud's body was brought into Riad al-Solh Square, close to the Grand Serail, a voice blared over loudspeakers: "Our response to Mahmoud's killing is numbers!" ('New clashes hit Sunni neighborhood in Lebanese capital' 2006, *Dailystar* , 5 December, http://www.dailystar.com.lb/article.asp?edition_id=1&categ_id=2&article_id=77405 – Accessed 5 December 2006. CISNET Lebanon CX166324 http://immibelweh03/NXT/gateway.dll/cisnet_bacis/cisnet_bacis_lbn/bacis_cx166324).

56. Following unrest, Internal Security Forces (ISF) have moved into areas to restore order:

Despite repeated attempts to quell violence, clashes continued erupting in Tripoli and Chekka in the North. Violence between Hizbullah and Future Movement supporters killed at least two people in Tripoli Supporters of the Lebanese Forces and the Free Patriotic Movement clashed in Chekka, leaving many wounded.

"ISF units are monitoring the roads," said the ISF official. "About 21,000 forces - army and police - are present throughout Lebanon."

Security in Downtown Beirut was beefed up to 1,000 army personnel, according to a sergeant stationed there who wished to remain anonymous. (Abi-Habib, M. 'Security forces struggle to hold the line' 2007, *The Daily Star*, 24 January, <http://electronicintifada.net/v2/article6436.shtml> - Accessed 30 July 2007).

57. On 19 September 2007, a car bomb exploded in Beirut killing at least 5 people, including Anti-Syrian Christian lawmaker Antoine Ghanem.
<http://melsrv1/melref/INTERNET/lbn32100.we3.doc>

Events of May 2008

58. In May 2008, conflict between supporters of the governing coalition and Hezbollah-led opposition resulted in street battles. The following article from *The New York Times* reports on that conflict (*The New York Times*, 13 May, 2008) (CX199863).

LEBANON: Lebanese army says it will use force to quell fighting, By Robert F. Worth

The Lebanese Army announced on Monday evening that it would start using force to stop fighting between supporters of the governing coalition and the Hezbollah-led opposition, a step the army had not taken during almost a week of sectarian violence that recalled the country's 15-year civil war.

The announcement was made as violence eased across Lebanon, despite some renewed street battles in the north. Tensions were still high in the Chouf mountains overlooking Beirut, where armed fighters remained on the roads after a day and night of fierce clashes that appeared to have left dozens of people dead.

The army continued to deploy forces in the mountains east of Beirut and in northern Lebanon, as part of a plan to take over militia positions and quell the fighting. But there were signs that some government-allied figures were increasingly mistrustful of

the army — widely viewed as Lebanon's one nonpartisan institution — because it did not interfere when Hezbollah supporters seized control of much of western Beirut on Friday.

In northern Lebanon, a plan for local groups to hand their weapons to the army has encountered some resistance because pro-government groups, which are a majority in the north, fear being left at the mercy of Hezbollah, said Misbah Ahdab, a member of Parliament from Tripoli. Sporadic gun battles took place on Monday between pro-government Sunni fighters in the Bab al Tabbaneh area of Tripoli, in the north, and pro-Hezbollah Alawites in neighboring Jebel Mohsen, Mr. Ahdab said.

Although both of Lebanon's major political camps still look to the army as an arbiter, government supporters have become increasingly critical of its passive role in the recent clashes.

"The army is no longer the army," said a political adviser to the government, who spoke on the condition of anonymity because he was not authorized to speak publicly. "It has lost its legitimacy in the eyes of the citizens."

In the Chouf mountains east of Beirut, one pro-government Druse fighter, asked if he and his fellow Druse would give up their weapons to the army starting Tuesday, said, "We will if Hezbollah will."

Hezbollah has long refused to discuss relinquishing its weapons; the current crisis began last week after the government challenged a private telephone network and airport camera system that Hezbollah views as part of its defenses.

Tensions remained high on Monday in the Chouf, where at least 20 government-allied Druse fighters were killed in battles that stretched through Sunday night, said Walid Jumblatt, the Druse leader. Mr. Jumblatt's followers were fighting Shiite Hezbollah supporters and their Druse allies. The number killed on that side was not clear, but Reuters reported that 36 people had been killed in all during the mountain battles.

Mr. Jumblatt seemed uneasy about the prospect of further unrest in the mountains, especially in light of the raids by heavily armed Hezbollah fighters into the Druse mountain heartland over the weekend.

"We will not accept to be humiliated," Mr. Jumblatt said during an interview at his Beirut residence.

On Monday, army units and militiamen loyal to the Hezbollah-led opposition were visible on the roads. In the town of Shuweifat, closer to Beirut, there were burned-out cars and shops, and houses riddled with fresh bullet holes. Human remains lay on the floor of one bullet-scarred garage, along with thick bloodstains where bodies had apparently been dragged along the floor.

In Beirut, an uneasy calm prevailed as government figures awaited the arrival of an Arab delegation that aims to help resolve the crisis. The cabinet has still not met to discuss the two government decisions that led Hezbollah to seize western Beirut, and it is not yet clear whether rescinding those decisions will be enough for Hezbollah to stop its so-called civil disobedience campaign, which includes blocking the road to the Beirut airport.

59. An article from *The Associated Press* (accessed on 13 May, 2008) (CX199860) provides further information on the conflicts in May 2008:

LEBANON: Fighting in Tripoli, but Lebanon's capital is calm, by Scheherezade Faramarzi

Fighting between pro- and anti-government factions jumped to Lebanon's north Monday, but a grim calm hung over the nearly empty streets of Beirut — a capital crippled by roadblocks, suspicion and fear.

As black-clad Shiite militants of Hezbollah carried their latest dead to burial, so did the families and friends of civilians caught in the middle of combat that has routed Sunni factions supporting the Western-allied government from Muslim west Beirut.

More than 50 people were confirmed dead since fighting erupted Wednesday — first in Beirut, then in the mountains overlooking the city and on Monday in the northern city of Tripoli. It is the worst sectarian violence to wrack Lebanon since a 15-year civil war ended in 1990.

That war killed 150,000 people and laid waste to many parts of Beirut, leaving the city divided into ethnic and religious districts deeply suspicious of one another, and the new fighting has torn open old wounds.

...

FINDINGS AND REASONS

60. The applicant provided a copy of his passport to the Tribunal indicating that he is a national of Lebanon. Accordingly, the Tribunal has assessed the applicant against Lebanon as his country of nationality.
61. The applicant claims that he is a Sunni and a member and supporter of the Hariri Future Party (Tayar Al Mostakbal) The applicant claims that he attended a demonstration to commemorate the death of El Rafic El Hariri and/or to demonstrate against the Syrian presence in Lebanon and to celebrate the birth of the Cedar (the Azar Revolution) on 14 March 2007 and was seen by Hezbollah supporters. Following his attendance at the demonstration, the applicant was attacked one day in 2007 by Hezbollah supporters. The applicant claims that he received threatening telephone calls and visits at his workplace from Hezbollah. The applicant claims that he maintained an “extremely low profile” between this event and his departure from Lebanon for Australia. The applicant claims that he fears returning to Lebanon because he will suffer harm from Hezbollah or their Shiite supporters.
62. The Tribunal accepts that the applicant is a Sunni and that he supports the ruling coalition party, the Hariri Future Party. The Tribunal considers that the applicant’s evidence in relation to his claimed involvement in relation to the Hariri Future party is problematic and inconsistent between his written and oral evidence. At the Tribunal hearing, the applicant initially claimed that he joined the Beirut branch of the Future Party in 2005, but it was not until 2007 that he began distributing pamphlets and publications for the local Branch of the Future party. The applicant subsequently altered his evidence on this issue at the Tribunal hearing and stated that he became an active member of the local Branch of the Future Party in 2005. By contrast, the applicant stated in his statement to the Department, that he joined the Future Party in 2005 and became an active member of the local Branch in 2007. In response to the Tribunal’s s.424A letter, the applicant has claimed that there was a mistake in his

statement and he became an active member in 2005. Whilst the evidence on this issue leads the Tribunal to doubt the applicant's involvement with the Party, the Tribunal is prepared to accept that the applicant was involved with the Hariri Future Party since 2005. Nevertheless, the applicant's own evidence to the Tribunal, which was that he distributed petitions and pamphlets, attended meetings and spoke to people about joining, does not indicate involvement in the Party in anything other than a low level and does not establish that the applicant had any kind of political profile as a member of the Hariri Future Party.

63. Although the Tribunal has accepted the applicant's low level involvement in the Hariri Future Party, the Tribunal does not accept that the applicant has ever been targeted by Hezbollah or suffered harm as a result of his involvement in the Hariri Future Party or his involvement in claimed demonstrations in Lebanon. The Tribunal is not satisfied that the applicant has given truthful evidence to the Department and the Tribunal in relation to several aspects of his claims. The Tribunal's consideration of the applicant's evidence to the Department and the Tribunal follows.
64. The Tribunal has first considered the applicant's claims in relation to his attendance at a demonstration in 2007. In his statutory declaration to the Department, the applicant claimed that he attended a rally/demonstration in commemoration of the death of Rafic El Hariri and opposing the Syrian presence in Lebanon. The applicant stated in his statutory declaration that his "problems" with Hezbollah started in 2007 after he attended the rally. When asked at the Tribunal hearing about this issue, the applicant stated that the rally that he attended was held on 14 March 2007 and that this rally was attended by approximately 1 million people and that it was in relation to the Azar's revolution. During the hearing, the Tribunal advised the applicant that the rally commemorating Rafic El Hariri's death was held on 14 February 2007, to which the applicant responded that there were 2 rallies and the one that he attended was held on 14 March 2007 and also stated that the rallies were for the same purpose, opposing the presence of Syria in Lebanon. The independent evidence, as discussed above, indicates that no rally was held on 14 March 2007 and that day "passed quietly on the political and the street levels" (*Daily Star*, 15 March 2007). The independent evidence also indicates that the rally commemorating Rafic El Hariri's death, at which approximately 1 million people attended, was instead held on 14 February 2007, although a large rally was held on 14 March 2005 following Rafic El Hariri's death a month earlier.
65. The Tribunal considers that the independent evidence indicates that the applicant could not have attended a rally/demonstration at which approximately 1 million people attended on 14 March 2007 because there is no evidence indicating that any such demonstration was held. The Tribunal considers that such a significant rally would have been discussed in the reports accessed by the Tribunal. Whilst the Tribunal accepts that rallies/demonstrations were held on 14 March 2005 and 14 February 2007 in Lebanon in relation to the death of Rafic El Hariri, the applicant did not claim to have attended those demonstrations. The applicant instead claimed that there were 2 rallies, one on 14 February 2007, and one on 14 March 2007 and the one that he attended was held on 14 March 2007 and was attended by approximately 1 million people. The Tribunal does not accept that there was a rally held on 14 March 2007 and is not satisfied that the applicant attended any rallies commemorating the death of Rafic El-Hariri or in relation to the Azar's revolution in 2007. The Tribunal is not satisfied that the applicant's response to the invitation to comment on this issue explains the inconsistency in relation to this issue. The applicant has submitted in his response to the Tribunal's post hearing s.424A letter that the 14 March demonstration was in relation to the celebration of the birth of the Cedar (Arze) revolution and the other which occurs on 14

February is in relation to the commemoration of the death of Rafic El-Hariri. As indicated above, the applicant claimed to the Tribunal that the demonstration he attended occurred on 14 March 2007 and was in relation the celebration of the Cedar (Arze) revolution. The Tribunal does not accept that a large commemoration was held in Lebanon on 14 March 2007 and does not accept the submission in response to the Tribunal's post hearing s.424A letter.

66. The Tribunal also considers it highly implausible that the applicant would be seen by Hezbollah supporters at a demonstration which was attended by approximately 1 million people and that this would be the impetus for an attack against the applicant. The Tribunal does not accept that the fact that he used to go into their area as a mobile tradesman and there were intelligence agents whom attended the demonstration explains how the applicant would be seen at a demonstration which involved almost a million people and that this would prompt Hezbollah to seek out the applicant, threaten him and then initiate a violent attack. The Tribunal also considers the applicant's claim that he was suddenly attacked in 2007 following his attendance at a demonstration, even though he had previously spoken about his involvement in the Future Party controlled areas and, as claimed in his response to the Tribunal's post hearing letter, that he had been an active member of the Future Party since 2005 and therefore was known to be a Party member for some 2 years prior to the attack, to be highly implausible.
67. The Tribunal further considers that the applicant has given inconsistent evidence between his statutory declaration to the Department and his oral evidence to the Tribunal in relation to his claims as to when he was first sought by Hezbollah. At the Tribunal hearing, the applicant stated that he began receiving threats a few days after the demonstration, stating that it was possibly 5 or 6 days after the demonstration which he claimed occurred on 14 March 2007. By contrast, the applicant claimed in his statutory declaration that he began receiving numerous threatening telephone calls soon after the attack which he claimed occurred on a date in 2007. The applicant did not state in his statutory declaration that he received any telephone calls prior to the attack. When asked to comment on this issue at the Tribunal hearing, the applicant claimed that he received threats both before the attack and after the attack. The Tribunal does not accept that the applicant would specifically refer in his statutory declaration, prepared according to the applicant with the assistance of his registered migration agent, to threats that occurred after the claimed attack if he had also received threats prior to the claimed attack. In response to the invitation to comment on this issue in writing, the applicant stated that his oral evidence that the threats began 5 or 6 days after the demonstration is not inconsistent with the statement in his statutory declaration that he began to receive threats soon after the demonstration. The Tribunal does not accept that this evidence is consistent. As indicated above, the applicant's claim at the Tribunal hearing was that he began receiving threats 5 or 6 days after the demonstration on 14 March 2007. By contrast, his statutory declaration states that he began receiving telephone calls soon after the attack. Hence, his initial version of events at the Tribunal hearing was that he received threats before the attack and that these first occurred on 20 or 21 March 2007 and his version of events in his statement was that he began receiving threats after the attack. The Tribunal considers that the evidence in relation to this issue is highly inconsistent and does not accept that the applicant has given truthful evidence in relation to this issue.
68. The Tribunal further considers that the applicant's evidence that he was attacked and sought by Hezbollah because he was a low level member of the Future Party and attended a demonstration is not consistent with the independent evidence. As stated above, the applicant's own evidence indicates that he was involved at an extremely low level in the

Hariri Future party. The Tribunal accepts that the applicant was working in Hezbollah controlled areas as a mobile tradesman and was entering Hezbollah controlled areas. However, the Tribunal does not accept that this would give the applicant a profile that was any different than any other low level member of the Future Party or that the applicant participated in any activities which drew the adverse attention of Hezbollah. As stated above, the applicant's own evidence was that he had been a member of the Future Party since 2005 and that he was known to be such. The Tribunal considers that the independent evidence does not support the conclusion that Sunnis or Sunnis with political connections at a low level to the ruling party have been targeted by Hezbollah. The independent evidence indicates that whilst prominent persons have been targeted, there is no information that ordinary people or ordinary members are targeted by Hezbollah. The Tribunal does not accept the applicant's claim that the Tribunal may not have such information before it. The Tribunal considers that such information would have been reported in the wide range of sources reporting on the human rights and political situation in Lebanon which have been accessed by the Tribunal.

69. The Tribunal accepts that there were conflicts in May 2008 between Hezbollah supporters and supporters of the governing coalition. The applicant's evidence, confirmed by a copy of his passport which was provided at the Tribunal hearing, indicates that he had departed Lebanon prior to the May 2008 incident. Thus, the Tribunal does not accept that the applicant was affected by this incident. The Tribunal accepts the representative's submission at the hearing that the events of May 2008 are indicative of Hezbollah's preparedness to use violence. The Tribunal also accepts that Hezbollah has been responsible for violent incidents in the past. The Tribunal has also considered the post hearing submission that there was a media report of a killing of a Sunni Imam in his home location and concerns that sectarian and political violence will increase. Nevertheless, the Tribunal does not accept that there is any evidence that Hezbollah has targeted individuals with anti-Syrian political beliefs or people who were simply participating in rallies or persons who are low level members of the Hariri Future Party. Nor does the Tribunal accept that the incidents of violence between ordinary citizens and Hezbollah are carried out in a targeted manner or that they are systematic and discriminatory attacks in the sense described in s.91R(1)(c) of the Act.
70. The Tribunal has found above that the applicant's evidence in relation to his attendance at a rally/demonstration in March 2007 which he claimed prompted an attack by Hezbollah is not supported by the independent evidence. The Tribunal has further found that the applicant's evidence is not supported by the independent evidence in relation to Hezbollah targeting of low level supporters of the ruling party. The Tribunal does not, therefore, accept that the applicant was ever attacked in Lebanon because he was a member of the Future Party or because he attended a demonstration in March 2007. Nor does the Tribunal accept that the applicant subsequently went into hiding, or needed to maintain a low profile in Lebanon, as a result of these factors. The Tribunal does not accept, therefore, that the applicant has ever been sought by Hezbollah, or its Shiite supporters.
71. The Tribunal accepts that Hezbollah or its supporters may have stolen a car from where the applicant was employed. However, the Tribunal is not satisfied that the theft was anything other than criminal in nature. In light of the above findings, the Tribunal is not satisfied that it was in any way connected with the applicant and considers that it was simply a random theft of a motor vehicle. The Tribunal also makes no adverse findings as to the date that the applicant ceased employment as a tradesman. The Tribunal is prepared to accept that there may have been a misunderstanding in relation to this issue.

72. In reaching the above conclusions, the Tribunal has considered the documents provided to the Tribunal at the hearing. As indicated above, despite some doubts, the Tribunal has been prepared to accept that the applicant was a member of the Hariri Future Party in a low level capacity. The Tribunal is, therefore, prepared to accept that the document in relation to his membership is genuine. The Tribunal is also prepared to accept that the hospital document is genuine and that the applicant incurred bruises on a date in 2007 and was advised to rest for that day. However, in the context of the above findings, the Tribunal does not accept that the bruises were the result of an attack by Hezbollah or its supporters. Nor does the Tribunal accept that the document written by the applicant's employer supports his claims and considers that it was written at the request of the applicant and does not contain truthful information relating to the applicant's need to depart Lebanon.
73. The Tribunal accepts that there may continue to be incidents of unrest in Lebanon between supporters of Hezbollah and supporters of the ruling coalition. However, as indicated above, the independent evidence indicates that the conflicts are not targeted attacks on low level persons, simply because they are Sunnis and supporters of the ruling coalition. The applicant does not claim, nor do his past actions indicate, that he would seek future involvement in the Party at a more extensive level than he has done in the past and is not satisfied that he would participate in any actions in the future which would attract adverse attention from Hezbollah. The Tribunal is not satisfied that there is a real chance that the applicant will be targeted or harmed in the future by Hezbollah or its Shiite supporters in Lebanon simply because he is a Sunni and supports the ruling coalition and is a low level member of the ruling coalition. Whilst the Tribunal also considers that there is only a remote chance that the applicant would be caught up in violent incidents between Shiites/Hezbollah supporters or activists and Sunnis/government supporters in the future, the Tribunal considers that such incidents would not be in the nature of systematic and discriminatory conducted directed at the applicant for a Convention reason, as required by s.91R(1)(c). The Tribunal is not, therefore satisfied that the applicant will not suffer serious harm from Hezbollah or its supporters upon his return to Lebanon.
74. Having considered the totality of the evidence, the Tribunal does not accept that the applicant has suffered harm in the past in Lebanon for reasons of his political opinion, imputed political opinion or any other Convention reason. The Tribunal is also not satisfied that the applicant will suffer harm in Lebanon now or in the reasonably foreseeable future for any reasons associated with the Convention. The Tribunal finds that the applicant does not have a well founded fear of persecution in Lebanon.

CONCLUSIONS

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

DECISION

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

I certify that this decision contains no information which might identify the applicant or any relative or
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dependant of the applicant or that is the subject of a direction pursuant to section 440 of the Migration Act 1958.
Sealing Officer's I.D. PRRT42