

**071631672 [2007] RRTA 225 (20 September 2007)**

**DECISION RECORD**

**RRT CASE NUMBER:** 071631672

**DIAC REFERENCE(S):**

**COUNTRY OF REFERENCE:** Pakistan

**TRIBUNAL MEMBER:** Linda Symons

**DATE DECISION SIGNED:** 20 September 2007

**PLACE OF DECISION:** Sydney

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

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

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

The applicant, who claims to be a citizen of Pakistan, 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 fax.

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

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

**RELEVANT LAW**

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

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

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

#### Definition of 'refugee'

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

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

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

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

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

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

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

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

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

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

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

## **CLAIMS AND EVIDENCE**

The Tribunal has before it the Department’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.

### **Information given to the Department by the Applicant**

The following personal information about the applicant and the written claims are contained in the Application for a Protection Visa application.

The applicant claims he is a citizen of Pakistan. He was born on [date] at [town/province] in Pakistan. He has not received a formal education. He worked in a family [business] from a young age. Later he worked [profession] for various [industry] companies. When he was not working he returned home and worked in the family [business].

The applicant was married in [year]. He has several children. He lived in [town] between [years] and later in Karachi. He speaks [language] and is a Sunni Muslim. The applicant arrived in Australia on [date] travelling on a Pakistani passport.

In support of his Application for a Protection Visa the applicant lodged a Statutory Declaration. The applicant's representative also submitted country information and made written submissions on behalf of the applicant.

### **Information given to the Tribunal by the applicant**

#### ***Application for Review***

The applicant lodged an Application for Review on [date]. No further information, documents or submissions were lodged in support of the application at that time.

#### ***Invitation to Hearing***

On [date] an officer of the Tribunal wrote to the applicant and the applicant's representative advising that the Tribunal had considered all the material before it relating to the application but it was unable to make a favourable decision on that information alone. The applicant was invited to give oral evidence and present arguments at a hearing of the Tribunal on a specified date. The Tribunal received a response to the hearing invitation.

#### ***At the Hearing***

The applicant appeared before the Tribunal on [date] to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the [language] and English languages. The applicant was represented in relation to the review by his registered migration agent.

At the commencement of the hearing the applicant's representative indicated to the Tribunal that the applicant was relying on his statement, the submissions and the country information submitted to the Department of Immigration and Citizenship at the hearing.

The applicant gave the following evidence:

The applicant confirmed that he had made a written statement which was lodged with his application to the Department of Immigration and Citizenship. He stated that the statement was read to him in [language] and signed by him. He identified his signature on the written statement. He confirmed that everything he said in the statement was true and correct.

The applicant was born in [town] in Pakistan in [year]. He is a citizen of Pakistan. His father has passed away. His mother lives in [town/province]. He has [various siblings]. Some of his [siblings] live in [town], and are not working. Other [siblings] are married.

He was married in [year] and had numerous children. His oldest child has passed away. His other children are with his wife. They were attending school previously but are now not attending school.

He did not attend school. As a child he worked in the [business] owned by his family. His [siblings] worked in the [business] with him. He is not able to read or write [language] or any other language. The [business] has been divided between his [siblings] and himself. He lived in the [business] in [town]. He has not lived anywhere else in Pakistan other than in Karachi.

His house was damaged in the earthquake in [month/year]. There was no damage to his [business]. He moved to Karachi sometime at the end of [month/year]. He rented a house in Karachi and lived there with his wife and children. He was living in the house of a friend. He did not work in Karachi. He had some savings from the time he was living in [town].

The applicant first obtained employment outside his [business] as a [profession] in [year]. He was employed by a company based in Karachi. This company went into liquidation. He then obtained employment with another company. He subsequently obtained employment with another company.

On his last trip as a [profession] the applicant left Karachi on [date] and flew to [country]. He joined the ship in [country] on [date]. The company paid for his flight. He did several trips to Australia.

The applicant traveled to Australia on a Pakistani passport. He could not recall when the passport was issued but stated that it was [stated of number] years old. It was not due to expire for another few years. He obtained a passport for the purposes of his employment.

He came to [city] on [date] and left the ship at 11.00pm. He went to the shopping centre where “by coincidence he saw a person and went with him to his place.” He met this person in the shopping centre. He did not know this person but this person spoke [language]. He overheard this person speaking to someone in [language] on his mobile telephone. He did not know anyone and asked this person to take him to his place.

The applicant stayed with this person for one night. He asked this person if he knew any Pakistanis he could send him to so he could meet them. This person then sent him to [town]. The applicant did not know anyone in [town]. When he got [there] he found a Pakistani man. “By coincidence there were two people talking in [language]. He talked to them and told them his situation.” He then went with these two people and stayed with them.

When asked why these people would invite a stranger to live with them the applicant stated that he asked them if he could stay with them so he could lodge his application and prepare his case. He did not do anything while he was [there]. A few days after he arrived there officers from the Department of Immigration and Citizenship visited the house and he was detained. He had not lodged his application for a protection visa at that stage.

When he arrived in [city] he arrived by himself. He does not speak any English. He has been in contact with his friend in [home town] since his arrival in Australia. He has not contacted his family. His friend is from his village. He contacted him to obtain information about his family. His friend told him his family is in danger.

The applicant claimed that he came because his life was in danger back home and he could not return. A jihadist group attracted his [child] and sent him to [city] where he was killed. He is against the jihadist group. He made some inquiries and was told that his [child] was taken to [city] to fight against the Americans. He then made some further inquiries and was told that his [child] had died. This was at the beginning of [month/year].

His wife knew a little bit about his [child]'s involvement with the jihadist group. His [child] did not return home one night. He asked his wife if she knew where [his child] was and she told him she thought [his child] had gone with the jihadist group. His [child] had talked to her about them previously. He told her he was going to meet the people from the jihadist group and speak to them about his [child].

The people from the jihadist group, [name], are in the village. He understood that this group were taking youngsters and sending them to [city]. He spoke to them twice about his [child]. They told him his [child] would come back. The third time he asked them they told him his [child] was not living in this world any more.

He went to [town] to speak to these people. It is far from his village. He spoke to their leader, [name], on each occasion he went there. He had a lot of guards and people around him. He knew where to find them because they are a big group. They are active and are everywhere in Pakistan. He traveled to [town] by bus. It took him about two to two and a half hours from his village. He did not know the distance between his village and [the town].

When he found out that his [child] was not alive he made a report against [the leader] to the police. He spoke to the officer on duty at the police station. The officer told him they will do something about it. The government does not have any authority to control the jihadist group. He did not have a copy of the complaint he made to the police. He was not provided with a copy. If he wanted a copy he could obtain it from the police.

The jihadist group found out that he had made a complaint against them to the police. The police had contacted them and told them about the complaint. This group [information deleted in accordance with s.431 as it may identify the applicant] announced that he was a kafir or an infidel. He was subsequently working in his [business] when he saw a group of people he believed belonged to the jihadist group. They wore [type of clothing]. When he saw them he ran away and they chased after him. They fired a gun at him but he was not hit.

He went home and raised the alarm in his village. He felt that he was not safe there and decided to take his children to Karachi. He did not have any further contact with [the leader] or his group. However they sent him warnings that they were going to kill him. He was distributing some pamphlets in the village. Some of their followers in the village told him that if they saw him there again they would kill him.

The followers of the group also delivered some letters to his house. When he saw the letters he asked someone to read it to him as he is illiterate. The letters contained threats that if he did not withdraw his complaint he would be followed and not left alone. The letters were from the jihadist group. He did not report the receipt of these letters to the police. When asked why he did not report this matter to the police the applicant stated that if the police asked him who sent him the letters he could not show the police the person who sent the letters to him.

The applicant did not make a report to the police in relation to someone shooting at him. When asked why he did not report this matter to the police the applicant stated that the police did not do anything for him in relation to his [child]'s killing.

The applicant did not have the letters with him. He was not sure where they are. He stated that they were in [town] somewhere but he was not sure. When asked whether he considered it important to keep these letters the applicant stated that it was a bad situation. His situation was desperate. His [child] was killed and his life was in a dangerous situation.

His friend in Karachi cannot tell anyone that his children are in Karachi. He is scared himself. He met this friend through work. He could not remember how long he lived in Karachi before he left. He is very depressed and is not able to concentrate. He is scared to live in Karachi because people are chasing him and not leaving him alone. The jihadist group is a large group and has followers everywhere.

When asked whether anything happened to him when he was living in Karachi the applicant stated that he did not go anywhere. He was in hiding. If he returns to Pakistan he will be killed. His life would be finished.

The Tribunal then discussed with the applicant some of the country information. The Tribunal showed the applicant a map of the area in [province] which indicated a distance of approximately [number] kilometres between [two towns]. The applicant stated that the distance was further than that and that the map showed the direct route. He got to the jihadist group's headquarters by bus and by foot. The bus does not go direct but stops along the way. It would take more than two and a half hours. At every stop the bus waited ten to fifteen minutes to get more passengers. The roads there are not the same as in Australia.

The Tribunal discussed with the applicant the country information in relation to the [jihadist group] and the recruitment of [children] for a jihad in [country]. The applicant stated that the government does not allow the group to recruit [children] but they are doing so without permission and are still sending [children] to [country] including his [child].

The Tribunal discussed with the applicant the [jihadist group]'s influence in the [province] and more particularly the [region] region. When asked why the applicant believed the jihadist group had influence in Karachi and would be able to find him there he stated that the group had a large number of followers in Peshawar, Islamabad and Karachi.

When asked by the Tribunal why the applicant believed that [the leader] is trying to locate him and kill him when he is likely to be more concerned about the Pakistani government trying to arrest him on serious criminal charges under the Anti Terrorism Act the applicant stated that “if you say a word against them you cannot raise your hands. You will be killed.”

When asked whether there was anything else he wanted to tell the Tribunal the applicant stated that at his age he does not need to live in Australia. He had a secure life with his children. Everything then collapsed and he had a difficult time over there. He is now in a detention centre and his family is in Pakistan. He is not there for fun. It is a real situation that he has suffered. If the Tribunal has any doubt he will do his best to obtain the documents. His [child] was not attending a madrassa but was studying at the mosque.

The Tribunal then discussed with the applicant the practicality of living in Karachi or somewhere else. The applicant stated that that would be impossible because the jihadist group had followers everywhere and they would not leave him alone. He stated that reports would be passed on about him and his life would be taken. When asked whether there was any other reason, other than the issue of security, as to why he would not be able to live in Karachi or somewhere else, the applicant stated that if he did not feel that there was a threat to his life of course he could live in Karachi or somewhere else in Pakistan. He could live any where in Pakistan if not for this fear for his safety. As long as the jihadist group is alive and active in Pakistan he fears for his safety. If they “are finished” he could live in Pakistan.

The applicant’s representative then made some oral submissions and requested a week to lodge further written submissions with the Tribunal. The applicant’s representative had already lodged written submissions with the Tribunal prior to the hearing.

### ***Following the Hearing***

Following the hearing the applicant’s representative lodged three further written submissions with the Tribunal. These submissions included a Statutory Declaration by the applicant signed and dated [date].

## **INDEPENDENT COUNTRY INFORMATION**

[Country information deleted in accordance with s.431 as it may identify the applicant.]

## **FINDINGS AND REASONS**

The applicant has no documents in support of his identity and nationality. The applicant claims in his application to the Department of Immigration and Citizenship and at the hearing before the Tribunal that he is a citizen of Pakistan. He gave his evidence at the hearing in the [language] language. On the basis of the available information the Tribunal is satisfied that the applicant is a Pakistani national and that he is outside his country of nationality.

When assessing claims made by applicants the Tribunal needs to make findings of fact in relation to those claims. This usually involves an assessment of the credibility of the applicants. When doing so it is important to bear in mind the difficulties often faced by asylum seekers. The benefit of the doubt should be given to asylum seekers who are generally credible but unable to substantiate all of their claims.

The Tribunal must bear in mind that if it makes an adverse finding in relation to a material claim made by an applicant but is unable to make that finding with confidence, it must proceed to assess the claim on the basis that it might possibly be true. (See *MIMA v Rajalingam* [1999] FCA 719; (1999) 93 FCR 220).

However, the Tribunal is not required to accept uncritically any or all of the allegations made by an applicant. Further, 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. Moreover, the Tribunal is not obliged to accept claims that are inconsistent with the independent evidence regarding the situation in the applicant's country of nationality. (See *Randhawa v MILGEA* (1994) 52 FCR 437 at 451 per Beaumont J; *Selvadurai v MIEA & Anor* [1994] FCA unrep6786; (1994) 34 ALD 347 at 348 per Heerey J and *Kopalapillai v MIMA* (1998) 86 FCR 547.)

In dealing with this application and assessing the applicant's claims the Tribunal has considered the applicant's credibility. The Tribunal has some doubts in relation to the substantive claims made by the applicant. The applicant has not provided the Tribunal with a copy of the complaint he made to the police or a copy of the threatening letters he received to substantiate his claims. When asked whether he had a copy of the complaint he made to the police the applicant stated that he did not receive a copy of the complaint he made to the police. The Tribunal accepts that this is plausible.

When asked whether he had the threatening letters he claims to have received the applicant stated that he did not. When asked where the letters were he was vague in his response and stated that he was in a dangerous situation at that time. The Tribunal accepts that it is plausible that the applicant was not in a clear frame of mind at that time to appreciate the importance of keeping the letters.

The Tribunal does not accept the applicant's claim that when he came to [Australian city] at 11.00pm he met a stranger at the shopping centre who by coincidence spoke [language]. The Tribunal also does not accept that this stranger took the applicant to his home and let him stay there overnight merely because the applicant asked him to do so. The Tribunal does not accept that when the applicant arrived in [town] he by coincidence came across two Pakistanis who spoke [language]. The Tribunal also does not accept that these two Pakistanis took the applicant to their home and allowed him to live with them merely because the applicant asked them to do so.

The Tribunal has had regard to the independent country information referred to above and the country information submitted on behalf of the applicant. The Tribunal accepts that the [jihadist group] is a banned jihadist group based in the [region] division of the [province] and that [leader] is the acting leader of that group. The Tribunal also accepts that the [jihadist group] has been recruiting [children] for the purposes of a jihad. [Information deleted in accordance with s.431 as it may identify

the applicant.] The Tribunal also accepts that law enforcement organizations in the [province] have been unsuccessful in arresting and prosecuting [leader] for various criminal offences.

The Tribunal notes that a number of the claims made by the applicant are consistent with the independent country information. The Tribunal has formed the view that it is plausible that the applicant's [child] was recruited by the [jihadist group], sent to [country] to fight a jihad and that he was killed in [country]. It is also plausible that the applicant spoke to [leader] on several occasions and was informed of his [child]'s death on the last occasion.

The Tribunal accepts that it is plausible that the applicant reported the circumstances of his [child]'s death to the police and that the police were unable to question [leader] about his complaint or to deal with him in accordance with the law. The Tribunal also accepts that it is plausible that [leader] identified the applicant as a "kafir" [information deleted in accordance with s.431 as it may identify the applicant] and that his supporters thereafter threatened to kill the applicant if he did not withdraw his complaint, sent the applicant letters containing threats and shot at him when he was working in his [business].

The Tribunal also accepts that it is plausible that the applicant did not report the threatening letters and a gun being fired at him to the police because he thought the police were ineffective.

The Tribunal is unable, due to insufficient evidence and doubts in relation to the applicant's credibility, to make any positive findings of fact in relation to the applicant's substantive claims. The Tribunal is also unable to make any adverse findings of fact in relation to the applicant's credibility or his substantive claims. The applicant's substantive claims are consistent with the country information and the Tribunal proposes to give the applicant the benefit of the doubt.

The applicant claims that he fears persecution based on the verbal and written threats that he received as well as the incident when someone shot at him. The Tribunal is satisfied that the persecution that the applicant claims to fear would involve serious harm and systematic and discriminatory conduct against the applicant for reasons of his perceived opposition to the religious teachings and practices of the [leader] and the [jihadist group].

In a written submission to the Tribunal it was submitted on behalf of the applicant that the Pakistani authorities are unable to protect the applicant from [leader] and his supporters. The country information indicates that the law enforcement agencies in the [province] have been unsuccessful in arresting and prosecuting [leader]. The Tribunal is satisfied, based on this and other available country information, that the law enforcement agencies in the [province] of Pakistan are unable to protect the applicant from persecution.

When considering whether the applicant's fear of persecution is well founded, the Tribunal has assessed whether the applicant has a genuine fear founded upon a real chance of persecution for a Convention reason. Based on the country information the Tribunal is satisfied that if the applicant were to return to live in [his hometown] area

of the [province] of Pakistan in the foreseeable future there is a real chance of him being persecuted.

The Tribunal next considered the issue of relocation within Pakistan. The Tribunal discussed with the applicant the issue of relocation to Karachi or some other area in Pakistan. The applicant stated that he is “scared to live in Karachi because people are chasing him and not leaving him alone.” When asked whether anything had happen to him when he was living in Karachi the applicant stated that he did not go anywhere and he was in hiding. He claimed that if he returns to Pakistan he will be killed.

The Tribunal has considered whether the applicant’s behaviour will cause him trouble anywhere else in Pakistan unless he is discreet. The behaviour that caused the problem for the applicant was his reporting of [leader] to the police for recruiting his [child] and sending [his child] to [country] to fight in a jihad. The Tribunal is of the view that it is highly unlikely that the applicant will in fact repeat this behaviour if he relocates to Karachi or somewhere else in Pakistan.

The applicant also chose not to report the oral and written threats that he received and the shot being fired at him to the police at the time these incidents occurred. The Tribunal is of the view that it is highly unlikely that the applicant will report these incidents to the police in the future. The applicant and his family will be able to live a normal life and act reasonably in Karachi or somewhere else in Pakistan without attracting the adverse attention of the [jihadist group].

When considering whether relocation would ensure that the applicant would be safe from persecution by [leader] and his followers the Tribunal has also had regard to the country information and the submissions made on behalf of the applicant. The country information indicates that the influence of [leader] and the [jihadist group] is confined to the [province] of Pakistan although there is some suggestion that [leader] may have had some involvement in the siege of the Red Mosque in Islamabad in July 2007.

The country information also indicates that there are several outstanding charges against [leader] under the Pakistan Penal Code and Anti Terrorism laws and that there are outstanding warrants for his arrest. The country information further indicates that the primary goal of the [jihadist group] is to introduce sharia law in Pakistan. The Tribunal is of the view that there is not a real chance that [leader] or his followers would pursue the location and persecution of an individual outside of the [province] who is of little importance to the overall agenda of the [jihadist group].

The applicant’s expressed fears in relation to relocation were based on speculation and assumptions. He stated that he was scared to live in Karachi “because people were chasing him and not leaving him alone.” However, he had had no contact with the [jihadist group] or any other such organization during the time he lived in Karachi. The Tribunal is of the view that it is a remote and far fetched possibility that the applicant would be of sufficient interest to the [jihadist group] for the organization to pursue, locate and persecute the applicant in Karachi or some other part of Pakistan.

When considering the overall reasonableness of relocation to Karachi or some other part of Pakistan the Tribunal has considered the applicant’s particular circumstances. The Tribunal has also considered the written submissions made on behalf of the

applicant in relation to relocation. The applicant is a [profession] by occupation and spends considerable periods of time away from home. His occupation would not be affected by where he resides. The Tribunal discussed with the applicant the practicality of him living in Karachi or somewhere else in Pakistan and he stated that “if he did not feel that there was a threat to his life of course he could live in Karachi or somewhere else in Pakistan. He could live any where in Pakistan if not for his fear for his safety.”

When considering the general security situation in Pakistan and in Karachi in particular the Tribunal has had regard to the country information. The country information indicates that sectarian violence and religious extremism is an issue in Karachi. However, the applicant is not restricted to living in Karachi and is able to relocate to a safer city or town in Pakistan. The Tribunal does not accept the submissions made on behalf of the applicant that it is not reasonable to expect the applicant to relocate anywhere in Pakistan. The Tribunal is of the view that the applicant and his family are able to safely relocate in Pakistan.

## **CONCLUSIONS**

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

## **DECISION**

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