

0801064 [2008] RRTA 199 (2 June 2008)

DECISION RECORD

RRT CASE NUMBER: 0801064

DIAC REFERENCE(S): CLF2001/37533 SG1220050002092

COUNTRY OF REFERENCE: Lebanon

TRIBUNAL MEMBER: Pauline Pope

DATE DECISION SIGNED: 2 June 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. The Tribunal, invited the applicant to attend a hearing before the Tribunal. However the applicant's then authorised recipient informed the Tribunal that the applicant wished to withdraw the application before the Tribunal. The Tribunal, made a decision that it did not have jurisdiction to review the application.
5. The applicant wrote to the Tribunal detailing the circumstances of his application for review. In particular he said that at no time did he instruct his then adviser to withdraw his application before the Tribunal. He further claimed that the signature on the letter requesting that the application for review be withdrawn is not his signature. The applicant lodged another application for review of the delegate's decision after the expiry of the prescribed period.
6. The Tribunal has examined the Departmental file and the decision of the delegate. The Tribunal has come to the finding that the applicant was not correctly notified of the delegate's decision because the notification was not given to the applicant's authorised recipient. The letter was addressed to the applicant *care of* the authorised recipient at the address of the authorised recipient. In the circumstances the Tribunal finds that the document has not been given to the authorised recipient and the applicant has not been validly notified of the decision. Furthermore the decision notice does not comply with s.66(2)(d)(iv) as it does not state where an application for review can be made. In the circumstances the Tribunal finds that the primary decision was not validly notified and time limits for review did not commence to run. The application for review made by the applicant is a valid review application.
7. 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

8. 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.

9. Section 36(2) of the Act, as in force before 1 October 2001, provided that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom 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).
10. 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’

11. 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.
12. 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.
13. 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. These provisions were inserted on 1 October 2001 and apply to all protection visa applications not finalised before that date.
14. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
15. 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.
16. 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.

17. 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.
18. 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.
19. 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.
20. 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

21. 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.
22. 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 does not have a registered migration agent to assist in the review application. He has been supported by a person who is not authorised to act as an advisor in migration matters.
23. The history of the applicant’s visa application to the Department and his application for review to the Tribunal is summarised as follows.
24. The application for the protection visa was lodged. According to that application, the applicant was born at a certain place in Lebanon. At Part C of the application the applicant provides a summary of his claims for refugee status. The applicant was interviewed in connection with that application by the delegate. According to the notes made by the delegate the applicant was accompanied at the interview by his advisor and

a relative. The interview was conducted with the assistance of an Arabic speaking interpreter. The delegate's decision was made. The applicant subsequently lodged an application for review of the delegate's decision. The applicant was invited to attend a Hearing before the Tribunal. In the event, the applicant's authorised recipient informed the Tribunal that the applicant would not attend the Hearing and requested that the Tribunal make a decision on the papers. The Tribunal made that decision. The Tribunal affirmed the decision of the delegate.

25. The applicant maintained that that agent had not acted according to his wishes and instructions when he informed the Tribunal that the applicant did not wish to attend the Hearing before the Tribunal.
26. The applicant was subsequently invited to attend a Hearing before the Tribunal. The representative then acting for the applicant informed the Tribunal that the applicant wished to withdraw from the above proceedings. The Tribunal subsequently made a decision that it does not have jurisdiction to review the decision under review.
27. The applicant wrote to the Tribunal, and stated that at no time did he authorise his then representative to withdraw his case from the RRT as they did. The applicant goes on to describe difficulties he encountered with his then authorised recipient and the ensuing problems resulting for him
28. The applicant states that he is currently married to Ms X and has been living with Ms X for a few years. He states that he wishes to pursue his case at the Refugee Review Tribunal, as he had never asked that it be withdrawn. He says that he believes that his claim for protection is genuine and Australia owes him protection. Furthermore, he said that he believes that he has not been treated properly by his previous representative.
29. The applicant lodged an application for review with the Tribunal. With that application he included a copy of his earlier letter to the Tribunal in which he outlined the circumstances and sought for his matter to be re-opened by the Tribunal. The Tribunal has examined the delegate's letter and the decision record which were sent to the applicant. It appears that the applicant was not validly notified of the delegate's decision as the decision notice was not given to the authorised recipient. It was addressed to the applicant, *care of* the authorised recipient. Further, the decision notice does not comply with s.494(c) of the Act in that it does not correctly specify the timeframe within which the applicant is taken to be notified. The decision does not comply with s.66(2)(d)(iv) as it does not state where the application for review can be made. Accordingly, the Tribunal finds that the review application before it is valid.
30. The applicant was invited to attend a Hearing before the Tribunal.

Hearing before the Tribunal

31. At the outset, the Tribunal examined the applicant's passport. It noted that the passport granted in the name of the applicant is valid until a certain date, having been renewed in Australia. The passport contains a visa which was issued in city A. According to a stamp in the passport the applicant arrived in Australia on a particular date.

32. The Tribunal heard that the applicant was born in a certain city in Lebanon. He said that he is a Muslim and as a child he moved with his family to another city. He told the Tribunal that he completed his high school and thereafter, he has worked as a professional. He said he works full time with a group of others in his profession. He said that he completed his military service.
33. The Tribunal asked the applicant about his family in Lebanon. He said his mother and father are living in Lebanon as well as his siblings. The applicant told the Tribunal that he is now married.
34. The Tribunal asked the applicant why he fears returning to Lebanon. He said that in his profession he socialises with many people of all sects and political views. He said that in his profession he is called upon to work in different areas. In a certain place, for example, where it is 90% Christian. He said some there belong to the Aoun side, some support Geagea and there are also Hezbollah supporters. He said he was happy to go and work when requested to do so, irrespective of peoples' religion or political views. He said his work was all related to his activity as a professional and he did not differentiate. He said that now in Lebanon there are so many sects. He told the Tribunal that he has no connection with any political party, and he respects all parties and opinions. He said that his reputation brings him popularity and he is invited to many events
35. In short, the applicant was saying that he enjoyed a certain status and a certain popularity in the community as a result of his work. He went on to tell the Tribunal that his relative has a certain rank in the armed forces. He said that at that time the applicant himself was very young, and as a young person he felt a huge satisfaction with his status and the role he believed he had as a result of his relative's position and rank. The Tribunal invited the applicant to move along; to articulate the essence of his fears in Lebanon.
36. The Tribunal understood that the applicant was saying that he used his relative's position of superiority in the armed forces to raise his own profile. The Tribunal understood that the applicant possibly said and did things which were beyond his own area of responsibility, but in order to promote his self image, he basked in his relative's glory. The applicant confirmed that this in essence is right; he explained that he was young and foolish. Nevertheless, his actions which were inappropriate, drew attention to himself and he said that there was some confusion. Some people thought that he was working as a spy for one of the groups when they saw him taking on the roles and responsibilities that he did. He told the Tribunal that a few months before he was discharged from military service he was moved to a predominantly Hezbollah area. Subsequently, he said he was moved somewhere else. He said that as a result of his activities, it was thought that he was collaborating with one party against the other. The Tribunal asked who thought this. He went on to say that possibly the Lebanese Forces thought that he was working for Hezbollah and vice versa. The Tribunal understood the applicant to be saying that once he was discharged from military service he sought to extricate himself from the problems he had caused for himself and his relative by applying for a visa to come to Australia based on his profession. He told the Tribunal that after he had been in Australia for some days, his father called him and told him to stay here by any means possible because he had caused quite a lot of confusion whilst taking on roles without authority on behalf of his relative. The Tribunal understood

that the applicant was saying that basking in his relative's glory he had caused some difficulties for his relative.

37. The applicant told the Tribunal that in order to stop causing his relative trouble or cause trouble for himself, he stayed on in Australia. He told the Tribunal that he has now grown up. He is wiser. In fact about a year after all of these things happened, problems for his relative subsided. His relative then obtained further promotion in his armed forces role. The applicant explained that his relative's superiors seemed to have realised that there had been some mistake as a result of the applicant's actions.
38. The applicant told the Tribunal that he went to see a migration agent whom he named, and he said that he told this person his story. He said this agent completed the forms on his behalf and the applicant paid the money. He said that he learned subsequently that this person was deregistered and prevented from practising as a migration agent. The applicant told the Tribunal that he had signed the forms as this person had instructed him. He said that he did not read the contents of those forms and left everything to this agent. The Tribunal asked the applicant what, in fact, he had told that agent. He said that he had told that person those same details that he had just related to the Tribunal. He said he understands that the agent wrote down a story. The Tribunal asked the applicant if he is saying that what was written in the application for the protection visa is not correct. He said that that is the case. The Tribunal asked the applicant if it should then take his evidence before the Tribunal today as the truth. It asked whether the Tribunal should disregard what the first adviser wrote down on the application for the protection visa. The Tribunal asked the applicant if he had an opportunity to read what was written on that form. He said he has not. The Tribunal asked if it is the case that he has still not looked at what that person wrote, even after all of this time and the subsequent discussion of that matter. He said that is correct. The Tribunal asked him if he had sought to obtain a copy of that material. He replied that he has not. He said he has never read the material, and he has never seen what was written on the form. The Tribunal asked the applicant if he had ever been interviewed by the delegate. It confirmed that he had attended an interview. The Tribunal then asked the applicant what he spoke about at that interview with the delegate. The applicant told the Tribunal that the delegate asked about the details on the form. Again, the applicant said that his then adviser advised him to go and attend that interview. He told him of this only a few hours before the interview. The applicant claimed that that adviser instructed him what answers he should give. Again he told the Tribunal he was only young and not mature. The Tribunal asked the applicant how then he was able to discuss what was on the application form if he did not know what was there. The Tribunal suggested that he must have had some understanding of the story at that time in order to be able to attend the interview and discuss his experiences with the delegate.
39. The applicant responded that they did not ask similar questions to what the Tribunal is now asking. He said he was not comfortable at that time, as he is at present. He said that the adviser told him to say that Hezbollah were targeting him and he was running away from Hezbollah. He said he realised that that whole story was fabricated by the adviser. The Tribunal asked the applicant if he received and read the delegate's decision. He told the Tribunal that he did not see the decision. The Tribunal asked him if he signed the first application for review. He said he signed the form, but he did not know what he was signing. The Tribunal asked the applicant what happened next. He told the Tribunal this agent would promise to do everything for him and just ask for

more money. He told the applicant that he then met his next adviser. The Tribunal asked the applicant if he was invited to attend a Tribunal Hearing. He said that he understands that a letter of invitation went to his solicitors. He said that his solicitor did not inform him of arrangements for a Hearing. The Tribunal indicated that the Tribunal was informed by his then advisor that he did not want to attend the Hearing and that he was seeking for a decision to be made by the Tribunal on the papers before it. The applicant told the Tribunal he does not know anything of that at all. . He told the Tribunal he did not ever see the decision of the delegate and he did not ever see the decision of the Tribunal.

40. The Tribunal heard from the applicant that he left the first adviser and met the second adviser whom he called Mr Y. He said that the new advisor told him that he could get the applicant the visa for sure. He told the Tribunal that in the meantime he met his now wife. He said that Mr Y told him that he would follow up on the case. The applicant went on to tell the Tribunal that about a year ago he realised that Mr Y was not authorised to do these things and in fact he had passed the applicant's matter onto other persons to manage. He told the Tribunal that in all he paid about \$15,000. The applicant seemed quite confused about the sequence of events and what had actually been sought or undertaken on his behalf. At this point the Tribunal actually explained the sequence of events as it understands them and explained to the applicant precisely why it is that the current Tribunal has found itself in the position that it is able to consider his application for review. The Tribunal pointed out to him that notwithstanding many intervening twists and turns, his matter is before the current Tribunal because he was not appropriately notified of the delegate's decision. The Tribunal indicated that the things which had taken place in the intervening period have little relevance to his claim to be a refugee in Australia.
41. The applicant told the Tribunal that he is surprised and shocked at what he has heard from the Tribunal. He said that many lies have been spoken on his behalf and again he told the Tribunal what a difficult time he has had with previous representatives and how much money he has spent to no avail. The Tribunal said that it understood his exasperation; however it said it is required to consider his application for a protection visa. Having heard that the information provided in that application was not true and correct the Tribunal said that it is now trying to ascertain the truthful version of events. The Tribunal asked the applicant who is going to do him serious harm at this time in Lebanon. He replied "nobody" He went on to say that the situation is not stable in Lebanon and he said that furthermore, his wife is Christian; he is a Muslim and they cannot live in their area together. He said personally he has no problem. However, the people there, are against their principles and beliefs. The Tribunal understood that the applicant was referring to the beliefs of Christians. He said he also knows that Australia supports family reunions and family ties and Australia encourages that.
42. The Tribunal asked the applicant about the mix of religions in the population in his area. He said that there are several Muslims groups. He said if there is a sectarian war, it will spark trouble in his area. The Tribunal asked the applicant if he practises his religion presently in Australia. He said he does not. It asked whether his wife practises her Christian religion. He replied that she does not.
43. The Tribunal asked the applicant if there is anything further he wishes to say. He said he is very proud to have attended the Tribunal today. He said even if the decision goes against him he would respect and be proud of the Tribunal.

44. The Tribunal indicated however that it is unlikely to be able to find, on the basis of his evidence before it, that he is a refugee. However, the Tribunal indicated that it understands from his evidence that he seeks to be able to remain in Australia to be with his wife and child, rather than for any fear of persecution in Lebanon. The applicant agreed that this is the case.

Information from other sources

The Constitution provides for freedom of religion and the freedom to practice all religious rites provided that the public order is not disturbed. The Constitution declares equality of rights and duties for all citizens without discrimination or preference but establishes a balance of power among the major religious groups. The Government generally respected these rights; however, there were some restrictions, and the constitutional provision for apportioning political offices according to religious affiliation may be viewed as inherently discriminatory.

There was no change in the status of respect for religious freedom by the Government during the period covered by this report, and government policy continued to contribute to the generally free practice of religion.

There were no reports of societal abuses or discrimination based on religious belief or practice. There were, however, periodic reports of tension between religious groups, attributable to competition for political power, and citizens continued to struggle with the legacy of a 15-year civil war that was fought largely along sectarian lines. Despite sectarian tensions caused by the competition for political power, churches, mosques, and other places of worship continued to exist side-by-side, extending a centuries-long national heritage as a place of refuge for those fleeing religious intolerance.

The U.S. Government discusses religious freedom issues with the Government as part of its overall policy to promote human rights.

Section I. Religious Demography

The country, founded as a modern state in 1943, has an area of 4,035 square miles and a population of 4 million. Because parity among confessional groups remains a sensitive issue, a national census has not been conducted since 1932. However, the most recent demographic study conducted by Informational International, a Beirut-based research firm, showed 28 percent of the population is Sunni Muslim, 28 percent Shi'a Muslim, 22 percent Maronite Christian, 8 percent Greek Orthodox, 6 percent Druze, and 4 percent Greek Catholic. Over the past 60 years, there has been a steady decline in the number of Christians as compared to Muslims, mostly due to emigration of large numbers of Christian Maronites. There are also very small numbers of Jews, Baha'is, Mormons, Buddhists, and Hindus.

Of the 18 officially recognized religious groups, 4 are Muslim, 12 Christian, 1 Druze, and 1 Jewish. The main branches of Islam are Shi'a and Sunni. The smallest Muslim communities are the Alawites and the Ismaili ("Sevener") Shi'a order. The Maronite community, by far the largest Christian group, has had a centuries-long affiliation with the Roman Catholic Church but has its own patriarch, liturgy, and ecclesiastical customs. The second largest Christian group is the Greek Orthodox Church, principally composed of ethnic Arabs who maintain a Greek-language liturgy. Other Christians are divided among Greek Catholics, Armenian Orthodox (Gregorians), Armenian Catholics, Syrian Orthodox (Jacobites), Syrian Catholics, Assyrians (Nestorians), Chaldeans, Copts, evangelicals (including Protestant groups such as the Baptists and Seventh-day Adventists), and Latins (Roman Catholic). The Druze, who refer to themselves as al-Muwahhideen, or "believers in one God," are concentrated in the rural, mountainous areas east and south of Beirut. Divisions and rivalries between various groups date back many centuries, and while relationships between religious adherents of different confessions were generally amicable, group identity was highly significant in most aspects of cultural interaction.

Foreign missionaries present in the country operated missions, schools, hospitals, and places of worship.

Many persons fleeing religious mistreatment and discrimination in neighboring states have immigrated to the country, including Kurds, Shi'a, and Chaldeans from Iraq, as well as Coptic Christians from Egypt and Sudan. Precise figures were unavailable due to the lack of census data and the tendency of these groups to assimilate into the culture.

Section II. Status of Religious Freedom

Legal/Policy Framework

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

The Government permits recognized religious groups to exercise authority over matters pertaining to personal status, such as marriage, divorce, child custody, and inheritance. The "Twelve" Shi'a, Sunni, Christian, and Druze confessions have state-appointed, government-subsidized clerical courts that administer family and personal status law.

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

The 1989 Ta'if Agreement, which ended the country's 15-year civil war, reaffirmed this arrangement but, significantly, mandated increased Muslim representation in Parliament so that it would be equal to that of the Christian community and reduced the power of the Christian Maronite presidency. In addition, the Ta'if Agreement, which concluded the country's 15-year civil war, endorsed the constitutional provision of appointing most senior government officials according to religious affiliation. This practice is operative in all three branches of government. The Ta'if Agreement also stipulated a cabinet with power equally allocated between Muslims and Christians. The political establishment has been reluctant to change this "confessional" system, because citizens perceive it as critical to the country's stability.

Formal recognition by the Government is a legal requirement for religious groups to conduct most religious activities. A group that seeks official recognition must submit a statement of its doctrine and moral principles for government review to ensure that such principles do not contradict popular values or the Constitution. The group must ensure that the number of its adherents is sufficient to maintain its continuity.

Alternatively, religious groups may apply for recognition through recognized religious groups. Official recognition conveys certain benefits, such as tax-exempt status and the right to apply the religion's codes to personal status matters. An individual may change religions if the head of the religious group the person wishes to join approves of this change. Refusal is not reported to occur in practice. Religion is encoded on national identity cards and noted on ikhraaj qaid (official registry) documents, and the Government complies with requests of citizens to change their civil records to reflect their new religious status.

Some religious groups do not enjoy official recognition, such as Baha'is, Buddhists, Hindus, and unregistered Protestant Christian groups. They are disadvantaged under the law in that their members do not qualify for certain government positions, but they are permitted to perform their religious rites freely. For example, a Baha'i cannot run for Parliament as a Baha'i candidate because there is no seat allocated for the confession, nor could such an individual hold senior positions in the Government, as these are also allocated on a confessional basis. However, a number of members of unregistered religious groups are recorded under the recognized religions. For example, most Baha'is are registered under the Shi'a sect. As such, a member of the Baha'i community can run for office and fill a seat allocated to the Shi'a sect. Similarly, Mormons are registered under the Greek Orthodox faith. Government decisions on granting official recognition of religious groups do not appear to be arbitrary.

The Government permits the publication in different languages of religious materials of every registered religion.

The Government recognizes the following holy days as national holidays: Armenian Christmas, Eid al-Adha, St. Maroun Day, Islamic New Year, Ashura, Good Friday, Easter (both Western and Eastern rites), the birth of the Prophet Muhammad, All Saints' Day, Feast of the Assumption, Eid al-Fitr, and Christmas. The Government also excuses Armenian public sector employees from work on St. Vartan Day.

Restrictions on Religious Freedom

The 1989 Ta'if Agreement called for the eventual elimination of political sectarianism in favor of "expertise and competence;" however, little progress has been made in this regard.

Unrecognized groups, such as Baha'is, Buddhists, Hindus, and some evangelical denominations, may own property and assemble for worship without government interference; however, they are disadvantaged under the law because legally they may not marry, divorce, or inherit property in the country. Protestant evangelical churches are required to register with the Evangelical Synod, a nongovernmental advisory group that represents those churches with the Government. It is self-governing and oversees religious matters for Protestant congregations. Representatives of some churches have complained that the Synod has refused to accept new Protestant groups into its membership since 1975, thereby crippling their clergy's ability to minister to the members of those communities.

Many families have relatives who belong to different religious communities, and intermarriage is not uncommon; however, intermarriage is difficult to arrange in practice between members of some groups. Shari'a, which applies to personal status matters of Muslims, forbids the marriage of a non-Muslim male to a Muslim woman. Druze religious leaders will perform marriages only of Druze couples. There are no procedures for civil marriage; however, the Government recognizes civil marriage ceremonies performed outside the country.

There are no legal barriers to proselytizing; however, traditional attitudes of the clerical establishment strongly discourage such activity. The respective sect's leadership councils make appointments to senior clerical posts. For example, the nomination of Sunni and Shi'a muftis is officially endorsed by the Government's Council of Ministers, and they receive monthly salaries from the Government. The Government appoints and pays the salaries of Muslim and Druze ecclesiastical judges. The leaders of other religious groups, such as Greek Orthodox and Roman Catholics, do not receive salaries from the Government.

The Government does not require citizens' religious affiliations to be indicated on their passports; however, religious affiliation is encoded on national identity cards and noted on ikhraj qaid documents. The ikhraj qaid, a civil document that indicates personal status information, can be presented by citizens instead of an identity card when they apply for various purposes, such as to obtain government employment or to enroll in or be employed at a university.

In most cases religious groups administer their own family and personal status laws. Many of these laws discriminate against women. For example, Sunni inheritance law provides a son twice the inheritance of a daughter. Although Muslim men may divorce easily, Muslim women may do so only with the concurrence of their husbands.

Article 473 of the Penal Code stipulates a maximum prison term of 1 year for anyone convicted of "blaspheming God publicly." There were no prosecutions reported under this law during the reporting period.

Students and teachers found to be working while on tourist visas are deemed to have violated their visa status and are consequently deported. The same sanction applies to religious workers not working under the auspices of a government-registered religious organization.

There were no reports of religious prisoners or detainees in the country. (Lebanon, International Religious Freedom Report released by the Bureau of Democracy, Human Rights, and Labor United States Department of State, 2007)

FINDINGS AND REASONS

45. On the basis of the applicant's passport the Tribunal accepts that the applicant is a citizen of Lebanon.
46. Before the present Tribunal the applicant stated that the claims contained in the application for the protection visa were made without his knowledge or authority and they are not true. He told the Tribunal that he believes that there is no-body who would seek to harm him in Lebanon if he returns there. However he said that the situation in Lebanon is not stable. He told the Tribunal that the only basis that he fears harm in Lebanon in the future is because he is a Muslim and now married to an Australian citizen who is Christian. He states that they cannot live in his area. According to his evidence neither he nor his Australian spouse practises their religion at the present time. The applicant did not elaborate further on this claim at the Hearing and was not able to specify who might harm his wife; in what circumstances or what that actual harm might be.
47. The Tribunal notes independent country information that many families in Lebanon have relatives who belong to different denominations and intermarriage between faiths is not uncommon, although such marriages may be difficult to arrange in practice. In the applicant's case he is already married. The Tribunal is of the view that the applicant and his wife are unlikely to come to the adverse attention of family and local inhabitants in Lebanon for reason of their religious beliefs and practice. They do not currently practise any religion in Australia. The Tribunal heard that the applicant has no fear of harm in the place he is from for any reason but he is afraid that because theirs is a mixed marriage and his wife is Christian she may encounter difficulties. The harm the applicant described and which he claims to fear is possible harassment and discrimination. He did not describe serious harm. The claim is speculative. The Tribunal finds nothing in the applicant's evidence or in the independent country information to support a finding that the applicant would face serious harm in the place he is from because he is married to a Christian. The Tribunal is of the view that it is

clear that there is no objective basis for the applicant's fear of harm to himself or his wife for reason of their inter faith marriage.

48. The Tribunal finds that there is not a real chance that the applicant will suffer serious harm which amounts to persecution for reason of his religion if he returns to Lebanon in the reasonably foreseeable future. His fear of Convention related persecution in Lebanon is not well founded.

CONCLUSIONS

49. 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) for a protection visa.

DECISION

50. 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 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