

071344030 [2007] RRTA 102 (25 May 2007)

DECISION RECORD

RRT CASE NUMBER: 071344030

DIAC REFERENCE(S): CLF2007/36652

RRT CASE NUMBER: 071343544

DIAC REFERENCE(S): CLF2007/36493

COUNTRY OF REFERENCE: Lebanon

TRIBUNAL MEMBER: Ron Witton

DATE DECISION SIGNED: 25 May 2007

PLACE OF DECISION: Sydney

DECISION: The Tribunal affirms the decisions not to grant the applicants Protection (Class XA) visas.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

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

The applicants are citizens of Lebanon. The parent applicants applied to the Department of Immigration and Citizenship for Protection (Class XA) visas. The delegate decided to refuse to grant the visas and notified the parent applicants of the decision and their review rights by letter. The son applicant applied to the Department of Immigration and Citizenship for a Protection (Class XA) visa just after his parents applied. The delegate decided to refuse to grant the visa and notified the son applicant of the decision and his review rights by letter.

The delegate refused the visa application on the basis that the applicants are not persons to whom Australia has protection obligations under the Refugees Convention.

The parent applicants applied to the Tribunal for review of the delegate's decisions and the son applicant applied to the Tribunal the following day for review of the delegate's decision

The Tribunal finds that the delegate's decisions are RRT-reviewable decisions under s.411(1)(c) of the Act. The Tribunal finds that the applicants have 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).

Section 36(2)(b) provides as an alternative criterion that the applicant is a non-citizen in Australia who is the spouse or a dependant of a non-citizen (i) to whom Australia has protection obligations under the Convention and (ii) who holds a protection visa.

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:

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.

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.

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 applicants. The Tribunal also has had regard to the material referred to in the delegate's decisions, and other material available to it from a range of sources.

The applicants appeared before the Tribunal to give evidence and present arguments. The Tribunal also received oral evidence from a witness. The Tribunal hearing was conducted with the assistance of an interpreter.

The applicants were represented in relation to the review by their registered migration agent. In a statutory declaration accompanying the primary application, the applicant states, relevantly,:

2. I am claiming persecution on the Convention related grounds of religion and implied political beliefs.
3. I was born on [date], at [place].
4. I am currently married and have children.
5. I was born into the Jehovah's Witness faith.
6. I became an elder at the age of [age] and continued in that position until [year].
7. The reason why I chose not to continue holding that position was because of the increasing threats to my safety and restrictions on my religious practice. Such restrictions made my position as an elder untenable.
8. As an elder I am expected to lead pray meetings, engaging in door to door preaching, distribute religious material and conduct home visits to individual members of our congregation.
9. In my village my family have been identified as Jehovah's Witnesses. We are despised by our neighbours who are mainly hardline Orthodox Christians.
10. I have been threatened on numerous occasions by my immediate neighbours and other inhabitants of my village. We are effectively treated as outcasts.
11. Members of the Christian clergy in my village have on many occasions singled me and my family out for particular criticism, warning their congregation not to deal or have anything to do with us.

12. Over the past [number of] years I have been facing increasing hostility from members of my village. Relocating to another village or area is not a viable option because where ever we relocate we will face the same degree of hostility.
13. In [time period] I was sacked from my job as a [position] on the basis that customers were not willing to deal with me because I am a Jehovah's Witness. Company management advised me that they were losing too many customers because of the fact that a member of their staff is a Jehovah's Witness.
14. The Christian clergy rhetoric is mainly responsible for the increase in community hostility towards us. The Clergy often warn their parishioners against dealing with us, even in business.
15. As a result of the increasing hostility I have had no option but to resign from my position as an elder and to severely restrict my religious activity including core tenants of my faith such as preaching.
16. Such restrictions are made in an effort to protect myself and members of my family from the continuous threat of physical violence.
17. This degree of restriction means that we cannot practice our faith in a manner which is required by our faith. Adherence to our faith is not possible if we are to continue to curtail core religious activities such as preaching and refraining from participating in religious meetings.
18. We remain committed to our faith, but we have no option but to effectively abandon its practice in an effort to guarantee our safety
19. We initially tried to practice our faith in a covert manner, but we soon realized that even such practice would mean that we would be exposing ourselves to real risk of harm. The only viable option in guaranteeing our safety is to refrain altogether from practicing our faith.
20. We cannot rely on the authorities for protection because the government also remains hostile to members of our faith. We are accused of being supporters of international Zionism and therefore opposed to the policies of our government.
21. We cannot rely on the authorities for protection in times when we are attacked by individuals. This makes our position particularly vulnerable. We fear seeking the protection of the police because they will not intervene to offer us protection and in most cases will only detain us on charges of disturbing the peace or conducting unauthorised public meetings.
22. We are not officially recognised by our government as a religion. We are instead attributed with a political belief. The recent Hizballah-Israeli conflict has further brought adverse attention to members of our faith. Because of our refusal to join the Lebanese military we are considered enemies of the state and supporters of Israel.

In a statutory declaration accompanying the primary application, the son applicant states, relevantly:

2. I am claiming persecution on the Convention related grounds of religion and implied political beliefs.
3. I was born on [date], at [place].
4. I am currently single and have never been married.
5. I was born into the Jehovah's Witness faith.
6. As a Jehovah's Witness I am expected to attend pray meetings, engaging in door to door preaching and distribute religious material.
7. In my village my family have been identified as Jehovah's Witnesses. We are despised by our neighbours who are mainly hardline Orthodox Christians.
8. I have been threatened on numerous occasions by my immediate neighbours and fellow students. We are effectively treated as outcasts.

9. During my period at school and university I was constantly identified and singled out for particular adverse attention by fellow students and teachers.
10. Members of the Christian clergy in my village have on many occasions singled my family out for particular criticism, warning their congregation not to deal or have anything to do with us.
11. Over the past [number of] years I have been facing increasing hostility from members of my village and fellow students. Relocating to another village or area is not a viable option because where ever we relocate, we will face the same degree of hostility. Nor is re-enrolling at another university a viable option because a student's religion is quickly identified by his student records.
12. If I return to Lebanon I could not continue to complete my university education because of the increasing hostility which I am facing from fellow students and teachers. For this reason my university studies continue to be adversely effected. I have opted not to re-enrol during this semester because I can no longer cope with the verbal and physical abuse that I have been suffering at university.
13. The Christian clergy rhetoric is mainly responsible for the increase in community hostility towards us. The Clergy often warn their parishioners against dealing with us, even in business.
14. I remain deeply committed to my faith, but like the rest of my family I have no option but to effectively abandon its practice in an effort to guarantee my safety. Adherence to our faith is not possible if we are to continue to curtail core religious activities such as preaching and refraining from participating in religious meetings.
15. Practicing our faith in a covert manner will only expose us to further risk of harm. The only viable option in guaranteeing our safety is to refrain altogether from practicing our faith.
16. We cannot rely on the authorities for protection because the government also remains hostile to members of our faith. We are accused of being supporters of international Zionism and therefore apposed to the policies of our government.
17. We cannot rely on the authorities for protection in times when we are attacked by individuals. This makes our position particularly vulnerable. We fear seeking the protection of the police because they will not intervene to offer us protection and in most cases will only detain us on charges of disturbing the peace or conducting unauthorised public meetings.
18. We are not officially recognised by our government as a religion. We are instead attributed with a political belief. The recent Hizballah-Israeli conflict has further brought adverse attention to members of our faith. Because of our refusal to join the Lebanese military we are considered enemies of the state and supporters of Israel.

At the hearing, the applicants agreed that it was appropriate for the two applications before the Tribunal to be heard at the same hearing. The applicants submitted statements from an Australian Congregation of Jehovah's Witnesses attesting to the applicants being regular members of the congregation and expressing concern for their safety should they be forced to return to Lebanon.

In their oral evidence to the Tribunal, the father applicant stated he had children in Australia. He said he had in the past travelled to the Middle East during conflict in Lebanon in order to seek work. He said that he had lost his job recently after a number of years service and he believed this was because of discrimination against him because of his faith. He said since when he had worked for many years and had regularly been forced to change jobs because of discrimination against him because of his faith. He said that this last time, after he had lost his job recently, and until he came to Australia, he had found temporary work after that. He said that when the place at which he worked for some years had been opened by a senior official, he had been the only employee who had not passed security checks and had been told not to attend because of his faith.

The son applicant said he had not worked. He had attended university studying for a brief time but had felt isolated and pressured psychologically because of his faith and had not been able to study further. He said that people had been unfriendly to him. He said that in Lebanon the Muslims and Christians are in an antagonistic political relationship and as he had not been prepared to side with either faction, he was seen as an 'enemy' to both.

The Tribunal discussed with the applicants the independent evidence as set out below and invited the applicants to present any oral evidence to the Tribunal that they felt was relevant.

The father applicant said that he felt he was unable to practise his faith freely in Lebanon. He said that to carry out their witnessing in Lebanon they have to approach people very carefully and spend some 15 minutes speaking about non-religious subjects before they could ascertain if it would be safe to discuss religion with them. He said the both Christian and Muslims fear his faith. He said there are anti Jehovah's Witness stickers placed on doors advising them not to approach such houses. He said that "many times" assemblies have been stopped and he recalled one such occasion, many years ago, when armed Christian militia stopped a Jehovah's Witness service. He stated that in one city he had attended a Kingdom hall which had been wrecked in an attack some years ago. He said that the Shi'a are now stronger in that city and this prevents them from going door to door and they are seen as a threat. He said it is not safe to wear badges indicating their faith. He said that following the refusal of a Jehovah's Witness to receive a blood transfusion, a relative who was not of the faith had smashed cars in anger. The applicant son had been present at the time of that attack.

The father applicant said he had gone to jail many years ago when he was in his teens because he had refused to salute the flag and was expelled from school and had had to repeat the year.

He said that during the Israel-Lebanon war they had offered hospitality to Shi'a refugees but the refugees had abused the applicants' hospitality by watching militant Islamic programs on their TV and using their phone endlessly.

He said that when people are aware of their faith, they are hated. He said that his wife's relative, who is married to the father applicant's family member, has found it unsafe to stand on his balcony for fear of being shot at by Shi'a.

The adviser said he would make a post hearing written submission to the Tribunal but stressed that the Jehovah's Witnesses had often been accused of being pro-Israel. The applicant father said his name was a contributing factor in that. The adviser said they faced discrimination and cannot rely on the authorities for effective protection. They cannot worship freely without a real risk of harm. He said they are forced to curb their proselytizing and that they are threatened by the rise of Islamic radicalism in Lebanon as they are linked to international Zionism.

The father applicant stated he feared he might not be able to find work as positions are not found easily. He said at his last employment his manager would write daily reports criticising him groundlessly. He said he had had to resign from being an elder as he could not be with his congregation while he had to work in the city to feed his family. He said he felt pressure from his neighbours and also had been forced to work on Sundays which made it impossible to lead the congregation in prayer.

The son applicant recalled that once he had had to stop witnessing as someone had got a gun and threatened him.

The Tribunal also heard from the applicants' witness who testified that he knew the applicants to be Jehovah's Witnesses.

The applicants' representative made the following submission:

We refer to the above matter and draw your attention to the following RRT Decision records;

1. N05/08151 2. N04/50180 3. N05/51086 4. N05/52116 5. N0653227

In all above decisions, the Members have arrived at similar findings, namely that the independent material available about the situation of the Jehovah's Witness (JW) in Lebanon is contradictory, and noting the following; -

- That the JW are not legally recognised as a religious group,
- There required to seek permission from the Minister of Interior before gatherings are held,
- Technically, without such permission, gatherings for worship or other purposes are illegal,
- The literature and publications of JW are not allowed to be distributed or publicly disseminated,
- Proselytising is not allowed,
- State security agencies monitor religious activity and community groups,
- In 1996, the Interior Minister announced that the JW was being investigated as a Zionist organization, suspected of causing security problems in some areas in Lebanon,
- Independent evidence referred to in the decisions, state that the JW had been rejected by Lebanon's eighteen Christian and Muslim sects,
- The various sources referred to each identify different religious or national groups which are in some way and to some degree apposed to the JW, and in areas controlled by these groups, JW may be ill treated.

The Members in the above decisions make the common finding that in light of the independent evidence, they are satisfied that members of JW are in an extremely vulnerable position in Lebanon and without legal recognition, most of their activities are illegal, including proselyting, which is a fundamental part of their faith.

Moreover, the findings conclude that the investigations into JW activities may not have been concluded and that members of the JW cannot rely on the state authorities for protection when they complained of mistreatment, including assault, at the band of private individual groups.

Please also refer to N05/51364, which the Member Pauline Pope refers to independent evidence confirming the existence of the moral police, which is responsible for investigating activities of individuals or groups which are considered a threat to the moral fabric of the Lebanese society.

[The father applicant] and his family continue to be strongly committed to their faith, as they have been in the past. If they were to return to Lebanon, they would feel it necessary to continue to practice their religion, although this practice would need to remain as it has been in the past, covert and in a restricted manner. However, if they chose to practice their faith, even in this manner, they still face the real prospect of being at least arrested and detained.

The independent evidence confirms that there continues to exist a degree of hostility towards the Jehovah's Witnesses and their activities are strongly discouraged if not legally prohibited by the clergy and authorities.

In light of the growing hostility toward the Jehovah's Witnesses, there is also a growing need to seek the protection of the authorities. We further submit that given the general attitude of the authorities towards the Jehovah's Witnesses, the degree of vulnerability would arise most profoundly when the applicants may seek to rely on the authorities for protection.

Independent evidence

Jehovah's Witnesses in Lebanon

According to the Jehovah's Witnesses Worldwide 2005 Report, there were 3,585 Witnesses in Lebanon (http://www.watchtower.org/statistics/worldwide_report.htm). A Jehovah's Witnesses website provides detailed and current information on countries where Jehovah's Witnesses are facing harm and repression. However, the site does not list Lebanon as one of such country (<http://www.jw-media.org/newsroom/index.htm>).

According to a 1996 report in *Al-Awasef*, the Jehovah's Witnesses are located in Southern Lebanon and conduct missionary activities by utilising Lebanese media and concentrate their campaign on poor students. The same report further states that "in 1965, the Arab League banned 'The Jehovah's Witnesses' Organisation because it was evident that it has connections with international Zionism and works in the interest of Israel" ('The Jehovah's Witnesses in Lebanon' 1996, *Al-Awasef*, 22 June).

The Tribunal found little information on violence against members of the Jehovah's Witnesses Sect (JWS) in Lebanon. Nonetheless, in advice received from Department of Foreign Affairs and Trade (DFAT) on 11 May 2006, it is stated that, according to "a contact at the Interior Ministry, [Jehovah's Witnesses] may be vulnerable to 'hassle' from the security forces if, for example, someone held a grudge". DFAT also advised at this time that: "JWS men reportedly refuse to serve their national service as it goes against their beliefs. Any man refusing to undertake national service incurs a prison term equivalent to the period of national service and we heard several reports of JWs going to prison for this reason. National service was recently reduced from one year to six months and next year will be abolished". According to the Ya Libnan website, compulsory military service was abolished on 10 February 2007 following a vote in parliament in January 2005. The DFAT advice of 11 May 2006 follows below. In addition to the concerns noted above, it also discusses the difficulties faced by Jehovah's Witnesses as a consequence of the fact that "Jehovah's Witness Sect (JWS) is not one of the 18 religious sects recognised under the Constitution". This advice was procured as part of *Research Response LBN30094* of 12 May 2006.

Post has consulted a wide range of interlocutors in Lebanon regarding the status and situation of Jehovah's Witnesses (JWs). Our response draws on a previous RRT cable on this subject (pre-2001).

2. The Lebanese Constitution extends freedom of belief to all Lebanese citizens. However, the Jehovah's Witness Sect (JWS) is not one of the 18 religious sects recognised under the Constitution. As all family/personal status law is covered solely through the confessional courts of the 18 recognised religious sects, JWs do not have a court dealing with personal status issues. They cannot, therefore, legally marry according to their faith in Lebanon. They can, however, travel to Cyprus, marry there and register their marriage with the Ministry of

Interior on their return. This is a recognised and frequently followed process by Lebanese couples not wishing to marry in a religious ceremony.

3. As we previously reported, associations not recognised in law or which have “failed to acquaint the public authorities” with their existence, membership and aims are “reputed to be secret societies ... which shall be dissolved”. The JWS cannot legally convene for public assembly or worship without prior approval from the Interior Ministry. The law also prohibits assembly “in a place open to the public” for groups of three or more persons “for the purpose of committing an offence” or for twenty or more persons “whose attitude is likely to offend public peace”. In practice, however, the JWS are left in peace to assemble and worship. However, as advised by a contact at the Interior Ministry, they may be vulnerable to “hassle” from the security forces if, for example, someone held a grudge.

4. JWS men reportedly refuse to serve their national service as it goes against their beliefs. Any man refusing to undertake national service incurs a prison term equivalent to the period of national service and we heard several reports of JWs going to prison for this reason. National service was recently reduced from one year to six months and next year will be abolished.

5. Societal attitudes towards the JWS vary. In general, JWS proselytising is not welcomed amongst the population. In Lebanon, with its history of civil war and delicate religious balance, attempts to convert people to alternate faiths are frowned upon and are considered “trouble making” by the security authorities. However, we are not aware of any cases where such proselytising has resulted in criminal action being taken against JWs. Maronite Christians regard JWs as heretics and Christian contacts advise that Maronite priests regularly preach against the JWS.

6. In a society where ‘contacts’ and family affiliations with people in power hold greater sway than legal processes, JWs could be more vulnerable to discrimination than those from recognised sects. (RRT Country Research Response 2006, *Research Response LBN30094*, 12 May; Department of Foreign Affairs and Trade 2006, *DFAT Report 483 – Lebanon: Jehovah’s Witnesses: RRT Information Request LBN30096*, 11 May; Raad, O. 2007, ‘No more Mandatory Military Service in Lebanon’, Ya Libnan website, 12 February http://yalibnan.com/site/archives/2007/02/no_more_mandato.php – Accessed 2 May 2007).

The US Department of State International Religious Freedom Report of 2006 argued that some evangelical denominations “are disadvantaged under the [Lebanese] law because legally they may not marry, divorce or inherit property in the country”. The report further states that:

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 (US Department of State 2006, *International Religious Freedom Report for 2006 – Lebanon*, September).

According to the Immigration and Refugee Board of Canada Country of Origin Research Response LBN43573FE of 8 November 2005:

There are approximately 3,500 Jehovah’s Witnesses and over 70 congregations in Lebanon. They “are able to enjoy a degree of freedom of movement and to worship discreetly. Even so, we consistently learn of individual instances of harassment and intimidation by local authorities.” For example, the police have prohibited congregations from meeting for worship. In March 1997, following the Supreme Court’s decision to uphold the ban, the Lebanese authorities closed three Kingdom Halls (houses of worship).

Since Jehovah's Witnesses are not officially recognized, they face certain problems: "They are usually discriminated against in divorce and custody cases involving a non-Witness marriage mate [. . . and] ministers of Jehovah's Witnesses cannot perform legal marriage ceremonies." Furthermore, civil marriage is not an option for Jehovah's Witnesses.

In 2000, a Lebanese court convicted two sons (one of whom is a Jehovah's Witness) for following Jehovah's Witnesses' rites when burying their father rather than observing a state-sanctioned Christian burial rite. "Since Jehovah's Witnesses have no legal recognition, they have no constitutional right to freedom of religion," was the court's ruling (Immigration and Refugee Board of Canada 2005, *LBN43573FE – Lebanon: Treatment of Jehovah's Witnesses by the authorities and society general, and protection offered* (2005), 8 November).

FINDINGS AND REASONS

The applicants claim that as Jehovah Witnesses they face discrimination from the Lebanese government, hostility from the Lebanese population and fear that should they be threatened with actual harm, they could not expect protection from the Lebanese authorities. The father applicant further claims to have suffered discriminatory treatment in terms of his employment and the applicant son claims that the hostile environment where he was studying effectively prevented him from continuing his studies. They have further claimed that both through general perceptions, and by reason of the applicant father's name, they are identified with Israel and are accused of siding with Zionism. They claim that the increased tensions in Lebanon arising from recent political events have resulted in them facing increasing risk of harm.

The Tribunal accepts the evidence before it that the applicants are practising Jehovah's Witnesses.

In the light of the independent evidence, cited above and which the Tribunal finds comprehensive, reliable and credible, the Tribunal accepts that Jehovah's Witnesses in Lebanon face discrimination in certain areas of their life arising from the fact that their religion is not constitutionally accepted. The Tribunal further accepts that as Jehovah's Witnesses, the applicants face considerable hostility from both Christians and Muslims in Lebanon.

However, the Tribunal finds it significant that the independent evidence cited above, including the official Jehovah's Witness website, provide no evidence of serious harm befalling Jehovah's Witnesses in Lebanon, nor that they have been prevented from practising their faith. Indeed, Jehovah's Witnesses have 70 congregations in Lebanon with a membership of some three and a half thousand and, as was cited above, DFAT has advised that "In practice. . .the JWS are left in peace to assemble and worship".

The Tribunal accepts that the father applicant's evidence that he has faced discrimination in his employment throughout his life but notes that in his own evidence he has always been able to find other employment and has even held responsible positions. The Tribunal notes his oral evidence that even after his last dismissal, he was still able to find temporary employment, albeit another type of work, while waiting to come to Australia. The Tribunal finds that any discrimination the applicant father has faced in his employment is not of such seriousness or severity as to constitute persecution, nor that there is a real chance that he will do so in the foreseeable future.

The Tribunal has considered the applicant son's claim that the hostility he faced led him to feel isolated and unable to continue his university studies. While the Tribunal sympathises with him, the Tribunal does not consider any harm arising from not being able to complete tertiary studies to be of such magnitude as to constitute serious harm

The Tribunal has considered the submissions made with regard to the difficulties faced by the applicants in practising their faith. The Tribunal finds that their religious duty of witnessing their faith requires them, of necessity, to come into constant contact with people who may well resent, and indeed feel hostile, towards the applicants' endeavours to convert them. However, even with the religious tensions that exist in Lebanon, the Tribunal finds significant that there are no reports of serious harm coming to Jehovah Witnesses as they practise their faith. The Tribunal accepts that there are reports of occasional local instances of opposition, but there is no evidence that any such difficulties are so widespread as to prevent them from practising their faith or constitute a real chance that serious harm might befall the applicants in the foreseeable future.

The Tribunal has considered the claims that the applicants may be associated with Israel and Zionism but finds that there is no evidence to support a finding that there is a real chance that any such identification will lead to the applicants suffering serious harm in the foreseeable future.

The Tribunal accepts the representative's submission that there have been Tribunal decisions in the past that have set aside primary decisions relating to Jehovah's Witnesses in Lebanon. However, there is also a line of Tribunal decisions that have affirmed primary decisions relating to Jehovah's Witnesses in Lebanon (see for example, 060964967, N05/50971, N04/49958, V00/11691, N02/43010). It is in the very nature of the Tribunal's role that each Tribunal decision must be made on the particular circumstances of the case before it.

The Tribunal has also considered whether the discrimination faced by Jehovah Witnesses in Lebanon might, when considered cumulatively, amount to serious harm but finds that the evidence before the Tribunal does not sustain such a finding.

In the light of the totality of the evidence before it, the Tribunal find the applicants do not have a well founded fear of persecution for reason or religion, imputed political opinion or any other Convention reason.

CONCLUSIONS

Having considered the evidence as a whole, the Tribunal is not satisfied that the applicants are persons to whom Australia has protection obligations under the Refugees Convention. Therefore the applicants do not satisfy the criterion set out in s.36(2) for protection visas.

DECISION

The Tribunal affirms the decision not to grant the applicants Protection (Class XA) visas.

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 Officers ID: PRRTIR