



**Australian Government**  
**Immigration Assessment Authority**

**Decision and Reasons**

**Referred application**

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LEBANON

IAA reference: IAA22/10339

Date and time of decision: 18 August 2022 15:39:00

J Jennings, Reviewer

**Decision**

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The IAA affirms the decision not to grant the referred applicant a protection visa.

*Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 473EC(2) of the Migration Act 1958 and replaced with generic information which does not allow the identification of a referred applicant, or their relative or other dependant.*

## Background to the review

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### Visa application

1. The applicant was born in Australia in [year]. His parents are both Lebanese citizens who have each applied separately for protection visas in Australia.
2. On 10 October 2017 an application for a protection visa was lodged on his behalf.
3. It is claimed the applicant's parents are not married, come from different religions, have not registered his birth with the Lebanese authorities and that as a result he is stateless and would have no rights in Lebanon.
4. A delegate of the Minister for Immigration (the delegate) refused to grant the visa on 22 June 2022. The delegate accepted the circumstances of the applicant's birth and that he is currently stateless but was not satisfied that the applicant would face a real chance of serious harm or a real risk of significant harm in Lebanon.

### Information before the IAA

5. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
6. No further information has been received or obtained.

### Applicant's claims for protection

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7. The protection visa application was completed for the applicant with the assistance of a Migration Agent and advised he was raising his own protection claims. The applicant's parents have each lodged applications for protection visas but there is no indication in the claims lodged for the applicant or in the Migrations Agent's covering letter that the applicant relies on their protection claims. The applicant's claims can be summarised as follows:
  - The applicant was born in Australia on [date]. A copy of his New South Wales birth certificate has been provided.
  - He lives with his parents in Australia. His parents are Lebanese citizens. His father is a Sunni Muslim and his mother is a Maronite Christian. They are not legally married to each other and were not divorced from their previous spouses at the time of the applicant's birth.
  - As his parents are not married the applicant's birth has not been and cannot be registered with the Lebanese authorities. As a result the applicant is not a Lebanese citizen and is stateless.
  - In Lebanon he would not be considered to be Lebanese and would not have any rights.

### Refugee assessment

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8. Section 5H(1) of the Act provides that a person is a refugee if, in a case where the person has a nationality, he or she is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the

protection of that country; or in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

### **Well-founded fear of persecution**

9. Under s.5J of the Act ‘well-founded fear of persecution’ involves a number of components which include that:
  - the person fears persecution and there is a real chance that the person would be persecuted
  - the real chance of persecution relates to all areas of the receiving country
  - the persecution involves serious harm and systematic and discriminatory conduct
  - the essential and significant reason (or reasons) for the persecution is race, religion, nationality, membership of a particular social group or political opinion
  - the person does not have a well-founded fear of persecution if effective protection measures are available to the person, and
  - the person does not have a well-founded fear of persecution if they could take reasonable steps to modify their behaviour, other than certain types of modification.
10. In support of his claimed identity the applicant has provided a copy of his New South Wales birth certificate. This shows details of his birth and the names of his parents. I accept his identity as claimed.
11. On his birth certificate the field for date and place of marriage is blank which supports his claim his parents were not married at the time of his birth. I accept this claim.
12. In the protection visa application it is stated the applicant’s parents are citizens of Lebanon and his birth certificate confirms Lebanon as their place of birth. But despite the Lebanese citizenship of his parents the applicant claims to be stateless.
13. The provisions for citizenship in Lebanon are set out in the Lebanese Nationality Decree No.15. Generally every child of a Lebanese father is considered to be Lebanese but to access citizenship the birth must be registered with the authorities by the father in a prescribed manner.<sup>1</sup>
14. The indications are that the applicant currently has a right, through his father, to register his birth and acquire Lebanese citizenship, but it is claimed this has not been done and there is no information before me that would call this account into question. I accept the account this has not been done and as such I find that he is not currently a citizen or national of Lebanon. While he is entitled to and could obtain Lebanese citizenship through the prescribed process, eligibility for Lebanese citizenship is insufficient for the purposes of the visa criteria in s.36 of the Act having regard to the provisions of ss.5H and 5J and the definition of ‘receiving country’ in s.5(1). I accept that according the laws of Lebanon he is not now a national of Lebanon. I accept the claim that he is currently stateless.

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<sup>1</sup> Decree No15 on Lebanese Nationality including Amendments', Government of Lebanon, 19 January 1925, CISED850AD7509; Department of Foreign Affairs and Trade (DFAT), “DFAT Country Information Report: Lebanon”, 19 March 2019, 20190319100208

15. Although the applicant has never lived in any country other than Australia, I consider that Lebanon is the receiving country against which his protection claims should be assessed, as this is the country of nationality of his parents and the country to which the family would be returned if their claims were unsuccessful and the country against which he has advanced his protection claims.
16. It is stated the applicant's parents cannot register his birth because they are not married and that for this reason he cannot obtain citizenship and would have no rights in Lebanon. But I am not satisfied that his parents' marital status precludes his birth registration and obtaining citizenship. Decree No.15 sets out provisions for "the illegitimate child whose nationality has not been established during his minority" and the Frontiers Ruwad Association explanatory document outlines the steps involved; these include recognition while still a minor and sets out that the birth must be declared within one year from the date of birth to be recorded administratively according to Article 12 of the Law on Documenting Personal Status. But even late registration does not preclude registration, although in such cases the recognising parent must seek recourse to the courts by filing a voluntary birth registration lawsuit.<sup>2</sup>
17. The provisions for birth registration/citizenship include procedures for children born abroad to be registered at the nearest consulate or mission.<sup>3</sup>
18. I accept that there may be a number of steps of involved and this may require engagement with various agencies and that because the birth has not been registered within the timeframes stipulated recourse to the court would be required and a fine may be payable. In 2019 DFAT estimated this fine to amount to AUD0.90.<sup>4</sup>
19. The population of Lebanon, thought to range from 5 to 6 million, is estimated to include stateless persons amounting to many thousands, in addition to stateless Palestinians who are estimated to number in excess of 160,000 persons. Statelessness in Lebanon stems from exclusion as a result of the provisions of the 1932 census (the last census conducted), legislation gaps that deny nationality to some, and from administrative hurdles such as the ability to prove the right of citizenship.<sup>5</sup> Many cases of statelessness in Lebanon are the result of the parents' failure to register births which the Frontiers Ruwad Association has attributed to a number of reasons ranging from ignorance or neglect, to problems stemming from obtaining the required documents.<sup>6</sup>
20. I accept that the process may be complex and I note the concerns of the UN Human Rights Committee in 2018 at the cost and requirements for documentation and I note reporting that some people have been unable to register and are effectively stateless. This particularly impacts children born to Lebanese mothers who are unable to pass their citizenship to any children with non-Lebanese fathers or where paternity is disputed. The varied and complex provisions set in place seem to be in part due the large numbers of refugees resident in the country (with specific provisions for the stateless Palestinian cohort hosted as long-term

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<sup>2</sup> Decree No15 on Lebanese Nationality including Amendments, Government of Lebanon, 19 January 1925, CISED50AD7509; Frontiers Ruwad Association, "Birth Registration Procedures in Lebanon", 2014, CISEFCB23F7354

<sup>3</sup> Frontiers Ruwad Association, "Birth Registration Procedures in Lebanon", 2014, CISEFCB23F7354

<sup>4</sup> DFAT, "DFAT Country Information Report: Lebanon", 19 March 2019, 20190319100208

<sup>5</sup> Bertelsmann Stiftung, "BTI 2020 Country Report – Lebanon", 29 April 2020, 20200501163341; Rosa-Luxemburg- Stiftung, "Atlas of the Stateless: Facts of the Stateless: Facts and figures about exclusion and displacement", October 2020, 20210520125501, European Network on Statelessness, "A visit to Lebanon", 20 June 2019, 20201110112118; DFAT, "DFAT Country Information Report: Lebanon", 19 March 2019, 20190319100208

<sup>6</sup> Frontiers Ruwad Association, "Birth Registration Procedures in Lebanon", 2014, CISEFCB23F7354

residents), along with high numbers of non-nationals who reside in Lebanon (which includes a significant cohort of people with no nationality).<sup>7</sup>

21. Child registration and the process to obtain citizenship in Lebanon can be onerous, most particularly for non-Lebanese citizens, and also for the impoverished, uneducated and those living in remote areas. But the applicant's parents have not indicated such issues would be an impediment. They themselves claim to be citizens and as such would not be impacted by the exclusions from the 1932 census or legislative gaps that have adversely affected some people. Nor is there any indication the applicant's father or mother would be unwilling to recognise the applicant as required by the Lebanese provisions or that there is any dispute as to the applicant's paternity or as to his father's Lebanese citizenship, all matters which the Frontiers Ruwad Association report indicates may hinder registration.
22. Nor does the matter of his parents' mixed religious background indicate any impediment to registration. Mixed families are common in Lebanon and there are no restrictions/impediments in the relevant nationality legislation based on religion or mixed religion relationships, nor does the explanatory commentary from the Frontiers Ruwad Association point to such or that there are any impediments based on mixed relationships where the parents are not married.<sup>8</sup>
23. Based on the information outlining the circumstances in which children's births can be registered and citizenship obtained, including illegitimate children, I am not satisfied that the applicant's parents could not register his birth and obtain Lebanese citizenship for him.
24. Furthermore I am satisfied the processes involved are administrative requirements that they are not discriminatory on their face or applied in a discriminatory manner. I find that the payment of any fine occurred for delayed registration, and the costs associated with obtaining any necessary documents or seeking recourse to the courts is not systemic and discriminatory conduct and does not amount to persecution for the purpose of ss.5H(1) and 5J(1) of the Act. Nor am I satisfied that such involves or amounts to serious harm.
25. I am not satisfied that the applicant would be prevented from having his birth and citizenship registered and it therefore follows that I am not satisfied there is a real chance he would not be considered Lebanese or able to access rights in Lebanon as a citizen.
26. I have noted that there are provisions for children born abroad to be registered, but in the event the applicant's parents did not proceed with the process while in Australia the applicant would initially be stateless in Lebanon. But I have not accepted there is an impediment that would prevent his registration and as such I find this would only apply for the interim period until the administrative/court process was completed and there is no indication that the process is a protracted one, although I take into account that a court process may be required in the applicant's case.
27. Statelessness in Lebanon impacts on the ability to obtain public services and as a child the applicant may be restricted in accessing services such as education or health care.<sup>9</sup> But noting his young age should he return now or in the reasonably foreseeable future I am not satisfied

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<sup>7</sup> DFAT, "DFAT Country Information Report: Lebanon", 19 March 2019, 20190319100208

<sup>8</sup> DFAT, "DFAT Country Information Report: Lebanon", 19 March 2019, 20190319100208; Decree No15 on Lebanese Nationality including Amendments, Government of Lebanon, 19 January 1925, CISED50AD7509; Frontiers Ruwad Association, "Birth Registration Procedures in Lebanon", 2014, CISEFCB23F7354

<sup>9</sup> DFAT, "DFAT Country Information Report: Lebanon", 19 March 2019, 20190319100208; Aljazeera, "Stateless in Lebanon", 22 May 2019, 20190523162602

that any disruption to his education or accessing health care or other public services while the registration process was finalised would amount to serious harm.

28. I have considered the applicant's circumstances and I am not satisfied there is a real chance of the applicant suffering persecution in the reasonably foreseeable future in Lebanon on the bases claimed.

#### **Refugee: conclusion**

29. The applicant does not meet the requirements of the definition of refugee in s.5H(1). The applicant does not meet s.36(2)(a).

#### **Complementary protection assessment**

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30. A criterion for a protection visa is that the applicant is a non-citizen in Australia (other than a person who is a refugee) in respect of whom the Minister (or Reviewer) is satisfied Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the person being removed from Australia to a receiving country, there is a real risk that the person will suffer significant harm.

#### **Real risk of significant harm**

31. Under s.36(2A), a person will suffer 'significant harm' if:
- the person will be arbitrarily deprived of his or her life
  - the death penalty will be carried out on the person
  - the person will be subjected to torture
  - the person will be subjected to cruel or inhuman treatment or punishment, or
  - the person will be subjected to degrading treatment or punishment.
32. The expressions 'torture', 'cruel or inhuman treatment or punishment' and 'degrading treatment or punishment' are in turn defined in s.5(1) of the Act.
33. I have found that the process of registering his birth/citizenship in Lebanon or being stateless while this would be finalised would not amount to serious harm. I also find this does not amount to significant harm. The harm does not include deprivation of life, the death penalty, or torture; nor am I satisfied he will be subject to cruel, inhuman or degrading treatment or punishment as defined.
34. I have found that there is not a real chance that the applicant faces harm on the bases claimed. Noting that the "real risk" test for complementary protection is the same standard as the "real chance" test, and based on the same information, and for the reasons set out above, I am also satisfied that there is not a real risk that he would face significant harm for these reasons.

### **Complementary protection: conclusion**

35. There are not substantial grounds for believing that, as a necessary and foreseeable consequence of being returned from Australia to a receiving country, there is a real risk that the applicant will suffer significant harm. The applicant does not meet s.36(2)(aa).

### **Member of same family unit**

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36. Under s.36(2)(b) or s.36(2)(c) of the Act, an applicant may meet the criteria for a protection visa if they are a member of the same family unit as a person who (i) is mentioned in s.36(2)(a) or (aa) and (ii) holds a protection visa of the same class as that applied for by the applicant. A person is a 'member of the same family unit' as another if either is a member of the family unit of the other or each is a member of the family unit of a third person: s.5(1).
37. There is no evidence before me to indicate the applicant is a member of the family unit of a person who has been recognised under s.36(2)(a) or (aa) and as such he does not meet the criteria in 36(2)(b) or (c).

### **Decision**

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The IAA affirms the decision not to grant the referred applicant a protection visa.

## Applicable law

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### **Migration Act 1958**

#### **5 (1) Interpretation**

In this Act, unless the contrary intention appears:

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**bogus document**, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly

...

**cruel or inhuman treatment or punishment** means an act or omission by which:

- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
- (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;

but does not include an act or omission:

- (c) that is not inconsistent with Article 7 of the Covenant; or
- (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

**degrading treatment or punishment** means an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the Covenant; or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

**receiving country**, in relation to a non-citizen, means:

- (a) a country of which the non-citizen is a national, to be determined solely by reference to the law of the relevant country; or
- (b) if the non-citizen has no country of nationality—a country of his or her former habitual residence, regardless of whether it would be possible to return the non-citizen to the country.

...

**torture** means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

- (a) for the purpose of obtaining from the person or from a third person information or a confession; or
- (b) for the purpose of punishing the person for an act which that person or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating or coercing the person or a third person; or
- (d) for a purpose related to a purpose mentioned in paragraph (a), (b) or (c); or
- (e) for any reason based on discrimination that is inconsistent with the Articles of the Covenant;

but does not include an act or omission arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

#### **5H Meaning of refugee**

(1) For the purposes of the application of this Act and the regulations to a particular person in Australia, the person is a refugee if the person:

- (a) in a case where the person has a nationality—is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or
- (b) in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Note: For the meaning of *well-founded fear of persecution*, see section 5J.



...

### 5J Meaning of well-founded fear of persecution

- (1) For the purposes of the application of this Act and the regulations to a particular person, the person has a well-founded fear of persecution if:
  - (a) the person fears being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
  - (b) there is a real chance that, if the person returned to the receiving country, the person would be persecuted for one or more of the reasons mentioned in paragraph (a); and
  - (c) the real chance of persecution relates to all areas of a receiving country.  
Note: For membership of a particular social group, see sections 5K and 5L.
- (2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.  
Note: For effective protection measures, see section 5LA.
- (3) A person does not have a well-founded fear of persecution if the person could take reasonable steps to modify his or her behaviour so as to avoid a real chance of persecution in a receiving country, other than a modification that would:
  - (a) conflict with a characteristic that is fundamental to the person's identity or conscience; or
  - (b) conceal an innate or immutable characteristic of the person; or
  - (c) without limiting paragraph (a) or (b), require the person to do any of the following:
    - (i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;
    - (ii) conceal his or her true race, ethnicity, nationality or country of origin;
    - (iii) alter his or her political beliefs or conceal his or her true political beliefs;
    - (iv) conceal a physical, psychological or intellectual disability;
    - (v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
    - (vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.
- (4) If a person fears persecution for one or more of the reasons mentioned in paragraph (1)(a):
  - (a) that reason must be the essential and significant reason, or those reasons must be the essential and significant reasons, for the persecution; and
  - (b) the persecution must involve serious harm to the person; and
  - (c) the persecution must involve systematic and discriminatory conduct.
- (5) Without limiting what is serious harm for the purposes of paragraph (4)(b), the following are instances of **serious harm** for the purposes of that paragraph:
  - (a) a threat to the person's life or liberty;
  - (b) significant physical harassment of the person;
  - (c) significant physical ill-treatment of the person;
  - (d) significant economic hardship that threatens the person's capacity to subsist;
  - (e) denial of access to basic services, where the denial threatens the person's capacity to subsist;
  - (f) denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.
- (6) In determining whether the person has a **well-founded fear of persecution** for one or more of the reasons mentioned in paragraph (1)(a), any conduct engaged in by the person in Australia is to be disregarded unless the person satisfies the Minister that the person engaged in the conduct otherwise than for the purpose of strengthening the person's claim to be a refugee.

### 5K Membership of a particular social group consisting of family

For the purposes of the application of this Act and the regulations to a particular person (the **first person**), in determining whether the first person has a well-founded fear of persecution for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in paragraph 5J(1)(a); and
- (b) disregard any fear of persecution, or any persecution, that:
  - (i) the first person has ever experienced; or

- (ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

#### **5L Membership of a particular social group other than family**

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person's family) if:

- (a) a characteristic is shared by each member of the group; and
- (b) the person shares, or is perceived as sharing, the characteristic; and
- (c) any of the following apply:
  - (i) the characteristic is an innate or immutable characteristic;
  - (ii) the characteristic is so fundamental to a member's identity or conscience, the member should not be forced to renounce it;
  - (iii) the characteristic distinguishes the group from society; and
- (d) the characteristic is not a fear of persecution.

#### **5LA Effective protection measures**

- (1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:
  - (a) protection against persecution could be provided to the person by:
    - (i) the relevant State; or
    - (ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and
  - (b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.
- (2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:
  - (a) the person can access the protection; and
  - (b) the protection is durable; and
  - (c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

...

#### **36 Protection visas – criteria provided for by this Act**

...

- (2) A criterion for a protection visa is that the applicant for the visa is:
  - (a) a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the person is a refugee; or
  - (aa) a non-citizen in Australia (other than a non-citizen mentioned in paragraph (a)) in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm; or
  - (b) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
    - (i) is mentioned in paragraph (a); and
    - (ii) holds a protection visa of the same class as that applied for by the applicant; or
  - (c) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
    - (i) is mentioned in paragraph (aa); and
    - (ii) holds a protection visa of the same class as that applied for by the applicant.
- (2A) A non-citizen will suffer **significant harm** if:
  - (a) the non-citizen will be arbitrarily deprived of his or her life; or
  - (b) the death penalty will be carried out on the non-citizen; or
  - (c) the non-citizen will be subjected to torture; or
  - (d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
  - (e) the non-citizen will be subjected to degrading treatment or punishment.

- (2B) However, there is taken not to be a real risk that a non-citizen will suffer significant harm in a country if the Minister is satisfied that:
- (a) it would be reasonable for the non-citizen to relocate to an area of the country where there would not be a real risk that the non-citizen will suffer significant harm; or
  - (b) the non-citizen could obtain, from an authority of the country, protection such that there would not be a real risk that the non-citizen will suffer significant harm; or
  - (c) the real risk is one faced by the population of the country generally and is not faced by the non-citizen personally.

...

*Protection obligations*

- (3) Australia is taken not to have protection obligations in respect of a non-citizen who has not taken all possible steps to avail himself or herself of a right to enter and reside in, whether temporarily or permanently and however that right arose or is expressed, any country apart from Australia, including countries of which the non-citizen is a national.
- (4) However, subsection (3) does not apply in relation to a country in respect of which:
- (a) the non-citizen has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or
  - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the country.
- (5) Subsection (3) does not apply in relation to a country if the non-citizen has a well-founded fear that:
- (a) the country will return the non-citizen to another country; and
  - (b) the non-citizen will be persecuted in that other country for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (5A) Also, subsection (3) does not apply in relation to a country if:
- (a) the non-citizen has a well-founded fear that the country will return the non-citizen to another country; and
  - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the other country.

*Determining nationality*

- (6) For the purposes of subsection (3), the question of whether a non-citizen is a national of a particular country must be determined solely by reference to the law of that country.
- (7) Subsection (6) does not, by implication, affect the interpretation of any other provision of this Act.