



**Australian Government**  

---

**Immigration Assessment Authority**

**Decision and Reasons**

**Referred application**

---

LEBANON

IAA reference: IAA17/02871

Date and time of decision: 4 April 2018 08:21:00

Michael Brereton, Reviewer

**Decision**

---

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 an referred applicant, or their relative or other dependant.*

## Background to the review

---

### Visa application

1. The referred applicant (the applicant) claims to be a Sunni Muslim from the town of [Town 1] in Akkar province in the northern region of Lebanon. He departed Lebanon lawfully [in] May 2013 and travelled to [Country 1]. He departed [Country 1] by boat and arrived [in Australia] [in] May 2013. [In] October 2016, he applied for a Temporary Protection Visa (TPV). A delegate of the Minister for Immigration and Border Protection (the delegate) refused to grant the visa [in] June 2017.
2. The applicant claims to fear harm: because he was involved with Shi'a girl whose [relative] is in Hezbollah and is looking for him; from discrimination because he is a Sunni; because of the security situation in Lebanon; and as a returned asylum-seeker.
3. The delegate accepted the applicant's claims as to identity and former residence. The delegate considered the claims of discrimination, the security situation and being a returned asylum seeker against country information and found that the applicant does not have a well-founded fear of persecution for any of those reasons. The delegate accepted the claims as to the relationship with a Shi'a girl and threats from her [relative] and found that the state could provide effective protection and the applicant could reasonably relocate to another part of Lebanon. The delegate found that the applicant is not a person in respect of whom Australia has protection obligations.

### Information before the IAA

4. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act) (the review material).
5. On 3 July 2017, the applicant's agent provided a submission to the IAA. Part of this submission comprises argument and refers to issues in the decision and country information that was before the delegate. To the extent that the submission contains legal argument, response to the delegate's decision and refers to information that was before the delegate I am satisfied that it is not new information. This submission referred to, but did not attach, new information that the applicant seeks to put before the IAA.
6. The submission contains a claim that the applicant faces a risk of harm by Islamic State (IS, also known as ISIL, ISIS and Daesh). This claim was not raised in the application or at the interview but the claim as expressed in the submission appears to be a fear of IS in the context of generalised/sectarian violence, which was before the delegate. I also note that there is information in the review material (cited below) referring to the emergence and actions of IS and other Sunni militia in the northern areas of Lebanon since the applicant left. For that reason I am satisfied that this is not a new claim.
7. The submission contains a claim that the applicant faces harm as a returning asylum-seeker who has spent time in a western country. This was not raised in the application or at the interview. I consider that this is a new claim. The agent also refers to a travel advice issued by the Australian Department of Foreign Affairs and Trade (DFAT) which was not before the delegate and is new information.
8. On 14 August 2017, the agent provided the new country information referred to in the submission along with a further email making submissions as to why the IAA should consider

new information. The agent submits that the applicant only had low-level migration assistance when he prepared his application and did not have a representative at the interview with the delegate [in] January 2017 (the interview). The agent submits that the applicant could not reasonably have been expected to put forward any information or legal submissions which would have supported his case. The email also submits that the delegate did not raise any concerns “regarding the applicant’s eligibility for the grant of the protection visa, and the applicant was not provided with an opportunity to comment on any such information” under s.57 of the Act. This submission appears to argue that this failure constitutes an exceptional circumstance to justify the IAA considering new information.

9. The documents provided to the IAA are all general information (including media reports) and do not contain personal information. With the exception of one document (a travel advice issued by the government of the United Kingdom (UK), considered further below), all of these documents pre-date the decision.
10. Although the applicant was not represented at the interview, he was assisted by a firm of registered migration agents when he prepared and submitted his application. He has not made any complaint, either to the delegate or in his IAA submission, that these agents did not explain the process to him or provide adequate assistance. He was assisted by an interpreter at the interview and he did not refer to any reason why his then-agent was not present, or raise any concerns about this absence. I take into account that he told the delegate that he understood the interpreter, had read and understood the information sheet provided by the Department and understood that it was important to provide all of his claims and information to the Department. He was also told that if he did not do so and his visa was refused, he may not have another chance to provide information or claims. At the end of the interview, after the delegate had put country information to the applicant for comment, the delegate said that she needed to consider all of the claims as well as the country information.
11. I am satisfied that the applicant was on notice that the information before the delegate may have been not supportive of, or adverse to, his claims. I take into account that the decision was not made until five months after the interview and I consider that the applicant had more than sufficient opportunity to speak with his then-agent (or another migration agent) about the interview, his claims and the information put to him by the delegate. The review material does not indicate that the applicant had any further contact with the Department in the intervening period or that he sought to provide further information or raised any concerns with the process. The evidence before me does not indicate that the applicant was misled as to the delegate’s consideration of claims and/or information, that he was unable to present his claims and information or that he was unable to seek further advice or assistance if he wished to do so. Having regard to all of the above, I do not accept the assertion that the applicant could not reasonably have been expected to put forward any information or legal submissions which would have supported his case. The applicant has not satisfied me as to the matters in s.473DD(b)(i) or (ii) in relation to these documents.
12. The information in the review material before me includes specific country information reports issued by Australian and foreign government agencies and as noted below, I have also obtained the most recent country information report from DFAT. I consider that this and the reports already before me, which are drawn from a range of government, non-government and other sources, provide comprehensive and reliable information in relation to the situation in Lebanon and, in particular the situation facing Lebanese citizens who are returning to Lebanon. To that extent I consider them to be authoritative sources of information. Although the UK travel advice provided by the applicant post-dates the decision, I consider that this is an advice prepared as a guide for UK citizens who may be travelling to Lebanon. It has not been

prepared for the purpose of assessing the conditions which may face Lebanese citizens or returnees and I do not consider that it is as authoritative or comprehensive and the other reports before me.

13. In relation to the s.57 submission, that section (as relevant here) requires the Minister to give an applicant information that would be the reason, or part of the reason, for refusing to grant a visa. However, this does not apply to information that is not specifically about the applicant or another person and is just about a class of persons of which the applicant or other person is a member, and was given by the applicant for the purpose of the application. The agent has not identified, and I have not been able to identify, any information referred to or relied on by the delegate which falls within this description.
14. In relation to the new claim, the agent concedes that DFAT is not aware of any evidence that returning asylum-seekers from the west are distinguishable from the rest of the community but refers to a DFAT travel advice that "extremists may be seeking to target Westerners" in Lebanon. The agent asserts that the applicant's profile in his home area may lead him to face a risk of harm for this reason. The agent has not provided any information that indicates that Lebanese civilians who have been in the West have been targeted for harm for that reason. I have not found any information in the review material or in new information that I have obtained (see below) that would support this claim and I consider this claim to be hypothetical and speculative. I also consider that the DFAT travel advice is a document prepared for a different purpose and relating to persons in different circumstances to the applicant.
15. Having regard to all of the above, I am not satisfied that there are exceptional circumstances to justify considering the new claim or any of the new information provided by the applicant.
16. On 23 November 2017, the agent provided a further document to the IAA. Although the covering email refers to the applicant by name, the attached information relates to Sri Lanka and appears to have been sent in error. I do not consider this information to be relevant to the review.
17. On 23 October 2017, DFAT released a new country information report on Lebanon.<sup>1</sup> This report, which post-dates the delegate's decision, provides an update on the situation faced by Sunni Muslims in Lebanon, and persons who have returned to Lebanon after seeking asylum abroad; both classes of person that the applicant falls or claims to fall within. I am satisfied that this information is relevant and I have therefore obtained it. I also consider that as this provides a more current assessment of the risks faced by Sunni Muslims and returning asylum-seekers, taking into account changes and developments in the situation in Lebanon as a whole, there are exceptional circumstances to justify considering this information.

### **Applicant's claims for protection**

---

18. The review material notes that there is no transcript or recording of the applicant's initial entry interview. The applicant's claims as set out in his written statement and from the interview can be summarised as follows:
  - He was born and lived in Akkar province, in the northern region of Lebanon. His parents and siblings remain in this part of Lebanon. He was educated in Lebanon and has [degree].

---

<sup>1</sup> Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014.

- There was a lot of violence in his district and he could hear fighting over the border in Syria. He did not feel safe on the roads when he was out and would wonder if he would make it home.
- Sometimes his father would give him and his siblings lifts to work or school. He and his family were subjected to sniper attacks.
- He was unable to find a job in his field because he is a Sunni and faced a lot of discrimination. To get a job in Lebanon you need to be affiliated with Hezbollah or a political party. He eventually obtained a job working in a [business] in Beirut, in May 2012.
- He faced discrimination and harassment while he was working, including abuse from a Shi'a supervisor and Shi'a colleagues.
- In 2013, the family car was shot at and damaged. He believes they were targeted because they are Sunni and that the attackers were Shi'a militia.
- While he was working, he met a girl who was a Shi'a. He started a relationship but her [relative] works for Hezbollah and began threatening the applicant. Although the relationship has ceased, the [relative] keeps threatening the applicant through his family in Lebanon. He could not report the threats because the authorities support Hezbollah.
- Because of the dangers and road closures, he was unable to attend his work and as a result he lost his job about two months before he left Lebanon.
- There are many Syrian refugees in Lebanon and they work for less pay, making it hard for people like him to find employment.
- He has never had any personal conflict with either side involved in the fighting in Lebanon.
- If he returns to Lebanon he may be seriously injured or killed. He fears the militia groups and the insecurity and fighting. The girl's [relative] will harm him and he cannot live anywhere else because he will not be safe anywhere else.
- He will continue to face discrimination in his employment opportunities which will impact on his ability to subsist in Lebanon.

## **Refugee assessment**

---

19. 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**

20. 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.
21. The applicant has consistently claimed to be a Sunni Arab from the Akkar region in the northern part of Lebanon. He has provided some documentary evidence in the form of a Lebanese identity card and an Extract of Family Registration, with translations. There is nothing in the material before me which leads me to doubt any aspect of the applicant's claims in relation to origin and former residence and I accept that he is a Sunni Arab from this part of Lebanon and that Lebanon is the receiving country for the purposes of the review.
22. The applicant departed Lebanon on a genuine Lebanese passport but has not presented this with his application. He told the Department that his passport was taken by the people smugglers and thrown into the sea after he left [Country 1]. I accept that this is a reasonable explanation for the destruction of his passport.
23. The applicant's claims can be broken into two broad claims. He claims to fear harm on the basis of a personal threat from a person who is a member of Hezbollah, and he claims to fear general harm arising from his religion, the security situation in Lebanon, employment prospects and being a returned asylum-seeker.
24. In relation to his claim to fear harm personally, he told the delegate that this situation arose because he met a girl while he was working in Beirut in 2012. The girl worked with [him] and they used to go out on dates after work. She was a Shi'a who lived in Beirut but she was not worried that he was Sunni. However, after about six months her [relative], [Mr A], found out about the relationship. [Mr A] is a member of Hezbollah and was very angry that his sister was going out with a Sunni. [Mr A] began threatening the applicant. This happened for about a week, after which [Mr A] stopped the girl working and the applicant did not see her again. He tried to call her but she did not answer and he thinks that [Mr A] took her telephone or made her change her number. Not long after this he came to Australia but he said that [Mr A] continues to threaten him through his family at least once a week. The last time this happened was about one month before the interview. He also said that [Mr A] had obtained his telephone number in Australia (he does not know how) and called him to threaten him here. The delegate asked why [Mr A] would still be threatening the applicant now, given the relationship had ceased and it was now more than three years after he left Lebanon. The applicant said that this is how "they" think and they are all about revenge. The delegate asked what role [Mr A] had with Hezbollah and the applicant said that he was an "active member". The applicant said that [Mr A] will have put his name on a list and Hezbollah will know if he returns to Lebanon and will find him anywhere he goes.
25. DFAT has assessed that there is some low-level societal discrimination against particular religious groups in some areas of Lebanon. In particular, inter-confessional relationships and marriages can attract significant societal and official discrimination and in some circumstances, violence. However, traditionally, sectarian violence has been the main issue confronting

religious and political groups in Lebanon. This report also noted that Beirut has substantial Christian, Sunni and Shi'a populations and that it has both sectarian enclaves and mixed suburbs.<sup>2</sup> It is plausible, and I accept, that when the applicant was working in Beirut he mixed with Shi'as and that he developed a romantic interest in a Shi'a colleague. The applicant described the relationship as two young people in love who would go on dates sometimes after work and I am prepared to accept that this was the level of the relationship.

26. I am also prepared to accept that when [Mr A] found out, he threatened the applicant. The applicant has not explained what was said but he characterised it at the interview as [Mr A] "disagreeing" with the relationship. The applicant said that he took the threats seriously and did not see the girl again, although he did try (unsuccessfully) to call her on a couple of occasions. He did not speak to anyone else on the telephone on those occasions.
27. The applicant's description of the relationship and his own actions after the threats lead me to doubt his evidence about the severity and nature of the threats or that the threats continued regularly for nearly four years, including weekly threats to his parents and a telephone call to Australia. He has not explained how he knew that [Mr A] is a member of Hezbollah and when asked what [Mr A]'s role was, he was unable to say anything more than that [Mr A] was an "active member". He has not claimed that anyone warned him or told him that [Mr A] was part of Hezbollah, or that any other member or members of Hezbollah have threatened him, asked about him or tried to locate him. While he claims that he took the threats seriously, he attempted to contact the girl by telephone on a couple of occasions. I do not consider it is plausible that he would have done this had he received threats from a member of Hezbollah as he has claimed. I also note that when the delegate asked about the nature of the threats, the applicant explained that [Mr A] told him not to continue the relationship. The applicant did not see the girl again after this conversation and was unable to explain to the delegate why [Mr A] would continue threatening him after the relationship ended, other than to say that [Mr A] wanted revenge and that "as a family they hate us."
28. Having regard to the above, I consider that the applicant has embellished his claims in relation to [Mr A]'s membership of Hezbollah, the severity of the threat and the ongoing threats in order to enhance his claims for protection. I do not accept that [Mr A] was, or is, involved with Hezbollah, or that [Mr A] has continued to threaten the applicant or to pass threats via the applicant's family once the relationship stopped. I do not accept that [Mr A] obtained the applicant's telephone number in Australia and threatened him here. I do not accept that [Mr A] or Hezbollah has, or will, put the applicant on a list to identify and/or harm him should he return to Lebanon.
29. The applicant has not claimed to have had any contact with the girl since the end of the relationship, or any intention to resume contact with her should he return to Lebanon. He told the delegate that the girl has ceased work and there is no other reason that he may come into contact with her again, particularly as she lives in Beirut and his family lives in Akkar. I am satisfied that the applicant does not face a real chance of harm from [Mr A], or from Hezbollah, for any reason associated with his relationship with a Shi'a girl.
30. The applicant claims that he faced, and will face, continual discrimination and abuse because of his religion. He claims that this includes discrimination in employment. He told the delegate that he has a [degree in a particular field] but he has never been able to work in this field. In his statement he claims that once prospective employers found out he was Sunni, "the door

---

<sup>2</sup> DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014, at pp 6, 13; DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at pp 5, 10-11.

was shut". I take into account however that while he was unable to obtain employment in his field, he did obtain a job as [an entry level employee] for [a business] and was then promoted to [a higher position]. He told the delegate that this promotion was done by way of a company examination and those who passed were promoted. He said that his manager, who was Shi'a, did not like the fact that the applicant was promoted but even if I accept this, the manager was clearly unable to prevent the promotion and the applicant's religion does not appear to have been a bar to his promotion. I also note that when he was asked about being unable to obtain work in his preferred field in Akkar and Tripoli, he said that this was because there were no jobs of the type that he was looking for in those areas. He agreed that it was not related to his being a Sunni.

31. DFAT reported that there are no current, official statistics available on Lebanon's ethno-religious make-up. However, sources suggest that Lebanon's domestic population (i.e. excluding refugee populations) is (as at 2015) approximately 27 per cent Sunni, between 20 and 27 per cent Shi'a and between 35 and 40 per cent Christian, with the remainder made up of Druze and a range of other Muslim and Christian denominations. The North Governorate, including Tripoli and Akkar, is majority Sunni. All sects in Lebanon rely to some extent on '*wasta*', or connections with powerful people, to gain benefits in employment and given Lebanon's sectarian nature, this can lead to nepotism.<sup>3</sup> There is nothing in the review material which indicates that Sunnis are discriminated against in obtaining employment.
32. In relation to religious discrimination of Sunnis generally, DFAT has assessed that overall, Lebanon is a diverse country with a high degree of religious tolerance. The country information before the delegate indicates there have been limited examples of individuals being targeted on the basis of their religion alone, but discrimination and violence are more likely linked to political views than religious affiliations.<sup>4</sup> The more recent DFAT report does not indicate that the chance of Sunnis facing any religious discrimination in Lebanon has increased.<sup>5</sup>
33. While I accept that the applicant could not find a job in his preferred field, I am not satisfied that this was because he was Sunni. I consider that the economic conditions in Lebanon are the main reason that the applicant has experienced difficulties with obtaining employment. I also take into account that although he lost his job, he has claimed that this was due to being unable to attend work and was not because of his being a Sunni. While I accept that the applicant may have faced some hostility from Shi'as, including those who he worked with, I am satisfied that he was able to obtain employment and that he also obtained a promotion on merit. While I accept that the influx of Syrian refugees may affect employment prospects, this has mainly impacted low-skill jobs and I am not satisfied that the applicant will be prevented from or otherwise unable to find employment should he return to Lebanon.
34. I do not accept that the applicant has suffered discrimination because of his religion. I am prepared to accept that he has suffered some hostility and abuse from Shi'as in the workplace and that there is a possibility this may occur in the future; however, I do not consider that such conduct singly or cumulatively constitutes serious harm as non-exhaustively defined at s.5J(5) of the Act. I do not accept that it constitutes significant economic hardship, denial of access to basic services or the denial of a capacity to earn a livelihood of any kind, such that it threatens his capacity to subsist, or may be otherwise regarded as serious harm. Having regard to all of

---

<sup>3</sup> DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014, at pp 7-8.

<sup>4</sup> DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at p 10.

<sup>5</sup> DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014.

the above, I am satisfied that the applicant does not face a real chance of serious harm as a Sunni in the reasonably foreseeable future.

35. The applicant claims to fear harm because of the general security situation in Lebanon. The delegate asked the applicant about his and his family's links to politics and sectarianism and the applicant confirmed that neither he nor his family has had any such involvement. In relation to personal experiences of violence, he claims that on occasions when they were travelling on the road they were shot at by snipers and once their car was damaged. He claims that he lost his job because he could not get to work, due to the security situation.
36. Within the North Governorate, DFAT has assessed that Sunnis living in the Bab al-Tabbeneh district of Tripoli face a moderate risk of violence, given the long history of sectarian violence in that area. Sunnis in other areas of Tripoli face a low risk of violence, although sectarian violence has spilled into other areas of Tripoli on occasion. At times of increased sectarian tension, Sunnis who are actively involved in fighting face a high risk of violence. Similarly, while Akkar shares a border with Syria and is close to the fighting, DFAT has assessed that Sunni communities close to the Syrian border face a low risk of being caught up in cross-border reprisal attacks by Syrian authorities.<sup>6</sup> This risk increases to moderate if a community is perceived to be anti-Syrian regime or harbouring opposition fighters. In a previous report (dated 2013), DFAT had also noted there is no evidence to suggest ordinary Sunnis or other Lebanese area at risk from sectarian violence in Akkar province.<sup>7</sup>
37. Although the applicant claims that his family was targeted by Shi'a militia because they were Sunnis, he has not explained how he knows this. This incident supposedly happened when the family was travelling into Tripoli. Information in the review material indicates that before a security crackdown in 2015, this area of Lebanon was the centre of Sunni militancy and saw frequent violence between Sunni and Alawite militia, particularly in the area of Jabal Mohsen and Bab al-Tabbeneh.<sup>8</sup> I am prepared to accept that the applicant and his family have experienced general sniper fire in the past but the information in the review material does not indicate that individual Sunni civilians or families were targeted by Hezbollah or by Shi'a groups generally. I am not satisfied that the incidents suffered by the applicant and his family were incidents of targeted violence and I find that they were general incidents which arose in the context of the ongoing security situation at that time. I am also prepared to accept that the applicant was unable to attend his workplace due to the security situation at that time but I am satisfied that this arose in the context of the general security situation and was not otherwise related to his religion or ethnicity.
38. As noted above, the Lebanese army has now moved into this area and reasserted control. In April 2014, Lebanese authorities implemented a security plan in Tripoli which has led to a notable reduction in the number of incidents between the Alawite and Sunni communities. DFAT assessed in 2015 that Tripoli was broadly stable, although vulnerable to outbreaks of renewed violence.<sup>9</sup> Other reporting indicates that there have been continuing clashes between the military and militia groups, including IS and JN. Although there are some reports of IS and JN harming Sunni opponents, IS and JN are Sunni-based militias and the information

---

<sup>6</sup> DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISEDB50AD6014, at pp 14-15; DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at pp 11-12.

<sup>7</sup> DFAT "DFAT Thematic Information Report - Sectarian Violence in Lebanon", 18 December 2013, CIS26835, at pp 9-10.

<sup>8</sup> DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at p 11; "Army distributes aid in former front line", Daily Star, The (Lebanon), 15 July 2015, CXBD6A0DE10099; Lebanon sees success in fight against militants, yet risk of backlash remains', The National, 7 April 2015, CXBD6A0DE4072; 'How Al Qaeda's Syrian Affiliate Jabhat al Nusra Is Trying To Take Northern Lebanon', International Business Times (IB Times), 29 April 2015, CXBD6A0DE9528.

<sup>9</sup> DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at p 11.

does not indicate that they are targeting Sunni civilians generally. Media reporting in the review material indicates that while IS and JN remain popular with Sunnis in Tripoli and nearby areas, there have been incidents in which some civilians have been killed as bystanders during attacks on the military and military operations against militias.<sup>10</sup>

39. The applicant asserts that Lebanon is on the brink of descent into war and he will suffer harm as a result. The submission to the IAA asserts that the delegate found that the applicant may be "seriously harmed by the war". I have not been able to find any reference to there being a potential war in Lebanon in the decision but I do note that the delegate acknowledged that the applicant could be harmed in a generalised way because of "the fighting" in Lebanon. The information before me does not indicate that the situation in Lebanon is descending into war, or that this war may occur in the reasonably foreseeable future. I am satisfied that the applicant faces a remote, and therefore not a real, chance of suffering harm because of any war that may break out in Lebanon.
40. I accept that there remains a risk of generalised violence, including as a bystander being caught up in sectarian violence; however, the media reports cited above indicate that the level of violence in Tripoli and Akkar has decreased. Since 2015, the residents of these areas, including the two most contested suburbs, have welcomed "a previously unknown sense of security"<sup>11</sup> and the more recent material before me does not indicate that this situation has deteriorated. Further, while some of the earlier (2014) reports referred to the presence and activities of groups such as IS and JN, the later reports indicate that many of the militia groups have been expelled and hundreds of fighters have been arrested. These reports do not indicate that sectarian or general violence has continued at the pre-intervention levels. I also note the DFAT advice above that Sunnis in Lebanon face a low risk of being harmed in sectarian or extremist violence unless they are actively involved in the conflict. The applicant has not claimed that he has been involved in such activities in the past or that he intends to do so now. He has not claimed that his family has had any involvement in the conflict as combatants, supporters or as political activists. Having regard to all of the above, I find that the chance of the applicant being harmed in sectarian or generalised violence is remote. I find that the applicant will not face a real chance of harm due to his ethnicity, religion or from any sectarian or generalised violence, should he return to Lebanon.
41. The applicant departed Lebanon lawfully as the holder of a valid passport. DFAT reports that Lebanese citizens who have sought asylum elsewhere have not committed a crime under Lebanese law by doing so. Generally there is no stigma accorded to returning asylum-seekers and such people would not be distinguishable from the broader community or susceptible to any form of discrimination or violence.<sup>12</sup>
42. In its more recent report, DFAT notes that Hezbollah exercises substantial control over Beirut's Rafic Hariri International Airport (located in an area where Hezbollah has substantial influence). Hezbollah may therefore be aware of citizens who have sought asylum elsewhere returning to Lebanon, but DFAT assesses that Hezbollah is unlikely to target a returning individual unless that person presented a direct threat to its authority. Its influence over the

---

<sup>10</sup> Lebanon sees success in fight against militants, yet risk of backlash remains', The National, 7 April 2015, CXBD6A0DE4072; 'How Al Qaeda's Syrian Affiliate Jabhat al Nusra Is Trying To Take Northern Lebanon', International Business Times (IB Times), 29 April 2015, CXBD6A0DE9528; 'Islamic State's Sway Spreads to Lebanon', Wall Street Journal, 20 October 2014, CX1B9ECAB6177; 'Dozens die in Lebanon as Army clashes with Sunni supporters of Islamic State', The Christian Science Monitor, 27 October 2014, CX1B9ECAB6401.

<sup>11</sup> "Army distributes aid in former front line", Daily Star, The (Lebanon), 15 July 2015, CXBD6A0DE10099.

<sup>12</sup> DFAT, "DFAT Country Information Report - Lebanon", 18 December 2015, CISEC96CF14155, at p 22; DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014, at p 28.

airport would therefore create no problems for the majority of returnees. More broadly, airport security screening is not rigorous, due to understaffing.<sup>13</sup> I have also found above that the applicant is not on any list, or otherwise of any interest to Hezbollah.

43. The applicant has not claimed that he has committed any crimes in Lebanon, Australia or any other country which may bring him to the attention of the Lebanese authorities. There is no other information before me which indicates that the applicant would be arrested or charged for any reason on return to Lebanon. I am satisfied that the applicant does not face a real chance of harm for being a returned asylum seeker.
44. Having regard to all of the information and evidence above, I find that the applicant does not face a real chance of harm: at the hands of [Mr A], Hezbollah or any other persons arising from his relationship with [Mr A]'s sister in 2012/2013; from religious discrimination as a Sunni Muslim; as a result of generalised or sectarian violence; or for being a returned asylum-seeker. I find that the applicant does not face a real chance of serious harm as a Sunni Muslim in relation to employment. I also find that he does not face a real chance of serious harm when these claims are considered cumulatively.

#### **Refugee: conclusion**

45. 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**

---

46. 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**

47. 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.
48. I have accepted that the applicant has suffered some difficulties obtaining employment. These difficulties include being unable to find a job in his preferred field and being subject to verbal and low-level harassment from a Shi'a employer and colleagues. There is nothing in the material before me that indicates that he has faced, or will now face, a real risk of being

---

<sup>13</sup> DFAT, "DFAT Country Information Report Lebanon 23 October 2017", 23 October 2017, CISED50AD6014, at p 28.

deprived of his life or that he will be subjected to torture, cruel or inhuman treatment or punishment or degrading treatment or punishment.

49. I have otherwise found that the applicant does not face a real chance of harm: at the hands of [Mr A], Hezbollah or any other persons arising from his relationship with [Mr A]'s sister in 2012/2013; from religious discrimination as a Sunni Muslim; as a result of generalised or sectarian violence; or for being a returned asylum-seeker. As 'real chance' and 'real risk' have been found to equate to the same threshold,<sup>14</sup> I am satisfied that the applicant does not face a real risk of significant harm for any, or any combination of, these reasons.

#### **Complementary protection: conclusion**

50. 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).

#### **Decision**

---

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

---

<sup>14</sup> MIAC v SZQRB (2013) 210 FCR 505.

## Applicable law

---

### ***Migration Act 1958***

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

...

***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.