



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

LEBANON
IAA reference: IAA18/05669

Date and time of decision: 15 November 2018 15:55:00
M Oakman, 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 Lebanon. He arrived in Australia on [date] June 2013 and lodged an application for a Safe Haven Enterprise visa (SHEV) (XE-790) on 19 January 2017. On 10 September 2018 a delegate of the Minister for Immigration and Border Protection (the delegate) refused to grant the visa.

Information before the IAA

2. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act). No further information has been obtained or received.
3. Included in the review material from the Secretary were details of a criminal charge that was made against the applicant, and subsequently dismissed by the Local Court, in 2015. I do not consider that information to be relevant to the determination of the applicant's protection claims and I have had no further regard to it.

Applicant's claims for protection

4. The applicant's claims can be summarised as follows:
 - He left Lebanon due to the regional crises and wars, lack of employment to the extent that he could not subsist, large number of Syrian refugees that affected the economy and security and for family circumstances that affect his well-being and threatened his life;
 - His family circumstances include he is the child of a mixed marriage, with his Shia father and Sunni mother, and he did not follow his father's Shia faith but converted and is a practicing Sunni. He suffers from a lack of employment because of this. He has problems with his paternal uncles and cousins. The problems include a dispute about land his father inherited that the relatives want; the relatives are supporters and members of Hizballah but his father is a member of the Future Movement and the applicant supported his father's involvement; and his relatives are Shia extremists while he, his mother and his siblings are Sunnis. He and his family have been abused, threatened and their home attacked by these relatives as well as the relatives taking some of their land. Because of the Hizballah involvement of his paternal relatives the authorities did not assist them about loss of the land or in relation to any of the attacks;
 - His brother stabbed one of his Shia cousins, he and his brother were taken into custody by the police for short periods before they were released and his Shia uncles and cousins blame him for the stabbing as the applicant is the eldest son;
 - His views differ from those of his paternal relatives so he is considered to be against Hizballah. His paternal relations and Hizballah wanted him to join Hizballah and fight in Syria while he was in Lebanon but he refused; and
 - In Australia he has expressed his political opinion through social media and received threats as a result. He has a political opinion that people should be able to express their views and opinions without fear of harm and he opposes Lebanon's sectarian based government, and has expressed this on [social media page].

Factual findings

Receiving country

5. On the basis of the documents and oral evidence given by the applicant, I accept that the applicant is a national of Lebanon from Akkar. I find that the applicant's receiving country is Lebanon. The applicant has consistently claimed, and I accept, he is Sunni.

Background

6. The applicant states he was born in [date] in [Town 1], Akkar, Lebanon and basically lived there in his family home throughout his life in Lebanon. The applicant is single. His family still live in [Town 1], with his parents and [siblings] living in the same family home. He attended school in Lebanon from about [date] to [date], completing high school, and attended technical college from about [date] to [date]. He started [a university] course at [University 1] but did not go beyond the first year because he left Lebanon. He did not work in Lebanon. His mother is [an occupation] and his sister [an occupation], his father is retired but owns the family home and two shops which are rented out, and his brother recently completed a [degree] at university. He maintains a good relationship with his family and contacts them about once a week. The applicant has done some casual work in Australia as [an occupation].

Problems in Lebanon

7. The applicant set out his claims for protection in the statement included in his SHEV application dated 19 January 2017 (the statement) and at his SHEV interview on 24 July 2018 (the interview). He also responded to a request for additional information from the delegate under s.56 of the Act on 7 August 2018 (the response). In his statement he, among other things, confirmed what he said in his initial interview with the Department that he left Lebanon due to regional crises and wars, lack of employment to the extent that he could not subsist, large numbers of Syrian refugees that affected the economy and security and for family circumstances that effected his wellbeing and threatened his life.
8. There are a number of inconsistencies and discrepancies in the evidence the applicant provided in his statement, at the interview and in the response.
9. He claimed for the first time at the interview that the main reason he left Lebanon was because of an incident where his brother stabbed one of his paternal cousins when that cousin came to their house with a stake and a gun and said he wanted to kill the applicant and his brother. As a result of the stabbing he and his brother were taken into custody by the Lebanese police for an investigation and later released. His paternal cousin also blamed him for the stabbing because his brother was underage. He initially said at the interview that it occurred during Eid in 2013. When the delegate said Eid occurred in 2013 after he had left Lebanon the applicant said it may have been Eid in 2012. When the delegate said if it was in 2012 he had spent another ten months in Lebanon after the incident, the applicant claimed for the first time that he had been in hiding for ten months before he left Lebanon. He claimed in the interview that his brother was about [age] years old at the time but in his response he agreed that his brother would have been about [age] years old and claimed it was just confusion about his brother's age. In the response he also mentioned for the first time that his paternal relatives came to his family's house, while his brother was still detained by the police, and attacked the house and shot into the air as a signal they would kill the applicant and said they wanted to kill the applicant, cursed his name, abused his beliefs and

said he was an apostate; he also claimed they told his family after he had left Lebanon that they wanted to kill him and they took some more land from the family. His failure to mention such a key incident, including his only detention in Lebanon by the authorities and that he had to go into hiding for about ten months, in his statement is a significant omission that reflects poorly on his overall credibility. Similarly, his failure to mention his paternal relatives attacking his family home, threatening to kill him, firing in the air and naming him an apostate, taking further land etc, in the interview when discussing the stabbing incident is a significant omission. Additionally, in relation to the stabbing incident, I do not consider it credible that he could make a mistake as to whether it happened in 2012 or 2013; that he could be confused as to whether his brother was about [age] or [age] years old when his brother stabbed their cousin; that his brother would be able to stab his armed cousin; or that the cousin would blame the applicant for the incident when it was his brother who stabbed the cousin. His claim that he was in hiding and did not go to university while hiding is also inconsistent with the applicant stating earlier in the interview that he had attended university up to two or three months before he left Lebanon.

10. The applicant has consistently claimed that his paternal uncles and cousins, who are Shia extremists and connected to Hizballah, have threatened his family. However, there are a number of changes and inconsistencies in his evidence about his and his family's problems with those paternal relatives and Hizballah. In his statement he said the paternal relatives targeted them because they wanted the land and, in particular, they did not want the land to go to Sunnis. In his interview he repeated his claim about the paternal relatives not wanting the land, which his father inherited from his grandfather, to go to Sunnis but also said that he and his parents refused their requests that he attend various Hizballah camps and activities when he was young. He also said this refusal was the start of his biggest problems, with those relatives saying he was not allowed to refuse them and they said they would take his parents' land. In his statement he said his paternal uncles and cousins were influential members of Hizballah, but at the interview said one of his cousins and one of his uncles (not father and son) were soldiers in Hizballah and the others just followed Hizballah. He claimed for the first time at the interview that Hizballah tried to force him to fight in Syria and that this was why he ran away. He also suggested his paternal relatives' interest in him was because of Hizballah, as Hizballah members do not do anything unless Hizballah tells them to do it and if you are against one member of Hizballah then you are considered to be against all of Hizballah. I do not consider it credible that the applicant failed to mention in his statement such a significant claim that Hizballah tried to force him to join and fight in Syria. The claim is also inconsistent with country information¹ that suggests Hizballah relied on voluntary recruitment and generally sought those who are committed to its ideology. In his statement he said that his brother was home alone one day when his paternal cousins came to attack the house, the house was damaged and his brother was shot but not killed; but at the interview he said his cousins came and shot at their house, when his brother was home alone, and his brother was not harmed. I also do not consider it credible that, if his paternal relatives are so well connected with Hizballah and the Lebanese authorities have not assisted them with any of their complaints about their relatives' actions against them as his evidence suggests, his paternal relatives had not already successfully taken over all of the land that they want from his family.

¹ Canadian IRB: Immigration and Refugee Board of Canada, "LBN104638.E - Lebanon: Recruitment practices of Hezbollah, including instances of forced recruitment; consequences for those that refuse to join and their family members, including instances of torture; state protection (2010-October 2013)", 4 November 2013, OG4162C1524; and UK Home Office, "Country Policy and Information Note: Palestinians in Lebanon", 22 June 2018, OG9EF767929.

11. In his statement he claimed he was unable to subsist in Lebanon and his family lacked a livelihood and no one was able to financially support them. However, at the interview he said his mother was [an occupation] and had worked for many years[in the area], starting work at another [location]; his sister was [an occupation]; his father was now retired but had two shops that he rented out and he owned the family's home; his brother had recently finished a degree at university; and he described his family as middle income, neither wealthy nor poor. The family's employment and property situation is inconsistent with his claim that he and his family were unable to subsist. The applicant also claimed he was unable to obtain work in Lebanon for a number of reasons including his Sunni faith, his parents were in an inter-faith marriage and a lack of connections and money. However, when asked early in the interview if he worked in Lebanon he said he was just studying which he stopped two to three months before he left Lebanon and later in the interview when asked if he had personally experienced a problem getting a job he spoke about his brother having trouble obtaining work after finishing university, and said many people had troubles getting a job in Lebanon like the applicant had, but he gave no examples. His providing only vague details of his own problems in obtaining a job when asked suggests the applicant is not recounting a lived experience of his own and his study history as set out above suggests that his response early in the interview that he was 'just studying' correctly reflects the reason for his previous lack of employment in Lebanon. His Sunni mother's long term employment as [an occupation]and his Sunni sister's employment as [an occupation]are also generally inconsistent with his stated reasons for his inability to obtain a job in Lebanon.
12. The applicant has consistently claimed that he has experienced problems because of his parents' inter-faith marriage, including the problems with his paternal relatives over the land, and I acknowledge as discussed below that there is country information to suggest people in such circumstances may experience some problems in Lebanon. However, I have already discussed a number of issues with the credibility of his evidence in relation to some of the problems and incidents he experienced in Lebanon that, at least in part, he attributed to his parents' inter-faith marriage. Additionally, I do not consider it credible that his parents could be married for about 28 years and the applicant and his family only experience troubles on that account from about 2006 or 2007, or that the applicant rather than his parents would be the member of the family that much of the problems experienced by his family was centred on. To the extent that he suggested he was a target as well because he chose to follow his mother's Sunni faith rather than his father's Shia faith, that suggestion is unconvincing as his sister and brother also followed their mother's Sunni faith, despite all three children being shown as Shia in the family registration papers. Similarly, his suggestion that he was also targeted because he was the oldest is not supported by the country information, including the information about inheritance under Sharia law which does not suggest there is a primogeniture system but that sons are entitled to a double share compared to daughters.²
13. The applicant said in his statement that he was fearful to remain in Lebanon and that he could not voice his political opinion and said at the interview that politically he was opposed to the situation in Lebanon, including the sectarian form of government, and Hizballah. He was vague about what, if any, actual political activities he undertook in Lebanon, other than saying that he supported his father's efforts on behalf of the Future Movement. His evidence about his father's activities on behalf of the Future Movement was also very general; he said at the interview his father was not participating like he used to when he would encourage people to vote for the Future Movement, his father was a member of the Future Movement, and his father was not paid but maybe helped some people get some medical help and help

² United Nations Human Settlements Programme (UN-Habitat), "Women and Land in the Muslim World", 19 February 2018, CIS7B83941378.

with medicines. I do not consider the vague and general details he gave to be supportive of a conclusion that he was himself politically active in Lebanon, or that his father was anything other than a low level member and supporter of the Future Movement. In relation to his political activities in Australia the applicant provided the details of a post he made on his [social media] page in September 2015 which is very generally worded (not mentioning any parties, specific people, particular incidents or even Lebanon) but might be read as a general criticism of conditions in Lebanon. He also said that he had posted his opinion many times and received many threats that he removed from his page. Although it is understandable that the applicant would remove such posts, I do not consider it credible that he would not keep screen shots or other copies of those online threats. I also do not consider his one generally worded [social media] posting in September 2015 to demonstrate that he has been active in Australia in expressing his political views.

14. In assessing the applicant's evidence I have taken into account the difficulties of recall over time, cross cultural communication issues, and the problems people who have lived through trauma may experience in presenting their story in a cohesive narrative. The issues discussed above go beyond minor errors and discrepancies that could be attributed to factors such as recall problems, cultural communication issues, or a lack of cohesive narration due to trauma, and demonstrate significant credibility problems in the applicant's evidence. Overall, I am satisfied he exaggerated and fabricated parts of his evidence in order to boost his claims for protection. I am prepared to accept that his parents are in an inter-faith marriage, with his father Shia and his mother Sunni; that he decided to convert and practise the Sunni faith when he was about [age] years old and that his brother and sister have also followed their mother's Sunni faith; that his father was a low level member and supporter of the Future Movement but no longer participates; that there has been a dispute between his family and his paternal uncles and cousins about some land his father inherited from his grandfather; that the paternal relatives took a part of their land in around 2007; and that his paternal uncles and cousins are Shia and support Hizballah, with one of the cousins and one of the uncles soldiers in Hizballah. I also accept his general family, residential, education and family work history as set out in his SHEV application and at the interview. However, I reject as exaggeration his claims he or his family were unable to subsist in Lebanon; he or his family members have suffered any harm, including harassment or threats, because they are Sunni or because of his parents' inter-faith marriage, including the applicant not being able to find employment; that his paternal relatives have harmed, including harassing or threatening, the applicant and his family other than by taking a piece of land off them in about 2007; that the land dispute with his paternal relatives was for the reasons he gave; and that the applicant or his father have been harmed, including harassed or threatened, because of his father's membership and support for the Future Movement or his supporting his father in such activities. I also reject as fabrication his claims that his family home has been raided and attacked by his paternal relatives; that Hizballah wanted him to join Hizballah and fight in Syria; that his brother was shot; that his brother stabbed his cousin; that as a result of the stabbing he and his brother were detained by the police, that the applicant was in hiding before he left Lebanon, or that his paternal relatives came to the family home to threaten the applicant and took further pieces of land off his family; and that he received threats because of postings he made on [social media]. Additionally, I am not satisfied on the material before me that the applicant was politically active when he was in Lebanon except for assisting his father's support for the Future Movement, that he has been politically active in Australia other than in making his posting in September 2015 or, now that his father no longer participates in the Future Movement, that he would be politically active if he returned to Lebanon.

Asylum Seeker

15. The applicant claims to have left Lebanon in about May 2013 to travel by plane, via [Country 1], to [Country 2] and then by boat to [Country 3]. He subsequently left [Country 3] to travel to Australia in a boat organised by smugglers. His passport was taken from him by the smugglers on his way to Australia. I find that, if he were to return to Lebanon, he may be considered a returned asylum seeker by the Lebanese authorities.

Refugee assessment

16. 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

17. 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.
18. Country information³ indicates that there has been a history of sporadic conflict in Lebanon since the conclusion of the civil war in the late 1980's. There was increased spill-over violence following an influx of refugees from Syria in 2011, with deaths occurring particularly in Tripoli, Aarsal and the southern suburbs of Beirut. Since late 2013 incidents of violence from longstanding sectarian tensions have decreased and security plans implemented in a number of areas, and developed by the Lebanese Armed Forces and dialogue between the Sunni dominated Future Movement and the Shia Hizballah, contributed to many areas having a more stable security situation. There remain challenges to Lebanon's stability including from the conflict in Syria, and although ISIL controlled areas in Syria are diminishing, sporadic attacks still occur in areas that border Syria as well as ISIL maintaining a presence in Lebanon around Aarsal and the mountainous Baalbek region. Tensions between Israeli and Hizballah have remained high since 2006 and there are sporadic skirmishes, including frequent cross border artillery fire. The Department of Foreign Affairs and Trade (DFAT) assesses that,

³ Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

overall, the security situation in Lebanon remains largely stable but unpredictable, with the greatest areas of instability where ISIL and Jabhat Fatah al-Sham are located, particular the north-east border areas.⁴ Tripoli experienced regular rounds of sectarian violence from competing militia groups up to 2013 and 2014; in April 2014 the Lebanese authorities implemented a security plan in Tripoli that led to a notable reduction in incidents; and Tripoli has only experienced isolated incidents of violence since that time.⁵

19. Country information⁶ also indicates that people generally practise their religion freely, there is no religious persecution in the country and Lebanon has successfully kept society united across religions and built resilience in the face of extremism. Discrimination and violence relates more to political affiliation than religious affiliation, there are limited examples of people being attacked for their religious views alone, but there is low level societal discrimination against particular religious groups in some areas. Most Sunnis live in West Beirut, North governorate and South governorate and DFAT does not identify any incidents of societal discrimination against Sunnis in the North governorate, but states that security there is complicated by an extensive border with Syria. DFAT assesses that Sunnis are unlikely to be targeted because of their religion alone and attacks against Sunnis are often political and related to the conflict in Syria; overall Sunni communities close to the Syrian border face a low risk of being caught up in cross border attacks from Syria, but the risk increases if they are sheltering anti-Syrian regime fighters.⁷ DFAT also assesses⁸ that non-Shia critics of Hizballah are not at risk unless they represent a direct threat to Hizballah's authority and, in practical terms, this is most likely to affect leaders of rival political factions or other outspoken critics such as journalists. DFAT notes some in-country contacts suggest inter-faith marriages can attract significant societal and official discrimination, and in some circumstances, violence, but also states that Lebanon generally adopts a tolerant attitude towards conversions between faiths.⁹ A more recent report from the US Department of State (USDOS), focussed on religious freedoms, does not mention any issues in relation to inter-faith marriages.¹⁰ Other country information¹¹ indicates that mixed marriages, including between different schools of Islam, are widespread in Lebanon and result in religious pluralism within family life. Lebanese may freely change their religious affiliation legally including, though somewhat rarely, between followers of different branches of Islam.
20. Country information¹² indicates that Lebanon has a diverse political landscape where individuals are generally free to express their political opinions, the *Constitution* (Lebanon) provides for freedom of expression and peaceful assembly, and the government generally respects those rights. There is a significant correlation between political views and religious affiliation, with most political parties based on confessional affiliation; and the fundamental political divide in Lebanon is between the March 14 Coalition (including the Future Movement) and the March 8 Coalition (including Hizballah) and their different attitudes to Syrian influence in Lebanon, with the former generally opposed to and the latter generally

⁴ Ibid.

⁵ DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014; and "Army distributes aid in former front line", The Daily Star, 15 July 2015, CXBD6A0DE10099.

⁶ UN Human Rights Council, "Report of the Special Rapporteur on freedom of religion or belief on his mission to Lebanon", 30 November 2015, CISEC96CF14677.

⁷ DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

⁸ Ibid.

⁹ Ibid.

¹⁰ USDOS, "International Religious Freedom Report for 2017 – Lebanon", 29 May 2018, OGD95BE927609.

¹¹ UN Human Rights Council, "Report of the Special Rapporteur on freedom of religion or belief on his mission to Lebanon", 30 November 2015, CISEC96CF14677.

¹² USDOS, "Country Reports on Human Rights Practices for 2017 - Lebanon", 20 April 2018, OGD95BE927315; and DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

supporting the Syrian regime's influence. Laws permit the censorship of material that is considered a threat to national security or offensive to the dignity of the head of state or foreign leaders, but does not restrict access to the internet. There is a public perception the government monitored email and social media, and during 2017 the Lebanese authorities arrested and detained an activist over [social media] posts critical of senior officials including the president, and detained another activist for social media posts critical of Hizballah's involvement in Syria, the Syrian and Iranian regimes and their Lebanese allies. However, there are no verified reports the government systematically attempted to collect personally identifiable information from the internet.¹³ DFAT assesses that anti-Syrian activists are at moderate risk of societal and official discrimination and violence, with the risk increasing depending on the outspokenness of the individual, and the USDOS noted that in 2017 Syrian opposition activists asserted Syrian agents in Lebanon targeted them.¹⁴ DFAT also assesses¹⁵ that individuals are not generally subject to official or societal discrimination on the basis of actual or implied political opinions; ordinary March 14 Coalition supporters are at low risk of violence; and non-Shia critics of Hizballah are not at risk unless they represent a direct threat to Hizballah's authority and, in practical terms, this is most likely to affect leaders of rival political factions or other outspoken critics such as journalists.

21. The applicant comes from [Town 1] in Akkar in North Lebanon where his parents and siblings still live, he has maintained a good relationship and contact with his family, and I am satisfied that this is the area of Lebanon to which he would return. His evidence at the interview, which I accept, was that [Town 1] is a Shia village, its borders a Sunni village, and about 90% of their neighbours there are Sunni. His parents are in a Shia / Sunni inter-faith marriage, he has been a Sunni convert from when he was about [age] years old and his siblings have also followed the Sunni faith. The country information indicates that although some inter-faith marriages can encounter problems, Lebanon is generally religiously tolerant including of both inter-faith marriages and conversion. I found neither he nor his family members have suffered any harm, including harassment or threats, because of his or his mother's and siblings' Sunni religion or his parents' inter-faith marriage in Lebanon. I note the country information also suggests that Sunnis, particularly those from areas with a large Sunni population, are unlikely to be targeted because of their religion alone. Given the lack of previous harm when living in their Shia village, together with the country information indicating that people in Lebanon are generally able to practise their religion freely, there is little religious persecution, and that conversion and inter-faith marriages are not unknown and generally tolerated, I am not satisfied that he faces a real chance of harm as a result of his conversion to and practise of the Sunni faith or because of his parents' inter-faith marriage, if returned to Lebanon.
22. I accept that the applicant may have been affected by the general sectarian conflict occurring in Lebanon in the years before he left, including in Tripoli where he attended university for a period. However, as discussed above, country information confirms that the general security situation in Lebanon is now stable, including in Tripoli, were a 2014 security plan has notably reduced incidents. Although he spoke generally about the impact of Syrians coming to Lebanon and the general security situation, the applicant doesn't claim that he or his family experienced any specific security incidents while living in [Town 1] either before or after he left Lebanon. Similarly, he has not claimed that he or his family in Lebanon have been

¹³ USDOS, "Country Reports on Human Rights Practices for 2017 - Lebanon", 20 April 2018, OGD95BE927315.

¹⁴ USDOS, "Country Reports on Human Rights Practices for 2017 - Lebanon", 20 April 2018, OGD95BE927315; and DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

¹⁵ DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

involved with anti-Syrian regime fighters or exposed to any cross border attacks or incidents whether from ISIL, Hizballah, Syrian or other armed forces.

23. There has been a dispute between his family and his paternal uncles and cousins about some land his father inherited. However, on my findings, the applicant and his family have not suffered any harm, including harassment or threats, from his paternal relatives other than the loss of some of the land in 2007 while he was still in Lebanon and there have been no adverse incidents between the families since the applicant left Lebanon. Although I accept that the loss of the land may have had some financial impact on him and his family in 2007, that loss was ten or so years ago. As discussed above, I do not accept that he or his family have ever been unable to subsist in Lebanon. Given that the loss of land occurred in 2007 and there have been no other adverse incidents between the families since that time, I am not satisfied he would face a real risk of harm from his paternal relatives or because of the loss of the land, if he returned to Lebanon.
24. The applicant's father was a low level member and supporter of the Future Movement and the applicant assisted his father's activities in supporting the Future Movement, and he made a [social media] post in September 2015. However, I found that he and his father did not suffer any harm, including harassment or threats, because of their previous support for the Future Movement when he was in Lebanon, nor was I satisfied that the applicant would be politically active if he returned to Lebanon. His and his father's previous low level activities in support of the Future Movement and his September 2015 [social media] posting does not support the conclusion that, if returned to Lebanon, he would be targeted by or of interest to the Lebanese authorities or other groups, or that he would be considered a direct threat to, or an outspoken critic of, Hizballah.
25. I am satisfied from the country information discussed above that the security situation in Lebanon is generally stable, including in Tripoli where he attended university, but Sunnis that are close to the border with Syria, which applies to some parts of Akkar, are at low risk of being caught up in cross border attacks; and Sunnis are not at risk of harm from official or societal discrimination, particularly those in an area with a substantial Sunni population like Akkar. Given the country information about current country conditions, and the applicant's own profile and history as discussed above, I consider the chance of the applicant suffering harm if he returned to Lebanon is remote.
26. DFAT indicates¹⁶ that limited economic opportunities in Lebanon have been exacerbated by the influx of Syrians, but that Syrians are primarily engaged in low-skilled roles traditionally held by non-Lebanese citizens, and all sects in Lebanon rely to some extent on connections to powerful people to gain benefits in employment. The applicant was [age] years old when he left Lebanon and has shown himself to be resourceful and resilient by establishing himself in Australia and finding work as casual [worker]. He is a Lebanese citizen, well educated, and speaks Arabic, English and a little [of another language]. As his family still live in his family home, his mother and sister work, his father is retired but receives rent from two shops, he was supported by his family while previously studying in Lebanon, and he has maintained contact and good relations with his family while he has been in Australia, and notwithstanding that his brother may or may not be employed, I am satisfied the applicant could reside with his parents and other siblings in Lebanon whilst re-establishing himself and finding work. I accept that he may face a period of unemployment if he returns to Lebanon and this would have a financial impact on him. However, I am not satisfied that any difficulties he may experience in finding work on return to Lebanon would threaten his

¹⁶ Ibid.

capacity to subsist or otherwise constitutes serious harm. I am also not satisfied that the applicant as a Sunni man in North Lebanon, an area with a substantial Sunni population, would be denied employment for any of the reasons set out s.5J(1)(a)

27. I am not satisfied that there is a real chance of harm to the applicant due to the general security situation in Lebanon, because of the family dispute about land, because of his political activities, and/or as a Sunni convert with parents in an inter-faith marriage from Akkar in the North, if he returned to Lebanon, now or in the foreseeable future.
28. I accept that if the applicant returned to Lebanon he may be considered a returning asylum seeker from Australia.
29. However, Lebanon has a long history of migration and return, including a sizable Lebanese diaspora with many maintaining close family and business links to Lebanon.¹⁷ DFAT states that overall it is not aware of any evidence suggesting an asylum seeker returning to Lebanon would be distinguishable from the broader community or susceptible to any form of discrimination or violence based on having sought asylum abroad; returning asylum seekers are unlikely to face any stigma in either Beirut or their home area; and it is not a crime for a Lebanese citizen to have sought protection elsewhere.¹⁸ The USDOS also confirms that Lebanese law provides for freedom of internal movement, foreign travel, emigration, and repatriation; and the government generally respected these rights for citizens.¹⁹
30. I am not satisfied that the applicant faces a real chance of harm as a returning asylum seeker, now or in the reasonably foreseeable future.
31. Considering the applicant's circumstances and profile as a whole, in the context of the country conditions in Lebanon I am not satisfied that the applicant faces a real chance of persecution now or in the reasonably foreseeable future. The applicant does not have a well-founded fear of persecution within the meaning of s.5J.

Refugee: conclusion

32. 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

33. 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

34. Under s.36(2A), a person will suffer 'significant harm' if:
 - the person will be arbitrarily deprived of his or her life

¹⁷ DFAT, "DFAT Country Information Report Lebanon (23 October 2017)", 23 October 2017, CISED50AD6014.

¹⁸ Ibid.

¹⁹ USDOS, "Country Reports on Human Rights Practices for 2017 - Lebanon", 20 April 2018, OGD95BE927315.

- 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.
35. I accept that the applicant may face a period of unemployment if he returns to Lebanon and this would have a financial impact on the applicant. However, I am not satisfied on the evidence that any financial loss the applicant may suffer will amount to severe pain or suffering, or pain and suffering that could reasonably be considered as cruel or inhuman in nature. Similarly, I do not consider any financial impact from a period of unemployment to amount to extreme humiliation. I am not satisfied that a period of unemployment and its associated financial loss amounts to significant harm as defined in ss.36(2A) and 5 of the Act.
36. I have found that there is not a real chance of harm to the applicant, now or in the reasonably foreseeable future, from the general security situation in Lebanon, because of his political activities, because of the family dispute about land, as a Sunni convert with parents in an inter-faith marriage from Akkar in the North, as a returned asylum seeker, or a combination of these. As 'real chance' and 'real risk' involve the same standard,²⁰ it follows that I am also satisfied that there is no real risk of significant harm if he is returned to Lebanon.
37. Having considered the applicant's circumstances individually and cumulatively, I am not satisfied that he faces a real risk of significant harm.

Complementary protection: conclusion

38. 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.

²⁰ *MIAC v SZQRB* (2013) 210 FCR 505.

Applicable law

Migration Act 1958

5 (1) Interpretation

In this Act, unless the contrary intention appears:

...

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.