

REFUGEE STATUS APPEALS
AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76248

AT AUCKLAND

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| <u>Before:</u> | A R Mackey (Chairman) B A Dingle (Member) |
| <u>Counsel for the Appellant:</u> | C Curtis |
| <u>Appearing for the Department of Labour:</u> | No Appearance |
| <u>Date of Hearing:</u> | 20 & 21 October 2008 |
| <u>Date of Decision:</u> | 12 November 2008 |

DECISION

[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant, who claims to be a national of Somalia.

INTRODUCTION

[2] The appellant claims a well-founded fear of being persecuted if she is returned to Somalia because she is a young female member of the Ashraf minority clan.

[3] The appellant claims that she came to New Zealand in early August 2007 from Saudi Arabia and that she had travelled on a false Saudi passport. On 31 August 2007, she lodged a confirmation of claim for refugee status, which was dated 29 August 2007. She was interviewed by a refugee status officer in October 2007 and again in March 2008, at that time particularly in relation to her identity, nationality and family history. In a decision dated 11 June 2008, the RSB declined

her application. The appellant then appealed to this Authority. She was unable to attend the first hearing scheduled due to illness. At the hearing before the Authority, a female interpreter was provided. The Authority ascertained early in the hearing that there was a good level of understanding between the appellant and the interpreter in the Somali language.

[4] Prior to the hearing, Miss Curtis submitted a Memorandum of Counsel, dated 8 July 2008, and submissions dated 28 August 2008. She also provided substantive country information prior to the hearing and a copy of an article from The New York Times, dated 11 October 2008, shortly after the hearing was completed.

[5] In addition to evidence from the appellant, which was supported by written statements made by her, the Authority heard evidence from AA. He is a leader in the Auckland Somali community. He also had provided a short statement, with a letter dated 30 September 2008 from Miss Curtis. All of the written and oral evidence presented, and the submissions, have been taken into account in reaching our determination.

[6] Before the commencement of the hearing, Miss Curtis requested that the interpreter be made available for her to receive final instructions as, due to problems with other interpreters the appellant had encountered in the past, and certain gender issues, Miss Curtis had been unable to obtain final instructions. A period of approximately two hours was allowed for this.

THE APPELLANT'S CASE

[7] At the outset, Miss Curtis advised that there were aspects of the appellant's claim, as set out in her statements and to the RSB, that were wrong and that the appellant now wished to correct her evidence in some respects. The appellant stated that she had lied in relation to some aspects of her claim but, out of cultural respect, she did not feel able to retract her previous lies in front of the same interpreter. Essentially, the story as presented before the RSB was the same, except that the appellant, at no time, ever went to Yemen after leaving Somalia but in fact, travelling with the same man she had referred to, she went to Ethiopia where she stayed for one month and then, with a group of other Somali people, went to Saudi Arabia. Accordingly, her arrival time in Saudi Arabia had been in approximately September or October 2002, rather than in 2007, as she had

originally claimed. This meant that instead of spending only a short period with BB and CC in Riyadh, she had in fact stayed much longer, and before that, with a Somali family in Riyadh for two or three years.

[8] The appellant claimed that she had been born in Mogadishu in approximately 1990. She had then lived with her family consisting of her parents, five brothers and one sister in the Hamma Weyne district of Mogadishu. All of her siblings had been born approximately two years apart. She was the third child. Her father had a store in or near the market in Hamma Weyne which was some 10 to 15 minutes' walk from their home. Her parents were literate but she and her siblings were not. They had been taught some texts from the Koran and learned a little Arabic that way. She stated that her parents had informed her that her clan background was that she was from the Reer Hamar tribe, Ashraf sub-tribe and Reer Fiqi sub-sub-tribe.

[9] All of the family lived together in Hamma Weyne until the appellant was approximately 12 years old. A series of events then took place which split up the family. Firstly, her elder sister was killed by the majority Hawiye tribe; then, about a month later, an elder brother was also killed, apparently by the same group. Both deaths took place outside the home, although the appellant did not know why her sister had been sent outside the home as they were not usually allowed to go out. The appellant was told that her sister had been killed after being raped by a lot of men and that her body had been found, although the appellant had not seen the body.

[10] The appellant stated that shortly after the deaths of her siblings, she became separated from her parents and other family members, and saw them for the last time when some men with guns came to their house near dusk. They were all told to go outside and did so. Thereupon, guns were fired. They all ran away and became separated. It was becoming dark and the appellant was unable to know where she was going. She thought she saw her younger brother and ran after him but, after a period of time, lost contact with him as well and found herself running alone through the streets. After some time, when she heard no more gunfire, she sat down in an area near a rubbish dump where she remained until the morning. At that time, a man, apparently going to prayers, asked what had happened to her. She explained that she was lost from her family. He took her with him to a local café where, after a discussion with a lot of men, she was taken to a place where children were looked after (we have termed this the

“orphanage”). She met the lady (DD) who was in charge and was given breakfast, washed and clothed. She explained her clan and story to the people at the orphanage and the man who had taken her there. She asked him to see if he could find members of her family. He returned to the orphanage at a later date and explained that he had been unable to contact her family. She never saw him again after that. She stayed on at the orphanage.

[11] She estimated there were about 100 children. It was run by some Somali people and called “KK”. She was not sure of its meaning. She remained there for approximately six months.

LIFE IN MOGADISHU AND CLAN MEMBERSHIP

[12] While the appellant advised the Authority that the family home had been in a district of Hamma Weyne in Mogadishu, she was unaware as to where that district was in relation to other parts of Mogadishu. She did not know the names of any of the streets in her home district and knew of no distinguishing features or buildings in the local area. She said she was only aware that there was a market where her father’s store was located. However, when she had been to that store, there was nothing of interest noted by her in the 10-15 minute walk. She did not know whether her house was located close to the sea, as this had never been spoken about. When it was put to the appellant that according to maps of Mogadishu, which were undisputed by her counsel, Hamma Weyne was in the original city of Mogadishu and located immediately adjacent to the sea, with the market being approximately 200-300 metres from the sea. The appellant stated that she had never left home and had no knowledge of the district. She was only able to advise the Authority that there were some long buildings made of concrete in the area, but had no other recollections.

[13] In relation to her clan and sub-clan as noted above, she stated that the biggest clan was Reer Hamar, then Ashraf, then Reer Fiqi. She could not explain any further details of the clan membership. She stated that both her mother and father were from the same clan. Apart from one neighbour, who she thought was also Ashraf, she was unaware as to whether there were other members of her clan or sub-clan living nearby. She knew of nothing distinctive about her language or dress of her sub-clan, or of its history. She explained that she only spoke Somali and from that she had been told that her clan membership could be ascertained from the way she spoke. She was not sure whether this extended to her sub-sub-

clan of Reer Fiqi. She explained that the biggest clan in her area were the people who had killed her brother and sister, the Hawiye clan, but also she knew little about them. The only point of history that she was able to explain was that she had been told by her parents that her clan came from an Arab background, that they were less powerful than other clans and had been involved in businesses. When asked the meaning of the word "Benediri" (the relevance and meaning of this are explained later in the decision), she stated that she had not heard the word and did not know what it meant. When asked why she had not mentioned her sub-sub-clan of Reer Fiqi before, she said that she had not been asked by the RSB.

[14] In response to many of the questions in this area, the appellant's reply was primarily that she had remained at home and not been out of the house and therefore had acquired very little knowledge of the district or her clan background other than that told to her by her parents.

DEPARTURE FROM SOMALIA - ETHIOPIA

[15] The appellant left the orphanage when DD told her that a man was going to take her to Ethiopia about one week before she left. The appellant did not wish to go but was told she would be safe and that the man could be trusted. She was informed that every couple of months children from the orphanage were sent away and that she should not be scared. If her family were found, she would be taken to them.

[16] She understood that the man who would take her, EE, who was an Arab from Yemen who spoke Somali, would look after her. She went to Ethiopia by car and by bus with a number of other people and it took several days and nights travelling through roads and mountains to arrive in Addis Ababa. She was the only child from the orphanage who travelled with EE. She was given no papers and no-one asked questions during their travel, though she was told to state that he was her uncle.

[17] She got off the bus in what appeared to be a suburb of a city that she understood to be Addis Ababa. They were then taken to a place where there were some other Somali people who were renting a house from an Ethiopian man. She joined a group of people consisting of an older man and woman, two boys and two other girls. As far as the appellant was aware, the group were not, in fact, a family group, although they posed as such later.

[18] While in Ethiopia, she did very little although she sometimes went out with the other two girls who were staying in the same place, to get food and shopping. When she had been left in Addis Ababa by EE, she did not understand what was going to happen to her, apart from being told that she would be safe. She was later told that she was moving on to Saudi Arabia to be placed with a Somali family, but not told any more details of what would happen to her. During the time before she left, the group were told to learn names that corresponded with the false travel documents that would be used. The older man, FF, appeared to take the role of being father and the three girls were to travel as his children. All questions were handled by FF.

[19] After remaining in Ethiopia for approximately one month, the group she was staying with all left together by air and flew to Riyadh in Saudi Arabia.

[20] After taking a flight in the late afternoon, they arrived in Saudi Arabia at night and then took a taxi to the home of a Somali family. The whole group of seven people initially stayed with the Somali family. The appellant gave the Authority names of all the group with whom she had travelled and the names of another Somali family with whom she stayed on her arrival. She thought she had remained with that Somali family for approximately two and a half years. The family consisted of a husband and wife and two women who appeared to be sisters of the wife. She did not ask where they were from or how long they had been in Saudi Arabia.

[21] The appellant remained at home, carrying out occasional domestic activities, such as house-cleaning and doing dishes but was not actually required to work. She thought that the people from the orphanage had arranged for her to stay with the Somali family and had arranged for payment to be made by "an Islamic fund" to cover her travel costs. DD had advised her that children were sent in this way every one or two months, as an opportunity became available.

[22] During the time she remained with the Somali family, there was no discussion about her future. She stayed in the suburb of Nassim but knew nothing about that suburb, although she had been out on occasions. She did not see any significant mosques or palaces she could recall, although she did see tall buildings and occasionally went to the market.

[23] She left the Somali family after approximately two and a half years because before that (as she understood it), as a child, she was not allowed to go and work

for an Arab. She was then found a job doing housework, domestic duties and cooking, with BB and CC. They had no children. She encountered no problems with her job and, as she understood, was never registered with the Saudi authorities and had no identification documents. She was paid, however, 1,000 Saudi Arabian riyal per month and was generally treated well. She estimated that it was in approximately mid-2004 that she had arrived to work with the Arab family, although she could not be sure of the times and dates. She spent little of the money she was paid, particularly as the family purchased her clothing. The family lived in the suburb of Ulaya. She remembered nothing about the suburb, apart from there being tall buildings and that it was more beautiful than where she was originally.

[24] After she had been working with this family for some months, she stated that she could not stay there. Her Arab employers saw her crying one day and asked her what the problem was. She said that she had no family of her own and they asked her what they could do to help, although they explained they could not help to find her family. The appellant therefore told them that she wanted to go to London or other countries and that she had heard from her mother that London was a good place. They explained to her that she could not go without documents and a passport and that they would look for somebody to assist.

[25] About six months later, a man (the agent) came to the house and met the appellant's employers and arranged for photographs of her to be taken. She understood that a passport was then prepared, but that a visa application to travel to the UK was not accepted. She overheard her employers discussing, in Arabic, that it was "embassies" that would not give her a visa. She explained that she had learned some Arabic, word by word, when staying with the Somali family in Riyadh. She now considered that her understanding of Arabic was reasonable, but not as strong as Somali. She could watch and understand Arabic television, but her Arabic was not strong. When asked why she had advised the RSB that she did not speak Arabic, she replied that she could not speak it strongly but in a broken form only.

[26] After several months, travel arrangements were finally made for her, when the agent came and explained he had found a place she could travel to without a visa. She was told that it was London. She then left Saudi Arabia in August 2007 and thought that she had arrived in New Zealand on approximately 5 - 8 August 2007, after three days of travelling. She travelled with a Saudi man to whom she

paid 20,000 Saudi riyal. This money was paid from her savings held for her by the Arab family for whom she worked. Initially, they gave him 2,000 riyal when he got the passport pictures and the rest was paid approximately a year to a year and a half later, when she actually left. The nationality of the passport that she travelled on was Saudi Arabian, and it was her photograph that was contained within it. She remembered some parts of the name recorded in the passport.

[27] When the appellant left her Saudi employers, no arrangements were made to stay in touch. Although she did ask for a telephone number, it was not given. She did not maintain any contact with the Somali family with whom she stayed initially in Saudi Arabia, although while still in Riyadh she did return to try and contact them on one occasion but was told by the neighbours that they had left and travelled away.

[28] Once she arrived in New Zealand, she remained with the agent who had brought her here for approximately three weeks. He informed her that she was in New Zealand and not in London. After that he left, leaving her with a small amount of money. With the assistance of a Somali taxi-driver in Auckland, she was able to make contact with a lawyer involved in refugee work and ultimately to lodge her application with the RSB.

[29] When asked why she had wanted to leave the couple who paid her and looked after her in Saudi Arabia, the appellant agreed that she had been well looked after but had been thinking about her own family, although she now realised that other people could not help. She thought that by moving away, she might meet Somali people and then she could ask about her family. She had not made any enquiries with international authorities or others about her family since she had been in New Zealand. However, she did think it was the right decision to come to New Zealand as here people wanted to know about her background. Before coming to New Zealand, she did not know that refugee status existed or what it was about and there had been no discussions on that point. She was simply told that Somalis would be here and that she could ask them for help.

[30] When asked about lying and giving misleading information to the RSB, particularly as to spending the period from 2002 to 2007 in Yemen, she agreed that it was an untrue story but she had been told by the agent who brought her to New Zealand to say that she had been in Yemen. She considered that if she had told people in New Zealand the correct story, she might be jailed and deported. She explained she became scared by the agent's comments and thus stated that

she had been in Yemen. She agreed, however, that she had then added in that she had been in Saudi Arabia, but continued to lie about being in Yemen. In commenting on this, the appellant stated that she had it in her head that she would be deported.

[31] When it was put to her that the story about being in Yemen was totally untrue, she agreed. However, when she was asked whether she had been in Ethiopia at all, she stated that that part of her story was true. She concluded by apologising for lying previously but the agent who had brought her here had made her scared. She now knew that she had been wrong to tell lies.

THE EVIDENCE OF AA

[32] AA explained that his association was concerned with advocacy and family issues for his community.

[33] He explained that he met the appellant through her first lawyer who had asked him to come to her premises and meet the appellant. He was asked if he could find accommodation for her with a Somali family in Auckland. AA picked up the appellant and was able to take her to the home of a Somali colleague and his wife where she stayed for three days, by which time the appellant's lawyer had been able to obtain accommodation for the appellant in a refugee applicant's hostel.

[34] AA left Somalia to come to New Zealand in March 1997. He entered under family reunification as his brother was here. His family was from the Darod tribe, one of the biggest in Somalia. His family were from a tribal farming background and traditionally had lived a more nomadic Somali life. He, however, had been born in Mogadishu as his father had been in the army at the time and after that had gone into a small business. After the civil war, his tribe became victims of the Hawiye clan and hence they had left the country.

[35] After noting in his short statement he had stated that the appellant belonged to the Ashraf clan, which was one of the minority clans in Somalia and subjected to violence, sexual abuse for women and execution, the Authority asked how he had been able to reach that conclusion. He explained that from the start he wanted to know what her tribal background was, to make her comfortable. She had stated to him that she was Ashraf. He knew of only one other Ashraf in Auckland, but her husband was in Australia so he was therefore unable to request

those people to look after her. He considered the appellant's accent was that of a group they called the "Benediri" who were basically a group of early settlers in the Mogadishu area who had come from predominantly Arab countries and had settled on the coast. They were also called Reer Hamar. He stated that they were culturally different from the rest of Somalis. Their way of life was more akin to that of the Arabs. They married amongst themselves and dealt in their own business community. Women were often kept within the house and predominantly they lived an urban life. He considered that these Benediri people were already in the urban areas of Mogadishu in the 1940s and 50s and it was only after Independence in the 1960s that more nomadic and other Somali tribes moved into Mogadishu.

[36] He explained that when he first met the appellant, it was difficult to establish a rapport with her and it was not until she was at his friend's house in Auckland and talked to his friend's wife that the appellant would accept food or enter into any conversation. He stated that the appellant had told him that she had left Somalia at the age of 12. She had not described her Ashraf clan or much about her background.

[37] He said that he was aware of the Hamma Weyne area in Mogadishu and it was the original business district. His own father had had a shop there.

[38] When asked whether he considered the appellant could be pretending that she was Ashraf, he said that he was not sure; if she was from another tribe, then it was likely that other groups would support her. He could not find witnesses in the community to give evidence of her background. Although in his statement he had said that she was Ashraf, he was not sure, as he had only obtained information by talking to the appellant and noting her accent and general character. He considered these placed her as being from the Benediri people.

[39] When asked what might happen to her if she returned to Somalia, he noted that her group were village and business people who had no guns or form of defence. He considered that they were still abused by other people, even some 18 years after the civil war began. Women from the Reer Hamar/Benediri clans were at risk of being raped or abused. In some situations, families of defenceless sub-clans (like Ashraf) would give their daughters to the Hawiye, just to give them security. He considered that the majority of Benediri people had now gone to Kenya, or Yemen, so that there are now very few in Somalia, unless they had been kidnapped or adopted.

[40] He stated that, as he understood it, the Benediri people in Mogadishu had lived in Hamma Weyne, which was very close to the sea. The term "Benediri" in fact referred to the original name for the district.

[41] When asked if there were any distinctive physical characteristics of Ashraf people, he stated that they were often of a lighter skin and had a more Arab look to them, although some were of darker skin. He considered that this appellant had a strong Benediri accent, with a strong cultural overtone in her way of speech and action.

[42] He had been unable to obtain any genealogy from her, as she had just explained to him that she had gone to Yemen and then on to Saudi Arabia to get work. In order to assist her to make possible contact with her family, he had offered to give her telephone cards but she explained she did not know where her family were.

[43] He considered that, as a 12 year-old, the appellant would, in her situation, not have known much about the history of the city, as women like her did not receive schooling and even the sons of the family were quickly taken into the family business.

[44] He stated that if a person had been walking around the district of Hamma Weyne in the mid-90s, they would notice that lots of buildings had been destroyed in the 1992-1993 period, but there were still a number of houses left. He himself, however, had left in 1992 so was unable to give more detailed recollections.

SUBMISSIONS FROM COUNSEL

[45] Miss Curtis relied on the written submissions she had presented. She stressed her concerns about enquiries that appeared to have been made by Immigration New Zealand into the passport that had been used by the appellant when she arrived. A request for further information under the Official Information Act and Privacy Act had been refused to her and only the first page of the apparently Saudi passport, which contains the appellant's photograph, had been disclosed to her. In this situation, she submitted there were risks to the appellant if she was returned to Saudi Arabia because of information that may have been passed on to the Saudi authorities.

[46] The Authority noted that this issue would only become relevant if we established that the appellant was a person of Saudi Arabian nationality, in which case we would have to assess the risks on return to Saudi Arabia for her.

[47] As noted later in this decision, the Authority has been unable to reach findings at any level of proof on the actual nationality of this appellant, and hence issues in this regard do not arise.

[48] In respect of the change in the appellant's story that she had not been to Yemen, counsel asked us to note that the appellant had attempted to correct the record on this issue. We were also asked to note that the background of the appellant's very sheltered life had been in accordance with the description given by AA and therefore, she submitted, this was not an unusual situation. It was also submitted that it was not unusual for young people, such as this appellant, to be placed in an orphanage and then taken under the care of others in places such as Saudi Arabia where there may have been some connection or compatibility.

THE ISSUES

[49] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[50] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

CREDIBILITY ASSESSMENT

[51] In order to establish the facts as found and proceed with an objective assessment of risk, it is firstly necessary for us to consider the credibility of the appellant's evidence and that of the witness.

[52] Before considering the credibility of the appellant, we note that the evidence given by AA was found by us to be credible, open and straightforward. He gave us what appeared to be an honest assessment of the somewhat limited contacts and discussions that he had had with the appellant to put her in contact with an Ashraf family in Auckland.

[53] For reasons which follow, we find that the appellant is not a credible witness. Her account is implausible and inconsistent. The Authority rejects the appellant's claims to be a Somali national of the Ashraf minority clan.

Inconsistencies

[54] The most glaring inconsistency related to the changes in her story from the original claim (in the Confirmation of Claim to Refugee Status form) that she had

only lived in Somalia and Yemen. This story was added to by the inclusion of Saudi Arabia, some two weeks later, in a statement presented prior to her interview with the RSB. The appellant then presented a very detailed account of how she had left Somalia and travelled to the northern town of Bossaso in northern Somalia and then flown to Sana'a in Yemen. She then gave a detailed account of staying in Yemen as a domestic servant to a Yemeni family for several years until ultimately she was forced to flee and then taken to Saudi Arabia.

[55] However, as noted above, when she came to give her evidence to the Authority, she stated that she had lied in relation to the evidence about Yemen and the dates of her time in Saudi Arabia. She gave us evidence of leaving Somalia and going to Ethiopia, admittedly with the same man; she then gave quite detailed evidence of her time in Addis Ababa and (of a more limited nature) her arrival and accommodation firstly with a Somali family and then an Arab family in Riyadh.

[56] In explanation for her change in story, the appellant stated that she had been scared by the agent who had brought her from Saudi Arabia to New Zealand and that he said that she should state she came from Yemen. She also considered she should maintain the lie because she had stated it to AA. He was a person of status and importance and she would be culturally embarrassed to admit she had lied to him. While we note the explanation and accept that this is an uneducated woman who might well have been intimidated by the agent, on the other hand she had been apparently happy to pay him a substantial amount of money to be trafficked out of Saudi Arabia. She had met the agent before, on at least one or two occasions, at the home of the kind Arab couple with whom she stated she had lived for some 18 months or more before coming to New Zealand. There is simply no reasonable logic or explanation as to why risks to her required her to state that she had travelled to Saudi Arabia via Yemen rather than via Ethiopia, particularly when she had been no doubt put under caution on many occasions that it was essential that she tell the truth.

[57] The appellant, before the RSB, could not name the orphanage in Mogadishu, nor the woman who ran it. However, she did readily give these details to the Authority. We found no sensible explanation for this inconsistency.

[58] The appellant also gave inconsistent evidence in relation to her knowledge of Arabic. In her interview with the RSB, she stated that she had no knowledge of Arabic, apart from a few words. However, before us, when it was necessary to explain how she understood conversations about the visa applications between

the Arabs with whom she was living, she stated that she had a reasonable understanding of Arabic and could understand television programmes, although she could not read the language. Her explanation for this inconsistency was that because she considered her Arabic was very basic, she had stated that she did not know Arabic to the RSB. We do not accept this explanation and consider that the appellant has on this occasion, as with many others, adjusted her story to suit the evidence, when parts of it did not neatly fit together.

Implausibilities

[59] We also found, while noting her youth and lack of education, serious implausibilities in the appellant's story. We would accept, based on the country information and the evidence from AA that young women, particularly those who come from a Benediri background, are often kept in fairly close confines by their families and are uneducated. This appellant states, however, that she had lived for some 12 or more years in Mogadishu and that she had gone out on some occasions, in particular to visit her father's shop at the market. She also mixed with many other young people during her six months in the orphanage.

[60] However, as noted in [12] above, the appellant's knowledge of Hamma Weyne and wider Mogadishu is virtually non-existent. She was unable to give any details of her neighbourhood, or indeed the fact that Hamma Weyne is an area that abuts directly onto the Indian Ocean and the marketplace, on the best maps available to us, and shown to the appellant, is only some 200 to 250 metres from the sea. Despite a very restricted childhood, we find it implausible that, by the age of 12 years, and having visited the marketplace and her father's shop, she would not have been aware that the district in which she lived was immediately adjacent to the sea.

[61] In marked contrast, the appellant was able to give virtually no detail relating to her life in Mogadishu, we found it surprising that she was able to give quite detailed information, as noted in [20] above, relating to the place she lived briefly in Ethiopia and to the people with whom she was living for a short period, immediately after leaving Mogadishu.

[62] There are also numerous implausibilities relating to the evidence she gave about her time in Riyadh. Despite her changed evidence that she had lived there for some five years between the ages of 12 and 17, she appeared to have very little knowledge at all of any buildings or aspects of life in Riyadh. She told us that

she had gone out on some occasions but, apart from saying there were tall buildings and that the second suburb she in which she lived was more beautiful than the first, there was again, even for an ill-educated young woman who was clearly of reasonable intelligence, a serious lack of recollection that would otherwise have been expected.

[63] We also found her motivation for wanting to leave Riyadh and venture into the unknown implausible. This was an apparently kind and caring Arab couple in Riyadh. For a young naïve woman with no other support or protection available to her, to wish to leave that support defies logic. The explanation of wishing to be with other Somalis is not accepted, given the community of Somalis she was aware of in Riyadh.

[64] Finally, we found that the appellant's evidence, as set out in [13], in relation to her clan membership was also seriously deficient in many ways. While again we accept that great care must be taken for a person of her age and background, it is highly surprising that she was unable to give anything but the most rudimentary background of her genealogy and indeed, no evidence of the actual background of the Ashraf clan which traces itself back to sons of Mohammed. As to the sub-sub-clan, she admitted that this was only introduced in evidence to this Authority. The country evidence indicates that the Ashraf people are diligent in instructing their children on their genealogical background and history and thus it is surprising that, for a person with educated parents, as the appellant stated was the case for her, they had not at least educated the appellant in the most core aspects of her background and ethnicity.

CONCLUSIONS ON CREDIBILITY

[65] When the appellant's evidence is assessed in the round, we find, even giving a generous recognition to her youth, lack of education, immaturity and possibly insular background, that the inconsistencies and implausibilities in her story are so significant that it is not possible to establish, even at the lowest standard of proof, that any part of her story can be accepted. Her credibility is therefore rejected almost in its totality.

[66] The only part of the appellant's story that we are prepared to accept, at the level of a real chance, is that which has been confirmed by the evidence of AA. We consider that the appellant is a person of ethnic Somali background and has come from one of the sub-clans within the wider Reer Hamar or Benediri grouping. We can go no further and certainly, on the evidence accepted by us, could not conclude that the appellant was Ashraf.

NATIONALITY

[67] Because of the almost total lack of credibility, particularly in relation to evidence given on the countries in which this appellant claimed, at various times, she had lived (Somalia, Ethiopia, Yemen and Saudi Arabia), we are unable to conclude, even at the real chance level, the nationality, or nationalities, or former habitual residence of this appellant. We are unable to conclude that she has a Somali nationality, or indeed whilst we find her to be an ethnic Somali, if she has a nationality in Somalia, Saudi Arabia, Yemen, Ethiopia or elsewhere. Her risk on return to her country of nationality, or former habitual residence, therefore cannot be assessed.

[68] On the basis of these findings, therefore, this appellant has not established that she meets the requirements of Refugee Convention. The first issue is therefore answered in the negative. The second issue is thus irrelevant in the circumstances.

COMMENT

[69] Whilst we have been unable to conclude this appellant's nationality at any standard of proof, we can state that, from our assessment of the country information and evidence before us, if her nationality or former habitual residence, had been established as being Somalian, we consider that as a young woman of Somali ethnicity, with a Benediri/Reer Hamar background, she would be at a real risk of being persecuted for reasons of her ethnicity, if she was now sent to Somalia. Thus, though not within our jurisdiction, it would appear at this time, if she were sent to Somalia, there could potentially be a breach of New Zealand's international obligations under other treaties.

CONCLUSION

[70] For the reasons set out above, on the totality of the evidence, we have concluded that the appellant seriously lacks credibility. We have therefore been unable to establish her nationality at any level of proof.

[71] The Authority therefore finds that the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"A R Mackey"
A R Mackey
Chairman