

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76530

AT AUCKLAND

<u>Before:</u>	M A Roche (Chairperson) D L Henare (Member)
<u>Counsel for the Appellant:</u>	D Mansouri-Rad
<u>Appearing for the Department of Labour:</u>	No Appearance
<u>Dates of Hearing:</u>	4 & 5 August 2010
<u>Date of Decision:</u>	16 November 2010

DECISION DELIVERED BY D L HENARE

[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, a national of Iran.

INTRODUCTION

[2] The appellant is a divorced woman. She arrived in New Zealand on 9 November 2008 and first claimed refugee status on 16 November 2008. The appellant's first claim was based on the prejudice she suffered as a result of her divorce; and her distribution of monarchist pamphlets which led to her detention and sentence in late 2007. That claim was declined by the RSB on 12 December 2008. The appellant returned to Iran on 29 December 2008.

[3] On 7 December 2009, the appellant returned to New Zealand and lodged a second claim for refugee status with the RSB. This second claim was declined in a decision dated 30 April 2009 leading to the appellant's present appeal.

[4] The appellant predicts she has a real chance of being persecuted if she

returns to Iran by reason of her political profile with the authorities, comprising her detention and sentence in late 2007 and detention following the presidential elections in 2009. In addition she predicts that she has a real chance of being persecuted in Iran by reason of her profile as a divorced woman.

[5] The central issue to be determined in this appeal is whether the refugee claim advanced by the appellant is credible, and on the facts as found, whether she faces a well founded fear of being persecuted should she now return to Iran.

[6] At the outset of the appeal hearing, the appellant submitted a medical certificate which provided that she suffers from depression with poor sleep and poor memory. The appellant stated that she was able to give evidence despite having had little sleep and having not taken her medication. The Authority took account of the appellant's medical condition by providing a number of breaks to her and adjourning the hearing early on the first day. Throughout the hearing, the appellant appeared competent in delivering her evidence.

[7] Since the hearing counsel has provided a report from a consultant psychiatrist dated 28 July 2010 that had been overlooked previously, which further records that the appellant suffers depression.

JURISDICTION OF THE AUTHORITY TO HEAR THE APPEAL

[8] This is the appellant's first appeal to this Authority. However, her appeal concerns the second refugee claim she has lodged in New Zealand. Second or subsequent refugee claims (including appeals to the Authority) are subject to jurisdictional limitations. Section 129J of the Immigration Act 1987 ("the Act") provides:

(1) A refugee status officer may not consider a claim for refugee status by a person who has already had a claim for refugee status finally determined in New Zealand unless the officer is satisfied that, since the determination, circumstances in the claimant's home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim.

(2) In any such subsequent claim, the claimant may not challenge any finding of credibility or fact made in relation to a previous claim, and the officer may rely on any such finding.

[9] Section 129O(1) of the Act provides:

A person whose claim or subsequent claim has been declined by a Refugee Status officer, or whose subsequent claim has been refused to be considered by an officer on the grounds that the circumstances in the claimant's home country have not changed to such an extent that the subsequent claim is based on significantly

different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer's decision.

[10] In determining whether the Authority has jurisdiction to consider an appeal in respect of the appellant's second refugee claim, it is necessary to consider her original claim and her further claim, as presented at the appeal hearing, with a view to determining:

- (a) whether, in terms of s129O(1) of the Act, the Authority has jurisdiction to hear the appeal and, if so,
- (b) whether she is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

[11] Jurisdiction to hear and determine subsequent refugee claims under s129O(1) of the Act involves a comparison of the claims as asserted by the refugee claimant. In the absence of significant difference in the grounds upon which the claims are based, there is no jurisdiction to consider the subsequent claim; see *Refugee Appeal No 75139* (18 November 2004).

[12] Where jurisdiction is established, the merits of the subsequent claim will be heard by the Authority.

[13] Section 129P(9) of the Act prohibits any challenge to a finding of fact or credibility made by the Authority in relation to a previous claim and gives the Authority a discretion as to whether to rely on any such finding. It does not apply to findings of fact and credibility made by refugee status officers in respect of previous claims. Therefore, should the Authority find jurisdiction to hear this appeal, all findings of fact and credibility in respect of the appellant's first and second refugee claims will be at large.

COMPARISON OF CLAIMS

[14] The appellant's first claim related to difficulties she had experienced as a divorced woman in Iran and her distribution of a monarchist pamphlet in her workplace which led to her detention in late 2007 and the imposition of a work ban on her. She claimed that this also resulted in a period of detention in Bandar Abbas in January 2008 when she returned from a trip to Dubai.

[15] The appellant's second claim is based on difficulties she experienced on her return to Iran in December 2008, including a six day period of solitary confinement

after her arrival and a further arrest and period of detention in July 2009 following the presidential election protests in Tehran.

CONCLUSION ON JURISDICTION

[16] As noted in *Refugee Appeal No 75139* (18 November 2004):

[51] Jurisdiction under s 129J(1) is determined by comparing the previous claim to refugee status against the subsequent claim. It is clear from the definitions in s129B(1) that the exercise requires the refugee status officer and the Authority to compare the claims **as asserted by the refugee claimant**, not the facts subsequently found by [the Refugee Status Branch] officer or the Authority.

[17] The Authority is satisfied that, in the present case, the jurisdictional threshold is met. The second refugee claims, particularly those aspects relating to the appellant's long detention following the post election protests, constitute changed circumstances. If her claims are true it would appear that her profile as a person of interest to the Iranian authorities is now much higher than previously. The jurisdictional threshold is crossed. As noted earlier, as this is the appellant's first appeal, all issues of fact and credibility in respect of both her claims are at large.

THE APPELLANT'S CASE

[18] What follows is a summary of the evidence the appellant gave at the hearing. An assessment of this evidence follows later in this decision.

[19] The appellant is from Tehran. She has three children and was divorced in 2004. The children are now students aged 23, 21 and 16 years respectively, and remain in Iran.

[20] During the early years of the appellant's marriage, she took educational courses to enable her to achieve employment. She attended computer management courses and obtained her management and computer training licence in 2001.

[21] In 2002, the appellant was employed as a computer training manager by a government organisation involved in the rehabilitation of war veterans. In 2004, the appellant was part of a project team which travelled to a town some distance from Tehran. There, she met AA who was employed by a company contracted to supply medical equipment and related services to the project. The appellant

initiated conversations with AA because he was an Iranian educated in the West and she was anxious to learn about women's rights. The appellant was inspired by his conversations about women's freedom which sharply contrasted with her own experience. They continued their conversations in Tehran either at her workplace when he came to provide technical services, or in restaurants and parks. They met every month for their discussions. Their relationship was to last four years.

[22] The appellant's marriage was unhappy. She was at times beaten by her husband and found it very difficult to accept the inequality she was subjected to as a woman both at home and in society generally. At the time of the appellant's trip out of Tehran, her husband took a temporary wife into the family home, which humiliated the appellant and was the final straw in the breakdown of their marriage. The appellant's husband told her to accept his additional marriage or get a divorce. Despite the hardship and social stigma inherent in divorce, she chose this rather than remain in a polygamous arrangement which she found disgraceful.

[23] She received only a small financial settlement and had to leave her home, stay with friends and then seek the assistance of her brother in law to find accommodation. This was necessary as her status as a divorced woman precluded her from being able to rent an apartment. She could not let her employer know of her change in marital status because she would lose her job. Her parents viewed her divorce as a disgrace to the family and distanced themselves from her. Her husband dictated the custody arrangements of the children. At first, he kept the two younger children and the eldest came to live with her. This child had to leave school to help make ends meet because her husband would not pay her child support. Later, the younger two children were sent to live with her. She considered she was a woman without rights and that her life was a struggle.

[24] The appellant told AA about her problems and found his friendship of comfort to her. AA's accounts of the rights of women, particularly divorced women in other countries, caused the appellant to compare and contrast her own life.

[25] AA told the appellant that he was a supporter of Reza Pahlavi, the son of the late Shah, who lives in exile in the United States of America. The appellant shared AA's beliefs that the Shah should be the Head of State in Iran. AA showed the appellant Reza Pahlavi's website which promoted his political opinions. She discussed these issues with some of her workmates.

[26] AA knew monarchist supporters in Canada and Iran who had to conduct their activities underground because of the risks they faced. He said he would introduce them to her in due course. AA told the appellant that if she wanted to join this group she had to take meaningful action herself. He proposed that she distribute monarchist pamphlets at her workplace.

[27] In October 2007, AA gave her the pamphlets for distribution. The appellant arrived early at her workplace and placed the pamphlets on the tables in the corridors and in the training rooms.

[28] A week had passed when she was summoned by her manager, who was accompanied by three women, to answer questions about the pamphlets. She was then taken by these women to the women's crime section of the Prosecutor's Office. For two months the appellant suffered periods of interrogation and then solitary confinement. In early December 2007, she was bailed after her sister provided the title deeds to her property as security.

[29] After the appellant's release from prison, she suffered severe depression. She believed that she would always be targeted by the authorities. She was estranged from her parents and had only her sister and brother in law to rely on. She started to formulate a plan to leave Iran.

[30] The appellant's brother-in-law suggested the appellant take a holiday with her sister and niece to Bandar Abbas to improve her health. The opportunity of a holiday enabled her to begin to implement her plan. She applied for a replacement passport because her original passport had been taken from her at the time of her arrest and subsequently cancelled. When she went to the passport office to collect her passport she overheard a conversation concerning a people smuggler called BB. She asked where she could find BB and was told he was well known in Dubai. She then obtained American currency which she knew she would need to pay a people smuggler.

[31] The appellant did not inform her sister of her intention to go to Dubai when they set off to Bandar Abbas. She waited a few days and then told her sister that her health had not improved and they should travel to Dubai. Her sister agreed and they left Iran for Dubai on 21 January 2008 without any problems.

[32] In Dubai, while her sister and her niece were shopping, the appellant went in search of BB. She soon established contact with him through a particular restaurant. She met him on two occasions and paid him US\$12,000 in cash to

cover all the tickets and documentation. She told him she wanted to go to Canada. He said that was not possible but he would arrange for her to go to a safe place. The appellant gave him a copy of the first page of her passport and her cell phone number.

[33] On 28 January 2008, the appellant, her sister and niece returned to Bandar Abbas. Upon arrival, the appellant was taken to a detention centre outside the airport. She was interrogated there about the reasons for her trip to Dubai. She was held in a small, dirty room. After four days, her sister collected her from the detention centre and they returned to Tehran.

[34] Six or seven months later, the appellant was contacted by BB and was told her tickets would be delivered to her and she should prepare herself to leave Iran. After ordering her affairs and telling her children she would send for them, she departed Iran through Imam Khomeini airport without any problems on 7 September 2008. She travelled to New Zealand where she made her first claim for refugee status on 16 November 2008.

[35] Following the RSB decline of the appellant's refugee status claim in December 2008, she was contacted by her sister who telephoned her from the hospital bedside of her father. She was told to return to Iran because her father had had surgery and his medical condition was serious.

[36] The appellant decided to return to Iran to see her father and because she was also worried about her children. She arrived in Tehran at Imam Khomeini airport in late December 2008. Her passport was confiscated at the airport and she was told to collect it within 48 hours from the women's crime section in Z street. When she arrived there she was put into solitary confinement for six days. On the third day of her detention, she was interrogated about the reasons for her travel, her contacts overseas and the reasons for her return to Iran. She told them she returned to see her children and to visit her father who was very ill in hospital. She was asked to provide the address of the hospital. She was then released and reminded of her work ban and that she should not engage in any political activities.

[37] When she returned home to her children, they said their house had been raided and searched. She then went to see her father in hospital who told her that members of a government security organisation had visited and questioned him about her. He expressed concern that she was in trouble because of her return to Iran to see him. He said he would help her financially if she wished to leave Iran.

[38] The appellant understood that if she was to leave Iran again she needed to make contact with BB. She travelled with her mother to Dubai in mid-February 2009. They were able to make this journey because her mother had given the title deeds of her property to the Public Prosecutor's office, advising she was the mother of a martyr who wanted to travel abroad with her daughter. The appellant was able to establish contact with BB within two days of her arrival in Dubai through the same restaurant as previously. He said he could not do anything for her at that time but would contact her in due course. The appellant and her mother then returned to Iran two days later.

[39] The appellant undertook domestic work and private tuition for her friends because of the work ban in order to support herself and her children. Her father also provided financial support.

[40] In June 2009, when Mr Ahmadinejad won the presidential elections, there were huge protest rallies. In July, the appellant joined her children and many thousands of protesters in Azadi Square to protest the outcome of the elections. Many people were arrested, wounded or killed at this protest. The appellant and her children were not harmed.

[41] The next day, 22 July 2009, the appellant was arrested at her home and detained because of her past profile, not her participation in the protests. She was blindfolded, kicked down the stairs and taken by plainclothes police, to a secret detention centre in Tehran where she was held for the next 15 days.

[42] On 7 August, the appellant was blindfolded and taken with several other prisoners out of the prison. She was scared because she was told she was being taken for execution. The prisoners were taken by car to the outskirts of Tehran and left there. Upon release they fled in different directions. Eventually, the appellant was able to get help from someone who drove her home.

[43] Five weeks later, the appellant again joined her two eldest children in another demonstration in which many were killed and wounded.

[44] The next day, 20 September 2009, the appellant heard that mass arrests had started. She decided to leave Tehran and go to Marshad because she had a friend there, with whom she could stay. Soon after her arrival, she contacted her sister who told her to remain in Marshad.

[45] On 4 November, the appellant was contacted by BB who told her he could arrange for her to leave Iran near Christmas time. He required payment of 18

million tomans, her passport, passport photos and national identity card. Both the appellant's father and sister provided her with the financial assistance she required.

[46] The appellant asked BB to send her to New Zealand, notwithstanding the decline of her claim in 2008. He advised her that she could be returned to Iran as she had already been turned down for refugee status. He advised her to tell the New Zealand authorities that she had experienced problems associated with anti-government pamphlets.

[47] The appellant left Iran on 2 December 2009 without any difficulties. Upon arrival in New Zealand, the appellant claimed refugee status at the airport and stated, in addition to the matters above, that she had been involved in an incident relating to political pamphlets which had caused her to flee to Marshad. Upon receiving legal advice, the appellant subsequently admitted that the details of this incident were false and withdrew it from her statement.

[48] The appellant fears being persecuted on return to Iran because of her profile arising first from her detention in 2007, and including her detention after the elections in 2009; and also her status as a divorced woman.

Documents

[49] In addition to the RSB file available to the Authority, a memorandum of submissions was received from counsel dated 2 August 2010.

[50] At the conclusion of the hearing, leave was granted to counsel to lodge further submissions and country information which were received on 23 August 2010.

THE ISSUES

[51] 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.

[52] 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?

[53] In all cases, appellants bear the responsibility for establishing their claim under ss129P(1) and 129P(2) of the Act, in accordance with *Anguo Jiao v Refugee Status Appeals Authority* [2003] NZAR 647 (CA).

ASSESSMENT OF THE APPELLANT'S CASE

Credibility

[54] Before turning to the issues raised by the Convention, it is necessary to address the question of the credibility of the appellant's account.

[55] The Authority rejects the appellant's claim to have had political problems arising from a relationship with AA which led her to distribute monarchist pamphlets at her workplace. Although she had claimed that this relationship was of four years' duration, when questioned, she was able to tell the Authority almost nothing about him. She was unable to explain in any depth the ideas she claimed to have been discussing with him over these years. She claimed ignorance of his marital and family status and also claimed not to know where he lived or worked. Her reasons for this lack of knowledge were contrived and implausible leading the Authority to conclude that the relationship was a fabrication.

[56] Our conclusion about the falseness of the relationship has a domino effect on the remainder of her claim. This is because everything that followed was a result of the political profile generated when she was apprehended for distributing the pamphlets AA gave her. However, even if this were not the case, there were problems with her evidence that would have led us to reject its credibility, in particular her claims that she managed to manipulate her sister into spontaneously changing the Bandar Abbas holiday into a trip to Dubai and her claims concerning her detention on return to Dubai. Her evidence on each subject was highly implausible.

[57] However, since the Authority finds the gender aspects of the appellant's claim to be determinative, we record that those parts of her account relating to the gender claim are accepted as credible.

Objectively, on the facts as found, is there a real chance of the appellant being persecuted?

The profile of the appellant as a divorced woman

[58] The Authority has, for many years interpreted the term "being persecuted" in the refugee inclusion clause (Article 1A (2)) as the sustained or systemic violation of basic human rights, demonstrative of a failure of state protection. In other words, core norms of international human rights law are relied upon to define the forms of serious harm which are within the scope of "being persecuted" and is fully explained in *Refugee Appeal No 74664/ 03* [2005] NZAR 60; [2005]INLR at [36]-[125].

[59] Additionally, the Authority carries out its prospective assessment of the appellant's predicament on return after establishing the facts as found including, in that assessment, a review of the relevant objective country information.

[60] A number of decisions of the Authority have considered the position of women in Iran, including the status of divorced women. The leading decisions in this regard are *Refugee Appeal No 2039* (12 February 1996) and *Refugee Appeal No 71427* (16 August 2000).

[61] These decisions both feature extensive reviews of academic writing and country information on the position of women in Iran. Both note the depth of gender-based discrimination in Iranian society and the legal system. *Refugee Appeal No 71427* states at [75] that the state-legislated relegation of women to a substantially inferior status is in breach of fundamental human rights law which prohibits discrimination on the basis of gender and at [78] that, with regard to the case of the appellant in that case, the policy and enforcement of gender-based discrimination against women is of a nature which permits a finding of persecution in the sense of a sustained or systemic violation of human rights.

[62] The position of women in Iran is described in a report from the International Federation of Iranian Refugees, *Human Rights Violations in Iran* (undated), as follows:

Women in Iran encounter violence and discrimination at all levels. Violence against women is not only condoned but also perpetrated by the Islamic Republic of Iran, and is prevalent both in government institutions and domestic life. No safeguards exist to protect women in Iran.

The sexual apartheid that permeates social, cultural and political life in Iran constitutes a form of oppression and persecution that creates of the majority a second-class citizenry. Women's dress, work, socialising, familial and intimate relationships, reproduction and sexuality are all subject to control, either by male family members or the state. Women's autonomy, forms of cultural expression, and freedom of movement are severely circumscribed. Laws that criminalize adultery or fornication are disproportionately used against women and create an additional risk of persecution for women who are victims of sexual violence.

The regime's failure to prosecute offenders, both of sexual violence and of domestic abuse, denies women equality before the law and the effective protection of the state.

[63] More succinctly, Ann Elizabeth Mayer, in her book *Islam and Human Rights: Traditions and Politics* (3rd ed, 1999) states at page 112:

The record ... overwhelmingly establishes that Islamic principles, Islamic law, and Islamic morality have been interpreted in Iran to justify depriving women of any semblance of equality with men, subjecting them to a wide range of discriminatory laws and treatment, and effectively confining them to serving their husbands, performing domestic tasks, and bearing and raising children.

[64] Country information indicates that, for women, there is a strong stigma associated with divorce and that divorced women are particularly marginalised in Iranian society: E Daniel *Culture and Customs of Iran* (Greenwood Press 2006) p175. Other reports state that divorced women are sources of shame to their parental families. While there are no legal barriers to divorced women working outside their homes, this is particularly difficult because of social attitudes. Women living alone (as the appellant did) will be assumed not to have a male "protector" and therefore will be subjected to even more intense social disapproval: Canadian Immigration and Refugee Board, Research Directorate *IRN23787.E* (22 April 1996); Canadian Immigration and Refugee Board, Research Directorate *IRN29551.E* (29 June 1998).

[65] Divorced women are also viewed as sexually available, being neither virgins nor wives, and are frequently subjected to persistent sexual harassment: Marjane Satrapi *The Complete Persepolis* (Pantheon 2003) p332.

[66] Persecution is the sustained or systemic violation of basic or core human rights demonstrative of a failure of state protection: *Refugee Appeal No. 2039/93* (12 February 1996). While anti-discrimination notions underlie the Refugee Convention, discrimination *per se* is insufficient to establish a case for refugee status. In some cases however, the cumulative effect of acts of discrimination can properly be recognised as persecution for the purposes of the Refugee

Convention: *Refugee Appeal No 2039* [42]-[44].

[67] The Authority's enquiry is forward-looking. However, past experience may be a good indicator of what may be expected to happen in the future: *Refugee Appeal No 70366/96* (22 September 1997).

[68] Counsel relies on previous cases where divorced Iranian women have been recognised as refugees. Although in some instances divorced Iranian women have been recognised as refugees, it does not follow that all divorced Iranian women are entitled to similar recognition. Each case must be assessed on its own particular facts. The Authority has given careful consideration of the appellant's profile.

[69] The appellant was subjected to domestic violence by her husband. She had no state protection available to her in respect of this. Her marriage ended when she was subjected to the humiliation and degradation of being forced into a polygamous arrangement without her knowledge or consent. She then had the choice of divorce and the consequent loss of her minor children or remaining in an involuntary polygamous marriage.

[70] In General Recommendation 21, the United Nations Committee on the Elimination of Discrimination Against Women has made the following statement about polygamy:

Polygamous marriage contravenes a woman's right to equality with men and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited...[Polygamy] violates the constitutional rights of women and breaches the provisions of Article 5(a) of the Convention [on the Elimination of Discrimination Against Women].

[71] The appellant's circumstances immediately following her divorce from her husband in 2004 were difficult. Initially denied custody of two of the children she later had to support all three without contribution from her husband. She was forced to leave her matrimonial home and could only access accommodation with the assistance of her brother in law. She had no financial support from her family. The estrangement from her parents because of their disapproval of her caused her distress.

[72] Although she has now reconciled with her family, she is still likely to face difficulties in accessing accommodation and employment. Previously her employment was maintained through the concealment of her divorced status. Such concealment is unlikely to be possible when she seeks new employment as

her divorce will be recorded in her *shenasnameh* (the identity document which is updated throughout the lifetime of the holder and which includes information about the bearer's marital status): Canadian Immigration and Refugee Board, Research Directorate *IRN101296.E Iran: The shenasnameh* (5 June 2006). The Authority accepts that the appellant's divorced status may now prevent her from obtaining work that is commensurate with her qualifications and experience.

[73] Her brother-in-law may again assist her to obtain accommodation but this is a matter of discretion for him. Without such assistance it is accepted that it will be difficult, if not impossible, for her to secure accommodation for herself.

[74] The appellant has previously contended with indecent offers and unwelcome advances from men who are aware of her divorced status. Such harassment can be expected to continue if not increase now that, should she obtain employment, her status as a divorcee will be known to any male workmates she may have. She cannot access state protection from such harassment.

[75] In addition to the special difficulties posed by the appellant's status as a divorcee, a return to Iran for her would mean the resumption of her subjection to the 'sexual apartheid' imposed on women in Iran. This includes the discrimination, legalised inequality (including the institution of polygamy which she has personally been involuntarily subjected to), and imposition of the *hijab* she has long been opposed to and which she has described as 'ridiculous'. In her written statement she described Iran as a 'religious hell' and her plight there as 'disgrace, degradation and dejection'. She has previously suffered from depression in Iran and has been deeply unhappy about the treatment women are subjected to there.

[76] The treatment the appellant will face in Iran can properly be characterised as being persecuted as it will have the effect of impairing or nullifying her enjoyment and exercise of core human rights. These rights include her right to equality before the law and the equal protection of the law and, arguably, her right to work, given the difficulties she anticipates openly securing employment as a divorced woman. Her fear of being persecuted is therefore well-founded.

Convention ground

[77] Having found that the appellant has a well-founded fear of being persecuted in Iran, it is necessary to consider the second framed issue which is whether there is a Convention reason for her persecution.

[78] The Authority has previously determined that gender can be the defining characteristic of a social group and that “women” may be a particular social group: *Refugee Appeal No 71427* at [106]. The reason why the appellant is at risk of being persecuted in Iran is because of her profile as a divorced woman. The relevant Convention ground is particular social group. The second framed issue is answered in the affirmative.

CONCLUSION

[79] The Authority finds that the appellant is a refugee within the meaning of Article 1A (2) of the Refugee Convention. Refugee status is granted. The appeal is allowed.

“D L Henare”

D L Henare
Member