

Asylum and Immigration Tribunal

SZ and JM (Christians – FS confirmed) Iran CG [2008] UKAIT 00082

THE IMMIGRATION ACTS

**Heard at Field House
On 13, 14 & 15 May 2008**

Before

**SENIOR IMMIGRATION JUDGE MATHER
SENIOR IMMIGRATION JUDGE WAUMSLEY
SIR JEFFREY JAMES KBE CMG**

Between

SZ

First Appellant

JM

Second Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the First Appellant: Ms A Weston, Counsel instructed by Lawrence Lupin, Solicitors

For the Second Appellant: Ms S Naik, Counsel instructed by Wilson & Co.

For the Respondent: Mr S Kovats, Counsel instructed by the Treasury Solicitor

Conditions for Christians in Iran have not deteriorated sufficiently to necessitate a change in the guidance in FS Iran CG [2004] UKIAT 00303 Iran. For some converts to sacrament-based churches the conditions may be such that they could not reasonably be expected to return and their cases must be considered on HJ (homosexuality: reasonably tolerating living discreetly) Iran [2008] UKAIT 00044 grounds.

It remains to be seen whether the proposed inclusion of apostasy in the amended criminal code will make a material difference. The amendments to the code are part of a wholesale change in the criminal law and not solely aimed at converts. The proposals are still before Parliament.

'Proselytising' and 'evangelising' are not terms of art and distinctions should not be drawn between them.

DETERMINATION AND REASONS

1. The appellants are both citizens of Iran. Their appeals have been linked because they raise similar issues. Both appellants claim to have converted away from Islam and become Christians. The cases have been listed together so that the Tribunal can consider developments in Iran since FS and Others (Iran – Christian converts) Iran CG [2004] UKIAT 00303. This determination is intended to be read in conjunction with FS Iran and not to replace it. The object of this determination, in addition to determining the appeals of the two appellants, is to give guidance on the events and developments in Iran since FS and Others was decided. It is not suggested that FS is in any way wrong insofar as it considered the position in March 2004. There is a great deal of general background material in FS and Others, such as the identity and nature of the various churches. We do not propose to repeat that. The only way in which any party in this reconsideration sought to contradict the findings in FS was the extent to which the passage of time, and events since 2004, may enable different conclusions to be drawn from events in 2003/2004. This determination considers the evidence as it was in May 2008.
2. Before we started to hear evidence Counsel confirmed that they had no objection to Sir Jeffrey James sitting on the panel, notwithstanding that he had been the United Kingdom's chargé d'affaires in Iran between 1993 and 1997. Similarly, there was no objection to Senior Immigration Judge Waumsley sitting on the panel, notwithstanding that he had declined to order reconsideration in the first appellant's case, reconsideration being subsequently ordered by Keith J. Insofar as Sir Jeffrey James is concerned, the parties did ask him to confirm that if he had any information, or knowledge, that in any way contradicted the evidence which we were to hear, he would declare it at the time in order to enable the point to be dealt with, which he did. The Tribunal discussed the issues (including credibility) and concluded its findings immediately after the hearing finished. The determination was, subject to a final read through to check spelling and syntax, ready for promulgation prior to the respondent's response (in early August) to late evidence submitted by the appellant. The only substantive amendment to the determination thereafter was the addition of section 14, dealing with that late evidence.
3. Because we have written this determination under subject headings, any one witness's evidence may not appear in one place. We therefore summarise, in order of appearance, the oral witnesses that we heard from for ease of reference:-

- i. The appellant M
- ii. EV, a Canadian citizen, originally a citizen of Netherlands, and who claims to be M's current partner.
- iii. The appellant Z.
- iv. Nigel Desborough, formerly the leader of Ichthus Christian Fellowship Community in Forest Hill to whose church Z went from about 2003. Mr Desborough later moved to Forest Hill Community Church. He made reference to some written evidence of Edmund Nichols, the Pastor of the Dunston Family Church which Z later attended, having been dispersed.
- v. EF. A witness with continuing involvement with Christians in Iran.
- vi. Jessie Axtell, the wife of the Reverend Ronald Axtell. They both lived in Iran between 1962 and 1978 and speak Farsi. She gave evidence of contacts with Christians who travel outside the country and, in particular, about two people, X and Y. Although it was never clear why X and Y did not attend to give evidence themselves, their identities were revealed to the respondent prior to the hearing.
- vii. The very Reverend Nicholas Coulton, sub-dean of Christchurch, Oxford, who was formerly Dean of Newcastle.
- viii. Dr Anna Enayat, a recognised expert witness on Iran.
- ix. Mr M M Hedayati-Kakhki, an Iranian Attorney, now a British citizen.
- x. Father Christopher Basdon, a Roman Catholic priest who gave evidence about M and the Roman Catholic Church in Iran.

We were also referred to a great deal of written evidence to which we have referred in the determination. There were substantial bundles of documents and we made it clear to the representatives that we would prepare our determination based on that written evidence to which we were referred, either in submissions or skeleton argument, in addition to the oral evidence.

The asserted factual basis of Z's claim for international protection

4. Z has been attending a number of different evangelical Churches in the United Kingdom, having arrived from Iran on 5 March 2003. He has attended more than one, mainly because the respondent dispersed him. The original basis for his claim was that he had been introduced to Christianity by a student friend of his sister, and would be treated as an apostate. He had developed an interest in Christianity before he left Iran, but claimed that evangelism had only become an important part of his faith after arrival here. In Iran he had attended church about four times and claimed

that the authorities had raided his home and found a bible. He now attends church regularly.

The asserted factual basis of M's claim to international protection

5. M is a convert to Roman Catholicism. He has a degree in Petroleum Engineering, acquired in Iran. He first became interested in Christianity when he met an Indian Christian colleague whilst working in Dubai. As part of his work he came to the United Kingdom to study an English language course, and met a fellow student, a Bolivian who was also a Catholic. He met, through the internet, a British citizen, living in Holland who shared the same religion. She introduced M to Father Basden who trained him for baptism.

Once M had obtained an extension of his leave to enable him to continue with his studies, he returned to Iran, believing his brother needed help with a legal dispute (the family had been monarchists which had caused difficulties in the past, including the confiscation of land). M heard of his brother's problem through a long-standing friend, AN, in whom he had confided his conversion during exchanges of emails. Shortly after arriving in Iran, and without finding his brother, M claims to have been kidnapped, detained and mis-treated for several days. He does not know who his captors were, but claimed to have heard AN's voice. He was released on promising to pay \$1000 and left Iran shortly thereafter and claimed asylum on arriving back in the United Kingdom.

Thereafter he met EV, with whom he lives in Scotland. She is a Canadian citizen, born in the Netherlands, and attends Church of Scotland services. They have been unable to marry because of their respective immigration status. She is a visitor to the United Kingdom.

His conversion has been publicised in the Catholic Herald and he has now been confirmed. He attends church regularly.

SECTION 1

Conclusions in FS

6. The Tribunal's overall conclusions in FS and Others were as follows:-

"186 We now draw those threads together to reach our conclusion in the individual cases. Persecution for Geneva Convention purposes is not confined to acts of individual brutality or imprisonment. Some discrimination, continuing harassment and a climate of incessant fear are constituent parts as well. All Christians suffer from significant legal, social and economic discrimination. All known converts live in a society where those forms of discrimination are reinforced. The legal regime in theory can be very harsh; they can be seen as enemies of the theocratic state, and their lives and well-being can be threatened by the apparatus of the state and the violent attentions of covertly sanctioned religious zealots. There is no state protection. There would be a pervasive climate of fear, varying in degree, from time to time, and place to place.

187. For the ordinary convert, who is neither a leader, lay or ordained, nor a Pastor, nor a proselytiser or evangelist, the actual degree of risk of persecution or treatment breaching Article 3 is not sufficient to warrant the protection of either Convention. The reality is that a social and economic life can be maintained; Christianity can be practised, if necessary, cautiously at times, by Church attendance, association with Christians and Bible study. There may well be monitoring of services and identity checks. They would be able to practise, however, as most Iranian converts do. It is realistic to expect that there may sometimes be questioning, disruption, orders not to attend Church, which may require the convert to stay away for a while. But there is no evidence of a real risk of ill-treatment during such questioning or of anything more than a short period of detention at worst. There is evidence of random or sporadic violence by the likes of the Basiji, but at too infrequent a level to constitute a real risk to the ordinary convert. The longer official questioning, detentions, and the greater risk of charges, trumped up or menacingly vague or simply threatened are not a real risk for the ordinary convert.
188. We would, on the present evidence, regard them as not at a real risk of persecution or treatment breaching Article 3. We allow in that assessment for some recent worsening in the current climate.
189. We would regard the more active convert, Pastor, church leader, proselytiser or evangelist as being at a real risk. Their higher profile and role would be more likely to attract the malevolence of the licensed zealot and the serious adverse attention of the theocratic state when it sought, as it will do on some occasions, to repress conversions from Islam which it sees as a menace and an affront to the state and God.
190. Where an ordinary individual convert has additional risk factors, they too may well be at a real risk. We have already said that we accept that the conversions would become known to the authorities, but that is not of itself an additional factor because it is the very assumption upon which we are assessing risk. These risk factors may not relate to religious views at all. It is the combination which may provoke persecutory attentions where, by itself, the individual conversion would have been allowed to pass without undue hindrance. A woman faces additional serious discrimination in Iran, though it falls short of being persecutory merely on the grounds of gender. But for a single woman, lacking such economic or social protection which a husband or other immediate family or friends might provide, the difficulties she faces as a convert are significantly compounded. Her legal status in any prosecution is much weaker; the risk of ill-treatment in any questioning is increased. This factor tips the overall nature of the treatment and risk into a real risk of persecution. We would regard NS [one of the other appellants in FS and Others] as falling into that category; she is at a real risk of persecution for her religion, or of treatment which breaches Article 3. The role of family as a source of protection should be examined carefully in individual cases. Similar support might also be provided by close friends or colleagues in employment."
7. Prior to coming to those conclusions the Tribunal observed that there was "some force in the characterisation of Iran as unstable and volatile". At the time the President was President Khatami. The Tribunal said that his reformist approach cannot be said to be a change "well embedded for the longer term". The Tribunal noted there had been incidents suggestive of a reversal of the trend, and that the Tribunal had seen evidence that there had been isolated incidents of persecution through the late 1990s. At the date of the decision, there had recently been an openly

held Annual General Meeting of evangelical Churches which resulted in the detention of a number of people. The Tribunal noted that all but ten of the leaders were released the same day, and those who remained in detention were pastors. The Tribunal concluded that there was no evidence of problems for the ordinary congregant, convert or not, "save those which attend the detention of pastors and an ensuing climate of fear and anxiety". The Tribunal did not expressly anticipate a reversal of the reformist trend but clearly, in paragraph 182, recognised the possibility. It said that those who would be at particular risk from any such reverse of change would be those converts with the higher profile, "i.e. either the proselytising convert, the church leader who had converted, and the Protestant or evangelical church leaders or activists, whether converted from Islam or not."

8. The Tribunal expressed some caution over background material emanating from US sources. In so doing it observed that the USA had no diplomatic representation in Iran which had the effect of reducing the number of informed contacts which it could report. It said that made it more reliant on indirect sources, and also noted an element of political hostility which affected the religious sources. The Tribunal had noted that the sources seemed, at times, to differ from the other (non-US) sources.
9. At paragraph 184, the Tribunal accepted that there was no real risk on return for someone who has simply been an asylum seeker. It cautioned against drawing conclusions by reference to the position of those who return merely as failed asylum seekers, when considering what may happen to those returning if the fact of conversion becomes known before or at the point of return. The Tribunal concluded that the evidence did not show that by itself would lead to ill-treatment, but found it could lead to questioning, warnings and the possibility that local police or vigilante groups, family and associates may be told. The Tribunal found that if there was hostility from families that would need to be considered in each case, but generally did not create a risk of persecution, although it acknowledged that it could make life more difficult.
10. In these appeals it is the appellants' case that there has indeed been a reversal of the reformist trend. In 2004 the parliamentary elections gave rise to a conservative majority in the Majlis and in June 2005 Mahmood Ahmadi-Nejad was elected President. At 3.41 of the January 2008 Iran Country of Origin Information Report (COIR) the Center for Contemporary Conflict is reported as saying,

"Many observers described Ahmadi-Nejad's victory as a key turning point for Iran, predicting that it will produce a new era of radical, puritanical rule at home and a greater militancy in Iran's foreign policy".

We do not quote that as the only view and the report went on to predict that there may be political obstacles limiting the President's ability to act. The quotation is there to indicate the possible significance of the change in political leadership since early 2004.

SECTION 2

Events since FS and Others

11. We are only concerned in this determination with the position as it affects ordinary converts because FS and Others decided that those converts who could not be so described would be at real risk. Mr Kovats did not seek to argue that the situation for those who are not ordinary converts had improved. Because the two appellants are arguably "ordinary converts", we propose to set out in this section the evidence that relates to the mistreatment of church members generally. That will assist us to decide whether there has, in reality, been a change in the attitude towards Christians generally and ordinary converts in particular. We will deal later, at Section 6 with the extent to which it is appropriate to refer to "ordinary converts".

(i) The Evidence of Anna Enayat

12. In FS and Others Ms Enayat gave evidence, and was referred to as AB. There were particular reasons, of which the Tribunal is aware, for her request to be referred to anonymously in that determination. She has expressly said that she is now content both to be referred to openly in this determination and for it to be disclosed that she was the "AB" in FS and Others. We have her CV. Ms Enayat is well known as an expert on Iran. She has taught in the past at Tehran University, and we accept that she is appropriately qualified to give expert evidence. Although her report was prepared for the first appellant she indicated that she is content for it to be used in the case of the second appellant also.
13. With regard to incidents concerning the churches and their members Ms Enayat started in her report by warning against what she thought was the underreporting of such incidents. This had been raised by her as a concern in FS and Others (see paragraph 171). Notwithstanding that Tribunal's doubt about the underreporting, Ms Enayat remained of the view that that is the case. She quotes the then Secretary of State for Foreign Affairs in a briefing to the House Of Commons Foreign Affairs Committee, prior to a visit to Iran in October 2003, as saying:-

"Accurate information about the actual treatment of converts or those who seek to convert others is hard to obtain and we do not have a full picture."

Whilst she acknowledged that the arrest or severe ill-treatment of relatively high profile individuals, or mass arrest, would come into the public domain, she did not believe that was the case for ordinary converts. She referred to the arrest of house church members on 21 September 2005 which was not reported until October 2007. She referred to the Reverend Dehquani who gave evidence in FS and Others that the Anglican Church did not monitor how converts were treated. She observed that, at paragraph 149 of FS and Others, there had been a late submission concerning the persecution of an Anglican who had left Iran and whose mistreatment had not been mentioned by the Reverend Dehquani or in any public sources. Finally, she referred to a successful applicant for asylum referred to as SS. He claimed to have had experienced two periods of difficulty, neither of which the Anglican Church knew of, although she conceded that the incidents themselves were not of a major nature.

14. Ms Enayat's report gives the following examples of mistreatment of Christians. Her evidence is all sourced although many of the incidents are referred to only by websites closely associated with churches.
15. She referred to some incidents which date from before FS and Others, but which were not before it. She did so largely by reference to an affidavit by Mr Ghaffari of Iranian Christians International, to which we refer later, but she also added details about a 1994 incident in Kermanshah in which some Kurdish converts were badly beaten. That incident was referred to in a letter, written by Bishop Hovsepian-Mehr (a bishop in the Assembly of God) the day before he was murdered, and recently reproduced in his biography, published in 2004. She summarised by saying that the incidents referred to by Mr Ghaffari, and the bishop, are noteworthy because, with one exception, the people concerned were all ordinary converts and showed that persecution often followed a chance event other than church attendance. Those incidents cover a period from 1994 to March 2004 and number twelve in total.
16. In her report, where she gives her sources, Miss Enayat said in relation to more recent events (in summary):-
 - i. Although an incident in May 2004 was referred to in FS and Others, rather more information is now available. Compass Direct News Agency (an agency which is a regular source of information in relation to Assembly of God news) referred to dozens of believers from two church groups who generally met in secret house church groups, and were former Muslims, being subjected to "physical mistreatment and interrogation methods" for refusing to renounce their faith. All but four had been released by the middle of the month and the rest by the end, although one pastor (a convert to Christianity from the Bahai faith) was detained for six weeks and his wife and two children kept in prison for one week.
 - ii. Another person, described as a Protestant Church leader, was arrested nearby in Nowshahr on 30 May 2004 and detained until 6 July. It seems that none of the people detained appeared in court or had any formal charges pressed against them. They were told to stop evangelising and meeting for worship and "to stop talking about Jesus".
 - iii. On 9 September 2004, the Assembly of God was targeted again when police invaded the Annual General Conference of the Church in Karaj and 80 participants were arrested. Most were released after a day although ten (of which six were pastors) were detained for a further few days. The exception was Hameed Pourmand, who remained incarcerated. It was said that he was the only convert from Islam amongst the pastors detained. Pourmand was a middle ranking naval officer and, although subsequently charged with apostasy and proselytising, it is not clear whether he was acquitted of those charges or they were not proceeded with. He was, however, sentenced to three years for charges of deception. On release he was warned against attending church services. In oral evidence, Miss Enayat was asked about the fact that Pourmand

was a naval officer and a Christian and whether that was surprising. She said that he had been in the navy for a long time. There was some dispute as to whether the authorities knew about his religion. She said there was no bar to a Christian being an officer in the forces although she would have expected that the usual vetting procedures would have precluded him. She thought it was more a question of his not being purged from the Navy, rather than being admitted as a Christian.

- iv. On 22 November 2005 a convert in Gonbad-e Kavous (in the North East of Iran) was murdered by unnamed people. He is named as Ghorban Dordi Tourani (elsewhere as Ghorban Tori), a convert from Sunni Islam. He was said to have been pastoring an independent house church of converted Christians. It is said he was stabbed to death and his body thrown in front of the house. The authorities searched his house and, by the end of the following day, they had also raided the houses of all other known Christian believers in the city. Cross-examined about this, Ms Enayat accepted that he could not be described as "an ordinary convert" since he was clearly an evangeliser. She said that it is not known who killed him. There had been no report of his murder, of any follow-up or investigation; the assumption is that he was killed by vigilantes with or without the support of the security apparatus. She observed that he was a person who was well known in his community. She explained that the law is such that whoever committed the murder would not be subject to prosecution. She justified that assertion by referring to page 59 of her report. There, she said:-

"It is important to note that such murders are often the result of what is known in Islamic jurisprudence as Takfir - namely a declaration that a Muslim has departed into unbelief (become a Kafir). A Takfir usually involves a religious order (Fatwa) that a certain person or group of people are "worthy of death" (madhur al-damm).

Even if a religious order is not issued, Article 226 of the Law of Islamic Punishment grants impunity in cases of murder to those who can prove in a court of law that the victim deserves to be killed. The Article reads as follows:

"Murder (qatl-e nafs) is subject to retaliation (qesas) when the murdered person is not according to Sharia' law one who deserves to be killed. If the person deserves to be killed, the murderer must demonstrate the necessity of killing that person according to Sharia principles in a court of law".

- v. In late November 2005 it was reported that the Ministry of Intelligence and Security ("MOIS" - known in Persian as Ettela'at) had arrested and severely tortured ten Christians in several cities including Tehran. It was also reported that MOIS officials had visited known Christian leaders following Tourani's murder (see (iv) above) and instructed them to warn those taking part in unofficial house fellowships that "the government knows what you are doing, and we will come for you soon".
- vi. On 2 May 2006 in Gorgan, Ali Kaboli, a member of the Assembly of God Church, was placed under arrest and held incommunicado until 12 June when a

large amount of bail was posted. It was said that Kaboli had converted to Christianity before the 1979 revolution and had been a house church leader since the mid-1990s.

- vii. In the second half of 2006, Issa Motamedi Mojdehi a convert member of a house church group was arrested in Rasht and charged with drug trafficking. His wife was treated in the same way. It is reported that he was told that his real offence, and which would appear on his confidential legal file, was of abandoning Islam. He was told that unless he renounced his faith he could remain in jail and face execution. Releasing him on bail, the judge told him that his eight year old daughter had been trying to lead other children to the Christian faith.
- viii. About ten days before Mojdehi was released, police shut down the shop of another believer. Compass Direct reported was told by an Iranian source that depriving people of their livelihood was one way of controlling the situation, because it asphyxiated the church of funds and drove people abroad. The same report referred to five other incidents of harassment and mistreatment of local converts who, it was said, had at least in part fled to larger cities so as to be more inconspicuous. On 19 August 2006, there was reference to leaders of two house fellowships being arrested and held for twenty days before being bailed; and of another who was beaten up in a park and detained for a few days, allegedly for beating his attackers. There was a report of two young women being beaten. One of them was arrested and detained for several days, after which the police telephoned daily and threatened to re-arrest her and her family.
- ix. On 26 September 2006 Razar Montazami and his wife were arrested in Mashhad, and held incommunicado by officials from the Ministry of Information. His wife, Fereshteh Dibaj, is the youngest daughter of the Reverend Dibaj (of the Assembly of God Church) who was executed for apostasy in December 1999. It was said that her husband is a convert to Christianity. They were accused of holding devotional meetings in their home since the local Assembly of God Church closed in 1988. They were released on substantial bail of \$20,000 after his mother signed an undertaking that their apartment would no longer be used for meetings. Apparently, nothing further was heard until April 2008 when Fereshteh Dibaj was prevented from leaving Iran at Tehran Airport when she was hoping to visit friends and relatives in Turkey; notwithstanding the fact they had both travelled abroad several times between their release and that date.
- x. On 26 October 2006 a Christian called Qaneh was arrested in Sanandaj, and held for ten hours.
- xi. On 14 November 2006 there was a report of an evangelical Christian in Isfahan whose home was raided. His wife, recently discharged from hospital, was severely beaten and physically abused in an attempt to learn his whereabouts.

Other relatives and friends were stopped and questioned by the regime to discover his location.

- xii. On 10 December 2006 fourteen converts belonging to a group other than the Assembly of God were arrested in Rasht, Karaj, Enzeli and Tehran. Six were released after 24 hours, and eight remained in custody until about Christmas. It is said that the fourteen were leaders of an indigenous house church movement of approximately 600 people. It was described by Compass Direct as a non-denominational Christian community of "free evangelicals" although regarded by others as somewhat unorthodox, having rejected the Trinity.
- xiii. On 3 January 2007, an Iranian human rights website reported an intensification of MOIS pressure on evangelical churches, including both Assembly of God Churches and unofficial house churches, all over Iran. Christians meeting in Rasht, Tehran and Karaj had been subjected to conditions, namely the submission of a weekly list of all those who attend services, together with an explanation of any decrease or increase in those present. There was also a condition that the members of the church should have no contact with other social groups. That meant they should not make contact with people on the streets, or university campuses, and that they should refuse admission to non-Christian visitors. The report also said that house churches were forbidden from holding religious meetings and that such meetings could only be convened with a permit from the MOIS, and their requests had gone unanswered. It was suggested that the movements and telephones of those arrested in 2005 were under surveillance.
- xiv. On 18 January 2007 there were attempts to arrest the leaders of another evangelical house church in Rasht. The leaders were a married couple who managed to escape, but members of the group were told to refrain from gathering and that, if they did not their leaders would end up "on ward 209 of Evin Prison". In March 2007, church members were summoned and interrogated in groups of four. They were made to sign undertakings that they would have no contact with other members of the church, would not arrange or attend services, and would inform the MOIS of any change of address. It is said that some members were detained for between one and seven days, and subjected to harsh questioning.
- xv. On 27 June 2007, the police raided the house of Fred Safarian (a convert) with a warrant to search for a TV satellite receiver and drugs. On finding a Bible and other materials he was arrested. On 16 July 2007, the Bible class of the Central Assembly of God Church in Tehran was raided by police who declared that an illegal gathering was taking place without a permit. They closed down the meeting. Although it is suggested that three church leaders were arrested after the incident, there is no other information about those arrests.
- xvi. On 15 August 2007 pictures were published, on a website belonging to Farsi Christian News Network (FCNN), of a convert who had been involved in a car accident involving a police car on a street in Tehran. The man was

subsequently lashed. It was said that the officers had inspected his vehicle, found a Bible, accused him of apostasy and, after beating and insulting him, handed him over to the Revolutionary Guard. Thereafter he was detained and beaten for two days, whipped and then released on bail. His identity was not given.

- xvii. On 12 October 2007, FCNN published pictures of a Christian couple who had been flogged by judiciary officials in Karaj. It was said they had been arrested along with the rest of their house church congregation on 21 September 2005 and, having been released on bail, came to trial in June or July 2007. They were charged with attending an illegal church and also an apostasy related offence. The woman was from an ethnic Christian community (Assyrian) but the man a convert from Islam. At trial the judge had ruled that the woman should be viewed as a convert to Islam who had converted back to Christianity and should therefore be treated as an apostate. Having been released on bail pending the decision, the woman was sexually assaulted when she went to report. As a result, she did not report the next time for fear of a repeat but, in September 2007, judiciary officials arrived at their home with the sentence order and flogged them on the spot.
- xviii. FCNN reported a convert belonging to the Pentecostal Church, in the west of Iran, having fled because of increasing pressure from both the authorities and extremist groups. They described the pressure as threats by telephone, and face-to-face insults. He had received a threat from Ansar-e Islam, an extremist Sunni group operating in the Kurdish area on the borders of Iraq and Iran. The group is said to have links to Al Qaeda and, notwithstanding being a Sunni group, to have the support of the Iranian authorities. After he fled, the authorities interrogated friends and relatives, tortured one of his brothers who headed a house church, and intimidated his brother's employer into dismissing him.
- xix. On 5 March 2008 Shahram (Daniel) Bonyadi, being described as one of the most energetic house church leaders in the western areas of Isfahan, was reported to have been forced to leave the country in early 2008, following a campaign by neighbours who were fundamentalist Muslims.
- xx. In her report, Ms Enayat referred to a report that she had personally received on 13 March 2008. This concerned a man called Z whose family thought he led ten to fifteen house churches in South and South East Iran. It is said that he received a lot of attention, described as "persecution and torture", including death threats. He said that the last time he was arrested his entire family were first separated, then put together and taken to a cemetery "to discuss death with the gravedigger". As one of the family was a six year old boy, that was regarded as a very difficult experience for him. As a result the family now live in Northern Cyprus.

(ii) Ebrahim Ghaffari

17. Among the papers was a report from Mr Ghaffari, now a citizen of the United States. The report was in the form of an affidavit, sworn in 2006, in which he described himself as the friend of an Executive Director of Iranian Christians International. This report was not expressly referred to in the course of oral submissions although Miss Weston referred to it as essential reading in her written submissions on the evidence. The statement is a generic document dealing with its author's views about the position of the status of Muslim converts to Christianity in Iran. It is written in what we can only describe as a campaigning style, and does not induce the reader to conclude that there is a great deal of objectivity about it. Ms Enayat included it in the list of documents from which she drew support and, in particular, we have noted the earlier incidents referred to by Mr Ghaffari and which are listed by Ms Enayat at page 48 of her report. The incidents do not add greatly to the material that was before the Tribunal in FS and Others, but do suggest that more people left Iran during the period 1995 to 2000 for reasons which they claim were connected to their conversion to Christianity, than were referred to in FS and Others. Ms Enayat said that she had read his report and it coincides with her views in relation to the material from the 1990s. From the 2000 she said it was not very different. She regarded it as less comprehensive than her own information. She did not agree with Mr Ghaffari's generalisations.

(iii) Mrs Jessie Axtell

18. Mrs Axtell is the wife of the Reverend Ronald Axtell. They lived in Iran between 1962 and 1978 when her husband was a minister in the Anglican (Episcopal) Church. She provided a statement, signed on 30 July 2007, which gives a second-hand account of the experiences of two people (described as X and Y) prior to their leaving Iran. Both X and Y are in the United Kingdom. We were not told why they were not called to give evidence themselves. At least one has been granted refugee status. In her statement, dealing first with Y, she described how he had been summoned twice to the Ettela'at (ie MOIS) offices and interrogated. He was kept by the religious police for several days after being caught giving an audio tape of St. Luke's Gospel to some Qashqais. His wife was also seized. They were released, after signing an undertaking not to evangelise, on the threat of fifteen years imprisonment. They had already planned to leave in January 2006 (intending to come to the United Kingdom for their child to receive medical treatment). Prior to that, they held a Bible party, involving Bible study and worship over the new year period. Shortly before they left, their home was raided and their money, computer and Christian books removed. Y obtained refugee status in the United Kingdom following a successful appeal.
19. X arrived in the United Kingdom from Shiraz in January 2007. In Iran he was an Episcopal Church Council member. He was described as having been a Christian for about sixteen years, but was only baptised nine years ago. His wife and child fled whilst X was detained and she was granted asylum. When X arrived he was granted leave in line with that of his wife. It is said that he was one of the lay readers of the church with Y. He described a CCTV camera

being trained on the church entrance, placed in a building occupied by government employees. He had told Mrs Axtell of one occasion when he was asked about some foreign tourists who had visited the church the day before at a time when there would not normally be anyone around. He said that he was first summoned to Ershad, seven years earlier, because a youth group met in his house. This resulted in his having to report to the authorities at six monthly intervals. He has also been questioned by the Ettela'at. He described regular questioning by both Ershad and Ettela'at. She describes Ershad as part of the security hierarchy, coming between the Basij and the Provincial Council in terms of level of authority. The Ettela'at is an intelligence unit. He said he was taken about six times to a hotel where, on occasions, he was interrogated in an empty room by loudspeaker and microphone. He said he had been asked about the Axtells on occasions, and about a report that had been published in the South China Morning News some time before. He was eventually detained for about 40 days before being brought before a judge and accused of seventeen offences. By the time he was released his wife had fled. In cross-examination Mrs Axtell was asked a number of questions about general conditions in Iran to which we will refer later. [We understand that "Ershad" is the Ministry of Islamic Guidance and Culture with offices around the country. Whilst not strictly part of the security hierarchy it has a role with people, such as writers and artists, and includes in its brief the approval of scripts for publication and performance].

SECTION 3

House Churches and Television evangelism

20. In her report, at paragraph 2.3.7 Ms Enayat dealt with house churches and the related topic of television evangelism. She said that Assembly of God members have been meeting in house churches since the early 1990s and, on a limited scale, so have Anglicans. She said there is evidence that over the last ten years house church groups have been developing independently of the older established churches. She cited one example the Jesus Only group, to which we referred earlier as the unorthodox group which denies the Trinity. She described how Tourani, who was murdered in 2005, had been pastoring in a house church to convert Christians. He had himself converted whilst serving a sentence for manslaughter in Russia. She said that others appear to have founded house churches having been converted through television evangelism. She described Daniel Bonyadi as one of the most energetic house church leaders in Isfahan. He was forced to leave as a result of pressure from fundamentalist Muslims and the MOIS. He claimed that he happened to see a sermon on one of the Farsi language broadcasts and, having studied a Bible which he was able to find, telephoned the number on a TV programme and made his conversion. He is said to have come to Christ by the telephone. Thereafter, he spent his time organising an underground Pentecostalist group, but may also have been in touch with the Assembly of God and Ingili (Presbyterian) pastors in Tehran

21. Ms Enayat referred to three separate television channels beaming programmes to Iran, although she said there are more, mostly US based. Nejat TV is run by a convert and has been broadcasting three days week since May 2003. Mohabat TV is a consortium under the umbrella of the Antioch Ministries broadcasting a variety of programmes, many in Farsi. Sat Seven was launched in Cyprus in December 2006 by a consortium of Middle East Christian organisations and broadcasts for eighteen hours (she did not say in what period). She said the programmes are varied. Some are said to preach a straightforward Iranianised version of US Born Again Christianity. Others, made by the Assembly of God or Presbyterian (Injili) Christians, have an indigenous flavour and produce evangelical and educational material which is culturally appealing to Iranians. Sat Seven has counsellors who can be telephoned from inside Iran. These channels claim a high success rate and a very large following. In her report she said there is room to doubt the optimistic figures given by the channels, saying that they cannot be disproved. She said the Christian Post claimed in 2004, that there had been 50,000 conversions in two years. Elsewhere there are claims to 100,000 converts. The Iranian Christian TV programme, which is seen in prime time throughout Iran, describes itself as the home church for many within closed Muslim countries who avoid the risks of worshipping openly. It also claimed that over 50,000 Iranian Muslims have accepted Christianity through the satellite TV ministry. Its five year objective includes winning ten per cent of the Iranian population to Christ, the figure now being about 1%.

22. She said that there is an accumulation of evidence that a significant minority of ordinary Iranians are searching for an alternative spiritual framework. There is a widespread, if illegal, ownership of satellite dishes. Thus the impact of TV conversion cannot be discounted. In cross-examination, asked how she would describe the impact of television evangelism, she said she was very hesitant to express a view because the information was very slim. The only way to find out would be to do research on the ground, and that is impossible.
23. Saying again that it was difficult to assess the spread of house churches she said that after the 1990s some of the Assembly of God churches which had set up had since had to close down again. Their members were likely to have started attending house churches.

SECTION 4

The Churches, their size and activity

24. That part of Ms Enayat's report which deals with the size of the Christian community starts with a table giving the figures from various official censi from 1976 until 2006. The latest figure given for Christians was 109,415 which equates to 0.155 per cent of the total population. The total population was given as 70,495,782 of which 99.44 per cent were Muslims. She observed that the COIR 2008 gives a figure of 300,000 for the Christian population. But, she noted, that was the rounded figure given for the number of Christians in the 1976 census and which for some reason has never been revised in the COIR. She said that 109,415 is a misleading figure because it is only the figure for recognised religious minorities - unrecognised minorities were not counted. Unrecognised groups include Bahais and Mandeans, and would, obviously, include the secret members of underground churches which is likely to include most if not all converts. There are categories in the 2006 census for other religions (i.e. non-Muslim) and for those who do not state their religion. They amount to 54,234 and 205,317 respectively. It is not known what those figures represent.
25. The recognised religions, Christians, Jews and Zoroastrians have MPs in the Majlis. The Christian MP represents the Assyrians and Chaldeans. Each of those MPs has challenged the figures given for the number of their own religious grouping. In relation to the Jews and Zoroastrians, the official figures were claimed to be half that of the actual numbers. According to the representatives of the two recognised Christian minorities, in 1999 their communities were 190,000, compared with the 79,000 recorded in the 1996 census. It is, however, apparent from Ms Enayat's report that even the representatives' figures are not consistent. Ms Enayat concluded that, since the 1979 revolution, the religious minorities have been reduced considerably by migration, dramatically between 1980 and 1986, and that there had been a smaller, but still substantial, outflow since the 1990s. A UN Special Representative claimed in 2001 that 15,000 to 20,000 Christians leave annually, mostly Armenians and Assyrians going to the United States. Ms Enayat concluded that the numbers of the

Armenian and Assyrian Orthodox and Catholic denominations are approximately as follows:-

Armenian Orthodox (Gregorian) 80,000-100,000

Assyrian Apostolic Church of the East (Nestorian) 8,000 – 12,000

Russian Orthodox, very small numbers

Armenian Catholic (Eastern Catholic Rite), about 500

Assyrian Chaldean Church (Eastern Catholic Rite), 3,000 to 4,000

Roman Catholic (Latin Rite), 2,000 which includes diplomats and other expatriates.

26. As is apparent from FS and Others, there is a clear distinction to be drawn between what are called the ethnic Christian churches, and the Protestant churches. The ethnically based Armenian Gregorian and Assyrian Nestorian churches do not accept new members and nor does the Russian Orthodox Church. The Chaldean Catholic Church, and the small Roman Catholic Church, do not proselytise. Although in principle they would not turn a convert away, In practice they would find it difficult him or her. We are not primarily concerned with those ethnic Christian churches save for the Roman Catholic Church which is of interest because of the second appellant's membership of it.
27. Ms Enayat said that however difficult it is to assess the current membership size of the ethnic Christian churches, it is even more difficult to assess the current membership size of the Protestant churches. She concluded that on the eve of the 1979 revolution there were (not counting expatriates) around 7,000, broken down as to approximately 2,000 Anglicans, 3,000 Presbyterians, 700 Pentecostalists and an unknown, but very small, number of Plymouth Brethren, Seventh Day Adventists and Jehovah's Witnesses.
28. By the early 2000s she describes the figure as having declined precipitously by the early 2000s, with the Anglican Church congregation having fallen to between 60 and 80 and the Presbyterian Church (Injili) to 1,000 including the Armenian, Assyrian and Persian speaking branches. She concludes that the figure, in the early 2000s, would be a total of about 3,000 to 3,500 people. Although that is about half the figure given by Human Rights Watch in 1997, she noted that her calculation does tally with the figures given by Operation World in 2000. Within those figures, she said it is very difficult to estimate the proportion of converts from Islam. The figure given by Iranian Christians International, for the number at the time of the revolution, was no more than 200 to 300. She described that figure as low but said that all the sources she has looked at agree that conversions from Islam were rare before 1979, with a substantial increase, both in Iran and among the diaspora, since that time. She doubts the Iranian Christians International figure of 6,000 new converts between 1980 and 1990, and estimates that the number of new converts will be half that. She referred, in this section of her report, to the large claims made by the television evangelists. She said that the numbers are impossible to determine and considers that, between 2000 and late 2003, with the relatively relaxed government attitude, there may well have been a new wave of conversions, much of it outside the institutional framework of the established churches. Finally, she said the difficulties

in assessing the change in size and composition of church congregations are compounded both by the tendency to maintain a low profile and also by emigration amongst all religious minorities since the revolution.

29. She elaborated, when giving evidence, saying that the Anglican Church lost almost all its expatriates and many of its native members following the revolution and was very small by the mid 1990s. Of the Presbyterian churches, the Persian-speaking congregation, she believes, is about 60 (it only has one church). She had thought that the Anglicans had about 60 in their congregation, but she noticed that EF had said about 100. She thought that, whatever the figure, the majority were probably converts; although some would be converts from Judaism and other minorities, not necessarily from Islam. Of the Presbyterian churches, she thought that all would be converts but from a mixture made up of Jews, Bahais, Zoroastrians and Muslims. Her best estimate for the membership of the Assembly of God Churches was 1,500 to 2,500 now whereas, from two or three sources, it seems there were 2,000 to 3,000 in the early 2000s. She said that her figures excluded the newer house churches. Her Assembly of God figure included house churches that were a consequence of the closures of the Assembly of God Churches, probably amounting to a maximum of 1,000. Summarising, she said she thought that the number of converts in all Protestant Churches, not including the ethnic Christian Churches, is between about 1,000 to 2,000, of which some would not be converts from Islam, and some would be very longstanding converts.
30. Cross-examined by Ms Naik, Ms Enayat said the Latin Rite Catholic Church comprises Roman Catholics as generally understood. She did not know what language was used now, but said that it had been French and English in the past, because of the variety of expatriate congregants. She has seen very little information about how it has functioned since the revolution. She said the church was not aimed only at diplomats in the past but used to run schools and convents before the revolution. She thought the church would have been tolerated in those days because very few Iranians were involved. She did not know whether it would admit converts, and did not think it would have any underground churches as there were so few Iranians involved there would be no need. She knew that because a close friend's father had been the Papal Nuncio before the revolution. She said the Iranians that did attend were mostly Catholic women married to Iranians and their families, or those who had moved from the Chaldean Rite to the Latin Rite.
31. Mr Kovats asked Ms Enayat about the census table on page 8 of her report. She said the figure for Christians would include the Armenian and the Assyrian Protestants. Also, that converts would not, in the eyes of the authorities, be Christians. Asked about lifelong Roman Catholics and Anglicans, she said that second-generation adherents are not regarded as apostates. She thought that all Christians except converts would be included in the figures in the census table. She was reminded that she had said on page 14 of her report that it was almost impossible to estimate the number of Christians who are converts from Islam. She accepted she had said that, but observed that any estimate has to relate to such figures as there are. She was referred to a footnote on page 22 to the effect that "claims by the Assembly of God of 8,000 members in Iran at the end of the 1990s are quite likely to be an aspiration

rather than reality" and asked why it was an aspiration. She said that in 1979 the Assembly of God had seven churches (some without a building) and, by 1990, fifteen pastors. Of those, the church at Gorgar was tiny and by the end of 1996 at least nine of the pastors had gone and many churches closed. She could not see how, in those circumstances, there could be a congregation of 8,000. She did not think that even the largest church had 800 in the congregation. She was asked why the Assembly of God Church did not know how many members it had, and replied that the article she quoted on page 22 paints a picture of far less people and does not anywhere give a total membership figure. She referred to an article by a lecturer at the Assembly of God College in Godalming who is a church historian. That produced a picture in 2007 which showed the largest church would have been about 300. She speculated that outside Iran the church has an interest in exaggerating the numbers because it raises funds in the United States. She said she was not accusing anybody of anything dishonest, observing that was how ethnic minorities tend to talk about themselves and added that, if she had thought that 8,000 was a serious figure, she would have done more than refer to the claim in a footnote. She was asked about the 50,000 conversions referred to by some of the television evangelists and said that if there were any basis for that figure it would be phone calls made to the Antioch Ministries. That ministry takes a corporate form and is an "expatriate Iranian outfit" which claims that people ring them up. She said there was no actual evidence that the 50,000 figure is wrong. She was asked about the aspiration to increase the number of converts from one per cent to ten per cent, and whether the regime in Iran has cause to be concerned. Ms Enayat said the person who made that claim was in the United States but it is always the case that the regime is concerned; things have become worse in his eyes since the inception of satellites and the web. She said the authorities may well be concerned about an increasing number of people trying to convert, which is one of the factors she sees as underlying the renewal of persecution. She said that, ultimately, one can have no idea and, in particular, she had not seen any source which gives an indication of how extensive the development of house churches actually is.

32. Ms Naik asked how big an issue, from the perspective of the Iranian Government, was the fact that the United States Commission on International Religious Freedom has expressed concern about the worsening situation for religious minorities in Iran. She made reference to the Commission's request for \$75 million to support democracy in Iran, including funding for effective ways to promote human rights and the rule of law. Ms Enayat said this was a very large subject although it should first be noted that none of those funds have actually been allocated, notwithstanding the funding of minorities has been going on for years. She cited a US based charity called "The Hebrew Immigration Society", an NGO originally formed to help Jews under threat, but which in the case of Iran has also helped Assyrians, Armenians, Zoroastrians and Bahais to leave and obtain United States visas.
33. EF explained why he said he was in a position to speak authoritatively about the Anglican Church in Iran even though he personally had not been there since 1979. He still has some involvement with the Diocese of Iran. In his evidence, EF referred to the size of the Episcopal/Anglican Church. He said that, historically, the congregation was made up of converts from Islam, Judaism and Zoroastrianism, as

well as expatriates. The church used to have congregations in at least five cities but is now limited to Tehran, Isfahan and Shiraz. He was then asked about numbers and thought the three congregations totalled about 100 regular worshippers. Of those, a number are older and, if they were converts, would have converted before the revolution, although some have converted since. He said the numbers decreased dramatically after the revolution because all the expatriates left, and a significant number of families have also left over the last 28 years. He said that some of those who have become Christians since the revolution have also left because of the problems and pressures they face. He thought that over the last five years the congregation had decreased from about 130 or 140 down to just under 100. He knew that quite a number have taken refuge in Turkey, or obtained asylum elsewhere (in particular in the United States or Australia). Asked by Ms Naik about Catholic Churches he said there were two that will not accept converts, they had split off from the Armenian Orthodox Church and attached themselves to Rome. He was asked whether he knew of the scope for worship by a Catholic convert and said he thought there was an English speaking Catholic Church and, at the time of the revolution there had been a Latin one. He was not aware of a Farsi speaking Catholic Church. He agreed with her that there was little opportunity of spiritual guidance for a Catholic convert in the Farsi language although he thought there may well be an English-speaking priest. He said he did not know one way or the other about Catholic house churches but accepted that, to Anglicans and Roman Catholics alike, the Communion service was fundamental.

34. Father Christopher Basdon, a Roman Catholic priest from St Bede's Church, Clapham Park in London, gave evidence that he worked in Iran some years ago. He has some knowledge of the current situation there. He said that the ethnic churches do not accept converts at all and their only policy is to try to survive. The Latin rite Catholic Church merely comprises churches for foreigners, such as Phillipinos and Koreans, and diplomats. He was not aware that Iranians worshipped there although the children of mixed marriages did before the revolution. He said that an Iranian would be prominent if he entered a Latin Rite Catholic Church which he believes are monitored. He said that, in principle, any Catholic Church is open to anyone but in practice that is a very delicate business. Fundamentalist Muslims like to see who is going in and out. He said that there were services in Farsi prior to the revolution but he did not think that happened now. The languages used are English, other European languages, Tagalog and Korean because the church is really for foreigners. He was asked whether there were any underground Catholic churches and he said there were not. He said most Iranian Catholics had escaped to the west, some having worked with the Educational Apostolate when it was effective up to the revolution. Those people are now effectively in exile.

SECTION 5

General Conditions for Christian Churches

This section deals with the evidence about the experience of the churches and their members other than the specific instances relating to individuals.

- (i) **Miss Enayat's Evidence**

35. Ms Enayat dealt with events subsequent to FS and Others. She also considered that some of the later incidents referred to in FS were, with hindsight, indicative of a new wave of pressure and persecution of converts to Christianity and adherents to other religious groups viewed by the regime as deviant, non-conformist or heretical, in particular Bahais and Sufis. She said that it is because the regime views converts to Christianity in the same light as Bahais and Sufis that events involving those other groups are relevant. As to the pre- FS and Others events, she started with the events involving the Anglican/Episcopalian community and in particular with an event in August 2003. The Diocesan Administrator in Isfahan, lay readers, a preacher and an organist and the Bishop's secretary were all arrested and accused of unlawful propaganda before being released on bail. They were forbidden to attend church and, according to the information which was before the Tribunal in FS and Others, one was badly beaten in and banned from Isfahan. There was a similar event in Shiraz, where the Iranian authorities only allowed regular churchgoers to go into services, with one recent convert being badly beaten before leaving the country. In Tehran, in September 2003, five families were told not to attend the church, others lost their jobs, were warned, questioned or asked to inform (this is referred to in paragraph 149 of FS and Others). The Bishop of Iran, Iradj Mottahedeh, considered the measures were aimed at bringing pressure on the church as a whole. In his farewell address, the Bishop wrote, in early spring 2004, that the authorities seemed to want the downfall of the church and had taken away many of its resources. That made the community appear to think the authorities were ready to celebrate the defeat of the church and could see no other reason behind sanctions which were imposed.
36. In September 2005, an Article about the church of St. Simon the Zealot in Shiraz referred to the church's regular congregation of about 30 appearing to be risking the wrath of the authorities. It said that almost all had converted from Islam. The church's lay leader, himself a former Muslim, was quoted as saying that the authorities enjoyed giving the church a hard time. They monitored on Sundays to see who attended. He said that he was not allowed to work, although it was never expressly said that was because he was a Christian. He said that when he was called into an interrogation by the intelligence services he was told that:
- "The period when people were killed for being a Christian is past, but that I might find myself with two kilos of heroin in my possession, the punishment for that is life imprisonment or death".
37. Ms Enayat said that a new non-Iranian Bishop has been appointed to the Diocese of Isfahan and, although resident outside the country, he has attempted to restore relationships with the Iranian authorities. Although there was apparent progress in the discussions, it was reported in 2007 that none of the promises made had been fulfilled. Speaking of uncertainties the Bishop said, in a message to his congregation, that there was a negative mindset which existed in government circles coming from the inevitable belief that the church is a foreign body serving foreign purposes and interests. Ms Enayat confirmed that the church has a policy of silence which it maintains and that in fact one only learns of violations through private channels. She

had been informed that at least two members of the church, who were converts from Islam, had been threatened and forced to leave the country, one having been kept in solitary confinement for 40 days; the other having escaped before he was arrested (this appears to be X and Y). She also understands that the church is not allowed to admit newcomers to its congregation.

38. Turning to the Assembly of God Church, she said that events from spring 2004 were less well documented in FS and Others, because some relevant reports were not brought to the Tribunal's attention. We have dealt earlier with individual incidents in those parts of the evidence which could have been, but were not, produced to the Tribunal in FS, and we will not repeat that here. Other than the reports of the way individuals had been treated, the only observation Ms Enayat made about the Assembly of God Churches was that, at the end of 2004 and the beginning of 2005, a conservative Iranian website "Baztab" criticised the elders of the Pentecostal Churches for violating normal procedures, by holding services in Farsi on Fridays and Sundays in which Muslims participated. It was said that the Assyrian representative, in the Majlis, had protested about this and that the matter was being investigated by the authorities. Ms Enayat observed that spokespersons for the official ethnic religious minorities have, in the past, been roped in to support state policy. For an account of that she cited an article "Religious Minorities in Iran", Cambridge University Press 2000.
39. Her report suggested that towards the end of 2006 the authorities turned their attention to evangelicals other than the Assembly of God. The evidence in support of that assertion is that contained in our earlier section dealing with individual difficulties.
40. At 3.2 of her report Ms Enayat referred to what she described as "the new cycle of persecution". She referred to the report she prepared for FS and Others where she had made reference to the political and human rights situation fluctuating considerably over the years, with periods of relative relaxation towards one or another of the groups who were at risk from human rights abuses. She quoted Human Rights Watch which, in 2002, had said that the Armenian Christians and some other groups, not including the evangelical Christians or converts, had enjoyed improved conditions over the previous four years under the leadership of President Khatami although then no one knew how long that would last, especially in view of the tenuous nature of President Khatami's hold on power. That in part was due to the recently revived anti-American sentiment. She did not, in that report, elaborate on earlier cycles of pressure because she was focusing on persecution which continued to affect individual converts, in an arbitrary way even during the lulls. She describes three cycles of pressure in her current report. She said the first period began immediately after the 1979 revolution when the Anglican church had been the main target, but began to recede after the outbreak of the Iran/Iraq war from 1982. She said that, from 1989 shortly after that war came to an end, a new cycle of activity was initiated, coming to a head with the murders of Protestant priests in 1994, when the focus was on the Assembly of God. There was then a temporary easing of the situation in 1995 following an international outcry over the murders, and a scheduled visit of a Special Rapporteur on religious intolerance. A new wave of pressure began

in 1996 when Protestant pastors were forced to accede to restrictions on their churches' activities. That continued until 1999, affecting both the Anglican Church and the Assembly of God. She then described a lull which lasted for about four years from 1999 to 2003, until a fourth cycle began in May 2003. That took a turn for the worse after the advent of the Ahmadi-Nejad Government. She said that there have been reports over this later period pointing to a renewal of pressure on members of the Bihai faith, Sufi Orders and other non-approved religious minorities regarded as deviant. She referred to episodes of persecution affecting Bahais from mid-2003 to early 2006, which were set out in the US State Department International Religious Freedom Report and also referred to by Amnesty International. The first six months of 2007 were covered by reports from Bahai International and refer to a widespread and calculated effort by the government to maintain, and gradually intensify, the persecution of Iranian Bahais. The persecution included the destruction of two of the Bahais' most holy sites, and the resumption of short term arrests designed to intimidate the Bahai community.

41. Although she did not give details, she offered a summary of episodes of persecution since 2003 which affects the Nematollahi Gonabadi Sufi Order, the largest of several, active in Iran. From the mid to late 1990s, to early in 2000, they suffered, treatment similar to that involving converts to Christianity but maintained a policy of silence both in Iran and abroad. They had a period of relative calm from between 2000 to mid-2003.
42. Since October 2007 there has been evidence of Bahais in at least 17 towns being detained for interrogation, including a 70-year-old man who was sentenced to 70 lashes for propagating and spreading Bahaism. Bahai graves were destroyed in Natanz, and a few days later a Bahai cemetery in Yazd was bulldozed.
43. In that same period, a Sufi place of worship was destroyed by bulldozers in Borujerd, following sustained harassment and intimidation of the worshippers. Many Sufis were arrested there and similar intimidation has been experienced at a Sufi centre in Karaj since mid-summer 2007.
44. Autumn 2007 saw new pressure on Sunnis, and Shia dissidents from orthodox Shi'ism. In mid-October, there were widespread beatings and arrests of leaders and followers of a popular non-political Sunni faction, in both Kurdish cities and at the School of the Koran which had not previously been persecuted (so far as is known). About the same time, Shia modernists in Tehran who were intending to hold prayers at Eid-e-Fetr to mark the end of Ramadan, were harassed to the extent that their ceremony had to be abandoned. It is thought it was the first time this group had been prevented from holding its own prayer meeting. At the end of October, a mainstream Sunni building in Bojnurd was bulldozed.
45. Gonabadi Sufis and Sunnis were affected in October and November 2007. All this gave rise to protests from an establishment party, known as Mojahedin-e-Enqelab-e-Eslami, who referred to the imposition of an unannounced policy of establishing uniformity/homogeneity by those who hold power and make policy. Ms Enayat concluded that it has not been possible to define what forces or organisations

initiated the cycle in 2003, or why there was a change at that particular time, or how deep the persecution has bitten. However, she did say that the incidents in relation to converts to Christianity make it clear that such incidents are policy driven.

46. She then turned to the possible reasons for the renewal of this form of activity. She regarded it as two fold; namely the perceived increase in conversions, and political changes.
47. As to the perceived increases in the number of conversions, she referred to the concern about the impact of foreign based "born again" Christian radio and television broadcasts to Iran. She mentioned a senior cleric, Hasan Mohammadi, described as an official of the Ministry of Education, who said in a speech to high school students in April 2004 that "unfortunately, on average, every day 50 Iranian girls and boys convert secretly to Christian denominations in our country". Following the Assembly of God arrests in December 2004 (including Pourmand), the authorities pledged to protect the nation's "beloved Shi'ite Islam from all outside forces", saying that Christian activities had got out of control and insisting that the church do something to stop the flood of Christian literature, television and radio programmes targeting Iran.
48. In April 2005, the head of the Qom Seminaries (which Ms Enayat equated to the Vatican bureaucracy) said in a keynote address to a theological conference, that in relation to the house church movement there was credible information that Christians were renting properties in Tehran, and inviting the young to convert. He also referred to a conference attended by major Christian figures where it was said that "the beliefs of Islam must be resisted and that the dangers of Islam are greater than those of Communism". There was further reference to the expansion of the mass media, especially radio, which it was said always speak against the Prophet of Islam and the Quran.
49. Elaborating on the above, the "Deputy Director of Religious Propaganda and Applied Training of the Qom Seminaries" said that Christianity had become extremely active in academic circles. He referred to Christian missionaries establishing house churches in Tehran, and proselytising. He was concerned by the way in which the young were being attracted to Christianity, and said that statistics gave rise to grave concern. He said the religion appealed to youth, because it set no limits.
50. Ms Enayat referred to several other reports, one from an ISNA News Agency (not to be confused with IRNA, which is the official government agency) in September 2003 which spoke of unknown groups distributing CDs about the life of Christ, in the mountains north of Tehran. There was a report, in July 2005, of books and CDs propagating Christianity being distributed in Dezful. In February 2006, there was an article referring to the free distribution of Bibles in some Tehran squares. This practice was said to involve pocket-sized Bibles being distributed among the young on a large-scale. The same report referred to Bibles with translated annotations, printed abroad and distributed free in the border areas, and at a special price in Tehran; and to pamphlets promoting the Christian religion being distributed in

various areas of Tehran, especially poorer areas. It suggested that the pamphlets were being distributed by the United Nations Commissariat along with food aid; and made mention of meetings in Tehran to introduce the theology of Christ; increased activity by churches to promote Christianity and cards, bearing slogans about compassion and forgiveness, distributed to people who were then invited to join the faith; it said a known priest had been advocating the creation of a television network called "Salvation" to promote the Christian religion in Iran. The article suggested that those examples demonstrate a calculated burst of activity designed to recruit people to Christianity.

51. In March 2006, an ultra conservative political news website, Daricheh, reported that the British Embassy had given \$4,000 to a Karaj Church observing that the British Embassy's divisive activities in Iran have intensified. It said there were reports of proselytising. In June 2006, the conservative newspaper, Qods, said that the Assyrian representative in parliament condemned the practice of putting Bibles into people's letterboxes. In October 2006, a website reported well-dressed young people evangelising in a square in Tehran, and offering cut-price Bibles. There was also a report of tins of British made biscuits being sold in a bazaar in Qom and which were said to have contained CDs propagating the Christian faith. In May 2007, an influential Iranian website, Baztab, translated an article from the Christian Post on the success of television evangelism into Persian and observed that:

"Owing to the neglect of some of our cultural officials a new wave of Christian propaganda using soft and hard channels is targeting the cultural values of the Iranian people."

52. As to political change, Ms Enayat started by saying that it cannot be attributed entirely to the election of President Ahmadi-Nejad in August 2005, because the 2003 crackdown had started eighteen months to two years before that. Neither, she considered, was it entirely attributable to the demise of Khatami's reformist administration. She said that, as with many currents in Iran it is necessary to look at the power balance for an explanation. Ms Enayat went into detail about the changes in state structures which occurred in the early 2000s. We do not need to be concerned about the detail of that, save to accept that it is a possible explanation for the change in attitude from the beginning of 2003. Thereafter she went on to say that political developments in Iran since the accession of Mr Ahmadi-Nejad to the presidency in 2005 had produced a far more threatening situation. The new Minister of Islamic Guidance and Culture, Safar Harandi, is said to have long been a vocal warrior in "the battle against cultural onslaught" by which is meant un-Islamic cultural intellectual and religious trends. Men of a similar outlook and background have been appointed to other ministries and as provincial governors. In addition to changes at the top, there has been a purge of civil servants on a scale not seen since the 1979 revolution. The leader of the Expediency Council, Ali Rafsanjani, warned in November 2005, that:

"a current in Iran is trying to banish competent officials and is harming the country like a plague".

Ms Enayat referred to a number of other cabinet appointments from among the ranks of the ultra conservative security elite.

53. She then went on to describe as "a worrying feature" an increasing flood of rhetoric from a number of quarters, including senior clerics, attacking non-conformist religious groups such as evangelical Christians, Sufis, Bahais and Wahhabis. She referred to a number of anti-Sufi and anti-Bahai articles. She also said that the pronouncements were not confined to specific religious groups and that the head of the Guardian Council, one of Iran's most powerful figures and an ultra conservative, Ayatollah Jannati, said:

"Non-Muslim human beings are animals who graze the earth and engage in corruption".

Ms Enayat suggested that not since the early years of the revolution has somebody of such prominence used language of that kind in public.

54. Ms Enayat referred to an allegation, made by Compass Direct in November 2005, that a few days before the murder of Tourani, President Ahmadi-Nejad and the Minister of the Interior had held an open meeting with the nation's Provincial Governors in which he declared that the government needed to "put a stop to the burgeoning movement of house churches across Iran". She also referred to the official of a Catholic charity, specialising in church affairs in areas where the church is persecuted and "close to the Vatican", telling Radio Free Europe that the complete text of his speech showed that Ahmadi-Nejad had requested Provincial Governors to:

"put a stop, in any event, to the activities of Christian groups and particularly those groups which include former Muslims who have converted to Christianity".

Ms Enayat was unable to confirm the statement from any official news agency report because none printed the whole of the speech. She did, however, say that such threatening instructions on the subject of converts was consistent with other positions that the President had publicly taken, the best known being his attitude towards Israel and the Holocaust. She observed that he is at odds with the traditional Muslim outlook, which enjoins respect, though not equality, for religions of the book, when he publicly called Christianity and Judaism deviant religions, saying that the only road to deliverance for mankind is through Islam.

55. Ms Enayat argued that this sort of rhetoric is not to be taken lightly. The principal representative of the Bahai international community to the United Nations suggested that episodes of persecution of Bahais come in the wake of mounting media attacks, which in the past have also preceded government-led assaults on Bahais in Iran. He also suggested that the Tehran daily newspaper, Kayhan, had carried more than 30 articles about Bahais and their religion in recent weeks. All were defamatory and all were intended to create provocation. Similarly, in the case of a Sufi Order, demands by senior figures that its activities be curtailed developed into attacks on Sufi meeting places in January 2006.

56. When she came to give evidence on this aspect of her report, she said the main difference between the present time and earlier was that there are now the smaller house church communities operating independently of the three established Protestant communities. She was not sure whether the current attempts to “contain” the Protestant Churches is as violent as the one in the late 90s, but so far there has only been one murder, although it is not known who carried it out; compared with four or five in 1999. Asked whether "contain" was a deliberate choice of word she said it was, because so far as it was possible to divine a reason for the clampdown it was to curtail the increase in conversions.
57. Cross-examined by Mr Kovats, Ms Enayat was asked the meaning of “evangelise”. She said that the issue of proselytising means that the primary view of the Iranian authorities, as is apparent from statements made to human rights officials in the 1990s, is that anyone is free to change their religion but not to proselytise. She prefers not to use the term proselytise. She said that, so far as the Iranian authorities are concerned, they interpret the printing of Bibles, and the printing of devotional literature, and the distribution of it, as spreading the word. That is what they do not like. She was asked what word would be used in the Iranian language and she said, in general, “tabligh”, which is a general term for propaganda. There is no specific word for religious propaganda. She said that standing on a corner and spreading the word would be “tabligh”, as would giving a Bible to a friend and as would a casual conversation or action attempting to convert somebody. She said that, in general, people had been forbidden to "talk about Jesus". She was asked whether the public statements to the effect that the authorities do not mind if people change their religion spontaneously, but that attempts to persuade are the problem, were a sham. Ms Enayat said that there is an arbitrary pattern and it is impossible to say, but people are persecuted because they have changed. She asked rhetorically how concern about proselytising could not also be a concern about conversion itself. She said there has been deterioration in relations between the UK and Iran, and a marked rise in discourse about Zionist Christianity (the Iranian term for US-based fundamentalism, through the television channels). In one section of her report she suggested that the political situation in Iran, and the geopolitical situation concerning the stand off with the USA and the UK, has made matters worse for converts and in particular the evangelicals. Asked whether, by the geopolitical situation, she meant that in the widest sense, she said that the whole framework of relationships was involved. The Minister of Intelligence and Interior (Mohseni Ejlhei) had been around for a long time and regarded the cultural invasion as the threat. He has made reference to the United States, and sometimes the United Kingdom, as being engaged in fomenting a velvet revolution in Iran. She said that Christians are regarded in a similar way, intellectually.
58. It was put to her that a great majority of the people who experienced difficulties as Christians are either leaders or active proselytisers. Ms Enayat said it was not fair to say that in terms of the numbers. She referred to where she had summarised the position in her report. She said, if you go over the detail, it is obvious that short term arrests of ordinary converts, whilst not massive in number, are not rare either. She said it was quite common for people to be badly beaten in short term detention,

because there was little or no judicial oversight. Mr Kovats suggested that she had not given any examples of people being beaten in short term detention, but she referred him to page 27 of her report where she said there is reference to the dozens of people suffering in that way. She said there were other examples on pages 46, 47 and 48 and, if the victims had been leaders, she felt sure that would have been specified.

59. Ms Enayat was asked about the new, non-Iranian Anglican Bishop resident outside the country who has been appointed to the Diocese of Isfahan and the fact that he is in a dialogue with the Iranian authorities. She said that this has always been the case, the churches have always had such discussions. Mrs Axtell had said as much. She said it was instructive to note that, during the mid-90s when there was discussion between an Iranian Foreign Office official and a United Nations official about the poor situation amongst the churches, the Iranian Government line was that they were not dealing with religions but with political groups. They thought that being a member of a political group, and being a member of a church, is much the same. Asked about the statement to the school audience by the official of the Ministry of Education (ante paragraph 47), that there were 50 conversions a day, and whether there was any reason to doubt that was the genuine belief of the authorities, Ms Enayat said it was an Iranian way of speaking, using exaggeration and hyperbole to make a point. She said it was a cultural matter and no one would take what was said literally, but it conveyed the idea that there were too many. Asked whether there was any doubt that the speaker thought there were too many, she said there was not. He definitely believed that and there was a campaign to do something about it. She had no idea whether Christianity had become active in academic circles as was also asserted by the authorities. Asked about missionaries establishing house churches, she said that it was impossible to know what was going on, unless a group became troubled and its existence came into the public domain. Mostly the house churches are secret, as indicated by the Foreign and Commonwealth Office letters, but Ms Enayat accepted that it seemed likely that there had been an unknown expansion of house groups during the early 2000s. She was then asked about the distribution of CDs and Bibles. In her view, the reports were a mixture of what actually happens, and an exaggeration of what happens. She very much doubted that the British Embassy had given a \$4,000 donation to a church.
60. She was then asked about the "flood of rhetoric", and whether she accepted that a change in relation to that did not necessarily entail a change in activity on the ground. Ms Enayat said it was necessary to be very careful about that issue. She accepted there was no one-to-one immediate connection, but in her opinion it has been the case that the rhetoric, and subsequent activity experienced on the ground, go together. She said that, in the 1990s, there had been a much more closed atmosphere and the rhetoric was more subdued. Now, the type of reaction from newspapers, such as Kayhan (the edition published in Tehran), is concerning because that paper is the bastion of the ultra right and has connections to the security forces. She said there is a recognisable pattern of Kayhan instigating change which comes later as a result. For example, when Ayatollah Henmadani was released from prison in the 90s the newspaper agitated for his elimination as an apostate, and that came to pass.

61. Ms Enayat said her report was neither a comprehensive, nor exhaustive, description of incidents of religious persecution in recent years. Even subject to the caveat that it is not possible to know what else is going on, she thought it was important to contextualise what was happening. She said that she has, to the largest possible extent, kept to what is available in the public domain, although she has used some private sources. Hers was not empirical research. She said she has not used every report that has come into the public domain; if she was uncertain she kept it out. She also wanted to ensure that it is appreciated that this is a field where not everything comes into the public domain. She accepted some converts manage to go to church and not face persecution for quite long periods. She accepted that she had not said that there are some who have not been persecuted. She was asked about her statement:-

"Whilst it is clear that the principal focus of state measures to curb the activities of the Protestant/evangelical Churches has been their clergy and lay leaders coupled with intimidatory measures designed to enforce restrictions on worship, evangelising and conversion the authorities have also, from time to time, arrested the whole or part of evangelical congregations. "

She was asked whether that was a conclusion and said it was not. She said that in the 90s, and in her view in 2003 and 2008, it was possible to see concerted attempts to contain, limit and put pressure on proselytising Protestant communities.

62. Asked how many people had been charged with offences since 2003, she accepted it was only one, but added that the charge is not the principal method of persecution. That one person was Pourmand and he was acquitted, but he was nevertheless persecuted for the fact of his activities. Asked in what way he had been persecuted, she said that he had been kept in solitary confinement for five months, denied access to a lawyer until his trial and charged with offences like espionage and membership of a political group, and that his trial had been in camera. She regarded that as persecution. She did not know if he had been physically mistreated. Asked whether he had claimed to be mistreated, she said he had not said anything about it either way.

63. She was taken to an article in the South China Post, in September 2005, about the Church of St. Simon the Zealot. The lay leader, a former Muslim, was quoted as saying that the numbers asking to join the church is increasing. He said many were former observant Muslims who had begun to question Islam, and others were secular people who have experienced a spiritual awakening. The article also said that there were yet more who are turned away who only want to become Christians in order to help them seek political asylum. Mr Kovats asked whether this indicated that it was fair to say that by no means all were turned away. Ms Enayat said the interview had been in 2005 when it was said that about 30 members had been allowed in, although it is clear from later reports the numbers have declined, some having fled abroad, including him.

64. Finally, in cross-examination, Ms Enayat said again that she thought that the American websites were exaggerating. When it was put to her that the Christian Persecution Watch Group said that there had been a remarkable increase in converts, she observed that had been their line for the last four or five years. She did not disagree that there had been an increase in conversions, but did dispute the figures quoted by the US-based evangelical Churches.
65. In re-examination, she was asked by Ms Weston about the link she perceived between incidents on the grounds and earlier public pronouncements. Ms Enayat said, when someone like Ayatollah Jannati made his now famous declaration, (paragraph 53 ante) that was "no joke". He is the head of the Council of Guardians, the second most important institution after the Supreme Leader. He is also the spiritual leader of Ansar-e-Hezbollah (the Helpers of God) - religious vigilantes. When he makes such a statement, it sends out clear signals and those signals are read. It is part of the culture of Shi'ism that such signals are sent and read and, although the consequences do not happen immediately, the atmosphere is deeply affected. Nothing has been said in such extreme terms since the early 1980s. She observed that Khomeini used to use a lot of anti-minority rhetoric, but the moment it became clear in 1983/5 that the Islamists had won the battle for control of the nation, he put a stop to it. She saw a resurgence of the use of agitation rhetoric by certain parts of the religious establishment. It did not happen in Khatami's time, until the MOIS was partially dismantled. She cited what became known as the "chain murders" when an obscure Hezbollah paper had carried a copy of a fatwa authorising the detention of the victims.
66. Asked about her report in general terms, she said that her instructions had been to produce evidence in relation to persecution. The report was not intended to be a situation analysis, but that when the analysis is considered, especially with what she has said about Sufis and Bahais, and the crackdown on Sunnis and some Orthodox Shias, the patterns which emerge suggest the correctness of her conclusions to the extent she made them. Her evidence was not intended to be empirical.
67. In answer to a question from the Tribunal, she said that there had been no more outbursts on the scale of the Jannati one, save perhaps for the Ahmadi-Nejad observations about Christianity and Judaism despite their being religions of the book. Generally, she was aware of other incidents that were not included in the report. They were not put in there because it is often difficult to get people with links to the churches to testify, and she has a policy of being discreet as much to members of the Assembly of God Church, as with the Anglicans. She said that over the last two to three years she has heard of six or seven other cases, some of which go back to the 80s and 90s, but which culminate in the more recent period.
68. Asked whether the authority's real fear was of conversions or western influence, she said that she thought there were two dimensions. There had been hope in the early 2000s of democracy and a move to greater pluralism and tolerance, but now there is a return to a type of politics which wants to homogenise. There is no toleration of outside groups which may have independent social bases. She said this also results in an extreme and irrational sensitivity in relation to NGOs. She said this is in some

ways best expressed by the public reaction of reformist groupings to the destruction of the Sunni mosques when Mohsen Armin, the spokesman for a group of Shia modernists, said:-

"The repetition and continuity of these parallel events prevents us from concluding that they are isolated incidents with no connection to one another. ... These incidents speak of the imposition of an unannounced policy of establishing a formative homogeneity, by those who hold power and make policies affecting not only the political, social and cultural roles but also the realm of religion and beliefs".

(ii) Evidence of EF

69. In his report, EF did not deal with recent difficulties in any detail, although he said that he was aware of one convert who had worked with the Anglican/Episcopal church until 2005 and who was exiled from his city, having been charged with evangelism. He had been accused of sharing his faith with Muslim enquirers although he denied that, saying he did not initiate the discussions but only responded to questions and provided literature. In 2006, his house was raided, his computer and passport confiscated and he fled abroad. EF said that he knew converts and families had been threatened to stay away from church, although it was unclear where the threats came from, given the overlapping power groups in Iran. He said that regular church members were warned not to allow any newcomers to attend services, and the gates of church compounds are often watched to see who is entering. The churches had been threatened with closure if they allowed Muslims to come onto their compounds. He last heard of such a threat in May 2007. Giving evidence, EF said he was not in direct contact with Iran but was in touch with church members when they visit the UK. He had also met with members of the diocese who had taken refuge in Turkey. Asked whether he had sufficient information from his interlocutors to take a view about what had occurred in the last five years, he said his impression was that life for Christians is becoming harder, and had started to become so before 2004. He said that there were references to arrests in FS and Others, but it should be appreciated that the effects of an arrest ripple through the small communities. He was aware of three converts who have fled to either Turkey or Northern Cyprus. One went back but was banished from Isfahan, his passport was taken and he had to pay to get himself back to Turkey. He had heard one report of a second young Iranian, who had spoken to the Anglican Chaplain in Ankara, having been deported by the Iranian authorities following imprisonment and torture. This report reached him as recently as 14 May by e-mail. Another left Iran in February 2008 and remained in Northern Cyprus. He said two of the three were converts from Islam as long ago as the 1980s.
70. EF said he also gets some information about the Assembly of God Churches from those who are in the UK. He was last in touch with somebody in January. Asked the tenor of the information that he had, he said it was a mixture. People tended to talk of the spread of house churches, but also of the chilling effects of the arrest of their leaders. He made reference to the arrest of 80 people at an annual meeting and observed that that incident had suppressed them. Summarising, at the end of his statement, he said that the experience of the last two decades has contributed to a

mood of anxiety among the churches in Iran, and that it “requires courage to be an open Christian and it is extremely difficult, if not impossible, to be a private one.” He said that a number of activities which would be normal for Christians in a western country would be considered highly risky for new converts and he listed:-

- Attending church and associating with church members generally;
- Baptism as an outward sign of conversion and Christian commitment;
- outward signs of devotion, e.g. wearing a crucifix or cross or other symbol of Christianity;
- Bible study, including possession of a Bible;
- promotion or public approval of Christian values or beliefs.

He was asked why he said the risks were for new converts. He said that those who converted fifteen or twenty years ago have a track record, and therefore a degree of acceptance. With somebody new, church attendance would single them out, because attendance can be monitored at the gates. When there are only twenty or 30 people in a congregation they stand out. He also said that leaders are supposed to report attendance to the authorities on a monthly basis and from time to time agents may attend to see who is present at the church. He said the adverse attention, which the issues in his bullet points attract, range from telephone calls telling people not to go to church, to personal visits with threats, to possible detention for questioning and threats to employment. He had not received any direct information about people who had not stopped when told. He said one of the consequences of all this is suspicion, and small churches are reluctant to receive newcomers for fear of consequences to themselves. He said some of the bolder members of the congregation will keep in touch with potential enquirers. Asked about baptism, and whether adverse attention arose as a consequence, he said that in the Anglican Church only children of present members are said to be baptised, although over the years he thinks that others have been baptised secretly. He said that for a Muslim convert being baptised is a crossing of the Rubicon.

71. He was asked whether he had any view as to what contact the Iranian authorities would consider to amount to disseminating religion. He said the sense he gets is that it depends on the local context in a particular town or area, and on the attitude of the convert's family, employer or work colleagues and, more particularly, the attitude of the head of whatever the local power group was. He said it was hard to see national policy, beyond the chilling effect of public pronouncements. He said that when church leaders in Shiraz were arrested in 2003 there was a protest to the President, who asked for action to be taken for a just solution, but nothing happened at the local level. He said that local factors seem to be arbitrary and depended in part on what forces were at work at any particular time, which makes it difficult to predict who may fall foul of the authorities. To some extent it may depend on the attitude of the local mullah.
72. Asked to assess the relative risks between the present, and four or five years ago, he said that in his assessment the risks had increased. The evidence for that is the numbers who have fled, particularly to Turkey, among which were a number from Anglican Churches. The other evidence was the general tone of official

announcements and in particular the new draft law on apostasy. He said the proliferation of home churches was an unknown quantity. The only information he had concerned the arrest of ten leaders, and the murder of one leader of a house church in Northern Iran. But, he did not see how it was possible to get any idea of the true scale of house churches. He said that before 2003 people from different towns would approach the Bishop asking for Christian teaching, but that is no longer the case. He thought that it was the authorities' caution about unregistered groups which caused the difficulty with home churches.

73. Cross-examined by Mr Kovats, EF said that he had not mentioned in his statement the fact it was harder under the current regime, because he had not realised how the Tribunal was going to be focused on evidence since FS and Others. As a result he had not made any attempt to compare. He felt that a person who converted outside Iran, and returned, would not be at any lesser risk than a convert in Iran. He said that was simply because they would also be new to the church, and therefore at the same risk. Socially, much would depend on the attitude of the family. He thought it would be easier for a new convert to attend the Assembly of God Church in Tehran because it is quite a lot larger than the others.
74. Asked how the tone of official announcements related to actual practice on the ground, EF said it was the climate that was generated, and the general level of anxiety that Christians experience, that caused concern. He accepted he did not have any evidence to show that announcements actually give rise to action and said it is often difficult to make a connection. He said that, of the Anglicans who had fled to Turkey, there had been about twelve to twenty over the last five years, and the residual congregation of the Anglican Church now is about 100. It was therefore a significant number, when taken as a proportion. When it was put to him that there may be any number of reasons for people leaving Iran to go to Turkey, EF said he could only judge by the people he met and what they said about the pressure on them as Christians. He said that large numbers left in the short period after the revolution. That had been something of an exodus, and now there seemed to be a similar amount of pressure. He accepted that it was difficult to evaluate whether the situation is better or worse now, because there are no figures for the earlier periods. Asked the extent to which it was the coming to power of Ahmadi-Nejad that had increased the pressure, he said that the President contributes to the chilling of the climate towards those who are not Muslims, and hence gives a greater licence to those operating locally. The war with Iraq does not help, and nor does the attitude of the Iranian Government to the United Kingdom Government, as illustrated by the fact that the Anglican Church is known as the English Church. Christians with an Anglican background are having to deal with that. In re-examination, he said that, as far as he knew, those who fled to Turkey were just ordinary church members.
75. At the end of his evidence EF was asked whether evangelising was no longer a priority for the Anglican Church in Iran in view of their numbers and the way they felt. He said that was the case. He later submitted a note, having had further thoughts about that after leaving court. He was recalled the next day because he wished to elaborate and Mr Kovats did not accept the contents of the note. EF then said that evangelising is limited, but goes on through personal conversations, and

generally through what happens in church services. It was put to him by Mr Kovats that his note had said the church did not engage in evangelising. He said that he meant it did not hold special services for those who are not Anglicans, nor did it undertake the distribution of literature. But, he did not want to give the impression that there was no personal witnessing. Asked to what extent Anglicans actively set out to convert or initiate conversion, he said some will initiate to people they know well, but that would be to people they could trust and who they would be sure were not agents. For example, this might include regular attendees from a different background.

Evidence of Mrs Axtell

76. In her statement Mrs Axtell did not deal with general conditions save to say that X believed that the Iranian authorities are not keen to have Christians leaving the country because it does nothing for Iran's reputation. Rather, they would prefer to control those who are Christians, and prevent Muslims becoming Christians.
77. In the course of her oral evidence she explained that she got her information not just from X and Y. She is also in touch with a lady who is the American wife of an Iranian, who goes in and out of Iran, but is not a Christian. She is also in communication with two daughters of an English woman who had been married to an Iranian and who lives in Shiraz. One daughter is a Christian, the other is interested in Christianity. She said that both X and Y had told her that things were getting more difficult rather than less even during the time that they were there. She believed that the Iranian authorities believe all Christians are connected with the west.
78. Although Mrs Axtell purported to give some evidence about the current conditions, it is not evidence to which we give any significant weight. She accepted immediately on cross-examination that she is not an expert, and was merely passing on information that she had heard from others. She accepted that none of the people to whom she spoke were in Iran when she did speak to them, and that much of the information is from people who have arrived in the United Kingdom. She was not able to speak of any Christian in Iran who has not had problems. She said she had spent sixteen years in Iran, and as a result had some opportunity of gaining an understanding of the Iranian attitudes towards Christians. She said that when she was there the attitude was bad, but she had the impression that it was worse now. She said that Iranian families are very close, and very extended. Even in the Shah's day, people who converted could be ostracised by their family but that ostracism now extended into the public sphere. She did not think that would have happened under the Shah.

SECTION 6

Ordinary Converts

79. The evidence in this section covers two different areas of concern. The first deals with the question of whether it is appropriate to look for the differential treatment of ordinary converts, as envisaged in FS and Others. The second is whether there is, in reality, a distinction between ordinary converts and others.
80. As to the first, Ms Enayat, in her report, referred to the arrest and temporary detention of clergy and lay leaders/administrators in the period 2003 to 2007. In particular she referred to the Anglican Church in Isfahan in August 2003, the Assembly of God in May 2004, September 2004, May 2006 and September 2006 and independent house churches on 10 December 2007 and 18 January 2007. She said

that the reports of the incidents suggested that most churches have again been forbidden to admit Muslims to their premises, forbidden to proselytise, required to not admit new members and in the case of some house churches, forbidden to hold prayer meetings altogether. However, she went on to say that whilst it is clear that the principal focus of the state measures to curb the activities of the churches has been the lay clergy and lay leaders, the authorities have also "from time to time, arrested the whole or part of evangelical congregations". She referred, in particular, to an Iranian Christian International Report of four short-term group arrests of members of Assembly of God congregations in the second half of the 1990s and said that there had been two incidents since 2003. The first was the arrest, and short-term detention for up to three weeks, of two church groups in the Chalous area of Mazandaran in May 2004. She said those arrested were involved in beatings and heavy interrogation methods, which she described as a common feature of detention in Iran. She referred to the arrest of the whole of a house church group on 21 September 2005, and referred to members of an independent house church being interrogated in groups of four in early March 2007. Having said that, she acknowledged that:

"It is clear that there are ordinary converts, perhaps many ordinary converts, who apart from suffering sanctions such as the loss of their job and the uncertainties created by cases of more severe intimidation they hear of, there is evidence that an ordinary convert can suffer persecution or harassment amounting to persecution even if they are not committed and active proselytisers". (sic)

81. In referring to cases of individuals, she referred firstly to the murder of Tourani in November 2005. Compass Direct, reporting on that, said that by the end of the following day secret police had raided the houses of all other known Christian believers in the city and that, according to one other source, the MOIS arrested and severely tortured ten other Christians in several cities including Tehran, although all had since been released. She referred to the arrest, on false drug charges, of Mojdehi. This was reported by Compass Direct where he was not described as a leader, but as a member of a local house group together with his wife. The same report recorded at least five other incidents of police harassing and mistreating local converts. She also referred to the reports of the treatment of the man arrested following a car accident in August 2007; and in October 2007 of a Assyrian woman and her convert husband. She then referred to Mr Ghaffari's affidavit, saying that some of the information provided was before the Tribunal in FS and Others. She referred to eleven other cases, which she listed as having occurred prior to March 2000, which appeared to be the mistreatment of non-leaders. The dates covered by the eleven range from January 1998 to March 2000 although those dates are the dates when the individuals left Iran, rather than the incident or incidents which gave rise to that. She made two observations about that evidence. First, that the type of incidents reported in relation to ordinary converts are within the category least likely to reach the public domain and therefore likely to be subject to under reporting. Second, that mistreatment often followed a chance event other than attendance at church but which brought the convert to the attention of the authorities. A prime example of this was the man who was mistreated following a collision with a police car. Ms Enayat did not say a great deal in oral evidence about this aspect of the case, save that it was difficult to

categorise who will be at risk, and agreeing with the FCO letters that those at risk are at risk on an arbitrary and unpredictable basis.

82. In relation to the question of whether there is such a thing as an ordinary convert we heard evidence from the Very Revd. Nicholas Coulton, the sub-Dean of Christchurch Oxford. He, together with a small ecumenical group, is authorised by the Churches' Legislation Advisory Service, to handle asylum issues in relation to both the Home Office and the Ministry of Justice. He first became involved with the Home Office as Dean of Newcastle where he had been responsible for pastoring a group of Iranians who worshipped there. He had become aware that much of what he heard, both about the way in which asylum seekers are questioned about their Christianity, and the way in which Immigration Judges come to their conclusions about the genuineness of conversions, did not square with his understanding of Christianity. He gave as an example the following quotation from a determination:-

"I do not consider a mainstream Church of England adherent is required to proselytise Christianity in the sense of seeking to convert others."

He had heard statements that Methodists were not evangelical. He described the Jesmond Church in Newcastle as being one of the most extreme members of the reform group of evangelical Churches, and it is an Anglican Church. Another phrase which had caused him concern, in a determination, was that an appellant was "not in danger if sent back as he is not a member of an evangelical Church". The church in question was Derby Cathedral.

83. It became clear during the course of his evidence that, in his view, the words "proselytise" and "evangelical" are misunderstood, or at least misused, in many cases. He said there is also confusion between the words evangelical and evangelistic. The Adjudicator in one appeal quoted the appellant's vicar as saying that his church was "not evangelical as such". Canon Coulton said that was true, because the particular church was Anglo-Catholic in its character and convictions and the word evangelical describes a particular swathe of churchmanship within the Church of England. The appropriate question to have asked was whether the applicant's church was evangelistic, and the vicar had given evidence that it was. He told us that the distinction between proselytising and evangelising was blurred. He said that the word "proselytising" can be used pejoratively but then so can "evangelising". He thought the one area of difference is that proselytising could be said to apply to those who feel driven to give a courageous account of the faith that is in them. The words of the Anglican covenant are that it "equips God's people to be courageous witnesses to the power of the gospel in the world". Evangelising simply means spreading the gospel.
84. Canon Coulton was asked to describe the sort of scale of activity that the church would encourage under that rubric. He said that, in the last analysis, it is without limit and people should preach to the ends of the earth. However, within that there is scope for an assessment of the appropriateness and effectiveness of any particular situation, although there is a Christian history of people who have borne witness to the point of martyrdom. On a more practical level, he said that the majority would

be prepared to move outside their comfort zone. Asked about denying one's religion, he said that it is wrong to deny Christian faith, although doing so would not prevent a person from being a practising Christian because Christianity includes forgiveness.

85. He was asked about the core elements of Christian faith and he quoted the five marks of mission which, he said, together describe what it is to be a practising Christian. They are:-
- i. to proclaim the good news;
 - ii. to teach, baptise and nurture new believers;
 - iii. to respond to human need by loving service;
 - iv. to seek to transform unjust structures of society; and
 - v. to strive to safeguard the integrity of creation and to sustain and renew the life of the earth.

He said that following any one of those marks could draw attention to a Christian. Asked where attending church fits into the life of a Christian, he said that whilst the above missions are what Christians are called to share, it is worship that enables people to grow up together. "Christian faith cannot be done secretly in a back garden or on your own." Worship provides important elements of support, is one of the obligations, and is essential as part of the formation of a Christian. He said that Christianity is not a religion of the book in the same sense as Islam, but requires Christians to be together in the body of Christ, and the word of Christ is the living word. He said that if one is denied being able to come together, by reason of safety, that would be a serious handicap and impoverishment of one's religion. He did not say that all those that had gone through baptism and confirmation would be at risk, what he did say was that those who are committed regular churchgoers would feel called to give an account of the faith that is in them, and to create opportunities to do so. Bearing witness was not, in his view, an add-on to the religion but part of it. Perhaps importantly, he said that those who are first generation Christians are more likely to feel acutely the obligation to do so, and that is at least in part because they have chosen the religion rather than being born into it.

86. He said that whilst most branches of the church have the requirement to worship God, and to come together in church, for those who are sacramentally instructed in Anglican and Roman Catholic Churches the weekly reception of the sacrament is important. But in the less sacramental churches the getting together to hear the word of the scriptures is still underlined as a priority.
87. In his statement he said that in many determinations it can be seen that immigration judges make the incorrect assumption that the Church of England is not evangelistic or proselytising in its nature. The church is contrasted with American style tele-

evangelism but, he said, the Church of England does seek to persuade people of the truth of Christian faith, although it does so less ostentatiously.

88. Canon Coulton also said that many determinations seem to suggest that conversion is an instantaneous event, whereas in reality the majority of people take steps towards the commitment often over a period of up to four years. It is not something that can be forced, and Tribunals are wrong to seek evidence that people have been converted as a result of a claimant's evangelism. He argued that this is a false test and many Christians will seek to persuade others of the truth of Christianity unsuccessfully. That does not mean they are not evangelistic, only that they have not been successful. It was the attempt to persuade, i.e. the proselytising, which is found to be offensive in Iran, not whether it is successful.

89. At the Lambeth Conference in 1998, when the marks of mission were discussed, it was said that the first: "proclaiming the good news of the Kingdom of God" was "the key statement about everything we do in mission". The conference also said that this statement affirmed that Anglicans are those that gather in worship to be people of mission, and that the Mission of God into which all Anglicans are called is one of transformation – transforming individual lives, transforming communities and transforming the world. Canon Coulton and his small group had been sufficiently concerned about the way in which the genuineness of conversion to Christianity has been tested in the past. He made a number of points of general application. We include some, as they are sound guidance of general application. He said that the culture of being a Christian varies considerably from one country to another and, as a result, aspects of Christianity that appear important in one place, or branch of Christianity, may not elsewhere. Discussing what becoming a Christian involves, he said that can vary between countries. It is not always 'safe' to undertake outward sacramental forms such as baptism or confirmation, despite a person having reached the appropriate conviction in his or her heart. He reminded us that, in some branches of the church, lay members do not receive wine at Holy Communion, and in others rarely receive the Communion at all. It is not always safe to attend church to receive the sacraments and in other branches receiving the word in the form of Bible reading, singing hymns and prayers is more common than Communion. Not all churches accord the same significance to the Bible (both Old and New Testaments) and church traditions play varying parts in different churches. He cautioned against using knowledge of any particular part of the Bible as a test for whether someone has genuinely become a Christian, saying also that in the United Kingdom it is thought that takes up to four years to effect the change to accept the faith but that the change may have occurred before any outward commitment is taken. For example, he said asking a Catholic about speaking in tongues, or a Pentecostalist about the Seven Sacraments, is unlikely to be informative. It is also the case that some concepts, such as the Trinity, or Epiphany, do not readily translate into languages used in countries with a mostly non-Christian population. Nothing that Canon Coulton said should come as a surprise to Immigration Judges, who have been regularly cautioned by the higher courts not to make assumptions based on limited personal, or local, knowledge and experience.

SECTION 7

Apostasy

90. The evidence in this section deals with the proposed change to the Iranian law on apostasy and to the significance of that change. At page 53 of her report Ms Enayat said that formal charges of apostasy have been used infrequently against converts to Christianity. Ms Enayat approved the definition of the crime of apostasy which is contained in the COIR (now at 19.21 in the January 2008 Report) but she did not consider that the COIR sufficiently emphasised that Ertedad (apostasy) is a turning away from, or annunciation of, Islam and does not require the formal adoption of another religion. She also, in her report, drew attention to the distinction between those who are born Muslims and leave their religion, and those who convert to Islam and then reconvert. In the former case, the penalty is for a man to be executed and a woman imprisoned for life, but she may be released if she repents. That form of apostasy is innate apostasy. The latter category, parental apostates, are to be executed upon refusal to repent.
91. At present, the offence of apostasy is not included in the Iranian Criminal Code although it is still possible to bring a charge of apostasy by virtue of Article 167 of the Iranian Constitution. That provides that, where there is no codified law:-

"In the case of the absence of any such law [the judge] has to deliver his judgment on the basis of authoritative Islamic sources and authentic fatwa. On the pretext of the silence of or deficiency of law in the matter, or its brevity or contradictory nature, he cannot refrain from admitting and examining cases and delivering his judgment."

Miss Enayat said that, although Islamic judges are in theory free to select a source of law which they regard as authoritative, in practice they are recommended to follow a multi-volume work by Khomeini. It is also possible to deal with apostasy by charging sacrilege under Article 513 of the Law of Islamic Punishment.

92. The Majles (Parliament) is currently involved in revising the first four books of the Law of Islamic Punishment. Book two concerns a category of offence known as "the Hadd" which are offences against the divine order, whose punishment is fixed and cannot be modified by the judge. Hadd offences were first codified in 1982 but did not include apostasy. Miss Enayat says that the codification is significant for a number of reasons:-
- i. At present, the question of the application of the law is theoretically left to the conscience of the judge and his interpretation of the Sharia. That there is scope for interpretation is illustrated by one line of thinking in Shia jurisprudence that believes that apostasy is a matter for the day of judgment. When the law is codified, the court will have no options at its disposal if a case of apostasy is brought and the accused refuses to recant.
 - ii. The proposed draft specifies the methods by which apostasy may be proved, and that includes circumstantial evidence, which is referred to as "the instinctive knowledge of the judge". There is therefore no suggestion

that the crime of apostasy will involve methods of proof that are difficult or impossible to achieve. There is no possibility under the code for the judge to modify the punishment, as only the supreme leader can pardon a person in order to avoid a Hadd punishment. There is no statute of limitations.

She added a number of other concerns which essentially arise out of the breadth of the offence but which do not have an immediate relevance to this reconsideration.

93. In giving evidence, Miss Enayat said the bill before the Majlis is at its second reading stage. We do not fall into the error of assuming that bears any relation to a second reading within the UK Parliament, but it does show that it has been introduced and passed at least a preliminary stage. She was unable to say how matters would progress because there have been delays caused by recent parliamentary elections. She did not know the imperative behind the changes, although she observed that since the election of Ahmadi-Nejad the authorities are apparently concerned about all forms of religious dissidence. Asked why, given the relatively rare incidents of prosecution for apostasy, it should be included in the code, she said that the reformists are concerned because they question why the authorities want to codify the law unless they intended to use it. Ms Enayat said that, unlike prosecutions for homosexuality, there were no statistics for prosecutions relating to apostasy. She said it was rare and would, in any event, be statistically insignificant. Asked by Ms Naik, Ms Enayat said that she did not think that there were any particular obstacles to the new code becoming law. Often it is the Council of Guardians who object but they are unlikely to dispute this bill as it was drafted by theologians. The general opinion seems to be that it will pass into law intact.
94. We also heard from Mohammad M H Kakhki, who describes himself as an "Attorney at Law (Iran's jurisdiction)". He is now a British citizen. He was asked about his expertise by Mr Kovats. He said he has been at Durham University and had completed his PhD in April. On closer questioning it transpired that he has not been awarded a PhD, but he has submitted his thesis and undergone his viva. The title of his thesis was "Iranian Oil Contracts under the Buy Back Transactions". He said he was a member of the Iranian Bar, and that a Bar licence has to be renewed every three years. He did not renew his after he left Iran. He is not currently entitled to practice, but all he needs to do, in order to be entitled, is to pay a fee. He last appeared in court in Iran in February 2002. Although he denied specialising, saying that Iranian advocates did not, his practice seems to have comprised family, criminal and commercial work, although he described his field of expertise as Iranian Law and procedure in general. He gave evidence in chief concerning the intelligence gathering activities of the Iranian Embassy in London. Mr Kovats asked him what qualified him to express an opinion about that. He said that the intelligence services work alongside the Iranian judiciary. On qualifying, one is familiar with the different security forces who investigate cases and hand them over to be decided. He said that, having been a practising lawyer and knowing the law, he knew their activities and the reasons for their activities.

95. We were not prepared to accept Mr Kakhki as an expert on Iranian intelligence. As to the law in Iran, although Mr Kovats submitted that, "if he is an expert he is only just an expert", we are satisfied that he has the expertise to tell us what the law is, although we approach his evidence from the standpoint that he has been out of Iran for six years.
96. Mr Kakhki had submitted a substantial report dated 14 April 2008. The Tribunal read that before he gave evidence but it was not referred to in any significant way during his oral evidence. We observe that it did not add to any of the other material that we had. Although it contained some unsupported assertions about general conditions in Iran there was nothing which, even if it had been properly sourced, would add to the wealth of material that we had from elsewhere. He gave some evidence about marriage requirements which we will come to later in the determination. In relation to apostasy, he did not disagree with Ms Enayat's analysis. He did say that (in the case of M) if he married a non-Iranian Christian that might be used as evidence of his own conversion under the circumstantial evidence rule (knowledge of the judge).

SECTION 8

The Evidence of Father Christopher Basdon

97. In this section we deal with Father Basdon's evidence in relation to the Catholic Church. We deal later here with his evidence concerning the appellant M. In his statement he said that when he lived in Iran, in more tolerant days, the Catholic Church had a policy of not baptising Muslims because every avenue of their life afterwards was blocked. In oral evidence he was asked about whether M would be able to practice as a Roman Catholic in Iran and he said it was untenable. He said the church in Iran has been decimated. Prior to the revolution, it ran schools, convents and other establishments all of which were confiscated at the time of the revolution. Even then the church was very careful about conversions because converting Muslims made their relationship with the country untenable if the convert and his family were seen going to church. He said that his is an international church and not simply a grouping. The relationship with the host country is therefore more delicate. The church has diplomatic relations with Iran and does not have the option of working underground. He said that prior to the revolution the church's' activities were those of bridge building and they had medical and religious apostolates. He said the church was criticised by some for not being more apostolic, but it would have endangered all that they had there. He referred to a recent case of an Iranian girl (Bernadette Aliari) who is now in the United Kingdom having claimed asylum. She went into a Catholic information centre run by Father Ambio who, when he realised that she was genuinely interested in converting, told her to leave the country. Father Ambio has been in Iran for a long time, he is a member of a French group called The Prado, which offers help to other churches. He offered himself to the Chaldean Catholic Church which is based in Rome. He said that churches such as the Chaldean are ethnic churches and do not accept converts at all, indeed their only policy is that of survival. He said that if M returned to Iran he would have to be a member of the Latin Rite Church. He said the Latin Rite church has very few

congregants and is monitored. In reality it is a church for foreigners. He said that the congregation includes Philipinos, Koreans and diplomats. He is not aware that Iranians worship there, although children of mixed marriages did before the revolution. He said that an Iranian would be very prominent if he entered that church. He said that in theory the Catholic Church in Iran is open to anyone. However, he said that in Iran it is a very delicate business because the fundamentalist groups observe, and want to see who is going in and out. There were services in Farsi prior to the revolution, but he doubts that is offered now. He believed the languages used are English, other European languages, Tagalog and Korean. He said there are no indigenous Roman Catholic Churches. Most congregants had escaped to the west. Some came out with the Educational Apostolate and are effectively in exile.

98. He was not sure whether the church would baptise a Muslim today, but he said they would have to be extremely careful. He recalled that, even in his day, the baptismal registers were locked up in the Apostolic Nunciature, which is the equivalent of the Vatican Embassy and had diplomatic immunity.
99. Asked what would be the position of a Catholic convert who is not able to practise his faith he said that the Roman Catholic Church, in common with nearly all Christian churches, is based on the sacraments. It has a hierarchy of bishops, priests and deacons. There is no possibility of administering the sacrament of communion without a priest. He referred to the more evangelical churches as small groups of lay Christians who do not even need a pastor, but said that in the Roman Catholic Church the priest is the activator of the liturgy as well as being the pastor to his flock. He stands in the place of Christ. He said that in order to be a practising Catholic, a person requires attendance at mass and participation in the sacraments of confession and communion. He said the Ten Commandments require attendance at mass on Sundays at least, and confession at least once a year although it is a good idea to go more often. Asked whether it was more or less difficult for a new convert to be deprived of his faith, he said it was more difficult, because it was somewhat like a newlywed having a forced absence from a spouse. Asked in cross-examination how many clergy there were in Iran he said he thought there were five, or fewer, for the Latin Rite. There were as many as there are because a lot of foreigners attend the church. He said the church has three centres.

SECTION 9

The Respondent's Evidence

100. In addition to the Operational Guidance Note, and the COIR, the respondent's evidence comprised four letters from the Iran Co-ordination Group at the Foreign and Commonwealth Office addressed to the Immigration and Nationality Directorate (and later the UK Border Agency). The first letter, dated 7 December 2006, said that the British Embassy in Tehran was not aware of any new decrees, guidance or law concerning the treatment of converted or proselytising Christians since 2004. At that stage they had not been aware of any incidents of rhetoric,

speechmaking or government publicity about such matters. The letter recorded the change in administration from the reformist minded Khatami regime, to the conservative administration of President Ahmadi-Nejad. In the letter, the Embassy said it had not seen evidence that the new administration was taking a deliberately harder line against converts. Having said that, the letter expressed general concerns about the treatment of religious minorities in Iran, including Christians. It said there had been cases of Christian converts being arrested on charges of apostasy, and evangelical church literature being confiscated on suspicion that it will be used to convert Muslims. They had received a report that a church was under surveillance, to ensure nobody entering was a convert, but they were not aware that the treatment of converted Christians had worsened since 2004. It was the understanding of the Embassy that Muslims can convert to Christianity without persecution from the authorities as long as they practice their new faith in private. The view was that the authorities appear to take action if they suspect Christians are proselytising.

101. On 28 June 2007 a second letter was written following a request for further information, and a specific request for Embassy staff to speak to apostates to evangelical and house churches to ask them whether the treatment of Christians has worsened since 2004. A Christian convert belonging to the Assembly of God network of house churches was interviewed in May 2007. He said he had converted several years previously, but was very discreet about it. He had not told any work colleagues for fear of word getting back to the authorities. He described the atmosphere as being more difficult than it had been before Ahmadi-Nejad had come to power, and that the surveillance of the churches was greater. He said that the authorities would sometimes check ID cards as people went into churches. He described intimidation by the authorities of individual church members as having increased, although this had not extended to physical injury. The letter added that it was unclear whether the lack of resort to physical injury was due to lack of intent on the part of the authorities, or the discretion of the convert. Somewhat confusingly the letter went on to say that some members of the church's committee had been assaulted in the past several years but that it was unclear whether this was because they were converts or if it was state sanctioned, as their assailants had not been in uniform. The interviewee was unaware of any deaths arising from such assaults, but there was mention of suspicious deaths of converts in other parts of the country which the Embassy said it was already aware of.
102. A minister of the Assyrian evangelical Church was also interviewed in June 2007. This church is not itself under threat because the community has been in Iran since before the time of the Prophet. The minister said the church had reluctantly refrained from proselytising. He described the atmosphere as better than in the early years after the revolution but his church still judges it too unwise to restart such activity, as it felt that open proselytising would lead to intimidation, arrests and perhaps worse.
103. There was also a discussion with the representative of another Embassy who had met the pastor of a house church in April 2006. That pastor had been reluctant to meet, and said that most of the house churches in Iran were part of the Assembly of God network, and before that it had been growing in recent years, but was very secretive.

The network feared persecution if their activities became more publicly known. Neither he, nor his congregation, had been the victims of persecution as they had been able to keep their activities quiet. The letter said that following some research on the treatment of Christians, the other Embassy's assessment was that the red line for the regime was evangelising. Iranians born as Christian were left alone, but those who tried to convert Muslims, and those Iranians who converted, might suffer persecution if they came to the authorities' attention. The official of the other Embassy thought that a small change had occurred since 2005 which had resulted in increased pressure being exerted on evangelisers rather than converts. Generally that Embassy's assessment was broadly in line with that of the British. The author of the letter comments that although the sample size is small because the churches tend to keep a low profile, information received was consistent. The conclusion was that, since the letter of 7 December 2006, verbal intimidation and surveillance of Christian converts had increased but there was no evidence to suggest that violence against, or arrests of, converted Christians have increased. Christians are more likely to face persecution from the authorities if they are actively evangelising or are themselves converts. There have been reports of an increase in activity against other religious minorities, including Bahais, during the same period.

104. In the third letter, dated 17 September 2007, the Co-ordination Group had been asked to comment on three expert reports. The report of Mr Ghaffari was said to contain information which appeared reliable, and the Embassy said it was aware of most of the cases he included. The Embassy observed that the report did not include much recent evidence and they anticipated that most of the evidence he gave was already included in the COIR. They did make the point that Akbar Mohammadi, who died in custody in Evin Prison was a student protester rather than a Muslim convert to Christianity, and that Pourmand had been acquitted on the charge of apostasy which Mr Ghaffari did not mention. The references in the third letter to increasing pressure on Christian communities by surveillance outside church premises, and requests for identification, are similar to the assessment already provided by the earlier letters.
105. The Group described Ms Enayat's report as comprehensive. It said that the evidence she provided, of arrest and intimidation, is largely based on media reporting in the public domain and appeared credible. It observed that her report included more recent examples than Ghaffari and concluded that her assertion is that any convert from Islam is at some risk of persecution, but she acknowledged it is hard to predict the degree of this risk. Having described her report as well balanced, and acknowledged that not all converts are treated in the same fashion, and that it is difficult to see a clear pattern in the incidents of persecution, the letter said:

"We would agree with this judgment: this fact in itself highlights the arbitrariness characteristic of repression in Iran - it is not necessarily systematic and can be unpredictable and this adds to the atmosphere of fear."

It agreed with Ms Enayat that, although apostasy is a capital offence, in both law and theory, cases are rarely heard in Iranian Courts and do not represent the main form of persecution of faith by Christian converts. The letter says, "Harassment is more

likely to be extrajudicial and without connections to government". The Embassy considered that Mr Kakhki's report added little to the other reports.

106. The letter went on to remind the reader that Christianity is a recognised minority religion under the Iranian Constitution, but that does not mean that official discrimination against Christians and other minority religious groups does not exist. It said that Christians are not permitted to hold senior official positions in the government, judiciary, school system or military. Conversion may therefore impact on work and education opportunities. The Embassy agreed with the major concerns expressed in the reports about lack of due process in Iranian judicial proceedings, with trials taking place behind closed doors and with the defendants not being given adequate access to legal representation. The Embassy is also concerned by the growing use of arbitrary arrests, followed by release on bail, without public charges. The practice, coupled with the implicit threat of future arrests, was said to create fear and uncertainty and is used as a means of intimidation. The letter goes on to say that human rights have deteriorated in the past year with a notable clampdown on the freedom of expression and association. It concluded that it would be fair to assess that Christian converts, and other religious minorities, might have come under increased pressure and intimidation, particularly if they were openly proselytising. The letter expressed the caveat that the Embassy has limited access to Christian sources in Iran and adopted a cautious approach, so it was difficult to get a full picture. They were not aware of any individuals being executed, having been convicted of apostasy, in the last fifteen years. It said that Tourani was the last person they were aware of whose death may have been related to his Christian activities, but it is not clear whether the murder was state sanctioned or perpetrated by members of his local community. The letter concluded that verbal intimidation, or monitoring of Christian converts, has increased since 2004 but there was no evidence to suggest that arrests or violence against converted Christians has increased. Christians were more likely to face persecution from the authorities if they are actively evangelising and trying to convert Muslims, or if they themselves have converted from Islam to Christianity.
107. Finally, a short letter dated 28 April 2008 confirmed the situation had not changed since the earlier letters and that the Embassy had not become aware of any recent developments in terms of regulations, or reports of action taken against Christian converts.
108. Ms Enayat was asked if she had any criticism of the letters and she indicated that she was broadly in agreement. She did question whether comparing the present situation to 2004 was necessarily the appropriate time span, as her view was that things had started to deteriorate prior to the decision in FS and Others, although not necessarily recognised at that time.

SECTION 10

Evidence Relevant to Z's own Reconsideration

109. The fact of Z's conversion to Christianity is not now in dispute and reconsideration was ordered only on the basis that the original Tribunal had not properly assessed the extent to which the appellant would evangelise on being returned to Iran, and the assessment of any risk caused thereby. The original decision was made in December 2003. Observing that the Adjudicator's determination predated FS and Others the Tribunal said at the first stage reconsideration, "it is clear in light of the fact that the determination is over two years old there will need to be a reconsideration of all issues including credibility". We directed that that did not mean that the respondent could reopen the issue of the appellant's conversion.
110. Z was called to give evidence. In his most recent statement he said that he was dispersed to Newcastle at the end of 2003 and could no longer attend the Ichthus Christian Fellowship run by Nigel Desborough. He has contacted Mr Desborough on a few occasions and attended at the fellowship on three or four occasions when he has visited London. In Newcastle he began to attend the Dunston Family Church in Gateshead, under the direction of Pastor Edmund Nichols. The church used to hold an Iranian meeting on Wednesdays, conducted in Farsi, but he now also attends on Sundays. The Wednesday meetings stopped some time ago and Z now attends on Tuesdays and Sundays, but also goes to meetings at people's houses for Bible reading and planning. He gave an account of the various meetings and festivals which he has attended throughout England and Scotland. In his statement he said that he continued to practice his Christian faith and to bring others into the church. That has included some colleagues from Newcastle College, at least one of whom has since been baptised. He has bought fifteen Bibles in Farsi from a website in Germany and given them to friends who did not have Bibles themselves, and whose English is not very good. As at 25 July 2007 he was in a relationship with Lynn Susan Kylie whom he met in Newcastle. He has given her literature and spoken to her about coming to church but she is not yet fully committed to it. He asserted that he could not return to Iran for the reasons explained in his earlier statements, because he would not be free to continue with church activities and the distribution of Bibles and talking openly to friends and other people about his faith.
111. Mr Kovats indicated he did not require Z to be called, as he did not dispute what he has been doing in the United Kingdom adding that it does not follow, from what he does here, that it is accepted that he would behave in any particular way in Iran. Z was called. Asked how he would want to continue to practice his faith, he said that he would want to attend church regularly and also to attend religious teachings and classes. He would want to tell other people about it, and he would want to invite other people to understand about his religion. He said he wanted to tell people the good news of Jesus Christ, which he described as having been a miracle in his life. He would hope that others would follow the same way. Asked what he would say in Iran if he was asked his religion, he said he would definitely say he was a Christian. He said that his parents know of his conversion. They have not rejected him as they know it is something he wants to do. They said they cannot do anything about it and they have left it to his own choice.
112. Cross-examined by Mr Kovats, Z said he would want to share his belief if he was returned to Iran. This is what he would do and he would find the way to do it. The

appellant said that in Iran he would be revealed by what he believed in, and that would result in his disappearance because according to the Islamic faith, if you give it up, the result will be a death sentence. He said he would definitely go to church in Iran. He said that standing on a street corner and proselytising was not the only way to share his faith, and he would not try to share his faith in that way. It would be dangerous for anyone to do such an act, and he would not do it. When it was first suggested to him that he would not do anything in Iran that would put his life in danger, such as standing on a street corner, he asked whether talking to a neighbour at his house was any different from on a street corner. He said he would share his faith with his neighbours. Asked again whether he would stand on a street corner he said he would not as he would not have a chance. After a careful cross-examination, the appellant was finally asked whether it was the case that he would exercise his duty as a Christian only insofar as it was not dangerous, and he said that was correct. Despite her best efforts in re-examination, Ms Weston was unable to get the appellant to say more than that he would be willing to take small risks by sharing his belief with individuals. Asked by the Tribunal whether he would be worried about whether his neighbour would report him to the authorities, the appellant said he would consider taking that risk but he also considered that would not be a stupid thing. He would not do it in a stupid way, he would approach the neighbour face to face, one to one or perhaps with three in all. He would hope that the person would understand what it is that the appellant was telling him and his intention would be to tell him how to lead a comfortable and happy life.

113. On behalf of Z we heard from Pastor Nigel Desborough, who no longer operates under the umbrella of the Ichthus Christian Fellowship, but is at Forest Hill Community Church. He said that he was only in regular contact with Z for a period of about five months before he was dispersed, but at that time he used to see him most weeks. He explained how the church approached Z's conversion, saying he had shown signs of an embryonic faith when he first arrived from Iran. Asked what was involved in bearing witness, he said that witnessing and communicating is fundamental to the faith because Jesus had said that people should go into the world and preach the gospel. Z had got hold of this concept of his duty and Mr Desborough said he was the most zealous among a number of Iranians, and played a role in attracting others. Somehow he had managed to just embrace the idea, but it was not clear whether this was because he had particular skills in befriending people, and he was certainly keen to serve. He was asked whether he had read statements by the Reverend Nichols and he had. The Rev. Nichols was the Pastor of Dunston Family Church. He was not able to attend to give evidence because his wife is seriously ill. The letters from Mr Nichols did not add greatly to the evidence of Mr Desborough and Z himself. They went to confirm the genuineness of his conversion, which was not in dispute, and to assert that Z is a zealous member of the church demonstrating his enthusiasm. Mr Desborough was able to confirm that the Rev. Nichols' account of Z's role accorded with his own experience, and was a continuation of it. He was asked by Ms Weston whether, as part of the study and instruction he had given to Z, he had ever addressed the subject of sharing faith or bearing witness under difficult circumstances. He said it was a clear responsibility of a Christian to bear witness and he acknowledged that it is easier in some places than in others. He said it is the responsibility of each disciple to decide what to do and it

is not possible to force people to follow the faith. He accepted that there could be risks involved but that was not a reason to stop sharing his faith. Cross-examined by Mr Kovats, Mr Desborough said that Z had not said he would like to return to spread the gospel, nor had he encouraged him to do so. Asked by Mr Kovats why he had not encouraged that, as Z is Iranian and could do good there, Mr Desborough said he was not sure. He did, however, say that Z had shared the gospel with Iranians in the UK but accepted there were difficulties in doing that in Iran. In answer to the Tribunal, Mr Desborough said it was not the church's place to encourage people to lay down their lives for faith. It was laudable if they did so, but it would be between themselves and God if they decided to risk martyrdom.

114. We were referred to a number of letters in support of Z.

SECTION 11

The Evidence Relating to the Individual Appeal of M

115. The Tribunal ordered reconsideration in the case of M because it considered that the Immigration Judge gave insufficient consideration to an expert report by Ms Enayat. Although, in making the order, the Tribunal said that ground 1, relating to the findings of fact being perverse or irrational was not arguable, at the first stage, error of law hearing the Senior Immigration Judge said that the issues would need to be widened from the failure to consider the expert report to include the credibility of the appellant's claims and the consideration of the appellant's human rights claims. The human rights aspect of the case had not been considered by the Immigration Judge because at that time JM (Liberia) [2006] UKAIT 00009 had not been overturned by the Court of Appeal and it was generally thought that, where there were no removal directions, the Tribunal had no jurisdiction to consider human rights. The position with M is that it was accepted that he has been baptised but, at the time of the Immigration Judge's decision, not yet confirmed. We need to make findings as to his current level of faith and the degree of evangelising, what he might do in Iran and the level of risk entailed in that.

116. In his witness statement, M gives a history which includes reading for a degree in Petroleum Engineering from 1990 to 1995, and conscription from 1995 to 1997. His father had been a monarchist and the family's lands in Ahwaz had been confiscated after the revolution. His father was imprisoned for trying to get the land back and died in hospital in 1990, the family not having seen him since his imprisonment until they saw him in hospital immediately before he died. The appellant's brother was also a monarchist and as a result had to serve an extra year of military service.

117. The appellant went to Dubai to work, after completing his military service, and was there for seven years. There, he met an Indian Roman Catholic who became a close friend and that ignited M's interest in Christianity. He did not have any opportunity to attend church in Dubai. He briefly visited the UK in January 2005 to take a one month course in cementing, which he failed due to his lack of command of the English language. He returned to Dubai but came back to the United Kingdom in June to study on a language course. Whilst on that course, he made friends with a

man called Fernando from Bolivia, also a Catholic. Through the internet the appellant met Barbara Urmston, a British national living in Holland and who is also Roman Catholic. They spent two weeks at her parents' house when she visited the UK in August 2005.

118. In December 2005 he was introduced to Father Basdon of St Bede's. Father Basdon trained him for baptism. Following a successful appeal against a refusal to extend his leave to remain as a student, the appellant returned to Iran. He explained that he had a friend, in Iran, called AN who he had kept in contact with by phone and internet from Dubai, and later by internet from the United Kingdom. They were childhood friends and discussed everything. Trusting him, the appellant divulged his interest in Catholicism and that he was to be baptised. On 21 March the appellant claims AN told him that his (M's) brother was in trouble in Iran and needed M's help with a legal dispute. Although aware that Christian converts were facing persecution in Iran, he did not think anyone would know about his conversion during the short visit he planned.
119. He arrived in Iran on 29 March to stay with his sister-in-law and her and his brother's children. He said he learned that his brother had been taken away two months earlier by an anonymous group, thought to be government agents. He spent three days searching for his brother, visiting police stations and detention centres. After three days, as he was about to enter his brother's house, he was approached by a group of people, grabbed, blindfolded handcuffed and taken to a detention centre. They were calling him a Kaffir (unbeliever). He was kept in detention for two weeks. The only times that anyone visited him in solitary confinement was when they came to beat him by kicking and punching and with food. They opened the handcuffs only when he had food, which was once a day. He concluded they could only have known about his conversion through AN whom he felt had betrayed him. He later heard AN's voice among the guards who came to him in his cell. M believes that AN denounced him as an unbeliever, although he had himself apparently shown an interest in Christianity over the internet. Towards the end of the detention one of the guards said that he would help M to get out if paid. In his statement, M said, "We agreed to pay him US\$1,000". On 15 April "the guard" let him out and took him to his brother's house, still blindfolded. Once there, they demanded the payment and were paid out of money which M had kept at his brother's house. M left Iran shortly thereafter. Commenting on the refusal letter, he said that AN was not the person who helped him escape from prison. It was "another person, a guard".
120. M claimed asylum on return to the United Kingdom, and was detained. His application was put into the fast track system. His case was eventually removed from fast track and he was released from detention. On 18 June 2006 he was baptised at St Bede's by Father Basdon. In his statement M said he took Geoffrey as his name on baptism. He was confirmed on 28 April 2007, by Bishop Lynch, and took James as his confirmation name. He was prepared for confirmation by Father Andrea.
121. His current partner is EV. They live together in Scotland and have done since September 2007. There he attends services at St Aloysius Church, daily. He said that

his partner is a Canadian national who was born in the Netherlands. She attends Church of Scotland services. M said he has been unable to marry her because they are in the position of needing approval from the respondent, and he has been told that as an asylum seeker it would be refused. An attempt to obtain a visa for Canada resulted in the Canadian Embassy refusing to consider the application due to his lack of immigration status in the United Kingdom. He cannot marry in the local Anglican Church in Glasgow because he is not a member of the church. He said that he and his partner have decided to marry when his immigration status is resolved.

122. The only member of his family with whom he is now in contact is his sister, who lives in Dubai. The appellant says he has set up his own English language website www.christianconvert.net, which is designed to encourage others to follow their hearts and convert to Christianity. In evidence, he was asked by Ms Naik who his website was aimed at. He said Christians and comrades. He wanted to attract Christian converts and that is why he used the name he did. He said it is targeted at Muslims. Asked how he would practice his Christianity if he returned to Iran he said he could not do so; not least because of what President Ahmadi-Nejad had said. His family have always been strict Muslims. The appellant said he is a Sayed, they are said to have been direct descendants of the Prophet. He said that when he was briefly free in Iran recently, he attempted to go to Church. He said he went to St Abrahams and wanted to meet Father Christopher there. However, when he arrived the doors were closed and there appeared to be no services. He was unable to find anybody. It was a building devoid of outward symbols. He said he heard AN's voice when he was detained at the time when the offer was made to help him to escape. There were three guards but he only recognised the voice of AN. He was asked about a article about him in the Catholic Herald that he had adduced in evidence and how that had come about. It was published on 18 August 2006. He said that the Catholic Herald had contacted Father Christopher, who spoke to him. He was later met by a journalist called Mark who both interviewed him over the telephone and in person. He was not sure how the initial contact came about. In relation to the request to marry, he said he had not applied for a certificate, because he was told that he would be refused.
123. Cross-examined, he said he used his Iranian name in his statement, because that is how the Home Office know him, but he is known as James. In relation to the release from detention, he said that when he was dropped off outside his brother's house he paid the people that dropped him. That did not include AN. It was not his case that AN helped him to escape, and it was not AN who asked for the money. He said that he did not pay the money over until he was released. He was reminded that the Immigration Judge had recorded, in paragraph 22 of his determination, that on the last day he heard the voice of AN and had said he " told him that he would pay him money". He said that it was AN who had brought the food but he paid the guards. He was referred to the article in the Catholic Herald where he said he had not met AN after returning to Iran. The appellant said he did not meet him, only heard his voice. He denied his accounts were different.
124. Asked about what he would do if he went back, M said he could not go back because he was a convert and would be killed, because that was Islamic Law. Asked if that

was all, he said that because he is a Christian he would want to practice freely. Asked what he would do, he said he would speak out on religious matters and he would help others by telling them the truth. He said he could not keep silent and that is why he had made his website. He accepted that the only reference to him on the website was to the name James. He said the Iranian authorities would know his name was now James and his sister knows, and he would tell everyone he was James. He would no longer live with his Iranian name, although he did say that he could not change his passport. Asked if all Christians were killed in Iran, he said that all practising Christian converts were. Those who were already Christians could practice, but those who are not cannot because that would demonstrate apostasy. He was asked if there were any converts who did not practice, and he said he was not aware of any. It was put to him that he really had no idea of the situation but he said he did, converts had been killed and persecuted and that President Ahmadi-Nejad had said they will be. Asked if Christians said prayers in Iran, he said they do so in underground churches but he would want to say that he is a Christian. He would need to practice publicly, go to church and be in public and pray. He said the only Catholic churches in Iran were underground but, asked again, he said some practice on Sunday, not only underground, but he would be treated differently as a convert. He said he did not know any converts personally in Iran. When he was re-examined, he said he went to Mass daily, and confession weekly. He said that, as far as he was aware, AN was the only person in Iran who knew about his conversion. He was not assisted to escape through the airport. Asked by the Tribunal what he thought AN did for a living, he said he had known him working for an oil company. He did not know on what basis he was at the detention centre.

125. Ms Enayat was asked by Mr Kovats whether the account of the appellant being kept blindfolded and hearing the voice of someone he knew in detention, chimed with anything in her experience. She said that there had been a time when she had heard similar stories in the context of political claimants, but never religious ones. Father Basdon was able to identify from the appellant's description the Catholic Church M had tried to visit in Iran, saying it was currently leased to the Pakistani branch of the church although its future was under review.
126. The Tribunal then heard from EV. She had made a statement describing M as her partner. She said she was born in the Netherlands, but had lived in Canada for half her life. She could not get a Dutch passport unless she returned and lived there for a year. She said she met M through an internet chat room. They met in person in May 2007, and began living together in September 2007. Her statement said she is completely committed to M and they plan to marry. She loves M and believes their future is together. She asserted that he is a fully committed genuine convert, he attends his church daily and also attends the Church of Scotland with her. EV gave evidence saying that there would not be any difficulty in going to Canada with the appellant if they were married, but now they were unable to do so. She had not brought a copy of the written application with her. She then said she did not have a copy of the application but her passport has been endorsed to the effect that it was rejected. She can only stay another six months in the United Kingdom. There was then some confusion because clearly EV had thought she was being asked about an application to extend her leave to remain in the UK, but the questioning was about

an application to the Canadian Embassy in respect of M. About that she said that a formal application had not been made there, only a verbal enquiry whereupon she was told an application would not succeed. She said she had consulted an MP in Canada who said she could make an application, there would be a fee of £1,500 and it was likely to be rejected. She had not asked the MP about the position if she were married. Asked whether she had discussed with M where they would live if they married, she said she had. She said it would be impossible for her to live in Iran because she could not live with the knowledge that he could be arrested for his religion, and may have to give it up. She was only in the United Kingdom as a visitor. Cross-examined by Mr Kovats, she was asked why she had said she would have to give up her religion, and she said hers is the same as M's and that the Iranians would only allow the Muslim religion. She said that was well known, and that if she was not a Muslim she could not live there. Asked whether she now thought that she would have to give up her religion, she said she would, because otherwise she would be in trouble. At Mr Kovats's request, M was recalled and asked why he wanted to marry. He said he loved the church and he loved EV. It was put to him the only reason he wanted to marry her was to improve his immigration position but he was insistent he wanted to marry her, and would live with her forever. He referred to marriage as a sacrament.

127. There were some parts of other witnesses' evidence that were relevant to this aspect of the reconsideration. Mr Kakhki said that in order for the appellant and EV to register a marriage in Iran she would have to convert to Islam. In the eyes of the Iranian authorities, M would remain a Muslim. We have already referred to Mr Kakhki's evidence that marrying a Christian could be used as circumstantial evidence to support a prosecution for apostasy.

SECTION 12

Evidence referred to in Submissions

128. Ms Weston, on behalf of Z, referred to a Freedom House paper entitled "Iranian Christians: an Ethno-religious Minority" published on 1 November 2006 which referred to constant discrimination being experienced by Christians, Jews and Zoroastrians despite being officially recognised as minorities by the Constitution. There was reference to the communities not being able to talk about their religion outside their communities. There was reference to the Islamic regime vigorously applying restrictions over the religious activities of evangelical Christians by closing down their churches and arresting new converts. It was said that members of the church must carry their membership cards and be able to hand over a copy to the officials. Identities of members are controlled by officials standing by the entrance doors during gatherings. It was said the government has limited services to Sundays only, and that new members must be notified to the Ministry of Islamic Culture and Guidance and the MOIS. It was said that the evangelical Christian groups have resisted the order to submit membership lists. We have read the whole document.
129. The US Congregational Research Service has produced a paper "Iran: Ethnic and Religious Minorities" dated 25 May 2007. At page 5, there was reference to the

authorities having become increasingly assertive, and to the curbing of proselytising activities by evangelical Christians whose services are conducted in Farsi. The report said that government officials closed evangelical Churches and arrested converts. There was reference to the same information about membership cards, identity checks and new members as the last report. The article went on to say that Christian groups have reported instances of government harassment to churchgoers in Tehran, in particular at the Assembly of God Congregation in the capital. This harassment included conspicuous monitoring outside the premises, and demands for identity papers from worshippers.

130. International Christian Concern, based in Washington DC, produced an article entitled "The Hall of Shame, 2007: The Worlds Ten Worst Persecutors of Christians" . The document placed Iran as number six. There was reference to the current situation whereby evangelicals face the most pressure because they evangelise and reach out to Muslims, whereas the Armenian and Assyrian Christians do not. The article gives some figures which are out of line with the other information we have received, suggesting that there are now between 4,000 and 20,000 Muslim-background believers, compared with only 500 prior to the revolution. The article suggested there are another 222,000 to 250,000 ethnic and evangelical Christians despite a massive emigration of the Christian population. The report went on to list a number of incidents.
131. Ms Weston then referred to the US State Department Report on "International Religious Freedom Report 2007", in relation to Iran, which was issued on 14 September 2007. In particular, she referred to page eight (of eleven). There, is found further reference to the need to carry membership cards and to identity checks outside churches, with restrictions to Sundays for services and the requirement to give information about new members. It then listed a number of incidents all of which we have seen reported elsewhere and have dealt with in this determination. Ms Weston asked us to consider the document "US Commission on International Religious Freedom, Advancing Religious Freedom and Related Human Rights in Iran: Strategies for an Effective US Policy" published on 21 February 2008 following a public hearing. She took us in particular to page 25 (of 27) where there is reference to Christians in Iran totalling 300,000 but enduring discrimination, harassment, surveillance etc. The article makes several familiar points, to which we have already referred to elsewhere. We have also considered page 23 of that document which contains some of the testimony of Paul Marshall to the hearing. Again, that repeated much of the evidence that we have seen elsewhere. Ms Weston said those parts of her bundle had not been considered by Ms Enayat or commented upon by her.
132. She drew our attention to a number of news reports. HJT Research (said to be an independent research agency which publishes a database on JIN) on 10 January 2007 (page 99 of bundle IV) reported that the evangelical Church has to provide a list of names for all those who take part in church functions. An Italian news agency reported on 4 June that Christians were extremely active in Iranian society and that the number of converts from Islam to the evangelical church is increasing, whereas the Catholic and Gregorian Orthodox Church discouraged conversions for fear of reprisals. Church services held in homes were said to be illegal, and the agency had

noticed a significant crackdown on Christians, in particular on members of the evangelical Church. The summary was produced by HJT Research but there is no indication of the provenance of the news agency, AKI other than it is Italian.

133. She drew our attention to a copy of an article published in the Guardian on 27 December 2005 about the Church of St Simon the Zealot at page 112. This was the source of the assertion that the senior lay member had been told that the days of being killed for being a Christian had passed, but he may find himself with two kilos of heroin in his possession.
134. Page 114 of the bundle contains an article headed "Persecution against Christian Converts in Iran Escalating". This was published in the Christian Post on 30 November 2005 and it is mostly about Mr Tori, who is referred to elsewhere as Tourbani. It quotes President Ahmadi-Nejad openly declaring opposition to house churches and saying, during a meeting with 30 Provisional Governors, "I will stop Christianity in this country". The quotation was referred to by Ms Enayat.
135. At page 142, the US Commission on International Religious Freedom produced a report concerning the deteriorating situation for religious minorities dated 24 February 2006. In particular, Ms Weston drew our attention to the fact that the Commission was alarmed by the growing frequency of inflammatory rhetoric aimed at religious minorities by high-level Iranian Government officials and clerics. The report's chairman is quoted as saying,

"This pattern unfortunately is reminiscent of language, used by Iranian authorities during the early years of the Iranian revolution, which preceded the severe atrocities committed against all members of religious minorities, particularly the Bahai community".

The Commission also considered that Christians in Iran had been increasingly subjected to harassment, arrest, close surveillance and imprisonment and that there had been several incidents of raids on churches during the previous year, with worshippers detained and church leaders harassed and threatened. It does not seem that the article says anything which has not been said elsewhere in the evidence.

136. In his written submissions Mr Kovats referred us to a number of passages in the COIR and the Operational Guidance Note which we have considered. The summary in his skeleton accepted that the COIR contains evidence of a perceived deterioration in the human rights situation since 2005 for religious minorities, among others. He also accepted that the section on religious freedom contains evidence of a more hostile attitude towards religious minorities. He considered these were most notably Bahais and Sufis, but also Christians. He said the evidence also showed the Iranian authorities were particularly concerned about what they see as an increase in proselytising by evangelical Christians, but that concern is not new. He observed that the Operational Guidance Note, drawing largely on the COIR, said that minority activities, including conversion to Christianity, are normally tolerated as long as they are carried on with a degree of discretion, but those who publicly proselytise are likely to get into trouble.

137. Finally, in relation to the evidence, we have been provided with some late documentation, submitted by Lawrence Lupin. The first is a document which appears to emanate from the Salvation Army. We were not quite sure what to make of this particular, and rather peculiar, document but it makes reference to a member of the Army speaking with an Assyrian Christian about Christianity and others about things they had heard whilst in Iran. There appears to be some general evidence about setting up of house churches. The provenance of this document is entirely unclear, as is much of the meaning of it. The part to which our attention was drawn appears to be reporting the interrogation of a Christian who was told that religious apostasy is equivalent to warring against God and that the interrogator hoped that the bill containing the Islamic Canon Law will be passed by parliament so that it will be possible, and obligatory, to enforce it so that a stop can be put to these activities. The second of the late documents was a report of a visit by Bishop Maly (the Catholic auxiliary Bishop of Prague) to Iran. The report appears to come from Radio Free Europe. The Bishop apparently visited Iran for two weeks but it does not say when. He visited Tehran, Shiraz and Isfahan. Much of his concern was about political prisoners and the conditions in Iranian prisons. In a section about Christians leaving Iran, it was said that Christians are in general free to practice their faith but those who convert from Islam to Christianity can face the death penalty. The article suggested conversions are increasing and that the government has taken measures to curb proselytising by Christians. The bishop was reported as saying that many of the estimated 200,000 Christians were leaving Iran because of social, cultural and religious restrictions and "mainly because they live in an environment where they cannot fully live their lives as Christians."

The bishop is reported as saying,

"They are not prosecuted for being Christians but in certain issues they are not considered equal; sometimes they are treated as second class citizens, for example they cannot be in commanding positions in the army".

The bishop describes the emigration of Christians as a serious problem that could result in a great loss for Iran, saying that it will be a spiritual and cultural pity because the Christians were on the territory before Islam. Finally, we were provided with a copy of the US Commission on International Religious Freedoms "Annual Report of the United States Commission on International Religious Freedom 2008: Iran" dated 2 May 2008. The Commission continued to recommend that Iran remains a "country of particular concern", a designation by the State Department. Our attention was not drawn to any particular part of this report. We note that it referred to the government intensifying its campaign against non-Muslim religious minorities since August 2005. There is quite a long section about Bahais. The section on Christianity makes some general points along the lines of the evidence we have seen elsewhere, and reports arrests and other incidents that, again, we have seen elsewhere.

SECTION 13

Conclusions - General

138. We start by looking at whether the Tribunal in FS and Others was justified in drawing a distinction (at paragraph 173) "between the ordinary convert and those who proselytise". We readily accept the points made by Canon Coulton that all Christians for whom he could speak are required to spread the word and to evangelise. He was speaking from the standpoint of the Anglican Church, across which there is a broad spectrum of adherence. Some members are more evangelical than others. Father Basdon also referred to the extent that Roman Catholics are required to spread the gospel. It is self evident that some are more enthusiastic or serious about their obligations than others, and the point has been made throughout the evidence that the Iranian authorities are particularly concerned with those who do proselytise or evangelise and attempt to convert Muslims. The Canon's view was essentially a theoretical, and aspirational, view of the way Christians behave and he acknowledged that not everybody lived up to the ideal. The empirical reality is that not all come anywhere near to the ideal. As Mr Desborough said "it is between an individual and God as to whether to risk martyrdom". The observations in FS and Others were, in our judgment, sound in that there are distinctions between the ordinary convert and the proselytiser. What needs to be looked at is not only the church to which an individual is an adherent, but the way in which that individual returnee is likely to behave. When assessing that, it is right that it should be borne in mind that the evidence of Canon Coulton was that a person who has come for himself, and by choice, to a new religion is more likely to want to spread the word than someone who is second or later generation and born into it. That is not a new concept, the zeal of the convert has been recognised in many different contexts over the years. But that is not true of all converts; references to generalisations of that kind are no substitute for case-by-case assessment of the particular facts.
139. We had hoped that we would be able to include in this determination clarification of the precise distinction between evangelising and proselytising because this has exercised the Tribunal in a number of cases involving religious persecution (see, for example, MJ and ZM (Ahmadis - risk) Pakistan CG [2008] UKAIT 00033 where the possible distinction was between preaching and proselytising). On the basis of the evidence and submissions that we have heard, we are not able to do that. It is perhaps arguable that proselytising is a more robust form of evangelising but the terms should not be used as terms of art and no conclusion can be drawn by the use of one word in preference to the other. The Iranians are unlikely to draw any distinction - the word they use being *Tabligh*, the word for propaganda. Subject to our view that there are not only two distinct grades of convert, rather a spectrum of adherence, we have concluded that the more accurate description of the distinction is that between the ordinary convert and those who undertake 'active evangelising'. Canon Coulton counselled caution in distinguishing between evangelical and evangelistic as mistakes have been made in the past. evangelical is an adjective meaning "a calling to the teaching of the gospel or the Christian religion" whereas an evangelist is a person who seeks to convert others to the faith especially by public preaching (Concise Oxford Dictionary).
140. In conclusion, the question of whether someone is an "ordinary convert" in each case will depend on its own facts. There should not be findings based solely on the

denomination of the church which a person has joined. They must also be based on the evidence as to his own conduct as it will manifest itself in Iran. When deciding whether a convert is genuine, it is important to take care because, as we set out earlier in this determination, one individual's view as to how another person may perceive, or practice, or understand Christianity may be very different from the reality in another denomination, country or community. Insofar as it is necessary to consider whether it would be persecutory to expect an individual returning to modify his behaviour, the Tribunal has now promulgated HJ (homosexuality: reasonably tolerating living discreetly) Iran [2008] UKAIT 00044 which deals with that issue. The Tribunal identified a two stage approach. The first is to decide how it is likely a possible returnee will behave. That question must be decided from the evidence and facts of each case including the way in which the person has behaved up until the present. It should not be based on how it is thought an individual should behave. The Tribunal described a factual and not a normative approach. The second stage is a test to decide whether that would entail that person having to live a life that he could not reasonably be expected to tolerate because doing so would entail the suppression of many aspects of his identity (which is an objective test). In HJ it was the sexual aspects of that appellant's identity, here it would be the religious aspects. HJ was recently cited without comment by the Court of Appeal in XY (Iran) v Secretary of State for the Home Department [2008] EWCA Civ 911.

141. We turn to the question of whether the situation in Iran, for the ordinary convert, has changed since FS and Others. There is no doubt that the general human rights situation in Iran is deteriorating, rather than improving. All concerned, including the Foreign and Commonwealth Office as expressed in the letters in evidence, accept that the Iranian authorities act in an arbitrary and unpredictable manner. That makes the task of assessing risk more difficult than it would otherwise be. We accept that there appears to have been action on the part of the Iranian Government which has been designed to "raise the temperature". We have in mind the evidence of the short extract from Ayatollah Jannati's speech in which he referred to non-Muslims in derogatory terms. We also bear in mind that President Ahmadi-Nejad has been reported as saying that he wants to end the Christian problem. There is no doubt in our minds that these are intended as messages and are more than opportunistic rhetoric.
142. Ms Enayat is of the view that there is a link between such messages from senior people, and a later worsening of conditions on the ground. She recognised this from the time of the revolution, and gave evidence to the effect that this was a technique used by Ayatollah Khomeini. It is therefore dangerous to reject these speeches as mere rhetoric. On the other hand it is the position on the ground (both current and foreseeable) with which we are concerned.
143. In a similar vein there is the intended recodification of the Iranian Criminal Law which will, for the first time, include apostasy as part of the criminal code. This is not an issue which, as things stand, is of direct relevance to the assessment of the risks to returning Christians because there is no satisfactory evidence that the existing law on apostasy has been used against them. The only person known to have been charged was either acquitted, or the charges dropped, and so there is no

evidence of any conviction and very little evidence of the use of charges. If, as seems probable, the law is changed to include apostasy in the criminal code there are two possible significant consequences. First, if the authorities were to charge the offence, the new codified law makes it clear that "knowledge of the judge" is a permissible way to prove a charge. Arguably, at least, that may make it an easier charge to prove. We are conscious of the reformist's view that the law would not be being changed if it were not intended to use it, but we do not accept that as anything more than a political point, as there is no evidence to suggest that is, or will be, the case. After all, the law is not being redrafted just to include apostasy, the Majlis is undertaking a wholesale redraft of the first four books of the criminal code.

144. Perhaps the more significant point about the change is the signal which is being sent out. In some ways it could be said to add to the rhetoric against converts, and it has been suggested that as a result vigilantes may be encouraged to take action. It should be remembered that the law can, at least possibly, give them immunity for killing a Kaffir (paragraph 14(iv) ante) as a result of the concept of Takfir and Article 226 of the Law of Islamic Punishment.
145. We are concerned with the position on the ground. We have carefully considered the examples of incidents experienced by individuals and the more general experience of the churches, as reported in the evidence and to which we have referred in detail earlier in this determination. It remains the case that it is the active evangeliser in whom the authorities are primarily interested. Whether a person is at risk for that reason, will depend upon what a Tribunal finds about the way a person will conduct him or herself on return. It is also true to say that some evidence shows that the authorities can be hostile to those who have converted, without more. Whilst we acknowledge that there is evidence that some mere converts have been seriously mistreated by the authorities, that mostly seems to be either because the authorities have, very rarely, seen fit to arrest an entire congregation, or some event (such as a car accident) occurs which is entirely unpredictable but brings a person to the attention of the authorities who then discover that he or she is a convert. Mr Kovats warned us in submissions that we should beware of assuming that if a Christian is mistreated it is because he or she is a Christian. We accept that certainly does not follow. However, the evidence about the person who was involved in the accident with a police car suggests that it was when a Bible was seen in the car that matters got worse. It will be a question of fact as to whether it can properly be said that such an incident arises from a person's conversion.
146. We are conscious of the fact that some of the "ordinary converts" who have been caught up with the authorities have been severely mistreated. We have in mind the man in the car. As we have said, it is extremely difficult to predict under what circumstances this kind of incident might arise, and to a very large extent it seems to be chance. In our judgment the number and frequency of these events is not such as to show that there is a real risk of serious mistreatment to those who are not seen as the more active convert, Pastor, church leader, proselytiser or evangelist (FS and Others Para 189). We add that church leaders would certainly include those leading house churches. We say that because the incidents are still not large in number but

also do not always result in serious harm which would amount to persecution or Article 3 mistreatment.

147. We have found it difficult to compare the number of incidents reported with the number of Christians because the estimates of the number of Christians vary considerably. We have only been concerned with the non-ethnic Christians but even then it is difficult. We say that because of the evidence of the undoubted growth of the house church movement. House churches are intended to be hard to find and identify and we can understand that the authorities are concerned, given their antipathy towards conversion. That is particularly so when one also bears in mind the type of Christian based material that is being broadcast into Iran via satellite and the internet, largely from the United States' evangelical Churches. They are undoubtedly provoking the situation by making exaggerated claims as to their effectiveness, and we observe that the Iranian authorities appear to be expressing their concern by repeating those exaggerated claims. Even though Ms Enayat says that the numbers given by the Iranians are not a genuine estimate, but more figurative in order to make a point, it does however show their concern. Even so, there is no satisfactory evidence about the number of incidents relating to house churches and little satisfactory evidence of the prevalence of such churches. There is in fact very little evidence about how house churches operate, or the extent to which, and even if, their members openly evangelise.
148. It remains our view that for the ordinary convert (within the meaning which we have slightly modified from FS and Others) that there is a risk, but not a real risk, of serious harm if returned to Iran. We do not demur from the concept of the added risk factor as referred to in FS and Others.
149. We have not heard argument about the categories of returning Christian converts which were found to be at real risk in FS and Others. As the situation has deteriorated, rather than improved, we cannot see that the situation for them would be any better than that considered in FS and Others. In drawing that conclusion we have borne in mind that Ms Enayat considers that, if anything, there is an underreporting of incidents. By that she meant that there may be more incidents than are reported. As in all walks of life, leaders and more high profile members of the churches, are in a better position to raise international concern and to interest the international observers in what is going on. Of course, that can still happen for the ordinary convert but it also makes sense that the individual, or the family concerned, may wish keep a low profile, rather than making an incident public. We acknowledge therefore that there may be a degree of underreporting. We are not in a position to know how substantial any underreporting is. We merely acknowledge it as a possibility and accept that things may be worse than has been reported. Having said that, there are a great number of supportive Christian organisations, especially in the United States, monitoring the situation in Iran. The volume of evidence that we have seen does not suggest any reluctance to make public any incident which does come to light. X and Y's reluctance does not contradict that because we do not know why they were reluctant to give evidence, especially as they are safely in the United Kingdom.

150. We were provided with a very large volume of background evidence which is listed in the Appendix. In this determination, having told counsel prior to submissions that would be our approach, our principal focus has been on that to which we were expressly referred, either in oral submissions, skeleton arguments or written submissions but, for the avoidance of doubt, that does not mean we have not taken into account the evidence in its entirety. Much of the material deals with the same incidents and whilst it may be true there is a degree of underreporting it is also true that a great deal is made of that which is reported, in the sense that it is reported in very many different places.

SECTION 14

Late Evidence

151. After the end of the hearing, solicitors for Z submitted some late evidence. They said that the evidence related to events prior to the date of the hearing but which were only reported after the date of the hearing and therefore it had not been possible to adduce them any earlier. The documents were submitted with a letter dated 26 June 2008. They were also sent to the Treasury Solicitor who asked for time to consider them. After some agreed extensions of time to enable the Embassy in Tehran to be consulted we received the respondent's submissions under cover of a letter of 8 August 2008.

152. With the new documentation Z's solicitors referred the Tribunal to SD (Treatment of post-hearing evidence) Russia [2008] UKAIT 00037 in which a Tribunal chaired by the President considered the proper approach to such late submissions. He referred to the principles in Ladd v Marshall [1954] 1WLR 1489 which set out the relevant principles. A Tribunal should not normally admit fresh evidence unless,

- (i) it could not have been previously obtained with due diligence;
- (ii) it would have had an important influence on the result; and
- (iii) was apparently credible.

The President said that if, having applied that test, the Tribunal was satisfied there was a risk of serious injustice because of something which had gone wrong at the hearing or, there was evidence that had been overlooked, then it was likely to be material. He suggested that it may then be necessary to either reconvene the hearing or obtain written submissions from the other side in relation to the matters included in the late submissions.

153. We are far from satisfied that this new material passes the Ladd v Marshall test. Whilst we accept that if the reports were only published after the hearing they could not have been adduced at it, we are not satisfied that this evidence would have had a material or important influence on the result and nor are we satisfied that it was all credible. By that, we are not saying that the evidence was not on point.

154. The evidence comes in large part from Compass Direct, a website which acts as the news agency for the Assembly of God Churches. It refers to the arrests of three Christian families and the release of most of them with little delay. It also refers to the arrests of two young men in a park, and to a family detained at the airport as they left the country. The reports refer repeatedly to the facts and all go on to make similar points about general conditions. The reports about Mohsen Namvar suggests that he is a pastor. There is a report about six Baha'i leaders who have been detained which is not relevant. Also, there is a report from the Christian Post that the exaggeration of the numbers of converts continues and both the churches and the Iranian government are involved.
155. In FS and Others there was a submission of late evidence and that Tribunal decided to deal with it, but not on Ladd and Marshall terms. At paragraph 147, the Tribunal said:-

"We see no advantage in not considering the material, late though it is in arriving after the conclusion of the hearing. If it is of real significance, we would be producing a determination which would shortly thereafter have to be reconsidered and which could afford no useful guidance. If it were of no real significance, little would have been lost by its reception".

We adopt that approach.

156. We find that the material which has been submitted adds nothing of substance to the material which we have considered above. We have observed that incidents which are reported are reported in many places, which appears to be the case with the new evidence. Taken at its highest this late evidence does no more than confirm the views which we have already expressed and contains no surprises. It adds nothing to the appellants' case in the sense that it does not show any change in the trends or any increase in the scope, of what is already known to be happening. We have indicted elsewhere that the background evidence needs to be looked at in the light of Ms Enayat's view that there is under-reporting, and our observation about repeated reporting. We also note that this new evidence is unclear as to why some of those who have been detained, and mostly released promptly, were detained. Mr Kovats has made the point that, if a Christian is arrested, it does not follow he was arrested because he was a Christian. We do not regard this new evidence as capable of changing our view. We have dealt with it, after giving the respondent the opportunity to comment, and having considered those comments.

SECTION 15

Decision in the Reconsideration of the Appeal of Z

157. In assessing the risk to both appellants we have borne in mind that the burden of proof is on them and they have to show that there is a reasonable likelihood that they will be subjected to serious mistreatment on return. That serious mistreatment needs to be such that it will amount to persecution for the purposes of the Refugee Convention, inhuman or degrading treatment for the purposes of Article 3 ECHR or serious harm as in the meaning of paragraph 339 of HC 395 in relation to humanitarian protection. It was accepted by the Adjudicator that Z had converted to Christianity and was a member of an evangelical Church. Keith J ordered reconsideration on the basis that the Adjudicator had failed to address whether his fear of persecution on return to Iran on the grounds of his apostasy was well founded because that involved determining whether he would practice his religion discreetly or evangelically. The error which Keith J identified was that the Adjudicator had found it significant that Z had not shown any desire to proselytise when he was in Iran previously. On the other hand his evidence was that evangelism had only become a significant part of his faith after he came to the United Kingdom. Keith J also said the Adjudicator had overlooked the tenet of not hiding one's Christian faith. In confirming that there was an error of law the Tribunal (Senior Immigration Judge Allen, Immigration Judge Davey and Mrs Hewitt) recorded that the respondent had conceded the Adjudicator had made a material error of law in confining his findings as to whether the appellant would proselytise or act in some open and public manner. They said:

"1. The appellant a citizen of Iran sought a reconsideration on a decision of an Adjudicator, Mr T R Cockrill, who on 8 December 2003, dismissed an appeal based on refugee Convention Articles 2 and 3 ECHR grounds against a decision of the Secretary of State on 2 May 2003 to remove the appellant following the service of an IS151A notice.

2. The Tribunal refused permission on 9 February 2004 but a statutory review on 8 March 2004 determined that the assessment of risk on return particularly the extent to which the appellant would evangelise not being properly considered.

3. The Secretary of State conceded that there was an error of law in the Adjudicator's determination in simply confining the issue to likelihood of the appellant proselytising or acting in some open and public manner and or being obliged to practice in a manner likely to bring him to the attention of or conflict with the Iranian authorities.

4. In the light the fact that FS(Shirazi) is now in being, it is clear in the light of the fact that the determination is over 2 years old there will need to be a reconsideration of all issues including credibility."

158. We do not doubt that the appellant has become a Christian and we accept the evidence about that from Mr Desborough and Pastor Nichols. The appellant would therefore return as a converted Christian. The question then is whether he would be regarded as an ordinary convert in the way in which we have concluded that phrase should be used. We are entirely satisfied that he would not seek to draw attention to himself by proselytising or evangelising openly after he returned. He said in terms, in reply to Mr Kovats, that he would not put himself through anything that would put himself at risk. He expressed the view that he may spread the word to a neighbour on a one-to-one basis but that he would not do anything foolish. Despite her best efforts, Ms Weston was unable to establish that the true position was anything other than that and, in our judgment, that is the clearest possible evidence that the appellant is an ordinary convert for the purpose of the assessment of risk. Consequently he would not be at real risk of serious harm were he to return and behave in that way.
159. HJ requires us to also consider whether Z can reasonably be expected to tolerate living in that way. Our conclusion is that he can. He would be giving up the ability to express his religion as openly as he can in the United Kingdom, but would not, in practice, be prevented from practising his faith or from associating with other believers. The requirement to spread the word is flexible as to how that is achieved and the appellant has described how he would approach the obligation. We have found that his religious behaviour will not take the form of proclaiming the word from street corners, but we are not persuaded that for him it is essential to his religious identity that his behaviour takes that form. We have found that his religious behaviour will be discreet, but on our assessment he is someone who is reasonably likely to be able to maintain his basic religious identity by worshipping with others, or attending bible classes (ie by discreet ways of being religious). The evidence does not show that for this appellant conducting himself discreetly will involve suppression of his basic religious identity.
160. Ms Weston expressly said that she was not putting forward any claim under Article 8 of ECHR on Z's behalf.

SECTION 16

The Decision in the Reconsideration of the Appeal of M

161. In finding that the Immigration Judge had made an error of law in his earlier determination, Senior Immigration Judge Eshun said:

“The IJ accepted that the appellant wishes to convert to Christianity, and that he has been baptised. At the date of the hearing, the appellant was yet to be confirmed. The appellant is converting to the Catholic faith.

The IJ relied on FS for his conclusion that as an ordinary convert, the appellant would not be at risk on his return to Iran. Although the IJ claimed to have considered the recent report of Anna Enayat, he did not properly do so and both representatives agreed that this was a material error of law. “

162. It was not in dispute that M is a genuine convert to Roman Catholicism. He is unusual in that regard because the majority of Iranian Christians that the Tribunal sees have converted to Protestant Churches. We are satisfied, having heard both from him and Father Basdon, that his conversion is genuine.
163. There are a number of aspects of M's claim that we do not accept. M claims to have returned to Iran, following a message from his so-called lifelong friend AN to the effect that his brother had difficulty with a legal dispute and required his assistance. The appellant claims that he had revealed to AN that he had become a Christian, although he had not revealed it to anybody else in Iran. AN appears to have been employed in the petroleum industry, like M. M claims that, having returned to Iran using his own passport, at a time when he was in the United Kingdom with leave as a student, he went to stay with his sister-in-law and his nephews and nieces, only to be told his brother had disappeared and could not be found. After three days, the appellant claims that he was seized by a group of men, taken to a place of detention, and kept blindfolded for two weeks. He was mistreated and claims he was released on a day when a number of people came to give him a meal and he recognised the voice of AN among that group. He has given evidence, not always consistently, about who raised the issue of releasing him in exchange for money and the extent to which AN was involved in that. He has said that AN was not among those who took him back to his brother's home, whereupon he paid cash and was released. He was able to leave Iran with no difficulty.
164. We do not accept that account. Ms Enayat said that she had never heard of such a thing happening to a person claiming to be in difficulty because of his religion, although she had heard similar accounts by those claiming political difficulties. She was referring to his evidence about hearing the voice of a person who must have been an accuser. In view of the fact that the account is one that is more usually heard from those who are detained for political reasons; the vagueness of the account as to how the suggestion of payment for release came about; and the general implausibility of the appellant being called back to Iran, with a view to either causing him difficulty, or extracting a bribe - we do not accept that account.
165. We also not accept the appellant's relationship with EV. There is no reason why M should not be expected to establish that he is in a relationship with another person in the United Kingdom on the balance of probabilities. We say that, given the reasons underlying the need for the lower standard of proof in asylum cases, namely the difficulty in establishing facts in other countries and the seriousness of the risks. We heard evidence both from M and EV that they were in love and intended to marry. We did not hear the age of EV but it is obvious that she is very considerably older than the appellant. He claims to have met her through an internet chat room, as indeed he claimed to have met the British citizen with whom he was associating at the time of the original appeal. EV is from an entirely different background both in terms of culture and religion. She is not a Roman Catholic, was born in Holland and has lived most of her life in Canada. She is currently here with a visit visa. Of course, we acknowledge that two people with a considerable age difference, and different backgrounds, can meet and fall in love but we would have expected to see

rather more in the way of evidence of devotion. M did not call any witnesses who knew them as a couple. We heard nothing about their relationship, other than the fact they had been living at the same address for a few months. We accept that if they had genuinely wished to marry it would have been very difficult for them to do so in view of the respondent's regulations. (That may change in view of R (On The Application of Baiyai and Others) v Secretary of State For The Home Department [2008] UKHL 53). Neither is a British citizen, neither is settled in the United Kingdom, and neither is a member of the Anglican Church. We were unimpressed by the lack of apparent effort made to obtain entry clearance for the appellant to Canada. Whilst we accept that the Canadian Embassy may view the whole thing with a great deal of suspicion, the only enquiry that appears to have been made was whether the appellant could join EV as a spouse and how much it would cost to make the application. There do not appear to have been any enquiries as to whether the appellant could get entry clearance to Canada as a fiancé or as somebody who is in a relationship with a Canadian citizen. We were impressed, not by the refusal of the Embassy to encourage an application, but by the lack of energy used by M and EV to try to find the best way to proceed. We are not, therefore, satisfied that the appellant is in a relationship with EV as he would have us believe, although we do accept they are living at the same address. We do not accept they would marry and the question of his being returned to Iran with a Christian wife does not arise.

166. Having said that, we are concerned with the effect of returning M to Iran. We do not accept that he would proselytise or evangelise, however enthusiastic he may be about his adopted Roman Catholic religion. In saying that we accept that spreading the gospel is part of the obligation. We find he would not be at real risk of serious harm as a result of his conversion.
167. But we are concerned about whether he would, in reality, be able to practise his religion at all, as it is necessary for an actively practising and genuinely adherent member of the Roman Catholic Church, as we have found that the appellant is, to participate in the sacramental life of the church by attending services in the presence of a priest. In contrast to those who have converted to Protestant religions, there is an extremely limited scope for attending services. For the appellant, there is only the Latin Rite Roman Catholic Church. Although it has three centres, and possibly as many as five clergy, it is a church which exists largely, and probably exclusively, to service the expatriate population and is clearly extremely cautious in the way it proceeds. Father Basdon explained that it is not simply a group of churches but an international church that has diplomatic relations with Iran and has to operate carefully. There is no scope at all for house churches, partially because of the need for discretion by the church, but also because, being a sacramental church, it is not possible to meet in a meaningful way without the presence of a priest to administer Mass and take confession. The evidence is that attendees at church are monitored, and that as an Iranian M would stand out. The church would not, in our judgment, welcome M notwithstanding that in theory the church is open to all comers. It is the type of activity that would draw attention to the church and undermine its relationship with the Iranian authorities. Father Basdon said it would be untenable for M to attend church. We therefore find that the appellant, as a convert to Roman Catholicism, would not be able to practise his religion in Iran on return. We must

apply the two stage test in HJ. In general, we are aware both that there is a great diversity in the way that members of churches practise their religion, and that there are many who may be considered (or consider themselves) as genuine members of a sacrament-based church who seldom, if ever, attend services. The differences in practice, and the question of whether religious identity would be suppressed to a degree that it would be unacceptable is a matter of fact and degree in every case. As to how, firstly, M will behave in Iran, we are in no doubt that in practice he will be unable to attend church for mass or confession, to associate and worship openly with other Roman Catholics or access the services of a priest in any meaningful way. We make that finding having regard to the evidence we have heard about the presence of the Roman Catholic church in Iran, the nature of the congregations, the need for maintaining satisfactory relations with the Iranian authorities and the degree of surveillance of churches in general.

168. As to the second stage objective test, accepting the evidence we heard about the demands on Roman Catholics to attend sacramental rites and the source of those demands (and there was nothing before us that might cause us to doubt Father Basdon's evidence), we find that to deprive the appellant, as an actively practising Roman Catholic, of any meaningful contact with his church, and any of the accepted essential elements of that sacramental religion, is to require him to live a life that he could not reasonably be expected to tolerate. It would partially suppress his religious identity. For that reason we find that M has shown that it is reasonably likely that, if he is returned to Iran, he will be subjected to persecution there.
169. By parity of reasoning, to return M to Iran would cause the United Kingdom to be in breach of his rights as protected by article 3 ECHR. If it amounts to persecution to return a person to a place where it is unreasonable to expect them to tolerate such suppression of their identity, we cannot but find that would be to subject them to inhuman or degrading treatment.

The first appellant's appeal is dismissed on asylum, humanitarian protection and Article 3 ECHR grounds.

The first appellant did not make any claim on the basis of Article 8 ECHR.

The second appellant's appeal is allowed on refugee and human rights grounds but dismissed on humanitarian protection grounds.

Signed

Date

Senior Immigration Judge Mather

APPENDIX

List of documents and background material to which the Tribunal was referred APPENDIX: LIST OF BACKGROUND MATERIALS BEFORE THE TRIBUNAL

1	01/01/1997	Iranian Christian International, " <i>The Continued escalation of persecution of evangelical Christians in the Islamic Republic of Iran, condensed update</i> " [this report contains the odd numbered pages]
2	01/04/2001	<i>Your Prayers and Support are asked for the Episcopal Church in Jerusalem and the Middle East Bible Lands</i> published by The Jerusalem and The Middle East Church Association. Surrey.
3	24/05/2004	Guardian: <i>Stumbling in the dark</i>
4	07/06/2004	Human Rights Watch, <i>Like the Dead in Their Coffins: Torture, Detention, and the Crushing of Dissent in Iran</i>
5	04/08/2004	International PEN: <i>Iran: Academic Hashem Aghajari Release on Bail</i>
6	13/09/2004	Compass Direct (USA): <i>Iranian Police Release 10 evangelical Pastors</i>
7	07/12/2004	Human Rights Watch: <i>Iran: Torture Used to Obtain "Confessions"</i>
8	20/12/2004	Human Rights Watch: <i>Iran: Judiciary Uses Coercion to Cover Up Torture</i>
9	23/12/2004	Radio Free/Radio Liberty: <i>Iran: A Look At The Islamic Republic's Christian Minority</i>
10	01/01/2005	UNHCR, <i>Returns to Iran</i>
11	01/01/2005	UNHCR, <i>Treatment of Religious Minorities in Iran</i>
12	04/02/2005	Compass Direct (USA): <i>Jailed Iranian Pastor Finally Produced in Court</i>
13	11/03/2005	Compass Direct (USA): <i>Iranian Christian Jailed in Evin Prison</i>
14	15/03/2005	Office of the United Nations High Commissioner for Human Rights (OHCHR), <i>Report of the Special Rapporteur on freedom of religion or belief: Summary of cases transmitted to Governments and replies received (Iran excerpt)</i>
15	30/04/2005	Compass Direct (USA): <i>Iran Changes Venue for Apostasy Trial</i>
16	13/05/2005	Amnesty International: <i>Iran: Too little, too late - Afsaneh Norouzi's death sentence and pardon</i>
17	30/05/2005	Compass Direct (USA): <i>Islamic Court Acquits Iranian Christian</i>
18	04/06/2005	AsiaNews.it: <i>Iran, a Christian convert to face death penalty for apostasy</i>
19	26/07/2005	Iran Daily: <i>Judiciary Criticizes Media Coverage</i>
20	08/11/2005	US Department of State, <i>International Religious Freedom Report, Iran</i>
21	11/11/2005	www.chiesa.espressonline.it , " The Church Breaks its Silence over the Islam of the Ayatollahs "
22	15/11/2005	Iran Focus: <i>Iran's Rafsanjani criticises purge of officials</i>
23	18/11/2005	Guardian: <i>Iran in turmoil as president's purge deepens</i>
24	28/11/2005	Compass Direct (USA): <i>Iranian Convert Stabbed to Death</i>
25	30/11/2005	Christian Post: <i>Persecution against Christian Converts in Iran Escalating</i>
26	06/12/2005	Compass Direct (USA): <i>Iranian Christians Mourn Martyred Convert</i>
27	06/12/2005	The Voice of Martyrs - News - <i>Iran: New details emerge on house church pastor's murder</i>
28	07/12/2005	Immigration and Refugee Board of Canada: <i>The repatriation of failed refugee claimants to Iran, including reports of claimants being detained, mistreated, tortured upon removal from Canada on the basis they made refugee claims in Canada</i>
29	19/12/2005	Baha'i World News Service: <i>Wrongly imprisoned Baha'i dies in Iranian jail</i>
30	27/12/2005	Guardian: <i>Bearing the cross</i>
31	18/01/2006	Human Rights Watch, <i>World Report 2006: Iran</i>
32	16/02/2006	Amnesty International: <i>Iran: New government fails to address human rights</i>

- 33 16/02/2006 Amnesty International, *Iran: New government fails to address dire human rights situation.*
- 34 17/02/2006 Amnesty International: *Iran: urgent investigation required into security forces violence against Sufi Muslims in Qom*
- 35 24/02/2006 Amnesty International: *Iran: Worrying trends in use of death penalty*
- 36 24/02/2006 US Commission on International Religious Freedom (USCIRF): *Iran: USCIRF Concerned over Deteriorating Situation for Religious Minorities*
- 37 24/03/2006 Danish Immigration Service: *On certain crimes and punishments in Iran: report from fact-finding mission to Teheran and Ankara - 29 January 2005*
- 38 27/03/2006 Office of the United Nations High Commissioner for Human Rights (OHCHR), "Report of the Special Rapporteur on freedom of religion or belief: Summary of cases transmitted to Governments and replies received (Iran excerpt)"
- 39 03/04/2006 Immigration and Refugee Board of Canada: *Exit and entry procedures at airports and land borders, particularly at Mehrabad International airport*
- 40 03/04/2006 Immigration and Refugee Board of Canada: *Types of exit permits issued to individuals for travel abroad; the difference between an exit permit and an exit stamp; how these permits are obtained and whether they are placed inside the passport or take some other*
- 41 04/05/2006 Letter from William Young and recommendation from "Comite de Apoyo al Menor Abandonado de la Convencion" (CAMAC)
- 42 07/05/2006 Letter from Joyce Edwins
- 43 08/05/2006 Letter from Rev. Harry Elias (Jesuit Refugee Service UK)
- 44 17/05/2006 Amnesty International: *Further Information on Urgent Action 43/06 - Iran: Incommunicado detention / fear of torture, New concern: fear of flogging (52 members of the Nematollahi Sufi community sentenced to prison and are to be flogged)*
- 45 22/05/2006 Compass Direct (USA): *Iran's Secret Police Arrest Long-Time Convert*
- 46 22/05/2006 Compass Direct (USA): *Iran's Secret Police Arrest Long-Term Convert*
- 47 23/05/2006 Amnesty International, *Amnesty International Report 2006: Iran*
- 48 13/06/2006 Compass Direct (USA): *Iranian Convert Pastor Released on Bail*
- 49 24/07/2006 Immigration and Nationality Directorate: *Operational Guidance Note*
- 50 27/07/2006 BosNewsLife News Agency (Hungary): *Germany Halts Deportation Iranian Christian*
- 51 08/08/2006 Compass Direct (USA): *Iran "Officially" Charges Ex-Muslim with Drug Trafficking*
- 52 11/08/2006 Iran Focus: *Iran threatens life of young man for apostasy-report*
- 53 11/08/2006 Iran Focus: *Iran threatens life of young man for apostasy - report*
- 54 04/09/2006 Compass Direct (USA): *Iran Releases Jailed Convert to Christianity*
- 55 04/09/2006 Compass Direct (USA): *Iran Release Jailed Convert to Christianity*
- 56 06/09/2006 Freedom House, "Freedom in the World 2006: Iran"
- 57 12/09/2006 Compass Direct (USA): *Iran Quietly Releases Convert Christian Prisoner*
- 58 14/09/2006 Radio Free Europe: *Iran: Bishop concerned about human rights after visit*
- 59 15/09/2006 US Department of State, "International Religious Freedom Report, Iran"
- 60 29/09/2006 Compass Direct (USA): *Iranian Police Arrest Martyred Christian's Daughter*
- 61 29/09/2006 Compass Direct (USA): *Iranian Police Arrest Martyred Christian's Daughter*
- 62 02/10/2006 ASSIST News Service: *Martyred Iranian's daughter disappears after arrest*
- 63 10/10/2006 Amnesty International: *Further Information on Urgent Action 263/06 - Iran: Incommunicado detention / Possible prisoners of conscience (Christian husband and wife released on bail)*
- 64 11/11/2006 Gozaar (Freedom House), "Iranian Christians: An Ethno-Religious Minority"
- 65 17/11/2006 Amnesty International: *Urgent Action 308/06 - Belgium: Fear of forcible return / Torture / Unfair Trial (asylum seekers at risk of forcible return to Iran)*

66	17/11/2006	<i>Regarding the Status of Muslim Converts to Christianity in the Islamic Republic or Iran - Ebrahim Ghaffari (Executive Director of Iranian Christians International, Inc.)</i>
67	15/12/2006	<i>www.worthynews.com: Iran: Authorities Arrest Eight Leaders of House Church Movement</i>
68	18/12/2006	<i>Radio Free Europe/Radio Liberty: Christians arrested in Iran</i>
69	03/01/2007	<i>Support statement from Church of Norway regarding "X"</i>
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