

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76335

REFUGEE APPEAL NO 76364

AT AUCKLAND

Before: M A Roche (Chairperson)
A N Molloy (Member)

Counsel for the Appellants: C Curtis

Appearing for the Department of Labour : No Appearance

Dates of Hearing: 16, 29 & 30 June and 9 September
2009

Date of Decision: 29 September 2009

DECISION

[1] These are appeals against decisions of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining to grant refugee status to the appellants, who are nationals of Somalia.

INTRODUCTION

[2] The appellants are a mother (the appellant) and her infant son. The appellant arrived in New Zealand on 2 December 2008. On 5 December 2008, she applied for refugee status. On 14 January 2009, she was interviewed by the RSB. On 26 January 2009, she gave birth to her son. A decision declining her application was issued on 27 March 2009. On 28 April 2009, a claim for refugee status was lodged on behalf of the baby. A decision declining his application was issued on 27 May 2009. Both appeals were heard concurrently. The mother was the responsible adult for the baby at the hearing, pursuant to s141B of the

Immigration Act 1987.

[3] Although the appellant is a Somali national, she has never lived in Somalia. She was born and raised in the United Arab Emirates (UAE) but has no residency rights in respect of that country. She fears that she and the baby would be mistreated, should they be returned to Somalia because of their status as members of a minority clan. The appellant also claims to fear that she will be mistreated because of her status as a woman. The essential issues to be determined are whether the appellant's claim to be a member of a minority clan (Midgan) is credible and whether that, and her status as a woman, would place her at risk of being persecuted in Somalia, given recent developments there, particularly the rise of Islamist militants.

THE APPELLANT'S CASE

[4] What follows is a summary of the evidence given by the appellant and her witnesses at the hearing. An assessment of this evidence follows later in this decision.

[5] The appellant presented a largely false claim to the RSB. She claimed to have been born in Somalia, to have moved to the UAE with her family when she was four, and to have returned with her family to live in Mogadishu in 2006. She claimed to be a member of the Midgan clan which is discriminated against in Somalia. She also claimed that she and her father were both anti-female genital mutilation (FGM) campaigners and that her father had been murdered by Islamic fundamentalists who had also threatened her, leading her to flee from Somalia.

[6] The hearing before the Authority commenced on 16 June 2009. The appellant initially maintained the claim that she had presented to the RSB. After hearing her evidence for one hour, it became apparent that she was very ill and the hearing was adjourned for two weeks. At the commencement of the resumed hearing, on 29 June 2009, counsel advised the Authority that the appellant wished to withdraw much of her previous claim and to present a different, genuine account of her circumstances and reasons for seeking refugee status.

[7] The hearing was adjourned to allow the filing of an updated written statement and various documents providing evidence of the appellant's identity (none having previously been filed). These documents were filed later that day

and the appellant appeared before the Authority on 30 June 2009 and gave evidence on behalf of herself and the baby.

[8] The appellant is a married woman, aged in her early 30s. She is the youngest of her family's five children. She was born in the UAE, although both her parents are Somali nationals. Accordingly, she has Somali nationality, although she has never lived there.

[9] The appellant's mother is from Mogadishu. Her father was from Burao in northern Somalia. Both are members of the Midgan clan. Her father was highly educated and travelled to Russia to complete some medical education prior to the family's move to the UAE.

[10] The appellant's parents moved their family to the UAE because conditions were better there than in Somalia. They also experienced degrading treatment in Somalia because of their status as Midgan and they wished to avoid this. The appellant's mother told her that it would have been difficult for the family's children to gain an education in Somalia because of their membership of the Midgan clan and that this was another reason why the family had moved to the UAE. In the UAE, the appellant's father worked as a medical technician in a hospital. The children of the family, including the appellant, were all educated in the UAE. The appellant completed high school. She then undertook a computer training course.

[11] The appellant was unaware that she and her family were members of the Midgan clan until she was aged approximately 14. Other Somali girls at school asked her which clan she was from. When she was unable to tell them, they suggested that she was not really Somali. She then asked her brother to tell her. He told her that she was Midgan. When she reported this to the girls at school, they no longer had anything to do with her and encouraged their friends to ignore her also. The appellant also recalls an incident in the UAE where, as a child, she was burned on the leg with a flask of boiling water after a Somali woman deliberately left it near her.

[12] In 1999, her father's work contract finished and consequently, his visa expired. Around this time, he returned to reside in Burao in Somalia, but visited the family in the UAE for approximately three months every year on a visitor's visa until his death in 2008.

[13] The appellant's immigration status in the UAE was precarious and, at one

point, she received a letter informing her that she would need to depart. However, through contacts, she eventually managed to secure a three-year visa from 2004 to 2007, under the sponsorship of her older brother who had a sufficient income to qualify to support her as a relative. One condition of this visa was that the appellant was single.

[14] In 2005, the appellant married her husband in an Islamic marriage ceremony. He was a Somali national from Mogadishu who was working in the UAE. Although he had a visa, he did not earn a sufficient income to qualify to support any relatives. Consequently, it was necessary for the appellant and her husband to conceal their marriage from the government. Therefore, they did not have a civil marriage ceremony or register their marriage in any way.

[15] The appellant's first child was born on 14 October 2006. The appellant and her husband were unable to obtain a birth certificate for him because they did not have the correct immigration status to be married and have a child in the UAE. Consequently, their son had no entitlements of any kind in the UAE. The appellant and her husband were very worried that he may, at some stage, require some kind of urgent medical treatment or that they would be in an accident. As he grew older, they also worried about his education because he was not eligible to enrol in kindergarten or school.

[16] In 2008, the appellant became pregnant again. She was worried that she would be deported to Somalia because of the pregnancy and was fearful of giving birth again in the UAE. She did not wish to go and live in Somalia. She had been there briefly in 2005 to visit her father and had been horrified by conditions there. During her visit, she had witnessed a person being blown up by a landmine and had also suffered degrading discrimination because of her status as a Midgan.

[17] In November 2008, the appellant travelled by air to northern Somalia where she obtained the passport of an Australian national. After returning to the UAE, she travelled to and entered New Zealand using this passport and claimed refugee status a few days after her arrival.

[18] The appellant's husband, son and mother left the UAE around the same time as her. They flew from there to Mogadishu, where they stayed for approximately one week. The appellant's husband has a large family in Mogadishu, consisting of his mother, four brothers and three sisters. One of his brothers is involved with Islamists and is very aggressive towards other members

of the family who disagree with his views. The appellant's husband had a lot of conflict with this brother because he wanted the husband to also join the Islamists. However, the husband is liberal and open-minded and did not wish to do so.

[19] After staying in Mogadishu for a week, the appellant's husband, mother and son, together with the husband's 11 year-old sister, flew to Ethiopia, where they remain.

[20] After arriving in New Zealand, the appellant travelled to Hamilton to visit a family who knew her mother. She has maintained contact with this family, although she is currently residing in Auckland in a refugee hostel.

[21] Members of the Somali community she has met in Auckland have been incredulous that a member of the Midgan clan is as well-educated as she is. Some have suggested to her that she is pretending to be Midgan so that she will be able to get refugee status. She has insisted that she is, in fact, Midgan and has found that once people are convinced of this, they look down on her.

[22] The appellant does not wish to live in Somalia with her children. It is a frightening place that she is unfamiliar with. She has no family or connections there, apart from her husband's family. She believes that as a member of the Midgan clan, she will be unprotected and badly treated there and that she will also be mistreated on account of her status as an assertive, educated woman.

WITNESS EVIDENCE

[23] Three witnesses appeared in support of the hearing. All three are Somali nationals, residing in New Zealand, who are members of the Midgan clan. None of them had met the appellant prior to her arrival in New Zealand. Two of them, however, had met and were related to the appellant's father. The purpose of these witnesses' evidence was to clarify the appellant's clan status.

Evidence of AA

[24] AA is aged in her mid-40s. She currently lives in Hamilton with her husband and children. She was born in northern Somalia and left Somalia in 1991 when the civil war started. She and her family travelled to Ethiopia where they resided in a refugee camp for 11 years before being resettled as quota refugees in New Zealand. AA and her husband are both Midgan. Although she is not closely

related to the appellant's father, he is in her Midgan clan and she met him several times in Somalia when he was visiting from UAE. She had also met the appellant's mother when she was visiting Somalia from UAE.

[25] The appellant arrived at her home without warning in a taxi in December 2008 and stayed with her for one night. Prior to this, a member of the appellant's family had contacted AA from Abu Dhabi and told her that the appellant would be arriving at some stage. Although AA had not previously met the appellant, she recognised her because of her strong resemblance to her father.

Evidence of BB

[26] BB is aged in his late 20s. He resides in Hamilton with his wife who is AA's cousin. BB was born in Mogadishu, Somalia. He left Somalia around 1999 and went to Ethiopia. He came to New Zealand as a quota refugee.

[27] BB and his wife are both from branches of the Midgan clan, known also as the Madaban and Massa clan. BB had not met the appellant before she came to New Zealand, but he knew her father. After the war started, he left Mogadishu and went to live in the north of Somalia in Bassaso. In around 1997, while he was there, the appellant's father visited from the UAE and there was a clan gathering to welcome him. Because BB was from the same clan as the appellant's father, he attended this welcome and met him. When asked, he named the appellant's father by both his full name and his nickname.

Evidence of CC

[28] CC is aged in her mid-30s. She is from Mogadishu and is a member of the Midgan clan. She left Somalia in 1991 and went to Kenya with her children where she resided in a refugee camp before coming to New Zealand to join her mother and brother here. She had not met the appellant or any member of the appellant's family in Somalia. She was introduced to the appellant in Auckland and has since visited her several times.

[29] CC was initially sceptical of the appellant's claim to be Midgan. This is because many people who are not Midgan pretend to be so, in order to obtain refugee status.

[30] Despite her initial scepticism, CC now believes that the appellant is a

member of the Midgan clan. One of the reasons for this is that the appellant is able to understand a dialect which is only used and understood by Midgan people. Although the appellant is not fluent in this dialect, when CC spoke to her in it, she was able to understand some of it. CC has also questioned the appellant about her family history and has satisfied herself, because of this family history and the appellant's ability to understand the Midgan dialect, that she is Midgan.

DOCUMENTS RECEIVED

[31] The appellant has lodged a number of documents relating to her identity and background in the United Arab Emirates. These documents included the appellant's driving licence, national health insurance card, Ministry of Health card, a copy of her Somali passport and various documents relating to her education.

[32] The DOL file in respect of the appellant's baby includes a number of photographs provided by the appellant as evidence of the fact that her husband and elder son are in Ethiopia. These are of her husband and son in Addis Ababa, posing next to Addis Ababa landmarks such as Addis Ababa University and various monuments. Also on file are identity documents, incorporating photographs, issued by the Somali Community Literary Centre. Photographs of these identity documents have been provided for the appellant's husband, niece, mother and son. These documents record the date of arrival of each of these family members to be 6 December 2008.

[33] Following the hearing, the appellant lodged documents relating to the clan identity of two of her witnesses. These were:

- (a) a copy of a UNHCR resettlement registration form for one of AA's sons, DD. The document named her as DD's mother and specified that his ethnicity was "Somali-Gaboye-Midgan-Yibir";
- (b) a copy of a New Zealand Immigration Service (NZIS) Refugee Quota Programme form for DD. This document specifies that his ethnicity is Somali-Gaboye Midgan; and
- (c) a copy of a portion of an NZIS quota program form filled out for BB. His ethnicity was noted as Gaboye which is another term for Midgan.

THE ISSUES

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

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

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

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

ASSESSMENT OF THE APPELLANT'S CASE

CREDIBILITY

[36] Prior to assessing the framed issues, it is necessary to make an assessment of the appellant's credibility.

[37] The appellant presented a false refugee claim to the RSB and attempted to maintain this false claim on the first day of the appeal hearing before the Authority. She then retracted this claim and presented a different account of her background and circumstances.

[38] The Authority is satisfied that she gave untruthful evidence at the appeal hearing in a number of respects. In particular, the Authority rejects her claim that her husband is estranged from his family in Mogadishu and her claim to have destroyed the Australian passport on arrival in New Zealand. Her evidence in respect of both these matters was inconsistent, contradictory and implausible.

[39] The false evidence given by the appellant was peripheral to her core account which, in its essence, consists of her claimed identity, clan membership and nationality.

[40] Counsel has filed a number of identity documents which are genuine in appearance and which support the appellant's claim with respect to her identity and the fact that she is a former resident of the UAE. The appellant gave a plausible account of her background and upbringing in the UAE and, given the number of identity documents that have been provided to the Authority, there is no real basis for doubt concerning her identity.

[41] The Authority also accepts the appellant's claim to be a member of the Midgan clan. The three witnesses who appeared in support of her claim to be a member of this clan were credible. Documents confirming that AA and BB are members of the Midgan or Gaboye clan have been filed. It is accepted that AA and BB met the appellant's father in Somalia and that they have a clan relationship with him. CC's evidence that the appellant is familiar with the dialect used by Midgan is also accepted. Country information confirms the existence of such a dialect: Immigration and Refugee Board of Canada, *SOM9824 – Somalia: information on "untouchable" clans (tribes) and their treatment* (1 December 1991) and Danish Immigration Service *2000 Report on Minority Groups in Somalia* (17 to 24 September 2000).

[42] The appellant's evidence regarding the whereabouts of her various family members is also accepted. She has provided photographic evidence that her husband, son, niece and mother are in Addis Ababa, Ethiopia. It is accepted that the remaining members of her immediate family are in the United Arab Emirates, the United Kingdom and Australia, as she has claimed.

[43] Having heard the appellant and her witnesses, and having examined the large number of identity documents provided in support of her claim, the Authority accepts that she is a Somali national, that she was born in the United Arab Emirates and lived there until her departure for New Zealand in 2008, that her husband and son are now in Ethiopia, that she has no current right of residence in the UAE and that she has no members of her immediate family currently in Somalia although her husband's family were in Mogadishu as recently as December 2008.

ON THE FACTS AS FOUND, DO THE APPELLANTS HAVE A WELL-FOUNDED FEAR OF BEING PERSECUTED IN SOMALIA?

[44] It is necessary to determine whether a person of the appellant's profile (female, a member of the Midgan clan, raised outside Somalia) faces a real

chance of being persecuted, should she return to Somalia. It is also necessary to determine whether her infant son, whose risk profile above that of other Somali nationals consists of his clan identity, faces a risk of being persecuted in Somalia. In order to determine this, it is necessary to examine country information concerning current conditions in Somalia generally and Mogadishu in particular, because Mogadishu is the place where her husband is from and where his family resides, and is therefore the place the appellant could be expected to return to, with her husband and children, should she go back to Somalia.

COUNTRY INFORMATION

[45] Somalia has experienced conflict since 1991, when the collapse of the regime of military dictator, Siad Barré, led to civil war, massive human rights abuses by clan-based warlord factions, infrastructure collapse, refugee flow and humanitarian disaster. Despite various attempts to establish stable central government in Somalia, there has been none since 1991: Amnesty International *Somalia: Urgent need for effective human rights protection under the new transitional government* (March 2005) (“the Amnesty International report”) p3.

[46] In 2006, Islamic groups in Mogadishu ousted the warlords controlling the capital. Mogadishu and much of central and southern Somalia was then held by the Union of Islamic Courts (UIC) from mid-2006 until December 2006 when they were ousted by Ethiopian and Transitional Government forces which then installed the Transitional Federal Government (TFG) in Mogadishu. Subsequently, a peace deal brokered in Djibouti between the United Nations-backed TFG and an opposition faction saw the creation of a parliament and the election of a moderate Islamist, Sheikh Sharif Sheikh Ahmed, as TFG president.

[47] A period of relative stability ended in May 2009, when Islamist insurgents launched an onslaught on Mogadishu with the aim of establishing a regime that will strictly impose Sharia law. President Ahmed soon after declared a state of emergency in response to intensifying violence and appealed to neighbouring countries to send troops to Somalia to assist government forces against Islamic insurgents: “Timeline: Somalia, A chronology of key events” *BBC News* (1 July 2009); “Analysis: Who is fighting whom in Somalia” *IRIN News* (2 September 2009).

[48] In June 2009, the UNHCR and UNICEF issued a joint statement which noted that 117,000 people were estimated to have fled Mogadishu in the previous

month, the majority of whom were women and children, that 200 had been killed in the current conflict and 700 were estimated to have been wounded, that there was no safe place for children in Mogadishu and that adolescent males were being forcibly recruited into all armed forces. *Garowe Online* reported on 10 June 2009 that crimes against humanity were being committed on a daily basis “on all sides” in the conflict in Mogadishu and that the UN had stated that all sides in the fighting have flaunted humanitarian principles by ignoring the safety of civilians, shelling civilian areas, forcibly recruiting children and raping women: United Kingdom Home Office *Country Report: Somalia* (21 July 2009) para 4.02 to para 4.05.

[49] Current reports indicate that the conflict continues to worsen and that almost every town in central Somalia is affected by the violence: “Somalia: Record number of displaced at 1.5 million” *IRIN News* (7 September 2009). A report by UNICEF released on 26 August 2009 concluded that the humanitarian crisis in Somalia was now at its worst level for almost two decades and that in the previous six months, the number of people in Somalia in need of humanitarian assistance had increased by 40%. A statement released by UNHCR at the same time stated that the current violence was aggravating an already desperate humanitarian situation, that the majority of civilians displaced by the conflict were women and children and that there were reports of rape and sexual exploitation during their flight and in places of refuge: United Nations Children Fund (UNICEF) *UN Report finds crisis in Somalia at its worst in two decades* (26 August 2009); United Nations High Commissioner for Refugees (UNHCR) *Somalia Violence Escalates* (26 August 2009).

Relevance of Clan

[50] Since the collapse of central government in Somalia, and in the absence of state institutions, protection and security in Somalia has been provided by the clan system. The Amnesty International report referred to at [45] above noted that clan-based faction militias controlled different territorial areas and that there were frequent faction fights, killings of civilians, kidnappings for ransom, robbery and rape, especially against the unarmed minorities who had no clan protection.

[51] The clan known as Midgan is one of three occupational castes in Somalia. They are at the lowest rank of Somali society and have been referred to as untouchables. They are prohibited from intermarrying with other clan groups and having no armed militia, throughout the Somali conflict have been

disproportionately subject to killings, torture, rape, kidnapping and looting: United States Department of State *2008 Country Report on Human Rights Practices: Somalia* (February 25, 2009) (“the DOS report”), Section 5; Discrimination, Societal Abuses and Trafficking in Persons and Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) “Ethiopia: Treatment of Mabhiban/Midgan/Medigan minority clan originating from the Ogaden area by Ethiopian forces in the area and by members of majority clans” (20 May 2009).

Gender-based violence

[52] Gender-based violence, particularly rape, is a feature of current conflict in Somalia. The DOS report noted at section 5 that NGOs had documented patterns of rape being perpetrated with impunity particularly in respect of women displaced from their home due to civil conflict and women who were members of minority clans. It also noted that there were no reports of rape cases being prosecuted during 2008.

[53] Many parts of southern Somalia and much of Mogadishu is now under the control of Islamist forces: “Somali militant leader says fighting will continue despite civilian casualties” *Voice of America* (5 September 2009). In these areas, extreme forms of Sharia law which impact severely on the rights and freedom of women have been established. Punishments for moral transgressions such as stoning have been instituted. In late October 2008, a 13-year-old girl was stoned to death in front of a large crowd in the town of Kismayo in southern Somalia. According to Amnesty International, she was a rape victim. Public floggings and amputations have been instituted in Mogadishu as has the forcible (and often brutal) removal of silver and gold teeth and the enforcement of *hijab* (the covering of women): “Stoning Victim ‘Begs for Mercy” *BBC News* (4 November 2008); “Al-Shabab orders women to wear hijab, bans khat in southern Somalia town” *BBC Monitoring International Reports* (1 August 2009); “Thousands flee as brutality by Somali militants reaches horrific new depth” *The Times* (27 June 2009).

Application of country information to appellant’s circumstances

[54] Country information indicates that Mogadishu and other parts of southern and central Somalia are currently characterised by violence and chaos. While many Somalian civilians are at risk of human rights abuses as a result of the conditions that currently exist in that country, the appellant’s risk of being

subjected to human rights abuses in Somalia is aggravated by her status as a woman which makes her vulnerable to the gender-based violence that has been reported as being widespread.

[55] Her risk is also aggravated by her status as a member of the Midgan clan which increases her risk of being subjected to gender-based violence and also negates the clan protection available to members of the majority clans.

[56] A Norwegian Refugee Council report, published in November 2004, notes that minorities make up 20% of the Somali population and that:

“They are outside the clan system, and have been marginalised and subjected to attacks and violations by the dominant clans.”

[57] The same report also notes that members of minority clans and displaced people, outside either the clan system or the area of origin, are not protected under customary law. The same report noted instances of rape of women and girls from minority clans by militias; Norwegian Refugee Council *Profiles of Internal Displacement: Somalia* (24 November 2004).

[58] Persecution has been defined in refugee law as the sustained or systemic violation of basic or core human rights such as to be demonstrative of a failure of state protection (see Hathaway, *The Law of Refugee Status* (1991) 104 to 108, as adopted in *Refugee Appeal No 2039/93* (12 February 1996) at 15. It is a well-established principle of refugee law that nations should be presumed capable of protecting their citizens, and that clear and convincing evidence is required to demonstrate a state's inability to protect its citizens; *Refugee Appeal No 523/92* (17 March 1995). In the case of Somalia, the presumption that a state can protect its citizens is rebutted by country information. What protection exists is provided through the clan system. This form of protection is not available to the appellant.

[59] Although she has relatives (her husband's family) in Mogadishu, the Authority is not satisfied that the relatives are in a position to provide her with protection or that, given the massive outflow of internally displaced persons from Mogadishu since May 2009, that they even remain there. Neither is it satisfied that the appellant has the ability to travel to and settle in the northern areas of Somalia less affected by the current crises. Travel, particularly for women, is hazardous and it is unlikely she would have the ability to settle in a northern area where she has never lived before given her clan status and lack of networks there.

[60] Although the appellant's father lived in Burao between 1999 and 2008, it cannot be assumed that such paternal relatives that may still remain in Burao would have the ability to provide refuge to the appellant and her family. Nor can it be assumed that the appellant and her husband (who does not have family links in Burao) would be permitted to settle in Burao in any case. Burao is in Somaliland, an area which has attempted to secede from Somalia. Somaliland authorities control entry to their territory and only allow Somaliland residence to those who they consider have a right to reside there: United Kingdom Home Office *Somali Removals* (17 January 2007).

[61] In determining whether a refugee claimant's fear of being persecuted is well-founded, the Authority has consistently adopted the approach set out in *Chan v Minister for Immigration and Ethnic Affairs* (1989) 169 CLR 379 (HCA) in which it was held that even a low likelihood of harm can be enough to afford an appellant the benefit of the protection conferred by the Refugee Convention. A well-founded fear of being persecuted is established when there is a real, as opposed to a remote or speculative, chance of such persecution occurring.

[62] The Authority is satisfied that there is a real chance that should the appellant return to Somalia, she will be subjected to sustained or systemic breaches of her human rights sufficient to constitute being persecuted. It is satisfied that her baby similarly faces a real chance of being persecuted in Somalia. As a breastfeeding infant less than a year old, it is unrealistic to consider his fate separately from hers. The violence and deprivation that she faces a real chance of being subjected to will have a harmful impact on him. Like her, he is Midgan and will be afforded no clan-based protection from harm.

[63] Having found both appellants face a well-founded fear of being persecuted in Somalia, it is necessary to consider the issue of Convention ground. The appellant's risk of being persecuted arises from both her gender and her ethnic group (clan). In certain circumstances, women can constitute a particular social group in terms of Article 1A of the Refugee Convention: *Refugee Appeal No 71427* (16 August 2000) at [108]. The prevalence of gender-based violence against women in Somalia together with the lack of protection afforded to women and the imposition in Islamist held areas of severe Sharia sanctions against women create circumstances where women can properly be considered a particular social group. The relevant Convention grounds for the appellant are therefore race and

particular social group. The relevant Convention ground in respect of the baby is race.

CONCLUSION

[64] For the above reasons, the Authority finds the appellants are refugees within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is granted. The appeals are allowed.

"M A Roche"
M A Roche
Member