

AT AUCKLAND

Appellants:	BP (China)
Before:	S A Aitchison (Member)
Counsel for the Appellants:	E Griffin
Counsel for the Respondent:	No Appearance
Date of Hearing:	11 May 2015
Date of Decision:	22 May 2015

DECISION

[1] These are appeals against decisions of a refugee and protection officer, declining to grant refugee status and/or protected person status to the appellants, citizens of The People’s Republic of China (“China”).

INTRODUCTION

[2] The appellants are a family comprising a mother and two sons. Because the sons are minors (aged 12 and 14 years), the mother acted as their responsible adult at the hearing in accordance with section 375 of the Immigration Act 2009 (“the Act”). The father and daughter (aged 8 years) are citizens of Afghanistan. They were granted refugee status by the Refugee Status Branch (“RSB”) on 2 December 2014.

[3] The appellants claim to be at risk of serious harm from authorities in China for non-compliance with family planning laws. In particular, they claim they will face penalties and communal pressure for non-payment by the family of a fine upon the birth of the third child (the daughter). The primary issue for the Tribunal is whether there is a real chance of the appellants facing serious harm upon return to China.

[4] Given that the same claim is relied upon in respect of all limbs of the appeal, it is appropriate to record it first.

THE APPELLANTS' CASE

[5] The account which follows is a summary of that given by the mother in support of all of the appellants at the appeal hearing. It is assessed later. The father also gave evidence by teleconference from Dubai, for reasons that will become apparent.

The Mother's Evidence

[6] The mother was born in Beijing, China. Her parents and two siblings live in Beijing. The mother married her husband, AA, a citizen of Afghanistan of Tajik ethnicity, in 1999, and the couple have three children as abovementioned.

[7] The mother holds a Bachelor of Arts degree in business management from the University of Beijing and has worked in managerial positions in her brother's business and for another employer. She has not been employed since the birth of her first child in November 2000.

[8] While pregnant with her second child (who was born in May 2002), the mother was subject to repeat visits from members of the family planning committee in Beijing, pressuring her to abort the foetus. They also visited her mother for this purpose. Upon giving birth to her second son, BB, the mother was required to pay a fine of US\$7,000 to have her son registered.

[9] Both of the mother's sons have attended primary school in Beijing, the eldest, CC, for four years, and BB for two years.

[10] When the mother fell pregnant with her third child, DD, she received further pressure from the family planning committee to abort the foetus. She was visited weekly by officials, who also called her daily on the telephone. DD was born in October 2006. During the caesarean procedure, the mother was sterilised without her consent and knowledge.

[11] Upon DD's birth, the family were required to pay a fine of US\$58,000. Without payment of this fine, DD could not be registered. The family could not afford to pay this fine, which meant that DD was not eligible to attend school, to receive medical care or any other identity documentation, including a passport.

The family made repeat visits to the family planning committee to negotiate payment of a reduced fine, but this was not ultimately accepted and the fine remains unpaid.

Harassment from neighbours

[12] The mother was harassed repeatedly by neighbours for having three children in violation of the family planning policy. The car tyres of the family vehicle were punctured and, on a daily basis over a two year period, the electricity in the family home was turned off by neighbours. Rubbish was also dumped at the front of the property and the family were subject to verbal abuse. The mother was aware of neighbours and other persons being jealous of her as the mother of three children.

[13] The mother reported the harassment to the police on several occasions, but they took no action, and simply told her to respond in kind, and mistreat the persons harassing her. Although the police agreed for a surveillance camera to be placed at the apartment for security purposes, the persons harassing the mother and her family managed to circumvent the cameras.

The husband/father

[14] AA has multiple qualifications in Islamic studies and political science, including a diploma in business administration. He was involved in a small business importing and exporting goods between Russia and China when he first met the mother in the 1990s. He travelled to New Zealand on a business visa in October 2006 and established an export and import business here. In 2008, he became a business attaché at the Afghanistan embassy in Beijing, negotiating between Chinese companies and the Afghan government. In this role he travelled to Afghanistan approximately four times a year. Since coming to New Zealand, he has established several small stores, one of which the mother operates. He continues to travel for business and is currently in Dubai.

Travel to New Zealand

[15] Because DD cannot be recognised as a Chinese citizen and issued a Chinese passport, AA applied for an Afghan passport for her. He also applied for visitor visas for the family to come to New Zealand. On 28 January 2011, the family arrived in New Zealand. DD travelled on her Afghanistan passport without any Chinese visa or exit/entry stamps in it.

[16] The children are currently attending school in New Zealand. The mother suffers from anxiety, and receives medication from a general practitioner for this condition.

[17] On 25 July 2014, the family lodged a refugee and protection claim in New Zealand, and were interviewed by the RSB on 20 and 21 August 2014. The RSB granted refugee status to AA and DD on 2 December 2014.

Mother's fears

[18] The mother fears that the family will be separated, if she and her sons are required to return to China. Her husband and daughter have a separate nationality, as Afghan citizens, and are recognised as refugees in New Zealand. In order for the daughter to return to China, she would need to travel to Afghanistan to obtain a visa. The mother was advised of this when she contacted the Chinese consulate in Auckland after inquiring about taking her daughter back to China for a visit.

[19] The mother states that her two sons will be disadvantaged in the education system if they return to China, as they primarily speak English and their Mandarin is not strong. They have "all but forgotten" how to read and write in Mandarin. They will be discriminated against because of their Afghan ethnicity. The mother states that the children have not done as well at school in Beijing as they have in New Zealand. Teachers made disparaging remarks and told them that they were not intelligent. She states that her primary concerns are for her children's health, future studies and the family finances if required to return to China.

The Father's Evidence

[20] The father owns two retail stores in New Zealand and has operated an import/export business here since 2006. He also works as a commercial consultant for Beijing and Afghanistan governments concerning a coal-burning power plant project.

[21] During his wife's pregnancies with the couple's second and third children, she was harassed by family planning representatives, pressuring her to abort the fetuses. The mother was forcibly sterilised during the birth of their third child. While the father travelled frequently on business, he was aware that his wife was constantly harassed by neighbours, including an old couple next door to their home. He attended the police station with his wife on several occasions, and went

to court, in an attempt to stop the harassment. Notwithstanding, he did not consider that this harassment was “serious”. However, he acknowledged that his wife had been very upset about it.

[22] The family were required to pay a fine of RMB300,000 (approximately US\$58,000) upon the birth of their third child, as they had violated the family planning regulations. The fine was too much for the family to afford. They attempted to negotiate payment of a lesser amount, but this was denied. The couple had only been required to pay US\$7,000 for the second child, and the fine for their third child was wholly unexpected.

[23] Because DD was not recognised as a citizen of China, the father obtained an Afghanistan passport for her. She departed China for New Zealand with the family on this passport. Later, when the family wanted to return briefly to China, the family were told by the Chinese embassy in New Zealand that DD would be required to go to Afghanistan to apply for a visa. Even if she were able to return to China, she would, like her father, need to leave on a regular basis to get her visa renewed to remain in China. Given the fear of serious harm in Afghanistan (and the basis for a grant of refugee status for the father and daughter in New Zealand) this would not be possible for her.

[24] The husband’s primary fear for the family is that they will be separated. He does not consider that there is any threat to the family’s security in China. He considers that his sons’ education will suffer if they are required to return to China. His daughter will not be able to attend school there, as the family have not paid the outstanding fine. The husband is also concerned about his wife’s mental health as she suffers from anxiety.

Material and Submissions Received

[25] On 28 April 2015, counsel provided a supplementary statement for the mother and a letter from the mother’s general practitioner in New Zealand. On 1 May 2015, counsel provided a statement from the husband, dated 30 April 2015, and on 6 May 2015 provided submissions and country information sources.

[26] On 7 May 2015 and at the hearing on 11 May 2015, counsel provided records for the sons’ attendance at school in NZ.

[27] At the hearing, the Tribunal presented the following country information and decisions to the mother and counsel for comment including:

- (a) J Watts “China’s one-child policy means benefits for parents — if they follow the rules” *The Guardian* (25 October 2011);
- (b) Refugee Review Tribunal *Background paper China: family planning* (8 September 2013);
- (c) C Coonan “Seven breaches of one-child policy put wealthy Chinese couple in line of fire” *The Independent* (24 December 2011);
- (d) *Refugee Review Tribunal 1217265* [2013] RRTA 393 (15 May 2013);
- (e) *Refugee Review Tribunal 1108245* [2012] RRTA 120 (1 March 2012);
- (f) D Levin “China’s middle class chafes against maze of red tape” *The New York Times* (14 March 2015);

[28] On 15 May 2015, counsel provided further submission and material to the Tribunal.

[29] The Tribunal also has a copy of the RSB file, of which the appellants also have a copy.

ASSESSMENT

[30] Under section 198 of the Act, on an appeal under section 194(1)(c) the Tribunal must determine (in this order) whether to recognise the appellants as:

- (a) refugees under the 1951 Convention Relating to the Status of Refugees (“the Refugee Convention”) (section 129); and
- (b) protected persons under the 1984 Convention Against Torture (section 130); and
- (c) protected persons under the 1966 International Covenant on Civil and Political Rights (“the ICCPR”) (section 131).

[31] In determining whether the appellants are refugees or protected persons, it is necessary first to identify the facts against which the assessment is to be made. That requires consideration of the credibility of the appellants’ account.

Credibility

[32] The Tribunal accepts the mother's and father's evidence as credible. Their evidence was given spontaneously and was consistent with their previous accounts before the RSB.

[33] The accepted facts are that the mother has three children, aged 14, 12 and 8 years. She and her two sons are citizens of China. Her third child, DD, is not registered in China or recognised as a citizen. The family have not paid an outstanding fine for her birth, in violation of the family planning policy. The mother was forcibly sterilised during this birth. Like her father, DD is a citizen of Afghanistan and is recognised as a refugee in New Zealand.

[34] The mother was subjected to harassment from family planning officials and neighbours for violation of the family planning policy. The sons attended school in China and are attending school, along with the daughter, in New Zealand. The mother suffers from anxiety and is receiving medication for this.

The Refugee Convention

[35] Section 129(1) of the Act provides that:

"A person must be recognised as a refugee in accordance with this Act if he or she is a refugee within the meaning of the Refugee Convention."

[36] 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."

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

- (a) Objectively, on the facts as found, is there a real chance of the appellants 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 Claim to Refugee Status

[38] For the purposes of refugee determination, “being persecuted” has been defined as the sustained or systemic violation of core human rights, demonstrative of a failure of state protection – see *Refugee Appeal No 74665/03* (7 July 2004) at [36]-[90]. Put another way, persecution can be seen as the infliction of serious harm, coupled with the absence of state protection – see *Refugee Appeal No 71427* (16 August 2000) at [67].

[39] In determining what is meant by “well-founded” in Article 1A(2) of the Convention, the Tribunal adopts the approach in *Chan v Minister for Immigration and Ethnic Affairs* (1989) 169 CLR 379 (HCA), where it was held that a fear of being persecuted is established as well-founded when there is a real, as opposed to a remote or speculative, chance of it occurring. The standard is entirely objective – see *Refugee Appeal No 76044* (11 September 2008) at [57].

Objectively, on the facts as found, is there a real chance of the appellants being persecuted if returned to China?

[40] The Population and Family Planning Law of the People’s Republic of China (PFPL), sets out the legal framework for the Chinese family planning scheme, which came into force in September 2002. The scheme comprises laws of general application, where Chinese citizens are expected to take responsibility for their fertility in the manner prescribed in the law and provincial regulations. The scheme is operated by local family planning officials and based on a woman’s *hukou* area.

[41] The *hukou*, in essence, is a system of family registration functioning as a control of internal migration between urban and rural areas. The parent’s *hukou* is passed on to their child. Social benefits, such as entitlement to a birth permit, social security, medical care, education, housing, land and pension, derive from the *hukou*; Canadian Immigration and Refugee Board Research Directorate, Immigration and Refugee Board (IRB) *Response to Information Request CHN101198.E* (26 April 2006); IRB *The Hukou Document, China: Reforms of the Household Registration System (Hukou) (1998-2004) Issue Paper* (February 2005).

[42] The provisions on regulation of fertility are set out in articles 17-22 in Chapter III and penalties in articles 41 and 43. These latter articles provide:

“Article 41. Citizens who give birth not in accordance with the stipulations in Article 18 shall pay a social compensation fee prescribed by this law. Those failing to pay the full amount before the due date shall be levied a late payment penalty specified in applicable State Regulations. Those who persist in non-payment shall be sued for payment in People’s Court by the family planning administrative department that levied the social compensation fee.

...

Article 43. Those who resist or hinder family planning administrative departments and staff in the performance of their legitimate duties shall be subject to criticism and ordered to amend their conduct by the family planning administrative departments involved. Conduct breaching public security Regulations shall be subject to public security penalties. Acts constituting a crime shall be referred for criminal prosecution.

Article 44. Citizens, entities treated as legal persons or other organizations deeming that an administrative organ has infringed on their legitimate rights and interests while implementing family planning policy may appeal for review or sue for redress.”

[43] Article 3 outlines the method of calculating the fine (or social upbringing charge (SUC)). It is calculated with reference to the income rate of the average per capita annual disposable income for urban residents or net per capita income for rural residents. Where known, it takes into account the actual income of the parties and detailed circumstances of the breach.

[44] The Tribunal’s predecessor, the Refugee Status Appeals Authority (RSAA), outlined China’s one-child policy and its human rights implications in *Refugee Appeal No 3/91* (20 October 1992), and it is not necessary to reproduce this analysis here. After an extensive discussion in relation to the concept of persecution, the RSAA concluded that

“THE ONE-CHILD FAMILY POLICY: CONCLUSIONS ON PERSECUTION

1. China's birth control policy is applied to the general population.
2. That policy is not inherently or on its face persecutive.
3. However, forced or involuntary sterilization and abortion constitute human rights abuses and may amount to persecution.
4. Persons in fear of such persecution are only protected by the Refugee Convention if the persecution is ‘for reasons of race, religion, nationality, membership of a particular social group or political opinion’.”

...

[45] This approach has been consistently applied in subsequent decisions of the RSAA including *Refugee Appeal No 74134* (18 March 2003); *Refugee Appeal No 73785* (28 March 2003); *Refugee Appeal No 75973* (9 March 2007). As stated by the RSAA in the latter appeal:

“[117] From country information, it is clear that these laws are of general (that is, national) application. However, whether these laws are applied vigorously, laxly or

not at all, very much varies according to the vagaries of officials in each region and even locality. At the local level, national laws of general application can be implemented or overlooked in arbitrary, discriminatory and capricious ways particularly where individual influence (or lack thereof) or personal enmity is a contributing factor.”

[46] The risk of harm arising from application of the policy arises from unlawful actions by local family planning officials, motivated by pressure on them to maintain particular birth levels in their province. Potential consequences for a couple with unauthorised children include imposition of social and financial penalties, and physical risks such as forced abortion and sterilisation.

The Mother

[47] The mother has experienced pressure on her to abort her second and third children, and suffered a forced sterilization during the birth of her third child. However, the refugee inquiry is prospective, assessing future risk. The violations of her right to be free from cruel, inhuman or degrading treatment or punishment in violation of Article 7 of the ICCPR occurred in the past.

[48] As a penalty for non-conformity with the birth control policy, the mother and her husband have been ordered to pay a social compensation fee which they have not been able to afford. As a consequence, their third child has not been given family or *hukou* registration.

[49] The consequence for unregistered children is summarised by the Immigration and Refugee Board of Canada in *Treatment of ‘illegal’ or ‘black’ children born outside the family planning policy; whether unregistered children are denied access to education, health care and other services* CHN104186.E (1 October 2012):

“Unregistered children, sometimes referred to as “black” children, are described in an Agence France-Presse article as having “no legal status” (24 Oct. 2011). The Laogai Research Foundation, a Washington, DC-based organisation that documents human rights violations in China relating to population control and forced labour (n.d.b), states that unregistered children are “treated as non-persons by the state”. According to CHRD, a child without a hukou “cannot apply for an ID card and thus does not have a legal identity, is not a citizen and consequently is deprived of the rights accorded to other Chinese citizens” (21 Dec. 2010, 26). Sources indicate that “black” children may encounter difficulties in accessing, or may be unable to access: identification documents...health insurance...social benefits...employment...and education.”

[50] While there would be apparent social disadvantages to the mother and her family on account of the lack of registration of her third child (assuming the fine cannot be paid), the facts of this case are that the third child has been granted

refugee status with her father by the RSB in New Zealand. The mother and two sons, therefore, fall to be considered against the circumstances they would face upon return to China at this current point in time.

[51] Penalties for failure to comply with the family planning policies are varied and are not applied uniformly across provinces in China. Counsel submits that the consequences of having children born outside the family planning guidelines include large fees and if unpaid, forcible action against the family. She refers to the United Kingdom Home Office *Operational Guidance Note: China* (October 2013) which provides:

“3.13.14 The CECC reports that the law requires each person in a couple that has an unapproved child to pay a ‘social compensation fee’ which can reach 10 times a person’s annual disposable income. Social compensation fees are set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking “forcible” action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, this requirement was not always followed and national authorities remained ineffective at reducing abuses by local officials. [...]”

[52] Counsel further cites coercive and punitive actions imposed by authorities and as recorded in the IRB report (16 October 2014):

“According to the Australian background paper, Chinese family planning officials use a variety of methods to enforce the regulations, including issuing fines and coercive methods like terminating the employment of parents, forced abortion, sterilisation, detention, beatings and land confiscation. (Australia 8 Mar. 2013, 11) *Country Reports 2013* likewise states that [t]hose who had an unapproved child or helped another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the CCP (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property. (US 27 Feb. 2014, 56) The US CECC report adds that, according to media reports, despite provisions in the PRC Population and Family Planning Law that prohibit infringements on citizens’ personal, property, and other rights, officials in some cases threatened or imposed job termination [for public servants], expulsion from the Communist Party, and violence for family planning violations. (US 10 Oct. 2013, 102).”

[53] However, aside from the inability to register her third child, the failure to pay the imposed fine has not led to any harsh consequences as, for example, reported above in some cases. The mother has been able to live in China for four years without any further measures being taken by the family planning authorities. Given the passing of time, and the fact that her daughter is a refugee in New Zealand, there is no risk of the mother facing serious harm arising out of this non-compliance. Even if the daughter were to return to China, there is no real chance of the mother being persecuted in relation to this issue.

[54] The mother fears ongoing harassment from officials and the local populace for non-compliance with the family planning policies. There is country information reporting communal pressure in the enforcement of the family planning regulations. According to the United Kingdom Home Office *Operational Guidance Note: China* (October 2013):

“...Neighbours, too, will scare the pregnant woman and there are even damages incurred to residences in order to scare the woman into ‘willingness’.”

[55] In the past, neighbours have repeatedly, over a sustained period, cut the electricity to the family home; on one occasion deflated the family vehicle’s tyres; placed rubbish at the entrance to the home; and subjected the mother to verbal abuse for having more than one child. However, such harassment falls short of the level of severity that comprises cruel, inhuman or degrading treatment or punishment. The mother reported the harassment to the police, who took no concrete steps to manage the situation. Notwithstanding, this does not mean that there is no state protection for the mother from serious harm. It is also relevant that while the mother has experienced this harassment from neighbours and jealousy from others, it does not mean that she will experience such treatment in every neighbourhood. The family have sold this property and, as the mother states herself, there are also good people living in Beijing. It is relevant, too, that it is not possible for the mother to have any more children.

[56] The Tribunal had taken into account the added characteristic of the mother suffering from anxiety and her vulnerabilities, having experienced harassment and forced sterilisation in the past. However, there is no real chance that the mother will face serious harm upon return to China. There is no evidence that the mother would be unable to access appropriate treatment for her condition in China.

The Sons

[57] The facts are that the two sons have birth certificates, family registration, and have been attending school and accessing medical care services in China prior to coming to New Zealand. They would continue to do so upon return to China with their mother. The mother fears that they will experience difficulties re-assimilating into the education system in China, and states that English is their primary language. While they can speak Mandarin, they would struggle to read and write the language. The Tribunal accepts the boys would take time to adjust to life in China. They may even experience some discrimination owing to their Afghani ethnicity. However, any difficulties they will experience in these respects

do not rise to the level of severity of persecution. The boys will have access to education, at the core of their right contained in article 13 of the ICESCR.

[58] Further, as found above, even taking into account the boys young age, there is no real chance of either of them being subject to harassment or discrimination for the family's breach of the family planning regulations, to any level that would reach serious harm. There is no real chance of the sons being persecuted upon return to China.

Is there a Convention reason for the persecution?

[59] Given the above findings it is not necessary to address this issue.

Conclusion on Claim to Refugee Status

[60] The appellants do not have a well-founded fear of being persecuted in China for any Convention reason. They are not entitled to recognition as refugees.

The Convention Against Torture

[61] Section 130(1) of the Act provides that:

“A person must be recognised as a protected person in New Zealand under the Convention Against Torture if there are substantial grounds for believing that he or she would be in danger of being subjected to torture if deported from New Zealand.”

Assessment of the Claim under Convention Against Torture

[62] Section 130(5) of the Act provides that torture has the same meaning as in the Convention Against Torture, Article 1(1) of which states that torture is:

“... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Conclusion on Claim under Convention Against Torture

[63] The appellants advance no evidence in respect of this limb of the enquiry other than that which they have advanced in respect of their refugee claim. The same findings of credibility and fact apply here. The evidence does not establish that there are substantial grounds for believing that the appellants are in danger of being subject to torture if deported from New Zealand.

The ICCPR

[64] Section 131 of the Act provides that:

“(1) A person must be recognised as a protected person in New Zealand under the Covenant on Civil and Political Rights if there are substantial grounds for believing that he or she would be in danger of being subjected to arbitrary deprivation of life or cruel treatment if deported from New Zealand.

...

(6) In this section, cruel treatment means cruel, inhuman, or degrading treatment or punishment.”

Assessment of the Claim under the ICCPR

[65] By virtue of section 131(5):

“(a) treatment inherent in or incidental to lawful sanctions is not to be treated as arbitrary deprivation of life or cruel treatment, unless the sanctions are imposed in disregard of accepted international standards:

(b) the impact on the person of the inability of a country to provide health or medical care, or health or medical care of a particular type or quality, is not to be treated as arbitrary deprivation of life or cruel treatment.”

Conclusion on Claim under ICCPR

[66] Again, the appellants advance no evidence in respect of this limb of the enquiry other than that which they have advanced in respect of their refugee claim. The same findings of credibility and fact apply here.

[67] As to cruel, inhuman or degrading treatment it is important to bear in mind that such treatment still requires a person to suffer a level of harm not less than that required for recognition as a refugee. See, in this regard, the discussion in *AC (Syria)* [2011] NZIPT 800035 at [70]-[86], notably the reliance on *Taunoa v Attorney General* [2008] 1 NZLR 429 (SC).

[68] As *AC (Syria)* pointed out, the rights enshrined in article 7 of the ICCPR are among those which are directly relevant to the assessment of “being persecuted”

in the refugee context. Just as a need for serious harm has meant that the appellants are not at risk of “being persecuted” so too does it mean that they are not in danger of cruel, inhuman or degrading treatment or punishment if they return to China.

[69] The evidence does not establish that there are substantial grounds for believing that the appellants are in danger of being subjected to arbitrary deprivation of life, or to cruel, inhuman or degrading treatment if deported from New Zealand.

CONCLUSION

[70] For the foregoing reasons, the Tribunal finds that the appellants:

- (a) are not refugees within the meaning of the Refugee Convention;
- (b) are not protected persons within the meaning of the Convention Against Torture;
- (c) are not protected persons within the meaning of the Covenant on Civil and Political Rights.

[71] The appeals are dismissed.

“S A Aitchison”
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Member

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