

**REFUGEE STATUS APPEALS AUTHORITY**  
**NEW ZEALAND**

**REFUGEE APPEAL NO 76179**

**REFUGEE APPEAL NO 76180**

**REFUGEE APPEAL NO 76181**

**REFUGEE APPEAL NO 76182**

**AT AUCKLAND**

<b><u>Before:</u></b>	B L Burson (Member)
<b><u>Counsel for the Appellant:</u></b>	I Uca
<b><u>Appearing for the Department of Labour:</u></b>	No Appearance
<b><u>Date of Hearing:</u></b>	10 March 2008
<b><u>Date of Decision:</u></b>	31 March 2008

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**DECISION**

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

**INTRODUCTION**

[2] This is the second claim for refugee status by the appellants. The appellants in *Refugee Appeal No 76179* and *Refugee Appeal No 76180* are a married couple and will be referred to as “the husband” and “the wife” respectively. The appellants in *Refugee Appeal No 76180* and *Refugee Appeal No 76181* are their daughter and son. The husband is the responsible adult for the daughter and son for the purposes of s141B of the Immigration Act 1987 (“the Act”).

[3] The husband, wife and daughter arrived in New Zealand on 21 August 2005 and lodged a claim for refugee status on 5 September 2005 (“the first claim”). The husband and wife were interviewed by a refugee status officer on 17, 18 and 21 October 2005. On 14 March 2006 the son was born in Auckland and on 18 April 2006 the claim for refugee status was received by the RSB. On 30 June 2006 the RSB declined the first claim. The appellants duly appealed to the Authority (“the first appeal”). The Authority panel (differently constituted) hearing the first appeal dismissed the first appeal by decision dated 20 December 2006.

[4] Following the decline of the first appeal the permits of the husband, wife and daughter to be in New Zealand were revoked with effect from 1 February 2007. The son had never held a permit to be in New Zealand. On 5 March 2007 the appellants appealed to the Removal Review Authority against the requirement that, having had their permits to be in New Zealand revoked, they leave the country. In these appeals the appellants challenged the findings of fact made by the first panel of the Authority hearing the first appeal and argued that there were exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the appellants to be removed from New Zealand. By decision dated 21 September 2007 the Removal Review Authority dismissed their appeals.

[5] On 1 October 2007, the appellants filed their second claim for refugee status (“the second claim”). The husband and wife were interviewed by a refugee status officer on 15 November 2007. By decision dated 19 December 2007 the RSB held that it did not have jurisdiction to entertain the second claim. The second claim was therefore dismissed. The appellants duly appealed to this Authority.

[6] Because this is the appellants’ second claim for refugee status, the appellants must first establish that the Authority has jurisdiction to hear the appeal.

### **JURISDICTION OF THE AUTHORITY TO HEAR THE SECOND APPEAL**

[7] Section 129O(1) of the Act (which came into force from 1 October 1999) provides:

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

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

[8] This provision, now incorporated in the Act, is similar in content to the provisions of the Authority's Rules, which applied prior to that date.

[9] It is also relevant to note that, pursuant to s129P(1) of the Act:

- "1. It is the responsibility of the appellant to establish the claim, and the appellant must ensure that all information, evidence and submissions that the appellant wishes to have considered in support of the appeal, are provided to the Authority before it makes the decision on the appeal."

[10] The question of whether there is jurisdiction to entertain a second or subsequent refugee application was considered under the previous Rules and Terms of Reference of the Authority which were similar in content to the provisions of s129O(1) of the Act. A leading decision in that regard was *Refugee Appeal No 2245/94* (28 October 1994) at pp 16-22. In that decision, the Authority ruled that the question of jurisdiction is one of mixed fact and law. Thus, in most cases, it is necessary first to hear the application so as to establish findings of credibility and fact before a final determination can be made.

[11] In this appeal, therefore, it is proposed to consider the appellant's original claim and his further claim, as presented at the second appeal, with a view to determining:

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

### **The factual basis of the first claim**

[12] The husband claimed that he was at risk of being persecuted by the Liberation Tigers of Tamil Elam (LTTE) for informing the police that he had been required by the LTTE to carry a tea chest containing explosive-making materials to his home. The police had, the husband claimed, failed to capture the LTTE personnel in road blocks they had established around his home and, fearful of LTTE retribution, he went into hiding. Thereafter the LTTE made a number of visits to the husband's parents and younger brother (B3). Complaints were made to the local police station about these incidents by the husband's father and B3.

The husband also claimed that, following a visit by an agent for Immigration New Zealand (INZ) to the local police station where the complaints were made, to check the authenticity of documents filed by the husband in relation to those complaints, his father had been visited by two officials from the Central Intelligence Department (CID). The CID was concerned that records of the complaints that had been lodged by his father and B3 were missing from the file inspected by the INZ agent. Finally, it was argued, on the husband's behalf, that the appellant faced a well-founded fear of being persecuted as a Tamil Muslim.

[13] These claims were disbelieved by the Authority panel which heard and determined the first appeal. It noted there were a number of discrepancies in his interview. Specifically, the panel held that documents purporting to be official extracts from the complaint book at the police station in Sri Lanka where the husband's father and brother made their complaints were not genuine documents. The Authority further concluded that country information did not establish that Muslims living in the area in which the appellants resided faced a well-founded fear of being persecuted by that reason alone.

#### **The factual basis of the second claim**

[14] The husband claims that he now faces a well-founded fear of being persecuted by the CID. He claims they have approached his father on a number of occasions and during these approaches told his father that he was suspected of being involved with the LTTE or corrupt police officers. Furthermore, two of his older brothers (B1 and B2) have received telephone calls threatening them with kidnapping. The husband fears he may face similar problems because his family are wealthy business owners.

[15] Lastly, the husband claims that following the government's announcement on 2 January 2008 of its withdrawal from the ceasefire agreement with the LTTE, the situation in the country has deteriorated substantially.

#### **Assessment of the jurisdictional question**

[16] As can be seen from the above, the appellants have advanced three alternative grounds upon which they say the Authority has jurisdiction to hear their second appeal. After considering matters, the Authority is satisfied the withdrawal by the Sri Lankan government from the ceasefire, considered against the history of

the conflict, in itself constitutes a substantial change in the country conditions since the determination of the first claim in December 2006. Country information makes clear that since that time the human rights situation in Sri Lanka has steadily deteriorated. A recent report by the International Crisis Group *Sri Lanka's Return to War: Limiting the Damage* (28 February 2008) at page 1 notes that since the collapse of the ceasefire in July 2006 both sides have engaged in a full range of offensive military actions and committed many human rights violations against civilians. The report relevantly states:

“The war intensified in 2007, and the government is now pressing its advantage in the north, hoping for a knock out blow. The rebels are fighting back, increasingly with brutal attacks on civilians in government controlled areas.

In addition to the conflicts humanitarian costs, Sri Lanka is experiencing growing ethnic tensions, violence against journalists and dissenting politicians, and extensive human rights abuses: disappearances, forcible child recruitment, political killings and abductions. Democratic institutions are under assault across the country, and dangerous trends are emerging of a more centralised power, military autonomy and radicalisation of Muslims in the East.”

[17] The Authority is satisfied, in light of these particulars, that the circumstances for the appellants in Sri Lanka have changed to such an extent that the second claim is brought on significantly different grounds from the first, on this basis alone. The Authority accepts that it has jurisdiction to hear and determine this appeal. It is not, therefore, necessary to consider the alternative grounds advanced by the appellants to establish jurisdiction to hear this appeal.

[18] What follows is a summary of the appellants' evidence to the Authority in respect of the second appeal. An assessment of that evidence follows thereafter.

## **THE APPELLANTS' CASE**

### **The husband's evidence**

[19] The husband told the Authority that following the visit by the INZ agent to the local police station in June 2006 the Sri Lankan CID had begun investigating the absence of any corroborating documents at the relevant police station. Specifically, they were concerned that the complaints made by the husband's father and brother, B3, were not there. Initially, the request by the CID was that the husband return home to assist them with their investigations into this matter. However, throughout 2007 there were a number of further visits by the officers to the family home in relation to this matter. The last visit was on 21 September

2007 when two CID officials visited the husband's father. On this occasion the officers accused the husband of having connections with the LTTE and having connections with corrupt police officers. The CID officers also told the husband's father that the husband might be a threat to national security. They told the husband's father that the husband must return and surrender himself to the Sri Lankan authorities.

[20] In approximately November 2007, one of the appellant's elder brothers, B1, received the first of several threatening telephone calls in which unknown callers threatened that he would be kidnapped or killed. One month prior to the hearing another of the appellant's elder brothers, B2, received two calls of a similar nature. In all cases, the numbers were unknown to the husband's brothers and the callers did not identify themselves.

[21] The husband explained that his family are very wealthy and have a good standard of living. His family are well known in the area and are regarded as having an above average income. Both B1 and B2 are successful businessmen in their own right. There have been reports of Muslim businessmen being targeted for kidnapping and the appellant is worried that this may be the explanation behind these telephone calls. Like B1 and B2, the husband also has his own business and he believes he may face a similar problem. Alternatively, the appellant believes that these telephone calls may be connected to the problems he had with the LTTE.

[22] The husband told the Authority that in August 2007 unknown persons had attempted to kidnap his nephew mistakenly believing him to be his younger brother. He was unharmed only because he produced identification establishing that he was not, in fact, the husband's younger brother.

[23] The husband also told the Authority that approximately two months prior to the hearing he had asked one of his elder brothers if he could use his connections to provide assistance for the husband and his family in case they were deported back to Sri Lanka. The husband told the Authority that on 7 March 2008 – the last Friday prior to the commencement of the hearing – he had spoken to his brother who informed him that the brother had spoken to a close Sinhalese friend who had made inquiries of a recently appointed senior police officer in the area. The police officer informed the husband's brother that unknown to the husband and his family, there was now in existence a file against him in the police station formally

accusing the husband of having a connection with the LTTE. The husband also understood from his brother that this file contained the documents which had been hidden from the INZ and which, if presented, would have resulted in the approval of the claim. The husband explained that the fact that he had fled the country without informing the authorities only added to their suspicions of him in this regard. As a result of this, if he returned to the country he would definitely be killed.

[24] The husband also told the Authority that he is concerned for his and his family's safety with the breakdown of the ceasefire. There is no peace in Sri Lanka and it is possible for anybody to be caught up in the conflict. The husband was aware that there was a recent bomb attack on a bus which took place about 40 minutes drive from his hometown. People are worried to travel even by bus.

#### **The wife's evidence**

[25] The Authority also heard from the wife. The wife told the Authority that after the attack on the husband's nephew and the visits by the CID they have been living in fear. The wife had been told by the husband that he has been informed by his family that there had been a number of visits by the CID to them about the husband. She understood from him that the reason they were interested was that they had not informed the CID that they were leaving the country when they were part of an ongoing case. The husband has told her that the CID now suspect him of being involved in the LTTE.

[26] She confirmed that the husband spoke to his brother on the Friday before the hearing and that his brother had told the husband that there was a file that had been kept hidden from the New Zealand authorities and that this file contained the police reports of the father's and B3's complaints. The wife herself only spoke very briefly to the husband's sibling during this telephone call. She told the Authority her brother-in-law told her to try and live safely in New Zealand and that their lives were in great danger if they returned.

#### **Documents and submissions**

[27] On 6 March 2008, the Authority received from counsel a memorandum of submissions together with a bundle of country information relating to the human

rights situation in Sri Lanka. Counsel also filed a further written statement from the husband dated 4 March 2008.

[28] During the hearing the Authority provided counsel with a copy of its decision in *Refugee Appeal No 75313* (12 November 2007). At the conclusion of the hearing counsel addressed the Authority orally as to both the question of jurisdiction and the underlying substantive claim. Counsel was granted a period of two weeks to file a written statement from the brother with whom the husband and wife had spoken on 7 March 2008. As at the date of this decision no such statement has been provided nor explanation by counsel for the failure to do so.

### **THE ISSUES**

[29] 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.”

[30] 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 APPELLANTS' CASE**

#### **Credibility**

[31] The Authority does not accept that the husband and wife have given credible evidence in relation to their second claim. Its reasons for so concluding follow:



*As to the claimed interest by the CID*

[32] One of the features of the Authority's jurisdiction in relation to second or subsequent claims is that pursuant to s129P(9) of the Act an appellant may not challenge any finding of credibility or fact made by the Authority in relation to the first claim and the Authority may rely on any such findings. In this case, the Authority has no doubt that the allegations made by the husband and wife in relation to the claimed inquiries by the CID amount to a challenge of one of the key findings of fact made in relation to the first appeal.

[33] As mentioned, the appellants had in the course of the first appeal tendered documents said to be extracts from the complaint book of the local police station regarding complaints made by the husband's father and B3 of harassment by unknown persons suspected to be from the LTTE as a result of the husband's claimed failure to assist them. INZ sought consent from the appellant to check the documents against the records held at the police station but consent was withheld. INZ nevertheless proceeded to conduct an inquiry by having a Sri Lankan lawyer personally attend the local police station and check the complaint book. The decision of the first Authority, at para [37] records the results of that inquiry:

"[37] The results of that inquiry were, in summary, that the lawyer personally attended EF police station, met with S.I.[QR], checked the CIB book, and observed as follows:

1. that the document, although otherwise identical to a standard certified copy of a police complaint, was missing a number in the right hand corner;
2. that the entries at the relevant pages of the CIB book bore no relationship to the documents submitted to the Authority; and
3. that the two police officers named in the complaint documents were not known at EF police station."

[34] The first Authority noted at paragraph [39] that in a statement dated 8 December 2006, the husband's claimed explanation for this was that the complaints actually made had disappeared and that CID officials had been visiting his family because they "wanted to know what happened to the complaint entry which was made by my father and the entry made by my brother at the police". Furthermore, the husband told the first panel that the police must have "had some sort of connections with the LTTE" and that this would make it easier for either the LTTE or the police to murder him. The Authority concluded, at para [42], "that his further evidence regarding the CID interest was far fetched". The Authority further concluded at para [45] that the reason the appellants did not consent to the

documents being verified was because “they were aware that they would not be, and never had been, at the police station as they were not genuine documents”.

[35] Counsel seeks to get around the hurdle posed by s129P(9) of the Act by arguing that the second claim does not rely on a challenge to the findings made by the first appeal but simply rests on a known fact, namely, that INZ did make an inquiry. This submission is rejected. It is not the fact of the inquiry being undertaken that the husband now claims has resulted in an adverse interest being taken in him by the CID, and upon which this second claim essentially rests, but rather the fact that the inquiry, once undertaken, showed there to be a discrepancy between the “genuine” document tendered by the husband in New Zealand and the actual records held in the police station.

[36] In other words, the entire edifice upon which this limb of the second claim rests is the allegation that both at the time of the first appeal and presently, there in fact existed a complaint made by both the husband’s father and B3 to the local police station in respect of the LTTE but that somehow the official records have been improperly manipulated. The only basis advanced by the appellants for the CID having any suspicion that the husband may be involved in LTTE activities or with corrupt police officers is the failure of the inquiry made by INZ to confirm the husband’s account to the first panel that these documents reflected complaints actually made.

[37] Yet the first panel made a clear finding of fact that these complaints by the husband’s father and B3 never took place at all. At its core this aspect of the second claim is an attempt to challenge the findings made by the first panel. There is no demonstrably credible and compelling evidence before this Authority to warrant it exercising its residual discretion in favour of the appellants in relation to this particular finding of fact.

[38] Putting this issue to one side, the appellant’s evidence in relation to this claimed CID interest was not credible in any event. The husband’s evidence was mobile as to the amount of times the CID had come to the appellant’s family home making inquiries of him. He variously suggested there were two visits, three or four visits, and then five visits. Furthermore, the statement he filed with the RSB in support of his second claim does not mention any interest by the CID before 21 September 2007. In contrast to this evidence, the husband told the Authority

that there were a number of visits prior to this date following the INZ inquiry in June 2006.

[39] The husband's evidence was also implausible. While the husband claimed the CID was interested in finding out whether he had bribed the LTTE or the police to make the existing document "disappear" from the official complaint book, neither the husband nor counsel could provide any compelling and plausible explanation as to how this could be so. In other words, it is difficult to understand how the CID could believe that the husband would have paid a bribe for this to occur. Given the length of the conflict and the well-documented evidence of large scale human rights abuses by the LTTE, it is unlikely to the point of implausibility that LTTE would have any concern about the complaints of harassment allegedly made being officially recorded or of disclosure of these complaints to an agent for INZ. It requires suspension of all reasonable belief that the LTTE would care one jot in either case. Moreover, it is difficult to understand why he would want to pay a bribe to have the police withdraw his official complaint about the LTTE so as to give rise to any suspicion by the CID in the first place. The claim that the CID would have any concern that he had bribed corrupt police officers to make the documents disappear is equally implausible.

*As to the claimed telephone calls to B1 and B2*

[40] The husband offered two alternative explanations for these telephone calls. First, that they were by the LTTE in relation to his failure to assist them in the past. As to this explanation, there is no doubt that this is simply a repetition of his first claim rejected by the first Authority. It amounts to a challenge to the findings of fact made contrary to s129P(9) of the Act and the assertion that these calls originate from the LTTE because of a claimed past failure of the husband to assist them found not to be credible in the first appeal may not be relied on by the appellants as a basis for establishing the second claim. Again, there is no demonstrably credible and compelling evidence before this Authority to warrant it exercising its residual discretion in favour of the appellants in relation to this particular finding of fact.

[41] Second and alternatively, the husband claims that B1 and B2 may have been targeted simply because they are wealthy businessmen. However, the evidence of the husband in relation to these telephone calls was implausible. He told the Authority that, as far as he was aware, no demands had ever been made.

He could not provide any explanation as to why persons wanting to kidnap the brothers would give them advanced warning of their intentions or, if these calls amounted to an attempt to extort money from them, why no demands for payment of moneys were made in any of the telephone calls to them.

[42] Furthermore, the husband told the Authority that prior to his brother receiving the threatening calls in November 2007, none of his siblings had any problems with the LTTE because of his claimed problems. When reminded that this evidence contradicted the evidence tendered in support of his appeal to the Removal Review Authority which included a letter from the husband's parents and four siblings dated February 2007 concerning LTTE threats and harassment of the family, the husband replied that it was only his younger brother who had faced problems with the LTTE looking for him and up until that point his elder brothers were only worried that they might have problems with the LTTE. However, this evidence is directly contradicted by the letter written by the husband's parents and older brothers in support of the appeal to the Removal Review Authority. This letter, signed by both B1 and B2, and 2 other siblings states that:

"Since the appellant faced difficulties with the LTTE in Sri Lanka and went away seeking asylum from the New Zealand government ... we have faced untold and unbearable worries and stress both at his absence from home, and the harassment that he received at the hands of the LTTE hit squads and in his absence the counter-harassment of the parents and siblings by this terrorist organisation.

We have faced their wrath, personal and telephone threats, taken personal risks and suffered loss to our business." (Emphasis added)

[43] In response the husband explained this as a translation error. This is rejected. The husband was quite happy to rely on this representation of actual repercussion suffered by his siblings in his appeal to the Removal Review Authority. His attempt to now disavow such a representation to explain the clear discrepancy which arises between this document and his evidence to the Authority in his second appeal further evidences the essentially untrue nature of the underlying claim.

#### *Conclusion on credibility*

[44] The Authority concludes, in the light of the foregoing, that the husband's evidence regarding the CID interest and telephone calls made to his brothers is inherently unreliable. The wife's knowledge of these claimed matter stems from what the husband has told her and is tainted by the same unreliability. No weight

is given to it. It is clear from the file that the husband's family has been employed to provide written support for his various attempts to stay in New Zealand. The Authority has no confidence that these claimed visits by the CID, telephone calls to B1 and B2 are simply not part of the same tactic of co-opting them into establishing a claim for refugee status. There is no credible evidence before the Authority establishing that the brothers or other family members have, in fact, been approached in the manner claimed by the husband and wife, or at all.

[45] The Authority does, however, accept that the appellant is a Muslim Tamil from the north-western region of Sri Lanka and that he and his family are engaged in business.

### **A well-founded fear of being persecuted**

[46] The Authority reminds itself that because it disbelieves that there is any interest in the husband by the LTTE or the CID, or that anyone in the appellant's family has been targeted for kidnapping, this is not determinative of the question of future risk to the appellants.

[47] As noted in the assessment of jurisdiction, country information clearly establishes that over the past 18 months the human rights situation in Sri Lanka has steadily declined to the point where the Sri Lankan government has formally pulled out of the 2002 ceasefire agreement. Country information also establishes that since that time some Tamil businessmen have been targeted for extortion. The Canadian Immigration and Refugee Board, Research Directorate *Sri Lanka: Location and Profile of Persons in Sri Lanka Targeted for Extortion by Liberation Tigers of Tamil Eelam (LTTE)* (22 December 2006), report states that Tamil and Muslim business people, as well as persons "with a substantial income" are being targeted for extortion by the LTTE and that this includes persons who return from the Middle East where they have been working. However, even assuming that the claim by the husband and wife that they are a Muslim family of relative wealth is true, the Authority concludes that the risk of this happening to the appellants in the future is a matter of speculation and surmise for two reasons.

[48] First, country information limits such activities to the north and north-east of Sri Lanka where the LTTE are present and in Colombo – see report by the Minority Rights Group International *One Year On: Counter-terrorist Sparks Human Rights Crisis for Sri Lanka's Minorities* (2007) ("the MRGI report") at page 8; see

also Human Rights Watch *Recurring Nightmare: State Responsibility for "Disappearances" and Abductions in Sri Lanka* (March 2008) ("the HRW report") at page 4 which also states that disappearances have primarily occurred in the conflict areas in the country's north and east but that a large number of cases have also been reported in Colombo.

[49] The husband and his family are from the north-west. Had there been any instances of kidnapping and extortion of wealthy Tamil business people in this part of Sri Lanka to the extent that it could be said that all wealthy Tamil business people face a real chance of being persecuted by this reason alone, it is inconceivable that these instances would not have been mentioned in either of these reports.

[50] Second, insofar as it might be thought that the husband's religious identity may increase the risk of this happening, the Authority considered the position for Muslims in the north-west of Sri Lanka generally in *Refugee Appeal No 75313* (12 November 2007) and concluded at paragraph [101] that country information did not establish that Tamil Muslim males were at risk of being persecuted by that reason alone. No country information has been provided to call into question that conclusion. Furthermore, the MRGI report notes that after media reports of abductions and extortions amongst wealthy Muslim business people in Colombo appeared in April and May 2007:

"The kidnappings stopped after a high-level delegation of Muslim politicians met with the President".

[51] Counsel submits that the position is not so clear cut and in support refers to the HRW report, at page 85, which states:

"The number of reported abductions for extortion in Colombo dropped in the latter half of 2007, although they are still occurring. Unless the perpetrators are held responsible for such abductions, including any public officials involved, however, there is every reason to believe that the incidence of such abductions will return to previous levels.

[52] This can be accepted but must be seen in context of the country information as a whole. This does not indicate that any abductions that are taking place – albeit with less frequency – are taking place in the area from which the appellants originate.

[53] For these reasons, the Authority does not accept that any of the appellants face a well-founded fear of being persecuted in Sri Lanka. In arriving at this

conclusion, the Authority has at all times borne in mind the decision in *A v Chief Executive of the Department of Labour* (CIV 2004 – 404-6314, 19 October 2005) that in conducting its assessment of risk, the Authority must assess whether persons having all of the appellants characteristics face a well-founded fear of being persecuted. Having taken these characteristics into account, the Authority has concluded that, in light of the country information before it, none of the appellants face a real chance of being persecuted because they are Tamil Muslims from the north-west of Sri Lanka who comprise a relatively wealthy family.

[54] The first principal issue is answered in the negative. The need to consider the second does not, therefore arise.

### **CONCLUSION**

[55] For the above reasons, the Authority finds the appellants are not refugees within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeals are dismissed.

“B L Burson”

B L Burson  
Member