

1002841 [2010] RRTA 681 (12 August 2010)

DECISION RECORD

RRT CASE NUMBER: 1002841

DIAC REFERENCE(S): CLF2009/164850

COUNTRY OF REFERENCE: Iran

TRIBUNAL MEMBER: R Mathlin

DATE: 12 August 2010

PLACE OF DECISION: Sydney

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicants satisfy s.36(2)(a) of the Migration Act, being persons to whom Australia has protection obligations under the Refugees Convention.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of decisions made by a delegate of the Minister for Immigration and Citizenship to refuse to grant the applicants Protection (Class XA) visas under s.65 of the *Migration Act 1958* (the Act).
2. The applicants, a husband and wife who claim to be citizens of Iran, arrived in Australia [in] September 2009 and applied to the Department of Immigration and Citizenship (the Department) for Protection (Class XA) visas [in] December 2009. The delegate decided to refuse to grant the visas [in] March 2010 and notified the applicants of the decision and their review rights by letter dated [in] March 2010.
3. The applicants applied to the Tribunal [in] April 2010 for review of the delegate's decisions.
4. The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicants have made a valid application for review under s.412 of the Act.

RELEVANT LAW

5. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged although some statutory qualifications enacted since then may also be relevant.
6. Section 36(2)(a) of the Act provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
7. Section 36(2)(b) provides as an alternative criterion that the applicant is a non-citizen in Australia who is a member of the same family unit as a non-citizen (i) to whom Australia has protection obligations under the Convention and (ii) who holds a protection visa. Section 5(1) of the Act provides that one person is a 'member of the same family unit' as another if either is a member of the family unit of the other or each is a member of the family unit of a third person. Section 5(1) also provides that 'member of the family unit' of a person has the meaning given by the Migration Regulations 1994 for the purposes of the definition.
8. Further criteria for the grant of a Protection (Class XA) visa are set out in Part 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

9. Australia is a party to the Refugees Convention and generally speaking, has protection obligations to people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any 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, is unable or, owing to such fear, is unwilling to return to it.

10. The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 222 CLR 1 and *Applicant S v MIMA* (2004) 217 CLR 387.
11. Sections 91R and 91S of the Act qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.
12. There are four key elements to the Convention definition. First, an applicant must be outside his or her country.
13. Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.
14. Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.
15. Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.
16. Fourth, an applicant’s fear of persecution for a Convention reason must be a “well-founded” fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a “well-founded fear” of persecution under the Convention if they have genuine fear founded upon a “real chance” of persecution

for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A “real chance” is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

17. In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.
18. Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

19. The Tribunal has before it the Department’s file CLF2009/164850 and the Tribunal file relating to the applicants, and has had regard to all documents on those files in considering this application. The Tribunal has also had regard to the material from external sources which is referred to below.
20. The following information was provided in the protection visa application.
21. The first named applicant (hereafter referred to as the applicant) was born in Shirvan, Iran in [year deleted: s.431(2)] and is married to the second named applicant (the applicant wife). He travelled to Australia on a passport issued in his own name [in] July 2009. He held other passports previously and had travelled to Saudi Arabia in 1999 for the *hadj*. He entered Australia holding a visitor visa valid for three months until [a date in] December 2009.
22. He provided one residential address in Mashad, Iran from 1995 until September 2009.
23. He stated that in November 2004 he retired from his job as a [manager] where he had worked from March 1993.
24. The applicant stated that he left Iran to visit his daughter in Australia and to be away from the chaotic situation, in the hope that the political situation would change by the time he returned, and to avoid being questioned by the Iranian “hard liners” who monitored him while participating in demonstrations. The applicant stated that he feared being gaoled if he returned, as he had been identified as an enemy of Islamic principles having been previously detained for drinking and playing cards; if he was seen in the street among the protesters he could be taken away again. The applicant stated that he was afraid that “basiji people”, especially his neighbour, had witnessed him going to his roof to shout support for the protests, and also hiding protesters in his house.
25. He stated that he had recently heard that his son had been arrested and detained, but his other children did not tell the applicant as they did not want to ruin his holiday. The children tried to persuade the applicant to extend his holiday; it was only when he told the children that he was unable to do so that they told him that the basiji had been

looking for him and had asked what he was doing in Australia and why his daughter had been here for so long; he was told to report to them as soon as he returned.

26. The applicant has a daughter in Australia, and [children] in Iran.
27. The applicant wife was included in the application as a person with no claims of her own to be a refugee. She stated that she was a [occupation deleted: s.431(2)] in Iran, and that she had visited her daughter in Australia in [year deleted: s.431(2)]. She stated that her religion was “Christian”.
28. The applicant submitted the following documents with the application:
 - Documents relating to the registration in 1994 of the [company] of which he was a director;
 - Documents registering changes to the company in November 2004 under which the applicant sold his interest in the company;
 - Birth certificates of the applicant and the applicant wife;
 - Copies of the passports of the applicant and the applicant wife.
29. The applicant received assistance in completing the protection visa application from his migration agent, [name deleted: s.431(2)].
30. [In] February 2010 the applicant submitted further documents in support of his application, including letters from associates stating that they knew him and the applicant wife through their involvement with [Church A]:
 - [The Assistant Minister], stated that she had known the applicants since early December when they started attending the church.
 - [Ms A] wrote [in] February 2010 that she had first met the applicant and the applicant wife about three months earlier through their daughter who was attending English classes and church services.
 - Correspondence from the Department dated [in] November 2009 inviting the applicant to attend an interview [in] December 2009 in relation to an application to extend his visitor visa.
 - Photographs of the applicant and the applicant wife’s baptism ceremony [in] February 2010, and their baptism certificates;
 - Photographs of the applicant, the applicant wife and their daughter at demonstrations held in [City A] [in] February 2010 against the Ahmadi Nejad government.
31. The applicant also submitted a further statement setting out his claims to refugee status, in which he provided the following information. The applicant stated that after finishing school he entered his father’s [business]. However, the business was forced to close after the Islamic Revolution in 1975. In 1986 the applicant was playing cards and drinking alcohol at home with his brother and some friends. They were interrupted by

four security agents who came to the house and arrested them. They were detained for some time before being sentenced to 74 lashes and a fine. After that the applicant moved to Mashad to escape the gossip.

32. In 1994 the applicant was again detained while driving with co-workers from Mashad to Tehran on a business trip. The patrol found playing cards in a suitcase and they were detained and taken before a Revolutionary Court which sentenced them to a lashing, which was carried out on the same day, and a fine. They then resumed their trip to Tehran.
33. In 1999 the applicant's then [age deleted: s.431(2)] year old son was detained after student protests (in which the applicant also participated). Their son was released after the applicant and the applicant wife paid "collateral". One week later Revolutionary Guards searched their home and in doing so took personal possessions including electronic equipment, the satellite receiver and personal papers. They were summoned to court and fined.
34. Exactly one year later Revolutionary Guards again raided their home, again taking electronic equipment and the satellite receiver. They were again called before the court and fined. This happened for the next four years on the same day.
35. When the applicant's daughter was 23 she was offered a job with the [Bank]. After a time it emerged that the offer had been withdrawn, and finally they were told that such jobs were the preserve of Basiji, and war martyrs.
36. The applicant stated that in 2007, after a couple of years of retirement, he decided to register a new [company]. He had to pay bribes to get the company registered because of his criminal record; but then realised that he would only be able to get work as a truck driver because of the reports on his file.
37. The applicant indicated that he had become discouraged and cynical about Iranian society. In 2009 he and his family voted for the opposition candidate, Mr Mousavi. When Ahmadi Nejad was declared the winner, the applicant and his family participated in the demonstrations in Mashad. In the course of one demonstration the applicant was arrested and detained for five days. During this time he was beaten. He was released when he signed a paper stating that he would not participate in anti-government activity again. After he returned home and recovered he again went to the roof with his family to voice his opposition to the government. He then received a note from a neighbour, signed "Basiji representative in your neighbourhood", warning him that he and his family should not go to the roof any more.
38. They decided to come to Australia to visit their daughter and get away from this situation for a while. When they arrived here they found it peaceful and not as described by the Iranian government. They concluded that the difference was because Australia is a Christian country, so they decided to study more about Christianity.
39. They decided to extend their visa by one month, and wrote to inform their family in Iran that they had applied to extend their stay, telling them that if this was not possible they would return on the flight booked for [a date in] December 2009. Their children then urged them not to return and told them that in recent days the Intelligence Service agents had been to their home several times asking their whereabouts. The Basiji had

telephoned asking for the applicant to attend their office for an interview, and the applicant's oldest son had been detained and questioned about his father for several hours.

40. The applicants then found a Persian migration agent who explained that they could lodge a protection visa application. They held Jesus Christ responsible for this new hope for their future, so when they were invited to be baptised they accepted.
41. The applicant was interviewed in relation to his application by an officer of the Department [in] February 2010, using a telephone interpreter. At interview he provided the following information.
42. He stated that he was born in Shirvan and later moved to Mashad where he had lived for twenty years. He said that his daughter had been in Australia for two to three years; he thinks she is on a work visa with seven or eight months to run on her current visa. She has applied for permanent residence.
43. He said that he had no difficulty getting a passport or leaving Iran.
44. He said that he had been interested in Christianity in Iran because he had seen a film. He came to Australia to see his daughter, and thought that while he was here he could use the time to become more familiar with Christianity. Asked how he did that, he said that he had some Christian friends here and they told him about churches. He said that he went to church in [suburbs deleted: s.431(2)] with an Iranian friend who is now in China; this man went to China about one week after they went to the [Church A] together. Asked who he attended [Church A] with, he said that this one time, with [Mr B], then just with his wife and daughter.
45. He was asked why he stated that he was a Christian in his protection visa application lodged [in] December 2009. He said that he went to church 20-25 days before he lodged the application; he was attending in order to get familiar with Christianity. At that time he was thinking about staying and had talked with his migration agent about not going back because he was on the path to becoming a Christian. He had some Iranian friends who went to church; they mentioned to him two churches, one of which was close to him [Church A]. He went there and they welcomed him. The service was in English but his daughter was explaining it to them. They had some appointments for bible reading sessions, and their daughter translated what the teacher said.
46. He was asked about the demonstration [in] February 2010 [in City A]. He said that it was the anniversary of the Revolution and the "leaders" called on everyone to participate. He said that he thought it was his duty to participate in defence of mothers who had lost their children.
47. The delegate decided to refuse the application essentially because he did not find the applicant to be credible. The delegate did not consider the applicant's account of having been involved in demonstrations in Mashad in June 2009 to be credible, or his account of having had difficulties with the authorities over a number of years. He noted that the applicant had provided no corroborative evidence of his dealings with the authorities and found that his unsupported assertions were not believable. He did not believe that the applicant would participate in the June 2009 demonstrations as an older person, since most participants were students. He also found that the applicant and the applicant

wife would not have been able to depart from Iran without difficulty if they had the political profile they claimed.

48. The delegate considered that the applicant's conversion to Christianity was undertaken for the purpose of strengthening his claims to refugee status and accordingly disregarded it pursuant to s.91R(3). The delegate considered that at interview the applicant demonstrated little knowledge of Christianity and was unable to explain why he was attracted to it. The delegate also found it implausible that the applicant would have been able to learn enough about Christianity through attending services at which his daughter, a non-Christian, translated, to make a genuine decision to convert. He also noted that the applicant had described himself as a Christian in his protection visa application which had only been completed in December 2009, at which time the applicant had had little opportunity to attend church or become familiar with Christianity.
49. The delegate found that the applicant's attendance at the [February] demonstration was also undertaken for the purpose of strengthening his claims to refugee status and disregarded it pursuant to s.91R(3). He considered that the photographs were obviously posed, and did not believe that, as the applicant had not been involved in any previous political activity, he would become political active at his "relatively mature age".
50. The applicant provided a large amount of supporting documentation with the application for review, including:
 - A 30 page submission dated [in] April 2010 by his adviser addressing the delegate's decision.
 - A letter dated [in] March 2009 from , [the Assistant Minister] at [Church A], stating that the applicants first attended the church [in] November 2009, as evidenced by a "Contact Card" which was also submitted. She stated that the card was completed by the applicant's daughter, and the date was written on by a member of the church staff. She stated that the applicants and their daughter had attended church every Sunday since then, and that she had also seen them at social occasions and for teaching purposes.
 - A further letter dated [in] April 2010 from [the Assistant Minister], in which she stated that she had met with the applicants over a number of months "in regards to them learning the Christian faith and embracing a relationship with Jesus in a real and personal way" She stated that she personally prepared them for baptism and believes that they understood "the enormity of their decision to be baptised as Christians".
 - Letter dated [in] April 2010 from [Ms C], who stated that she had attended [Church A] since 1974. She stated that she met the applicants and their daughter there in November 2009 and that she spoke to them in Farsi, introducing them to other members of the congregation. She said that since then they had unfailingly attended church services, as well as activities such as picnics. She said that she sits with them in Church and interprets the sermon for them, and also directs them to relevant passages of the Farsi language bible that they bring to services. She said that they told her that they heard about Christ in Iran and wanted to come to church in Australia. She said that she

explained their baptism vows and continues to answer their questions about Christ.

- Persian document and translation, stated to be a bank receipt dated [in] February 2003, confirming that the amount of (over) five hundred thousand rials had been paid by the applicant for case number [deleted: s.431(2)] of the judiciary.
- Persian document and translation headed Title Deed, stating that a property in Mashad had been transferred to the applicant wife; a round red seal on the document states “document under bail” and another seal states “according to letter [date deleted: s.431(2)] of the branch of the Islamic Revolution Court of Mashad this document is under bail number [deleted: s.431(2)] and registered in Mashad.” A further seal reads “Exit under bail”.
- Persian document and translation headed “Subpoena” [date deleted: s.431(2)], addressed to the applicant wife and stating that her title deed had been seized and requiring her to “attend within 10 days”.
- Persian document and translation headed Bank Receipt, [date deleted: s.431(2)] stating that five hundred thousand rials had been paid into a bank account for the “Judiciary Verdict Execution Branch”.
- Persian document and translation [date deleted: s.431(2)] stating that the applicants’ daughter had passed an employment examination on [date deleted: s.431(2)] for [company deleted: s.431(2)].
- Persian document with translation, headed “Islamic Republic of Iran’s Disciplinary Forces (Police) Finger Print Form” signed and sealed date deleted: s.431(2)] stating “has got record” and “sentences to tolerating 100 whip lashes + 80 whip lashes + and 500,000 rials infringement notice which have been served” (sic).
- A “professional evaluation” of the interpretation at the Departmental interview by a NAATI accredited interpreter, stating that the overall interpretation was professional, but that there were “certain shortcomings” that had led to misunderstandings. Four matters were identified – one question where “when” was interpreted as “what”; omission of the word “all” from a question, which in the view of the interpreter totally changed the meaning of the question; omission of part of a reply to a question about what the applicant had read in the bible, where he stated that he had learned about “Jesus himself, who he was, how he was born”; and the interpreter’s failure to Anglicise the names of Jesus’ disciples, which is taken to indicate that the interpreter at the interview was not familiar with Christian terminology.
- Receipt for purchase of two lap top computers [in] October 2009.
- Media reports about the detention of Iranian students and other nationals returning from Australia to Iran, as a result of participation in anti-government demonstrations.

- Photographs of the applicants with members of the Baha'i community and outside the Baha'i temple, [suburb deleted: s.431(2)].
- Photographs of the applicants in the Christian community.
- Photographs of demonstration in Iran depicting older people, in response to the delegate's comment that he did not believe the applicant had participated in the June 2009 demonstrations because they were mostly carried out by younger people.

51. In his submission the applicants' adviser made the following points:

- He submits that the applicant's police clearance shows that he is not allowed to register a company, get a trade licence, or work in any government job because his background demonstrates that he is not a good Muslim. This was further demonstrated by the fact that the applicant's daughter was not able to obtain employment with the [Bank], despite having passed the exams.
- The applicant's adviser stated that the applicant was not able to provide these documents with his protection visa application because he had not planned in advance to apply for protection and did not have time to get them.
- The adviser submitted that the applicant had now been able to provide documents showing that they had lodged the title deeds to their house as bail for their son and paid a fine on their son's behalf.
- The adviser pointed out that the applicant did not claim to have been under serious investigation following his participation in the June 2009 and subsequent demonstrations. He noted that the purchase of two laptops for their children demonstrated their intention to return either on [date] December as planned, or on about [the following week] if they could extend their visas; it was only when they informed their children of their intentions that the children warned them not to return.
- The adviser stated that the applicant had pursued an interest in Christianity prior to coming to Australia, stating that he had watched the "Joyce Meyer" programme on the Persian satellite channel Mohabbat TV, and that he was so keen to strengthen his faith in Australia that as soon as he arrived he sought out a man named [Mr B], who they knew through their friends to be a good Christian man. As soon as they arrived they contacted him and asked him to take them to a church and talk to them about his beliefs. [Mr B], who did not want his name disclosed, gave them a bible which had been given to him by his Christian friends. The following week he took them to [church and suburb deleted: s.431(2)], but because of the distance they began to attend [Church A], having heard about Margaret Travers, a "Persian background Christian Missioners".
- The adviser stated that the applicants' daughter had become involved in the Baha'i religious community over the two years that she lived in Sydney prior to her parents' arrival, and that the applicants had been welcomed by the Baha'i community with whom they had socialised extensively when they first

arrived. He argued that this indicated that already they were “not a Muslim family” at that stage. He claimed that the daughter could not provide letters from the Baha’i community attesting to this because she is now a Christian.

- The adviser argues that the applicants’ son was summonsed for interrogation [in] December 2009 because the authorities recognised him in a Youtube video of a demonstration held here.

52. The applicants appeared before the Tribunal at hearings held [in] June 2010 and [in] July 2010 to give evidence and present arguments. The Tribunal also received oral evidence from [the Reverend] at the first hearing and from [the Assistant Minister] at the second. The Tribunal hearings were conducted with the assistance of interpreters in the Persian and English languages. The applicants continued to be represented in relation to the review by their registered migration agent, who attended the hearings.

First Tribunal hearing

53. The applicant’s adviser clarified at the outset that when he prepared the application and supporting documentation he had converted the dates from the Persian calendar to the Gregorian; he had then had the conversion checked by a translator, as he realised that he had got one date wrong – the date of the Iranian Revolution.
54. I asked the applicant about his three children in Iran. He said that his oldest son is unemployed, having previously worked in the applicant’s business. [Information relating to children deleted: s.431(2)].
55. I asked the applicant about his employment history. He said that his [company] ran successfully for eleven years. He then had difficulty with his partners so he transferred his shares. He said that because of his background the company was not allowed to deal with government companies. After two years he wanted to establish another company but he was unable to do so because of his background. As to this, he said “we were against the government” I had to ask the applicant a number of times why he retired in 2004 and why he decided to return to work and establish another company in 2007, and he did not answer the questions directly.
56. I asked how he supported himself financially after 2004. He said that he worked as a truck driver from 2004 until he left Iran [in] September 2009. I noted that he had not mentioned this in his protection visa application. He said that he was not able to establish a company so he had to work. I repeated that he had not mentioned this employment in his protection visa application. He said that he spent two years trying to establish a new company and after that he started work. I asked again why he did not include this employment in the protection visa application. He said that he was not asked about it. I put to him that there was a question about his employment history. He said that in Iran they don’t call driving a job.
57. The applicant said that his wife worked as a [occupation deleted: s.431(2)] for [period deleted: s.431(2)] before she retired two years ago. I put to the applicant that country information indicated that [people in this occupation] were subject to strict ideological vetting and asked whether his wife had any difficulties because of his background. The applicant agreed that [people in this occupation] were vetted but said that they looked at her appearance and her thoughts and actions, and she had no problems. I asked how it

was that he was unable to establish a company because of his record but she had no difficulty as a [occupation deleted: s.431(2)]. He said that he needed police clearance and had problems getting this because of his background. He said that his “matters” would not be taken into account in relation to his wife’s character.

58. I asked about the claim that the applicants’ daughter was refused employment in a bank. The applicant said that it was because she did not have “correct Islamic coverage” and because of the applicant’s background. He said that they were told she would not be accepted because they had not co-operated with the government and because of their political background. I noted that in the statement in support of the application he had stated that she was told she did not get the job because those jobs were reserved for Basiji families and the families of martyrs. The applicant agreed and added that they were also for people related to the government.
59. I asked the applicant about his daughter’s interest in the Baha’i faith. He said that they did not know about this until they arrived here and were introduced to her friends. I asked why she abandoned the Baha’i faith and converted to Christianity. The applicant said that they told her she had not made the right decision about religion; they thought that it was better that she follow Christianity. He added that in Iran they followed Christianity by watching the Joyce Meyer show on satellite television.
60. I asked why they felt that the Baha’i faith was not the right choice. The applicant said that they heard and noticed at gatherings that the Baha’i faith is quite like the Shia Muslim faith. He said that Baha’is are quite dogmatic and believe theirs is the best religion. I put to the applicant that my understanding was that Baha’is respect and value all world religions equally. The applicant said that they did not hear such things from the Baha’is. What they say and how they act are quite different. He said that Christianity likes everything with kindness. They don’t look at the enemy as a real enemy. I asked whether the applicant wife was aware that their daughter was interested in the Baha’i faith when she came on a visit in [year deleted: s.431(2)]. He said that he does not think so, she did not mention it to him.
61. The applicant said that he was never a devout Muslim and had never attended mosque regularly. I asked why he had done the *hadj* in 1999 if this was the case. He said that they just went “as a trip”; if you want to travel somewhere from Iran that is where you can go. I put to him that there were other trips available to Iranians that did not involve a religious pilgrimage. He said that you can only do the *hadj* or go to Syria or Arabia. He said that they just went for a holiday. I put to him that a pilgrimage is not a holiday. He said that there are two kinds of *hadj* – the one that is compulsory for Muslims and another kind where people go for a holiday and a pilgrimage. He said that they did not do the religious rituals.
62. I asked whether there were any consequences from not attending mosque. The applicant said that the government did not accept them as their kind of family; they were treated separately. Their daughter was not accepted for the bank job; and they did not approve his company registration.
63. I asked the applicant about his problems with the authorities. He said that in 1985 in Shirvan he was at home drinking and playing cards. He was arrested by Pasdaran and detained for ten days. A Revolutionary Court sentenced him to seventy four lashes. He was not fined. In 1995 he was stopped on the road by Pasdaran who found cards in his

possession. Again he was given seventy four lashes and fined fifty thousand toumans. He said that there was another problem he had not mentioned, but his adviser has told him that he must talk about it. Another time he was arrested for drinking alcohol and given one hundred lashes and a fine. I asked when this was and he said that it was in the police clearance document. I said that I wanted him to tell me the date and after a long silence he said that it should be in 1996.

64. I asked why he had not mentioned this before. He said that he thought it was not necessary. I asked why he had mentioned two similar incidents but not that one. He said that his adviser told him to mention it. I said that this did not explain why he had mentioned two similar incidents that had taken place earlier, but not this one. He said that so many different things had happened to him, he could not remember them all. The applicant's adviser then said that the applicant had been taken before the court many times for having satellite dishes, it was too complicated to mention all the incidents. I asked the applicant how many times he had been sentenced to lashes. He replied three. I put to him again that I still did not understand why he would mention two lashings but not the third. He said that it was because he had no document for it. I put to him that when he mentioned the first two he did not have documents for those either. He then said that he was not asked about this matter before; this time I asked and he answered. I noted that he had volunteered the information about the first two lashings in his written claims and at interview with the Department; he had volunteered the information about the third lashing at the hearing.
65. I asked whether the police clearance he had submitted is complete and he said that it is. I put to him that according to the translation he had provided, he had been sentenced to punishments of 100 lashes; 80 lashes; and one fine of 500,000 rials. I asked why what was stated in the record was different to his own account of what he had been sentenced to. The adviser said that the translation submitted to the Tribunal was wrong.
66. I asked the interpreter at the hearing to do a sight translation of the police certificate. She said that the police record listed a number of offences in 1994 and 1995 – using opium, adultery, using alcohol and having illegal cd's and tapes. The applicant had been sentenced to one hundred lashes and eighty lashes and one fine of five hundred thousand rials. She said that the document was issued in 2005.
67. I told the adviser that if he wanted to submit a translation of the full document he should do so. I pointed out that the document appeared to set out a criminal record of convictions and sentences that were different from what the applicant claimed. This led me to think that either the document was false or inaccurate, or that the applicant was not telling the truth. Either way, the document did not corroborate the applicant's claims. Furthermore, the matters noted on it were criminal offences. The applicant said that those were only what the authorities wrote on the document. He said that Jesus has told him not to lie.
68. I put to the applicant that the fact that he had not mentioned the claimed third sentence of one hundred lashes until today might lead me to think that he had changed his evidence to fit what the document said; again this cast doubt on his credibility and the authenticity of the document. The applicant denied having changed his evidence.
69. A ten minute adjournment was then taken.

70. I asked the applicant what he thought would happen if he returned, leaving aside his claimed conversion to Christianity. He said that they would be detained at the airport because they attended a demonstration [in] February 2010.
71. I noted that I had watched the Youtube video to which I had been referred by the adviser but I could not identify the applicant in it. I then played the video for the applicant and the adviser. The adviser pointed out the applicant in two frames, but neither he nor the applicant was able to identify the applicant at the third place identified in the submission [of] April 2010, despite watching it at least two times. I advised the applicant that although I accepted that he had attended the demonstration I did not believe that it would be possible for him to be identified from the Youtube video as his face was [obscured]; it was only if you knew him and knew what to look for that he could be identified by [particulars deleted: s.431(2)]. The applicant responded that some of the people at the demonstration had been arrested; he said that when they go back they are asked to identify people from the film. I put to him that he had said that none of his friends attended the demonstration. He said that there were people present that he knew, such as his daughter's friends; they knew him as his daughter's father.
72. I asked the applicant to explain what the various documents submitted by his adviser were. He said that the bank receipt dated February 2003 was a fine for having a satellite dish. The title deed used as bail in 2004 was for the same thing. He said that after they arrested his son in 1999 they came every year to check the house; then a few months later they would tell them to bring the title deeds or pay a fine.
73. I asked about a bank receipt for a fine of five hundred thousand rials [in] 2009. He said that was most probably related to the satellite dish.
74. I asked the applicant about his participation in the 2009 demonstrations. He said that he joined in because of the cheating in the elections; they joined the demonstration "for their demands and what they wanted". He said that when they broadcast that Ahmadi-Nejad had been elected they called for demonstrations to "call for our vote back" and the right to speak.
75. I asked the applicant how many times he attended demonstrations. He said that he attended regularly, every time they broadcast. I repeated the question and he said that he attended ten demonstrations starting the day after the election, 13 June. I asked whether he attended every day subsequent to that. He replied that whenever the Green Movement said there was a demonstration "we" attended. I asked again how often and when this was. He said that it was not every day.
76. I asked which members of the family participated in the demonstrations. The applicant said that he went by himself. His children did not go with him. He said that he does not know if the children went separately from him. His youngest son was [details deleted:s.431(2)] so he did not go. His older son was involved in working in the company and they did not see each other. I noted that presumably if he had been in the same demonstrations as his father he would have mentioned this and they would have discussed it. The applicant said that his son lives elsewhere. I put to him that in his statement he had written that all members of his family joined in the demonstrations. He replied that they all went to the roof and shouted Allahu Akbar. I noted that the statement actually referred to gatherings and marches. He said that he was referring to

himself and his youngest son going to a demonstration in 1999. I noted that the statement was definitely referring to the 2009 demonstrations. He said that his family did not come with him all the time; he went the most often, more than ten times, more than anybody. If his family members came they just came to a few.

77. The applicant said that he was arrested [in] July. He was taken to an unknown detention centre. For the first two days he was given no food or water. Then he was questioned. He was asked which party he belonged to and who his friends were. When he did not answer they hit him. He was released one week after the day he was arrested. He was not charged or taken before a court, but they submitted the title deeds of their house. I put to him that in his written statement he said that he was detained for five days. He said that he was released five days after the day they started questioning him. He had to sign a guarantee that he would not attend any more demonstrations.
78. After his release he attended four more demonstrations; he went every Thursday at 4pm for four weeks. He also went to the rooftop.
79. The applicant confirmed that he had no difficulty obtaining a passport or leaving though the airport. He said that he has come to the conclusion that Jesus was helping them come out without difficulty.
80. He said that none of his children have attended demonstrations since he has been in Australia.
81. I put to the applicant that his claim that the authorities came looking for him in December in relation to his participation in demonstrations in June/July seemed difficult to believe, given that he claimed to have been detained and released in July, issued with a passport and allowed to leave the country. The applicant said that recently this is what the authorities have been doing - they take photos and ask others to recognise people; for example, they might arrest the applicant's neighbour and ask him to identify people he knows. I put to him that millions of people attended the election demonstrations, and the authorities are not trying to arrest every one of those millions by getting people to look at photos. He responded that maybe because of his previous arrest they are looking for him. I put to him that he was speculating about the possibility that he would be identified from photographs. He replied that when they said Allahu Akbar on the roof maybe the Basijis reported them. I asked, if that were the case, why would it have taken until November/December for them to come for him? He replied that there is not a certain rule or regulation, you can't explain it.

Evidence of applicant wife

82. The applicant wife stated that she had first come to Australia [in] [year deleted: s.431(2)] to see her daughter. I asked whether her daughter had been interested in the Baha'i faith at that time and she said that she was, and she was working for a Baha'i [employer]. I asked whether she had told her husband when she returned and she said that he did not ask her. I asked whether it was not something that she would tell her husband and she said that as most people in Iran use satellite dishes and her husband was watching the Joyce Meyer programme, she did not see any reason to tell him. I put to her that given she was living in an Islamic country where Baha'is were persecuted, if she found that her daughter was interested in the Baha'i faith, surely she would mention it to her husband. The applicant wife said that her daughter is applying for permanent

residence in Australia and does not intend to return to Iran. She went on to say that it is a matter of personal beliefs, it is up to “them” to do their own studies and research.

83. I asked the applicant wife about the family’s problems in Iran. She said that there were a lot of different matters. I asked her to tell me when they started. She said that during the revolution her husband’s job was not approved and that caused a lot of problems for them; there was anxiety, stress, worries; she has suffered a lot herself. She said that they took her husband to a detention centre and they did not know where he was.
84. I asked when this happened. She replied “Continuously”. She said that they had to migrate from their city to Mashad but they had the same problem there. They attended every rally; they attended a demonstration [in] July 1999 and they had a lot of difficulties after that.
85. I asked about the problems in their city that caused them to move. She said that her husband was lashed and because it was a small city it was embarrassing. He was lashed because they had music, cards and alcohol.
86. I asked whether there other occasions when he was sentenced to lashes. She said that it was just for drinking alcohol and playing cards with his friends. I asked was he only lashed once. She said that he was lashed once in Shirvan. I asked about after that? She said that once he was travelling to Tehran because of his job and he was sentenced to lashes again. I asked whether there were any other occasions. She said that he attended demonstrations and rallies and all the time there were problems.
87. She said that once he was sentenced to one hundred lashes, another time seventy four. She said that maybe there were three times, but she could not remember because they had so many difficulties with the government.
88. She said that her husband’s difficulties did not cause any problems for her as a [occupation deleted: s.431(2)]. She said that she was a good [occupation deleted: s.431(2)] so she had no problems. She kept her own feelings against the government inside, and her husband’s issues did not cause problems for her.
89. I asked whether the applicant attended demonstrations between 1999 and 2009. She said that every time they were broadcasting he attended the demonstrations. I asked whether he was arrested or detained because of demonstrating. She said that she can’t remember, he knows better than her. I put to the applicant wife that the applicant had not mentioned any arrests or detentions during that period. She said that he attended a lot of rallies after the elections. I repeated that I was asking about the period between 1999 and the 2009 elections. She said that he went to a rally with their son. They arrested the son but the applicant ran away. I noted that she had said that he went to lots of rallies and demonstrations and asked was he ever arrested or detained. She said that he was detained in the election rallies, and their son was arrested; there was the matter of the lashes.
90. I again asked about previous arrests. She said that she thought he was arrested in 2002 and 2005. Most of the time he escaped, she can’t remember how many times he was detained.

91. I put to her that the applicant had not mentioned any arrests or detentions over this period and asked whether she was telling the truth. She replied that he attended rallies and they have been worried all the time. She said that there were recent rallies[in] June. She said that even in Australia they attended a rally.
92. I asked whether there were other people they knew at the rally in Australia. She said that there were some Iranians who could recognise them. There was the lady from the supermarket and another lady (who she named).
93. I asked how many times her husband went to the election demonstrations in Iran. She said that he went every time they broadcast, about ten times. I asked whether he went by himself or with the children. She said that the children went; his son went with him - the younger son. I asked her to confirm that their younger son attended the election rallies in 2009. She said that the younger son and the older son; whenever they were informed they went. I asked whether they went before or after the elections. She said that before the election the younger one went with his father. After the elections they went as a family. Asked what she meant, she said that they went out with each other, although she does not know whether they went to demonstrations or not. Maybe they did not tell her because they did not want her to worry. She said that her husband was arrested for one week before they came to Australia. I asked whether he had to pay a fine. She said that she thought it was bail or a fine. I asked how much and she said that the children look after the financial side of things. I noted that the applicant had submitted documents showing that in 2004 she had produced the title deeds of a property purportedly put up as bail, and noted that this indicated she did take some responsibility for such matters. She said that once they paid five hundred thousand toumans. I asked whether they paid that amount in July 2009. She said that she could not remember; she can't remember whether she put up bail or paid something.
94. She then said that she needed to add that their younger son was [information deleted: s.431(2)] during the demonstrations and so he did not attend. I asked why she had said that he did attend, and she replied that she is under too much pressure and sometimes she forgets herself. She said that they have lived with lots of stress and worries.
95. I asked when their children suggested that they not return. She said that when they tried to extend their visa the children told them not to hurry back. I asked why and she said that she thinks their father's friend has been arrested and maybe he has told something about the father. I asked whether she was aware that any friends of her husband had been arrested. She said that the children told them that their father's friend was arrested, when they were about to extend their visa.

Evidence of [the Reverend]

96. [The Reverend] stated that he has been ordained for over twenty years and has been appointed to a parish in [suburb deleted: s.431(2)] for the last ten years. During that time he has worked with [the Assistant Minister] and [the Rector] at [Church A], which the applicants attend. He said that in February this year he was appointed Senior Assistant Minister at [Church A], where he is one of a team of Ministers. He said that he met the applicants at the beginning of February 2010.
97. He said that as a Minister he is familiar with people who try to manipulate him for a variety of reasons. I asked him what steps he would take to ascertain whether

someone was genuine in adopting the Christian faith. He said that the bible says that if someone witnesses that they accept Jesus Christ, that is enough. He said that sometimes he might consider that people don't really understand what they are saying but in the end he leaves it to God. He said that in the case of the applicants he has had "no sense of deceit" He said that he has not had as much to do with them as [the Assistant Minister], who prepared them for baptism, but he said that she is very enthusiastic in her support for them. He specifically recalled [the Assistant Minister] pointing out to the applicants' daughter that her conversion could be "costly".

98. I noted that they had first attended church [in] November 2009 and been baptised [in] February 2010 and asked whether this was unusually quick. He replied that it is not really, especially if they had done their baptismal preparation with [the Assistant Minister]. He said that he had been told that they had seen the "Jesus" film ten years ago – this is a famous film of Luke's gospel – and decided that they needed to learn more about Jesus.
99. [The Reverend] said that he did not want to overstate his relationship with the applicants, and that [the Assistant Minister] is better placed to speak about them, but he is aware that they actively participate in the life of the church and attend many church activities, not just Sunday services. [The Reverend] said that he has never discussed with the applicants how they would live as Christians if they returned to Iran.
100. I explained to the applicants that we would not be able to conclude the hearing, which had already run for five hours, as the interpreter was getting too tired. I said that we would resume on another day to discuss issues arising from their claimed conversion to Christianity. I said that I did not consider it necessary to take evidence from their daughter, but if she wished to attend the rescheduled hearing she could do so; and it was open to them to submit a written statement from her.
101. Following the first hearing the Tribunal was provided with an email sent by the applicant's adviser to [the Assistant Minister], requesting her to provide further information supporting the applicants' claims to have converted to Christianity. The adviser informed [the Assistant Minister] that their case was now entirely dependent on their claims in regard to Christianity; he indicated that their claims of persecution due to their political background had not been accepted by the Member due to inconsistencies in the applicant's evidence, which the adviser attributed to panic and memory loss in the hearing. The adviser informed [the Assistant Minister] that, as converts, the family would be viewed as apostates, and would face "the capital punishment of death", and that the Islamic government of Iran would do everything possible to change their "life into hell, by torturing them, harassing them, decimating them and imprisoning them" if it could not immediately execute them.
102. [In] June 2010 the applicants were advised that the hearing was rescheduled to take place on [a further date in] June 2010.
103. On [a date in] June 2010 the Tribunal received two letters from [the Assistant Minister]. She requested that the hearing be adjourned until she returned from Europe. She argued that she would be a key witness and wanted to provide the maximum support to the applicants.

104. In another letter, she stated that she had arranged for the applicant to be examined by a professional to evaluate whether he suffered from Post Traumatic Stress Disorder as a result of the beatings he had suffered in Iran. She had observed that on occasions he is unable to speak if he is stressed.
105. She said that that she is confident that the family has made a real commitment to the Christian faith. She stated that it is a work of God when someone comes to accept and acknowledge that Jesus is Lord and Saviour.
106. She stated that she has met with the applicants and their daughter on numerous occasions since she first met them. She stated that the applicants are in church each week even though they cannot understand everything that is happening. She stated that this would be extremely difficult to do if one had no desire to learn what was happening and no “genuine heart” for the Christian message. She stated that every time she has visited them at home they have asked her something about the bible. They are very keen to learn how to apply what is in the bible to their every day life. She stated that the applicant had seen three visions of Jesus Christ, two in the church and one outside at a morning tea. She stated that he was very overwhelmed and that it took him some time to explain through tears what he had seen. She stated that she has certainly seen in the applicants a desire to know Jesus and to be like Jesus; she stated that this is what it means to be a follower of Jesus.
107. In view of the importance of [the Assistant Minister]’s testimony to the applicants’ case, I decided to adjourn the hearing until [a date in] July 2010 so that she could attend and give oral evidence.
108. [In] June 2010 the Tribunal received by email a letter from [Ms A], a member of [Church A]. The letter stated that she first met the applicants’ daughter in October 2009 when she started attending the church. She attended English classes taught by [Ms A]. When the applicants arrived in Australia they also began to attend church and were helped by a church member who speaks Farsi. She stated that it is not unusual for members of their church not to be able to speak English. [Ms A] stated that for the last two months she and her husband have been spending two or three hours a week giving English language and bible study lessons to the applicants. She states that of all the people she has taught in this situation, the applicants are the most “fair dinkum”. She stated that they are intelligent and highly motivated, and are involved in the church in practical ways despite having little English. As to the genuineness of their faith, she notes that only God knows what is in people’s hearts. She states that the applicants had already turned away from Islam, which left a spiritual background. She stated that as far as she is aware, the applicant is “persona non grata” in Iran for political reasons. She stated that she is not naïve and is aware that people may have various motivations for religious conversion. She stated that to the best of her knowledge, baptism was administered in an absolutely genuine and honest way to the applicants and their daughter. She stated that their knowledge of the bible and Christian teaching is still sketchy and their ability to express it may be poor, but that is not the main basis of their faith as new Christians.
109. The Tribunal also received a letter dated [in] June 2010 from [The Senior Minister] at [Church A]. He stated that [Church A] is a large church where he does not know everyone in the congregation. However, a great joy over the last year has been the growing Christian commitment of the applicants and their daughter. He stated that

although he has not been personally involved in the process, he has been kept up to date by staff including [the Assistant Minister]. He stated that he baptised the applicants who were well prepared by [the Assistant Minister], as reflected in their understanding of the service [The Senior Minister] provided three reasons why he believes the family is genuine in their commitment to Christianity. First, he stated that it would be “very strange” for someone of a Muslim background or from a Muslim country to make a public declaration of conversion as the applicants did with their baptism. Secondly, he stated that they have not sought his support in the process of their refugee application, even though it is not unusual for people in this situation to seek the support of church leadership. He stated that “In no sense have I, [Church A’s] leadership or members of [Church A] ever been approached for support by this family. There is absolutely no sense of us feeling used by this family” Thirdly, he stated that their consistent attendance at church, despite language and cultural barriers, is a significant testimony to the change that Christ has brought in their lives.

110. The applicants submitted a report dated [in] July 2010 by a social worker, [name deleted: s.431(2)], who stated that she had seen the applicant on one occasion for two hours. She stated that he was accompanied by an interpreter and by [the Reverend]. She stated that the applicant initially seemed to be wary, and that he was reassured by [the Reverend] who told him that the church had arranged for the assessment and that [the social worker] was not part of the government. She stated that the applicant broke down into uncontrollable weeping and was then embarrassed. [The social worker] stated that she had seen an email from the applicant’s adviser to [the Reverend] in which he opined that “symptoms” they had observed, such as concentration problems, memory difficulties, panic and anxiety, going blank, and trying to remain silent, could mean that the applicant suffered from Post Traumatic Stress Disorder. [The social worker] stated that the “uncontrollable lachrymosity” she had witnessed would endorse this possibility. She stated that she administered three diagnostic tests, which she found indicated that the applicant was suffering from moderate to severe Post Traumatic Stress Disorder. She listed a number of self reported symptoms (and one that she observed, perspiration and shaking when distressed) that she felt confirmed the diagnosis. [The social worker] stated that the “critical incidents” which had caused the disorder were the occasions in 1985 and 1995 when the applicant was arrested by police and lashed. She stated that in the 1985 incident, the applicant was detained for ten days in inhumane conditions with sleep and food deprivation, and overcrowded and unsanitary conditions. She stated that this shamed him and excluded him religiously, and noted that a “Tribunal experience” may re-traumatise the applicant. As to the second incident, she stated that the applicant told her that he was framed on false [charges] and refused to pay a bribe. He told her that this incident was unrelated to the first and was just bad luck and probably not officially recorded, but it added to his sense of not having access to justice or protection, rather being at the mercy of capricious and malevolent forces.
111. She stated that when the applicant was arrested in the 2009 demonstration, he was given electric shocks while interrogated for names, which he refused to provide. He told her that after this he knew he was “marked” by secret police and came to Australia one month later.
112. She stated that the applicant had informed his children by email that he had been baptised in Australia, and that he had done this naively, even though he is suspicious

that telephone calls are monitored. He is now afraid that his conversion will be known to the authorities on his return. [The social worker] stated that these fears “appear to be realistically grounded” [The social worker] included this incident as a “critical incident” as it has given rise to fears for his own life and that of his wife.

Second Tribunal hearing

113. At the start of the hearing I asked the applicant whether he had any objection to the interpreter. He burst into tears and started to sob. He indicated that he understood the interpreter and had no objection to him for any reason. He also stated that he was able to proceed with the hearing despite being upset. I asked whether there was any particular reason why he had started to cry when I asked him about the interpreter. His adviser stated that there were problems at the last hearing. First, the applicant had been put off because the hearing officer was wearing hejab. Second, he said that the interpreter at the first hearing was a Baha'i and had queried why the applicant had been critical of the Baha'i faith; she had not properly interpreted what the applicant had said about why his daughter had stopped being a Baha'i.
114. I then asked the applicant whether he thought there was a problem with the interpreter at the last hearing. He said that he had been concerned because she had shown him a dictionary of Christian terms that she had said she would refer to if necessary. This made the applicant worried that she was not familiar with Christian terms and would not be able to interpret properly what he was saying. He agreed that as we had not discussed his religious beliefs at the first hearing, this had not turned out to be a problem. Asked whether he had any other concerns, the applicant said that the interpreter had not been precise in her interpretation. Asked how he knew this, he said that she had referred to a number in a document which was inaccurate. He confirmed that he was referring to the police record. I explained that it is not the job of the interpreter to provide sight translations of documents, and that she had done so in this case because it emerged that the written translation of the document that had been provided by the applicant's adviser was only an extract of the original document. I noted that the adviser had been requested to provide a proper translation of the entire document if he wished to rely on it, which would have overcome the problem of any inaccuracy in the sight translation, but he had not done this. The adviser then queried why I had not asked the applicant certain questions about his concerns about the interpreter and I explained that it was my role to investigate the adviser's assertion about the interpreter by questioning the applicant as I saw fit. I noted that the applicant had not repeated the concerns that the adviser had mentioned, but pointed out that once these serious allegations that went to the validity of the first hearing were raised, I had to take them seriously. The adviser then said that it did not matter, it was just an observation and obviously I was intent on arguing with him. I repeated that a suggestion that an applicant had felt impeded from giving evidence because of concerns about an interpreter was fundamental to the Tribunal's processes and that once such concerns were raised, I could not simply say that it did not matter. It was up to me to investigate whether the concerns were valid and had prevented the applicant from having a real opportunity to present evidence and arguments at a hearing.
115. The applicant stated that, apart from the concerns mentioned above, he had not been constrained in presenting his claims and evidence at the first hearing. He also stated, in response to a direct question from me, that he had not heard the interpreter make any remark along the lines of “what is wrong with Baha'is?”

116. I asked him how he first became interested in Jesus Christ and Christianity. He said that in Iran they used to watch satellite TV. One day they came across the Joyce Meyer programme and watched it weekly for about five years before they came here. He said that what appealed to him about the programme was that they talked about kindness, loving and helping each other and helping our neighbours. He said that those things were very different from his experience of Islam in Iran. She also talked a lot about the Ten Commandments, which they tried to follow in their lives. About four years ago they saw the film “Jesus Christ” on television. However, the Joyce Meyer programme had a greater influence because they watched that weekly.
117. He said that he had not attended the mosque for many years in Iran. I asked again about why he had travelled to Saudi Arabia for the stated purpose of the *hadj* in 1997 if he was not a devout Muslim. He said that a particular company organises these trips. The company organises the visa and the visa states that the purpose of the trip is the *hadj*. There are two types of *hadj* – one is just a visit to Mecca, and the other is the pilgrimage. They went to Mecca outside the *hadj* or pilgrimage, just to have a look. Asked why they did not go somewhere like Turkey if they just wanted a holiday, he said that they thought they might find peace in Mecca; also the ticket was cheaper.
118. I asked the applicant how it was that his daughter was involved with the Baha'i faith when he and his wife first arrived, and they had participated in Baha'i social gatherings; yet suddenly they all appeared to have abandoned Baha'ism and turned to Christianity. The applicant said that some time after he arrived here he asked his daughter whether she had any Christian friends. She mentioned a man named [Mr B]. The applicant said that he would like to meet him. [Mr B] invited the applicant and his family to go to church with him; they went to a church in [suburb deleted: s.431(2)] that has services in Farsi. When the applicant asked him about closer churches, he took them to [Church A]. The first time they went there, they were accepted with open arms and they immediately met a lady who spoke Farsi. [Mr B] left Australia soon afterwards, and gave the applicant his copy of a Farsi language bible which had been given to him. The applicant admitted that he was suspicious of the Baha'i faith, probably because of the attitude of the Iranian authorities; he also said that in his understanding, Baha'ism is quite similar to Islam.
119. I asked the applicant how he found following the Ten Commandments more helpful in leading a good life than trying to follow similar precepts in Islam. He said that Islam has so many twists and turns; you can follow everything and at the end conclude that you have not reached God. The path to God through Christianity is more straightforward.
120. The applicant was able to describe in some detail the life of St Paul, and the miracles performed by Jesus. He said that the most important one was Jesus' returning to life after being crucified. He was able to explain the symbolism of baptism. He said that his favourite verses from the bible are when Jesus tells his followers not to fear because he is with them and will support them.
121. I asked the applicant whether he and his wife had given any thought to how they might practise their faith if they were required to return to Iran, especially given that they had said that at the time they first attended church they did intend to return. He said that they could not formally or overtly go to church; they would attend a house church. He said that they would be able to locate a house church through acquaintances and

through the satellite television channel. They would not be able to practise Christianity safely, but he said that as long as he lives he will try to pass on Jesus' teachings to others. He said that he does this here when he attends gatherings with people who speak his language. He said that he tells them that if they want to free themselves from sin they must believe in Jesus. He said that he tries to convince them to read the bible, because once they do so they are more ready to accept. He said that he has not yet been successful in bringing anyone to [Church A] but he intends to keep trying.

122. He said that he would not be able to hide his Christianity from the authorities because there are spies both there and here. I asked whether he had told his children that they had been baptised. He said that they know they have formally become Christian but they had not been told about the baptism. The children know that they go to church regularly. He said that they have communicated this over the phone and the internet.

Evidence of [the Assistant Minister]

123. [The Assistant Minister] stated that the friend of the applicants' that first brought them to church asked her if she would meet their daughter and answer her questions. [The Assistant Minister] said that she could not remember the name of this man, and she had never seen him again. She then had numerous meetings with the applicants' daughter who appeared to be hungry for knowledge about the Christian faith. Meanwhile, while she was having many meetings with their daughter, the applicants were attending church every Sunday.
124. I asked [the Assistant Minister] if she knew anything about the prior involvement of the applicants and their daughter with the Baha'i faith. She said that for the daughter, she has been on a journey of discovery of her faith and a search for the true God. [The Assistant Minister] said that Jesus Christ is her main interest and she believes that it is the primacy of Jesus that attracted her to Christianity over Baha'ism. [The Assistant Minister] said that the applicants' daughter seemed in a rush to commit to the Christian faith and [the Assistant Minister] tried to force her to slow down as she wanted to make sure that she truly understood the decision she was making. [The Assistant Minister] explained that her motivation was not concern about the genuineness of the applicants' daughter's commitment, it was just that she wanted to go so fast and [the Assistant Minister] was concerned that with the language barrier she may not fully understand.
125. [The Assistant Minister] said that once their daughter was convinced of her own Christian faith she wanted her parents to have the same opportunity. [The Assistant Minister] was then very concerned to make sure that they fully understood what it all meant. She was at pains to explain to them the Christian message and the gospel. She also wanted to make sure that they understood the consequences of a conversion if they returned to Iran.
126. I asked her whether the period of three months between their first attendance at church and their baptism was unusually short. She said not at all; in fact, they would have been baptised earlier if not for the Christmas holidays. She said that at [Church A] they encourage new Christians to be baptised; and especially in the case of adults who profess the Christian faith, they encourage them to be baptised as quickly as possible. She said, however, that the applicants had approached her about being baptised; she had not invited them. When I put to her that the applicant had said that the first approach had come from her, she said that there was possibly a different interpretation of what

had been said. She said that they do not expect people to have a comprehensive understanding of all aspects of doctrine and faith before being baptised. She said that they assume that people are acting from the heart.

127. I asked her what was expected of a person undergoing baptism. She said that she looks for an understanding of the gospel message in a nutshell – that God loves us, we need a saviour and he sent Jesus to die for our sins and be our saviour if we put our faith in him. She said that they then look for “fruit” in the person’s life – a desire to learn, a servant heart, a desire to be in fellowship with the church and a joy in the understanding of who Jesus is. She said that that she looks at whether a person is persevering in their faith.
128. She said that she is familiar with the term “rice Christian” and has seen it, but not in this family. She believes that they have a genuine desire to learn about Christianity; they are always in church on a Sunday and they are not just going through the motions. For example, they always seek her out to identify the passages from the bible that will be covered in the service so that they can follow them in their Farsi language bible. She said that she can see from their faces that they are genuinely engaged. She spoke about the visions of Jesus Christ that the applicant claims to have seen, which she is convinced are genuine; she provided reasons why she believes a person who was pretending would not have described these visions as the applicant did.
129. She said that she believes she is discerning in relation to character, and told me about an occasion when she believes that a person involved in her church was not genuine in their faith; she said that if she had this sense, she would not provide support for the person. She said that she has no sense at all with the applicants that they are not genuine. She said that they have a constant desire to learn to love and trust Jesus; whenever she goes to their house they have questions for her. She said that she sees joy in them over and above every day happiness – she believes it is the joy that comes from having faith in Jesus. She said that she does not have time to put the effort that she does into this family if she thought she was being “conned”.

Post hearing evidence and submissions

130. [In] August 2001 the Tribunal received a letter written by [the Reverend]. [The Reverend] advised that, having been given the Tribunal’s Guidelines on Expert Witness Evidence at the second hearing, they had sought to have [the social worker] re-write her report; and in this context, had been advised to have the applicant re-examined by a psychiatrist, who would shortly provide a report. [The Reverend] also reiterated his support for the applicants, noting that he had never thought that the applicant was manipulative or dishonest. He stated that, in his opinion, the public humiliation inflicted on the applicant by two public lashings affected his responses in the Tribunal hearing. He noted how, at the second hearing, when the name of “Paul” was mistranslated in a question asked by the Tribunal, the applicant gave what appeared to be a nonsensical response; however, when the mistake was corrected, his answer to the question displayed considerable knowledge and understanding of the detail and subtleties of the story of Paul. [The Reverend] stated that the applicants’ involvement with the church has been entirely consistent over the six months that he has known them. He stated that he has a very high degree of certitude in regard to the reality of their Christian faith. He said that that he is aware of having been manipulated by others for gain on many occasions, and that as a consequence he asks people very hard questions when they

look for something from him. He states that he is convinced of the reality of the applicants' faith and believes them to be in mortal danger if they return to Iran, as they will feel compelled to speak to neighbours and friends about their beliefs.

131. [In] August 2010 a revised report by [the social worker] was submitted. Among other things, the revised report set out [the social worker]'s expertise in the field of post-traumatic stress disorder and associated disorders.
132. The Tribunal also received a further submission from the applicants' migration adviser and a letter from [Ms D], an Iranian born convert to Christianity who has lived in Australia since 1997. She stated that she met the applicants at an Iranian National Day picnic in April 2010 and from their first meeting felt very connected to them "in the name of Jesus Christ" Since then she has been in regular contact with them, especially the applicant wife, and has witnessed her faith grow.

Country information

133. Under Iranian law, conversion from Islam to another religion is considered to be apostasy. Individuals convicted of apostasy can be sentenced to death or life imprisonment under Sharia law (US Department of State 2010, *Country Reports on Human Rights Practices 2009 –Iran*, 11 March, Section 2.c; Danish Refugee Council 2009, *Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc: Fact finding mission to Iran 24th August – 2nd September 2008*, February, p.29; UK Home Office 2009, *Operational Guidance Note: Iran*, 28 January pp. 4-6
<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/iran.pdf?view=Binary> – Accessed 14 April 2010; Amnesty International 2009, *IRAN: Prisoners of Conscience/Medical concern, Iranian Christians: Maryam Rostampur (f); Marzieh Amirzadeh Esmaeilabad*, 8 April, MDE13/030/2009
<http://www.amnesty.org/fr/library/asset/MDE13/030/2009/fr/b6f6b035-b2d0-4b7d-8a0f-810afeb85517/mde130302009eng.html> - Accessed 16 April 2010; Department of Foreign Affairs and Trade 2007, *DFAT Report No. 595 –Iran: RRT Information Request: IRN31152*, 24 January; Freedom House 2009, *Freedom in the World –Iran* http://freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?year=2009&country=7627&pf – Accessed 14 April 2010).
134. Conversion from Islam is also punishable by death under a provision of the Iranian Penal Code introduced in September 2008. Under the Penal Code men who have converted from Islam are subject to the death penalty and women converts are subject to life imprisonment (US Department of State 2010, *Country Reports on Human Rights Practices 2009 –Iran*, 11 March, Section 2.c; Danish Refugee Council 2009, *Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc: Fact finding mission to Iran 24th August – 2nd September 2008*, February, p.29; 'Two Christian women imprisoned in Iran' 2008, *Compass Direct*, 13 April). On 11 March 2010, the US Department of State (USDOS) reported that this revision was initially implemented for a one year trial period. According to the USDOS on 23 June 2009 a parliamentary committee recommended that the revision to the penal code be removed. Reports indicate however, that this recommendation to repeal the revision has not been finalised to date (US Department of State 2010, *Country Reports on Human Rights Practices 2009 –Iran*, 11 March,

Section 2.c; 'Let's Stand for Religious Freedom and the Wrongfully Imprisoned' 2010, *Advocates International* , 10 April

<http://www.advocatesinternational.org/content/lets-stand-religious-freedom-and-wrongfully-imprisoned> – Accessed 15 April 2010; 'Maryam and Marzieh on trial five months after their release' 2010, Christian Solidarity Worldwide website, 10 April <http://www.csw.org.uk/urgentactioniranmaryamandmarzieh.htm> - Accessed 15 April 2010.

135. Nonetheless, despite the legal basis for it, there are no recent reports of Christian converts from Islam having been convicted of apostasy or having been subjected to the death penalty in Iran (US Department of State 2010, *Country Reports on Human Rights Practices 2009 –Iran*, 11 March, Section 2.c; UK Home Office 2009, *Operational Guidance Note: Iran*, 28 January pp. 4-6 <http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasyumpolicyogns/iran.pdf?view=Binary> – Accessed 14 April 2010; Department of Foreign Affairs and Trade 2007, *DFAT Report No. 595 –Iran: RRT Information Request: IRN31152* , 24 January). Indeed, on 28 January 2010, Compass Direct, a Christian news service reported that in Iran “no converts to Christianity have been convicted of apostasy since international pressure forced officials to drop the death sentence of Christian convert Mehdi Dibaj in 1994” ('Authorities Detain Christians without Legal Counsel' 2010, Compass Direct website, 28 January <http://www.compassdirect.org/english/country/iran/14572/> - Accessed 27 April 2010). According to a 2009 report by Compass Direct “the last Iranian Christian convert from Islam executed by the Iranian government was Hossein Soodmand in 1990” ('Two Christian women imprisoned in Iran' 2008, *Compass Direct* , 13 April).
136. While Christian converts have not been convicted of apostasy in recent times, reports do indicate that during the period of 2008 to 2010 many Christian converts have been arrested and detained. Reports state that some detained Christian converts have been charged with but not convicted of apostasy. Reports over this period indicate that Christian converts have been detained for periods ranging from a number of days to nine months (Farsi Christian News Network (undated), 'Summary Report on the Repression and the Persecution of Christian Iranians in 2009', http://www.fcnn.com/index.php?option=com_content&view=article&id=751:summary-report-on-the-repression-and-the-persecution-of-christian-iranians-in-2009&catid=127:iranian-christian&Itemid=593 , http://www.fcnn.com/index.php?option=com_content&view=article&id=751:summary-report-on-the-repression-and-the-persecution-of-christian-iranians-in-2009&catid=127:iranian-christian&Itemid=593 – Accessed 29 April 2010; US Department of State 2009, *International Religious Freedom Report for 2009 –Iran*, 26 October; Christian Solidarity Worldwide 2008, *Iran: Religious Freedom Profile* , July <http://dynamic.csw.org.uk/article.asp?t=report&id=97> - Accessed 28 April 2010; Human Rights Activists in Iran 2009, 'A Report on the Persecution of Iranian Christians in 2008', 15 January; United States Commission on International Freedom 2009, *Annual Report 2009* , May, p.35 <http://www.uscirf.gov/images/AR2009/final%20ar2009%20with%20cover.pdf> – Accessed 29 April 2010).
137. These reports indicate that detained Christian converts are routinely pressured by Iranian courts to renounce their Christianity. Further, a report dated 15 January 2009 by

Human Rights Activists in Iran also states that “new converts are subject to physical and mental abuse while detained”. A report by the Farsi Christian News Network (FCNN) on the treatment of Christians in Iran in 2009 notes two incidents in 2009 in which Christian converts in detention were either “tortured” or “severely beaten up.” Reports indicate that Christian converts have been subject to solitary confinement and required to pay excessive amounts for bail. The US Commission on International Freedom 2009 annual report also states that “it is a common practice, particularly in cases involving offences based on religious belief, for Iranian authorities to release prisoners but to leave the charges against them or their convictions in place in order to be able to threaten them with reimprisonment at any future time.” Human Rights Activists in Iran have reported one incidence of this occurring to a Christian convert in April 2008 (Human Rights Activists in Iran 2009, ‘A Report on the Persecution of Iranian Christians in 2008’, 15 January; Farsi Christian News Network (undated), ‘Summary Report on the Repression and the Persecution of Christian Iranians in 2009’ http://www.fcnn.com/index.php?option=com_content&view=article&id=751:summary-report-on-the-repression-and-the-persecution-of-christian-iranians-in-2009&catid=127:iranian-christian&Itemid=593 #150; Accessed 29 April 2010; Christian Solidarity Worldwide 2008, *Iran: Religious Freedom Profile*, July <http://dynamic.csw.org.uk/article.asp?t=report&id=97> – Accessed 28 April 2010; United States Commission on International Freedom 2009, *Annual Report 2009*, May, p.35 <http://www.uscirf.gov/images/AR2009/final%20ar2009%20with%20cover.pdf> – Accessed 29 April 2010; Amnesty International 2009, *IRAN: Prisoners of Conscience/Medical concern, Iranian Christians: Maryam Rostampur (f); Marzieh Amirzadeh Esmaeilabad*, 8 April, MDE13/030/2009 <http://www.amnesty.org/fr/library/asset/MDE13/030/2009/fr/b6f6b035-b2d0-4b7d-8a0f-810afeb85517/mde130302009eng.html> – Accessed 16 April 2010; ‘Iran Scraps Mandatory Death Penalty for Apostates’ 2009, Compass Direct News website, 29 June <http://www.compassdirect.org/english/country/iran/4787/> - Accessed 29 April 2010).

138. The following is a sample of recent reports which provide information on the detention of individuals who have converted from Islam to Christianity. The reports cover a range of incidents including the mass arrest of house church attendees and the targeting of individual Christian converts:

- On 28 January 2010, Compass Direct reported that on 11 January 2010 six Christians who had converted from Islam were charged with apostasy and detained (‘Authorities Detain Christians without Legal Counsel’ 2010, Compass Direct website, 28 January <http://www.compassdirect.org/english/country/iran/14572/> - Accessed 27 April 2010).
- A FCNN report lists a number of arrests of Christian converts in Iran during 2009, including a new Christian who in April was summoned to the Oouroomieh Islamic Revolutionary Court and accused of conspiracy to overthrow the Islamic Republic of Iran; a Christian convert in Turkey was identified by the secret agents of the Iranian government and severely beaten up; between April and July there were numerous raids on house churches with the arrests of scores of participants

See: Report on the Repression and the Persecution of Christian Iranians in 2009' http://www.fcnn.com/index.php?option=com_content&view=article&id=751:summary-report-on-the-repression-and-the-persecution-of-christian-iranians-in-2009&catid=127:iranian-christian&Itemid=593 – Accessed 29 April 2010).

139. The most recent US Department of State (USDOS) *International Religious Freedom Report* for Iran, dated 26 October 2009, lists the following incidents during 2009:

- On May 21, 2009, security officials arrested five Christian converts in Karaj who had gathered in a home for Bible study and worship. The house where they were meeting was searched and several Bibles confiscated. The five were being held at an unknown location.
- On March 10, 2009, a Shiraz court sentenced three Christian converts to 8 month prison terms with 5 years' probation. The judge warned the men to discontinue their Christian activities or risk being tried as apostates.

FINDINGS AND REASONS

140. The applicants claim to be citizens of Iran and have presented their passports which were issued by the Islamic Republic of Iran. On the basis of these documents, and in the absence of any evidence to suggest otherwise, the Tribunal accepts that the applicants are citizens of Iran, and that they do not have the right to enter and reside in any other country. Accordingly, their claims to refugee status will be assessed against Iran, as their country of nationality.
141. Only the applicant made detailed claims to refugee status in the protection visa application, claiming that he will face persecution if he returns to Iran for political and religious reasons. The applicant wife completed Part D of the protection visa application, for people who do not have their own claims to refugee status but are members of the family unit of a person claiming to be a refugee. She stated in that document, however, that she was a Christian, and information about her conversion to Christianity was provided to the delegate prior to his decision.
142. The applicant claims that he has the profile of an anti-government activist or opponent as the result of a long history of difficulties with the authorities. He claims that at the time of the Revolution he was forced to close his family business because it was considered un-Islamic. He claims that in 1985 he was sentenced to 74 lashes because he was caught drinking and playing cards with friends. He claims that in 1994 or 1995 he was sentenced to a further lashing because he was found in possession of playing cards. He claims that in 1999 his son was arrested at a demonstration (which the applicant had also attended) and they had to pay a fine and bail him out. He claims that after that the authorities came to their home every year for five years, searched it and confiscated their satellite dish. He claims that he participated in the demonstrations that followed the June 2009 elections and that he was arrested and detained. He claims that he was issued with a passport and allowed to leave Iran without difficulty. He claims that in November or December 2009 he was warned by his children not to return to Iran. He claims that he attended a demonstration [location deleted: s.431(2)] in [City A] [in] February 2010. He claims that this may come to the attention of the authorities and that, given his history, he may be detained on return.

143. The applicants claim that they have both adopted the Christian faith and been baptised since they have been in Australia, having initially become interested in Christianity by watching Christian television shows by satellite in Iran.
144. The country information available to the Tribunal, including that referred to by the delegate, indicates that the Iranian government does not tolerate the expression of political dissent, and that anti-government political activists may be subjected to serious punishments which may amount to persecution. Additionally, apostasy is a crime punishable by the death penalty, and there is abundant information before the Tribunal, which is set out above, indicating that Christian converts are subjected to serious harm and human rights abuses. Against this context, the Tribunal's first task in the determination of this application is to assess the credibility of the applicant's account of his activities and experiences in Iran, and his conversion to Christianity in Australia.
145. In doing so, the Tribunal must take into account the difficulties which may be faced by asylum seekers generally, and any particular circumstances of this applicant which may have affected his capacity to put forward his claims. While the benefit of the doubt should be given to applicants who are generally credible but unable to substantiate all of their claims, the Tribunal is not required to accept uncritically any or all allegations made by an applicant. Nor is the Tribunal required to have rebutting evidence available to it before it can find that a particular factual assertion by an applicant has not been made out. See *Randhawa v MILGEA* (1994) 52 FCR 437 at 451, per Beaumont J; *Selvadurai v MIEA & Anor* (1994) 34 ALD 347 at 348 per Heerey J and *Kopalapillai v MIMA* (1998) 86 FCR 547.
146. In this case, I found the applicant's evidence to be highly unsatisfactory. Much of his testimony before the Tribunal was vague, evasive and appeared to be exaggerated and overstated. His oral evidence was inconsistent in some respects with documents that he submitted in support of his claims. The evidence of the applicant about events in Iran was not, generally, supported by that of the applicant wife, although her evidence, too, was unsatisfactory, being vague, unfocussed and at times apparently evasive. I have serious doubts about the credibility of both the applicant and the applicant wife, and have serious reservations about their account of their lives in Iran, and their claimed reasons for fearing to return.
147. It is convenient to deal with the political and religious claims separately.
148. I accept that the applicant was subjected to lashings on two or three occasions in the mid 1980's and 1990's. However, all the evidence, including that of the applicant himself, suggests and I find that these were punishments imposed for criminal offences under laws of general application. I am not satisfied that these matters have caused the applicant to have a political profile of any significance; in particular, I am not satisfied that they caused the applicant to be identified as an enemy of Islamic principles, as he claimed in his protection visa application. Nor am I satisfied that as a result of these incidents the applicant has suffered ongoing harm or discrimination amounting to persecution. Moreover, I find that the applicant and the applicant wife have provided untruthful evidence about these matters that reflects poorly on their overall credibility.
149. In his protection visa application the applicant stated that he was sentenced twice to seventy four lashes, once for drinking and playing cards in his home and once because he was caught with playing cards. The applicant subsequently presented a police record

dated 2007 stating that he had received two sentences of 100 lashes and 80 lashes, plus a fine. At the first hearing the applicant stated that he had been sentenced to seventy four lashes twice and fined once, although the dates he provided were slightly different. He also said, however, that there was another problem that he had not previously mentioned - he had been fined and given one hundred lashes on another occasion for drinking alcohol. He was unable or reluctant to state when this was, referring me to the police record. Eventually he said that it was in 1996. Asked why he had not mentioned this before, he provided a number of explanations, none of which satisfactorily explain the omission, in my view. First, his adviser said that he had had so many different problems, it was too complicated and he could not remember them all. However, the applicant admitted that he had only been subjected to a lashing on three occasions and I do not accept that he would mix up incidents of this severity with other problems with the authorities that did not involve a lashing. I do not accept that the applicant would not recall whether he had been subjected to a lashing on two or three occasions, although he may well not remember the exact dates. Nor do I accept that the applicant did not mention the third incident because he had no document to prove it, as he had no documentary proof at the time he mentioned the first two lashings. Nor do I accept that he did not mention it because he was not asked about it; it was as relevant, in context, as the two lashings that he did mention and he was no more specifically asked about them. When asked why the police record contained different details to those he had provided himself, the applicant's adviser said that the translation of the document was wrong. When a sight translation was done by the interpreter at the hearing, the information contained in the written translation was confirmed; however, it also emerged that what had been provided to the Tribunal was a translation of only part of the police record which contained details of further offences not mentioned by the applicant, including drug use, adultery and possessing illegal cd's and tapes. Asked why his police record was inconsistent with his own evidence, the applicant suggested that the authorities had written what they liked in the police record and it did not reflect what he had really been charged with.

150. The applicant has not suggested that the police record he has submitted was not genuine. There is no evidence before the Tribunal to suggest that false official documents are readily obtainable in Iran. If the police record is accepted as genuine, I am satisfied that the applicant changed his evidence at the hearing, by adding the third incident in which he claims to have been punished with one hundred lashes, because he realised that his claims, up to that point, were inconsistent with the information on the police record. That he did so, and that his claims remained inconsistent even so, leads me to find that the applicant has been untruthful about the nature of his police record and his past problems with the police. Moreover, I consider that the applicant has attempted to strengthen his case for refugee status by portraying these incidents in a misleading way as motivated both on his part, and that of the authorities, by political considerations. Based on the available evidence, I am satisfied that the applicant was not targeted for prosecution and punishment for any reasons except that he had, in fact, breached the criminal laws of Iran. The fact that the two or three incidents were ten years apart, and there is no credible evidence of any ongoing consequences arising from them, leads me to conclude that the applicant was not imputed with an adverse political opinion, or religious views as a consequence.
151. While the applicant's adviser stated in his submission [of] April 2010 that the police clearance shows that the applicant was not allowed to register a company, get a trade

licence, or work in any government job because his background demonstrates that he is not a good Muslim, this is inaccurate and misleading. All the police clearance shows is that the applicant had broken the criminal law and been punished. I have only the adviser's assertions as to the other matters, namely, the impact of the applicant's police record on the applicant's ability to earn a living. I am not satisfied, based on the applicant's evidence as to these matters, that he suffered ongoing discrimination because a political or religious imputation resulted from his police record.

152. The applicant provided inconsistent evidence about his past employment. In his protection visa application he stated that he retired in 2004 and did not work again prior to his departure for Australia. In a subsequent statement he claimed that in 2007, after a couple of years of retirement, he decided to register a new [company], but was unable to do so because of his criminal record, and was then only able to get work as a truck driver. At the hearing he stated that his company ran successfully for eleven years until in 2004 he had problems with his partner because the company could not deal with the government because of the applicant's record. He said at first that he then worked as a truck driver from 2004 until he left Iran; he later said that he spent two years trying to re-establish a company before taking up work as a truck driver. When asked why he did not declare his employment as a truck driver in his protection visa application, he said that this is not classified as work in Iran. I do not accept this explanation. I do not accept that there is anything complex about a question about employment history, or that cultural considerations would come into play in responding to such a question. I consider that the applicant has been, at best, careless with the truth in presenting information in support of his application. I consider that the applicant and his adviser have sought to present his claims selectively, and with a view to presenting his application for refugee status in the strongest possible light. I consider that this reflects poorly on the applicant's credibility. In view of these findings, and in the light of the inconsistent evidence about the applicant's employment, I am not satisfied that he faced discrimination in employment as a result of an anti-government political or religious profile that was imputed to him. The documentary evidence, namely the police record, only supports a finding that any difficulties the applicant may have had in relation to employment resulted from his having a criminal record.
153. I do not accept the applicant's claim that his daughter was refused employment in a bank because of his record. Again, he has provided inconsistent evidence about the reasons why she was refused this work. In his protection visa application he stated that it was because these jobs were the preserve of war martyrs and the basiji. At the hearing he stated that it was because she did not have correct Islamic coverage; because of his background; and because those particular jobs were reserved for privileged groups, including martyrs and the basiji. The applicant also gave evidence that his wife's work as a [occupation deleted: s.431(2)] was not affected by his bad background, despite agreeing that [people in this occupation] are subjected to strict ideological vetting. I do not accept that the applicant's bad background would adversely affect his daughter's employment prospects on the one hand, but have no impact on his wife's on the other. I am satisfied that, if the applicant's daughter was denied a job for which she was qualified, this was either because of her own perceived ideological shortcomings, or because the family was not a member of a group given preferential treatment in employment. I note that this is different to being subjected to adverse discrimination for reason of membership of a group that is not favoured. Discrimination against the applicant's daughter is not, in any case, persecution of the applicant; but the

significance of my finding on this issue is that I do not accept that his claims about discrimination against his daughter provide support for the applicant's contention that he is considered to have a bad background, and to be anti-government or anti-Islam.

154. I accept that the applicant's son was detained after participating in a demonstration in 1999 and that the applicant paid money for his release, either as a fine or as security for his release. I also accept that thereafter the applicant's house may have been searched and his satellite dishes confiscated, and that he was subjected to further fines. I am not satisfied that the detention of the applicant's son on one occasion constitutes persecution of the applicant. Nor am I satisfied that this incident contributed to an adverse view of the applicant being formed by the authorities, even in the light of his criminal record. I note that possession of a satellite dish is illegal in Iran, but apart from the regular seizure of the applicant's dishes and the imposition of fines, there is no evidence before me to suggest that any serious punishment that would constitute persecution was inflicted on the applicant as the result of his repeated infringement of the law in this regard. Moreover, his evidence was that he was able to watch the Joyce Meyer programme weekly on satellite television for at least five years prior to his departure from Iran. I am satisfied that the level of monitoring and/or punishment of the applicant in relation to the possession of a satellite dish was not unduly onerous such as to amount to persecution.
155. I do not accept that the applicant participated in demonstrations following the June 2009 elections. His evidence at the hearing about his attendance was vague and appeared to be evasive. It was inconsistent with the written statements in his protection visa application. In the protection visa application he stated that the entire family participated in the demonstrations. At the hearing he said that he went by himself and he did not know if his children went separately. I do not accept that if the family was swept up in the political protests that were taking place at the time, they would not have discussed their participation in the protests together. When asked to explain the apparent inconsistency, he first of all tried to say that he had been talking about different things in his written statement, which clearly he was not. He then changed his evidence to say that perhaps his family members had attended a few demonstrations, but not as many as him. I consider that these inconsistencies and the applicant's apparent evasiveness can only be explained on the basis that he is not telling the truth about his participation in the June 2009 protests.
156. As to his claimed arrest at one of the demonstrations, in his protection visa application he stated that he was detained for five days and beaten. He stated that he was released when he signed a declaration that he would not participate in further activities. In his oral evidence he stated that he was detained for a week. He stated that he was hit. He claimed that he was released after they deposited the title deeds of their house and signed a guarantee.
157. The applicant gave [the social worker] yet another version of these events, stating that he was detained for one week, given electric shocks and "simply released".
158. While the applicant has submitted a document indicating that a sum of money was paid, apparently as a fine, [in] August 2009, when asked about this at the hearing he said that he thought it was in connection with the possession of the satellite dish. I would expect that if the applicant had been detained and released on bail as recently as August 2009, he would have recognised that this was what the document related to.

159. Moreover, the applicant stated that he was able to depart Iran [in] September 2009 without difficulty. I do not accept that he would have been able to do so had he only recently been released from detention related to his participation in the June protests, especially if he had still been of ongoing interest to the authorities, as he suggests by claiming that the authorities were looking for him again after his departure. Information available to the Tribunal indicates that the Iranian government monitors the entry and exit of persons of concern to it. I do not consider that the applicant has been able to provide a satisfactory explanation for his ability to leave Iran without difficulty such a short time after his claimed detention, if this had really occurred.
160. Even if the applicant had participated in the post-election demonstrations, I do not accept that he would be identified by the authorities. Accepting that photographs and videos were taken of the demonstrations, I do not accept that a participant with no significant profile as an activist, such as the applicant, would ever be identified in this way out of the millions who took part in the demonstrations; nor do I accept that the authorities would attempt to identify the applicant by this means.
161. I do not accept that the applicant would be identified by the authorities as a participant in the [City A] demonstration in February 2010. As discussed at the first hearing, I consider that given that his face was [obscured] in the Youtube video to which I was referred by the applicant's adviser, it would not be possible to identify him from this source. I am not satisfied that there is more than a remote prospect, given my findings about his lack of political profile, that he would be identified by any other means as a participant in that protest.
162. For the reasons set out above, I do not accept that the applicant has a well founded fear of persecution in Iran for reason of his political opinion, or a political opinion imputed to him. While I accept that he has been subjected to lashings for crimes under Islamic law, I am not satisfied, based on the credible information before me, that the applicant was thereby imputed with an anti-government political profile. Nor do I accept that the lashings themselves constituted Convention persecution, as the evidence indicates that they were imposed under laws of general application. I do not accept that the applicant participated in the 2009 demonstrations following the elections, or that he was arrested and detained as a consequence. Nor do I accept that there is a real chance that he would be identified as a participant in the demonstration held in [City A] [in] February 2010. I do not accept that the authorities or the Basiji have been inquiring about the applicant since he has been in Australia for any reason connected with the political profile he claims to have.
163. Because of my serious doubts about the applicants' credibility, I have examined very carefully their claims to have converted to Christianity since their arrival in Australia. There were a number of factors which initially led me to suspect that their attendance at church in Australia and their conversion, culminating in their baptism in February 2010, was conduct engaged in solely for the purpose of strengthening their claims to be refugees, and therefore required to be disregarded pursuant to s.91R(3) of the Act.
164. I questioned the applicant extensively at the second hearing about his religious beliefs. I found his evidence to be persuasive and compelling, and consider that he was able to satisfactorily explain many of the issues about which I had concerns prior to hearing his evidence. Moreover, the applicants enjoy strong support from members of their church,

and in particular the two Assistant Ministers with whom they are most involved, all of whom are adamant that the applicants' adoption of the Christian faith is genuine.

165. I was concerned about what appeared to be "faith shopping", where the applicants and their daughter were initially involved with the Baha'i faith, and suddenly appeared to switch to the Christian faith for no apparent reason. Based on the evidence given by [the Assistant Minister] and the applicant at the second hearing, I accept that, as far as the applicant's daughter was concerned, she was on a "journey" to discover faith, as suggested by [the Reverend], in which she firstly became involved with members of the Baha'i faith. As to the applicants themselves, I accept the applicant's evidence that his view of the Baha'i faith was probably tainted by the prevailing view put about by the Iranian government, and that because he was already interested in Christianity, he therefore suggested that his daughter investigate Christianity with him and his wife.
166. I was also concerned about the apparently short period between the applicants' first attendance at church and their baptism. However, I accept the evidence of [the Reverend], who prepared them for baptism, that, in fact, three months is not an unduly short interval in her experience; that she and her church encourage adult converts to Christianity from other religions to be baptised as quickly as possible; and that she was confident that the applicants had an appropriate understanding of the commitment they were making when they were baptised.
167. While [the Reverend] and [the Assistant Minister] gave evidence that it is not their place to "look into the heart" of someone who seeks to be baptised to ascertain whether their faith is genuine or not, I questioned them both closely and extensively about the basis on which they formed the view that the applicants are genuine in their commitment to the Christian faith. I am satisfied that, despite their religious view that it is up to God to judge the sincerity of a person's professed faith, they have not taken an uncritical or unquestioning position in relation to the genuineness of the applicants' commitment to Christianity. I am satisfied that they understand the task of the Tribunal in the context of s.91R(3) and that they take very seriously their role as witnesses before the Tribunal. I am satisfied that in their evidence they genuinely sought to assist the Tribunal, not simply to provide unquestioning support to the applicants. I am satisfied that both [the Reverend and the Assistant Minister] have given due consideration to the possibility that the applicants have sought to manipulate them to gain a benefit, and that they have concluded that this is not the motivation of the applicants, who, they are convinced, have genuinely adopted the Christian faith.
168. I am satisfied that the applicant was able to display an appropriate level of knowledge of the Christian faith at the hearing. When he was asked about St Paul, he was able to provide a detailed account of Paul's life which showed considerable understanding of the nuances of Paul's circumstances, not just a recitation of the facts. He appeared to understand the meaning of baptism, as has been attested to by his Ministers. In my view, he was able to provide a persuasive and ultimately consistent and coherent account of his first introduction to Christianity through [Mr B]. He was also able to provide a persuasive account of his personal response to the Christian message, and why he has chosen it over Islam.
169. I am satisfied that, at the second hearing, the applicant was able to provide a more persuasive account than he had at the first, of the reasons why he had stated that he travelled to Saudi Arabia for *hadj*. I accept, based on this explanation, that the

applicant's trip to Saudi Arabia does not reflect that he was, at that time, a devout or practising Muslim.

170. In these circumstances, despite my initial misgivings about the applicant's overall credibility, I am unable to be satisfied that the applicant's conduct in Australia, in relation to his adoption of the Christian faith, has been engaged in for the sole purpose of strengthening his claims to be a refugee. I accept that the applicant has genuinely adopted the Christian faith, and that he would seek to practise the Christian faith if he returned to Iran. The evidence also supports a finding that the applicant wife has also made a genuine conversion to the Christian faith and that she is a committed Christian. I accept that they would seek to practise the Christian faith in Iran, and would not seek to hide it. I am therefore satisfied that there is a real chance that their conversion to Christianity would be discovered by the authorities. On the basis of the country information referred to above, I am satisfied that the applicants would thereby be at serious risk of harm amounting to persecution. Although there are no recent reports of the execution of convicted apostates, the information referred to above indicates that Christian converts may be charged with apostasy, and may be subjected to arrest and detention, which is often accompanied by physical or mental mistreatment of sufficient severity as to constitute persecution. I am therefore satisfied that the applicants have a well founded fear of persecution in Iran, for reason of their religion.

CONCLUSION

171. The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention. Therefore he satisfies the criterion set out in s.36(2)(a) for a protection visa and will be entitled to such a visa, provided he satisfies the remaining criteria for the visa.
172. The Tribunal accepts that, while the applicant wife completed Part D of the protection visa application form, for people who do not have their own claims to be a refugee, she stated in that form that she was a Christian, and information was provided to the Department prior to the delegate's decision which squarely raised refugee claims on her behalf arising from her conversion to Christianity. The delegate referred in his decision to such claims having been made. In these circumstances, the Tribunal finds that the applicant wife has made an application as a refugee. It is also satisfied, for the reasons set out above in relation to the applicant, that the applicant wife has also made a genuine conversion to Christianity in Australia, and that this would place her at risk of persecution on return to Iran. The Tribunal is therefore satisfied that the applicant wife is also a person to whom Australia has protection obligations under the Refugees Convention, and that she satisfies the criterion set out in s.36(2)(a) for a protection visa and will be entitled to such a visa, provided she satisfies the remaining criteria for the visa.
173. The Tribunal is therefore satisfied that each of the applicants is a person to whom Australia has protection obligations under the Refugees Convention. Therefore the applicants satisfy the criterion set out in s.36(2)(a) for a protection visa and will be entitled to such visas, provided they satisfy the remaining criteria.

DECISION

174. The Tribunal remits the matter for reconsideration with the direction that the applicants satisfy s.36(2)(a) of the Migration Act, being persons to whom Australia has protection obligations under the Refugees Convention.