

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

**REFUGEE APPEAL NO 76046**

**AT AUCKLAND**

<b><u>Before:</u></b>	M A Roche (Chairperson) B L Burson (Member)
<b><u>Counsel for the Appellant:</u></b>	I Uca
<b><u>Appearing for the Department of Labour:</u></b>	No Appearance
<b><u>Date of Hearing:</u></b>	30 & 31 July 2007
<b><u>Date of Decision:</u></b>	17 October 2007

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**DECISION**

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[1] This is an appeal against a decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL) declining to grant refugee status to the appellant who is a citizen of Iran.

[2] This is the third time the appellant has claimed refugee status in New Zealand. The appellant claims that, since the decline of his previous refugee appeal, his sister-in-law has informed the Iranian authorities of his conversion to Christianity. He also claims that both his personal development as a Christian and developments in Iran have resulted in his being at greater risk of persecution as a Christian there than previously.

[3] The central issues to be determined are whether the Authority has jurisdiction to hear another refugee claim from this appellant and, if so, whether the appellant's new claims are credible.

**JURISDICTION RELATING TO SECOND OR SUBSEQUENT APPEALS**

[4] The Authority's jurisdiction in relation to second or subsequent claims is set out in section 129O(1) of the Immigration Act 1987 ("the Act"):

"A person whose claim or subsequent claim has been declined by a refugee status officer, or whose subsequent claim has been refused to be considered by an

officer on the grounds that circumstances in the claimant's home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer's decision."

[5] Jurisdiction to hear and determine subsequent refugee claims under s129O(1) of the Act is determined by comparing the previous claim to refugee status against the subsequent one. This involves a comparison of claims as asserted by the refugee claimant. In the absence of significant difference in the grounds upon which the claims are based, there is no jurisdiction to consider the subsequent claim: *Refugee Appeal No 75139* (18 November 2004).

[6] Where jurisdiction is established, the merits of the subsequent claim will be heard by the Authority. This hearing may be restricted by the findings of credibility or fact made by the Authority in relation to the previous claim. Section 129P(9) of the Act prohibits any challenge to a finding of fact or credibility made by the Authority in relation to a previous claim and the Authority has a discretion as to whether to rely on any such finding.

## **PROCEDURAL HISTORY OF THE APPELLANT'S CASE**

### First claim for refugee status

[7] The appellant arrived in New Zealand on 11 September 2001 and applied for refugee status on 24 September 2001.

[8] It is not proposed to set out in full the account presented by the appellant in support of his first claim for refugee status in New Zealand. A detailed summary of his account can be found in the decision of this Authority, *Refugee Appeal No 73640* (19 December 2003).

[9] Essentially, the appellant claimed to have fled Iran, using a false passport, after his sexual relationship with a single woman was discovered by her brother, who was a member of the *Etela'at*. He claimed the *Etela'at* subsequently raided his home and discovered an anti-regime videotape there.

[10] After interviewing the appellant, the RSB declined the appellant's first claim on the basis that it was not credible. This led to his first appeal to this Authority.

[11] In its decision *Refugee Appeal No 73640* (19 December 2003), a differently

constituted panel of this Authority found that the appellant's account was wholly lacking in credibility and rejected it in its entirety.

#### Second claim for refugee status

[12] On 28 January 2004, the appellant lodged a second claim for refugee status. This second claim was based on his conversion to Christianity and his fear of returning to Iran as a failed asylum seeker having departed from there illegally.

[13] After an interview with the RSB, his claim was declined. Although the RSB accepted that he was a Christian convert, it found that neither this, nor his status as a returning asylum seeker, gave rise to a well-founded fear of being persecuted.

[14] The appellant appealed against this decision, leading to his second appeal hearing before this Authority. In its decision *Refugee Appeal No 75312* (16 May 2005) another differently constituted panel of the Authority declined the appellant's second appeal.

[15] Although the Authority accepted that he was a Christian convert, it rejected his claim that he would proselytise in Iran. It also rejected the appellant's claim that members of the family would inform the Iranian authorities about his conversion. The Authority found that the appellant had a retiring personality and was unlikely to randomly confront unsympathetic strangers about Christianity in parks and libraries in Iran as he had claimed in his evidence. Of relevance to this third appeal decision, the Authority also disbelieved the appellant's claim that he would publish leaflets about Christianity in Iran, commenting at [50] that this idea had never occurred to him before being suggested by the Authority in the course of its questioning.

[16] The Authority concluded that, as a non-proselytising Christian, the appellant would be able to practise his religion in Iran and that there was no real chance that he would be persecuted as a result.

#### Third claim for refugee status

[17] On 24 November 2006 the appellant lodged a third claim for refugee status with the RSB. This time he claimed that his sister-in-law had informed the Iranian police about his conversion as a means to obtaining a divorce from his brother which, he claims, had led to members of his family being questioned about him.

After interviewing him, the RSB declined his third application in a decision dated 23 April 2007. In its decision the RSB rejected the credibility of his claims about his sister-in-law. This led to his third appeal before this Authority.

[18] At the commencement of the hearing the Authority indicated to counsel that it accepted there was jurisdiction to consider the appeal. This was because it was based on a claim that, since the determination of his previous refugee appeal, the Iranian authorities had been made aware of the appellant's conversion. This claim is significantly different from those previously brought before the Authority by the appellant. The Authority therefore accepted that "significantly different grounds" from the previous appeal existed for the purposes of s129O(1) of the Act.

[19] The Authority also advised of its intention to rely on the findings of fact and credibility made by it in respect of the appellant's two previous claims. Counsel was invited to make submissions on this issue and in particular, to advise if there were any reasons why the Authority should not so rely.

[20] Counsel consented to the Authority's reliance on its previous findings with one exception. This was in respect of the finding in *Refugee Appeal No 75312* at [57] and [60] that the appellant's professed determination to proselytise in Iran was not genuine and that he would not publicly proselytise on return. It was counsel's submission that since *Refugee Appeal No 75312* was published in May 2005, the appellant's faith and character had developed to such an extent that he would now publicly proselytise. Counsel submitted that because of this development in the appellant, the Authority should not rely on the finding made in May 2005 that he would not publicly proselytise in Iran. The Authority will consider this submission later in this decision.

### **THE APPELLANT'S CASE**

[21] What follows is a summary of the evidence given by the appellant at the hearing. An assessment of that evidence follows later in this decision.

[22] The appellant is from a very religious Muslim family in Tehran. His parents have undertaken the *Haj* (made a pilgrimage to Mecca) three times. Accordingly, the appellant had a strict religious upbringing. At his father's direction, he used to attend a mosque for evening prayers almost every evening. The family fasted together during Ramadan as their beliefs demanded. His mother used to wake the

family before sunrise to feed them during these times and would not serve them food (after sunset) if they had not fasted during the day.

[23] The appellant has four brothers. They have grown up to be religious men, particularly the eldest. They are all married and until recently all lived with their families in the communal apartment building owned by the parents. The appellant's unmarried sister, FF, also lives there.

[24] The appellant informed his family when he began to attend church in New Zealand. They were unhappy about this and tried to dissuade him from doing so. When he told them about his conversion following his baptism in 2004, "it was like a bomb going off in the house". His entire family was upset, particularly his parents and eldest brother. Over the next year, the appellant's four brothers stopped speaking to him.

[25] For some time after his brothers stopped speaking to him, the appellant continued to have telephone contact with his sisters-in-law including his brother AA's wife, BB, whom he has never met. In these conversations, she would tell him that he had taken the wrong path to salvation, that he had insulted the Koran, and was rejecting Islam. He would try and tell her about Christianity. His conversations with his other sisters-in-law were of a similar nature.

[26] Over time, even this limited contact came to an end and the appellant has not spoken to any of his sisters-in-law for approximately two years. The only family members still talking to him are his parents and his younger sister, FF.

[27] Approximately two years ago, the appellant learnt that AA and BB were having marital difficulties which he understood arose from their failure to have children and BB's dislike of living with the appellant's family.

[28] In December 2006, the appellant's mother and sister told him that BB had gone to a police station seeking a divorce and that she had complained to the police about his family, including the fact that the appellant was an apostate. Following her complaint, the appellant's parents and three of his siblings were required to attend the police station where they were questioned by the police about BB's allegations against them.

[29] At the police station, the appellant's father and his brother AA were questioned about his conversion to Christianity. The police told them that they had heard that the appellant had become a Christian in a foreign country and that they

were referring the matter to “higher authorities”. It is the appellant’s understanding that the police meant that they would refer his apostasy to the *Etela’at*.

[30] Following this questioning, members of the *basij* based at the appellant’s parents’ local mosque, prevented his parents from entering the mosque to pray. His parents tried to enter the mosque again approximately one week later but were again barred from entering by the *basiji* who told his father that they knew his son had turned away from Islam.

[31] Also, the appellant’s family have been shunned by their neighbours since the police complaint made by BB. His mother organises an annual gathering at the family home during *Mahadan* which many neighbours always attend. This year it was poorly attended which the appellant and his family attribute to his status as an apostate.

[32] In April or May 2007, AA moved out of the family’s apartment complex and reconciled with BB. One of her conditions for reconciliation was that they would no longer live with the appellant’s family. The appellant’s parents are upset about this and are of the view that AA should have divorced her because of the problems she has caused the family, especially the appellant.

[33] The appellant is unaware how far the divorce process proceeded before AA and BB reconciled. He is uncertain as to whether the matter ever reached the Family Court. However, even though the couple reconciled, he believes that the complaint made against him and passed on to “higher authorities” cannot be retracted and that should he return to Iran, he will be persecuted by the authorities who are aware of his apostasy.

#### Development of appellant as a Christian

[34] At the time his second refugee claim was determined in May 2005, the appellant, although a devout Christian, had not been involved in evangelistic activities beyond inviting several of his acquaintances to church. He is now actively involved in proselytising activities in order to “plant the seeds” of God’s word. He commenced these activities after being served with a removal order in 2006.

[35] Following his service with the removal order, the appellant began to produce leaflets which contain Bible verses in English. He has attempted to leave these leaflets on shop counters for customers to pick up but although he has made

this request in about 20 shops, has not been allowed to do so. Instead, he has handed them out on the street. He has also read aloud from the Bible on Queen Street in Auckland between five and ten times in order to spread the word of God. He continues to invite friends to church and has three Iranian friends who have attended church on his invitation.

[36] His current activities reflect his maturity and confidence as a Christian. Should he return to Iran he will, he says, carry out the same type of activities.

### Passport

[37] In February 2006, the appellant applied to the Iranian Embassy in Wellington for a passport. In his application form, he indicated that he made a legal departure from Iran in July 2001, even though this was not true and he had left Iran on a false, photo-substituted, passport. He also disclosed on the form that he was no longer in possession of the genuine Iranian passport that had been issued to him in 1999 because he had left it with his agent in Malaysia. Although this application was made almost two years ago he has not received a new passport from the Iranian Embassy. He attributes the delay to the fact that he became angry when talking on the telephone to the Embassy staff when he applied for the passport.

### Documents filed

[38] Counsel filed written submissions prior to the hearing. She also filed an updated written statement from the appellant and a number of items of country information which were listed in an accompanying schedule of documents.

[39] Also filed in support of the appeal were the following documents:

- (a) A letter from the appellant's pastor, Paul MacKinnon dated 29 July 2007. This letter took the form of a character reference;
- (b) Two letters in Farsi sent by facsimile to the appellant by his sister FF, describing the events that had occurred with BB;
- (c) Copies of pamphlets containing Bible verses, made by the appellant.

[40] Subsequent to the hearing, counsel filed further written submissions on aspects of the appellant's evidence and on the country information she had filed. She also filed a copy of the appellant's application for an Iranian passport together

with a copy of a letter from his former counsel (dated 7 March 2006) providing a copy of this document to the Department of Labour.

[41] On 15 October 2007 counsel filed two further items. One was a report, sourced from an unspecified Christian website, that a husband and wife in Iran had been “flogged” for participating in an “underground Church”. The other was a position statement by Amnesty International stating that organisation’s view that Christian converts should not be returned to Iran.

[42] The Authority has carefully considered all of this material and counsel’s submissions and has taken it into consideration in determining this appeal. As will be seen however, we do not agree with her assessment of either the appellant’s evidence or the country information concerning Christians in Iran.

### **THE ISSUES**

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

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

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

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

### **ASSESSMENT OF THE APPELLANT’S CASE**

[45] There are three limbs to the appellant’s third refugee claim. The first is his claim that BB has informed the Iranian authorities of his conversion. The second is his claim that he has developed as a Christian to the extent that he would now publicly proselytise in Iran putting himself in danger of being persecuted. The third



is the claim that the treatment of Christian converts or apostates in Iran has become more severe since his last claim was determined, resulting in a greater likelihood that he would be persecuted should he return there now. It was also part of his account that he made an illegal departure from Iran and has no passport on which he could return there, his counsel submits that this will lead to him being arrested upon arrival in Iran.

[46] The assessment of both the first and second limbs identified above depends entirely on an assessment of the appellant's credibility.

[47] The Authority did not find the appellant to be a credible witness. After hearing him and questioning him over two days, we have formed the view that he is a completely unreliable witness who was prepared to say anything to advance his refugee claim. Our assessment of the appellant's credibility leads us to reject the evidence upon which the first and second limbs of his third refugee claim are based.

[48] The reasons for our finding concerning the appellant's credibility follow.

#### Family's religious profile

[49] The appellant claims that he is from an extremely religious Muslim family and that the reaction of various family members to his conversion forms part of the reason why his conversion will become known to the Iranian authorities. However, his evidence about his family's religious profile was inconsistent and unsatisfactory.

[50] In his evidence to us, the appellant described his family members as being extremely religious Muslims. When asked whether his father could be described as a "fundamentalist" he stated that "he was and he is still". He described his family's household as being one in which performance of prayers and religious fasting was mandatory. He gave evidence that, because of their extreme religious views, his four brothers will not communicate with him. Indeed he claimed to the Authority at the hearing of his second appeal, that they were likely to turn him over to the Iranian authorities because of his apostasy.

[51] The appellant's evidence to the Authority about his family's religious views contrasts markedly with other statements he has made. In a written statement filed with the RSB in support of his second refugee claim he said:

“2. I was born as a Shi’a Muslim in Iran. My parents are Muslim. They are not fundamentalists and did not make life hard for us. They never really pushed me to attend religious events or the mosque.

3. I was a very moderate Muslim. I only knew as much as I had been taught at school or at the workplace or what I heard on television and media etc.”

[52] Further, when asked at his second RSB interview in March 2004 to elaborate on what he meant when describing himself as ‘moderate’ he stated that in Iran one is considered Muslim by virtue of being born into a Muslim family and that his parents were not strict – they did not force him to do *namaz* (daily prayers) or to fast. He contrasted his family with that of a friend, whose family were all forced to get up and say morning prayers.

[53] At the third appeal hearing, the Authority asked the appellant why he had at one stage presented his family as moderates or nominal Muslims, but was now describing them as fundamentalists. His explanation was that when he and his siblings were children they were not pushed hard, but, when they grew up, they were. This fatuous explanation is not accepted. The appellant made no such distinction previously when answering detailed questions about the degree to which religion played a part in his home environment. He was clear in his evidence to us that, while at home in Iran, he was forced to pray and to observe religious fasts. He was equally clear when interviewed by the RSB in 2004 that he was not forced to fast or pray at home.

#### Reaction of appellant’s family to him attending church

[54] The falseness of the appellant’s evidence about the piety of his family is also illustrated by his inconsistent evidence concerning their reaction to his church attendance. He told the Authority that when he told his family that he had found some friends and begun to attend church, they were opposed to it and told him not to attend and not to associate with those new friends who had encouraged him to go. When asked why they were so opposed to him attending church the appellant replied that it was because the word “church”, “for them is a hatred”.

[55] In contrast, at his RSB interview in March 2004, he was asked how his family reacted when he told them he had begun to attend church. He replied that, “they didn’t disagree with the fact that I went there to learn because I wasn’t a Christian then”. He did go on to say that his most religious brother reacted strongly when he informed the family that he had converted to Christianity and that the rest of his family disagreed too although not as seriously as his brother. Even

so, the overall picture of his family's reaction contrasts with his evidence to us that the news of his conversion "was like a bomb exploding in his house".

[56] The appellant's inability to provide a consistent account of his family's reaction to his church attendance underscores the unreliability of his claimed religious difficulties with his family. We prefer the appellant's earliest evidence about his family's religious background. That is, that they are a family of nominal Muslims and that religious activities were not enforced at home.

[57] Given this background it is not accepted that the appellant's conversion has caused the difficulties he has claimed with his family. In particular it is not accepted that his brothers have severed contact with him.

#### Conversations with sisters-in-law

[58] Related to the appellant's unsatisfactory evidence about his family's religious profile was the wholly artificial nature of the conversations he claimed to have had with his four sisters-in-law, particularly BB, whom he had not met. He claims that these conversations largely consisted of him proselytising to them, while they chastised him for his apostasy and attempted to persuade him back to Islam.

[59] He claimed that his conversations with his sisters-in-law were short and that, in these short conversations, his sisters-in-law would tell him things like, "think about it carefully" and "it's not too late to change your mind". His evidence concerning these conversations had an unreal quality to it. It is not accepted that he would simply have short, heated debates about religion on the occasions when he spoke to his sisters-in-law on the telephone. When asked whether he discussed anything other than religious topics with his sisters-in-law, he replied that, although most of their conversations were about religion, they would sometimes make enquiries about the weather in New Zealand.

[60] The Authority commented that the conversations he described seemed far removed from the type of conversation one may have with relatives when separated from them. He then stated that when he speaks to his parents and younger sister he always makes enquiries about the wellbeing of his nieces and nephews and sends his greetings to them.

[61] The appellant's evidence that his conversations with his sisters-in-law

largely consisted of short religious debates is rejected. We do not believe that his moderate Muslim family have the concern or interest in his conversion that he has sought to portray to us.

#### Evidence about his passport

[62] In his original refugee claim the appellant said that he had had a genuine Iranian passport issued in 1999 but that he had used a false passport to leave Iran. At the hearing he maintained that he had left Iran illegally but confirmed that he once possessed a genuine passport issued in 1999.

[63] In March 2006, the appellant applied to the Iranian Embassy in Wellington for a new passport. When asked by the Authority what he had told the Embassy about his departure from Iran, he said that he had lied, and had told them that his departure had been legal.

[64] Later in the hearing, he said that he had given his genuine passport to the agent in Malaysia because the agent had told him that he should have no Farsi documents on him when he travelled to New Zealand, but that he had used this genuine passport in Malaysia and Thailand. He then retracted this evidence and said that he used his false passport to travel in those countries although he was also in possession of his genuine passport at the time.

[65] He was unable to explain why, given that he had needed to pass himself off as someone else and conceal his real identity when leaving Iran, he had taken his genuine passport with him. When asked, he said that he did not know.

[66] The Authority finds that the appellant left Iran using a genuine passport in his own name. There is simply no other explanation for the fact that he had this passport with him in Malaysia. It is beyond belief that, had he been attempting to leave Iran under a false identity, he would have casually and for no particular reason, brought a genuine passport in his own name with him. We find that his claim, which he maintained at his third appeal hearing, that he left Iran on a false passport, is simply untrue. His willingness to put this false evidence before us underscores his unreliability as a witness.

[67] We also find untrue his claim to have applied for a passport two years ago and to have not received it. Instead we find either that the application was not lodged, or was lodged and withdrawn or that the appellant has received an Iranian

passport but wishes to conceal this fact from the New Zealand immigration authorities.

[68] The Authority has heard evidence from Iranian appellants on a number of occasions about the procedures for obtaining passports from the Iranian Embassy in Wellington. Passports are usually issued promptly. When the Authority put this to the appellant and asked him to comment, he claimed that the reason for the delay in his case was because he had had an argument on the telephone with an Embassy official. This was not a matter that he had raised previously. We find that it was a last minute fabrication made in an attempt to explain why his claimed dealings with the Iranian Embassy were so different from the norm.

[69] Given our finding that the appellant made a legal departure from Iran and that he either has, or could obtain an Iranian passport, it follows that we reject counsel's submission that he will be immediately arrested on return to Iran because of his (claimed) illegal departure.

#### Conclusion on first limb of appellant's claim

[70] We have no doubt that the appellant's evidence to us concerning his family's reaction to his conversion and his Iranian passport is false. Given his unreliability as a witness and his propensity to give false evidence to advance claims to refugee status, we find that his claim, that his sister-in-law BB has informed the Iranian authorities of his conversion to Christianity, is also false.

[71] We do not overlook that the appellant has filed letters purportedly from his sister FF, reporting on the events concerning BB. When asked, the appellant admitted that he had requested FF to write these letters so he could provide evidence of these events to the Authority. Given that the letters are not genuine spontaneous correspondence but rather, were created for the purpose of being presented as evidence, they carry little weight. We note that FF has previously provided letters produced to the Authority (in respect of the appellant's other refugee appeals) in order to corroborate claims that the Authority found to be untrue.

#### Second limb – the appellant's claim he will proselytise in Iran

[72] The credibility of the appellant's claim that he will publicly proselytise in Iran must now be assessed.

[73] The Authority's overriding impression of the appellant was of a man who was prepared to say or do anything in order to stay in New Zealand. His proselytising activities here are not accepted as evidence of how he will behave as a Christian in Iran but rather, evidence of his strong wish to remain in New Zealand. We find it of particular significance that he commenced these activities only after being served with a removal order. We find that the removal order, rather than his maturity as a Christian, prompted his commencement of these activities. His activities can be properly viewed as having as their goal the advancement of his refugee claim rather than the spreading of God's word.

[74] By undertaking public proselytising activities, the appellant has attempted to create an 'antidote' to the findings made about him in his previous refugee appeal. It will be recalled that, at the time of his second appeal, the Authority found specifically that he had a retiring personality and would neither produce and deliver Christian pamphlets nor randomly confront strangers about Christianity. His response to that finding has been to produce and deliver Christian pamphlets and to randomly confront strangers about Christianity. We find that his reason for doing so is simply to overcome the findings made by the Authority in respect of his second refugee appeal.

[75] We determine that the finding made in *Refugee Appeal 75312* (16 May 2005) as to the appellant's nature and the scope of the activities he is likely to undertake in Iran should be relied on pursuant to s129P(9) of the Act. He will not randomly confront strangers about Christianity in Iran and will not publicly proselytise. His claims to the contrary are disbelieved.

#### Third limb – developments in Iran

[76] The final basis for the appellant's third refugee claim is the assertion that developments in the treatment of Christians in Iran are such that there is now a real chance that Christian converts such as the appellant will be persecuted there.

[77] In *Refugee Appeal No 75312* (the decision on the appellant's second appeal) the Authority found that the appellant was similar to the appellant in *Refugee Appeal No 74911* (1 September 2004) in that he was a Christian convert to an evangelical church. It found that, like the appellant in *Refugee Appeal No 74911*, the appellant as a Christian convert in Iran may face harassment and discrimination but that the treatment he could expect to receive would not rise to the level of being persecuted which in refugee law is defined as the sustained or

systemic denial of basic or core human rights demonstrative of a failure of state protection: *Refugee Appeal No 2039* (12 February 1996).

[78] The appellant claims that since *Refugee Appeal No 75312* was published in May 2005, there has been a serious deterioration in the situation of Christians in Iran due to changes in the political environment there, in particular the ascendancy of the conservative President Ahmadinejad.

[79] This claim, that since President Ahmadinejad was elected in July 2005 the situation for Christian converts has become more dangerous, has been advanced in a number of other appeals to this Authority.

[80] In *Refugee Appeal No 75376* (11 September 2006) the Authority conducted an exhaustive examination of country information relating to the previous two years. This included a determination as to whether there had been a deterioration in the conditions for Christians since the election of President Ahmadinejad.

[81] The Authority found as follows:

- (a) There had not been a significant deterioration in the treatment of ordinary Christian converts over the last two years. The position remains that ordinary Christian converts can attend churches in Iran and practise their religion undisturbed, provided they do so unobtrusively. That means provided they do not assume a leadership role, engage in proselytising or other overt conduct that would bring them to the attention of the authorities.
- (b) Notwithstanding some official expressions of intolerance for non-Islamic religions, there had not been a major change in state policy towards Christianity.
- (c) The arrests of Pourmand (a prominent Christian pastor) and others along with threats made to house church leaders were consistent with the longstanding pattern of harassment and intimidation of evangelical church leaders and activists. The death of Tourani (another prominent Christian pastor) was seen as an isolated incident not representative of the situation for ordinary converts in other areas.
- (d) Christian evangelical churches which have close ties to similar churches in the United States are likely to come under close scrutiny. Those in such churches who engage in proselytising or church leadership will come under

renewed pressure particularly in the Northern provinces along the Caspian Sea coast where the local authorities have historically pursued a strong anti-Christian policy.

[82] A further review of the situation for Christian converts in Iran was conducted in *Refugee Appeal No 75933* (14 November 2006). This decision confirmed the conclusions made in *Refugee Appeal No 75376* finding that in the country information under consideration reported cases of mistreatment of Christian converts almost all related to leaders or proselytisers with some profile. The Authority stated at [140]:

“Accordingly the Authority finds that the position remains as assessed in *Refugee Appeal No 75736* that those at risk of harm tantamount to persecution are those overtly engaged in proselytising or church leaders (not the appellant). Some harassment of followers of evangelical churches in the north also occurs but the appellant does not come from that part of Iran and would not need to go there to practice his faith.”

[83] Counsel filed various items of country information both prior to and following the hearing, including two decisions of the Refugee Review Tribunal of Australia (RRT) in which refugee status was granted to Christian converts from Iran, N05/1239 [2005] RRTA 221 (14 September 2005) and N05/51119 [2005] RRTA 218 (30 June 2005). Counsel’s submission was that this country information supported the proposition that there has been an increase in the persecution of converts in Iran in recent times and that this Authority’s approach to the plight of Christian converts in Iran (such as *Refugee Appeal No 75376* (11 September 2006) and *Refugee Appeal No 75933* (14 November 2006) is rigid and outdated.

[84] Some of the material filed by counsel was of a general nature concerning current conditions in Iran. Other information related to the treatment of Christians in Iran including the following:

- (a) An article from the Catholic News Agency describing an incident reported on an Iranian website, that a man had been lashed after a copy of a Bible was found in his car in Tehran in August 2007: Catholic News Agency *Man in Iran lashed for being Christian* (15 August 2007) [www.catholicnewsagency.com](http://www.catholicnewsagency.com);
- (b) A *Compass Direct News* article noting the release of house church leaders arrested in a “co-ordinated sweep of four cities”: Iran: Iran still holding house church leader *Compass Direct News* (4 January 2007);



- (c) Another *Compass Direct News* article concerning the release on bail of a Christian convert in Rasht (a Northern city) and the closing of the business of another member of his Church by the Iranian authorities. The article also reports five further incidents where the Iranian police have harassed or mistreated local converts to Christianity and notes that some of these have fled their hometowns in an attempt to live more inconspicuously in large cities: Iran: Jailed convert to Christianity released *Compass Direct News* (4 September 2006).

[85] Contrary to her submissions, the material filed by counsel tends to support the conclusion in *Refugee Appeal No 75376* that there is a longstanding pattern of harassment and intimidation towards evangelical church leaders, activists and house church leaders and churches are under particular pressure in the Northern provinces but that ordinary Christian converts, unlike those who assume a leadership role, engage in proselytising or other overt conduct that would bring them to the attention of the authorities, can practise their religion undisturbed.

[86] The two items filed by counsel on 15 October 2007 are not overlooked. The Amnesty International position statement is a brief commentary by that organisation on human rights and incidents involving the mistreatment of religious minorities in Iran. It does not refer to any country information of a type not already considered by this Authority. The other item, "Christian couple flogged for attending "secret sermon" in Iran" *Iran Focus* (14 October 2007), is of little assistance. It is sourced from an unnamed website. It does not disclose where the couple were from or, despite the headline, the manner in which they came to the attention of the authorities.

[87] The RRT decisions record that the majority of converts from Islam to Christianity continue to attend church and practise their faith largely as they wish in Iran. They also note advice given in 2002 by the Australian Department of Foreign Affairs and Trade (DFAT) that "[Christian converts] remain vulnerable to a change in the domestic political climate". After considering indications of a hardening of official attitudes in Iran such as the denunciation of "foreign religions" by regime officials and a single item of country information relating to the arrest and interrogation of several pastors in September 2004, the RRT decision maker (who is the same for both decisions) makes findings in each that the domestic political climate in Iran has shifted and that hardening official attitudes towards converts will result in [Christian converts] being unable to practice their religion

without placing themselves at risk of harm.

[88] The RRT decisions are not binding in New Zealand and do not persuade the Authority that its approach to refugee claims made by Iranian Christians is rigid or outdated. Significantly, both RRT decisions predate the comprehensive review and analysis of country information concerning Christians in Iran made in the Authority's decisions, *Refugee Appeal No 75376* and *Refugee Appeal No 75933*. They do not contain country information of a type not considered in *Refugee Appeal No 75376* and *Refugee Appeal No 75933*.

[89] The appellant has no history of difficulties with the Iranian authorities. We have found that he left Iran legally. He either possesses or could obtain an Iranian passport. He is a practising Christian but not an evangelical one. His proselytising activities in New Zealand have been conducted for the purpose of furthering his refugee claim. He is unlikely to engage in such activities in Iran. His evidence of having been rejected by most of his family and informed on by his sister-in-law is rejected. He is in a position no different from that of the appellants in *Refugee Appeal No 75376* and *Refugee Appeal No 75933* and as such is not at risk of serious harm upon return to Iran.

[90] His fear of persecution in Iran on the grounds of his status as a Christian convert is not well-founded. This first question framed for consideration is answered in the negative making it unnecessary to consider the issue of Convention ground.

## **CONCLUSION**

[91] For the reasons mentioned above, the Authority finds the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"M A Roche"

M A Roche  
Chairperson