

IMMIGRATION APPEAL TRIBUNAL

Date of Hearing : 11 April 2003

Date Determination notified:

..12Aug2003.....

Before:

Mr M R Rapinet (Chairman)
Dr A U Chaudhry

APPELLANT

and

Secretary of State for the Home Department

RESPONDENT

Representation

For the appellant: Mr S. Hourigan, counsel, instructed by A.B. Law

For the respondent : Miss A. Holmes, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Iran who appeals by leave of the Tribunal against the determination of an Adjudicator (Mr W.L. Grant) dismissing her appeal against the respondent's decision to refuse asylum and to give removal directions.
2. The appellant arrived in this country in April 2000 and claimed asylum on arrival. The basis of her claim is that she had converted from Islam to Christianity and as a result had been detained for a period of about three hours by the Baseejis. She was released because the authorities apparently are only interested in those who proselytise. The Adjudicator has rejected her claim to have converted to Christianity and as such has dismissed the whole basis of the claim. He has similarly dismissed claims under Articles 3, 8, 9, 10 and 14.
3. This appeal originally came before us in September last year and we adjourned as we felt it necessary to receive evidence both from the appellant and from Mr Steer, who is a pastor in the Iranian Christian Fellowship

Church in Chiswick, in order that we might form our own view as to whether or not the appellant is a genuine Christian.

4. We received evidence both from the appellant and from Mr Steer. So far as the appellant is concerned, she was asked extremely searching questions by both Miss Holmes and by ourselves in relation to her practice of the Christian faith and her knowledge of it. During the course of evidence the appellant informed us that she had been baptised into an orthodox church in Coventry about five months ago. She had at the time been staying with a friend, she tells us, and had a dream during the course of which it was indicated to her that she must be baptised. She and her friend, the following day, walked into an orthodox church (she was unable to tell us what orthodox church it was) and she was thereupon christened. She showed us photographs of this event taken by her friend. These photographs quite clearly indicate that she is in a Christian church and is the principal participant in a ceremony conducted by a number of priests who appear to be robed in a manner which would be commensurate with that of one or other of the orthodox churches.
5. Our comment upon this aspect of her evidence is that we view it with a degree of scepticism. We say this because, whilst we do not doubt that some form of ceremony took place five months ago in a Christian church, it does seem to us quite extraordinary that any Christian religion would be prepared to baptise someone of the appellant's age into that church without any form of instruction, particularly someone who has walked into the church off the street. We also find it somewhat strange that the appellant should have been baptised into a church about which she knows nothing. She could not even tell us which orthodox church it was, merely that there was a board outside which had on it the word 'orthodox'. She could well have been baptised into the Greek orthodox church or the Russian orthodox church or the various other minor orthodox churches that exist. In our view this act on her part was self-serving. However, in coming to our conclusion with regard to the appellant's Christianity, we are heartened by the evidence of Mr Steer who informed us that this ceremony that took place in Coventry was not recognised by his church and that the appellant would be baptised into the Iranian Christian Fellowship church later this year when he was satisfied that she had undergone sufficient instruction and was sufficiently conversant with Christian tenets and beliefs.
6. Having considered the appellant's evidence with great care, we take the view that she is bona fide when she claims that she is a believer in the Christian faith and that she is committed to the Iranian Christina Fellowship church and that it is her intention, following suitable instruction in that church, to be christened into it later this year. We are also satisfied that since coming to this country she has attended that church and another church on a very regular basis. We mention another church because the appellant first started attending the Iranian Christian Church shortly after arrival and then went to another church nearer to where she lived but returned to the Iranian Christian Fellowship church a few months later. This has been confirmed to us by Mr Steer as well as by her in her own evidence. The reason why she left the church closer to where she lived is, not unreasonably, that the services were conducted entirely in English a language which she does not understand and

therefore the service became somewhat meaningless. The services of the Iranian Christian Fellowship church are conducted in Farsi.

7. We were impressed by the evidence which was given by Mr Steer. He has been connected with the Iranian Christian Fellowship church for a considerable number of years and is a pastor in that church. He informs us that it is a registered church and licensed for the conduct of marriages, funerals and baptisms. He informs us that it has a regular pastor and that Eucharist is administered to the congregation regularly on Sundays although not on every Sunday. He informs us the appellant does receive the sacrament. It would appear that his church is the only Iranian Christian Fellowship in the world. We will comment upon this aspect later in the determination.
9. Suffice it so say that for the purposes of this determination that we accept that the appellant is now committed to the Christian faith and we accept that she will shortly be baptised into the Iranian Christian Fellowship church.
10. For the reasons which the Adjudicator gives in his determination, however, we entirely reject her claim to have been baptised into a Christian church in Iran prior to coming to this country and with the Adjudicator we would also reject the claim that she was persecuted by reason thereof. The appellant therefore did not leave Iran for a Convention reason. However, we are satisfied for the reasons which are given hereunder that she has, by her actions since coming to this country, become a refugee sur place. We come to this conclusion having considered with considerable care the oral evidence that she has given us and the particularly helpful evidence of Mr Steer. We have expressed reservations with regard to her motives in being baptised earlier this year in Coventry. However, following the guidelines in Karanaratnam we take the view that there is a reasonable likelihood that this appellant has since coming this country entered into a commitment to the Christian faith and will later this year be baptised into the Iranian Christian Fellowship church.
11. This then raises the issue of what is the likelihood of her being persecuted by reason of the fact that on her return she will be a committed Christian were she to be returned by the Home Secretary. We bear in mind that we uphold the Adjudicator's findings that she was not a Christian at the time she left the country.
12. Miss Holmes in her submissions drew our attention to the report of the Swedish Alien Appeals Board which is quoted in full in the New Zealand case of Y v Refugee Status Appeal Authority. The Board states (paragraph 20 of the judgment):

‘According to the Shari’a Law, applicable in Iran, conversion from Islam to Christianity is officially punishable by death. In one case during the 1990s has the conversion – beyond other criminal accusations, been the basis for the execution of the death penalty in accordance with Shari’a law. In this case the death

penalty was later revoked by the Supreme Court. In a few cases converts had been killed under unknown circumstances. All such cases concerned proselytising priests.

It is rare that Iranian asylum seekers convert to Christianity in other countries but the Netherlands and Sweden. According to concerted information from Christian church in Iran, there is no real evidence of persecution upon return to Iran of persons who have claimed conversion as grounds for asylum in Sweden. Some three to four years ago converts would probably have been exposed to various kinds of punishment, in cases of conversions had become to the knowledge of the authorities in Iran – today there are persons in Iran who have converted from Islam to Christianity there, and who participate in Christian activities there without the interference of Iranian authorities.

Conversion from Islam to Christianity is according to Iranian authorities not possible, and a conversion abroad is considered by the authorities as a ‘technical’ act, in the purpose of obtaining of asylum, which therefore does not mean that the person in question risks any serious harassment upon return. The concept of ‘Taqieh’ which is widely accepted in Iran, makes it legitimate to lie in order to achieve certain purposes. This means that there is a high level of acceptance in Iran of the lie as a means to obtain a purpose, such as seeking asylum in the west. Iranian nationals who have converted from Islam to another religion, and who keeps the conversion a personal matter, does not attract the attention of the authorities.’

13. The Board concludes by stating:

‘An Iranian national, who converts from Islam to another religion, normally does not risk the kind of prosecution proscribed in the Shari’a law, whether the conversion takes place in the home country or abroad. There is also no significant chance that he or she would be the target of any actions from the authorities or of any serious harassment. This assessment is based on the assumption that the conversion has come to the knowledge of the Iranian authorities.’

14. There are two aspects of this report which cause us a certain amount of concern. The first is the statement that those who have converted and ‘who keeps the conversion a personal matter’ does not attract the attention of the authorities. This implies the necessity to remain what we would call a closet Christian. We shall turn to this later. The second matter for concern is that the summary states ‘This assessment is based on the assumption that the

conversion has come to the knowledge of the Iranian authorities.’ This would appear to contradict the earlier statement that so long as a Christian remains a closet Christian and does not attract the attention of the authorities there is no element of risk. Taking the reasonable likelihood standard, this report is one of which we can take cognisance but which does not fill us with confidence that a convert who does not in any way express his or her conversion upon return and keeps his or her Christianity as ‘a personal matter’ is not at risk.

15. It seems to us that Christianity is a faith which embraces acceptance of a philosophy, and the teaching in particular of Christ and the apostles as expressed in the New Testament. This faith is manifested overtly by membership of one or other of the very many Christian churches that exist. But a common feature of all Christians is the need to worship and to express their faith in a tangible way by communication with those of a similar belief. Indeed, we would be inclined to say the same thing of most religions. We do not believe that it is possible for a Christian, or indeed a Muslim, to become a member of that faith and remain a member in total isolation from all other members, attending no services and communicating with no other persons of a like faith. Early Christians were persecuted and perforce remained covert in the practice of their religion but they continued to mix with their fellow Christians and whenever possible to hold services and, as we know from the various epistles of St Paul and the other apostles, there was a constant communication between the various Christian communities throughout the Mediterranean. For these reasons, therefore, we have some reservations about accepting what is stated by the Swedish Aliens Board.
16. The position of Christians is set out helpfully in the CIPU Report in paragraphs 5.49 to 5.53. 5.50 (incorrectly numbered 5.02) states:

‘Government officials have reacted to this perceived activity by closing evangelical churches and arresting converts. Members of evangelical congregations are required to carry membership cards, photocopies of which must be provided to the authorities. Worshipers are subject to identity checks by authorities posted outside congregation centres. Meetings for evangelical services have been restricted by the authorities to Sundays and church officials have been ordered to inform the Ministry of Information and Islamic Guidance before admitting new members to their congregations.’
17. The succeeding paragraphs deal with the treatment of evangelical Christians. The final sentence of paragraph 5.50 causes us considerable concern. If the appellant were to return to Tehran and were to attend a service of one of the Christian churches which are permitted to exist in Iran, church officials would have to inform the Ministry of Information and Islamic Guidance of her attendance as a new member of the congregation. Her family are known in the area as Muslims and one can only assume that if such statistical information is fed through by the church authorities to the appropriate ministry, the relevant bureaucrat would put two and two together and there is

a reasonable likelihood that he would come to the conclusion that here is a convert whose circumstances warrant investigation.

18. We would entirely concur with what Mr Justice Collins states in the case of Jhodratzdeh [2002] UKIAT01867 at paragraph 8 when he states:

‘It is suggested that there is no reasons why the authorities should find that out. An individual who has converted, may practice his religion privately and provided he does not do anything which shows that he has converted, he should be safe.’

That is all very well, but if a person has genuinely converted to Christianity then it is unreasonable to expect him not, at the very least, to try to contact other Christians in order to join them in some act of worship together. The risk then is that there may be information given against him by someone who, for whatever reason, does not like him and if that matter comes to the attention of the authorities, then the risk would exist. Accordingly, merely to say there is no need to manifest does not necessary answer the problem that might arise.’

19. We specifically asked Mr Steer whether, if the appellant were to return, she would be expected to proselytise and he indicated that this would not be so, though he did confirm that he would be expected to remain evangelical. This does not necessarily mean propounding the Christian faith in any public way. A person is evangelical who is merely a member of the evangelical tradition (we refer to the Oxford English Dictionary). She would be expected to continue the practice of her Christian faith in Iran and in so doing would probably have to attend one or other of the two accepted Christian churches. For the reasons which we have indicated above, we believe that this would put her at risk.
20. We have given consideration to whether or not she can be considered to be a Christian if she belongs to what we may loosely term as a ‘one-off’ church as the Iranian Christian Fellowship church appears to be and, as Mr Steer admitted to us, it was. We do not think that the fact that this is the only Christian church of its kind detracts from its commitment and that of its members and its pastors in particular to the Christian faith. Christianity is manifested throughout the world in innumerable variant churches of one sort of another and is in fact so manifested in this country. Provided that one is satisfied that the church is a bona fide church committed to the tenets of the Christian faith, then we do not think that the fact that this is the only church of its kind detracts from the nature of the appellant's claim.
21. For these reasons, therefore, we are satisfied that the appeal should be allowed.
22. In allowing this appeal, we would emphasise that Adjudicators should be satisfied completely as to the bona fide not only of the appellant but of the

church to which the appellant maintains he adheres. Were this not so, it would be very easy (and appears to becoming more common) for persons to claim that they would be persecuted on return because they have converted to the Christian faith. We would be inclined to say that the test as to the bona fide of the conversion is more than that of a reasonable likelihood. The Adjudicator should obtain evidence (and more than just a written letter) preferably in oral form, from the pastor, priest or other person who leads the congregation of the particular church to which an appellant maintains he or she belongs. He needs to be satisfied that the adherence to that church's principles has been continuous throughout the period covered by the appellant's stay in this country; in other words he needs to satisfy himself that the claim to adhere to the Christian faith is not a transient claim brought into existence purely for the purposes of pursuing an asylum claim.

23. For the reasons which we have indicated above this appeal is allowed.

**M.W. RAPINET
ACTING VICE PRESIDENT**