



**Australian Government**  
**Immigration Assessment Authority**

**Decision and Reasons**

**Referred application**

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IRAN

IAA reference: IAA22/10234

Date and time of decision: 6 April 2022 17:39:00

S Kamandi, Reviewer

**Decision**

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The IAA affirms the decision not to grant the referred applicant a protection visa.

*Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 473EC(2) of the Migration Act 1958 and replaced with generic information which does not allow the identification of a referred applicant, or their relative or other dependant.*

## Background to the review

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### Visa application

1. The referred applicant (the applicant) claims to be a national of Iran. He arrived in Australia in April 2013 and on 25 July 2016 made a Safe Haven Enterprise Visa (SHEV) application.
2. On 27 July 2017 a delegate of the Minister for Immigration (the delegate) refused to grant the visa on the basis that the applicant was not a person in respect of whom Australia owed protection obligations. The delegate was not satisfied that the applicant faced a real chance of harm or was at a real risk of significant harm for reasons of his religion, as a returned asylum seeker or because his personal information was inadvertently released by the Department in January 2014 while he was in immigration detention (data breach incident).
3. The matter was referred to the Immigration Assessment Authority (IAA) which made a decision affirming the delegate's decision on 24 April 2018.
4. The applicant applied for judicial review of the IAA's decision and on 20 December 2021, the Federal Circuit and Family Court remitted the matter to the IAA by consent orders. It was conceded that a submission dated 25 July 2017 and provided to the IAA amounted to new information and that the IAA failed to perform its duty to assess the new information against the criteria in s.473DD of the *Migration Act 1958* (the Act).

### Information before the IAA

5. I have had regard to the review material given by the Secretary under s.473CB of the Act.
6. On 25 July 2017, the IAA received an email from the applicant's representative attaching a submission. The submission refers to information presented to the delegate at the SHEV interview and extracts parts of the delegate's findings. In responding to the delegate's findings that the applicant lacked knowledge about the religious views and philosophy of Muslim Movahhed group and did not explain what it was about the Sunni Islam that he rejected, the submission includes information referred to as a statement from the applicant elaborating on his understanding of Muslim Movahhed, reasons why he does not agree with the Shia or Sunni sects of Islam and some description of the applicant's way of performing his prayers. It is submitted that the applicant's statement in relation to his interpretation of Muslim Movaheed and their way of praying should not be considered as new information for the purposes of s.473DD of the Act as "they are the applicant's interpretation of the facts that were before the delegate".
7. The applicant has consistently claimed that he does not consider himself a Shia or Sunni Muslim. During his SHEV interview he provided the delegate with some information around the Muslim Movahhed community which he claimed he was a member of in Iran, and why he did not agree with the Shia and Sunni interpretation of Islam. I accept that some of the information within the submission regarding the Muslim Movahhed leader, their interpretation of Islam and the applicant's practise of his religion were before the delegate. However, the submission also contains further information in response to the delegate's decision, such as information around how the applicant performs his prayers and more details around the applicant's disagreement with the manner Shia and Sunni Muslims practise their religion, which was not presented to the delegate and is new information.

8. It is submitted that the applicant tried to explain the nature and philosophy of Muslim Movahhed group during the interview but was stopped and denied the opportunity to do so. It is submitted that he was asked general questions about the leader of the group and when he was jailed, rather than specific questions about the philosophy and nature of the Muslim Movahhed. In relation to being identified as an apostate or a deviator on the basis of his religious practise, which was not accepted by the delegate, the applicant has provided more specific information about the manner he prays which he states is not consistent with the way Shia or Sunni Muslims pray. I note that the applicant at the SHEV interview referred to his ability to attend Mosque in Australia and was not specifically asked about the manner he prayed or how that was not consistent with Shia or Sunni Muslim's prayer performance. I accept that the applicant was not asked about the nature and philosophy of the Muslim Movahhed group which he claims to be a member of, nor was he asked about the manner he prayed or practiced his religion. At the SHEV interview, while the applicant was informed that he could provide further information about the Muslim Movahhed group, I accept that he would not have been aware that this was an issue or was material to the question before the delegate. I am satisfied that this information could not have been provided to the delegate prior to the decision. I consider the information presented to the IAA to be credible personal information that may have affected the consideration of his claims around his understanding of the Muslim Movaheed and his disagreement in the manner that Sunni and Shia Muslims in Iran practise their religion, which were issues that the delegate considered lacked detail. Given these matters, I am satisfied that there are exceptional circumstances to justify considering the new information.
9. The submission also refers to Molavi Abdul Hamid, identified as a Sunni theologian and spiritual leader in Iran, and provides an extract of what he had stated in an interview with "BBC Persian" footnoted with a hyperlink. The submission provides that during this interview, which appears to have been held or published on 4 July 2017, the spiritual leader stated that "religion should not be asked in employment forms because it causes several problems. Some Sunnis have introduced themselves as Shia so that they could get employed". This information was not before the delegate and is new information.
10. It is submitted that the delegate, in asking the applicant why he was unable to just write on forms that he followed Islam rather than stating that he was Shia or Sunni, was unaware that there is no option for Islam in employment forms in Iran and one needs to specify his or her sect of Islam as either Sunni or Shia. This information appears to have been provided to support the applicant's claim in this regard. The information appears to have been publicly available prior to the delegate's decision made on 27 July 2017 and I note that during the SHEV interview the applicant did inform the delegate that in Iran you are required to specify your sect of Islam and cannot just state that you are a Muslim when filling out forms. I also note that the applicant was advised at the SHEV interview that he could provide the delegate with further information. I am not satisfied that the extract cited in the submission could not have been provided to the delegate. The new information is not personal information in the relevant sense. It is an opinion expressed by a spiritual leader and not about an individual. Apart from the expression of an opinion that that asking one's religion in employment forms causes several problems, the nature or extent of the said problems is not elaborated on, nor does the information provide any insight regarding the consequences of failure to identify one's sect on employment forms. Separately from this, the delegate appears to have accepted the applicant's claims that in filling out forms at school he had to indicate that he was a Shia Muslim to avoid problems. Given these matters, I am not satisfied that the requirements of s.473DD(b) and (a) of the Act are met.

11. In his decision, the delegate considered the 2011 Department of Foreign Affairs and Trade (DFAT) report.<sup>1</sup> On 24 April 2018, the IAA obtained the 2016 DFAT report.<sup>2</sup> Since that time, DFAT has published further reports, with the 2020 DFAT report<sup>3</sup> being the most recent published report. Like all DFAT reports, the 2020 DFAT report has been prepared specifically for the purposes of assisting in determination of protection status of applicants. It contains information about the Iranian authority's religious observance of its citizens and treatment of returned Iranian asylum seekers from abroad. While I am not satisfied that there are exceptional circumstances to justify considering the now outdated 2016 DFAT report, I am satisfied that there are exceptional circumstances to justify considering the most recent 2020 DFAT report.

### **Applicant's claims for protection**

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12. The applicant's claims can be summarised as follows:

- The applicant was born and resided in Tehran, Iran, and is of Persian ethnicity.
- At about 15 years of age, he was introduced to the Muslim Movahhed community by his grandfather. He and his family attended prayer groups with the community.
- The applicant is a practising Muslim but does not agree with the Shia or Sunni sect of Islam.
- Between 2006 and 2009, the applicant studied at [University 1] where he was caught reading a banned book. He was threatened with dismissal but was failed in [Subject 1]. He completed the course and returned to Tehran where he enrolled in [University 2] and obtained his [Subject 2] degree in 2011.
- The applicant commenced his compulsory military service in February 2012 which he completed in January 2013. He undertook a training course with the Basij which allowed him to reduce his military service from 18 months to 11 months.
- During his military service, the applicant discussed his religious views with another guard. Once this became known to the Sepah and Basij, he was threatened, called a "Wahhabi" and monitored.
- After completion of his military service, the applicant was approached, beaten, and threatened by a group of men on motorbikes. He was called a "Wahhabi" and threatened with death. He took the incident seriously and departed the country to save his life.
- The applicant fears that he will be considered an apostate and face the death penalty if returned to Iran.
- The Sepah is aware of the reason the applicant is in Australia and he fears that he will disappear as soon as the Sepah finds him in Iran.
- The applicant's personal details were the subject of the Department's "data breach incident" in 2014.

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<sup>1</sup> Department of Foreign Affairs and Trade (DFAT) 2011, "Response to IRN 11738: Iran – Article on returned asylum seekers and people exiting Iran with false documents", 19 April 2011, CX263145.

<sup>2</sup> DFAT, "Country Information Report – Iran", 21 April 2016, CIS38A8012677.

<sup>3</sup> DFAT, "DFAT Country Information Report – Iran", 14 April 2020, 20200414083132.

## Refugee assessment

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13. Section 5H(1) of the Act provides that a person is a refugee if, in a case where the person has a nationality, he or she is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

### Well-founded fear of persecution

14. Under s.5J of the Act ‘well-founded fear of persecution’ involves a number of components which include that:

- the person fears persecution and there is a real chance that the person would be persecuted
- the real chance of persecution relates to all areas of the receiving country
- the persecution involves serious harm and systematic and discriminatory conduct
- the essential and significant reason (or reasons) for the persecution is race, religion, nationality, membership of a particular social group or political opinion
- the person does not have a well-founded fear of persecution if effective protection measures are available to the person, and
- the person does not have a well-founded fear of persecution if they could take reasonable steps to modify their behaviour, other than certain types of modification.

15. The applicant has consistently claimed to be a national of Iran and of Persian ethnicity. He provided the delegate with originals and English translations of his Iranian National Identity Card and Birth Certificate which support his claimed identity and nationality. I accept that the applicant is a national of Iran and that Iran is the receiving country for the purposes of this review.

16. The applicant’s evidence is that he was born in Tehran and resided there until he moved to Rasht in September 2006 to attend university. He remained in Rasht until the completion of his studies in February 2009 after which he returned to Tehran and commenced his Bachelor of [Subject 2] which he completed in September 2011. The applicant remained in Tehran, at the same address, until his departure in April 2013. I accept the applicant’s evidence in this regard.

17. Regarding his family, the applicant’s evidence is that his parents reside in Tehran. He has two brothers. One brother departed Iran in around 2011 for Australia and remains living in Australia. His other brother moved to [Country] after the applicant’s departure from Iran and is currently residing in [Country] with his wife. I accept the applicant’s evidence in this regard.

18. During his arrival interview held in June 2013, the applicant identified his religion as Islam and referred to two incidents (discussed below) which brought him to the attention of the authorities for reasons of his religious views. He stated that he did not agree with the Shia or Sunni sect of Islam and as a result was considered a “Wahhabi, an apostate and will be sentenced to death”. He confirmed that he was not a member of any particular social or religious groups. In his SHEV application, lodged in July 2016, the applicant reiterated that he

was just a Muslim, not a Shia or Sunni, and that his religious perspective came to the attention of the Basij and the Sepha. He was called a “Wahhabi” and threatened with death.

19. At the SHEV interview held on 31 May 2017, the applicant was asked several questions around his evidence provided during his arrival interview and information in his SHEV application. In relation to his fear of the death penalty as an apostate, the applicant indicated that he was part of a small community, that the community was caught a few times, and that the community leader was jailed but released after the community expressed anger. He referred to the leader living under strict conditions and that he could not leave his place or talk/meet with anyone. He referred to Friday prayer groups and that one Friday while he was not present, some people were arrested and disappeared. He also referred to his grandfather having been arrested but released after a month because he was old. Given that the applicant had not mentioned being part of any religious or social groups or referenced to having been part of a community at any time prior to this interview, he was asked about the community he claimed to have been a member of. The applicant stated that they did not have a special name and called themselves Muslim Movahhed and mainly got together during Ramadhan and Friday prayers. When asked about how he found the community, the applicant stated that his grandfather found someone who told him about the group. His grandfather found it interesting and talked about it which led his family to also join the community and that he was about 15 years of age at the time.
20. In response to questions about the community, the applicant stated that the leader of the community was “[Mr A]”, that the community used to consist of about 500-1000 members but in time it shrunk and that the last time he attended, there were about 10 people. He then referred to people being scared, and that the leader was only allowed to have limited number of people around him as part of his conditions or he would have been jailed. When asked about when the leader was jailed, the applicant stated that he could not recall, it was on and off, and that it was not a thing that everyone knew about.
21. When asked about what had happened to other members of the community, the applicant stated that he knew many of them were not in Iran; a few had been jailed and that at the time that his grandfather was arrested, others were also arrested and never returned. When asked about whether his parents or brothers were arrested, the applicant stated that “we didn’t go that day”, “they just rocked up and there were only some people”. When asked about his parents and sibling’s attendance, the applicant stated that they had attended 10 times a year. When asked if anything happened to them due to their attendance, the applicant stated that his siblings are not in Iran, the community had pretty much closed down and nobody is there and that there were only about five people there which equated to one percent of 500.
22. At the conclusion of the SHEV interview, the applicant was advised that he could provide the delegate with further information he wished to be considered, including information about the community. The applicant did not provide any further information or submissions to the delegate. Country information<sup>4</sup> before the delegate indicates that Dr Ali Shariati, an academic and the author of the book *Eslamshenasi*, which presented a modern, egalitarian, and democratic Islam as the ideal and original form of Islam, presented the “movahhed” or a monotheistic individual, as an independent, fearless, selfless, dependable, and wantless individual, who bowed to no other authority than God. The information indicates that Shariati’s generalisation became a political invitation to reject, resist and combat all sources of polytheistic power, including dictatorship, the capitalist system, and the official clergy. It is

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<sup>4</sup> Iran Chamber Society, “Iranian Personalities – Dr. Ali Shariati”, 8 July 2016, CX6A26A6E6088; Said Amir Arjomand, The Washington Institute for Near East Policy, “The State(s) of ideology in Iran”, 29 February 2016, CIS38A8012325.

noted that in his works, Shariati attacked the reactionary clergy for misrepresenting the genuine essence of Islam which in turn resulted in his work being attacked and criticised as erroneous and non-Shi'ite by some clergy. The information indicates that from June 1971, Shariati was denied his teaching position at the University of Mashhad. He was later imprisoned and released in March 1975 but remained under surveillance. He left Iran in May 1977 and died three weeks later at the age of 44. After the 1979 Islamic revolution in Iran, the information indicates that Shariati's anti-cleric and revolutionary ideology was rejected and eliminated.

23. In a submission prepared by the applicant's representative, the applicant states that by calling himself Muslim Movahhed at his SHEV interview, he did not mean the term represented any new sector or branch of Islam. He states that Movahhed conveys the meaning of unitary or monotheistic. He goes on to state that he considers himself a Muslim, like his prophet Muhammad who was not Shia, Sunni, Salafi or Wahhabi and that he believes that all the sects have been made by different governors and rulers over time to control people. The applicant further states that he follows the ideology of pure Islam and Muslim Movahhed which he says was "started by Heider Ali Ghalamdaran in Iran, and followed by Ayatollah Abolfazl Borgheyi, Mostafa Tabatabayi etc". He claims that as a result of his religious views, he was considered an apostate. The applicant has not cited nor provided any independent evidence in support of his statements about the Muslim Movahhed followers, his evidence at the SHEV interview regarding the arrest of [Mr A], who he claims was the leader of the community when he and his family were part of the community, or how he and other community members were/are perceived, monitored or harmed by the Iranian authorities.
24. At the SHEV interview, the applicant was asked what he meant by stating that he was a Muslim but did not agree with the Shia or Sunni forms of Islam and that such people are considered apostates. The applicant explained that he did not believe in Mehdi or the 12 Imams of Shia people and that Shia Muslims prayed to their Imams instead of God. The applicant also explained that Sunni Muslims are also not on the right path and that he just follows the Quran. He stated that he was fasting as required to do so during the month of Ramadhan and prayed and reiterated that he did not agree with Shia Islam and that Sunni Muslims are extreme and not right/moderate. He indicated that he had done his research and knows that the Sunni and Shia sects of Islam are not correct and he will not follow something that is not correct as he would be considered a liar. In his submission, the applicant further elaborates on why he does not follow the Shia or Sunni sects of Islam. He states that he does not follow the "sunnah" blindly like the Sunni Muslims and as a result is considered an apostate. He does not believe in Shia Muslim books, visiting Shrines and tombs of Imams and asking for help and seeking forgiveness from dead people. He further states that whoever is born a Shia and change their religion is considered an apostate and condemned to death.
25. When asked to elaborate on what he meant that he could not live his life how he wanted in Iran, the applicant stated that during his time in Australia he has been able to go to the mosque he liked to go to and pray how he wants. He likes to talk about what he thinks without being concerned about being caught, being careful and fearing that he would be imprisoned. The applicant also referred to putting Shia as his religion when filling out forms in Iran. He stated that he had to be a hypocrite and pretend. He could not do this all his life and only did it while at school so that "they wouldn't look deep into how you prayed and what you believe/think". In response to the delegate's question of why he couldn't just indicate that he followed Islam, the applicant explained that it was obligatory to specify the sect and that he had to say he was Shia to avoid trouble.

26. Regarding his interactions with the authorities while in Iran, the applicant claims that he came to the attention of the authorities on two occasions. The first incident is claimed to have occurred while he was at the university in Rasht. The applicant's SHEV application indicates that he attended [Institution] in Rasht in the period between September 2006 and February 2009 when he completed the course "[Course name]". During his arrival interview, the applicant stated that while at the university, he was caught reading a banned book and that at first, he was told that he would be expelled, but after a review of the penalty they failed him in a subject. He also stated that he was told that if he wanted to stay at the school, he had to be a spy for them (a claim that was not presented in his SHEV application or at the SHEV interview). In his SHEV application the applicant indicated that while a student in Rasht for two and a half years, he was about to be dismissed because of reading a forbidden religious book. At the SHEV interview, the applicant was asked about the banned book. He stated that he could not recall the title of the book. When asked what the book was about, the applicant stated that as far as he could remember, it was about knowing God, where we are going, and what is the right path. He said that it was open ended about Shia and Sunni points of views and that the book did not get permission to be published. When asked where he obtained the book from, the applicant stated that he got from the community and that they had some books that they could access and that whoever were part of the community had access to the book. When asked why the book was banned, the applicant stated that it was against Shia beliefs and that he read it because he wanted to know what was right and was not right. When asked why he thought the book would give him the answers, the applicant referred to being curious, that their education was pushing them to believe something, he was interested in researching religion and that even though his parents were Muslims, he wanted to select his own religion.
27. When asked about how the authorities discovered he was reading the book, the applicant said that he was young, did not know what the book was or the exact impact of reading the book. He also stated that he was "just a normal citizen of Iran" and did not take the prospect of getting caught seriously. He was reading the book in his spare time at the library and the lobby and was caught reading it by the Basij at the university. He referred to the person being a leader of the Basij. In response to the delegate's observation that he was only failed rather than expelled for reading a banned book, the applicant stated that he was taken to a four-story building where the big boss of the Basij who was controlling the security of the university was. The applicant said that the Basij did not know exactly what the book was, but that it was against Shia and that they threatened him in a nice way and told him that he would be failed in the main subject. He said that the subject was [Subject 1], but he got through at the end. He realised that it was not a game anymore and that the matter was serious.
28. The second incident is claimed to have occurred while the applicant was serving his compulsory military service. The applicant has consistently claimed that he commenced his military service in February 2012 and completed his service in January 2013.
29. At his arrival interview, the applicant stated that he discussed his religious views with another person. The Sepah found out about his religious views and as penalty extended his military service and that he was subjected to ongoing monitoring.
30. During his arrival interview, the applicant stated that after completion of his Bachelor's degree, a friend put his name down to undertake training with the Basij which resulted in a reduction of his 18-month compulsory military service. He stated that he was enrolled in this training at around June or July 2011, which was for about 30 days. He stated that the training "wasn't much", just required them to fill out hours and that they did things like learning how to march, learnt about religious ideology, and one day they learnt how to use a gun and shoot at a target. Later during to the interview, the applicant confirmed that despite his earlier evidence that he



had not served with the police, security or intelligence organisations in Iran, he had undertaken this training with the Basij and was given a card that indicated he was an active Basij member. He also confirmed that contrary to his earlier evidence that his military service was extended as punishment, his military service was in fact reduced by one month because of his university qualification and another six months because of his training with the Basij.

31. The applicant's SHEV application indicates that by the end of his military service period the authorities realised that he did not believe in what they believed, called him "Wahhabi" and started to threaten him which turned serious and deadly causing him to depart the country.
32. At the SHEV interview, the applicant stated that he discussed his religious views with another guard. He stated that he thought they were friends as they used to talk about many things. He told the guard that "he did not know why they had so many Imams, it is like Buddhism". This made the guard angry and turned him off. The applicant claims that he then realised that the guard was part of the Basij community and was a person who had engaged in beating people during the election. He claims that this occurred at the end of his military service and as a result he was monitored. When asked about what happened to him as a result of being monitored, the applicant stated that the monitoring happened right before him finishing his military service and confirmed that he had no issues obtaining his military service discharge card. He went on to state that he assumed that because he was at the end of his service, they did not have time to deal with him and that he was blessed that they did not catch him at the time. In the course of questioning about the claimed threats of calling him a "Wahhabi", the applicant referred to an incident that occurred one night while he was on his way home from his father's office. This incident is not mentioned in the applicant's SHEV application. The applicant claimed that he realised that a bunch of people were around him with motorbikes, guns and batons. They pushed him onto a wall. They were people he had never met, but they knew him and were undercover. They yelled at him, called him Wahhabi and threatened to kill him and his parents. The applicant stated that he took the threats seriously and guessed that this occurred about a week before he departed the country.
33. The applicant has consistently claimed that he considers himself a Muslim, follows Islam but does not agree with the Shia and Sunni interpretation of Islam. I accept that the applicant is a practising Muslim who prays and fasts as required by Islam, but does not agree or identify with the Shia or Sunni interpretation of Islam.
34. Overall, I found aspects of the applicant's claims that he was a member of a community since the age of 15, came to the attention of the authorities for reading a banned book or was threatened/assaulted by the Basij and Sepah during and after his military service prompting him to flee the country to save his life implausible and his evidence in this regard problematic and unconvincing.
35. Apart from not mentioning his claimed affiliation or membership of any religious or social groups until his SHEV interview, I found the applicant's overall evidence that he was a member of the Muslim Movahhed since the age of 15 unconvincing. Given the applicant's claim that he was a member of the community since the age of 15, that his grandfather talked about the community and his siblings and parents also attended the community, I found his answers to questions about the community, the leader of the community and his family's engagement with the community lacking in any meaningful detail. He described the community in extremely general terms and was unable to recall when the leader was imprisoned, stating that it was on and off and was not information that others were aware of. While he stated that his family attended community events about 10 times a year, when asked if they faced any problems, he stated that his brothers were at different universities and the community was

based in Tehran and that his parents did not face any problems as long as they hid the stuff and did not go to the community very often. The applicant has not presented any independent evidence or supporting evidence from his family members to support his claims. While I note that the applicant has provided further information/explanation of why and how he does not agree with the Shia or Sunni interpretation of Islam, I do not consider that the applicant's assertion that he follows the ideology of pure Islam and does not agree with the Shia or Sunni interpretation of Islam substantiates his claims of having been a member of a community while in Iran or that the community, which he claims has now shut down, was known to or came to the adverse attention of the authorities as claimed.

36. The applicant claims that he has researched religion and that people like him who change their religion are considered apostates. His evidence is that he is still a practising Muslim, attends the Mosque, prays, and fasts as required. Apart from the applicant's claim that he does not follow the Shia or Sunni sects of Islam, there is no information to support that the applicant has changed his religion or has any intention of changing his religion from Islam.
37. The applicant's claim that he was caught by the university Basij reading a banned book is also not at all convincing. He claims that he obtained this book from the community and that most within the community had read it. He was unable to recall the title of the book, and other than stating that it was open ended and considered against the Shia religion, he was unable to provide any further information about the book and stated that the Basij also did not "100%" know what the book was about. His evidence around the punishment he received was also perplexing and implausible. He stated that while he was threatened with dismissal, he was also threatened in a friendly manner and then after review of the penalty he was failed in one subject. His evidence does not indicate that he faced any further issues with the university Basij because of reading a forbidden book and stated that having been failed in [Subject 1] was irrelevant and he was able to complete the course. I also consider the applicant's evidence that he read a forbidden/banned religious book in public at the university library and lobby because he was young and did not realise the impact of his actions to be at odds with his evidence that he was a member a religious community whose members were of adverse interest to the authorities, with the leader having been imprisoned on and off and other members arrested and vanished.
38. As indicated above, the Shariati ideology of Islam appears to have been rejected and eliminated after the Islamic revolution in 1979, years prior to the applicant's birth. While plausible that the applicant may have come to know about the Muslim Movahhed ideology of Islam, I am not convinced that he joined a community as claimed or participated in any religious activities with a community of people as claimed or that he obtained the claimed banned book from the community and was caught reading it while at university.
39. The applicant has consistently claimed, and I accept, that he commenced his compulsory military service in February 2012 and served with the Sepah in Tehran for a period of 11 months.
40. I found the applicant's evidence that he was able to shorten his military service period from 18 months to 11 months and that he had no issues obtaining his military discharge card at the end of his military service in January 2013 difficult to reconcile with his evidence that the Sepah became aware of his religious views, which he discussed openly with another guard, and that he was threatened and monitored just prior to the completion of his military service.
41. Given the applicant's claim that the Sepah and the Basij are very powerful and can do anything, I find it difficult to accept that if he was called a "Wahabbi" which he claims are considered

apostates, that the Sepah would not have taken further action or would have provided him with his military discharge card shortly after the incident. The applicant's evidence is that after completion of his degree, he was enrolled in a training course with the Basij, obtained a card which indicated that he was an active member of the Basij, to reduce the length of his compulsory military service. The evidence before me clearly supports that the applicant's training with the Basij was recognised and resulted in reduction of his military service. I consider it highly implausible that if the applicant, at any stage during his military service, came to the adverse attention of the Sepah or Basij, particular for reasons of insulting or deviating from the State's Shia Islam as claimed, that he would have been discharged from service early or provided with his military discharge card. In addition, the applicant's claim that one night, about a week before his departure from Iran, he was attacked by a group of undercover men and threatened with death was not mentioned in his SHEV application nor referred to at the commencement of the SHEV interview when asked why had stated during his arrival interview that he felt unsafe and fled Iran because his life was in danger This is despite having previously claimed that it occurred a week prior to his departure. I do not accept it occurred.

42. I note that the applicant's SHEV application indicates that he resided at the same address in Tehran from 2009 until his departure in April 2013. Further the information in his SHEV application indicates that following his discharge from military service, the applicant worked as a supervisor with a building company until his departure from Iran. The applicant's evidence is that he applied for and was issued his Iranian passport on 16 April 2013, about a week prior to his departure. Apart from the incident which is claimed to have occurred a week prior to his departure, which I do not accept, it appears that the authorities did not take any interest in him. He was able continue to work, apply for, and was issued with his passport and there is no suggestion that he had any problems departing the country.
43. Overall, I am not satisfied that the applicant has been truthful regarding his experiences in Iran. While I am willing to accept that the applicant as a practising Muslim who may not want to identify as a Shia or Sunni Muslim, for reasons above, I am not at all satisfied that he was a member or follower of a religious community while in Iran or that he came to the adverse attention of the authorities or had any adverse religious profile with the authorities prior to his departure from Iran. I do not accept that he came to the adverse attention of the authorities while studying at Rasht university for reasons of reading a forbidden book. I note that the applicant completed his course in Rasht, returned to Tehran and commenced his [Subject 2] degree which he completed in 2011. I accept his evidence that prior to his compulsory military service, he enrolled in a course with the Basij, during which he undertook some military training and studies around religious ideology and was issued with a card that entitled him to a reduction in the length of his military service. I accept that he served with the Sepah in Tehran as a [Duty 1] and then [Duty 2] for a period of 11 months. I do not accept that he came to the adverse attention of the Sepah or the Basij during this time as claimed or that he was attacked about a week prior to his departure as claimed during the SHEV interview.
44. I do not accept that the applicant has in the past come to the attention of or encountered any issues with authorities due to the practise of his religion, his religious views or otherwise. While I note the applicant's evidence that he does not agree with or identify with the Shia or Sunni interpretation of Islam, such that he does not want to visit Shia Shrines, pray to the Imams or follow the Sunnah as the Sunnis do, the information before me does not indicate that a person of the applicant's profile would face any attention or monitoring that would bring him to the attention of the authorities for reasons of his religious practises or interpretation of Islam. Country Information<sup>5</sup> indicates that that the official religion of Iran is

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<sup>5</sup> DFAT, "DFAT Country Information Report – Iran", 14 April 2020, 20200414083132.

Shia Muslim and that a Muslim who leaves his or her faith or converts to another religion or atheism risk state prosecution and may be charged with apostasy. However, in relation to the Muslim population, it is reported that a significant proportion of the population does not attend Mosque or pray on a regular basis. Religion is considered a private matter and that beyond the expectation that people do not eat in public or hold parties during the holy Muslim month of Ramadan, how one wished to observe Islam is an individual choice, and not a matter for the state.

45. While I note the applicant's assertion that he wishes to discuss his religious views openly and that if he informs anybody about his beliefs and Islamic point of view, he would be considered a Wahhabi or an apostate, I am not at all convinced that the applicant has in the past or has any genuine desire to engage in such conduct in the future. I do not accept his claims regarding his experiences with the authorities while in Iran as credible. Apart from stating that in Australia, the applicant attends the Mosque, enjoys not being asked about the manner he prays, and likes to talk about his views without fear of being caught and harmed, there is no information to suggest that the applicant has engaged in other religious activities to discuss or promote his interpretation of Islam or that he holds such strong religious views that he wishes to propagate his views. I am not at all satisfied that the applicant has any intention or desire to express his religious point of view to others or that he would refrain from doing so for reasons of persecution.
46. I note the applicant's reference to having had to indicate on school forms that he is a Shia Muslim to avoid problems. Country information<sup>6</sup> indicates that non-Muslims and repeat offender of Iran's religious dress codes face discrimination/disadvantage in obtaining public sector employment. It is noted that followers of the Baha'i faith are barred from employment in the public sector and authorities also reportedly deny Yarsanis access to government employment unless they declare themselves to be Muslim on their application form. In general, it is reported that the structure of the Islamic Republic favours the Shia Muslim majority to the exclusion of others. I accept that the applicant has in the past, while at school, identified as a Shia Muslim in filling out forms to avoid problems and consider that he would continue to do so should he need to complete forms that require specification of a religious sect, such as in certain employment sectors. Country information cited above indicates that religion is considered a private matter and not a matter for the State. It also indicates that the structure of the government seems to favour the majority Shia population and suggests that Muslims who do not identify as Shia Muslim when applying for government positions may face discrimination and that non-Muslims are barred from obtaining public sector employment. I note that the applicant has not claimed that he had previously sought public sector employment. The independent information does not otherwise indicate that completion of such forms is required across all areas of employment or that there is widespread requirements to identify one's religious sect in aspects of life in Iran, or that Muslims failing to identify with a sect of Islam when filling out forms face any particular adverse consequences. While he may not be able to obtain public sector employment, I am not satisfied that the applicant would be prevented from other types of employment or that not identifying as belonging to a particular sect of Islam would otherwise give rise to a real chance of serious harm. I am not satisfied that a failure to identify as a particular Islamic sect will result in real chance of persecution.
47. In his SHEV statement, the applicant states that as he took refuge in Australia, the Sepah already know the reason he is here. When asked about this at the SHEV interview, the

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<sup>6</sup> DFAT, "DFAT Country Information Report – Iran", 14 April 2020, 20200414083132.

applicant stated that “they had massive technology” and can track anyone down. He referred to his training with the Basij for two weeks and that they were shown that the Basij tracked people down and arrested them. He further stated that he had [Social media] and that it is easy for the Sepah to find him. The applicant has not provided any evidence of his [Social media] activities while in Australia or that he has engaged in any activities, on social media or otherwise, that would be of interest to the authorities in Iran. I do not accept that the applicant had any adverse profile with the authorities while in Iran and do accept that the Sepah has tracked the applicant in Australia or are aware of his reasons for coming to Australia. As noted in the delegate’s decision, the applicant’s personal information was unintentionally placed on the Department’s website (data breach). It is noted that 10,000 such people were potentially affected at the time and that the information was available only briefly before it was removed from the website. The information does not indicate that the applicant’s claims for protection was the subject of the data breach. Given my findings about the applicant’s lack of any adverse profile with the authorities at the time of his departure from Iran, and the lack of any evidence that this information has been accessed by anyone in Iran, I am not satisfied that the information has been accessed or came to the attention of the authorities. Even if the applicant’s personal information came to the attention of the authorities, it is possible that the authorities may have inferred that the applicant sought or was seeking asylum in Australia, which as indicated below may also be inferred if he travels to Iran on temporary travel documents. I am not satisfied that even if the information was accessed by anyone in Iran after being briefly published in 2014, over eight years ago, that it would result in a real chance of the applicant facing any harm.

48. The applicant claims, and I accept, that he is no longer in possession of a valid Iranian passport.
49. The 2020 DFAT report<sup>7</sup> indicates that Iran does not permit the involuntary return of Iranians from Australia unless they arrived in Australia after 19 March 2018, the date on which Iran and Australia signed a Memorandum of Understanding that includes an agreement by Iran to facilitate the return of Iranians who arrived after this date and who have no legal right to stay in Australia. As the applicant arrived in Australia prior to 19 March 2018, I find that if he were to return to Iran, it would necessarily be on voluntary basis. DFAT also reports that persons, such as the applicant, who do not have a valid Iranian passport require temporary travel documents issued by Iranian diplomatic representatives overseas to facilitate their return and that the authorities at the airport will be forewarned about such persons’ return.<sup>8</sup> As the applicant’s return will necessarily be on voluntary basis, he may be able to obtain a passport. However, even if the applicant returns to Iran on temporary travel documents, the 2020 DFAT report<sup>9</sup> indicates that he may be questioned by immigration police about the circumstances of his departure and why he is travelling on temporary travel documents. I consider it possible that this may lead the authorities to infer, that the applicant has sought asylum while in Australia. The DFAT report<sup>10</sup> indicates that the questioning is usually for a short period of between 30 minutes to an hour but may take longer where returnees is considered evasive in their answers or have a suspected criminal history. Arrest and mistreatment are not common during this process.
50. Other than the possible questioning on arrival, DFAT<sup>11</sup> advises that voluntary returnees do not attract much interest amongst the large regular international movements of Iranians and that they will generally move quickly through airports. International observers have reported that

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<sup>7</sup> DFAT, “DFAT Country Information Report – Iran”, 14 April 2020, 20200414083132.

<sup>8</sup> DFAT, “DFAT Country Information Report – Iran”, 14 April 2020, 20200414083132.

<sup>9</sup> DFAT, “DFAT Country Information Report – Iran”, 14 April 2020, 20200414083132.

<sup>10</sup> DFAT, “DFAT Country Information Report – Iran”, 14 April 2020, 20200414083132.

<sup>11</sup> DFAT, “DFAT Country Information Report – Iran”, 14 April 2020, 20200414083132.

the Iranian authorities pay little attention to returned asylum seekers on their return to Iran and have little interest in prosecuting for activities conducted outside of Iran, including in relation to protection claims. Unless returnees have an existing profile or were the subject of adverse official attention prior to departing Iran, they are unlikely to attract attention from the authorities. As indicated above, I do not accept the applicant's claims regarding his interactions with the authorities or that he departed Iran due to threats to save his life. I am not satisfied that the applicant had any adverse profile with the authorities prior to his departure from Iran and the information cited above does not indicate that returnees are harmed for reasons of having resided in or sought asylum in a western country. I do not consider that apart from being questioned on arrival, the applicant would attract any form of adverse attention from the authorities. I do not consider being questioned on arrival for a short time amounts to harm nor am I satisfied that he would otherwise face a real chance of any harm during questioning.

51. Considering the applicant's circumstances as a whole and in light of what I have accepted of his claims, I am not satisfied that the applicant faces a real chance of persecution at the hands of the authorities or any other person in the reasonably foreseeable future. I am not satisfied that the applicant has a well-founded fear of persecution within the meaning of s.5J of the Act.

#### **Refugee: conclusion**

52. The applicant does not meet the requirements of the definition of refugee in s.5H(1). The applicant does not meet s.36(2)(a) of the Act.

#### **Complementary protection assessment**

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53. A criterion for a protection visa is that the applicant is a non-citizen in Australia (other than a person who is a refugee) in respect of whom the Minister (or Reviewer) is satisfied Australia has protection obligations because there are substantial grounds for believing that, as a necessary and foreseeable consequence of the person being removed from Australia to a receiving country, there is a real risk that the person will suffer significant harm.

#### **Real risk of significant harm**

54. Under s.36(2A), a person will suffer 'significant harm' if:

- the person will be arbitrarily deprived of his or her life
- the death penalty will be carried out on the person
- the person will be subjected to torture
- the person will be subjected to cruel or inhuman treatment or punishment, or
- the person will be subjected to degrading treatment or punishment.

55. The expressions 'torture', 'cruel or inhuman treatment or punishment' and 'degrading treatment or punishment' are in turn defined in s.5(1) of the Act.

56. I accept that in filling official forms in Iran, the applicant may not be able to identify himself as a Muslim only and instead would indicate a religious sect he does not identify with. I do not consider this amount to significant harm or torture. I am not satisfied that it amounts to treatment that would amount to a level of pain, suffering or humiliation required by the

definition of torture in s.5(1) of the Act, nor cruel or inhuman or degrading treatment or punishment, or other form of harm such as to amount to significant harm as defined in s.36(2A) of the Act.

57. I have found above that there is otherwise no real chance of the applicant facing any harm. The Federal Court<sup>12</sup> has held that 'real risk' imposes the same standards as the 'real chance' test. Having regard to my findings and reasoning above I am also satisfied that the applicant does not face a real risk of significant harm.

#### **Complementary protection: conclusion**

58. There are not substantial grounds for believing that, as a necessary and foreseeable consequence of being returned from Australia to a receiving country, there is a real risk that the applicant will suffer significant harm. The applicant does not meet s.36(2)(aa).

#### **Decision**

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The IAA affirms the decision not to grant the referred applicant a protection visa.

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<sup>12</sup> MIAC v SZQRB (2013) 210 FCR 505.

## Applicable law

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### **Migration Act 1958**

#### **5 (1) Interpretation**

In this Act, unless the contrary intention appears:

...

**bogus document**, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly

...

**cruel or inhuman treatment or punishment** means an act or omission by which:

- (a) severe pain or suffering, whether physical or mental, is intentionally inflicted on a person; or
- (b) pain or suffering, whether physical or mental, is intentionally inflicted on a person so long as, in all the circumstances, the act or omission could reasonably be regarded as cruel or inhuman in nature;

but does not include an act or omission:

- (c) that is not inconsistent with Article 7 of the Covenant; or
- (d) arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

**degrading treatment or punishment** means an act or omission that causes, and is intended to cause, extreme humiliation which is unreasonable, but does not include an act or omission:

- (a) that is not inconsistent with Article 7 of the Covenant; or
- (b) that causes, and is intended to cause, extreme humiliation arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

**receiving country**, in relation to a non-citizen, means:

- (a) a country of which the non-citizen is a national, to be determined solely by reference to the law of the relevant country; or
- (b) if the non-citizen has no country of nationality—a country of his or her former habitual residence, regardless of whether it would be possible to return the non-citizen to the country.

...

**torture** means an act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person:

- (a) for the purpose of obtaining from the person or from a third person information or a confession; or
- (b) for the purpose of punishing the person for an act which that person or a third person has committed or is suspected of having committed; or
- (c) for the purpose of intimidating or coercing the person or a third person; or
- (d) for a purpose related to a purpose mentioned in paragraph (a), (b) or (c); or
- (e) for any reason based on discrimination that is inconsistent with the Articles of the Covenant;

but does not include an act or omission arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the Articles of the Covenant.

...

#### **5H Meaning of refugee**

(1) For the purposes of the application of this Act and the regulations to a particular person in Australia, the person is a refugee if the person:

- (a) in a case where the person has a nationality—is outside the country of his or her nationality and, owing to a well-founded fear of persecution, is unable or unwilling to avail himself or herself of the protection of that country; or
- (b) in a case where the person does not have a nationality—is outside the country of his or her former habitual residence and owing to a well-founded fear of persecution, is unable or unwilling to return to it.

Note: For the meaning of *well-founded fear of persecution*, see section 5J.



...

### 5J Meaning of well-founded fear of persecution

- (1) For the purposes of the application of this Act and the regulations to a particular person, the person has a well-founded fear of persecution if:
  - (a) the person fears being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; and
  - (b) there is a real chance that, if the person returned to the receiving country, the person would be persecuted for one or more of the reasons mentioned in paragraph (a); and
  - (c) the real chance of persecution relates to all areas of a receiving country.  
Note: For membership of a particular social group, see sections 5K and 5L.
- (2) A person does not have a well-founded fear of persecution if effective protection measures are available to the person in a receiving country.  
Note: For effective protection measures, see section 5LA.
- (3) A person does not have a well-founded fear of persecution if the person could take reasonable steps to modify his or her behaviour so as to avoid a real chance of persecution in a receiving country, other than a modification that would:
  - (a) conflict with a characteristic that is fundamental to the person's identity or conscience; or
  - (b) conceal an innate or immutable characteristic of the person; or
  - (c) without limiting paragraph (a) or (b), require the person to do any of the following:
    - (i) alter his or her religious beliefs, including by renouncing a religious conversion, or conceal his or her true religious beliefs, or cease to be involved in the practice of his or her faith;
    - (ii) conceal his or her true race, ethnicity, nationality or country of origin;
    - (iii) alter his or her political beliefs or conceal his or her true political beliefs;
    - (iv) conceal a physical, psychological or intellectual disability;
    - (v) enter into or remain in a marriage to which that person is opposed, or accept the forced marriage of a child;
    - (vi) alter his or her sexual orientation or gender identity or conceal his or her true sexual orientation, gender identity or intersex status.
- (4) If a person fears persecution for one or more of the reasons mentioned in paragraph (1)(a):
  - (a) that reason must be the essential and significant reason, or those reasons must be the essential and significant reasons, for the persecution; and
  - (b) the persecution must involve serious harm to the person; and
  - (c) the persecution must involve systematic and discriminatory conduct.
- (5) Without limiting what is serious harm for the purposes of paragraph (4)(b), the following are instances of **serious harm** for the purposes of that paragraph:
  - (a) a threat to the person's life or liberty;
  - (b) significant physical harassment of the person;
  - (c) significant physical ill-treatment of the person;
  - (d) significant economic hardship that threatens the person's capacity to subsist;
  - (e) denial of access to basic services, where the denial threatens the person's capacity to subsist;
  - (f) denial of capacity to earn a livelihood of any kind, where the denial threatens the person's capacity to subsist.
- (6) In determining whether the person has a **well-founded fear of persecution** for one or more of the reasons mentioned in paragraph (1)(a), any conduct engaged in by the person in Australia is to be disregarded unless the person satisfies the Minister that the person engaged in the conduct otherwise than for the purpose of strengthening the person's claim to be a refugee.

### 5K Membership of a particular social group consisting of family

For the purposes of the application of this Act and the regulations to a particular person (the **first person**), in determining whether the first person has a well-founded fear of persecution for the reason of membership of a particular social group that consists of the first person's family:

- (a) disregard any fear of persecution, or any persecution, that any other member or former member (whether alive or dead) of the family has ever experienced, where the reason for the fear or persecution is not a reason mentioned in paragraph 5J(1)(a); and
- (b) disregard any fear of persecution, or any persecution, that:
  - (i) the first person has ever experienced; or

- (ii) any other member or former member (whether alive or dead) of the family has ever experienced;

where it is reasonable to conclude that the fear or persecution would not exist if it were assumed that the fear or persecution mentioned in paragraph (a) had never existed.

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

#### **5L Membership of a particular social group other than family**

For the purposes of the application of this Act and the regulations to a particular person, the person is to be treated as a member of a particular social group (other than the person's family) if:

- (a) a characteristic is shared by each member of the group; and
- (b) the person shares, or is perceived as sharing, the characteristic; and
- (c) any of the following apply:
  - (i) the characteristic is an innate or immutable characteristic;
  - (ii) the characteristic is so fundamental to a member's identity or conscience, the member should not be forced to renounce it;
  - (iii) the characteristic distinguishes the group from society; and
- (d) the characteristic is not a fear of persecution.

#### **5LA Effective protection measures**

- (1) For the purposes of the application of this Act and the regulations to a particular person, effective protection measures are available to the person in a receiving country if:
  - (a) protection against persecution could be provided to the person by:
    - (i) the relevant State; or
    - (ii) a party or organisation, including an international organisation, that controls the relevant State or a substantial part of the territory of the relevant State; and
  - (b) the relevant State, party or organisation mentioned in paragraph (a) is willing and able to offer such protection.
- (2) A relevant State, party or organisation mentioned in paragraph (1)(a) is taken to be able to offer protection against persecution to a person if:
  - (a) the person can access the protection; and
  - (b) the protection is durable; and
  - (c) in the case of protection provided by the relevant State—the protection consists of an appropriate criminal law, a reasonably effective police force and an impartial judicial system.

...

#### **36 Protection visas – criteria provided for by this Act**

...

- (2) A criterion for a protection visa is that the applicant for the visa is:
  - (a) a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the person is a refugee; or
  - (aa) a non-citizen in Australia (other than a non-citizen mentioned in paragraph (a)) in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm; or
  - (b) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
    - (i) is mentioned in paragraph (a); and
    - (ii) holds a protection visa of the same class as that applied for by the applicant; or
  - (c) a non-citizen in Australia who is a member of the same family unit as a non-citizen who:
    - (i) is mentioned in paragraph (aa); and
    - (ii) holds a protection visa of the same class as that applied for by the applicant.
- (2A) A non-citizen will suffer **significant harm** if:
  - (a) the non-citizen will be arbitrarily deprived of his or her life; or
  - (b) the death penalty will be carried out on the non-citizen; or
  - (c) the non-citizen will be subjected to torture; or
  - (d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
  - (e) the non-citizen will be subjected to degrading treatment or punishment.

- (2B) However, there is taken not to be a real risk that a non-citizen will suffer significant harm in a country if the Minister is satisfied that:
- (a) it would be reasonable for the non-citizen to relocate to an area of the country where there would not be a real risk that the non-citizen will suffer significant harm; or
  - (b) the non-citizen could obtain, from an authority of the country, protection such that there would not be a real risk that the non-citizen will suffer significant harm; or
  - (c) the real risk is one faced by the population of the country generally and is not faced by the non-citizen personally.

...

*Protection obligations*

- (3) Australia is taken not to have protection obligations in respect of a non-citizen who has not taken all possible steps to avail himself or herself of a right to enter and reside in, whether temporarily or permanently and however that right arose or is expressed, any country apart from Australia, including countries of which the non-citizen is a national.
- (4) However, subsection (3) does not apply in relation to a country in respect of which:
- (a) the non-citizen has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or
  - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the country.
- (5) Subsection (3) does not apply in relation to a country if the non-citizen has a well-founded fear that:
- (a) the country will return the non-citizen to another country; and
  - (b) the non-citizen will be persecuted in that other country for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- (5A) Also, subsection (3) does not apply in relation to a country if:
- (a) the non-citizen has a well-founded fear that the country will return the non-citizen to another country; and
  - (b) the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen availing himself or herself of a right mentioned in subsection (3), there would be a real risk that the non-citizen will suffer significant harm in relation to the other country.

*Determining nationality*

- (6) For the purposes of subsection (3), the question of whether a non-citizen is a national of a particular country must be determined solely by reference to the law of that country.
- (7) Subsection (6) does not, by implication, affect the interpretation of any other provision of this Act.