



Australian Government

Immigration Assessment Authority

Decision and Reasons

Referred application

IRAN

IAA reference: IAA18/06154

Date and time of decision: 20 February 2019 12:04:00

A Lindsay, Reviewer

Decision

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

Visa application

1. The referred applicant (the applicant) claims to be a Christian from Iran. The applicant arrived in Australia [in] October 2012 and on 27 April 2017 he lodged an application for a Safe Haven Protection Visa (SHEV).
2. On 13 December 2018 a delegate of the Minister for Immigration (the delegate) refused the grant of this visa on the grounds that the applicant did not face a real chance of serious harm or a real risk of significant harm if he were to return to Iran.

Information before the IAA

3. I have had regard to the material given by the Secretary under s.473CB of the *Migration Act 1958* (the Act).
4. No further information has been obtained or received.

Applicant's claims for protection

5. The applicant's claims can be summarised as follows:
 - His paternal uncle was a member of the Mojahedin-e Khalq Organisation of Iran (MeK) and was arrested in 1979 or 1980 and was executed in 1998. As a result of his uncle's activities he and his family were not able to work in government jobs or receive loans from government banks.
 - He was born into a religious and devout household and experienced a violent upbringing. As he grew older he lost interest in religion and became detached from his mother and her family because they did not accept him.
 - He has renounced his Muslim faith.
 - He worked in the movie and cinema [industry]. He experienced harassment from Iranian authorities in relation to censorship because of his work in this industry and at times was prevented from [completing work tasks] even when he had a permit.
 - He was unknowingly taken to a house church in 2012 when he was experiencing personal problems by a friend who thought he would benefit from speaking with the Minister. He then knowingly attended at this house church on a weekly basis, was unofficially baptised and converted to Christianity.
 - One day whilst at the house church, the authorities raided the home and the applicant was able to escape with some other people. The Minister, his wife and one of the other people present were arrested. He decided to flee Tehran immediately, obtaining money and clothing urgently from his mother, and he travelled to West Azerbaijan province to hide. Two days later the authorities raided his home and found Christian documents and seized those along with his identity documents. The applicant was assisted by a smuggler who directed him on how to cross the border into [Country 1] on foot. Once he was in [Country 1], his brother-in-law travelled there to bring him his Iranian Passport so he could fly out of [Country 1] and travel to Australia. He was unable to fly

out of Iran because he was blacklisted as the result of being wanted by the authorities for his involvement with the house church.

- He identifies as a Christian who currently attends a [church] and regularly shares and likes different religious material via his wall on [social media]. If he were to return to Iran he would be arrested because he would be identified as a Muslim who has converted to Christianity because he would continue to attend churches.
- He will be identified as a failed asylum seeker if he were to return to Iran.

Factual findings

6. On the basis of the documents provided by the applicant I accept his identity and nationality as an Iranian citizen as claimed. Iran is the receiving country for the purpose of this review.
7. The applicant has provided inconsistent evidence on a number of matters throughout the protection visa application process which give rise to real concerns about the credibility of his claims for protection.
8. During the SHEV interview, the applicant said that his paternal uncle in 1979 or 1980 was arrested and imprisoned in Iran for being an activist with the MeK and was executed in [1998]. The applicant claimed that since this time his family, including his cousins, were not allowed to work in government departments or obtain loans or services from a government bank. The applicant did not raise this claim in the arrival interview, SHEV application or Statement of Claim. In his arrival interview, the applicant said 'no' when asked if he or any of his family had been associated or involved with any political group or organisation. When asked by the interviewing officer in the SHEV interview why he waited until then to raise this new claim the applicant said that it had taken six years for his interview and was waiting for that particular moment and that when he originally fled Iran this was not that important to him.
9. I do not accept that the applicant's uncle was a member of the MeK or that he was arrested, imprisoned and executed for being a member of the MeK. Although the applicant indicated that reason for not raising the claim earlier was that he was waiting for his visa interview, I note that he expressly confirmed that neither he nor anyone in his family had been associated or involved with any political group or organisation in the arrival interview. I also consider it illogical that the applicant felt it appropriate to provide historic information about his mother's family in his Statement of Claim, but failed to raise an issue of being related to a member of the MeK who was executed by Iranian authorities.
10. The applicant said he was born a Shia Muslim into a religious and devout household and that he encountered violence throughout his upbringing from his family, where his maternal uncle would self-flagellate and coerce the applicant to press a knife across the top of his own scalp numerous times throughout the year to mark religious holidays. At the time the applicant claimed he felt what he was doing was beneficial but in hindsight, he considers he was brainwashed. He said as he grew older he lost interest in religion and became detached from his mother and her family because they did not accept him. The applicant said he did not have an interest in pursuing a religion that required him to recite Arabic verse despite not knowing the meaning and allowed violence against women and capital punishment. The applicant said he has renounced his Muslim faith. The applicant did not indicate that he experienced any harassment from authorities in Iran as the result of him renouncing his Muslim faith.

11. As part of a separate claim, the applicant said that when he decided to flee Iran he rang his mother, and not his wife, and asked for money which she agreed to provide along with some clothing for him. In his SHEV application, the applicant said he contacts his mother back in Iran once a week.
12. I accept that the applicant has renounced his Muslim faith and that this, in part, may be related to events that occurred during his upbringing. I do not accept that the applicant became detached from his mother given his statements that she was the first person he contacted when he was in trouble, she was willing to loan him money at short notice and he speaks with her each week. The applicant has not indicated that the conduct of his maternal uncle continued into adulthood or is an ongoing concern.
13. The applicant has not claimed an ongoing fear of harm from his mother's family, in particular his maternal uncle, if he were to return to Iran on the basis of him renouncing his Muslim faith and I am satisfied that no such claim arises on the material.
14. The applicant provided consistent information about his employment history during the arrival interview and in his SHEV application including him working from 2008 or 2009 until July 2012 [with] movies from an office in Tehran. When asked, during the arrival interview, if police, security or intelligence organisations impacted on his life in Iran he said they picked on him on a regular basis when he was working in the movie industry because of censorship and sometimes he was not allowed to [complete work task] even though he had obtained permits for this purpose. DFAT reports that the film industry in Iran is subjected to strict censorship.¹
15. I accept that the applicant worked in the film and cinema industry in Iran and experienced some low level harassment from authorities regarding censorship of certain films. He has been consistent in relation to his employment history, when compared with other aspects of his claims that lacked consistency, and the harassment he claims to have experienced from authorities is supported by the country information before me.
16. The applicant claimed that he was unknowingly taken to a house church in Iran which he then continued to attend for about six months and during which time he was unofficially baptised and converted to Christianity. The applicant also claimed that authorities raided the house church one day whilst he was there yet he managed to escape and he decided to flee Tehran out of fear of being punished by the authorities. The applicant said he hid in West Azerbaijan province in various locations until he was able to flee the country illegally via [Country 1] and travel to Australia.
17. In the Statement of Claim the applicant said that in 2012 he and his wife were experiencing relationship problems and they were often arguing which the applicant claimed was linked to him having nervousness and anxiety. His wife spoke to a friend, P, about these problems and P suggested the applicant accompany him to meet a person who might be able to help. The applicant said he and P went to an ordinary looking home and met with a man who offered him tea and began talking to him about deep topics including life, maintaining good character, love, kindness, how to lead a happy life and not worry about the future, the afterlife and made references to the Heavenly Father. The applicant said he realised this man was a Christian and was drawn to him by his mannerisms and character and that he felt a sense of calmness and wellbeing for several days. The applicant asked P to visit with this man again two weeks later and at that time P confessed they had attended a house church, the man was a priest named [Father A] and that it was dangerous to visit a house church as a

¹ Department of Foreign Affairs and Trade, "DFAT Country Information Report: Iran", 7 June 2018, CIS7B839411226.

Muslim. The applicant nevertheless claimed he was not too troubled because he considered that he was just learning rather than converting. The second time the applicant visited with [Father A] he was hosting a bible study class which the applicant said he continued to attend and his interest in Christianity increased. He routinely visited the house church after this and felt a close connection to God which filled a void in his life.

18. During the SHEV interview the applicant claimed he was unofficially baptised by [Father A] in his bathtub and considered himself to have converted to Christianity prior to leaving Iran. The applicant said that to baptise someone in Iran is forbidden and [Father A] told him that they could not issue him with a certificate of baptism. When questioned about why man with a wife and a young child would engage in a dangerous activity such as attending a house church when he was not a Christian, the applicant said he didn't know but he is glad that he went. When asked to explain why the people running the house church would allow a stranger to be introduced to the head priest on a first meeting, the applicant said that he didn't know and it wasn't his business to know.
19. It is illegal to convert from Islam in Iran and could result in prosecution with capital punishment as a possible penalty, although there is only one known case in recent years, from 1990, where a person charged with apostasy received the death penalty and it was actually carried out.² The level of secrecy surrounding the existence of house churches and the informal nature of the movement makes it difficult to provide statistics on the number of unrecognised Christians in Iran, however country information indicates that Iran has a growing unrecognised Christian population and many of them are unhappy with the way Islam is practiced by the regime.³ The growth in house churches in Iran has been interpreted as a threat to the nation and authorities periodically crack down on them, with a particular focus on the leaders who proselytise, broadcast or seek out new members.⁴ It is estimated that 99% of arrests of church leaders are affiliated with house churches.⁵ Due to an underlying fear of denunciation or spies from the government infiltrating the church, house churches are reported as being very careful of people outside of their network or community who show interest in joining them and it could take between six to eight months before an outsider could be welcomed into a house church.⁶
20. The applicant said that one day in July 2012, the authorities raided [Father A's] home while he and four others were meeting for bible study and that he managed to escape through the back door after being given a warning by [Father A's] wife. The applicant said that [Father A], his wife and one of the students were arrested. The applicant left in such a hurry he said he didn't have time to collect his shoes and caught a taxi to a bus terminal where he called his mother asking for money, which she agreed to provide along with some clothing which his brother dropped off to him. The applicant said he fled to Zanzan in West Azerbaijan where he stayed at his mother-in-law's home for three weeks.
21. The applicant said that two days after the authorities raided [Father A's] home, his wife contacted him and said the authorities raided his home in pursuit of him and while searching the home they seized his birth certificate, marriage certificate and passport which they said

² Danish Immigration Service, Landinfo and Danish Refugee Council, "On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures: Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact-finding mission to Tehran, Iran, Ankara, Turkey and London", United Kingdom, 9 November to 20 November 2012 and 8 January to 9 January 2013, February 2013, CIS25114.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

they would return but this was not true. The applicant said the authorities also located Christian booklets and other Christian documents which they seized.

22. After his initial stay with his mother-in-law, the applicant relocated to a [property] where he stayed for two weeks before being transported to [a location] by his brother-in-law where the following day a smuggler, who had been arranged by his brother-in-law, transferred the applicant to a village approximately [a few hours] drive towards [Country 1's] border. The applicant said he fled that night at midnight under the direction of the smugglers as they crossed [Country 1's] border on foot. The applicant said he had to leave Iran without his passport and not on a plane because he was wanted by the authorities and he was on the list at the airports, so he went by land from Iran to [Country 1] [in] September 2012 and then flew from [Country 1] to [Country 2] [in] September 2012.
23. The applicant confirmed that other than his wife saying she was not a Christian on one occasion, she has not been questioned further about whether she has converted to Christianity or been involved in the same activities the applicant claimed to have been engaged in. Despite claiming that after the raid the authorities attended his house almost every day for the first week and then after that once a week and at the time of his SHEV interview, and six years after the raid on his home, they attend once or twice in a month to continue to try to locate him, he stated the authorities had not issued a summons for him to appear in court. Later in this interview, the applicant was questioned by the interviewing officer about whether it was correct that six years later the authorities still continued to visit his home in Iran and he maintained a similar version and provided explanations about how part of that time he was still in Iran but in hiding prior to fleeing to [Country 2] and then Australia. After the applicant was given the opportunity to speak with his migration agent, he said that the information he had given about the frequency of the authorities attending at his house was just him "guessing" and he didn't know how often authorities went to his house. When asked about his identity documents during the interview, the applicant said his wife had sent copies with translations of his birth certificate, driver's licences and marriage certificate through to the Immigration Department.
24. The delegate noted that the applicant was issued with an international driving licence by a government authority in Iran [in] 2012 which was only a few days prior to his departure from the country and whilst he asserts he was in hiding [in] West Azerbaijan province in the north west of Iran. The English translations of the applicant's birth certificate and a Certificate of Technical and Vocational Skill [certificate information deleted] issued in his name were both completed [in] 2011, which is just over 12 months prior to the applicant leaving Iran to travel to Australia.
25. Ten days after the applicant arrived in Australia during his arrival interview he identified as a Christian, and then specified that he was an Anglican.
26. Country information states that the Anglican Church, which was established in Iran in the 19th century, is now on the brink of extinction.⁷
27. The applicant has provided four different versions about the passport he used to exit [Country 1] and travel to Australia. In the arrival interview, the applicant said his Iranian passport was brought to him in [Country 1] by his brother and had been renewed in 2011. In the SHEV application, the applicant said the smuggler prepared a fraudulent passport for him in [Country 1]. In the SHEV interview, the applicant was asked how he left [Country 1]. He

⁷ Ibid.

originally said, “they made a passport for me and with that passport I travelled to [Country 2].” When the interviewing officer sought to clarify this the applicant said that it was his own genuine Iranian passport that his brother-in-law arranged to have stamped to show that he had entered [Country 1] legally so they would allow him to leave [Country 1] to go to [Country 2], and that he received this passport from his brother-in-law in [a City]. The applicant said his passport had been left at his mother-in-law’s house because he could not take it with him to [Country 1]. The versions that involve the applicant using his own Iranian passport to leave [Country 1] conflict with information he provided in the Statement of Claim where he said his passport was seized by authorities during the raid on his home two days after the house church was raided and not returned.

28. I do not accept the applicant fled Iran by entering [Country 1] illegally. The applicant has provided four conflicting versions about the passport he used to travel out of [Country 1] and two of these versions involved him using his legitimate Iranian passport which according to his own evidence was seized by Iranian authorities and not returned.
29. I do not accept that: the applicant attended a house church or engaged with or converted to Christianity in Iran; his home was raided by authorities in relation to his involvement with the house church; or that the applicant needed to flee Iran illegally because he was wanted by Iranian authorities in connection with the house church and had been placed on the list to intercept people attempting to leave Iran via an airport. I do not accept that these events occurred for the following reasons:
 - The applicant provided inconsistent information about the location of his identity documents which he claims the authorities took during the raid on his home two days after the alleged raid on the house church in July 2012 which they did not return. The applicant said in his Statement of Claim the documents taken included his passport, marriage certificate and birth certificate. The inconsistencies regarding his passport have already been discussed. During the SHEV interview, the applicant confirmed his wife had sent his birth certificate and marriage certificate, as well as other identity documents, to the Department along with translated copies for the purposes of confirming his identity, which conflicts with the applicant’s other evidence where he said these particular identity documents were taken by the authorities during the raid in 2012 and not returned.
 - Leaving aside the apparent conflict in the applicant’s evidence, if the applicant was in fact being pursued by the authorities because he converted to Christianity and was involved in a house church, I find it implausible that his wife was not questioned further about her possible involvement in the same types of activities when her home was raided by authorities and they found Christian booklets and other material about Christianity.
 - The applicant’s response of ‘I don’t know’ when asked why he was prepared to expose himself to the dangers involved with attending a house church is surprising given the potential very serious consequences of making a decision to attend a house church in Iran on a regular basis.
 - I find it implausible that the applicant was so readily accepted into a house church, able to meet with the head priest on his first attendance and permitted to attend bible study two weeks later, as someone totally unknown to them, in light of the country information confirming that house churches are very careful about accepting new people from outside the network and that it can take between six to eight months for an outsider to be welcomed into the church.

- It is improbable that a person who asserts he was so afraid of being arrested by the authorities that he went into hiding and planned to flee the country, leaving behind his wife and young child, would then take the time to apply for and obtain an international drivers licence which would risk bringing himself, quite unnecessarily, to the attention of authorities.
 - The applicant provided different information about the ongoing attempts by authorities to locate him from clearly stating how frequently he continued attended his home to then stating he was “just guessing” and that he didn’t actually know. I also consider it highly improbable that the applicant would be on a ‘blacklist’, and sought out six years after he left the country, with no summons or other apparent formal action taken or recorded against him.
 - Despite his evidence that his planning for leaving the country commenced in July 2012 followed the raid on the house church and his own home by the Ettela’at, the fact that the applicant had English translations of his birth certificate and educational qualification prepared in August 2011 is indicative of prior planning to leave the country.
 - The applicant did not produce any information or evidence to show that outside of his involvement with the house church that he engaged in Christian activities in any other form.
30. I do not accept the applicant left Iran with the assistance of a people smuggler. I am satisfied the applicant left Iran legally and with his own passport. The applicant was able to be issued with an international driving licence and fly out of Iran which indicates he was not on the list utilised by authorities to prevent people of interest from leaving Iran via the airports. I am not satisfied the applicant was of interest to the authorities at that time.
31. As previously mentioned the applicant identified as an Anglican in his arrival interview and he also listed this as his religion in his SHEV application. In the SHEV interview, the applicant denied ever having identified as Anglican.
32. In the Statement of Claim the applicant identified as someone who had converted to Christianity. The applicant provided details of how he has continued his religious practice since leaving Iran including travelling to Australia with a bible and reading this in his accommodation in [Country 2] which resulted in the landlord taking him to a Christian church on two occasions. After his arrival in Australia the applicant said he attended bible study whilst in the detention centre, and when he was released into the community in January 2013 he attended an Anglican Church where he was baptised and he provided a Certificate of Baptism dated [date] 2013. When the applicant moved address, in April 2015, he attended services and Tuesday bible study groups at a [Church]. The applicant claimed he volunteered at this church with [for various tasks]. The applicant asserts that he regularly likes and shares religious material on his wall on [social media]. He produced a letter of support dated 28 April 2017 from a Reverend who is the Minister of the aforementioned [Church] confirming he had known the applicant since 2015 when he first came to the church. The Reverend stated that the applicant remained involved by attending church on Sunday mornings, bible studies on [day redacted] and has assisted with [various church related activities]. The Reverend wrote that during personal conversations the applicant told him of his Christian conversion and how his beliefs lead to his persecution and flight from Iran. The Reverend stated he has no doubts as to the genuineness of his faith.

33. In the SHEV interview the applicant confirmed he converted to Christianity in Iran and was unofficially baptised there by [Father A] of the house church. During the SHEV interview, the applicant answered a number of questions about the Christian faith correctly and spoke of how becoming a Christian made him very hopeful in his life and less angry which gives him peace. The applicant said he had read the bible "many times", yet was unable to correctly state the names of the first three books in the New Testament. The applicant erroneously said one of Jesus's disciples was named 'Benjamin', and the delegate noted that the applicant attributed "Jesus's well-known words to Peter regarding his denial as having been spoken to Benjamin". At the time of his SHEV interview the applicant had been in custody for approximately [number] months regarding an undisclosed matter before the criminal courts and he advised that he had only attended church twice during this time due to difficulties in understanding what was being said because there was no interpreter and that because of the nosy people in prison he did not want them poking their nose in his business. The applicant said he undertook his own prayer and religious practise during this time.
34. During the SHEV interview the applicant was presented with information by the interviewing officer from a source, that was not able to be disclosed, who said that the applicant had only changed his religion as a way to bring his wife and son to Australia once he had been granted a protection visa. The applicant denied this saying that he would not have left his wife and child behind if he did not really have a problem. I have placed limited weight on this confidential information because it is anonymous and of itself is of limited value. That being said, I do have considerable concerns, as outlined below regarding the applicant's own evidence in relation to the genuineness of his Christian conversion in Iran and Australia. The explanation he has given as to why this information is not true, on its face, doesn't really address the allegation.
35. I have not accepted that the applicant engaged in Christian activities, was involved in a house church or converted to Christianity in Iran. This of itself does not preclude his claims of Christian activity in Australia being genuine, although I note the delegate referred to country information reports that large numbers of Islamic asylum seekers, particularly Persian speaking Iranians, have converted to Christianity and concerns have been raised about the genuineness of such conversions in some cases with one Christian News Service reporting that, "One pastor of a church in [Country 1] says that 90 per cent of the converts they see are not genuine, while some clergy in the UK have said they suspect up to 50 per cent of those they baptise also fall into this category."⁸ A source from Iran, who is reported as being well-informed about Christians, said that it is difficult to assess the real reasons behind

⁸ Guardian (Unlimited) (UK), "European churches say growing flock of Muslim refugees are converting", 6 June 2016, CX6A26A6E4884; Daily Express (UK), "Muslim asylum seekers converting to Christianity to stop deportation from Britain", 14 June 2016, CX6A26A6E5192; Atlantic, The, "A New Home and a New Religion in Germany", 14 October 2016, CX6A26A6E16829; Times Online, The Times (UK), "Europe's Muslim refugees flock to Christianity", 16 May 2016, CX6A26A6E16832; Guardian, "'Our second mother': Iran's converted Christians find sanctuary in Germany", 12 May 2014, CX1B9ECAB12882; Daily Mail (UK), "How hundreds of Muslim migrants are converting to Christianity to boost their chances of winning asylum in Germany", 7 September 2015, CXBD6A0DE19477; Deutsche Welle, 'Is conversion a reason for asylum?' 24 December 2016, CX6A26A6E16828; Breit Bart, "German Police Chief Claims Asylum Seekers Using Christian Conversion to Avoid Deportation", 08 June 2017, CXC90406610647; Agence France Presse (AFP) - France, "In Germany, some Muslim refugees convert to Christianity", 9 December 2016, CX6A26A6E16831; Daily Mail (UK), "Muslim translators are deliberately mistranslating migrants who convert to Christianity to get them deported, claims German pastor", 18 January 2017, CXC90406619706; World Watch Monitor, "'Thousands' of Iranians claiming asylum in Europe as converts to Christianity", 19 June 2017, CXC90406619708; The Local, "How some Muslim refugees are converting to Christianity", 09 December 2016, CX6A26A6E17226; Premier Christianity (United Kingdom), "Seeking Asylum, Finding Christ: Why Muslim refugees are converting", 1 March 2017, CXC90406619712; Premier Christianity (United Kingdom), "Seeking Asylum, Finding Christ: Why Muslim refugees are converting", 1 March 2017, CXC90406619712.

conversions taking place abroad but it cannot be excluded that it may be done in order to take advantage of certain privileges given to asylum seekers on religious grounds.⁹

36. I have had regard to the letter of support from the Reverend. The Reverend indicated he has known the applicant since 2015 when he first starting coming to the church. The Reverend described the applicant as a valued person within the church community and attested to his attendance at church and bible study and him providing assistance with maintenance tasks. The Reverend provided details of the applicant recounting his Christian conversion experiences in Iran and the difficulties he faces being separated from his wife and child. The Reverend expressed that he held no doubt as to the genuineness of the applicant's conversion. I accept the Reverend regards the applicant as a genuine Christian. I give some weight to the Reverend's statements about the applicant's involvement in church activities and being considered a valued member of the church community.
37. Despite this letter I seriously question the credibility of the applicant's conversion to Christianity after arriving in Australia. The rapid rate at which the applicant engaged with the Christian faith after leaving Iran, given I have found he did not convert to or engage with this faith whilst in Iran and the fact that his own evidence is that he lost interest in religion as he was growing up, is of concern. The applicant claimed he travelled with a bible and attended two Christian church services in [Country 2], on his way to Australia, despite not speaking [the language], and having had only a poor command of English at that time. As previously mentioned, within ten days of arriving in Australia, the applicant identified as an Anglican, which he then denied at a later stage in the process. The applicant went from being someone who lost interest in religion as he was growing up to someone who was actively seeking to appear as though he was engaging with the Christian faith immediately upon leaving Iran and prior to his arrival in Australia. In addition he did not demonstrate a knowledge of the Christian doctrine and the bible commensurate with someone who, according to his own evidence, had read the bible "many times" and attended bible study and church services on a regular basis since 2012 (with the exception of him not attending church whilst currently in detention). I note in this instance that the applicant answered some questions about the Christian faith correctly however he incorrectly answered questions that a person who claims to have engaged in regular study of the Christian faith for a period of over five years may reasonably be expected to be able to answer. I am conscious that an assessment of a person's knowledge of Christianity in isolation may not always be useful when seeking to assess their credibility regarding a religious-based refugee claim given the personal nature of religious beliefs¹⁰ but I have had regard to this assessment in conjunction with the other factors outlined here. I accept the applicant has been baptised, attended services and bible studies, assisted with maintenance tasks at the church whilst living in Australia and that the Reverend may genuinely believe he has presented as a dedicated member of the Christian faith. I do not accept that the applicant's conversion to Christianity or his engagement with the Christian faith is genuine and I find it has been done for the purposes of strengthening his claim to be granted a protection visa as a refugee and for the purposes of the criteria in s.36(2)(a), I have disregarded this conduct in my assessment.

⁹ Danish Immigration Service, Landinfo and Danish Refugee Council, 'On Conversion to Christianity, Issues concerning Kurds and Post-2009 Election Protestors as well as Legal Issues and Exit Procedures: Joint report from the Danish Immigration Service, the Norwegian LANDINFO and Danish Refugee Council's fact-finding mission to Tehran, Iran, Ankara, Turkey and London', United Kingdom, 9 November to 20 November 2012 and 8 January to 9 January 2013, February 2013, CIS25114.

¹⁰ UNHCR, 'Guideline on International Protection No. 6: Religion Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees', Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Re-issued, Geneva, December 2011.

38. I do not accept that the applicant regularly likes and shares religious material on [social media]. He has not produced any evidence in support of this statement, either with his SHEV application or even via the post-interview submission provided by his migration agent where reference is made to the applicant's [social media] activity giving details of his time in Australia.
39. I accept that the applicant no longer possesses a valid Iranian passport and that if he were to return to Iran, he would have to do so using temporary travel documents which would likely lead the authorities to conclude that he was a returning asylum seeker.

Refugee assessment

40. 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

41. 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.
42. I have not accepted the applicant was engaged in any Christian activities in Iran. I have accepted that the applicant renounced his Muslim faith whilst living in Iran. I note the applicant did not report any adverse attention from Iranian authorities on this basis or provide evidence that he publicly criticised Islam. In the post-interview submission from the migration agent, he stated that the applicant will engage in non-Islamic behaviour such as drinking alcohol, dress in a Western manner and would not fast during the month of Ramadan in the future, which will place him at risk of harm in Iran. I do not accept that the applicant would, or intends to, consume alcohol or dress in a Western manner if he were to return to Iran. Apart from the assertion by the agent in the post-interview submission, the applicant did not otherwise suggest at any stage during the protection visa application process that these were his intentions. Given I have accepted the applicant renounced his Muslim faith it is possible he may not fast during Ramadan.

43. A Muslim who leaves the faith can be charged with apostasy and according to the Department of Foreign Affairs and Trade (DFAT) in a 2018 report, death sentences in apostasy cases are now rare.¹¹ Country information indicates that abstaining from Muslim rituals is not usually monitored by Iranian authorities and a large proportion of Iranians do not regularly attend mosques.¹² DFAT reports that people who are critical of Islam and the Koran in a public forum, like on social media, can face the death penalty or imprisonment.¹³
44. I note that the applicant claimed to have renounced his Muslim faith some time prior to leaving Iran but did not provide any evidence of harassment from authorities as a result of doing so whilst he continued to live in that country. Noting this, the fact that I have not accepted that he has shared religious material online and the country information outlined above, I am not satisfied he faces a real chance of any harm for reasons of religion.
45. I have accepted that the applicant worked in the film and cinema industry and experienced some low level harassment from authorities in Iran regarding censorship issues and the inability to [complete work tasks] despite possessing valid permits. I note that the majority of his work history was in [another] industry, with only the last two to three years of his time in Iran spent working in the film and cinema industry. The applicant has not given any indication of a desire or plan to return to work in the film and cinema industry or that there is a current offer of employment in this industry awaiting him if he were to return to Iran. I am not satisfied that the applicant is returning to a role in the film and cinema industry in Iran in the foreseeable future. Even if he were to, I am not satisfied the harassment he might face from authorities would amount to serious harm and find if it did occur would only be of a low level and similar in nature to what he had experienced previously.
46. The applicant said if he were to return to Iran he would be arrested and interrogated by the Sepah at the airport because he can only travel illegally to Iran because he does not have a passport. In the post-interview submission, the agent said that the applicant would be questioned and detained by the Iranian authorities should he be forcibly repatriated and that authorities are likely to ascertain significant details about his time spent abroad in Australia by searching through the family's personal belongings, telephone records as well as [social] media activity.
47. I have accepted that the applicant is likely to be identified by Iranian authorities as a returning asylum seeker if he were to return to the country but the applicant's assertions that he will face harm on this basis is not supported by the country information.
48. In June 2018 DFAT reported that Iranian authorities pay little attention to failed asylum seekers on their return to Iran and have little interest in prosecuting failed asylum seekers for activities conducted outside Iran, including the making of protection claims.¹⁴ According to DFAT, an Iranian who no longer possesses a valid passport can obtain temporary travel documents through a program run by the International Organisation for Migration (IOM) to assist voluntary returnees to Iran.¹⁵ Authorities usually question a voluntary returnee, only if

¹¹ Department of Foreign Affairs and Trade (DFAT), "DFAT Country Information Report: Iran", 7 June 2018, CIS7B839411226.

¹² LSE Middle East Centre (United Kingdom), "The Revival of Nationalism and Secularism in Modern Iran", November 2015, CISEC96CF14725.

¹³ DFAT, "DFAT Country Information Report: Iran", 7 June 2018, CIS7B839411226.

¹⁴ Ibid.

¹⁵ Ibid.

they have already come to official attention, such as by committing a crime in Iran before departing.¹⁶ I don't regard the applicant as falling within this class of persons.

49. I have not accepted that the applicant was of interest to the Iranian authorities prior to him leaving Iran. There is no credible information before me which indicates the applicant has come to the attention of Iranian authorities since leaving Iran or arriving in Australia.
50. Prior to a Memorandum of Understanding (MOU) being signed on 19 March 2018 between Australia and Iran, Iran refused to issue travel documents to allow involuntary returnees to return to the country. That MOU however only covers returnees who arrived in Australia after it was signed.¹⁷ The applicant is not such a person. If he is to return, I consider it would only be on a voluntary basis.
51. The country information before me does not support a finding that persons who are not of interest to the Iranian authorities and have sought asylum in Western countries, such as Australia and resided there for a significant period, are imputed to hold an anti-Iranian government political opinion or that they are suspected of being a spy or face a real chance of harm on that basis. I am not satisfied the applicant would face any questioning if he were to return to Iran or that he faces a real chance of any harm on this basis.
52. I am not satisfied the applicant has a well-founded fear of persecution.

Refugee: conclusion

53. 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).

Complementary protection assessment

54. 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

55. 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.

¹⁶ Ibid.

¹⁷ Ibid.

56. I have not accepted the applicant would return to a role in the film and cinema industry in Iran in the foreseeable future and even if he did, I do not accept the harassment he might face from authorities arises to significant harm as defined in s.36(2A) of the Act.
57. I accept that the applicant has been baptised, attended church services, engaged in church related activities and engaged in studies of Christianity whilst in Australia. However, I do not accept the applicant is a genuine convert to Christianity, or has a genuine interest in Christianity. Nor do I accept that he has any interest in pursuing this faith on return to Iran. DFAT reports that those who convert to Christianity outside the country are unlikely to face adverse attention from authorities provided they have not previously come to the attention of authorities, maintain a low profile and do not engage in proselytization within the country.¹⁸ The country information does not suggest that those who have engaged in Christian activities abroad, and do not continue to do so on return are of any interest to the Iranian authorities. I have found the applicant was not of interest to the authorities in Iran previously and I have not accepted the applicant's conversation to Christianity is genuine, I am not satisfied he would proselytise or do anything that might result in him obtaining a profile with the authorities on this basis if he were to return to Iran. I am not satisfied there is any risk of harm faced by the applicant as the result of his activities in Australia, even if known to the Iranian authorities.
58. I have otherwise concluded that the applicant does not face a real chance of any harm for the reasons claimed. As 'real chance' and 'real risk' are of the same threshold, I am therefore satisfied that the applicant does not face a real risk of harm, including significant harm, on these other bases.

Complementary protection: conclusion

59. 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

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

¹⁸ Ibid.

Applicable law

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.