

Iran: Country facts and UK legal practice for British churches

Faith conversion claims in asylum law

Summary

British court decisions show that immigration judges, even if accepting genuine conversion, nevertheless refuse asylum appeals of Iranian Christians as based on 'no personal risk on return'. For Iranian converts from Islam in British parishes therefore, the quality of both their legal representation and of their church's witness, is crucial. Iranian Christians who return as failed asylum seekers will have to operate within a very narrow social, and persecutory framework. Country legal and social evidence shows why.

During autumn 2005 CRN began to receive a steady flow of queries from churches who received Iranian asylum seekers as parishioners some of whom were converts from Islam. All these stories clearly showed that both our immigration service staff and our courts are ill informed to the point of denial about the conditions under which religious minorities live in Iran, and indeed evinced serious ignorance about the teaching and practices of Christian churches in the United Kingdom. This article summarises a CRN seminar under 'Chatham rules' (eg. unattributable participants' views) with expert input on both asylum law and the Iran country situation, at which supporters of Iranian Christian asylumseekers could discuss their experiences and gain information and support.

Legal aspects

Claiming asylum

The main problem, as always with asylum seekers, turned out to be persuading the authorities of an applicants' credibility, and of the individual risk they are deemed to run on return. A striking feature of denial of asylum rights is the statutory liking for destroying an asylum seeker's credibility because then more weighty legal arguments need not be addressed. Where that is difficult, experts are treated dismissively. A further problem was the treatment given by both IND and IAT courts to clergy witnesses. Applicants may claim asylum at port, ('port applicants'), or in-country, if conditions in their country of origin have changed since their arrival in the UK (refugees 'sur place'). Those who arrived well before claiming asylum are at risk of having their credibility rejected. Since Iranians often arrive 'trafficked' in the back of lorries, and need time to get proper advice, post-arrival explanations of delayed applications must be made with carefully reasoned detail also as to the journey and why asylum was not claimed en route. Leaving Iran without a regime 'exit visa' will pose a legal and often political risk on return as a refused asylumseeker.

Problems for most applicants are: solicitor capacity/availability, trauma disclosure, distrust of authority.

Legal representation

The 'merits test' for public funding

Legal actions by solicitors are subject to 'merits test' for grant of Legal Aid ('CLR') by the Legal Services Commission threshold at an undefinable 50% likelihood of success. Solicitors have become far too cautious because too many failed applications will rebound on a future review of their LSC contract.

For those at end of legal procedure, case law ('Rahimi', 2005, Collins J.) has to date confirmed the principles applicable to 'Fresh Applications' based on new evidence, either individual, or about changes in the country. Basically it reasserts jurisdiction of the court on decisions of evidential quality, not the Home Office's. Stereotyped 'First Refusals' of a 'Fresh Application' by IND offer a good solicitor creative opportunities for rebuttal: Eg. The Lebanese ex military, disbelieved about all aspects of combatant experiences, whose solicitor arranged for him to take a stringent gun expertise test which he passed with ease..... Concern was expressed about decision making by non-Christians: Not so much prejudice, rather, superficial and often with an ill informed understanding of Christian concepts.

Legal crux of Iran conversion cases

To answer this question, we must look at current Iran Country Information, and the IAT courts' treatment of issues arising from it.

'Proselytizing' versus 'quiet faith practice'

The ingrained UK statutory attitude to be confronted is that is acceptable for a believer (or, analogously, a gay person) to have to suppress their faith identity and any normal behaviour which expresses this. A Human Rights interpretation of this point would assert that to prevent expression of a major aspect of personality such as faith or gender orientation, is a form of persecution. Legal decisions agreeing with the assertion that forcing a person to hide discreetly such fundamentals of their identity is a form of persecution: Caselaw: UK case ('J'), also Australian case ('NABD/2005, HCA-29/S70-2004

The judicial distinction between 'active proselytising' and 'mere' faith practice remains the main criterion of court success in determining conversion cases despite current expert argument on its' flaws. Western Country of Origin Information is often inaccurate, see especially also on risk to/ treatment of gays. A Country Guidance court decision promulgated in July 2005 also challenges the accuracy of Home Office views (see MM and BB. CG [2005] UKIAT 00117) The Court of Appeal's decision 'Shirazi' (C1/2003/0459) did accept in part there is a risk to converts, and somewhat lessened by now habitual statutory distinction between 'active proselytiser-at-risk', and 'quiet believer-not-at-risk'. Yet it discounted the appeal's expert advice that participation per se of a convert from Islam in the so-called 'proselytising' churches would, depending on the political and other circumstances, be a risk factor. A chronology of more recent evidence shows that such experts' risk advice increasingly is a reality. (See further down) **The Shirazi decision too confidently rejected the fact that our information about the difficulties and dangers faced by converts is incomplete.** The Foreign Office accepts this is so: A Hansard entry records the following statement by the Foreign Secretary prior to a Parliamentary Committee visit to Iran in October 2003, eg. BEFORE the Shirazi decision in November:

- "We did not hear any criticism of the Iranian authorities from the official representatives of minority faiths, and neither did we expect to hear any." Other evidence suggests, however, that religious converts, in particular, have been persecuted. The Foreign Secretary told us that: Under Iranian law, apostasy—conversion from Islam to Christianity or any other religion—is a crime and in theory may be punished by death. Accurate information about the actual treatment of converts or those who seek to convert others is hard to obtain and we do not have a full picture. We are not aware of cases where the death penalty has been used on Christian converts in the period since President Khatami was first elected in 1997. In 1994, a Christian convert in Mashhad, a pastor, was reportedly charged with evangelising and subsequently executed. We have also heard reports of the extra-judicial killing of Christians for evangelising, most recently in 2000 in Rasht. While some converts who keep a low profile appear not to face significant harassment by the authorities, others may be subject to restrictions or punishment.

Iran: Facts of life and law for religious minorities

Country experts present noted that in today's Iran, much Christian religious behaviour is 'framed' as 'political': In part this is a function of theocratic tendencies but also because converts are perceived as linked to 'Western' and hence hostile or corrupting influences. In the Iranian statutory framework, you do not have to be formally baptised to be considered an 'apostate'.... Furthermore, aspects of the Iranian criminal law, based on Khomeini's interpretation of the Sharia are extremely persecutory.

There are three categories of 'at risk' persons:

- Faith leaders and proselytisers
- Single women
- Those with a dissenting political past.

Patterns of repression in Iran are often arbitrary; persecution can arise from any direction and might be triggered by a malicious neighbour, an angry relative, work colleagues, economic/financial reasons, as well as the "interest" of the authorities. It's main characteristic is its unpredictability.

'Old' and 'New' Christians

Converts have serious economic as well as social disadvantages: 1) Cannot obtain State employment 2) Cannot work for large companies, 3) Private companies are easily State influenced. Anglicans and Assembly of God (Pentecostal) believers are the main targets of persecution. The Roman Catholic community is small. The children of converts are not permitted to enter Armenian (Christian) schools. The recognised and historical minorities are those of the 'People of the Book': Armenian and Assyrian Christian communities, Zoroastrians and Jews. Most likely to be targeted are those from within a Protestant framework who are not within the recognised ethnic minorities.

Persecution comes in cycles and may build up slowly after a period of relative calm. After a lull which lasted for some five to seven years, Anglicans in Isfahan in 2003 were forbidden to worship. They remain under hostile scrutiny. The fundamentalist reaction to reformist policies, culminating in the recent accession of an ultra-right presidency is the major factor. The Shirazi decision does not take this into account, since the Khatami government was perceived as relatively benign and the cycle was only just beginning when the case was heard (March 2004) One attempt to compensate for this loss of religious freedom has been the house church movement. This new phenomenon arose in response both to the closure of churches in the 1990s and to the activities of (about 6) evangelical broadcasting channels, mainly based in the US. These channels have made clearly exaggerated claims about the number of conversions over the period early 2003–2005 which the Iranian government is well aware of: Officials and religious leaders have been responded with comments for about 18 months on 'secret housechurches under imperialist influence'. A chronology presented of recent events shows a renewed wave of persecution of members of the non-recognised religious minorities, Christian and other, notably Sufis, and Bahais. Often such arrests are brief. In this case while worshippers were held for around a week the leaders were detained for some 2 months.

The religious expert witness

How to 'prove' someone's conversion is 'genuine'

Using the model witness statement provided by CRN elsewhere on this website, carefully write your statement beforehand, and pass to the solicitor in good time for critical comment, or if none, to the court in good time. When appearing in person for cross examination, expect to be treated as a 'naïve do-gooder being manipulated by devious asylum seeking economic migrants who pretend for the sake of seeking to benefit'.....Answer such perceptions with neutral and precise observations supporting your views. Be prepared to deal with the automatic assumption that the church has an agenda to generate converts. Where necessary, say: 'I rely on my witness statement', so variant repetitions in cross examination cannot be used against your charge's case.