

APPEAL HEARING

BETWEEN:

Reza Karkhah Appellant

Expert witness statement

1. I, Dr Martin David Parsons have been instructed by Andrew Storch Solicitors representing the claimant, to prepare an expert independent witness statement.

2. My principal qualifications to act as an expert witness in this case include the following: A first class honours degree in Theology and a PhD in Christian and Islamic Theology (Brunel University, 2005). I am also the author of a major academic book on Islam and Christian-Muslim Relations published in the USA as well as a number of published articles in this field. I have also lived and worked as an overseas aid worker for a number of years in two Islamic countries both of which border Iran. I have been elected as a member of the following learned societies: Tyndale Fellowship for Biblical Research and I am a Fellow of the Higher Education Academy (FHEA). I have been faculty member of the Oxford Centre for Religion and Public Life where I was involved in supervising postgraduate research in association with the University of Stellenbosch, South Africa. I have also previously been Head of Research and Director of Studies at the international headquarters of a Christian organisation specialising in freedom of religion or belief with a particular focus on the Islamic world. I have previously been an expert witness for a number of cases in the UK court system. I have attached my CV as appendix 1.

3. I have been provided with the following material:
 - a) Letter of instruction.
 - b) Full bundle from 2017 asylum application.
 - c) Copy of social media posts since 2015. [translation to follow].

4. My instructions were to advise on:
 - a) The persecution of Christians in Iran.
 - b) The likelihood that Mr Karkhah would face persecution for his faith if he returned to Iran.
 - c) What in particular is likely to happen to him on return.

I have also with the agreement of the instructing solicitor included an additional note providing contextual background to two issues raised in the original judgement.

A) The persecution of Christians in Iran

International designations

5. Iran is one of the worst countries in the world for violations of Freedom of religion or belief, including for Christians. It is currently subject to the following international resolutions and designations for religious freedom violations:

United Nations

6. In March 2011 the UN Human Rights Council adopted a resolution re-establishing the mandate of a Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. On 6 July 2018, Professor. Javaid Rehman was appointed as the third Special Rapporteur on the situation of human rights in the Islamic Republic of Iran since re-establishment of the mandate.¹

7. In 2015 the UN General Assembly passed a resolution which

*14. Expresses serious concern about ongoing severe limitations and restrictions on the right to freedom of thought, conscience, religion or belief and restrictions on the establishment of places of worship, as well as attacks against places of worship and burial, as well as other human rights violations, including but not limited to harassment, persecution and incitement to hatred that lead to violence against persons belonging to recognized and unrecognized religious minorities, including Christians...*²

8. US Commission on International Religious Freedom (USCIRF).

Iran is designated a 'Tier 1 country of particular concern' (CPC) by the US Commission on International Religious Freedom. This is the highest such designation and only applied to countries meeting specific criteria set out in the US International Religious Freedom Act 1998 (IRFA) which requires the U.S. government to designate as a CPC any country 'whose government engages in or tolerates particularly severe religious freedom violations, meaning those that are systematic, ongoing, and egregious.'³

9. The US Commission on International Religious Freedom (USCIRF) is an independent, bipartisan U.S. government advisory body, separate from the U.S. Department of State, which monitors religious freedom abroad and makes policy recommendations to the President, Secretary of state, and Congress. USCIRF bases these recommendations on its statutory mandate and the standards in the Universal Declaration of Human Rights and other international documents.⁴

¹ United Nations Human Rights 'Special Rapporteur on the situation of human rights in the Islamic Republic of Iran' <<https://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/IR/Pages/SRIran.aspx>> [accessed 11 July 2019].

² Resolution adopted by the General Assembly on 17 December 2015 70/173. *Situation of human rights in the Islamic Republic of Iran* <<https://undocs.org/en/A/RES/70/173>> [accessed 8 July 2019].

³ US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):5 <<https://www.uscirtf.gov/sites/default/files/2019USCIRFAnnualReport.pdf>> [accessed 8 July 2019].

⁴ US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):4.

10. US State Department

In December 2018 Iran was one of only 10 countries in the world designated a country of particular concern for religious freedom violations by the US State Department under the terms of s.402(b) of the US International Religious Freedom Act, 1998.⁵

Freedom of religion or belief

11. Curtailment of the human right to freedom of religion or belief (FoRB) typically occurs through the actions of i) state actors ii) non state actors. In Iran both occur and the lack of an independent government judiciary means that individuals have no effective legal recourse when their basic right to FoRB are curtailed.

Restrictions on Freedom of Religion or Belief in Iranian law

12. Iran is a theocracy and the only country in the world where (Twelver) Shi' Islam is the official state religion. Article 12 of the Iranian constitution states:

*The official religion of Iran is Islam and the Twelver Ja'fari school [in usul al-Din and fiqh], and this principle will remain eternally immutable.*⁶

13. All laws and international agreements are only valid insofar as they are judged to be compatible with this by the Council of Guardians. Article 4 of the constitution states:

All civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the fuqaha' of the Guardian Council are judges in this matter.

The status of international agreements relating to Freedom of Religion or Belief

UNDHR and ICCPR

14. Prior to the 1979 Iranian Islamic Revolution the Iranian government had voted for the original 1948 Universal Declaration of Human Rights⁷ and in 1975 had also ratified the International Covenant on Civil and Political Rights (ICCPR).⁸ However, in practice this has become meaningless because:

⁵ 'Secretary of State's Determination Under the International Religious Freedom Act of 1998 and Frank R. Wolf International Religious Freedom Act of 2016' Federal Register 21 December 2018

<<https://www.federalregister.gov/documents/2018/12/21/2018-27632/secretary-of-states-determination-under-the-international-religious-freedom-act-of-1998-and-frank-r>> [accessed 8 July 2019].

⁶ *Iran (Islamic Republic of)'s constitution of 1979 with amendments through 1989* – English translation published by Comparative Constitutions Project

<https://www.constituteproject.org/constitution/Iran_1989.pdf?lang=en> [accessed 8 July 2019].

⁷ 'International Bill of Human Rights : Universal Declaration of Human Rights : resolution / adopted by the General Assembly 1948' *UN Digital Library*

<<https://digitallibrary.un.org/record/670964?ln=en&p=Resolution+217%28III%29+A>> [accessed 8 July 2019].

⁸ United Nations, 'Status of the International Covenant on Civil and Political Rights'

<http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#13> [accessed 8 July 2019].

- i) No government since the revolution has ever formally stated that it upholds either of these.
- ii) The Iranian constitution introduced immediately following the 1979 Iranian Islamic revolution explicitly states that both the constitution and ‘all other laws’ must be compatible with Islam as judged by the Council of Guardians (see above on article 4 of the constitution).
- iii) Iran has signed the Cairo Declaration on Human Rights in Islam the final two articles of which state:
 - 24. *All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.*
 - 25. *The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.*⁹
 A similar statement to this is also made in Article 14 of the Iranian constitution.

The Iranian legal system

Iranian law

15. Iranian statute law is based on *shari'a* (Islamic law) of the Ja'fari *madhab* (school of Islamic jurisprudence), and it is the constitutional responsibility of the Council of Guardians to ensure that all law is fully compatible with *shari'a*. However, where elements of *shari'a* have not been codified into statute law, the Iranian constitution requires judges to deliver their verdict ‘on the basis of authoritative Islamic sources and authentic *fatawa*’.¹⁰ This is of some significance for Iranians who have converted from Islam to Christianity, as the Shi'a (Ja'fari) school of Islamic law which article 12 of the Iranian constitution makes ‘*the official religion of Iran*’ requires the death penalty for any adult, sane male who leaves Islam for another religion.

Lack of an independent judiciary

16. Iran lacks an independent judiciary in the sense in which this term is normally understood in the west. Consequently even the very limited protection for Christians that Iranian law theoretically provides are unenforceable. In 2017 the UN Special Rapporteur in Human Rights in Iran reported that: *The legal profession in the Islamic Republic of Iran is not independent. The Law on the Qualifications of Attorneys, enacted in 1997, gives the judiciary the authority to vet and exclude candidates from holding positions in the bar association.* It also noted that at least 50 lawyers have reportedly been prosecuted since June 2009 for representing prisoners of conscience, political detainees or “national security” prisoners.¹¹

17. NOTE: Although the Iranian constitution claims that ‘*the judiciary is an independent power*’,¹² what this means in practice is that the judiciary as guardians of Islamic law

⁹ *Cairo Declaration on Human Rights in Islam*, Aug. 5, 1990, U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993) [English translation] reproduced by University of Minnesota Human Rights Library <<http://hrlibrary.umn.edu/instate/cairodeclaration.html>> [accessed 8 July 2019].

¹⁰ Iranian Constitution articles 4 and 167. NB *fatawa* is the plural of *fatwa* an Islamic legal opinion.

¹¹ United Nations General Assembly *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran* 17 March 2017 <https://www.ecoi.net/en/file/local/1416736/1930_1510070608_g1706926.pdf> [accessed 11 July 2019].

¹² Article 156.

exercise a degree of political control over the government. For example, the constitution states that the head of judiciary is appointed directly by the Supreme Religious Leader (Ayatollah Sayyed Ali Khamenei), with the head of the judiciary in turn nominating suitable persons to be the Minister of Justice.¹³ The head of the Judiciary also nominates six members of the Guardian Council, with the other six council members appointed directly by the Supreme Religious Leader.¹⁴ The Council of Guardians rule on whether parliamentary laws are compatible with *shari'a* (i.e. Islamic law), and approve persons to stand for election as President and members of parliament with the latter being deemed merely an 'Islamic consultative assembly'.¹⁵

Revolutionary courts

18. The Iranian legal system employs a variety of different types of courts. For certain types of offences, especially those said to 'undermine the Islamic Republic', cases are heard at Revolutionary Courts, which were set up following the 1979 Islamic revolution. In these courts hearings are secret, charges and evidence are not made public and the verdicts are reached by a single judge. Cases may last as little as 15 minutes with those accused even being tried and convicted *in absentia* before being sentenced to punishments such as lengthy terms of imprisonment, whipping or internal exile. Those who criticise the decisions of a revolutionary court have themselves been arrested.¹⁶ The power given to individual judges can leave apostates from Islam facing severe penalties, especially if the judge is strongly conservative.

Lack of independent legal representation

19. In January 2018 it was announced that prisoners accused of political offences in Iran, which includes Christians accused of religious offences, would no longer be able to choose their own lawyers and will instead be represented in court by lawyers from a small list of government approved lawyers. Iranian Christians from Muslim backgrounds are frequently detained under political charges and accused of crimes such as threatening state security. It has subsequently emerged that a number of the 20 lawyers on the government's list are notorious government prosecutors, including a judge who has handed down hundreds of death sentences.¹⁷

The legal status of Christians

20. Iranian law differentiates between ancient Christian communities such as Armenian and Assyrian Christians and those who have converted to Christianity from Islam.

a) Members of ancient Christian communities are legally recognised and according to Article 13 of the Iranian constitution, which states that:

¹³ Article 160.

¹⁴ Article 91.

¹⁵ Articles 72, 94.

¹⁶ US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):52-53.

¹⁷ 'Who Are the State-Vetted Lawyers Exclusively Allowed to Defend Detainees Facing Political Charges in Iran?', Center for Human Rights in Iran, 12 June 2018 <<https://www.iranhumanrights.org/2018/06/who-are-the-state-vetted-lawyers-exclusively-allowed-to-defend-detainees-facing-political-charges-in-iran/>>.

within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education.

21. This amounts to a degree of freedom of worship, though not full freedom of religion of which freedom of worship is only one aspect. It is essentially akin to the *dhimmi* status that Islamic law permits an Islamic ruler to grant to those born as Christians allowing them to live provided they worship behind closed doors, do not criticise Islam, and are subservient to Muslims. In Iran such churches are only allowed to worship in ancient Christian languages and NOT in Farsi i.e. Persian, the Iranian national language spoken by the majority of the population. The official Iranian census figure for the number of Christians in the country only records members of these ancient Christian communities and they have notional representation in the Iranian parliament of 2 Armenian and one Assyrian members. A small number of Latin Catholic and Protestant Churches serving expatriates in Tehran are also legally registered. They too are forbidden from using Farsi in church services. All officially registered churches are rigorously monitored by the Iranian regime, including by the use of informers.¹⁸

22. However, despite their official registration even these churches still face various forms of harassment, as a 2013 report by the International Campaign for Human Rights in Iran observed:

However, Armenians and Assyrians in Iran also suffer government restrictions. Ethnic denominations are not allowed to hold services in the Persian language and authorities expect them to exclude non-Armenians and non-Assyrians from services. Many churches have experienced surveillance or have been forced to report their activities to the government. The Ministry of Culture and Islamic Guidance also limits churches' ability to renew their licenses, renovate their houses of worship, and buy and sell church-owned property. Furthermore, according to rights advocates, authorities have not allowed the construction of any new church buildings, including those of Orthodox Armenians and Assyrians, since the 1979 Revolution.¹⁹

b) 23. Christians of Iranian heritage who have either converted to Christianity from Islam or their parents or grandparents have done so. They are predominantly Farsi speaking and very unlikely to know ancient Christian languages such as Armenian. Their status as Christians is not legally recognised by the Iranian authorities and they are subject to severe persecution. Churches which have Farsi speaking congregations are particularly targeted by the Iranian authorities and are often referred to as either 'Evangelical' churches or 'house' churches.

24. This distinction between on the one hand churches serving ancient Christian communities and on the other hand Evangelical or house churches is vital to understanding the context of persecution of Christians in Iran.

¹⁸ The Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* ver.5.0 May 2019 s.8.1.1 acknowledges this.

¹⁹ *Iran: the Cost of Faith – The Persecution of Protestants and Converts in Iran* (New York: International Campaign for Human Rights in Iran):19.

25. In particular, an Iranian Christian who only spoke Farsi would have significant difficulty meeting with other Christians to worship, and would thereby be denied not merely the right to manifest his faith in public or in private – but even freedom of worship.

Punishment of apostasy in Islamic law and the Iranian Penal Code

The shari'a penalty for apostasy – judicial execution of Christian converts from Islam

26. In the Ja'fari school of Islamic law any sane adult male who leaves Islam for another religion, which is deemed apostasy, should be executed. Any sane female Muslim who similarly leaves Islam is to be imprisoned and beaten with rods until she repents or dies, while a male minor who leaves Islam is executed on reaching adulthood. Although there is as yet, no specific statute law specifically criminalising 'apostasy' from Islam, as noted in paragraph 15 above, in the absence of a specific codified statute offence, the Iranian constitution requires judges to rely on '*authoritative Islamic sources and authentic fatawa*'. It was on this basis that Rev Hussein Soodmand was hanged for being a convert from Islam in an official execution by the Iranian authorities in December 1990. The execution took place in the prison where he was being held.²⁰

27. There have been no known official executions for apostasy since then, almost certainly due to international pressure. However, it remains perfectly legal for an Iranian judge to sentence to death a Christian who has converted from Islam in this way. While since 2008 there have been moves to introduce a formal apostasy law.

Extra judicial execution of the shari'a penalty for apostasy by state agents murdering Christian converts from Islam

28. Subsequent to the execution of Rev Hussein Soodmand, the Iranian authorities initially sought to punish those who left Islam by means of extra judicial murder. For example, Rev Mehdi Dibaj a Christian convert from Islam was imprisoned for being an apostate from 1985 and sentenced to death in December 1993. However, following an international outcry he was released in January 1994, although the death sentence was not lifted. Three days later his friend Bishop Haik Hovsepian Mehr - who had campaigned for Dibaj's freedom - was abducted and murdered. Then in June that year Dibaj was also abducted and then found dead in mysterious circumstances a month later.²¹

29. The lack of an independent judiciary – or even an independent parliament, means that Christians in Iran lack any form of legal or political recourse when state agents act in an extra judicial manner.

Use of vaguely worded offences to imprison Christian converts from Islam

30. More recently, the Iranian authorities have used vaguely worded laws to arrest and imprison those who have converted to Christianity from Islam.

²⁰ Alasdair Palmer, 'Hanged for being a Christian in Iran', *Telegraph*, 11 October 2008 <<http://www.telegraph.co.uk/news/worldnews/middleeast/iran/3179465/Hanged-for-being-a-Christian-in-Iran.html>> [accessed 12 November 2018].

²¹ 'Obituary: Mehdi Dibaj' *Independent* 7 July 1994 <<https://www.independent.co.uk/news/people/obituary-mehdi-dibaj-1412186.html>> [accessed 8 July 2019].

31. Article 286 of the Iranian Penal Code dealing with *Efsad-e-fel-arz* (causing ruin on earth by acting against national security, disrupting public order or causing distribution of corruption) and Article 279 dealing with *Moharebeh* (unlawful warfare against God)²² are vaguely worded offences which have been widely interpreted so as to be used against all types of non-conformity, including Christian belief. They are both treated as *hudud* offences i.e. with a specific penalty set out in *shari'a* with the Penal Code stipulating a maximum penalty of execution for either offence.

32. Article 262 of the Penal Code *Sabb-e-Nabi* (Swearing at the Prophet) can also be used to convict a person for anything considered an insult to Muhammad. The penalty is execution, or if merely quoting someone else 74 lashes.

Chapter Five- *Sabb-e nabi* (Swearing at the Prophet)

Article 262- Anyone who swears at or commits *qazf* against the Great Prophet [of Islam] (peace be upon him) or any of the Great Prophets, shall be considered as *Sāb ul-nabi* [a person who swears at the Prophet], and shall be sentenced to the death penalty.

Note- Commission of *qazf* against, or swearing at, the [twelve] *Shi'ite* Imams (peace be upon them) or the Holy Fatima (peace be upon her) shall be regarded as *Sab-e nabi*.

The prospect of execution for apostasy being formally incorporated into the Iranian Penal Code

33. In September 2008, the Iranian Parliament gave provisional approval to a bill that mandated the death penalty for any male Muslim who converted from Islam to another religion, and lifelong imprisonment for female apostates. This would incorporate the death penalty for apostasy into Iranian statute law itself. Although this has yet to be formally passed into Iranian law, the support given to this bill by significant figures in the Iranian regime points to the likelihood that at some point in the future such a law will become a formal part of the penal code in Iran.²³ Although it should be noted that because apostasy is a *hudud* offence in *shari'a* judges are already able to sentence Christians who have converted from Islam to death, as was the case with the execution of Rev Hussein Soodmand for apostasy.

Examples of persecution faced by Christian converts from Islam

34. **Youcef Nadarkhani**, was brought up as a Muslim, but converted to Christianity at age 19 in 1996. He was first arrested in 2006 and charged with 'apostasy' and 'evangelism' but released two weeks later. In October 2009 he was again arrested while applying to register the church he was then pastor of. He was charged with opposing government education policy as he had argued that as the Iranian constitution permitted parents to raise children in their own faith, his two sons then aged 8 and 6 should not be forced to learn the Qur'an at school. These charges were subsequently amended to 'apostasy' and 'evangelism'. On

²² For ET of this section of the Penal Code of 'Iran: Islamic Penal Code' *UNHCR RefWorld* <<https://www.refworld.org/docid/518a19404.html>> [accessed 9 July 2019].

²³ 'Iran: The Cost of Faith', International Campaign for Human Rights in Iran, 2013 <http://www.iranhumanrights.org/wp-content/uploads/Christians_report_Final_for-web.pdf>.

September 22, 2010, Branch 11 of the Gilan Court of Appeals verbally issued him a death sentence for apostasy, although he maintained that he had not observed any religion before his conversion. Security officials delayed the delivery of Nadarkhani's written verdict and gave him several opportunities to convert to Islam, all of which he refused.

35. On November 13, 2010, officials of the Revolutionary Tribunal finally delivered the written verdict from the trial: execution by hanging. The pastor's attorney, prominent human rights defender Mohammad Ali Dadkhah, appealed the sentence, arguing that apostasy was not a codified crime in the Penal Code reiterating that Nadarkhani had not practiced any religion before converting. In September 2011, the courts once more determined that Nadarkhani had committed apostasy due to being born to Muslim parents and leaving Islam after the legal age of maturity. However, following an international outcry he was retried, and acquitted of apostasy but convicted for 'evangelism' though allowed to leave prison due to the time he had already served.

36. Then, as the US Commission for International Religious Freedom reports:

On May 13, 2016, Iranian Ministry of Intelligence officials in Rasht detained Nadarkhani and his wife, releasing them later that day. Three other Christians arrested with them--Yasser Mossayebzadeh, Saheb Fadaie, and Mohammad Reza Omid-- were detained but later released on bail. However, Nadarkhani was summoned on July 24 and charged with 'acting against national security'. He also was accused of Zionism and evangelizing. He was released the same day on the condition that he raise a 100 million toman bail (USD \$33,000) within a week.

Nadarkhani and his three co-defendants first were tried in Rasht in October 2016, but the court could not reach a verdict so the case was transferred to Tehran. The Revolutionary Court in Tehran held hearings in December 2016 and February and June 2017. During the June hearing, presiding Judge Mashallah Ahmadzadeh reportedly accused their church of annually receiving 500,000 pounds (\$650,000) from the British government. In addition, non-presiding Judge Abolghasem Salavati reportedly disrupted the proceedings by bursting into the courtroom and proclaiming that Christians 'make foolish claims'. On July 6, 2017, the four Christians received a verdict backdated to June 24, 2017. Each was sentenced to 10 years in prison and allowed 20 days to appeal. Nadarkhani received an additional sentence of two years in exile in Nikshahr in southern Iran. Although the four continued to appeal their sentences, with an additional hearing taking place in December 2017, they were informed in May 2018 that their sentences had once more been upheld.

Early in the morning of July 22, 2018, plain clothes authorities raided Nadarkhani's home and took him to the notorious Evin Prison. Authorities reportedly beat Nadarkhani and attacked his son with a taser during the raid. The following day, security forces also raided the homes of Yasser Mossayebzadeh, Saheb Fadaie, and Mohammad Reza Omid, taking them to Evin prison without issuing an official summons.²⁴

²⁴ 'Pastor Youcef Nardarkhani' USCIRF < <https://www.uscirf.gov/https%3A//www.uscirf.gov/youcef-nadarkhani> > [accessed 9 July 2019].

37. This type of persecution is not confined to church leaders but also meted out to ordinary Christians, particularly if they have either contact with non Iranian Christians or social media. For example:

38. **Ebrahim Firouzi's** treatment is of particular relevance to Reza Karkhah's case as he was arrested and imprisoned for both posting Christian material online and contact with foreigners. Ebrahim was first arrested in January 2011 and held in prison for 154 days during which he was repeatedly interrogated before being conditionally released. In March 2013, he was arrested at his workplace by four plain-clothed security officials and imprisoned in the notorious ward 209 of Evin prison where he was interrogated for 10 consecutive days and held there for a total of 53 days. This time he had to post a title deed as bail for his conditional release. Then on July 13, 2013, the Revolutionary Court of Robat-Karim sentenced him to one year in prison to be followed by two years of internal exile for numerous charges, including propagating against the Islamic regime of Iran, organizing evangelistic activities, contact with foreigners and anti-Islamic revolutionary networks outside the country, and administering a Christian website.²⁵ Although he completed his initial sentence in January 2015 the Iranian authorities kept him in prison on new charges and in May 2015 he was sentenced to a further five years imprisonment on the charge of 'action against national security through collusion and gathering'.²⁶ In October 2018 Ebrahim was reported to have been denied access to dental treatment resulting in pain spreading throughout his jaw and face to the extent that he was no longer able to eat food.²⁷

39. Various forms of physical and sexual abuse have been meted out to Christian converts in Iranian prisons. For example:

40. **Maryam Naghash Zargaran** a Christian convert from Islam and former children's music teacher, was arrested in January 2013 and two months later sentenced by a revolutionary court to four years in prison for 'propagating against the Islamic regime and collusion intended to harm national security'. The charges related to her work at an orphanage in Iran set up by an Iranian-American Christian pastor. Ms. Zargaran suffers from a severe heart condition, ASD (atrial septal defect), which required surgery prior to her arrest, she as well as suffering from diabetes, high cholesterol, and arthritis. However, she has been denied some of the medical treatment she requires.

41. As the US Commission for International Religious Freedom report:

²⁵ 'Ebrahim Firouzi, a Christian Convert, Arrested for Second Time', *Mohabat News*, 28 August 2013 <http://www.mohabatnews.com/index.php?option=com_content&view=article&id=6519%3Aebrahim-firouzi-a-christian-convert-arrested-for-second-time&catid=36%3AIranian-christians&Itemid=248>.

²⁶ 'Two Iranian Christians sentenced to a total of ten years in prison' *Mohabat News* 1 May 2015 <> [accessed 9 July 2019].

²⁷ 'An imprisoned Christian convert, Ebrahim Firouzi, is deprived of medical services' *Mohabat News* 16 October 2018 <<http://mohabatnews.com/en/?p=4107>> [accessed 9 July 2019].

On September 29, 2013, she was transferred from Evin prison to Modares hospital for treatment after an apparent heart attack, and then sent back to prison at an unknown date. On May 26, 2016, she launched a hunger strike to protest the authorities' lack of attention to her medical needs and refusal to grant her conditional release or medical leave. On June 6, 2016, she was granted temporary medical leave following her hunger strike. She was forced to pay a deposit bond of 350 million toman (approximately \$100,000) in order to be able to leave prison. On June 19, the court ordered Ms. Zargaran to return to prison. Since Ms. Zargaran was still sick, her family applied for an extension. However, the Office of the Prosecutor refused to extend her medical leave and threatened to keep the bond money. On June 27, members of her family escorted Ms. Zargaran back to Evin Prison.

On July 15, 2016, Ms. Zargaran launched an indefinite hunger strike to demand her immediate and unconditional release from prison because of the insufficient treatment of her medical issues. Prison officials examined her five days later and issued a report confirming the seriousness of her condition. Although she again demanded to be released for medical treatment, the Iranian Ministry of Intelligence denied her request and she ended her hunger strike at the beginning of August 2016.²⁸

42. She was also refused hospital treatment after being beaten up by another prisoner and was also subjected to strip searching and sexual assault by prison guards while in prison.²⁹

Maryam was released from prison on August 1, 2017, having served more than her full four year sentence. Immediately before her release, she was unexpectedly taken to a courtroom, where the prison's medical staff accused her of insulting them, although it is unclear whether any new charges were filed against her. After her release, she reported that she had been given unnecessary anti-psychotic medication in prison and that the government also banned her from leaving Iran for six months.³⁰

The trends in state persecution of Christian converts from Islam

Increasing spread of persecution since 2010

43. In a 2013 report the International Campaign for Human Rights in Iran noted a significant increase in persecution of Protestant Christians, especially converts from Islam. This was not so much an increase in the severity of persecution, but in its extent, with arrests of ordinary church members as well as church leaders:

In 2005, coinciding roughly with the election of President Mahmoud Ahmadinejad, the Iranian government ramped up its repression of Christian house churches, Persian-language Protestant churches, and converts. It has further intensified its efforts since

²⁸ 'Maryam Naghash Zargaran (Released)' US Commission on International Religious Freedom <<https://www.uscirf.gov/maryam-naghash-zargaran-released>> [accessed 9 July 2019].

²⁹ 'Suspicious injuries sustained by Christian prisoner, Maryam Naghash Zargaran at Evin prison' Mohabat News 13 June 2017 <<http://mohabatnews.com/en/?p=3550>>; 'Female Christian prisoner strip searched upon her return to prison' Mohabat News 26 November 2014 <<http://mohabatnews.com/en/?p=2023>> [both accessed 9 July 2019].

³⁰ 'Maryam Naghash Zargaran (Released)' US Commission on International Religious Freedom <<https://www.uscirf.gov/maryam-naghash-zargaran-released>> [accessed 9 July 2019].

2010, under the rationale that evangelicals are a deviant form of Christianity, different from state-recognized Christianity, and that the house church movement is linked to “Western powers” and “Zionists” who are waging a soft war against the regime. As such, Iranian government, judiciary, security, and intelligence agencies have increasingly treated Protestant converts as a national security threat. Indeed, since 2005 authorities have arrested and prosecuted Protestants most often for security crimes against the state. Reflecting the increasingly political nature of its repression against this community, Iran’s Revolutionary Guard Intelligence Organization has reportedly taken over the oversight of Christian churches in Iran.³¹

Increases in persecution of Christians by the Iranian government from 2018

44. The 2019 report of the US Commission on International Religious Freedom records a further very significant increase in persecution of Christians during 2018:

In 2018, Iran drastically escalated its arrests of Christians. Whereas 16 Christians were arrested in Iran in 2017, at least 171 were arrested in 2018. While Iran often arrests Christians ahead of Christmas, arrests in 2018 began earlier and took place in a wider set of cities and towns than usual. A total of 114 Christians were arrested in Iran during the first week of December 2018 and more than 150 were arrested between November and December 2018. Christians arrested in Iran are often treated and charged as enemies of the state, and lawyers who take on their cases face the threat of detention. In September 2018, for example, Iran revolutionary court judges Mashallah Ahmadzadeh and Ahmad Zargar affirmed sentences levelled in 2017 against Saheb Fadaie and Fatemeh Bakhteri on the charge of “spreading propaganda against the regime.”³²

Monitoring of Christians by the Iranian authorities

Monitoring of Christians inside Iran

45. In Iran Christians are monitored closely. One of the main organisations responsible for this is the Iranian Revolutionary Guard Corps (IRGC). The Iranian constitution gives the IRGC a specific responsibility for protecting the Islamic revolution’s ideology in Iran.³³ It has also seen its role as exporting the revolution to other countries.³⁴ Closely associated with the IRGC is the *Basij*, which has a similar ideological basis, but whose members, recruited from school age, hold other full time jobs. In other words the *Basij* is a part time ideological and religious secret police force. As one Iranian Christian who fled to Europe observed a few years ago, one of the key roles of the *Basij* is to spy on Christians:

³¹ *Iran: the Cost of Faith – The Persecution of Protestants and Converts in Iran* (New York: International Campaign for Human Rights in Iran):19.

³² US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):54.

³³ Iranian Constitution Article 143,144,150.

³⁴ So, Con Coughlin *Khomeini’s Ghost* (London;Macmillan,2009) in relation to Lebanon (:209-14), Gulf states (:273-74) and in Sudan where they established the National Islamic Front militia to fight Christians in what is now South Sudan (:265).

*'If your name comes up anywhere, anywhere that it shouldn't, then they will keep watching you.'*³⁵

Monitoring of Iranian asylum seekers outside of Iran, especially Christian converts from Islam

46. There is now a growing body of evidence that the Iranian authorities are monitoring Iranian asylum seekers who have fled to other countries, particularly those who have converted from Islam to Christianity.

47. In 2014 reports began to emerge of Iranian state agents closely monitoring Christian converts who had fled to Malaysia, including attending the church the refugee worshipped at in Malaysia and filming them.³⁶

48. In 2016 a report by an organisation providing support to Christian refugees in Greece stated that:

*Refugees know (and report) they are being closely watched by other refugees acting as informants in camps where attempts to implement Shari'a are underway. It is also widely known that Iranian secret police are attempting to keep track of defectors and converts.*³⁷

49. These reports are consistent with wider evidence of the hostile activity of Iranian state agents in Europe. For example, in March 2017 a Pakistani man was convicted in Germany of spying for Iran and identifying potential attack targets for its Revolutionary Guards. In June 2018 the French government blamed Iran's intelligence ministry for a foiled bomb plot allegedly due to target a rally of Iranian opposition groups in Paris; in the same month the Dutch government expelled two Iranian diplomats over alleged political assassinations in the Netherlands; in October 2018 The Danish government accused Iran of plotting to assassinate an Arab separatist leader in Denmark.³⁸

50. s.47 of the original judgement makes an assumption that if Reza Karkhah was returned to Iran he would only be at risk if he disclosed church activity in Iran:

Given the adverse credibility findings, outlined above, I am not satisfied that he left Iran illegally. In any event, whilst I accept that the Appellant has been outside of Iran for a lengthy period and would return a failed asylum seeker I do not accept that he would be subjected to scrutiny given his lack of profile and in any event I do not accept that he would disclose church activity as he is not genuinely a Christian. I do not accept that the Appellant's marriage will itself result in persecution and no objective evidence has been highlighted to this effect. I do not accept that the Appellant would

³⁵ 'Our second mother: Iran's converted Christians find sanctuary in Germany' Guardian 12 May 2014 <<https://www.theguardian.com/world/iran-blog/2014/may/12/iran-converted-christians-sanctuary-germany-muslim>> [accessed 10 July 2019].

³⁶ 'Our second mother: Iran's converted Christians find sanctuary in Germany' Guardian 12 May 2014 <<https://www.theguardian.com/world/iran-blog/2014/may/12/iran-converted-christians-sanctuary-germany-muslim>> [accessed 10 July 2019].

³⁷ International Christian Consulate *Greece Update Report June 2016* <<https://www.internationalchristianconsulate.com/greece-report-june-2016>> [accessed 10 July 2019].

³⁸ 'Iran-linked terrorists caught stockpiling explosives in North West London' *Daily Telegraph* 9 June 2019 <<https://www.telegraph.co.uk/news/2019/06/09/iran-linked-terrorists-caught-stockpiling-explosives-north-west/>> [accessed 11 July 2019].

be asked about his marriage and given that I do not accept that the Appellant has renounced his Islamic faith I do not accept that it would result in negative attention.

51. There is however clear evidence of monitoring of Iranian refugees overseas, particularly converts from Islam, by Iranian state agents. As such the assumption that the Iranian authorities would have no knowledge of the Appellant's Christian activities in the UK, which include social media posts in Iranian Farsi, is not a safe assumption on which to base the judgement.

Marriage and freedom of religion in Iranian law

52. The status of marriage law in Iran since the Iranian revolution is complex due to aspects of previous marriage law being treated as invalid due to their lack of compatibility with Shari'a. Two broad opinions have been stated as to the validity of a Muslim man marrying a Christian woman:

53. a) A recent academic paper stated that in Iran a non Muslim:

*may not marry a Muslim. In Sunni majority countries the prohibition mainly concerns non-Muslim men, but in Iran Muslim men may not marry non-Muslim women and while not expressly formulated, the principle holds: marriages between Muslims and non Muslims are invalid.*³⁹

54. b) However, there is some dispute in relation to this, with another academic giving an opinion in 1995 that in such circumstances the non Muslim woman would be legally deemed to have converted to Islam.⁴⁰

55. However, what is agreed is that *'the laws on this issue are ambiguous'*.⁴¹

56. This has very significant implications for Christian converts from Islam in general as the law does not recognise their conversion, they are therefore regarded legally as still Muslims – albeit apostate ones.

57. In the first interpretation (a) above any marriage between a Christian convert from Islam and a Christian who is not a convert from Islam, would be regarded as an invalid marriage. This is potentially a very significant issue as sexual relationships between people who are not married is a serious criminal offence in Iran with the Penal Code stipulating a normal punishment of between 31 and 74 lashes:

Article 221- *Zina is defined as sexual intercourse of a man and a woman who are not married to each other, and also provided that the intercourse is not done by mistake.*

³⁹ Petra Uphoff, 'Religious Minorities in the Islamic Republic of Iran', *Islam and Christianity* 1 (2013):21-41.

⁴⁰ Immigration and Refugee Board of Canada 'Iran: Information on whether a mixed couple composed of an Iranian man and a Chinese atheist woman would encounter difficulties from the Iranian authorities' 1 November 1995, IRN22140.E, available at: <<https://www.refworld.org/docid/3ae6aab24c.html>> [accessed 11 July 2019].

⁴¹ Immigration and Refugee Board of Canada 'Iran: Information on whether a mixed couple composed of an Iranian man and a Chinese atheist woman would encounter difficulties from the Iranian authorities' 1 November 1995, IRN22140.E, available at: <<https://www.refworld.org/docid/3ae6aab24c.html>> [accessed 11 July 2019].

Article 232- *Where a man or woman confesses to zina less than four times, s/he shall be sentenced to thirty-one to seventy-four lashes of ta'zir punishment of the sixth grade.*

58. In the second interpretation (b) above, if the non Muslim woman is a Christian, then being legally deemed on marriage to be a Muslim herself would render her liable to punishment for apostasy – for which the punishment is death.

59. Whilst the appellant's case is slightly unusual in that he is married to a Christian who is not herself a convert from Islam, it should be noted that in other Islamic countries Christian converts from Islam have faced severe punishment for unlawful sexual relationships as a result of their marriage to a Christian not being recognised by Islamic law. The most prominent such case was that of Mariam Yahya Ibrahim a 27 year mother who in 2014 a court in Sudan sentenced to death for apostasy and flogging for unlawful sexual intercourse as Islamic law regarded her marriage to a Christian as invalid.

Monitoring of social media by the Iranian authorities

60. The Iranian authorities seek to tightly control all forms of media, including social media. Opposition leaders are frequently barred from the use of social media and the authorities have in recent years arrested both journalists and administrators of social media channels on *Telegram*, the popular messaging app.

61. Freedom House's 2019 report on Iran noted the monitoring, filtering and blocking of foreign based social media posts:

Freedom of expression and media independence are severely limited both online and offline. The state broadcasting company is tightly controlled by hard-liners and influenced by the security apparatus...

Newspapers and magazines face censorship and warnings from authorities about which topics to cover and how. Tens of thousands of foreign-based websites are filtered, including news sites and major social media services. Satellite dishes are banned, and Persian-language broadcasts from outside the country are regularly jammed. Authorities periodically raid private homes and confiscate satellite dishes. Iranian authorities have pressured journalists working for Persian-language media outside the country by summoning and threatening their families in Iran. Independent journalists face potential arrest, prosecution, and imprisonment. In July and August 2018, at least six journalists from the news site Majzooban-e-Noor were sentenced to prison terms ranging from 7 to 26 years...⁴²

62. In the run-up to the 2017 presidential election, the authorities intensified their crackdown on the media, arresting several journalists and administrators of reformist

⁴² 'Iran' *Freedom in the World* 2019 (Washington,DC:Freedom House,2019) section D1 <<https://freedomhouse.org/report/freedom-world/2019/iran>> [accessed 10 July 2019].

channels on the popular social media app *Telegram*. Since the election this crackdown on social media has intensified even further with the *Telegram* app being banned altogether.

63. The authorities monitor all online communications for any expression of dissent from the official conservative Islamic position of the government.

*Iran's vaguely defined restrictions on speech, harsh criminal penalties, and state monitoring of online communications are among several factors that deter citizens from engaging in open and free private discussion. Despite the risks and limitations, many do express dissent on social media, in some cases circumventing official blocks on certain platforms. In April 2018, the government banned Telegram, which was used by 40 million Iranians. Authorities claimed that the app spreads antigovernment propaganda and encourages unrest.*⁴³

64. The Iranian authorities particularly monitor both Christian social media posts and any links to the west. Therefore, Christian social media posts in Iranian Farsi that are posted in the UK are likely to be of particular interest to the Iranian authorities. As can be seen in the case Ebrahim Firouzi (paragraph 38 above) involvement in post Christian social media online is likely to lead to arrest and imprisonment.

65. This is also stated in the Home Office *Country Policy and Information Note Iran: Christians and Christian Converts*:

*'One source pointed out that there has been a change in the authorities monitoring of social media and online activities. Another source added that there is a widespread monitoring of telecommunication and electronic communication if a Christian has caught the interest of the authorities. Certain keywords serve as base for the electronic surveillance e.g. "church", "Jesus", "Christian" and "baptism". As it is well known that the authorities are tapping phones, the house members are cautious and turn off their phones long before they reach their meeting place.'*⁴⁴

66. Of specific relevance to the case of Reza Karkhah, this also notes that

*If the returned convert has been very outspoken about his/her conversion on social media, including Facebook, the authorities might become aware of it and arrest and interrogate the convert upon return...Declaring conversion on Facebook in itself does not lead to persecution but likely to monitoring.*⁴⁵

Persecution by non state actors

67. Persecution of Christian converts from Islam from the wider community and particularly members of one's extended family is extremely widespread for those who leave Islam for another religion or belief system. The threat from such individuals using vigilante violence to enact the *shari'a* punishment for apostasy by killing someone known to have left Islam is very significant indeed. There is also frequently an element of honour

⁴³ 'Iran' *Freedom in the World* 2019 (Washington,DC:Freedom House,2019) section D4 <<https://freedomhouse.org/report/freedom-world/2019/iran>> [accessed 10 July 2019].

⁴⁴ Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* ver.5.0 May 2019 s.7.3.2.

⁴⁵ Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* ver.5.0 May 2019 s.10.1.1.

killing when such acts are carried out by members of a convert's extended family, although the perpetrators are likely to view *shari'a* as providing a theological legitimation for their actions. This sort of violence against Christian converts to Islam is widespread and occurs frequently in neighbouring countries such as Pakistan, Iraq and central Asian states whereas a recent government sponsored report on persecution of Christians noted:

*Christians with a Muslim background are most vulnerable and face tougher persecution from all actors and especially from their families and communities.*⁴⁶

68. The extreme control of the media and internet exercised by the Iranian regime makes it relatively more difficult to obtain reports of vigilante violence against Christian converts from Islam by non - state actors in Iran, than in neighbouring countries such as Pakistan. However, there is a body of evidence in the form of both reports from both Christians who have fled Iran of threats to kill converts in Iran and surveys of persecution of Iranian Christian converts by other Iranian refugees in Europe. He latter clearly point to the existence of societal attitudes among at least a significant minority of Iranian Muslims that justify violence against and killing of Christian converts from Islam. For example:

69. A 2016 report by Open Doors *Religiously Motivated Attacks on Christian Refugees in Germany* in which 86% of those surveyed were Christian converts from Islam, 69% of which were Iranian,⁴⁷ found that 37% of those surveyed had received personal injuries in European refugee shelters as a result of their Christian faith. 32% had also received death threats

*either against the Christian refugees themselves and/or against their families, be it in Germany or in their countries of origin.*⁴⁸

70. A similar survey was conducted in 2017 of Christian refugees in Sweden in which 42% of those surveyed were Iranian, all but one of which were Christian converts from Islam. This similarly, found that:

*More than half of all participants in the survey (53 %) reported that they have been affected by violent assaults at least once, due to their Christian faith. Almost half of all participants (45 %) in the survey reported that they have been threatened to death at least once and 6 % reported that they have been a target of sexual assaults, see the purple bars in the diagram above. Almost all, 95 % of the participants, reported that they have been affected by some kind of negative incident that can be associated with one's faith. The participants marked that by ticking the box **other persecution** in the questionnaire, and by explaining the incidents in more detail in a free text field.*⁴⁹

71. There is therefore a significant risk that any Christian convert from Islam would face a very real risk of violence and threat to life from non state actors, if returned to Iran.

⁴⁶ *Bishop of Truro's Independent Review for the Foreign Secretary of FCO Support for Persecuted Christians: Interim Report* (2019) <<https://christianpersecutionreview.org.uk/interim-report/>> [accessed 9 July 2019].

⁴⁷ i.e. 59% of those surveyed were Iranian Christian converts from Islam.

⁴⁸ *Religiously Motivated Attacks on Christian Refugees in Germany* (Kelkheim: Open Doors Germany,2016).

⁴⁹ *Religiously Motivated Persecution Against Christian Refugees in Sweden: A Questionnaire Based Survey in the Spring 2017* (Örebro: Open Doors Sweden,2017):6.

Lack of legal protection for Christian converts from Islam facing honour based and vigilante violence from non - state actors

72. Such threats and acts of violence against Christian converts from Islam are relatively common in many parts of the world. However, in Iran they represent a substantially greater threat to life because of the lack of any effective protection or legal recourse for Christian converts. Indeed, any Christian convert from Islam who raised such concerns with the Iranian law enforcement authorities or courts would risk themselves being prosecuted for apostasy, which as earlier noted carries a possible death penalty in Iran.

The Current Home Office Country Policy and Information Note

73. It is not clear to me why the terms of reference for the current Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* fail to address the serious threat to life from non state actors. Persecution by non state actors and responsibility of governments to protect citizens from such attacks is an extremely important aspect of Freedom of Religion or Belief. This would appear to be a significant failing on the part of the Home Office, particularly when some of the reports cited above on violence and threat to life experienced by Iranian Christian converts to Islam while in Europe have received significant international media coverage. This may be an issue which the court might consider drawing to the attention of the Home Office.⁵⁰

B) The likelihood that Mr Karkhah would face persecution for his faith if he returned to Iran.

Persecution by state actors

74. If deported to Iran Mr Karkhah is likely to face various forms of persecution as a Christian who has converted from Islam.

75. The US Commission for International Religious Freedom summarised the state of religious freedom in Iran in their latest report published in May 2019:

In 2018, religious freedom conditions in Iran trended in a negative direction relative to 2017, with the Iranian Government heightening its systematic targeting of Muslims (particularly Sunni Muslims and Sufis), Baha'is, and Christians...Christians faced a dramatic uptick in arrests from previous years, and Muslim converts to Christianity continued to face severe persecution...

It added that

*While President Hassan Rouhani in 2016 signalled his intent to address some religious freedom violations, these promises have yet to be implemented; meanwhile, the number of individuals imprisoned for their beliefs continued to climb.*⁵¹

⁵⁰ For example, 'Christian refugees threatened with beheading for being "unbelievers" by Muslim migrants' *Daily Express* 25 October 2016 <<https://www.express.co.uk/news/world/725193/Christian-refugees-threatened-beheading-German-migrant-camp-Muslim-unbelievers>>; 'Christian refugees persecuted by Muslim asylum seekers in German shelters – survey' *RT* 18 October 2016 <<https://www.rt.com/news/363223-germany-christian-refugees-persecuted/>>; 'In Sweden Christians facing persecution face violence all over again' *National Review* 3 March 2018 <<https://www.nationalreview.com/2018/03/in-sweden-christian-fleeing-persecution-face-violence-all-over-again/>>; all accessed 10 July 2019].

⁵¹ US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):50.

76. This assertion by the US Commission on International Religious Freedom is wholly consistent with the legal status of those who have left Islam, which as discussed above, means that Christian converts from Islam face arrest, imprisonment without an open, fair legal process, while the death sentence remains a legal possibility.

How Conversion to Christianity (apostasy) is determined in Iran

77. The judgement in the original tribunal stated (s.47):

given that I do not accept that the Appellant has renounced his Islamic faith I do not accept that it would result in negative attention.

And (s.48)

I do not accept that there is a reasonable degree of likelihood that returning the Appellant to Iran would expose him to a real risk of an act of persecution for reasons set out in Regulation 6 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006.

The former statement is also specifically affirmed in s.41 of the Appeal judgement.

78. However, the question of whether someone is treated as an apostate by the Iranian legal judicial system is based on confession – with the Iranian Penal Code stating that a single confession in writing or verbally is both admissible as evidence and sufficient for conviction of an offence.⁵² The opinion of a judge in the UK as to whether the appellant's conversion was genuine is of no relevance in the Iranian legal system. What is important, and is admissible as evidence, is any public statement either in writing or verbally, including on social media that he has left Islam and converted to Christianity.

79. It should also be borne in mind that in most Islamic contexts evidence that someone has been baptised is widely viewed as evidence of apostasy from Islam. It is at this point that significant threat to life from non state actors is likely to increase significantly.

The likelihood that Iranian authorities are already aware that he is a Christian convert from Islam

80. s.47 of the original judgement by Judge Moxon makes an assumption that if Reza Karkhah was returned to Iran he would only be at risk if he disclosed church activity in Iran. However, the Iranian authorities' extensive monitoring of social media, including internet material from the west in order to block it, creates a significant risk that the Iranian authorities will already be aware of the appellant's Christian activities in the west, particularly as his social media posts are explicitly Christian and in Iranian Farsi.

81. The separate evidence that Iranian state agents are actively monitoring Iranian asylum seekers, particularly Christian converts from Islam who have fled Iran, including to European countries, further corroborates the existence of this as a significant risk i.e. that the Iranian authorities are already aware of his Christian and evangelistic activities in the UK and could subject him to various forms of persecution on his return.

⁵² Iranian Penal Code articles 166-172.

82. I have reviewed the social media posts which date from 2016 to 2019. I consider that the following posts. The posts show clear evident understanding of Christian spirituality. I consider that the following posts would be likely to be of particular interest to the Iranian authorities:

Page	Post includes	Reason
Page 2-3	Surround yourself with those on the same mission as you God doesn't give the hardest battles to his toughest soldiers	Potential to be viewed (incorrectly) as political
Page 14	God's words that sacrificed His son so we can have a relationship with God alone	Clear evidence of conversion to Christianity from Islam
Page 20, 21, 29,33	The only person who did not sin that's the Lord Jesus Christ my saviour..accept Lord Jesus you shall be saved This is my testimony to all my friends ...believe in the only one God and Jesus Christ the only Son so you can live eternal life in Paradise Yes I became a Christian..you cannot speak freely..saeed John come, come to Jesus Christ Write Amen if you accept him (picture of Christ on cross)	Evidence of evangelism NB this post appears to be to someone called Saeed possibly in Iran and appears to be a threat to Reza from someone else in Iran – asking if he has become a Christian
Page 56, 101	Picture of news item about Iran missile talks at the European parliament Cartoon relating to Iranian oil and Syria	Political
Page 31	We prostrated our life to an Arab person who was not clean, and all corruption began, but now our eyes are opened, and we all know that Jesus Christ was the only one God sent to save us humans	This would be seen as clear evidence of Islamic blasphemy deserving the death penalty
P52	The ultimate progress of a real Shia in the 1 st century	Seen as insulting Islam – likely to lead to arrest and imprisonment
P12	2 Corinthians 11:13-15 such men are false Apostles.. even Satan disguises himself as an angel of light	Could be deemed to be Islamic blasphemy – even though quoting the Bible – as Muhammad is known as an 'Apostle'.

83. the posts show clear evidence of i) self declared conversion to Christianity; ii) evangelism – including possibly to Muslims to Iran; iii) two posts which could be considered to constitute a criminal offence, one of which would almost certainly provide enough evidence for Reza Karkhah to be convicted of *Sabb-e Nabi* (blasphemy against Muhammad) which as discussed in paragraph 32 above is an offence under section 262 of the Iranian Penal code

with a penalty of execution being specified. The post on p52 could also be seen as insulting one of the 12 imams – which under section 262 of the Penal Code is also specifically state to be *Sabb-e-Nabi* (blasphemy against Muhammad) – see paragraph 32 above. It should be noted that on p31 the appellant is in essence simply giving a Christian view of Muhammad – that he is not a prophet of God. His post would nonetheless almost certainly be treated as blasphemy against Muhammad for which he would be executed in Iran.

84. s.44 (viii) of the judgment in the original tribunal further suggested that it would be safe for the appellant to return to Iran as social media posts would be unlikely to have been seen in Iran or could be deleted before the appellant returned there:

Whilst the Appellant asserts that he has posted Christian messages on Facebook I do not accept the evidence in the absence of printouts that could have reasonably been obtained had it existed. In any event, there is insufficient evidence that any Facebook entries are available for the public to see or that he would not delete any account prior to returning to Iran.

85. I do not regard either of these assumptions to be safe In view of both:

- i) The intensive monitoring of social media by the Iranian authorities.
- ii) The nature of the posts on social media.
- iii) The evidence that Iranian asylum seekers In Europe, particularly those who convert to Christianity are being monitored by the Iranian state.

Persecution by non state actors, including extended family members

86. I note that both the judgement of Judge Moxon in the first Tier Tribunal and that of Judge Lambert in the appeal refer solely to the likelihood of Reza Karkhah experiencing state sponsored persecution. As noted in paragraphs 67-72 there is significant evidence that Iranian Christian converts from Islam face vigilante violence and threats to kill them from those Iranian Muslims who regard their conversion as apostasy, which under shari'a is punishable by death.

Disowning of converts and persecution by family members

87. I also note that s.69 the original judgement assumed that because Reza Karkhah has a mother and sister in Iran they will be a form of family support to him.

He is familiar with the language and culture in Iran and his sister and mother remain. He therefore has access to familial support in Iran.

89. However, Muslims who convert to Christianity are very frequently thrown out of their homes and disowned by other family members. They also frequently face serious physical abuse and threats to kill them both form the immediate and extended families and from the wider local community. As one Iranian Christian convert from Islam now a refugee in Europe explained, she had not only been cut off from her entire family, but also received threats from them to kill her because of her conversion:

*“One day, I will kill you because you’ve changed,” her sister back in Iran told her. “They hate me. They don’t want to see me anymore.”*⁵³

90. Similarly, a 2016 report on Christian asylum seekers in Greece in which 94% of those surveyed were Iranian observed how rejection and ostracism from their families was a common experience of Christian converts from Islam:

*Many of the refugees interviewed were Iranian apostates. Some had converted recently, others had lived covert Christian lives for years. Their stories shared common themes – that their faith had been exposed and the Iranian authorities and their communities or families had rejected them, making life impossible to stay.*⁵⁴

91. It is also relevant in this context to note that the Iranian regime do at times subject family members of Christians to *various* forms of pressure. For example, the Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* cites a case of elderly relatives being subjected to official harassment because they are the parents of someone who has converted to Christianity.⁵⁵

92. The above Home Office *Country Policy and Information Note* also cites another instance where family members appear to have reported Christian converts who has returned to Iran to the authorities, resulting in the converts facing a level of attention from the authorities which forced them to flee the country again.⁵⁶

93. Even the appellant’s mother and sister were prepared to be associated with him, there would still be a significant risk of threat to his life from members of his wider extended family on account of his declared conversion to Christianity – as noted in paragraphs 67-72 and 86 above.

94. Thus whilst it is possible that Reza Karkhah’s mother and sister might conceivably provide family support for him if her were returned to Iran despite his declared conversion to Christianity, that is not assumption that can be safely relied on.

C) What in particular is likely to happen to him on return.

95. As an evangelical Christian Reza is likely to face persecution on return to Iran.

96. Because he is both an evangelical Christian and now has well publicised strong links with Christians and churches in the West, he is likely to be singled out for specific persecution by the Iranian authorities who particularly target Iranian Christians with links

⁵³ ‘Our second mother: Iran’s converted Christians find sanctuary in Germany’ Guardian 12 May 2014 <<https://www.theguardian.com/world/iran-blog/2014/may/12/iran-converted-christians-sanctuary-germany-muslim>> [accessed 10 July 2019].

⁵⁴ International Christian Consulate *A Survey of Christian Refugees in Greece to Determine their Condition as a Minority Group within the Refugee Population* <<https://www.internationalchristianconsulate.com/greece-report>> [accessed 10 July 2019].

⁵⁵ Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* ver.5.0 May 2019 s.9.1.1.

⁵⁶ Home Office *Country Policy and Information Note Iran: Christians and Christian Converts* ver.5.0 May 2019 s.10.1.2;

to the west. As the US Commission on International Religious Freedom's 2019 report on Iran observed:

Christians have been sentenced to prison terms for holding private Christmas gatherings, organizing and conducting house churches, and traveling abroad to attend Christian seminars.⁵⁷

97. For the reasons set out in paragraphs 46-51, 60-66 and 80-85 there is a significant risk that the Iranian authorities are already aware of his Christian activities. This is so because of i) their extensive monitoring of social media posts, with his likely to be particularly scrutinised because of its combination of Christian content and being in Iranian Farsi; ii) there is also evidence of the Iranian regime monitoring Iranian asylum seekers, especially converts from Islam in countries outside of Iran.

98. He is therefore likely to be closely monitored by the Iranian authorities. He will be unable to exercise his Universal Declaration of Human Rights Article 18 right to freedom of religion:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

99. For reasons set out in paragraph 25 is unlikely even to be able to meet with other Iranian Christians without risking arrest.

100. If arrested, in common with other Iranian Christian converts from Islam, he would be likely to experience ill treatment, including physical abuse, charged with vaguely worded offences against national security, which would then be tried in a revolutionary court. He would not be allowed to choose his own lawyer, any legal representation allowed would be from a small list of lawyers vetted for conformity to the ideology of the Islamic revolution and likely to be hostile to Christians and regard anyone who has declared their conversion from Islam to Christianity to be deserving of the death penalty. Neither he nor his lawyer would necessarily be shown either the charges or evidence against him before the trial. The trial itself would not be held in public and could last as little as 15 minutes – he could even be tried *in absentia*. He would be likely to receive a prison sentence of between 1 and 10 years, followed by internal exile to a remote location inside Iran. He could also be sentenced to flogging and in prison would be likely to experience significant physical abuse from guards and might also be denied any medical treatment that he needs.

101. He is also likely, though not certain to be rejected and disowned by his family – as this is a common experience of Christian converts from Islam – as set out in paragraphs 67-72,⁸⁶ and 87-94. It is therefore likely that he will lack any family support in Iran.

102. There is also a significant possibility that as a Christian convert from Islam he would be subjected to vigilante violence, including threats and actual attempts to kill him, either

⁵⁷ US Commission on International Religious Freedom *Annual Report 2019* (Washington,DC:USCIRF,2019):54.

from members of his extended family or from the wider community, as set out in paragraph 56.

103. The ambiguity noted in paragraphs 52-59 above in relation to how the law in post-revolutionary Iran views marriage between someone born into a Muslim family (and therefore still regarded in Iranian law as being a Muslim – albeit an apostate one) and a Christian creates a vulnerability which could be exploited if the appellant were to come to the attention of the Iranian authorities. This could lead to him either being subjected to up to 74 lashes or his wife being legally deemed to be a Muslim – which means that as a practising Christian she would then herself be deemed to be an apostate.

104. It should be noted that this would apply regardless of whether the appellant's conversion to Christianity is genuine or not – as in either case Iranian law still deems him to be a Muslim, because he was born into a Muslim family as noted in paragraphs 26-27 and 56 above.

105. As such the statement in s.47 of the original judgement, affirmed in s.41 of the appeal judgement

I do not accept that the Appellant's marriage will itself result in persecution and no objective evidence has been highlighted to this effect

is an assumption which cannot safely be relied on as the Appellant's marriage to a Christian potentially creates a specific vulnerability in Iranian law

106. However, the most significant action that is likely to occur is that if his social media posts (p31, 52) discussed in paragraphs 82-83 become known to anyone in Iran he is likely to be killed either i) by Islamic vigilantes seeking to enforce the *shari'a* penalty for blasphemy against Muhammad or ii) arrested by the Iranian authorities and executed for *Sabb-e Nabi* under Article 262 of the Iranian Penal Code.

Special note on issues raised in the original tribunal and appeal judgements

Date of the appellant's last conviction

107. In the original judgement which was upheld in appeal, Judge Moxon stated that he doubted the trustworthiness of Reza Karkhah's conversion to Christianity for a number of reasons including:

S.444 (iii) The Appellant has sought to mislead these proceedings. Whilst he asserts that his last conviction arises from an incident in 2012-13 it is clear from the antecedent record, which I accept is a reliable court document, that his last offence was 4 February 2015. I sought to clarify his evidence and he stated to me that his last offence was in 2013 and that since then he had turned his life around. He had no explanation as to why his antecedent record states otherwise

108. In respect of the weight which the court decides to give to the appellant giving the wrong year for his last conviction, I would draw the attention of the court to the fact that Iran uses its own calendar which has both a different year date and a different starting date for the New Year to the western (Gregorian) Calendar. The Persian New Year starts on 21 March.

109. In addition to the Persian calendar which is a solar calendar, the Islamic Calendar is also used in Iran and as this is a lunar calendar, it has year dates which differ from both the Persian and Gregorian calendars and therefore also different starting dates for each New Year. The Islamic calendar years cannot be easily converted into either the Persian or Gregorian calendar years as the years in the Islamic calendar have fewer days.

110. Thus the date of the appellant's last offence on 4th February 2015 and conviction on 24th February 2015 can be expressed in the Iranian context as three quite different calendar years.⁵⁸

	Western (Gregorian) calendar (solar)	Persian calendar (solar)	Islamic calendar (lunar)
Day and month	24 th February	5 th Esfand (last month of Persian year)	5 th Jumada Al-Awwal
Year	2015 CE	1393 AH	1436 AH

Knowledge of Christianity

111. s.19 of the original judgement stated:

The Appellant claims to have converted to Christianity 3 ½ to 4 years ago and that he and his wife were baptised together at Sundridge Road church in 2015. In interview he was unable to detail the denomination of the church within which he was baptised and was unable to detail any Christian denominations. He answered some questions about Christianity correctly although, for example, was unable to name who betrayed Jesus, He was unable to remember his favourite Bible passage.

112. And s.44 (vi) stated:

A lack of detailed knowledge of Christianity is not determinative of a lack of faith, however I note that there are basic areas of knowledge that are lacking, such as the identity of Judas Iscariot _and the denomination of the church within which the Appellant was baptised, Whilst Pastor Dyson stated that it is not unusual for' someone not to know the denomination of the church, I note that the Appellant stated that he had become disillusioned with Islam in Iran but had retained faith and that he did not attend church for a number of years from his arrival in the United Kingdom as he was enquiring about faith. If he was making enquiries I do not accept that he would not have learned of denominations.

113. s.44 (vii) then continues:

In his witness statement the Appellant asserts problems with interpretation or his asylum interview and in his oral evidence he stated that he had told the interviewer that the church he attended was evangelical. I do not accept that there were

⁵⁸ I have used the following calendar converters: Persian calendar converter <<https://calcuworld.com/calendar-calculators/persian-calendar-converter/>> and Hijri-Gregorian converter <<https://www.islamicity.org/hijri-gregorian-converter/?AspxAutoDetectCookieSupport=1#>> [accessed 10 July 2019].

interpretation problems and note that the Appellant was interviewed in English and did not raise any difficulties at the time. Further, the Appellant speaks fluent English as demonstrated during the hearing and I heard evidence that he interprets for Farsi speakers at church. I therefore do not accept that there were language difficulties in interview and find that this is an effort to mislead. I reach a similar conclusion in relation to whether he disclosed that the church was evangelical. He was asked at question 45 what denomination the church was and he is recorded as responding "I forgot". I do not accept that this would have been recorded had he detailed that it was an evangelical church. Further, I note that in paragraph 9 of his 2018 witness statement he details that after his interview he spoke to a friend and it was explained that the church "leans towards evangelical".

114. I would make the following observations on this:

115. Attendance at church.

Conversion from Islam to Christianity is normally a process which may take several years with varying and not necessarily consistent degrees of interest and commitment during this process. Only very rarely are such conversions at a single point in time. Insofar, as a single point can be said to be discerned, this is likely to be the point at which confession of faith takes place either verbally or more specifically in baptism.

Knowledge of the Bible

116. I would not regard inability to state that Judas Iscariot betrayed Jesus as 'a basic area of knowledge' of Christianity. Basic areas of knowledge would be what is termed by Biblical scholars and theologians 'salvation history' i.e. who God is, the fact that he came down to earth as Jesus, died on the cross, rose again, ascended to heaven, calls all men to repent and put their faith in him for forgiveness of sin and that he will come again to earth and take those who have followed him to be with him in heaven and while those who have rejected him will be sent to hell.

117. Christians who have converted from Islam have a complex background in terms of knowledge of the Bible as the Qur'an, Hadith and Islamic traditions contain stories referring to a number of Biblical characters, such as Moses, Jesus, John the Baptist etc. However, the content of these stories is significantly different from that in the Bible.

118. For example, one Islamic tradition states that God took Jesus up to Heaven to save him from being crucified, but made Judas Iscariot look like Jesus, so that when the Jews thought they were crucifying Jesus, they were in fact crucifying Judas.

119. Christian converts from Islam therefore go through a process whereby they gradually replace their Islamic understanding of such stories with an understanding based on the Bible.

120. As the Qur'an explicitly denies Jesus crucifixion a question as to who betrayed Jesus is likely to be confusing to a relatively new Christian convert from Islam. As a Christian they will accept that Jesus died on the cross and rose again – but may be less clear about details such as Judas Iscariot's betrayal unless they have specifically been taught the Biblical story of the events between the last Supper and Jesus' arrest in the Garden of Gethsemane.

Knowledge of Christian denominations

121. In relation to knowledge of denominations I would make the following observations:

122. It is not immediately obvious from the name *Sunbridge Road Church* (or Sunbridge Road Mission) even to me as an expert witness what denomination this church is.

123. On examining the Church's website it is clear to me that it is an independent church with an evangelical ethos. Indeed, it describes itself as 'an independent evangelical Church'.⁵⁹ Such churches do not normally regard themselves as belonging to a denomination. A question as to what the denomination of the church is would therefore be likely to be confusing not merely to the appellant, but also potentially to some other members of the church.

124. The term 'Evangelical' in the UK context means a Church or Christian who believes the Bible to be the inspired word of God and seeks to live their life by it. In the Iranian context however, as explained in paragraphs 23 and 24 above the term Evangelical has a specific reference to churches outside of the officially tolerated ancient Armenian and Assyrian Christian churches – such as for example, Assemblies of God churches in Iran which are subject to significant state sponsored persecution. It is therefore possible, that there was a genuine question of translation here i.e. exactly what was meant by the term 'Evangelical' and whether the church he belonged to should be described in this way, particularly given the rather than less perfect standard of English evident in some of the social media posts.

⁵⁹ Sunbridge Road Mission 'Who we are' <<https://sunbridgeroadmission.org.uk/who-we-are/>> [accessed 10 July 2019]