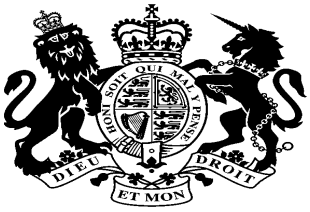

Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/09176/2016**

THE IMMIGRATION ACTS

At: Manchester Civil Justice Centre **Decision & Reasons Promulgated**
On: 25th April 2022 and 10th June 2022 **On the 05th September 2022**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

SSP
(anonymity direction made)

Appellant

and

Secretary of State for the Home Department

Respondent

For the Appellant: Mr Schwenk, Counsel instructed by Broudie Jackson and Canter Solicitors
For the Respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Iran born in 1990. He seeks protection in the United Kingdom on the grounds that he has a well-founded fear of persecution in Iran for reasons of his religious belief/political opinion, or that attributed to him by the Iranian state. The Appellant claims to be a practising Christian.

2. This history of this claim, in brief, is as follows:

3rd March 2016	Appellant claims asylum on arrival, asserting that he is at risk in Iran because he has converted to Christianity
16th August 2016	Respondent refuses to grant protection

3rd May 2017	First-tier Tribunal Judge Alty dismisses appeal, finding *inter alia* that although the Appellant had been attending Liverpool Cathedral on a regular basis for about a year, his claim to be a genuine Christian is untrue
4th October 2017	Upper Tribunal Judge Finch grants permission to appeal to the Upper Tribunal
23rd October 2018	Deputy Upper Tribunal Judge Harris finds that Judge Alty was entitled to reject the Appellant's sincerity as a Christian, but that she erred in her analysis of the Appellant's *sur place* activity, in particular failing to consider whether his church attendance and social media postings would place him at a real risk on harm upon return to Iran. Judge Harris nevertheless goes on to dismiss the Appellant's appeal on the grounds that he would not be required to disclose his Facebook password to the Iranian authorities; furthermore he could delete his account without any breach of a protected right, given that he is not a genuine Christian.
3rd May 2019	Lord Justice Irwin granted the Appellant permission to appeal against the decision of Judge Harris and adjourned the matter behind the then pending country guidance of PS (Christians) Iran CG [2020] UKUT 00046 (IAC)
2nd April 2020	The parties settled the matter in the Court of Appeal in a consent order signed by Master Meacher.

3. The Statement of Reasons accompanying the Consent Order from the Court of Appeal explains that the Appellant argued that Judge Harris erred in failing to conduct a risk assessment regarding the Appellant's ongoing church attendance in the UK, and in conducting an assessment of the on-arrival risks to the Appellant in light of the applicable caselaw. The Respondent's concession is framed as follows:

> "The Respondent accepts that the UT's determination may not have adequately considered the 'pinch point' on arrival on return to Iran, as referred to at paragraph 144 of the determination in PS (Iran) and in particular factors which may result in prolonged detention such as the Appellant's social media activity.
>
> Accordingly the parties agree that this appeal should be allowed and remitted to the Upper Tribunal for a fresh determination".

4. The terms of this Statement gave rise to some confusion before me. On one reading the only issue to be determined was whether the Appellant was at risk on return as a disingenuous convert; the final paragraph does however require a 'fresh' decision, suggesting that the decision of Judge Harris is set aside in its entirety. After some discussion with the parties I decided to proceed on the basis that the effect of the consent order is that the whole of the decision of Judge Harris is set aside. That being the case the Appellant is back where he was when Judge Alty dismissed his appeal on the 3rd May 2017. My starting point was therefore whether Judge Alty erred in her decision.

Error of Law

5. Given the unchallenged findings of Judge Harris that Judge Alty did err her in her assessment of risk at the 'pinch point' of arrival in Tehran – regardless of the sincerity of his conversion - those findings are set aside to be remade, with the consent of the Respondent.

6. As to the credibility findings made by Judge Alty, Mr Tan urged me to find that they were open to her on the evidence before her, and that the reasons she gave were sustainable.

7. Mr Schwenk identified three potential errors in Judge Alty's decision.

8. First he took issue with her use of the word "compelling" at paragraph 34 of the decision: "his account of the conversion of three family members is not compelling". Mr Schwenk sought to persuade me that such terminology was suggestive of the importation of a higher standard of proof that the applicable one of "reasonable likelihood". I do not agree. It is clear from elsewhere in the decision [see particularly Judge Alty's 22] that she was well aware of the correct standard of proof and I do not accept that the word "compelling" indicates otherwise. A piece of evidence could "compel" a decision maker to find that a case is proven, whatever the standard applied.

9. The second criticism made of Judge Alty's credibility findings lies in her drawing adverse inference from the Appellant's failure to supply documentary evidence relating to the investigation made by the Iranian authorities into the Appellant and his family. At her paragraph 36 she writes:

> "Furthermore, no documentary evidence, such as warrants, of the arrest of his cousin or the three property raids is provided. Although the difficulties of obtaining documentary evidence in support of a claim for international protection are well recognised, where documentary evidence has not been provided, where it could reasonably have been expected, an adverse inference can

> be drawn if a satisfactory explanation for its absence is not forthcoming".

Judge Alty goes on to find that no such explanation has been given, which she finds to be problematic, given that the Appellant has family members still in Iran.

10. Mr Schwenk submits that this was impermissible reasoning. It conflicts with the trite principle of international refugee law that asylum seekers should not be expected to corroborate their claims with the production of documentary proof, since such proof is hard to come by. This is not evidence of the type discussed in TK (Burundi) [2009] EWCA Civ 40, which is presumably the authority that Judge Alty had in mind when she used the formulation "it could reasonably have been expected". On the contrary this was evidence that would be extremely difficult, if not impossible, for the Appellant to obtain: in this regard Mr Schwenk refers me to objective evidence before the First-tier Tribunal which states in terms that documents such as arrest warrants are not served on family member of the accused (Respondent's CIG July 2016 at 12.4.3). I am entirely in agreement with Mr Schwenk. This was manifestly not evidence of the species identified in TK (Burundi): even absent the evidence in the CIG the judge should have had in mind that approaching the Iranian authorities may in itself, if the underlying basis of this claim is true, have exposed the Appellant's family members to risk.

11. The third ground is that the judge acted irrationally when she looked, at her paragraph 32, for some corroborative proof that pictures of a family pet admitted in the evidence were of the Appellant's dog. The relevance of his animal was that it was the Appellant's case that the authorities in Iran had regarded his keeping of the dog as un-Islamic and had it put it down against his will. This had exacerbated his antipathy towards the regime, and Islam in general. This was why the photographs had been adduced. The decision reads: "it is for the Appellant to establish the provenance of the evidence on which he wishes to rely. I am not satisfied that he has done so and I attach little weight to these photographs". Although it may be that little weight would in any event have attached to the pictures, I would agree that there is an element of irrationality in expecting proof that the dog was his pet, since there is simply no evidence that he could bring, save the photograph itself, and his own oral evidence.

12. Those errors being identified in two of the credibility findings, I am satisfied that the decision of Judge Alty should be set aside in its entirety to be remade. As discussed at the hearing, both representatives acknowledged that very little in fact turns on that, since the decision of Judge Alty is now five years old. In those five years the Appellant has continued to attend church on a regular basis and it is this assertion of fact which now forms the centrepiece of his

claim, rather than anything that happened before he left Iran, or indeed before the decision of Judge Alty. Nevertheless it cannot not be said that the evidence on these matters was entirely *irr*elevant. If the Appellant is found to have lied about what happened to him in Iran, this will obviously have some impact on my assessment of him as a witness today; conversely if that part of his claim is proven, it will add substantial weight to his claim to be a practising Christian today.

13. That reality placed Mr Tan in some difficulty in proceeding any further with the hearing before me at the hearing in April, since he did not have access to any of the papers relating to the historical claim and was therefore unable to cross examine the Appellant on the matters raised in the refusal letter. He asked that the matter be adjourned to enable him to get copies of the asylum interview, statements etc and properly prepare the case. Mr Schwenk had no objection save that it would cause some inconvenience to two *Dorodian* witnesses who had attended the hearing, Reverend Canon Dr Neal Barnes, Vice Dean and Canon for Faith Development at the Anglican Cathedral of Liverpool, and Reverend Jude Padfield, Vicar at St James in the City, Liverpool. In order to resolve that difficulty it was agreed that I would hear the evidence of the *Dorodian* witnesses first, and that the Appellant would give his evidence at a resumed hearing, once Mr Tan had had a chance to prepare. This timetable was subject to the proviso that if anything arose in the Appellant's evidence that should in fairness be put to either of his supporting witnesses, they could be recalled if required.

14. In the end that did not prove necessary. At the resumed hearing I heard oral evidence from the Appellant, and submissions from Mr Tan and Mr Schwenk. I reserved my decision.

15. As the representatives agreed, there were three possible avenues under which the Appellant could succeed in his protection appeal. He could prove that he came to the adverse attention of the authorities before he left Iran ('the historical claim'), he could prove that he is a genuine Christian ('the Christian claim') or he could prove that his online activity, consisting of open Facebook postings, would place him at risk upon return to Iran ('the *sur place* claim'). That being the case it is convenient that I deal with the evidence presented, the submissions, and my findings, thematically.

The Historical Claim

16. The Appellant was first substantively interviewed about his claim on the 31st July 2016. He told the officer that he was Kurdish, from Kermanshah. His claim did not however turn on that. His claim was that he had become disaffected with the Iranian regime and with

Islam in general, and that he had turned to Christianity for spiritual comfort. The particulars of the claim are strikingly unusual.

17. Although the Appellant came from a traditional Sunni Islamic family himself, he was not particularly interested in Islam. He was however very keen on animals and he ended up being the part-owner of a pet shop selling various animals and pet-related goods, which had developed a 'side line' in the breeding and selling of dogs. Dogs are frowned upon in Iran. They are seen as being 'unclean' and un-Islamic and the Appellant's trade had to be plied 'underground'. In his oral evidence before me he clarified that although the keeping of dogs was not at that time strictly speaking illegal (the government was to bring legislation to criminalise the keeping of dogs in 2021) it was not something one could do openly. So it was that when the authorities discovered the shop's 'side-line' they closed it down. It was only able to re-open after the Appellant's business partner gave an undertaking not to sell dogs. There was some investigation of this in the Appellant's oral evidence. He was asked to explain how you hide a dog in a country like Iran. He said that people mainly kept them in the countryside and this was not seen as a problem because you could say they were farm dogs. As long as no one complained that would be ok. It was when they were obviously pets - "apartment dogs" - that there could be difficulties with the authorities.

18. In May 2015 the Appellant had taken his own dog Shanti to a clinic for some vaccinations. On his way home he was stopped by some men in the street. Although they were not wearing uniforms the Appellant understood that they were from, or acting on behalf of, the State. They asked him what was in the box he was carrying. He admitted it was his dog. A photograph has been produced of a small white dog, which the Appellant identifies as Shanti. The men told him that Islam prohibits the keeping of dogs and that it would have to be destroyed. Right there in the street they injected the dog with something which killed it. The Appellant describes himself as being devastated by this loss.

19. In the months which followed he continued to work in the pet shop. A lady who was a regular customer, and to whom he had often spoken, noticed that he was "down in the dumps" and asked him what was wrong. He said that he was depressed and angry about his dog being killed; he was also having problems in his marriage. This lady spoke with the Appellant and offered him solace. She started to speak with him about Christianity.

20. At interview the Appellant described how and why he came under the influence of Christianity. He explained that his wife had been Shi'ite and because he was of Sunni heritage they had had to encounter a lot of hostility from their respective families. He had found this difficult. He had also experienced bullying at school because he was a 'different kind of Muslim'. He loved animals and

could not understand the traditional attitude towards them. He found Islam to be unforgiving – there is no scope for cleansing the soul, for remedying of sins. He said as a Muslim he "always felt guilty". The opportunity for redemption in Christianity appealed to him. He tried to explain this to the officer by using this analogy: if you run a red light Christianity will weigh in the balance all the red lights you did stop at, whereas Islam will just focus on that one failure.

21. For all of these reasons the Appellant became more and more interested I Christianity. He visited a house church and felt like a "weight had been lifted from his back". By the end of 2015 he had decided that he was going to convert. His wife also decided to convert. She had also been badly affected by the killing of Shanti and was upset by how depressed the Appellant had come. She understood and agreed with his sentiments towards Christianity. In addition to his wife, the Appellant introduced his brother F, and his cousin H, to Christianity.

22. The Appellant narrates that his difficulties with the authorities started one day when he and his Christian friend from the pet store were at an animal shelter. They were waiting for his cousin H to arrive – he was supposed to be bringing food for the animals. They could not get hold of him on his mobile. The Appellant called his uncle's house. H's sister answered the phone. She was upset. She told him that just a couple of hours earlier some men had arrived at the house and taken H away. They had confiscated some of his belongings as they led him away. One of the men had said that he was an "infidel". H's sister saw that one of their other cousins, A, was sat in the front of the car. A and H had had an argument about religion the day before so she put "2 and 2 together" to conclude that A had informed on H. At the time the Appellant's brother was in Iraq on business; his wife was out of town at her sister's house. The Appellant became concerned that H might give up information that could lead to him being arrested. He made arrangements to go and stay at a farm owned by his friend and business partner. This same man made the arrangements necessary for the Appellant to leave the country: he took the other half of the pet store as payment. It was from this same friend that the Appellant was later to learn that multiple raids had taken place - against his home, his father's house, H's home and the pet shop.

23. This account was disbelieved by the Respondent. I have read the refusal letter with care. Much of the reasoning is hard to understand. The writer thinks it "inconsistent" that the Appellant gave more than one reason for his disaffection with Islam (see my paragraph 20 above). I reject that as illogical. If someone is going to undertake something as fundamental as changing his faith, it is to be expected that there would be multiple, complex and interrelated reasons underpinning that choice. The writer also thought it "inconsistent" that the Appellant was permitted to marry outside his sect of Islam,

and yet complain about how strict Islam is. Again, that is a pointlessly reductive analysis. The refusal letter finds the Appellant's claim to have owned a pet store inconsistent with his own evidence that the authorities disapprove of pets: the fallacy of this reasoning is revealed by the country background material which supports the claim that pet shops, and pets, exist notwithstanding the state's antipathy towards them. The account of the conversation with the lady in the pet shop is found to be "inconsistent", apparently on the grounds that it *could* have taken place earlier than it did – I don't understand that at all.

24. Similarly I have not derived much assistance from the Respondent's analysis about the answers given by the Appellant to what could be called, for want of a better term, the Christianity 'quiz' that the Appellant was subjected to at interview. As the refusal letter acknowledges, much of what the Appellant has to say is broadly correct and consistent with external information. Those answers that the Respondent has taken issue with could quite legitimately be explained by a difference in interpretation and emphasis.

25. The only point of any real merit in the refusal letter is the speed with which the Appellant immerses himself in Christianity after his initial conversion. On the chronology presented at interview, the Appellant decided to commit himself to this new faith within a month of the conversation with his friend in the shop. Quickly thereafter he had managed to convert his wife, brother and cousin. I agree that this does appear to have all happened very fast, and that one could legitimately draw adverse inference from that.

26. On the other hand I have weighed the following matters in the Appellant's favour. The account is detailed; the account is internally consistent, and externally consonant with country background material which shows that the keeping of dogs is something which has increased in popularity in recent years, notwithstanding the disapproval of clerics. Such is the interest in keeping a pet that the authorities have recently moved to enter it as an offence in the penal code. The account is striking in that it is based on an unusual set of facts. I found the Appellant's explanation of his journey away from Islam towards Christianity to be compelling and plausible. I can well imagine the psychological distress and anger the Appellant would have felt if his dog was deliberately killed in the street.

27. Ultimately I must weigh all of the relevant information in the round. I have borne in mind that the Appellant does appear to have made his decision with great speed, but have concluded that this is not, in itself, something capable of displacing the weight to be attached to all those factors weighing in his favour. The standard of proof for this appeal remains that set down in Sivakumaran. Because of the gravity of what it is at stake, and the difficulties that asylum seekers face in proving their cases, that standard is somewhat lower than the normal civil standard: it is one of a 'reasonable likelihood'. Having considered

all of the evidence in the round I am satisfied that this is a burden that the Appellant has discharged.

The Christian Claim

28. Reverend Canon Dr Neal Barnes began his evidence by adopting a letter he wrote on behalf of Liverpool Cathedral on 9th March 2022. Reverend Barnes was ordained in 1995 and has been Residentiary Canon at the cathedral since July 2019. He was appointed Vice-Dean in 2021. Reverend Barnes writes that he has over 20 years experience in evangelising and in working with those "coming to conversion".

29. Part of his current work at the Cathedral is that he has particular responsibility for Outreach and Discipleship. In January 2020 he assumed a leadership role caring for the Persian community at the cathedral, known as 'Sepas'. He explained that this is a growing part of the congregation and the cathedral makes particular accommodation for its Farsi speaking members such as special classes and the provision of interpreters etc. They very much see 'Sepas' as a core activity of the Cathedral, evidencing their commitment to diversity, inclusion and 'welcoming the stranger'.

30. It is in this capacity that Reverend Barnes came to know the Appellant. They met shortly after Reverend Barnes started at the cathedral in the summer of 2019, and Reverend Barnes is aware – presumably from others – that the Appellant had been part of Sepas since May 2016. Drawing on cathedral records as well as his own personal knowledge, Reverend Barnes is happy to confirm that the Appellant has taken a very active part in services, attending almost every week that there has been a service, either in person or via Zoom. He describes the Appellant as "one of our most committed and faithful members, stretching back over the whole of the last six years".

31. In his oral evidence Reverend Barnes took the opportunity to correct a mistake of fact in his letter. He had written that the Appellant had "attended the Baptism Course – leading to his Baptism". In fact this was an assumption on his part. The Appellant did attend a baptism course at the Cathedral, but was at the time already baptised, having undergone baptism in Manchester in 2016. The course served as a 'refresher'. The Appellant has since attended the confirmation course and has indeed been confirmed at the Cathedral. Prior to the confirmation the Appellant was interviewed in detail by the Sepas leader who satisfied himself as far as possible that the Appellant's desire to practise Christianity was genuine.

32. Reverend Barnes states that from the earliest days, the Appellant has volunteered on various teams within the Sepas community. He

assists with the IT team (audio, powerpoint presentations etc), the Evangelism Group (which reaches out to Farsi-speakers in their places of accommodation), and as a Communion administrant at both Sepas and English-speaking services he last year became part of the Sepas leadership team. Reverend Barnes explained to me that whilst he is the church official charged with leading Sepas, he has five Farsi speaking 'deputies' who work with him- the Appellant being one of these. He comments that the Appellant has "really stepped up to the plate" in this role.

33. As to his own belief in the Appellant, Reverend Barnes confirms that he has had "many one-to-one conversations with [him] about life, Iran, and his faith. As far as one can be certain, I am persuaded of the genuineness and sincerity of his declaration of faith in Jesus Christ". These conversations have taken place in church, but also socially, since the Appellant cuts Reverend Barnes' hair. He has, in these conversations, focused on current concerns but he has on occasion spoken of events in Iran, although not in detail. He has for instance told the Reverend about his dog being killed because he was a Christian, and that his pet shop was raided. They have also discussed the Appellant's use of social media.

34. I next heard evidence from Reverend Jude Padfield. He is the vicar of a local church in Liverpool which has been working with the Cathedral to make some space for the Sepas congregants, particularly those who were interested in experiencing the culturally English aspect of Christian service in Liverpool. Reverend Padfield said that the Appellant was one of a group who came over to the church in 2017. He has known him since then and can confirm that to his personal knowledge the Appellant regularly attends services and plays an active role in the church community.

35. Asked by Mr Tan why he, or indeed anyone from St James in the City, have not attended previous hearings for the Appellant Reverend Padfield said he did not really know. He could not recall off the top of his head whether he had been asked before. He said "we do normally try and support people who are regular attendees but I don't recall why we didn't . We are discerning about who we go with. There is an assessment of who we go with – he is in that category. Right from the off he has shown a real level of engagement and commitment". I interpolate here that in fact it is very unlikely that the Appellant's legal team would – or could – have called Reverend Padfield to the remaking hearing before Judge Harris, since at that stage the evidence on whether he was a genuine Christian had been settled and was regarded as closed.

36. Mr Schwenk submits that all of this evidence strongly supports the contention that the Appellant is a genuinely committed Christian. He also took me to various photographs in the bundle showing the

Appellant undertaking the very kind of activity mentioned by his *Dorodian* witnesses.

37. Mr Tan agreed that the evidence of long-standing involvement in the cathedral obviously went in the Appellant's favour. He did however ask me to consider the speed with which the Appellant sought to be baptised in the UK. He was baptised at Holy Innocents Church in Manchester within weeks of first appearing there. Their letter suggested that they will provide 'baptism on request'; and the fact that the conversion had already taken place would have weighed heavily on the people involved in welcoming the Appellant in Liverpool. Mr Tan also questioned the degree to which the clergy at Liverpool had probed the Appellant's intentions. Neither witness seemed to know much about the Appellant's life in Iran. They had apparently appointed him as a leader without much assessment. As to the length of time that the Appellant has kept up what the Respondent regards as a façade, Mr Tan submits that he has had, at this stage, little alternative but to keep it up.

38. I have considered, as Mr Tan in effect asks me to do, the possibility that the Appellant is a complete charlatan who has no genuine devotion at all in any of the Christian beliefs that he and his *Dorodian* witnesses spoke of during this appeal. That is certainly a possibility. I cannot however dismiss an appeal on the basis that someone might be lying. The question I must ask myself is whether there is a reasonable likelihood that the Appellant is a genuine Christian. That burden is in this case easily discharged. This is not someone who simply attends the odd service. This is someone who has immersed himself in the life and work of the Christian community in Liverpool and who has managed, over a six year period, to convince a good number of committed Christians there of his sincerity. As Mr Schwenk put it: there comes a point when someone has been involved for so long, and their commitment so great, and they have convinced so many people of their sincerity, and their involvement so extensive, that it becomes faintly ridiculous to continue to question it for the sake of it.

39. The only real cause to doubt the Appellant is that the *possibility* that he is lying in order to take advantage of the asylum system: this is always a possibility, here attracting some weight because of the speed with which the Appellant sought to be baptised upon his arrival. I have considered that matter in light of the Appellant's history. As I have set out above, he had already demonstrated some degree of haste in Iran. He describes a confluence of difficult personal events which led him to a place – in his shop one afternoon when his friend and customer started to speak to him about Christianity, which she assured him would bring him peace and forgiveness. He was looking for answers, she gave him one. Having thrown himself wholeheartedly into his new faith, it is no surprise at all that he pursued that endeavour with vigour as soon as he arrived in a country where he

could attend church freely without the threat of imprisonment or execution.

40. I am satisfied that the Appellant is a genuine Christian, and that communal and open worship is for him a fundamental part of that faith. That being my finding, it follows that I must allow the appeal, applying the country guidance in PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC). If the Appellant were to return to Iran he would either continue his faith, thus placing himself at immediate risk of persecution, or he would conceal it for fear of such harm. Either way he is a refugee.

The *Sur Place* Claim

41. Given my decisions on the historical and conversion aspects of this claim, I can here be brief.

42. The Appellant states that he wanted to open a Facebook page to help him spread the word of God. Since I have accepted that he is a genuine and committed Christian, there is nothing inherently suspicious in that. This is why his settings have been 'open' since the page was set up. He is a member of 40+ groups, most of which are Christian. He continues to use Facebook to alert Sepas members to events etc and to recruit new joiners. At the time of preparing his 2018 witness statement he had over 3000 followers, many of whom were in Iran. His posts include: pictures of him with a Bishop, Christian prayer and extracts from the bible, him leading prayers in Liverpool Cathedral, and celebrations of international Women's Day. In terms of what might be termed anti-Iranian or anti-Islamic content, there are references to Newroz, reportage on human rights abuses and photographic depictions of the Prophet Muhammad which Mr Schwenk describes as "obviously and openly blasphemous".

43. It was these latter posts which the Appellant claims brought him to the attention of a number of people in Iran. A man named Amir Abbas Mardani from Iran took issue with some of the Appellant's posts, saying they were an "insult to Islam"; after some dialogue he admits to being a *baseeji* and (tacitly) threatens to behead the Appellant. These exchanges can still be seen on his page and are reproduced and translated in the evidence before me. Another, anonymous, man from Kermanshah contacted the Appellant to tell him "we know who you are and your family".

44. I consider this aspect of the claim in light of the findings of the Tribunal in XX (PJAK- sur place activities – Facebook) Iran CG [2022] UKUT 23 (IAC). Insofar as it is relevant for this case, XX explains that the evidence fails to show it is reasonably likely that the Iranian authorities are able to monitor, on a large scale, Facebook

accounts. The risk that an individual is targeted will therefore be a nuanced one. There are basically three circumstances in which a real risk of harm might arise from anti-regime/anti-Islamic material being posted on Facebook. The first is where the person's existing profile means that they have already come to the authorities' attention. The second is where people in their 'social graph' are subjects of interest, and so there is a reasonable likelihood of the authorities having become aware of an appellant's postings. The third is where, upon return to Iran, the individual concerned will not delete or conceal posts which reflect genuinely held, protected beliefs.

45. I am satisfied that a real risk of harm may arise in this case in respect of any one of those XX risk categories. The Appellant is a Sepas leader at a Christian Cathedral well known for welcoming a Farsi speaking congregation. As we observed in PS (Christianity - risk) Iran CG [2020] UKUT 00046 (IAC), there is a real risk of infiltration of such congregations. Here is the evidence of Mrs Anna Enayat, accepted by the Tribunal:

> "Given the effort and resources put into the surveillance of house church activity in Iran, and the belief that the house church networks are driven by foreign money and even managed by foreign elements, coupled with the known Iranian surveillance of diaspora political activity, it is reasonable to conclude that agents are also deployed to watch convert communities abroad. Church communities certainly believe this is so"

46. The Appellant's high profile within the Farsi speaking Christian community in Liverpool is mirrored by his active and widely followed presence online. Applying the guidance in PS and XX I find it to be reasonably likely that his activity has already come to the attention of the Iranian authorities. That is a risk which pertains even if his interactions with Amir Abbas Mardani and others come to nothing – ie they are normal Iranian citizens who do not make good on their threats. In his social network are other Iranian Christians – and those involved in the conversion of Christians who are themselves likely to be targets of surveillance. It follows that a real risk has also been established under this head of the claim.

Decision and Directions

47. The decision of the First-tier Tribunal is flawed for error of law and it is set aside.

48. The appeal is allowed on protection and human rights grounds.

49. I have had regard to Guidance Note 2022 No 2: Anonymity Orders and Hearings in Private, and in particular paragraph 28 thereof [1]. Having had regard to that guidance, and taking into account the fact that the Appellant still has family members in Iran, I consider it appropriate to make an order for anonymity in the following terms:

> "Unless and until a tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him, any of his witnesses or any member of his family. This direction applies to, amongst others, both the Appellant and the Respondent. Failure to comply with this direction could lead to contempt of court proceedings"

Upper Tribunal Judge Bruce
15th July 2022

[1] Paragraph 28 of the Guidance Note 2022 No 2: Anonymity Orders and Hearings in Private reads: In deciding whether to make an anonymity order where there has been an asylum claim, a judge should bear in mind that the information and documents in such a claim were supplied to the Home Office on a confidential basis. Whether or not information should be disclosed, requires a balancing exercise in which the confidential nature of the material submitted in support of an asylum claim, and the public interest in maintaining public confidence in the asylum system by ensuring vulnerable people are willing to provide candid and complete information in support of their applications, will attract significant weight. Feared harm to an applicant or third parties and "harm to the public interest in the operational integrity of the asylum system more widely as the result of the disclosure of material that is confidential to that system, such confidentiality being the very foundation of the system's efficacy" are factors which militate against disclosure. See R v G [2019] EWHC Fam 3147 as approved by the Court of Appeal in SSHD & G v R & Anor [2020] EWCA Civ 1001.