



**UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)
AA/01236/2013**

APPEAL NUMBER:

THE IMMIGRATION ACTS

Heard at: Field House

Determination Sent

On: 10 January 2014, 23 April 2014 and 19 June 2014

On: 16 July 2014

Prepared: 2 July 2014

Before

**DEPUTY UPPER TRIBUNAL JUDGE MAILER
Between**

**N M
ANONYMITY DIRECTION MADE**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

**For the Appellant: Mr J Collins, (instructed by M Montaque Solicitors)
For the Respondent: Ms A Holmes, Senior Home Office Presenting
Officer**

DETERMINATION AND REASONS

1. The appellant is a national of Iran, born on 29th April 1987. He appealed with permission to the Upper Tribunal against the decision of the First-tier Tribunal Judge, promulgated on 8th May 2013, refusing his appeal against the decision of the respondent to remove him, having refused his application for asylum.
2. At a hearing on 2nd July 2013, the Upper Tribunal found that there had been errors made on a point of law. The Judge had failed to make a clear

and consistent finding relating to demonstrations in Iran and in the UK. Nor had there been a proper analysis of the implications of the appellant's involvement in demonstrations in the UK. In particular, no analysis had been undertaken regarding the nature and content of the demonstrations the appellant attended in the UK. Nor was it clear that the appellant's participation amounted to anything other than a low level protester. Finally, the potential availability to the Iranian authorities of information showing the appellant's involvement with the Green Movement was not considered.

3. In the circumstances, both parties agreed that the decision should be set aside and that a fresh decision would have to be made.
4. The appeal could not be heard on 19th November 2013 as there was insufficient time available. In the circumstances, the hearing was adjourned until 10th January 2014.

Resumed Hearing on 10th January 2014

5. The appellant's solicitors produced an appellant's bundle and I have also had regard to the respondent's bundle. At the hearing, the appellant produced 19 colour photographs which were said to evidence the appellant's participation in various protest activities in both Iran and the UK. In addition, the appellant produced a CD relating to several occasions when protests took place in the UK. Excerpts from the CD were "played" during the course of the hearing.
6. The appellant attended the hearing and gave evidence. He identified at pages 12-45 of the bundle his asylum interview, dated 15th April 2012. He confirmed the contents of that interview, subject to "clarification" as set out in his witness statement at pages 60-66, dated 11th March 2013 and signed that statement at the hearing on 10th January 2014.
7. At his interview, he identified various photographs claimed to have been taken by his friend of demonstrations in Iran. Those photographs were taken on a mobile phone. He believes that the photos relate to a demonstration on 9th July in a place called Lehiaban Enghlab. Whilst he was in Iran, his friend transferred the photos via "bluetooth". This was then transferred onto his PC as well as onto his handset.
8. The appellant said that he was a 25 year old student from Iran when he came to the UK. His parents and sister remain in Iran. He used to be a supporter of the Green Movement. In the 2009 presidential elections, he voted for Mr Mousavi. He attended the demonstrations following the election as he believed that they had been "rigged."
9. The demonstrations he attended in Iran took place on the 15th June 2009, 4th July 2009 and 9th July 2009. At the demonstration on 9th July, he

witnessed police clashing with demonstrators. A plain clothes policeman tried to stop him in a side street, but he was able to run away.

10. He joined the Green Movement in Iran prior to the presidential elections in 2009. He was involved in the Green Movement in campaigning and advertising for Mr Mousavi. He explained that he did not do any other forms of protest whilst in Iran. Other people there also did graffiti. He attended four demonstrations before 18th April 2009.
11. Photographs had been taken by a friend, showing the appellant participating in demonstrations there. They were taken "incidentally". The word "accidentally" as recorded in the asylum interview was not correct.
12. On 9th July, he witnessed police clashing with demonstrators and he was able to run away through a side street. He assumed he was running away from a plain clothes police officer as that person had a radio and it appeared to him obvious that this officer was trying to arrest him. (A61).
13. He attended a final demonstration in Iran on 11th February 2010 in Enghlab Street. That was a demonstration organised by the government, which he attended in order to oppose the government. On that occasion, there were numerous plain clothes police officers in attendance. He and other such protesters were beaten by the authorities. His friend took photographs with his mobile phone. He was photographed walking with fellow demonstrators in Tehran.
14. He said that since coming to the UK, he has continued such activities, claiming to be a member of the Green Movement.
15. On 19th January 2010, he applied for a Tier 4 student visa at the British Embassy in Abu Dhabi. This was issued on 8th February 2010, valid until 21st March 2011. He arrived in the UK on 21st February 2010. He applied for an extension of his student leave on 10th February 2011, which was granted, valid until 16th February 2012.
16. On 4th November 2011, he contacted the asylum screening unit and lodged an asylum claim on 12th December 2011.

The respondent's case

17. The respondent accepted that the appellant is a national of Iran. His explanation given for believing that a policeman had tried to stop and arrest him at the demonstration, amounted to a speculative claim which could not be relied upon. It was also speculative to suggest that he had been photographed by police at another demonstration. He claimed that there had been plain clothes police, and assumed that they were police, as ordinary people in those circumstances do not have a camera or film

in their hands. He was in any event contradicted by his assertion that his friend took photographs of him at demonstrations.

18. As to the copies of photographs submitted relating to his participation in a demonstration at Tehran, only a faxed copy was submitted, and it was difficult to determine that it was the appellant pictured in the photograph, albeit that there is a resemblance.
19. It was accepted that he attended a demonstration on one occasion (paragraph 20). Photographs alone however do not show his political allegiance. His claim that he supported the Green Movement in Iran was rejected as he was unable to provide details of their activities.
20. Insofar as the UK activity is concerned, he failed to give a consistent account of attending demonstrations. It was however accepted on the basis of the photographs that he submitted that he had demonstrated in the UK.
21. In his screening interview, the appellant claimed that the Iranian authorities attended his home as he had been photographed demonstrating outside the Iranian embassy in the UK. In his substantive interview, he said they went to his home because they had taken photographs of him helping demonstrators at the demonstration on 11th February 2010 in Tehran. That constituted a discrepancy. Nor could he accurately recall when he found out about this. It was accordingly not accepted that his house had been raided by the authorities in Iran. Even if he had attended demonstrations in Tehran and London, he has not consistently or credibly established that this has come to the attention of the Iranian authorities or that he is now wanted by them.
22. Consideration was given to his claim of having demonstrated in the UK and whether he would be at risk on return on that basis. Regard was had to the decision in **BA (Demonstrations in Britain - Risk on Return) Iran CG [2011] UKUT 36 (IAC)**.
23. The respondent noted that the photographs that he produced showed that demonstrations in the UK were calling for an end to executions in Iran. He found out about demonstrations taking place through his friends and was not himself a leader or an organiser. He attended 1-2 or 4-5 demonstrations in the UK and was not involved in any other political activity.
24. Based on the description he gave as to his political activity in the UK, he was considered to be a "low level protester." He has not shown that he was anything other than a member of a crowd at demonstrations. He appeared in photographs, but had not shown that these are publicly available in the UK, Iran or elsewhere. Having viewed the video on YouTube, it is not possible to corroborate that it is the appellant amongst

the crowds demonstrating. Accordingly, it was not considered that he had a political profile.

25. His participation in political activity was of the lowest level and it is not reasonably likely to have brought him to the attention of the Iranian authorities. There was furthermore no evidence to show that the later demonstrations in the UK were recorded or photographed by the Iranian authorities. It is noted that he left Iran legally using his own passport and was not known to the authorities before then. Accordingly, though he might be questioned on return to Iran, it is not accepted that he is at real risk of being excessively questioned or ill treated (paragraph 36).
26. In his witness statement, he explained that his father told him in October 2011 that the authorities came to his home in April/May 2010. That was because he had been identified from photographs taken in Iran. His father did not tell him at the time as he thought that the matter would be resolved. He only told him about this in October 2011 after his home had been visited by the authorities, as he had been identified attending demonstrations in the UK. His father told him what had happened when he called the appellant from a phone that could not be traced. That was in November 2011.
27. In his statement, he stated that before the Iranian embassy in the UK was closed, they were still monitoring people protesting against the government. Even later, at demonstrations outside the Islamic Centre in Kilburn, people who were supporters of the regime filmed and took photographs. Iranians do have "spies" in the UK monitoring what is happening. He claims therefore that he does have a political profile. He has demonstrated in Iran and is known to the authorities there. He is consequently at risk of being detained and tortured.

Photographs produced

28. The appellant was shown the 17 photographs which were produced. These are at Exhibit F1-19. The first six photographs show the appellant appearing at a demonstration in Iran. He was taking part in demonstrations against the government because it was "a fabricated election." These six photographs were taken on one occasion and relate to one demonstration which occurred on 9th July 2009 in Tehran, Englab Street.
29. The photograph at F7 relates to the second demonstration, which took place in front of the Iranian embassy in London on 9th October 2010.
30. The photograph at F8 relates to the third demonstration in London, also before the Iranian embassy, dated 4th November 2011. The photograph at F9 also relates to the same demonstration, i.e. the third demonstration on 4th November 2011. In these photographs, the appellant is shown to

be participating in a demonstration of the London Green Movement (LGM) in which various placards that are held and displayed.

31. At F8, the appellant is holding a large placard containing small photographs of 20 people. The protest is against executions in Iran, as well as protests calling for democracy in Iran. The photograph at F10 relates to a demonstration which he referred to as the second demonstration on 9th October 2011, where the appellant is holding a placard stating that injustice anywhere is a threat to justice everywhere. F 11 and F12 show the appellant participating in the same demonstration on 9th December 2011. They are all standing in one row on the pavement. They were all in the front row. The appellant is clearly visible and the photograph contains a placard associating the Ayatollah with the Nazi swastika. At F12, the appellant is shown holding a placard of the London Green Movement. The placard calls for the stop of executions in Iran. F13 is a further photograph showing the appellant at the front of a demonstration, protesting against executions in Iran and calling for democracy.
32. The demonstration at F14 is the third demonstration on 4th November 2011 that he attended. This is also in front of the embassy. The appellant is shown holding hands with others in the protest organised under the auspices of the London Green Movement.
33. The appellant stated that the first demonstration that he participated in occurred on 6th December 2010.
34. Photograph F14 clearly shows the appellant in a T shirt stating "Iranian Green Movement" both in English and Farsi. The London Green Movement logo is contained at the foot of the page. This was a demonstration where the appellant held up different placards. The demonstration took place outside the embassy in London and was about one and a half hours in duration.
35. F15 relates to the second demonstration on 9th October 2011. The appellant is shown holding a placard, protesting against injustice as well as calling for executions to be stopped in Iran. There is a photograph displayed of a woman who has a noose around her neck and who was executed. He claims that she had been executed as a demonstrator.
36. F16 refers to the second demonstration on 8th October 2011 where the appellant is seen at the front of a group together with other demonstrators. He also referred to a demonstration outside the Islamic Centre which does not have photographs but has a video of that demonstration. This relates to an incident at Ashora in 2009. There was an uprising where people were killed. The 2011 demonstration was in memory of that event. Over 100 have been arrested since 2009 and more than 10 were killed. The appellant himself did not take part. He

learned this from the reports on the news as well as YouTube. He was aware of this in 2009 and was in Iran at the time.

37. The 2011 commemoration that took place in front of the Islamic Centre, in Kilburn, was arranged in advance. That centre was chosen for the demonstration because the Islamic centre is run by the Iranian government. There are links to the Iranian government.
38. The final three photographs, 17-19, relate to the same demonstration, again in front of the Iranian embassy in London, held on 7th December 2013. This was also organised by the Green Movement. The appellant is shown holding different placards during the course of that demonstration.
39. The demonstration took place in December 2013 and is online and on YouTube. All that is required is Internet access. It is not however possible for the appellant to download this onto his computer from YouTube. It can however be seen on his smartphone.
40. The appellant displayed a video on a computer relating to the second demonstration which was displayed to the tribunal.
41. The appellant is shown at the front of the demonstration. Others who are present are screaming slogans such as "Political Prisoners Should be Freed." He obtained this from the Green Wave Voice site. This is accessible by the public.
42. There is also a clip relating to the third demonstration, where the appellant is shown to be wearing a Green Movement sweatshirt. Again, the demonstrators are shouting "This is Our Last Announcement to You, Dictator," "You Invade Peoples' Democracy and Freedom." The embassy is shown to be situated across the road. The demonstrators also call for the release of political prisoners in accordance with "Iranian Constitutional Law." It is also indicated that there will be demonstrations "the next week," namely 13th November 2013, in front of the Chinese embassy. That is because the Chinese government continues to support the Iranians. The demonstrators are opposed to their support.
43. He has shown a video as well of the occurrence at the Chinese embassy. No photographs were taken outside that embassy. The demonstration in front of the Chinese embassy was in support of political prisoners in Iran. The slogans displayed are "We do not Want Dictators to Join Hands." There are also slogans and placards calling for executions to be stopped in Iran. The demonstrators call "Shame on You Chinese Government". That is because they support Iran, a dictatorship. The slogans refer to "The Same Values as the Iranian Government," "Violators of Human Rights." The appellant is shown to be standing outside the embassy holding one of the placards.

44. The next clip shown on the computer relates to a demonstration in 2011 before the mosque. The appellant is at the front holding a placard. Next to him there is a man who is in possession of a loudhailer. The placard calls for "Democracy for Iran – Free Iran." These are available on YouTube or from Green Movement sites.
45. A series of photographs was also shown on the computer. These relate to the third demonstration and include photographs taken of "Martyrs Killed in 2009."
46. There is a photograph of the second demonstration, calling for the stopping of executions. The appellant is at the front of the demonstration. There are several photos of him holding a placard of those who were executed in 2009.
47. There is a photograph produced of security guards beating people in Iran. The appellant held different placards as well as photographs during the course of the same demonstration. This pattern occurred on each separate occasion.
48. The final demonstration occurred on 7th December 2013. This resulted in a photograph on a mobile telephone. It shows a woman supporter of the Green Movement addressing the demonstrators near the Iranian embassy. She is speaking about nuclear weapons. The appellant is at the front of the demonstration, surrounded by placards.
49. The photographs at F17-19 show the appellant wearing the same clothes and standing in the front. There was a period where no demonstrations had in fact occurred in front of the Iranian embassy as it was shut following the attack by Iranian agents on the British embassy in Iran as well as a result of sanctions against Iran. The UK government had expelled the Iranian diplomats. This has reopened recently but just to deal with correspondence and letters. Some diplomats have returned.
50. It was after 4pm when the evidence in chief was concluded. Ms Holmes informed me that she was not feeling well and that she would not be in a position to either cross examine or complete her submissions. In those circumstances, (and with Mr Collins' agreement), the hearing was adjourned to a date to be arranged in March 2014.

Resumed Hearing on 23 April 2014

51. Mr. Collins sought to adduce further footage relating to a demonstration shown on the Voice of America TV.
52. The appellant continued his evidence and stated that he discovered this particular footage on a YouTube website. The date of the demonstration was 14th June 2013. This took place in front of the Iranian embassy in

London. It was organised by Green Wave Voice.

53. The footage, when paused at a certain place, showed that the appellant was present and was holding a placard. There were also photos of “martyrs” shown on the demonstration. This related to the demonstration in Iran in 2009 where several protesters were killed.
54. The appellant also stated that he attended a demonstration on Tuesday 22nd April 2014 in front of the Iranian Consulate in London. The Consulate was open and he saw people who attended with passports. He did not have any video footage of this demonstration. He said it takes at least one or two days for the footage to reach the Internet.
55. The people who organised the demonstration were also from the Green Wave movement.
56. The appellant also produced photographs taken at the demonstration on 22nd April 2014.
57. The appellant's cross examination then commenced. Ms Holmes asked him whether the Voice of America footage, which gives the date as 14th June 2013, relates to the demonstration that took place on that date. He said that it was. He attended that demonstration.
58. Ms Holmes put it to him that he had given evidence that he had attended about six demonstrations in the UK. He agreed.
59. She asked him what he had been doing “in between.” He went to college. He is involved in a political organisation relating to Iran. He is a member of Green Wave Voice. That involves trying to organise demonstrations based on events in Iran, such as 22nd Bahman celebrated in Iran in February. This is the day of the Iranian revolution. Other events organised related to women's rights in Iran, ‘because they are discriminated against there’. There are no human rights or equality between men and women in Iran.
60. Ms Holmes asked what the appellant meant by the statement that he is “a member” of Green Wave. He said “we do it voluntarily.” There is no card. He can show that he is a supporter from Facebook. He participates in demonstrations and helps in the arranging of such protests. This includes the making of placards such as occurred the day before, namely on 22nd February 2014. There is also a Facebook page and messages are sent by text to mobile telephones.
61. He was asked to explain what he meant by “helping to organise”. He said he was involved in the preparation of placards and the assembling of speakers and microphones. He also is involved in marshalling people, by “advising them” where to stand. In most demonstrations, they stand in

front of the embassy. The demonstration has to be organised carefully so as to prevent obstruction to pedestrians who wish to pass by. He is told what to do. He also shares text messages with other supporters and makes actual telephone calls to others.

62. He was asked what else Green Wave does apart from organising demonstrations. Their aim is to have accurate news about Iran, as well as events. This is set out on the website which 'shows' what is happening there. The aim is to promote democracy and freedom of speech in Iran. It is also to support those political prisoners who are jailed in Iran.
63. He was asked how they assist those who are jailed. He said that the Green Wave is the voice of Iranian opposition. They speak on behalf of prisoners who cannot speak up themselves. Green Wave is banned in Iran.
64. He claimed that Green Wave promotes freedom of speech by conducting demonstrations based on events which occur in Iran. This is to assure people in Iran that Green Wave exists to speak on their behalf.
65. He cannot recall the surname of the leader in the UK. His first name is Akbar. He is friendly with him. He speaks to him on the phone as well as by way of text messages.
66. He was asked why, if he is friendly and in contact with others, he is not a member of Green Wave. He said he came to the UK to study. He spent his spare time with Green Wave Voice. Most members participate on a voluntary basis. They support the organisation by their participation.
67. He was asked whether there were other demonstrations that he could have participated in apart from the six he claims to have attended in the UK. He said that there were. There were some in which he did not participate. There were also conducted by Green Wave organisations. He was not aware that there were any other organisations operating to support Iranian democracy by way of demonstration in the UK. He is only aware of Green Wave Voice.
68. He repeated that he is not aware of any other organisations 'who also organise'.
69. He was questioned on the six occasions that he participated in demonstrations. Ms Holmes put it to him that there was a large gap between such demonstrations. The first he attended was on 5th December 2010 and the next was on 9th October 2011. He was asked why there is such a large gap. He said it depends on the occasion but it does happen that he is unable to attend because of studies. Most of them occur on Sundays and he was working, and unable to attend. He worked in a shop belonging to his cousin.

70. He said that photos numbered 1-6 that he produced all related to demonstrations in Iran. His friends took the photographs on his mobile. He then transferred them to a laptop at his house in Iran. He did not want to save them on his mobile phone.
71. He was asked how it comes about that there are copies available of the photographs F1-6 in the UK. He was also asked how the CDs were prepared for the First-tier Tribunal hearing.
72. He said that he copied all the photographs on a USB as well as onto a CD. The CD shows various demonstrations and clips relating to both Iran and Britain. In the UK, he downloaded these onto a USB. The laptop on which he transferred them from his mobile was in his house in Iran. He had another computer at the time, onto which he loaded the footage. He transferred them from one laptop to another. The photographs will still be available. He stored all the pictures on a USB.
73. At the time that he took the laptop from Iran containing this footage, he did not think that there would be a risk.
74. Ms Holmes pressed him as to why he felt comfortable and why he regarded it as safe to take them through Iran. He said the photographs were amongst other photos of his family and he was not aware of them. It was a hidden file. He had forgotten that he had a hidden file. He thought he only had family photos on the computer he brought through.
75. He was asked when he found out that the authorities in Iran were "interested in him." He contacted his father in late October 2011. He told him that he wanted to visit. It was then that he found out that the authorities were interested in him. He discovered this from what his father told him.
76. His father tried initially to speak to him "cryptically" as he was afraid that the telephone he was using at the time might be tapped. He said that he would phone the appellant from another landline. He then phoned him about 2-3 days after that and told him that the authorities were interested in him.
77. His father went to a special communications centre which is available in Iran, where it is possible to make calls to foreign destinations. This is a public place. His father thought that their landline would not be safe and that it would be safer from "this other place."
78. He was asked whether his parents used mobile phones or computers. He said that they did. His father occasionally uses it but his mother and sister often did.
79. He was asked why his father could not have tried to use the internet or a

mobile telephone if he was worried about the landline being tapped. He said his father had been retired from the military and he preferred to use the centre. He believes that he would have considered that it would not be monitored as well.

80. He was asked whether, assuming that nothing had happened to him in Iran, but that all that he had done was to demonstrate in the UK, he would fear returning home. The appellant initially had difficulty in understanding this question and it had to be repeated several times. He stated in due course that he would be.
81. He was again asked whether he feared returning to Iran because he demonstrated in the UK. He said he did. When asked why, he again asserted that the authorities raided his house in Iran and would be after him in Iran.
82. The question was again repeated. He was asked whether, if the authorities had not raided his house in Iran and he had not had anything on him there, he would still be afraid of returning. He said he would not then have a problem.
83. He was asked what he feared in returning to Iran. He feared being detained, tortured and kept in prison. When asked why he has that fear, he said that he participated in demonstrations in London and footage would be available to the authorities.
84. He was asked whether that was the only reason he feared returning. He said it was, "because of the demonstration in London." He was asked why he thought they would pick him out. That is because they found pictures and footage on the internet as well as having raided their house. He referred to the two sets of photographs available, those in respect of the London demonstrations and those that were found on his laptop in Iran.
85. The appellant stated that he was finding it difficult to concentrate and was tired. In those circumstances, the representatives agreed that the appeal should be adjourned part heard. Ms Holmes indicated that she still had quite a bit of cross examination and that in any event, even if completed on 23rd April, the submissions were also likely to take some time.
86. As it was evident that the appellant was becoming tired and distracted, the hearing was adjourned at 4.20pm to resume on the 17th June 2014, at 2pm. I also gave directions that the parties file and serve detailed skeleton arguments setting out their respective submissions and authorities that they propose relying on.
87. I also informed the appellant that his counsel could prepare a transcript

of his cross examination from 23rd April 2014 which could be placed before the appellant prior to the resumption in order to enable him to refresh his memory with regard to his evidence.

Resumed hearing on 17 June 2014

88. At the hearing, the appellant produced a second supplementary bundle, "C"; this contained a further statement from the appellant as well as a witness, Mr S. Ms Holmes agreed to allow the appellant to adduce this further evidence before resuming cross examination.
89. The appellant gave further evidence, adopting his short witness statement dated 10 June 2014. In that statement, he referred to the evidence that he had previously given, namely that on 23 April 2014. There he had stated that on 22 April he had attended an anti Iranian regime demonstration organised by Green Wave Voice outside the Iranian consulate. At the date of the hearing, however, photographs relating to that demonstration had not been uploaded onto the Green Wave Voice website. Since then this has been uploaded and the appellant has now appended five photographs showing his attendance at that demonstration. He also stated that his friend, M S was at that demonstration and has attended similar demonstrations in the past.
90. The next demonstration was on 15 June 2014. He appended various invitations that he received to attend that demonstration. At page 24 there is an invitation from Green Wave in relation to the hosting of such demonstration at Parliament Square on 15 June 2014. A text from Green Wave has been produced at page 25. A text message dated 6 May 2014 was sent to the appellant (page 28). A further message was sent on 3 June (page 30).
91. Various photos were produced which match the copies contained at pages 21 and following.
92. The appellant referred to the Green Wave Voice Facebook group page as well as photographs uploaded to that group. These show photographs of the appellant attending anti-Iranian regime demonstrations. The Facebook copies of an invitation sent to him have also been produced.
93. The appellant was further cross examined. Ms Holmes referred to the appellant's chronology at A57 produced before the First-tier Tribunal. There he stated that he had attended about six demonstrations in Iran. He confirmed that. It was put to him that the one demonstration where a picture of him was taken at page 74 shows that he had a mask on his face. He accepted that.
94. He said that he did not wear such a mask at smaller demonstrations he attended. He had happened to have a mask on him at the time but not in

respect of all the others as well.

95. At A79, there is a photograph showing the appellant's face without the mask. He attended a counter demonstration in Eghelab Street on 11 February 2010. He wore a mask at that demonstration. It was a demonstration where he claimed to have been photographed.
96. He was asked what caused his parents' home to be raided. He said it was on account of his political activities that he was involved in, namely those in Iran and the UK. Their house was raided at the beginning of 1389, i.e. April or May 2010. That was after he came to the UK but not before then.
97. He was asked how he thinks the Iranian authorities linked him to his family's address. That is because they searched for him. That is why they raided the house. He is not sure whether this was only as a result of the photographs taken of him in Iran, maybe it was also because of the demonstrations in the UK as well.
98. He was asked how they linked him to his parents' home in respect of the day that he protested with a mask in Iran. He said that they probably "might have had a photograph of me" which did not have a mask from other demonstrations which had occurred earlier on in Iran.
99. It was put to him that he had claimed that he was only photographed at the one demonstration; why had he not stated that he was photographed at other demonstrations in Iran? That was because the question was not put to him. At that time the authorities did take photographs of participants.
100. It was put to him that his house had not been visited on another occasion. His father told him that they raided the house on only one occasion. He said that he did not speak to his parents for quite a while. They usually contacted him. They have not contacted him because they think that the phone will be monitored and they prefer not to contact him.
101. He has sometimes tried to contact them via his cousin. His parents usually call him from outside the house at the Iranian telecom.
102. He was taken to the photograph at page 79. There his 'mask' was down. He said that he was resting at the time and was trying to adjust the scarf. His hands are shown behind his neck, tying the scarf. That photograph was taken by a friend who took the other pictures seen on that page.
103. He was asked why he only wore a mask at some demonstrations. That was because sometimes they had a mask with them. When they did not have it, sometimes they got them from other people. He was referred to

pages 82-83 where he is shown wearing a mask. In that photograph it is evident that some of the participants in Iran have masks whilst others do not.

104. He was asked again why he did not always have a mask on demonstrations in Iran. That was because he would not always have access to a mask, for example, if you are invited at short notice to be at a demonstration whilst you are at work. Sometimes the shops are closed after work and "we couldn't obtain one."
105. He said that on the occasion when most of the people are not shown to be wearing masks, he had managed to get one for himself.
106. He explained that he sometimes learn about a demonstration at work. The demonstrations occurred after the election. Sometimes notice was given by a text message and sometimes notice was only given on the day whilst he was at work.
107. There was no re examination.
108. M S attended the hearing and gave evidence. He adopted his witness statement at page 4 of bundle C, signed on 10 June 2014. He has also produced the determination relating to his successful appeal. He received five years' leave to remain in the UK (page 19).
109. He came to the UK in 2011 as a student. He attended demonstrations against the Iranian regime after arrival here and became involved in the Green Wave Voice.
110. He has known the appellant since starting college after his arrival in January 2011. They became involved in anti Iranian regime political activity together with Green Wave Voice. They were both fed up with the regime and wanted change. They have been attending demonstrations since 2011, often together outside the Iranian embassy, the Islamic Centre and the Iranian Consulate and other places.
111. He continued to demonstrate against the regime. He is visible in various photographs that have already been produced before the Tribunal.
112. He said that the appellant is "genuinely opposed" to the present Iranian regime.
113. He was recently photographed at such a demonstration on 22 April 2014. He is shown in the photograph at F24. He is seen at the centre of the photograph where he has been circled. He has attended demonstrations with the appellant.
114. There was no cross examination.

Submissions

115. Ms Holmes relied on the reasons for refusal letter, especially those relating to credibility. She accepted at the outset that the appellant had attended at least one demonstration in Iran as well as other demonstrations in the UK. The respondent's assertion that his account of coming to the attention of the Iranian authorities is inconsistent is justified in the circumstances.
116. He had stated at interview that they went to his house shortly after his arrival in the UK. That was because they had taken photographs of the appellant helping demonstrators at the 11 February 2010 demonstration in Tehran. However, in his screening interview he said they went to his house because he had been photographed demonstrating outside the Iranian embassy in the UK. She referred to questions 94 and 98 of the interview.
117. Further, the appellant stated that he had a mask at that demonstration. How would they know therefore that it was him? In cross examination he stated that the authorities came twice to look for him in Iran. When asked if there was an earlier visit, he claimed that there had been. However, this is not reflected in the chronology. Ms Holmes submitted that "this is a lie". Accordingly, the appellant was not "in that regard" credible. His claim about the visit to his parents was accordingly "fluffy". She submitted that the authorities would not have been interested in him in Iran.
118. Insofar as the sur place activities in the UK are concerned, Ms Holmes frankly submitted that it was clear that he had demonstrated in the UK. If a person is reasonably likely to come to the attention of the authorities that that would involve him at risk on return.
119. Following **BA (Demonstrators in Britain - Risk on Return) Iran CG [2011] UKUT 36 (IAC)** it was not likely that he would come to the attention of the Iranian authorities. His involvement constitutes an attendance at the demonstrations, and sometimes waving placards, but even so, he has not gone beyond a certain level when attending demonstrations. He has been involved in some organisations such as Green Wave but is not a member of Green Wave but a supporter.
120. He did not know the leader's name, so it was a superficial involvement. Further, it appears that there were a lot of people participating. It would not make him stand out. She referred to the second footnote in **BA**.
121. She noted that the Tribunal stated that Iranians returning to Iran are screened on arrival. A returnee who meets the profile of an activist may be detained while searches of documentation are made. Students, particularly those who have known political profiles, are likely to be

questioned as well as those who have exited illegally.

122. There is not a real risk of persecution for those who have exited Iran illegally or are merely returning from Britain. The conclusions of the Tribunal in the country guidance case of **SB [2009]** are followed and endorsed.
123. There is no evidence of the use of facial recognition technology at the international airport, but there are a number of officials who may be able to recognise up to 200 faces at any one time. The procedures used by security at the airport are haphazard. It is therefore possible that those whom the regime might wish to question would not come to the attention of the regime on arrival. If, however, information is known about their activities abroad, they might well be picked up for questioning and/or transferred to a special court near the airport in Tehran after they have returned home.
124. The Tribunal also set out the relevant factors to be considered when assessing risk on return having regard to sur place activities.
125. Ms Holmes submitted that the appellant is not a leader; he is an active member of the crowd. His participation in demonstrations may be opportunistic.
126. She submitted that as there was no facial recognition technology developed, the question is whether he is prominent enough for them to pick him out or to watch out for him on return. She submitted that he would not "excite" their attention. There had been infrequent participation at demonstrations. Further, although he has been on YouTube, his participation is not particularly highlighted in the video.
127. On behalf of the appellant, Mr. Collins referred to the appellant's rebuttal witness statement at pages 60-66. It is accepted by the respondent that he has at least attended one demonstration in Iran. Mr. Collins submitted that it is more likely that he attended more than one. There had been no cross examination as to the assertion that he had been on more than one demonstration there.
128. Accordingly the appellant is politicised. The question is whether such a person's home would have been raided. He submitted that it would.
129. Why, if the appellant was an opportunist, would he wait for 18 months to claim asylum? The appellant has not embellished his evidence.
130. He came as a student on 19 January 2010 on a visa valid until March 2011 and until 16 February 2012. He is not a person who therefore claims asylum at the outset. Nor does he wait until his leave runs out. Why claim asylum when you had an extension and could have had a

further extension? Mr Collins submitted that the probabilities are that this was as a result of his parents having kept the raid from him until much later.

131. In any event, Mr. Collins submitted that it is accepted that he demonstrated in the UK. His family home has been visited. He would clearly be at risk.
132. As to the point involving the mask, that was not the respondent's best point. Some wear masks and others not. Tear gas is thrown. In the event, in one of the photographs, the appellant's face is shown. The Iranians could have discovered by way of information or word of mouth that he had attended such a demonstration.
133. In any event he is clearly shown on the YouTube clips and is shown to be associated with Green Wave Voice.
134. Although the appellant is not a member of Green Wave, he is in contact with them via Facebook as well as texts. This is an organisation in the UK. Involvement with them shows that he is an Iranian dissident. Although he may not be an active member or even a prominent one, he is nevertheless subject to the risk factors which do exist.
135. Mr. Collins submitted that an important feature is that there were not thousands of persons in the crowd but merely scores, and maybe up to 100 at most.
136. The photographs that have been produced amount to about 22. In addition there is reference to his participation in Facebook, which is clearly accessible. That is the type of document that the Iranian authorities would look for. The photographs produced, particularly those in the UK, demonstrate very clearly that the appellant is right in the middle of the first row holding placards. These are replicated in a YouTube video (page F25-26).
137. In addition, his witness has testified and confirmed the appellant's active participation in anti Iranian demonstrations in the UK. He has given credible evidence in that regard and his evidence has not been challenged. He was found to be credible by the First-tier Tribunal Judge.
138. Mr. Collins submitted that the facts are more significant than those found in BA. The situation has deteriorated since BA.
139. The appellant has been shown to be far more than passive. In particular, his participation as shown on Facebook and YouTube would be readily available to the Iranian regime. The facts in BA show that the appellant participated for only a few weeks in about five demonstrations outside the Iranian embassy. That appellant featured briefly for 2-3 seconds in a

video clip of the demonstrations, shouting anti regime slogans. The appellant's photograph also appeared in a story about the protests in a magazine. The Supreme Leader of Iran appears on the cover of that magazine as a devil.

140. N M however, has protested regularly outside the Iranian embassy. He is on video clips. He is featured at the forefront of the demonstrations holding placards. There is no mention of the appellant in BA being involved to that extent.
141. The Tribunal in BA however found that his participation could bring him to the attention of the authorities. He would therefore be at risk.
142. He referred to paragraph 40 and 43 in BA. There are examples of two travellers who reported that they were arrested and questioned about their Facebook accounts. He had been arrested for questioning after being allowed to leave the airport. He had been subject to assault and abuse. He was shown images of his participating in protests in Europe and was pressed to identify other people in the images. He had only attended a few demonstrations and did not even live in Iran.
143. He submitted that even those allowed through the airport may still have their movements inside the country monitored. They may be later arrested at the airport when they are leaving Iran.
144. The Tribunal when determining the appellant's appeal in BA noted at paragraph 69 that he participated in five demonstrations outside the Iranian embassy for a short period. This was associated with a group, UFIN. His participation in demonstrations was recorded in a YouTube film and the photograph in the UFIN's publication. The demonstrators were chanting incendiary slogans. The appellant was not a leader or organiser. He was at least for part of the time not on the periphery either and the video showed him shouting inflammatory slogans. His face was clearly recognisable in the photograph and the pictures on the cover of that magazine, Bambad e Iran, would certainly be offensive to the Iranian regime.
145. He would be at real risk, even if he were not picked up at the airport, he would still be at risk on return as the nature of the Iranian regime is that if they wish to detain a particular individual they have the means to do so.
146. Mr. Collins also relied on a Freedom House publication on 14 March 2014, condemning the illegal imprisonment in exile of two prisoners of conscience. In addition, he produced a UK Foreign and Commonwealth Office report dated 10 April 2014 in which it is noted that the government continued to suppress freedom of expression with arrests of journalists, bloggers and internet workers.

147. At page 3 of that report, Iran's reaction to international criticism of its human rights record was dismissive.
148. Hundreds of political prisoners and human rights defenders remain in prison and there are reports of further arrests during 2013. There is a report in that article of prison conditions remaining a serious concern. Torture and other ill treatment persist. There are various other reports including International Campaign for Human Rights in Iran at pages 12-13.

Findings and determination

149. There is no dispute that the appellant's evidence relating to at least one demonstration in Iran and several in the UK is credible. The respondent has however asserted that his claim that his house was raided after he came to the UK is untrue.
150. I find on the evidence produced that the appellant arrived in the UK in February 2010 with valid leave as a student. He applied for an extension in February 2011 which was granted until 16 February 2012.
151. During the currency of that leave, he contacted the authorities and claimed asylum. That was refused on 25 January 2012.
152. The appellant's claim was that when he was in Iran he had supported the Green movement and had attended some demonstrations. The respondent accepts at paragraph 20 of the reasons for refusal that he did attend one demonstration.
153. I have had regard to the photographs of the appellant demonstrating in Iran as well as video clips of his demonstrating in the UK. These show the appellant's participation at such demonstrations.
154. I have set out the nature and extent of the appellant's participation in each such demonstration including his most recent participation at an anti-Iranian protest in June 2014.
155. I have had regard to paragraph 4(i) of **BA**, supra. The headnote accurately sets out the conclusions of the Tribunal when considering sur place activity.
156. Having regard to the photographs and video clips, it appears that the demonstrations in which the appellant was involved were not only pro-Green Movement, but also pro democracy demonstrations such as seeking to have executions stopped as well as protests against injustice.
157. I do not accept Ms Holmes' submission that the appellant was either passive at such demonstrations or that his participation is to be

construed as at a very low level. The evidence shows that he was in fact usually at the front of the crowd consisting of not more than two dozen on any occasion, usually carrying either a banner or placards.

158. He has attended several such demonstrations including those before the Iranian embassy and consulate. His attendance has been on a regular basis.
159. It appears from the quality of the photographs produced as well as from the video clips that the images are clear. Photographs were downloaded from the Internet as well as the Green Movement website, all of which will be available to the Iranian authorities.
160. The background material available since **BA**, supra, which was produced at the hearing, indicates that the Iranian authorities have continued even more vigorously to crack down on such types of protest as attended by the appellant. They are likely to continue to have been monitored.
161. I have had regard to the January 2013 COI report, referred to in Mr. Collins' skeleton indicating the increased efforts to control and police the internet. In addition, I have had regard to the more recent Freedom House press report confirming that such monitoring continues.
162. I accept the appellant's explanation of the apparent conflict in his accounts relating to the visit of Iranian security forces to his home. It is evident that he only raised that issue about a year after he came into the UK while he had extant leave. He had been informed by his parents of that raid. They had delayed telling him about that in order not to scare or worry him. I also accept the appellant's evidence that he attended more than one such demonstration in Iran. It is evident that his face was at least partially exposed on one occasion.
163. I accordingly accept to the lower standard that the family home was raided as described.
164. I have referred to the factors said to trigger an inquiry or action against him on return following sur place activity in the UK.
165. I accept that the appellant has regularly attended a number of high profile demonstrations in the UK for a significant period. Apart from photographs relating to such demonstrations showing the appellant, I have also had regard to the corroborating evidence of his witness confirming his own participation at such events in the company of the appellant.
166. Some of the demonstrations were recorded on YouTube. These were demonstrations arranged by Green Wave. Accordingly, they will have received international media coverage.

167. The appellant is shown to be more than a passive background supporter. He is shown at the front of these protests. Moreover, he is shown in some of the videos to be shouting anti-Iranian regime slogans. He is in possession of placards on several occasions, opposing injustice and executions in Iran.
168. I have set out the dismal human rights violations which continue to occur frequently in Iran, including the use of torture which remains routine.
169. Having regard to the evidence as a whole, I find, applying the guidance in **BA**, supra, that the appellant has established a well founded fear of persecution for a Convention reason through demonstrations in person in both Iran and the UK.
170. I also find that he would also face a real risk of treatment contrary to Articles 2 or 3 of the Human Rights Convention if returned.

Decision

The decision of the First-tier Tribunal Judge involved the making of an error on a point of law. Having set it aside I re-make it allowing the appellant's appeal.

Anonymity order made.

Signed

Date: 2/7/2014

C R Mailer
Deputy Upper Tribunal Judge