

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76546

AT AUCKLAND

<u>Before:</u>	A R Mackey (Chairman)
<u>Counsel for the Appellant:</u>	D Mansouri-Rad
<u>Appearing for the Department of Labour:</u>	No Appearance
<u>Date of Hearing:</u>	1 & 2 September 2010
<u>Date of Decision:</u>	19 October 2010

DECISION

[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining the grant of refugee status to the appellant, a national of Iran, of Azeri ethnicity and the Muslim faith.

INTRODUCTION

[2] The appellant is a single man in his early 30s. He arrived in New Zealand on 21 February 2010 and claimed refugee status on arrival. He travelled the last part of his journey to New Zealand using a false Brazilian passport which he attempted to discard at Auckland airport. However, it was later found by Customs officials. Due to problems with his arrival documentation, a decision was made by an officer of the Border Security Group of Immigration New Zealand (INZ) that the appellant should be detained pursuant to s128 of the Immigration Act 1987. He was then detained at Auckland Central Remand Prison. When, shortly thereafter, documentation forwarded by relatives, was presented by him, he was transferred to the Mangere Accommodation Centre (MAC).

[3] A confirmation of claim for recognition as a refugee, dated 21 February 2010, was lodged with the RSB. He was interviewed on 22 and 23 April 2010. The RSB declined to confirm he was a refugee on 9 June 2010. He then appealed to this Authority on 11 June 2010. There was a short delay in the hearing of this appeal after the appellant changed his representative in late July.

[4] The appellant predicts being persecuted on return to Iran for reasons of imputed anti-regime opinions. The real risk of being persecuted by the Iranian regime, he submits, arises from the profile he now holds in Iran. That profile is made up initially of the strong opposition to the Iranian military that he demonstrated over the many years in which he carried out his compulsory training and, more recently, the repercussions that have followed his attempts to investigate the death of his brother, AA. The police claim AA died from a drug overdose. This claim is strenuously disputed by the appellant. His illegal departure from Iran, he claims, heightens his risk on return.

[5] The essential issues, if his credibility is established, are whether there is a real chance of him being persecuted on his return and if it is for one or more of the Refugee Convention reasons.

Documents

[6] In addition to a number of objective country reports, the RSB obtained a copy of the bio data page of a passport in the appellant's name that he had presented in Bangkok, Thailand, in November 2009 and a response from UNHCR Malaysia, following a request as to whether the appellant had lodged an application for recognition.

[7] The appellant lodged a considerable amount of documentation, which had been sent to him from Iran by his family, including, in particular, a military exemption card dated 11 October 2006. At the hearing, Mr Mansouri-Rad requested time to obtain details of Article 33(3) of the Iranian National Military Service Act (NMSA) (referred to in the exemption card). His request was allowed and, on 20 September 2010, the Authority received a copy of Article 33, both in Farsi and with an English translation from a recognised interpretation service. The letter sending these included submissions related to the impact of Article 33 on the appellant.

[8] Relevantly also, the appellant provided psychiatric reports from Dr Grant Galpin, consultant psychiatrist, Mangere Refugee Resettlement Centre, in respect

of the appellant, dated 7 and 21 July 2010.

THE APPELLANT'S CASE

[9] The appellant was born in May 1978 in Z, a district south of Tehran. His father was a builder who died some years ago. His mother lives with his surviving brother, BB. The appellant is the oldest child. He has one sister who is married and has three children. His other brother, AA, is deceased.

[10] The appellant considers AA was murdered by the Iranian police/disciplinary forces in 2008. The Iranian police, however, stated that AA died from a self-administered drug overdose. The appellant's enquiries into his brother's death have been a major contributor to his plight and prediction of serious maltreatment if he returns to Iran.

[11] The appellant completed primary schooling in about 1991. This was when, at about age 15, he failed his second year of intermediate school. He then joined his father's building business, working as a plumber and in various types of construction work. After three or four years doing construction work, the appellant started his own painting workshop.

Military service

[12] Like all Iranian men, the appellant should have undertaken compulsory military service at the age of 18. However, he evaded this by simply not presenting himself when announcements were made in newspapers, radio and television of the need to do so. As a result, he was unable to obtain a driver's licence, own a car or property, run a business or even get married. He then came to realise that to move forward with his life, he would have to complete his military service. Ultimately, in June 1998, at the age of 20, he presented himself for the draft. He was advised that he would need to complete 24 months' service rather than 21 months', because of his delay in presenting himself. It turned out to be considerably longer.

[13] In June 1998, he was sent to northwest Iran to start his military training and assigned to armed forces within the Revolutionary Guard. After three months' basic training, he was assigned to the Y garrison situated in Tehran. The garrison was primarily involved in support of other army bases and logistical support.

[14] While at Y garrison, on one occasion, when taking a short leave, he decided to take a live AK47 bullet with him in his personal carry bag as a souvenir. On leaving the base, however, his bag was searched and the bullet was discovered by an officer. He was then made to report to the security intelligence office (*Herasat* and *Ettela'at*) at the base. He was pushed to confess to some offence but refused to do so. He was then arrested and taken by the military police to a detention centre within the garrison. During interrogation, the military police would not believe that the bullet was only for a souvenir and they insisted that he must have had a weapon somewhere which he intended to use to kill someone. They pushed him to tell them the whereabouts of the AK47 and who he was going to kill with it.

[15] After about 10 days in detention, he appeared before a military court and was convicted and sentenced to 70 lashes. After receiving the lashes, he was released and escorted back to the Y garrison. He came to realise in the garrison that soldiers were expected to be extremely devout and obey strict religious rules, such as growing beards and praying numerous times a day. The appellant intensely disliked the religious element of the unit he was working in and being forced to grow a beard and attend religious meetings. He began to rebel against this and not to comply with many of the rules. As a result, he was relentlessly penalised and picked on by the officers. On many occasions he was denied leave to go home to his family. He was detained for disobedience more than 20 times in his first few months. These early detentions lasted from 24 hours to 72 hours. In frustration, he told the officers if he had a machine gun he would kill them all. From that time on he was never given any weapons for training.

[16] After six or seven months of being in this garrison, he could no longer bear the pressure and decided to desert. He went on the run, absent without leave, for approximately 20 days. He was ultimately found at home and was referred to the military court where he was convicted and sentenced to three months in an army detention centre.

[17] After this longer period of detention, he was arrested on three more occasions for several months. He also received punishments many times of between 60 and 79 lashes. After each detention additional time was added on to his military service until ultimately his service was completed and a military exemption card was issued in October 2006. During this period of approximately eight years, the appellant was often absent without leave, on several occasions for quite lengthy periods and at one time, about 2002/2003, for almost two years.

[18] During this eight year period, particularly during periods of detention he suffered from some traumatic experiences.

[19] The first of these, described in more detail in a supplementary statement he submitted dated 30 August 2010, was in 1998 during one of his early periods of detention within the Y garrison. During the second night of that detention, he was raped by a commissioned officer, who was a lieutenant in the logistics section. He was raped in a solitary cell after being handcuffed to the bed. It was after his release from this 72-hour detention period that he went absent for the first time. As a result of this incident, the appellant has suffered trauma since and was very reluctant to speak about this matter. He has only done so twice - once when he became involved with Narcotics Anonymous in Tehran in 2006 and again to his current counsel. (The counsel who assisted him before the RSB was a woman and he felt too embarrassed to raise the issue with her.)

[20] Further traumatic events took place in 2005-2006 during his last detention which extended for a period of some six months. During that detention he attempted to commit suicide on many occasions. He was ultimately brought before the military court. The mullah who heard the case stated that his offences of absconding from military service were insults to the "Supreme Leader, the Islamic Republic and the Revolutionary Guard". When asked why he had such a long history of absconding and indiscipline and if he had a problem with the regime, he replied that he did not have any problem with the regime but was no longer motivated to complete his military service and did not have the mental strength. Soon after this he was given medication to "calm me down" and control his moods. He was reluctant to take it but was told he had to. He came to realise that he was being treated as if he was a mental patient. Soon after the treatment escalated to receiving injections and on occasions he was put on an intravenous drip. As a result, he became very ill and his weight dropped by some 40 kilograms. He considers it is likely he was put on morphine when he came under the medical supervision within the Revolutionary Guard. Eventually, the military court mullah advised him, in March 2006, that he was not medically fit for military service and an exemption card was issued. That card stated that he was exempted under Article 33(3) of the Public Compulsory Military Service law, an issue discussed elsewhere in this decision.

Short time in business

[21] After returning to his home in 2006, the appellant became very sick and

could not sleep; his body ached and he was shaking uncontrollably. His family thought he had influenza. After many weeks at home, a relative asked the details of the medication he had been taking. As he was a person who had previous experience with drug addiction, he suggested the appellant get treatment by attending a support group called "Narcotics Anonymous".

[22] His mother made enquiries about Narcotics Anonymous and he began to receive treatment by attending meetings. Slowly his health began to recover and he was able to adopt a more positive approach.

[23] About a year later he was able to establish a viable plumbing business. Unfortunately, however, within a short time he started to receive numerous visits from members of the *Sepah* and *Basij*, who were demanding bribes and free service and harassing him for not having a licence to operate his business. He did try, on many occasions, to obtain a certificate or licence and produced the military exemption card. However, as soon as he did so, it was noted he had been exempted on Article 33(3) medical/psychiatric grounds and he was refused a licence on the ground that he was medically unfit to operate a business.

[24] His life, in his terms, became "a living hell". He was harassed and bribed regularly and the only way he could continue his business was by paying bribes. This ultimately became very expensive and depleted any profit he was able to make. The matter was made worse because, in the eyes of his customers, he was seen as having a bad reputation due to with the constant police presence at his business premises.

Brother's death

[25] Whilst he was in this state of depression and frustration in 2008, he received news that his brother, AA, had died.

[26] On being advised, at his business premises, that his brother BB and two of his friends had seen the AA's body at the local police station, the appellant rushed to see the body. He was advised at the station that AA's body had been taken to the coroner's office but, as it was a holiday that day, he could not see it. The following day, together with his brother-in-law and one of his friends, the appellant attended at the coroner's office and was called inside to identify the body. The appellant was then paralysed with shock and unable to undertake that role. AA's body was then identified by his brother-in-law.

[27] Soon after, the family was advised by the police that AA had died as a result of a drug overdose and that a patrol officer had found his body on the side of the road, beside his motorcycle, with a syringe in his arm. The appellant found this explanation to be unbelievable as AA was not taking drugs and was not even a smoker or a drinker. The body was delivered to the family soon after, prepared for burial and buried in a cemetery in Z. The normal 3rd, 7th and 40th day memorial services were then carried out by the family.

[28] The appellant provided a copy of AA's death certificate to the RSB, showing that he had died in June 2007.

[29] As the oldest male in the family, even though he had not taken a great deal of interest in AA's life beforehand, he felt responsible and wanted to obtain all the details of his brother's death. He and his brother, BB, found that on the night that AA died, he had been with a friend, CC. The two of them had been riding on a motorcycle with AA driving. They were stopped by the police. AA was unlicensed and had no documentation so the police took the motorcycle and detained AA. CC had then gone home and not taken the matter any further. In the appellant's view therefore, CC could have provided material evidence that, at the time AA was detained, there had been no accident and AA had not been on drugs. (Some time later, the motorcycle, which was at the police station, had been recovered by BB when he took the papers in to the police station.)

[30] On the seventh night after AA's death, his mother received a letter from the police asking a family member to attend the criminal section of the police station within three days. The appellant did this and, upon arrival, a police officer expressed condolences. The officer then asked some question as to whether AA had been in a fight before he died and whether or not there was any animosity within the family. The appellant replied in the negative to both these questions. The appellant asked why AA had been taken into custody and how he had come to die while in police custody. He was again told AA was not in custody but was found dead from a drug overdose. Because the appellant was so angry, he then stated he would complain about the police treatment. He was advised by the police officer that that would cost him dearly particularly if he had no evidence to support it. The appellant, thinking that CC could give evidence, said that he had a witness and stormed out of the police station.

[31] Unfortunately, when the appellant tried to contact CC to give such evidence, after initially stating that he would assist, sometime later, after the appellant had lodged a formal complaint with the police approximately 40 days after his brother's

death, CC changed his mind and refused to co-operate. The appellant was sure from the fear in CC's demeanour, after he had changed his mind on giving evidence, that CC had been threatened by the police. All he would say to the appellant was that he had seen nothing. Despite being reminded of his previous promise, he flatly refused to assist.

[32] The complaint lodged by the appellant had been to the military court as, when he went to the public court, they had stated it was a military matter and that he should take it up with their court. He also explained that the head of the police station was a member of the military disciplinary forces and therefore the file had to be opened with the military court. At the military court, he was told that a date would be set and he had to take his witnesses to the court on that day.

[33] When the date of hearing arrived, as he could not get CC to give evidence, he decided not to go to attend. He is not sure what happened at the court as a result of his non-attendance, but thought the matter may have been stood down for a later hearing date. Thus, in the meantime, while waiting to hear of a second hearing date, he continued to look for witnesses, spending a lot of time on the streets enquiring of neighbours and passers-by. He was not successful.

[34] A police report was written, however, and sent to the court. This had been prepared in a way that did not assist him. He considered the only evidence that may have assisted should have been provided by CC. In the meantime, from further enquiries made in the local district, the appellant concluded that he had actually found out who, in the police force, had been the killer of his brother. He considered that it had been done by police and disciplinary forces at the police station, although he could not get much more detail.

[35] One day, when he was out searching for evidence, and by this stage, almost aimlessly wandering the streets in desperation, he was hailed by men in a private car with tinted windows. These men called him over and asked him to sit in the car. He did so. Thereupon they said they were from the police and started beating him up. They told him that he should not follow up on the complaint file and that he would be killed if he did so. This incident took place approximately two months after the appellant had first lodged his complaint. After a few minutes of being driven in the car and being continually threatened and hit, the car came to a stop at traffic lights and the appellant was able to open the door and run away. Because they were in a built-up area, the police officers were unable to chase him. The appellant hid in some old buildings for a short time and then made his way to his sister's home. From there, he called his mother and was told that the police

had come to the family home looking for him. She was extremely distressed. Thereupon, the appellant left Tehran to go to the family's home area of X, at the village of W, some seven hours' drive away from Tehran.

[36] Apart from returning to W for short periods, the appellant remained on the run and in hiding for approximately two years. During this time he was told by his mother that there had been a few visits to the family home by the police who were asking for him.

[37] The appellant was able to stay with a relative in W on a sporadic basis. He was sometimes able to find farming work in the area and on other occasions went to Tehran and districts around there obtaining "illegal" work on construction sites. During the time he was in hiding, to the best of his knowledge, the police never came to W. He never returned to the family home or the district of Z. In mid-2009, he did travel to Tehran with his uncle and voted in the June election. He, along with many others, thought that there may be an opportunity for some freedom in Iran if the election went the way of Mousavi and not Ahmadinejad. After the election and the problems in late June 2009, the appellant did attend four of the "green" rallies with an uncle. He avoided getting into situations where he may have been beaten or be at risk as he did not want to get into confrontation. After three or four nights, he returned to W. It was about that time he considered he could not continue being "in hiding" and he had to get out of Iran, both for his own sake and for the sake of his family.

[38] During the time he had been in hiding, he had kept in regular contact with his sister. After discussion with her, she and her husband assisted him greatly in the funding of his departure.

[39] The appellant did not have a passport and so he spoke to DD, to a retired member of the security forces for whom he did plumbing work. They had become friendly. DD informed him it would cost five million toman to arrange a passport and his departure. He informed DD of all of his problems and the troubles he had had with the military and with the police.

[40] DD then arranged a passport for him and stated that he had bribed people at the airport so that the appellant could depart without a problem. The appellant never checked the passport after receiving it to note that it had been issued in 2007, not at the time of his departure in 2009. As he knew the passport, which was in his correct name, had been obtained by bribery, and that the officials would probably not look too closely at it, he did not pay too much attention to this. He

agreed that a copy of the first page of the passport which he had used, and later had been passed to the New Zealand immigration authorities by the Thai immigration authorities, was the passport he had used for his departure and arrival in Thailand.

[41] After flying from Tehran to Bangkok, the appellant made contact with an Iranian agent based in Bangkok who, for a fee of some six million toman which was provided by his sister, produced a false Brazilian passport. The appellant then tested it to travel to Malaysia and then, for a few days, by ferry to Indonesia before returning to Malaysia. A few weeks later, he used the passport again to fly on to New Zealand.

[42] During his time in Malaysia, he became ill with dengue fever. Fortunately he was assisted by an Iranian friend to obtain hospitalisation and medication. While in the hospital, he came in contact with a Kurdish man who was holding a UNHCR refugee card. He suggested the appellant go to the UNHCR in Malaysia to register. He did this. However, because he was reluctant to show his Brazilian passport and that he had arrived illegally by van from Bangkok, he did not tell the UNHCR of this. He was asked by the UNHCR to come back and write down everything. However, he did not return to the UNHCR as, soon after this, he received money from his sister in Iran and was then able to obtain a ticket for a direct flight to New Zealand. Even though a supervisor at the airport looked closely at his ticket as he passed through, he was able to board the flight.

[43] The appellant considered that the UNHCR had not retained any record of his going to their office as the matter was not fully followed through by him and he had never received an appointment card for a further interview, as other Iranians appeared to have done. In addition, the interpreter at the UNHCR was Afghani and did not fully understand him.

[44] Since the appellant has been in New Zealand, he has made some contact with his sister who informed him that the family were still under great stress in Iran because of his past problems. She reported that the police had continued to go to their family home on a few occasions. From her reports to him, he thought that the police had visited on about three occasions, but he was not absolutely sure.

[45] He considered that if he returns to Iran, he will either be killed, put in prison or possibly sent to a mental asylum, particularly because of the terms of his military exemption card. He considers he is on a black list because of his previous contacts and poor record with the Iranian military and police authorities. Although

he does not have convictions outside the military, because of his involvement with his late brother, AA's police file and the complaints that he has made in that regard, he would be harassed and severely maltreated or killed. His short detention in the unmarked car and regular follow-up visits to his home have convinced him of ongoing risks to him and interest in him.

[46] He agreed that he had had been able to live in hiding but often in the family's home village for quite a period of time. However, he was unable to conduct any form of realistic life at all due to an inability to work legally or even spend time with his family.

Additional evidence

[47] At the end of the hearing, Mr Mansouri-Rad submitted that it appeared the terms of the appellant's military exemption card were particularly important to the risks and problems that this appellant had suffered in the past and it could still be highly relevant on return. He undertook to try and obtain the full details of Article 33(3) of the NMSA and to present that, with a translation to assist the Authority.

[48] That information was provided on 20 September 2010, as noted above. The appellant's exemption card states:

By the virtue of Section 3 of Article 33 of the National Military Service Act, the above mentioned name is exempted from military service.

Date: 11 October 2006.

[49] Article 33(3) of the NMSA states:

Psychiatric illnesses

Section 33

Conscripts suffering from psychiatric illnesses can use exemptions specified in each section as below based on the type of their illnesses:

Subsection 3 - Personality disorder

- A) All types of psychopathy, borderline personality disorder and schizoid permanent exemption;
- B) All other types of personality disorders; if disabling - permanent exemption;
- C) If not disabling - combat exemption.

[50] Mr Mansouri-Rad submitted that this evidence corroborated the appellant's testimony in its entirety and strongly supported all of the appellant's difficulties with the authorities the appellant had obtained. They all pointed to the problems based on his personality and his medical condition.

THE ISSUES

[51] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

[52] In terms of Refugee *Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

Credibility

[53] At the outset, in order to establish the “facts as found”, it is necessary to establish whether the core parts of the appellant’s claim are credible. While the Authority does have concerns on the vagueness, lack of precision, particularly in relation to dates, and that in certain areas the Authority considers the appellant may be exaggerating the risks to him, the Authority is satisfied that the core of his claim is a credible one. In doing so, the Authority takes into account the medical evidence of Dr Grant Galpin, consultant psychiatrist, where he found the appellant presented with symptoms consistent with post traumatic stress disorder.

[54] This credibility conclusion is substantially assisted by the documentation presented, particularly the military exemption card and the terms of Article 33(3) of the NMSA. The appellant’s experience over a period of some eight years, during which time he continued to be involved in the completion of what initially should have been 24 months’ military service, the Authority accepts, did become a continuing and growing “horror story”. The Authority considers that this has been contributed to initially by the appellant’s own attitudes and, as time went on, his mental instability. His situation and instability was exacerbated by the rape and later the forced drug regime he was placed under while in detention.

[55] After the appellant finally obtained an exemption from military service and then tried to establish his own business, another “horror story” started as he tried to obtain permission/licences for his business activities and was rejected, threatened and bribed because the terms of his military exemption card showed him as psychiatrically disordered. His reaction against this continual discrimination and harassment leads the Authority to accept that when he complained to the police after his brother’s death, this led to another episode of threats and harassment. Ultimately, this led to the police threatening him with death or serious maltreatment.

[56] The appellant’s two years in hiding without harm and his departure, using a passport issued two years before his actual departure, could well be argued to weaken his credibility, or alternatively, the well-foundedness of risks to him.

[57] Dealing with the time in hiding first, the Authority notes the appellant spent the last two years of his life in Iran as an itinerant illegal worker, from time to time staying in the family home village, but at all times away from Z. The detailed account of this period shows that significant and sustained breaches of human rights were taking place during this period as well - for example, the right to work, the right to self-employment and the rights of access to the courts.

[58] In respect of the passport issue, the Authority is unable to be determinative, on the facts as found. On the basis of one page of a passport that could equally be either genuine or fraudulent, it is simply not possible to reject his otherwise credible evidence. Accordingly, no weight can be given to this document.

Country information relied on

[59] Over recent times, the Authority has had several occasions to consider and assess relevant country information on human rights issues in Iran, both in the generalised treatment of persons, such as this appellant, who are considered to be anti-regime and have a bad profile with the Iranian authorities, as well as in particular those who have been involved more directly in the various protests that took place after the June 2009 elections. A very detailed assessment is set out in *Refugee Appeal No 76454* (8 March 2010) between [41] and [59]. The poor human rights record indicating the torture and detention of detainees remain a common feature of the Iranian criminal justice and security scene is covered in [47]-[49] of that decision. For example, an Amnesty International *AI report: Iran* (2008) states:

Torture and ill-treatment of detainees were common, facilitated by prolonged pre-charge detention, denial of access to lawyers and family, and a longstanding pattern of impunity for perpetrators.

[60] Similar statements are made in the Human Rights Watch *World Report: Iran 2009* (January 2010) at p1 and United States Department of State *Country Reports on Human Rights Practices 2009: Iran* (11 March 2010) which states:

The government's poor human rights record degenerated during the year, particularly after the disputed June presidential elections. The government severely limited citizens' right to peacefully change their government through free and fair elections. The government executed numerous persons for criminal convictions as juveniles and after unfair trials. Security forces were implicated in custodial deaths and the killings of election protesters and committed other acts of politically motivated violence, including torture, beatings, and rape. The government administered severe officially sanctioned punishments, including death by stoning, amputation, and flogging. Vigilante groups with ties to the government committed acts of violence. Prison conditions remained poor. Security forces arbitrarily arrested and detained individuals, often holding them incommunicado. Authorities held political prisoners and intensified a crackdown against women's rights reformers, ethnic minority rights activists, student activists, and religious minorities. There was a lack of judicial independence and of fair public trials. ... Official corruption and a lack of government transparency persisted.

Well-founded fear

[61] The Authority has, for many years, interpreted the term "being persecuted" from the "inclusion clause" (Article 1A(2) of the Refugee Convention), as meaning the sustained or systemic violation of basic human rights, demonstrative of a failure of state protection. In other words, core norms of international human rights law are relied upon to define the forms of serious harm which fall into the scope of "being persecuted". This is often referred to as the human rights understanding of being persecuted and is fully explained in *Refugee Appeal No 74665/03* (7 July 2004) at [36]-[90].

[62] As noted in the issues set out above, an assessment of the well-founded fear element of the refugee definition has, at its core, not the facts subjectively perceived by the claimant, but the objective facts as found by the decision-maker; see *Refugee Appeal No 70074/96* [1998] NZAR 252, 260 and, in some detail, in *Refugee Appeal Nos 75692 & 75693* (3 March 2006) where, between [86] and [89], the Authority addressed the legal issues relating to well-founded fear and how these closely align with the "Michigan Guidelines on Well-founded Fear" (2004). The Authority's jurisprudence has recently been summarised again in *Refugee Appeal No 76044* (11 September 2008) at [57].

[63] Assessed against the totality of his evidence, and the objective country information, the Authority is satisfied that the appellant does have a real chance of

being persecuted on return to Iran for reasons of his implied political beliefs.

CONCLUSION

[64] For the reasons mentioned above, the Authority finds the appellant should be recognised as a refugee within the meaning Article 1A(2) of the Refugee Convention. Refugee status is granted. The appeal is allowed.

"A R Mackey"
A R Mackey
Chairman