



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/00233/2020**

THE IMMIGRATION ACTS

**Heard at Manchester
On the 12th December 2022**

**Decision & Reasons Promulgated
On the 4th January 2023**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

BN

(Anonymity direction made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms K Smith of Counsel (Direct access – Advocacy only).

For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer

DECISION AND REASONS

- 1.** The appellant is a citizen of Iran born on 31 December 1982 who claimed to face a real risk of persecution from the Iranian authorities if returned to Iran, but whose claim was found by the First-tier Tribunal to have been fabricated in its entirety. The First-tier Tribunal Judge was not persuaded that the appellant was giving truthful evidence and did not accept he had ever, in the past or present, any genuine political interest, and that his claimed risk profile was opportunistic and merely made to enable him to remain in the United Kingdom.

2. That decision was challenged by the appellant and the matter came before the Upper Tribunal, following a grant of permission to appeal, at Manchester on 23 April 2021. On that occasion the Senior Home Office Presenting Officer accepted the First-tier Tribunal had erred in two respects, first in relation to finding the appellant faced no risk on return as his was an opportunistic claim and, secondly, in relation to the HJ (Iran) point, although did not concede that any such errors were material.
3. Ms Smith on behalf of the appellant had submitted that the First-tier Tribunal judge had erred in failing to properly assess any real risk the appellant would face in light of his sur place activities, namely attending demonstrations within the UK and his Facebook postings.
4. The two grounds on which permission to appeal to the Tribunal was sought are: Ground 1, attendance at demonstrations, failure to make clear findings on material matters and assess the appellant's profile in line with country guidance caselaw by reference to BA (Demonstrators in Britain - risk on return) Iran CG [2011] UKUT 36, Ground 2, Facebook activities, failure to engage properly or at all with the appellant's case and relevant case law. The appellant averred there was a real risk arising from his online activities and that whether genuine or opportunistic they created a real risk, and that deletion of his account did not obviate the risk principally because risk of his activities will be discovered from interrogation on the 'pinch point' on return.
5. The Upper Tribunal found:
 18. I find the Judge has erred in law in relation to Ground 1, but not in relation to Ground 2 but I accept that in light of the Upper Tribunal shortly hearing an appeal specifically aimed at enabling it to produce a report determination relating to Facebook, to be heard on the 8 - 10 June 2021, it is appropriate to permit the parties to make further submissions in relation to the Facebook issue, in light of the facts as found, if anything arises in that case.
6. Directions were given to enable the matter to move on to a substantive hearing which was originally listed before me sitting in Manchester on 11 August 2022. Discussions between Ms Smith, who attended on behalf of the appellant, and Mr Bates, who attended on behalf of the Secretary of State, identified a practical issue in relation to how the appellant was able to provide and communicate the type of evidence required in connection with his Facebook account, referred to by the Upper Tribunal in XX[2022] UKUT 00023 (the awaited Facebook case) without which the Upper Tribunal had suggested that little weight should be placed upon printouts of postings made on an individual's Facebook account. As a significant part of the appellant's case relates to his Facebook postings and whether they represent genuine political opinion, to be considered with other actions undertaken relevant to the assessment under BA, the Upper Tribunal concluded it was not in a position to proceed with that hearing, which was converted to a Case Management Hearing, and further directions given. In accordance with those directions additional material has

been provided enabling the Tribunal matter to proceed with the final hearing on this occasion.

7. In his latest witness statement dated 8 September 2022 the appellant states he tried the “Download Your Information” function on Facebook to try and get the evidence he was advised the Upper Tribunal requires in cases involving Facebook but claims that the data file was so big that he could not download it to his mobile telephone. The appellant claims that after the last hearing, with the help of a friend, he tried to download the files Facebook had made available to him as a result of which Facebook blocked his account, on the basis they detected unusual activity. The appellant claims that with the assistance of a relevant third party (‘the relevant third party’) he was able to confirm his account and reset his password which gave him access to his Facebook account again.
8. The appellant correctly identifies in his witness statement that with the ‘Download Your Information’ function a person can select and deselect the information they require. The default selection is “select all”. Mr Bates on the last occasion had indicated that he wanted to understand the appellant’s ‘preference’ settings to see if and when the Facebook material moved from public to private and vice versa. Attempts with the assistance of the relevant third party to request only the appellant’s ‘preference’ information on the appellant’s telephone proved unsuccessful which the appellant assumes was due to the size of the file, and that when the relevant third party using the details provided by the appellant attempted to download the file, Facebook blocked the account on the basis that they had detected unusual activity. The relevant third party again assisted the appellant confirming his account which enabled him to reset his password and regain access to the account.
9. The appellant has within his supplementary bundle provided additional evidence, some of which is translated. The appellant refers to the cost of translating all the information which he claims would be very expensive.
10. The appellant correctly states at [11] of his witness statement that Facebook is designed to be used electronically and not printed into evidence and offers the opportunity for the Presenting Officer to view his Facebook account although I anticipate one issue with such an invitation is that it may be of limited use unless all the content is in English or accompanied by a translation of the relevant language into English, which an appellant will have to provide.
11. In accordance with directions and following the submission of the appellant’s supplementary bundle a number of questions were prepared by Mr Bates although these were not seen or responded to by the appellant prior to the hearing, requiring the questions to be read to him by Mr Diwncyz, which he answered as best he could.

Discussion

12. The investigations undertaken by the appellant and the relevant third party clearly indicates an issue common to the modern digital world,

not confined to Facebook or proceedings within this jurisdiction, that devices can have a limit on the amount of data that an individual is able to download onto them. The appellant's evidence that data restrictions on his mobile telephone were not sufficient to enable him to download the relevant information from Facebook is plausible. There was no explanation at the hearing of the nature of the appellant's data package on his telephone and its relationship to the size of the Facebook material, or to show that if it was limited it could be expanded to enable the material to be downloaded. It was not shown that may have been an unreasonable solution for the appellant or any other individual in his situation to explore.

- 13.** The investigations have also indicated a further issue, although one which appears to be more a matter of inconvenience than a bar to disclosing material, that if an individual seeks to log onto a Facebook account using a computer or other device not registered to the Facebook account holder, even if a lawful attempt as was undertaken by the relevant third party using the appellant's Facebook password which he had provided, that the security software employed by Facebook will classify such an attempt as unauthorised activity, and bar access to the account. The investigations have established, however, that the individual is able to change their passport to regain access to their Facebook account. It may therefore be that if an individual who only has a mobile telephone with insufficient data, but who has access to a third party's laptop and wishes to access their Facebook account via that device, they may need to advise Facebook of their intended action to ensure that their attempts to access the data will not be treated as an authorised activity.
- 14.** Although the investigations undertaken since the case management hearing indicated issues that may be faced by Facebook account holders, it has not been established they create insurmountable obstacles that prevent individuals accessing their account, albeit by alternative means. It has not been established there is any need to modify the guidance provided by the Upper Tribunal in XX in relation to the evidence that should be provided in such a case.
- 15.** It is an accepted principle that if an individual has done everything they can reasonably be expected to do to obtain evidence, but have demonstrated a credible reason why they cannot obtain that material, there is always a discretion open to any decision-maker to factor such issues into the assessment process, albeit that this will leave them having to make a decision on the limited and possibly incomplete evidence being relied upon.
- 16.** In relation to the demonstrations in the United Kingdom, in his witness statement of 14 April 2021 the appellant claims to have participated in demonstrations against the Iranian regime including:
 - i. On 11 March 2018 at Manchester Piccadilly train station which the photograph was published on the appellant's Facebook account on 1 July 2019. Appellant states that the pro-Kurdish protest to show solidarity to ethnic Kurds in Syria.

- ii. On 21 July 2019 outside the Iranian embassy in London. The appellant states it was a protest against the Iranian regime and its killing of Kurds and smugglers.
 - iii. On 1 September 2019 outside the Iranian embassy in London which the appellant states the protesters called upon the Iranian regime to release two named political activists.
 - iv. On 20 October 2019 outside the Iranian embassy in London which the appellant states as a protest against the Iranian regime supporting the removal of the regime.
 - v. 20 November 2019 outside the Iranian embassy, protesting against the Iranian regime.
 - vi. On 2 February 2020 demonstration calling upon the Iranian regime to release a named individual who was due to be handed by the regime.
- 17.** The appellant states that at the demonstrations he would shout slogans and would carry a banner/placard and that on 20 November 2019 he burned the Iranian flag and a photograph of the Iranian Prime Minister.
- 18.** The appellant's explanation for there being no further demonstration since February 2020 was due to Covid-19.
- 19.** The printout of the images appearing on the appellant's Facebook account show the appellant holding a placard and standing at various places some of which appear to be across the road from the Iranian Embassy in London. The appellant is clearly some distance from the building and the photograph is taken with his face and anything he is holding up towards the camera, but with his back to the Embassy.
- 20.** Any risk to an individual as a result of such events has to be assessed by reference to the guidance provided by the Upper Tribunal in BA, the headnote of which reads:
- 1 *Given the large numbers of those who demonstrate here and the publicity which demonstrators receive, for example on Facebook, combined with the inability of the Iranian Government to monitor all returnees who have been involved in demonstrations here, regard must be had to the level of involvement of the individual here as well as any political activity which the individual might have been involved in Iran before seeking asylum in Britain.*
 - 2 (a) *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.*
 (b) *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 (risk on return -illegal exit) Iran CG [2009] UKAIT 00053 are followed and endorsed.*
 (c) *There is no evidence of the use of facial recognition technology at the Imam Khomeini International airport, but there are a number*

of officials who may be able to recognize 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.

3 *It is important to consider the level of political involvement before considering the likelihood of the individual coming to the attention of the authorities and the priority that the Iranian regime would give to tracing him. It is only after considering those factors that the issue of whether or not there is a real risk of his facing persecution on return can be assessed.*

4 *The following are relevant factors to be considered when assessing risk on return having regard to sur place activities:*

(i) Nature of sur place activity

- Theme of demonstrations – what do the demonstrators want (e.g. reform of the regime through to its violent overthrow); how will they be characterised by the regime?*
- Role in demonstrations and political profile – can the person be described as a leader; mobiliser (e.g. addressing the crowd), organiser (e.g. leading the chanting); or simply a member of the crowd; if the latter is he active or 3 passive (e.g. does he carry a banner); what is his motive, and is this relevant to the profile he will have in the eyes of the regime>*
- Extent of participation – has the person attended one or two demonstrations or is he a regular participant?*
- Publicity attracted – has a demonstration attracted media coverage in the United Kingdom or the home country; nature of that publicity (quality of images; outlets where stories appear etc)?*

(ii) Identification risk

- Surveillance of demonstrators – assuming the regime aims to identify demonstrators against it how does it do so, through, filming them, having agents who mingle in the crowd, reviewing images/recordings of demonstrations etc?*
- Regime’s capacity to identify individuals – does the regime have advanced technology (e.g. for facial recognition); does it allocate human resources to fit names to faces in the crowd?*

(iii) Factors triggering inquiry/action on return

- Profile – is the person known as a committed opponent or someone with a significant political profile; does he fall within a category which the regime regards as especially objectionable?*
- Immigration history – how did the person leave the country (illegally; type of visa); where has the person been when abroad; is the timing and method of return more likely to lead to inquiry*

and/or being detained for more than a short period and ill-treated (overstayer; forced return)?

(iv) Consequences of identification

- *Is there differentiation between demonstrators depending on the level of their political profile adverse to the regime? (v) Identification risk on return*
- *Matching identification to person – if a person is identified is that information systematically stored and used; are border posts geared to the task?*

- 21.** Having considered that guidance I find as follows: in relation to the theme of the demonstrations, those showing solidarity for Kurds in Syria may not be of particular interest to the Iranian authorities especially as they are conducted outside Manchester Piccadilly train station. The protests in July, September, October, November 2019 in February 2020 relate to protests against the action of the regime and call upon the regime to release two political activists, the removal of the regime on one occasion, and against a sentence of hanging on the final occasion. The photographs provided however do not demonstrate that this was a substantial protest but one of the many recognised in BA that occur outside the Iranian Embassy.
- 22.** In relation to the appellant's role in the demonstration and political profile, there is insufficient credible evidence to show that the appellant will be perceived as being a leader, mobiliser, or having an active role in the demonstrations. I accept the photographs show him holding a placard and standing next to a flag but as noted above, his back is to the Embassy, and he appears to be in a very passive position not one that will draw the attention of others to him. There was no evidence he addressed the crowd, organised the event prior to his attending or otherwise, or had a leading role that will bring him to the adverse attention of the authorities. The evidence suggests the perception of the appellant in the eyes of the authorities, even if they were aware of him (which I do not find is made out they will) is simply as a member of the crowd although carrying some material, which is suggestive his active was, in reality, that of a person with no more than a passive role.
- 23.** In relation to the appellant's motive for attending the demonstrations, it is relevant not to lose sight of the finding of the First-tier Tribunal in relation to the motive for the appellant making his claim for international protection which was found to be for the sole purpose of enabling him to remain in the United Kingdom, rather than demonstrated a genuine credible belief/account. The rejection of the core account by the First-tier Tribunal and its finding that the appellant had fabricated his claim in its entirety and that he was not giving truthful evidence is a preserved finding. There is insufficient evidence to support a finding that the appellant has a genuine actual or imputed anti-regime opinion attached to him by the Iranian authorities.

- 24.** Although he claims since February 2020 there have been no further demonstrations as a result of Covid-19, any restrictions upon public gatherings for this reason was ended a significant period of time ago and there has been evidence of protests in London and elsewhere following the death of Mahsa Amini on 24 September 2022. The appellant does not establish his participation in the demonstrations requires him to be viewed as a regular participant.
- 25.** There is insufficient evidence to show the demonstrations attracted media coverage in the United Kingdom or Iran or that the appellant's attendance or any role in the same would have come to the attention of the authorities in Iran.
- 26.** It is not disputed that the regime does seek to identify demonstrators and that the images from his Facebook account show the appellant standing some distance away from the Embassy itself and only holding material with his back to the embassy where any cameras will be located. It is accepted that agents mingle with the crowd but, again, the evidence does not suggest the appellant's activities are such as to bring him to the adverse attention of the authorities in Iran or of the 'spotters' in the UK.
- 27.** As demonstrated by the adverse credibility findings made by the First-tier Tribunal, there is no evidence the appellant is a person who will be known or suspected of being a committed opponent or someone with a significant political profile in Iran or that he is a person who will fall within a category which Iranian authorities would regard as especially objectionable.
- 28.** The First-tier Tribunal appears to accept that the appellant left Iran illegally and it was not disputed that he will be interviewed at the 'pinch point' on return.
- 29.** In relation to the Facebook material it is important to consider the guidance provided by the Upper Tribunal in XX, head the note of which reads:

The cases of BA (Demonstrators in Britain - risk on return) Iran CG [2011] UKUT 36 (IAC); SSH and HR (illegal exit: failed asylum seeker) Iran CG [2016] UKUT 00308 (IAC); and HB (Kurds) Iran CG [2018] UKUT 00430 continue accurately to reflect the situation for returnees to Iran. That guidance is hereby supplemented on the issue of risk on return arising from a person's social media use (in particular, Facebook) and surveillance of that person by the authorities in Iran.

Surveillance

- 1) There is a disparity between, on the one hand, the Iranian state's claims as to what it has been, or is, able to do to control or access the electronic data of its citizens who are in Iran or outside it; and on the other, its actual capabilities and extent of its actions. There is a stark gap in the evidence, beyond assertions by the Iranian government that Facebook accounts have been hacked and are being monitored. The evidence fails to show it is reasonably likely that the Iranian authorities are able to monitor, on a large scale, Facebook accounts. More focussed, ad hoc searches will necessarily be more labour-intensive and are therefore confined to individuals who are of significant adverse interest. The risk that an*

individual is targeted will be a nuanced one. Whose Facebook accounts will be targeted, before they are deleted, will depend on a person's existing profile and where they fit onto a "social graph;" and the extent to which they or their social network may have their Facebook material accessed.

- 2) *The likelihood of Facebook material being available to the Iranian authorities is affected by whether the person is or has been at any material time a person of significant interest, because if so, they are, in general, reasonably likely to have been the subject of targeted Facebook surveillance. In the case of such a person, this would mean that any additional risks that have arisen by creating a Facebook account containing material critical of, or otherwise inimical to, the Iranian authorities would not be mitigated by the closure of that account, as there is a real risk that the person would already have been the subject of targeted on-line surveillance, which is likely to have made the material known.*
- 3) *Where an Iranian national of any age returns to Iran, the fact of them not having a Facebook account, or having deleted an account, will not as such raise suspicions or concerns on the part of Iranian authorities.*
- 4) *A returnee from the UK to Iran who requires a laissez-passer or an emergency travel document (ETD) needs to complete an application form and submit it to the Iranian embassy in London. They are required to provide their address and telephone number, but not an email address or details of a social media account. While social media details are not asked for, the point of applying for an ETD is likely to be the first potential "pinch point," referred to in AB and Others (internet activity - state of evidence) Iran [2015] UKUT 00257 (IAC). It is not realistic to assume that internet searches will not be carried out until a person's arrival in Iran. Those applicants for ETDs provide an obvious pool of people, in respect of whom basic searches (such as open internet searches) are likely to be carried out.*

Guidance on Facebook more generally

- 5) *There are several barriers to monitoring, as opposed to ad hoc searches of someone's Facebook material. There is no evidence before us that the Facebook website itself has been "hacked," whether by the Iranian or any other government. The effectiveness of website "crawler" software, such as Google, is limited, when interacting with Facebook. Someone's name and some details may crop up on a Google search, if they still have a live Facebook account, or one that has only very recently been closed; and provided that their Facebook settings or those of their friends or groups with whom they have interactions, have public settings. Without the person's password, those seeking to monitor Facebook accounts cannot "scrape" them in the same unautomated way as other websites allow automated data extraction. A person's email account or computer may be compromised, but it does not necessarily follow that their Facebook password account has been accessed.*

- 6) *The timely closure of an account neutralises the risk consequential on having had a “critical” Facebook account, provided that someone’s Facebook account was not specifically monitored prior to closure.*

Guidance on social media evidence generally

- 7) *Social media evidence is often limited to production of printed photographs, without full disclosure in electronic format. Production of a small part of a Facebook or social media account, for example, photocopied photographs, may be of very limited evidential value in a protection claim, when such a wealth of wider information, including a person’s locations of access to Facebook and full timeline of social media activities, readily available on the “Download Your Information” function of Facebook in a matter of moments, has not been disclosed.*
- 8) *It is easy for an apparent printout or electronic excerpt of an internet page to be manipulated by changing the page source data. For the same reason, where a decision maker does not have access to an actual account, purported printouts from such an account may also have very limited evidential value.*
- 9) *In deciding the issue of risk on return involving a Facebook account, a decision maker may legitimately consider whether a person will close a Facebook account and not volunteer the fact of a previously closed Facebook account, prior to application for an ETD: HJ (Iran) v SSHD [2011] AC 596. Decision makers are allowed to consider first, what a person will do to mitigate a risk of persecution, and second, the reason for their actions. It is difficult to see circumstances in which the deletion of a Facebook account could equate to persecution, as there is no fundamental right protected by the Refugee Convention to have access to a particular social media platform, as opposed to the right to political neutrality. Whether such an inquiry is too speculative needs to be considered on a case-by-case basis.*
- 30.** The material provided by the appellant does not support his claim to face a real risk as a result of the postings on his Facebook account. Even if he could not download all the data onto his phone and experienced problems trying to logon using another’s computer, once access was regained it has not been established the appellant could not have provided the required evidence by other means. He refers to an inability to access the same through his phone, but it is not made out he could not access a computer to enable him to provide the information.
- 31.** The appellant lives in Liverpool and it is known that all Liverpool libraries have computers with free access to the Internet as well as Microsoft office, scanning, printing and networked reference information. Full details are available on the Liverpool City Council website. Whilst a person must be a member of the library to use the library computer it was not made out the appellant would be denied membership if he applied. From Monday 21st February 2022 computers in Liverpool’s Central Library were available as walk up access, subject to availability, with no requirement to make an advance reservation.

- 32.** In relation to the accounts that have been provided, there are copies of the photographs of the appellant at the demonstration and other articles in English and another language. They appear to have the globe sign next to the date and time of posting which indicates an 'open' post. There are very few likes or comments. A number of the posts seem to refer to events that occurred in Syria, some relating to the Turkish authorities, some of which have been translated, all of which have been taken into account wherever possible by me.
- 33.** The questions put the appellant by way of cross examination, referred to above, were in the following terms:

Home Office questions in response to the Supplementary Bundle received 8.9.2022 in compliance with the UT directions [4(b)] of 15.8.2022.

1. How many of your 3,684 Facebook friends (P7 supplementary bundle) reside in Iran?
2. Are you aware of any of your friends resident in Iran sharing your posts? Do you have evidence of this?
3. The posts contained at P8/9 (translation P10) suggests that you shared this post. Where did you share it from e.g. on whose Facebook account (or elsewhere) did you find it?
4. One of your post's [14.8.2022] appears to have been shared (P11) by Barham Amini (P22- 16.8.2022) who is based in London. How do you know that person?
5. Do you know their immigration status in the UK (e.g. are they also an Asylum Seeker?).
6. One of your post's (P95) appears to have been shared by Sayad Rostami (P97- 23.6.2022) who is based in London. How do you know that person?
7. Do you know their immigration status in the UK (e.g. are they also an Asylum Seeker?).
8. The post of 14.8.2022 at P26 & P27 (P28- translation), did you write this yourself or were you sharing a post from elsewhere? If a shared post from where did you share/source it?
9. The post of 30.7.2022 at P47 (P48- translation), did you write this yourself or were you sharing a post from elsewhere. If it was a shared post from where did you share/source it?
10. The post of 1.4.2022 at P65 (P66- translation), did you write this yourself or were you sharing a post from elsewhere. If it was a shared post from where did you share/source it?
11. The posts of 9.3.2022 at P82 (P83- translation), did you write this yourself or were you sharing a post from elsewhere. If it was a shared post from where did you share/source it?
12. Can you cross-reference the posts details above (Questions 3, 8-11) with the relevant pages of your 'Activity History' located at P113-132?
13. The public protest of 20.3.2022 that you promoted via your Facebook post of 8.3.2022 (P2- WS10(b)) is not one of those you claim to have attended (P3- WS3 of 8.8.2022- Consolidated UT Bundle). Why did you not attend?

14. Have you asked any of your UK based Facebook friends who have commented on or shared your posts to provide written/oral evidence in support of your appeal as regards their knowledge of your political activism? If not, why not?
15. Have you asked anyone you attended an anti-Iranian regime/pro-Kurdish demonstration within the UK to provide written/oral evidence in support of your appeal as regards their knowledge of your political activism? If not, why not?
- 34.** It is accepted that a number of the questions the appellant was asked meant his reply of “I do not know” is plausible. Examples of those he was able to provide a more specific answer to include to question 6 that the person was a friend who he had met, although he did not know that person’s immigration status in the UK (question 7). The appellant claimed that the post referred to in question 8 was his, that the post referred to in question 9 was one he received, that he could not cross-reference the posts as requested in question 12, and in relation to question 13 that he did not attend that demonstration and was not sure why he did not.
- 35.** In his witness statement of 19 April 2021 the appellant claimed he set up a Facebook account in 2017. He claims on 6 June 2019 he started posting political material, including about his activities. He refers to posts about his attendance and participation at the demonstrations and photographs of his involvement in posts about events in Iran, as a noted above.
- 36.** The appellant has not provided sufficient evidence to warrant a finding that either the Facebook website had been hacked by Iranian or any other government and the finding in XX to this effect is maintained. It has not been made out that anybody other than the appellant, or any other person to whom he voluntarily gave his password, would have access to his Facebook account. It has not been made out that any of the appellant’s electronic devices have been compromised to the extent that an individual or organisation within Iran will be able to access his Facebook account.
- 37.** It was not made out it is unreasonable to expect the appellant to close his Facebook account as it does not demonstrate a genuinely held political view forming part of his fundamental identity the deletion of which will infringe the HJ (Iran) principle. As found in XX, timely closure of an account neutralises the risk of a critical Facebook account being discovered provided it has not been specifically monitored prior to its closure. In this appeal there is insufficient evidence to support a finding that the appellant’s account of any of his activities in the UK, digital or otherwise, have been monitored by the Iranian authorities.
- 38.** I find that the information disclosed by the appellant is, as recognised in many cases, a small proportion of the content of the appellant’s Facebook account without there being full disclosure of that account in electronic format. This issue has been discussed above. I do not find it unreasonable on the facts for the appellant to have continued his enquiries to obtain the full details of the “Download Your Information”

on Facebook and to have disclosed all the information referred to in XX in relation to his postings.

- 39.** I accept the submission by Ms Smith that even though a small proportion of the content of the Facebook account has been provided and accepting that it is easy for a printout of electronic excerpts and Internet pages to be manipulated by changing the page source data, that does not mean that in all cases no weight should be given to such material. The weight to be given to this evidence is, as in any case, something that can only be assessed once a holistic assessment of all of the available evidence has been undertaken. In this appeal, in light of the limitations on the evidence provided to corroborate the appellant's claims in relation to his postings, the limited nature of the disclosure in relation to the Facebook account, and lack of adequate supporting material, I find it is appropriate in all the circumstances to find that little weight can properly be attached to the appellant's Facebook postings relied upon by him as evidence of his claim to hold a genuine political opinion adverse to the interests of the Iranian authorities. I do not find material as a whole establishes that the appellant holds a genuine adverse political opinion that will either be inferred or thought as being genuinely held by him.
- 40.** I specifically find that there will be no breach of the HJ (Iran) principle for the appellant to close his Facebook account and not volunteer the fact, even when questioned at the 'pinch point' on return that he ever had a Facebook account. There is no fundamental right to have a Facebook account per se. I do not find it unreasonable in all the circumstances, or a breach of a protected right or principle, for the appellant to mitigate any risk of persecution by deleting the account prior to any interview with the Iranian authorities for an emergency travel document.
- 41.** The First-tier Tribunal Judge made adverse credibility findings which are preserved. I find the appellant's claim is disingenuous and that his sur place activities do not represent a genuinely held credible adverse political opinion. I accept that in accordance with the guidance provided in Danian that even if it is not genuine it is how the appellant will be viewed through the eyes of potential persecutor that is the relevant question. In this appeal I do not find the appellant has established that any of his activities have created the type of adverse profile that will bring, or have brought him, to the attention of the Iranian authorities. I do not find the appellant has established on the evidence that his level of sur place activities, including attending demonstrations in the UK, creates a real risk when applying the guidance set out in country guidance caselaw including BA, as noted above. I do not find the appellant's Facebook activities have come to the attention of the authorities in Iran such as to create a real risk for him on return as he has not provided sufficient evidence to warrant a finding in the alternative.
- 42.** In conclusion, I find the appellant has failed to discharge the burden of proof upon him to the required standard to show he is entitled to a

grant of international protection or leave to remain in the United Kingdom on any basis and, accordingly, dismissed this appeal.

Decision

43. I dismiss the appeal.

Anonymity.

44. The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

Signed.....

Upper Tribunal Judge Hanson
Dated 3 January 2023