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Men conscripted into Iran's Revolutionary Guards not automatically terrorists

By **Lorne Waldman**

Law360 Canada (January 5, 2026, 2:59 PM EST) -- Sometimes good intentions can lead to disastrous results. This is certainly true in the case of the decision of the Liberal government to designate Iran's Islamic Revolutionary Guard Corps (IRG) as a terrorist organization.

No one doubts that the IRG is a terrorist organization. Its conduct inside Iran is horrendous. The IRG was the principal architect of the horrible repression of the "Woman, Life, Freedom" protests, which broke out due to the murder of Jina Mahsa Amini, a 22-year-old woman who died on Sept. 16, 2022. She was arrested for not wearing a hijab and was brutally tortured by officials of the IRG. She collapsed in detention and died two days later in custody. The ensuing protests were violently put down by the IRG and led to the deaths of over 500 people who were killed while demonstrating. Many others were detained and tortured.



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Oleksii Hlebotskyi: ISTOCKPHOTO.COM

It is also undoubtedly true that the IRG is a leading sponsor of international terrorism. They provide support, including funding and weapons, to groups like Hezbollah, Hamas and the Houthis. Additionally, they have been implicated in various terrorist acts and illicit financing schemes. As such, no one doubts the wisdom of designating the IRG as a terrorist organization.

Unfortunately, the Liberal government did not heed advice from their own advisers to create an exception for young men who were conscripted into the IRG. Clearly there is a distinction between people who voluntarily serve in the IRG and those who are forced to join the IRG as a result of mandatory conscription. Conscripts are for the most part assigned rudimentary and administrative tasks and are not involved in the IRG's repressive actions or terrorist activities. Simply put, conscripts are not trusted to follow the orders of the regime to suppress others. Moreover, if a person is conscripted and refuses to serve, he is subject to severe penalties, which could include imprisonment and large fines. People who do not serve are unable to get passports and will find it difficult to obtain employment or leave the country.

As a result, it is completely unfair and unreasonable to render a conscript in the IRG inadmissible on security grounds given that they were forced to serve. Conscripts are not involved in the atrocities committed by the IRG and did not choose to join. Unfortunately, a recent decision of the Federal Court has held that persons who were conscripts are still inadmissible as members of the IRG. The court in *Vadiati v. Canada (Citizenship and Immigration)*, 2025 FC 1859 held that in order to be exempted from membership, an applicant must show that he had a defence of duress as set out by the Supreme Court of Canada in *R. v. Ryan*, 2012 SCC 3, meaning that the applicant must show an imminent risk of death or severe bodily harm.

In *Vadiati*, the court held that the evidence fell short of a defence of duress. This decision, however, failed to take into account the direction of the Supreme Court of Canada in *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21. In *Mason*, the Supreme Court held that according to s. 34 of the *Immigration and Refugee Protection Act*, inadmissibility on security grounds must be interpreted in a manner that is consistent with Canada's international obligations, and in particular, its obligation to not send refugees back to persecution. As such, *Mason* directed that the provision be interpreted narrowly and should only be applied to persons who are actually a threat to national security. Unfortunately, the applicant in *Vadiati* failed to cite to *Mason*, and as such, the court did not consider it in its reasons.

Clearly, when *Mason* is considered, one can only expect that the court will come to a different conclusion. A person who is compelled to serve as a conscript in the IRG should not be found inadmissible unless there is evidence that they contributed in some way to the repressive and terrorist activities of the organization.

But ultimately, what is needed is a correction in the designation by the government. There are literally hundreds of young Iranian men who came to Canada, many of them fleeing persecution in Iran, who face a risk of deportation because of the designation of the IRG as a terrorist organization. This situation must be remedied quickly by acknowledging that conscripts in the IRG should not be considered members of the organization for the purposes of the designation.

Lorne Waldman has been practising exclusively in the area of immigration and refugee law since 1979, the year he opened his own law practice, Waldman & Associates. He was co-counsel to Maher Arar at the Commission of Inquiry into his deportation into Syria. He has also been appointed by the Minister of Justice as a Special Advocate. Waldman is the author and editor of Immigration Law and Practice, a two-volume, loose-leaf service published by LexisNexis in 1992. He has appeared very frequently at all levels of the courts in Canada, including the Supreme Court of Canada, the Federal Court and the Federal Court of Appeal, where he has argued many of the leading cases in immigration and refugee law. He was made a Member of the Order of Canada for his contribution to immigration and refugee law.

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