OPERATIONAL GUIDANCE NOTE

SYRIA

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1. Introduction

1.1 This document provides UK Border Agency case owners with guidance on the nature and handling of the most common types of claims received from nationals/residents of Syria including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.

1.2 Case owners must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and case owners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

1.3 Claims should be considered on an individual basis, but taking full account of the

guidance contained in this document. Where a claim for asylum or Humanitarian Protection is being considered, case owners must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. Where a person is being considered for deportation, case owners must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Case owners must also consider if the applicant qualifies for Discretionary Leave in accordance with the published policy.

1.4 If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

2.1 Case owners should refer to the relevant COI Service country of origin information material. An overview of the country situation including headline facts and figures about the population, capital city, currency as well as geography, recent history and current politics can also be found in the relevant FCO country profile at:

http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/

2.2 An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

http://fcohrdreport.readandcomment.com/

2.3 Case owners are reminded that any country information and specific country policy guidance contained within this document is based upon information available at the time of publication. Due to the continuing civil unrest prevailing within Syria, and the volatile nature of events there, case owners must consider the latest available COI Service Bulletins and other COI products before determining asylum claims. Any questions about the handling of a particular case should be referred to a senior case worker. For additional queries relating to country specific policy, contact the CSL Team.

2.4 Actors of protection

2.4.1 Case owners must refer to the Asylum Instruction Considering the asylum claim and assessing credibility. To qualify for asylum, an individual must have a fear of persecution for a Convention reason and they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Case owners must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such

protection.

2.4.2 Syria has an extensive internal security system, which includes the various branches of the police, in addition to Syrian Military Intelligence (SMI), Syrian Air Force Intelligence (SAFI) and civilian Intelligence agencies, i.e. the Political Security Directorate (PSD) and the General Intelligence Directorate (GID). All of these operate independently, usually outside the control of the legal system.[1] The role of the security services extends far beyond strictly security matters under a continuing 'state of emergency' originally declared by the government in 1963. The 'state of emergency' was finally rescinded on 21st April 2011, but was followed by violent government crackdowns on pro-democracy protesters.[2] The Security Services are described as 'pervasive' in Syrian society. They arrest and detain individuals without due process, and there is evidence of detainees being deprived of fundamental legal safeguards, and subjected to torture and other ill-treatment.[3] The PSD operates under the Ministry of the Interior (MOI); the GID is a stand-alone institution. All four security services actively repress internal dissent and monitor individual citizens. The MOI controls the four separate divisions of the police forces: emergency police, traffic police, neighbourhood police and riot police.[4] In addition to city police which operate in Damascus and other major cities, there is a paramilitary force of approximately 8,000, the Gendarmerie, which operates in rural areas. Syria also has a border guard force, known as the Desert Guard, or the Frontier Force; this numbers approximately 10,000.[5]

2.4.3 Syria's many security and intelligence services reportedly have one mission: to gather intelligence on opponents of President Bashar al-Assad and his regime in order to repress them. The Shabbiha are a large group of organised criminal gangs, drawn mainly from President Assad's Alawite sect. They have no official status, and operate locally, but are reportedly a useful government tool for carrying out repression from a distance. The larger organisations have their own detention cells and interrogation centres. All of the security organisations are directly responsible to the president and his closest advisors.[6] Impunity is a serious problem within the police and security forces. In 2008, President Assad issued a law mandating that only the General Command of the Army and Armed Forces may issue an arrest warrant in the case of a crime committed by a military officer in the pursuit of his normal duties, and that such cases must be tried in military courts. During 2011 there were no known prosecutions or convictions of police and security force personnel for human rights abuses. No mechanisms for investigations of security force abuse are in existence.[7]

2.4.4 The security agencies routinely extract confessions by torturing suspects and detaining their family members; the agencies have almost unlimited authority to arrest suspects and detain them incommunicado for prolonged periods without being charged. The majority of the estimated 2,500 to 3,000 political prisoners in Syria have never been tried.[8] The security agencies, which operate independently of the judiciary, routinely extract confessions by torturing suspects and detaining

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[1] Report of Independent International Commission of Inquiry on Syrian Arab Republic November 2011
[2] BBC News 21 June 2011: Syria: Q & A: Syria Protests
[3] COIS Report: Syria 15 August 2012 para:8.13 - 14
UN Committee Against Torture: Syria Report 2012
[4] USSD Human Rights Report: Syria 2011 section 1d
[5] USSD Human Rights Report: Syria 2011 section 1d
[6] COIS Report: Syria 15 August 2012 para: 8.09 – 8.11
BBC News: Syria: the military, the militias and the spies 28 May 2012
BBC News: Syria: Who are the Shabiha? 29 May 2012
[7] USSD Human Rights Report: Syria 2011 section 1D
[8] Freedom House: Country Report Syria 2011

their family members. The government lifted its Emergency Law in April 2011, but security agencies still had virtually unlimited authority to arrest suspects and hold them incommunicado for prolonged periods without charge. By mid-December 2011, an estimated 12,000 to 40,000 people had been detained for political reasons, and extra-judicial killings also increased significantly in 2011.[9]

2.4.5 The UN Human Rights Council (UNHCR) established a commission of enquiry in August 2011 to investigate alleged torture and human rights violations during the recent unrest. It found that torture was described as rampant at detention facilities of the Air Force Intelligence branch in the Mazzeh airport near Damascus. It was found to have occurred extensively at other Air Force facilities, and in the detention facilities of the Republican Guard, the Political Security Branch and other military bases. Various forms of torture and severe abuse were identified, including physical, psychological and sexual torture, and the fatal torture of a number of children.[10]

2.4.6 Although the Constitution prohibits arbitrary arrest and detention, in practice these are significant problems. Human rights violations committed by the security forces included deaths in custody, various methods of torture including sleep deprivation, beating, kicking and whipping, electric shocks, suspending victims from the ceiling by their wrists or ankles, being burned, and extreme hyperextension of the spine (often fatal).[11] A key purpose of torture and other ill-treatment in cases reported to Amnesty International is to extract information and confessions from detainees about their political activities. Many claimed to have made forced confessions which were used as evidence against them in court. In both Supreme State Security Courts (SSSC) and military courts, confessions extracted under torture were reportedly used systematically as 'evidence'.[12] There was also evidence of the torture of detained children (including sexual torture) during 2011 and 2012.[13] [14]

2.4.7 The constitution provides for the independence of the judiciary; in practice, the judiciary is under the control of the regime and security services. Corruption and political interference continue to hinder the judicial authority, and individuals accused of crimes in Syria are denied access to a fair legal process. The immunity of judges is not guaranteed under Syrian law, and they can easily be removed from their post, or impeached.[15] Prisoners are not allowed access to their lawyers prior to trial, and lawyers are not allowed to speak for them in court.[16] The UN Committee Against Torture (UN CAT) (May 2010) expressed concern at the numerous, consistent and serious allegations that the Supreme State Security Court (SSSC) fails to function in accordance with the international standards for courts of law.[17]

2.4.8 On 18 April 2011, President Assad formally announced the dissolution of the SSSC, which conducted unfair, non-public trials not subject to judicial appeal.[18] Since then, levels of violence towards those perceived to be opposed to the government have

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[9] Freedom House: Country Report: Syria 2012
[10] COIS Report: Syria 15 August 2012 para:8.27 – 8.28
UN Report: Report of Independent International Commission of Inquiry on Syrian Arab Republic November 2011
[11] Amnesty International April 2010: Chap.2.3 Syria: Briefing to the Committee Against Torture
[12] Amnesty International April 2010: Chap.7 Syria: Briefing to the Committee Against Torture
[13] USSD Human Rights Report: Syria 2011 section 1C
[14] Human Rights Watch Report: Torture Archipelago July 3 2012
[15] USSD Human Rights Report: Syria 2011 section 1E
[16] Foreign & Commonwealth Office: Human Rights & Democracy 2011
[17] COIS Report: Syria 15 August 2012 para: 11.07
UN seeks torture probes in Syria, Yemen 2010
[18] USSD Human Rights Report: Syria 2011 section 1E

escalated rapidly, affecting primarily (but not exclusively) the greater part of the western half of the country. In light of the current situation, the Syrian authorities cannot be said to provide any level of protection to the general population.

2.5 Internal relocation.

2.5.1 Case owners must refer to the Asylum Instruction on internal relocation and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Case owners must refer to the Gender Issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

2.5.2 The constitution provides for freedom of movement "within the territories of the state unless restricted by a judicial decision or by the implementation of laws". Citizens are technically free to travel internationally; in practice the government limits freedom of movement for foreign travel and emigration by requiring citizens to apply for exit visas. Also, the authorities frequently impose travel bans on political opposition activists and civil and human rights activists.[19] Travel bans are imposed without explanation of their basis or duration, including cases where citizens requiring to travel for health reasons. The number of activists believed to be affected by a travel ban was reportedly in the tens of thousands during 2011.[20] Foreign diplomats were not permitted to travel in most of the country in 2011, and since the outbreak of civil unrest, are rarely allowed to travel outside Damascus. The government continues to maintain security checkpoints, primarily in military and other restricted areas.[21] The main public airports in Syria remain open and functioning, however the Free Syrian Army has publicly announced its intention to target these airports, because they assert that Assad's security forces are using them for military purposes.[22] This is reportedly already happening.[23]

2.5.3 Although women participate actively in public life, and are represented in most professions, a woman's husband or other male relative may request that his wife's travel abroad, and his children's, may be prohibited. Foreign embassies reported a number of such incidents during 2011.[24] Freedom of movement for married women is restricted under the personal status law. In particular, a 'disobedient' wife is not entitled to financial support from her husband for the duration of her 'disobedience', which can include leaving the conjugal home for reasons in contravention of Shari'a

[19] USSD Human Rights Report: Syria 2011 section 2D
[20] USSD Human Rights Report: Syria 2011 section 2D
[21] USSD Human Rights Report: Syria 2011 section 2D
[22] Global Post19 September 2012: Inside Syria: Free Syrian Army says it will target civilian airports
[23] Atlantic Wire 1 September 2012: Syrians battle for control of air force bases
[24] USSD Human Rights Report: Syria 2011 section 6

law.[25]

2.5.4 Given the situation in Syria and the current determination of the authorities to maintain control throughout the country, internal relocation will not generally be a feasible means of avoiding state-sponsored or state-tolerated persecution. Relocation will not be a reasonable option in localities where the expression of popular dissent continues to be met by the use of lethal force. Increasingly, there are also reports of human rights violations perpetrated by armed opposition groups, including torture and summary execution, in Aleppo, Idlib and other cities.[26] Opposition forces are themselves reported to be employing lethal force against the Syrian Army, including in residential areas.[27] Approximately twelve Syrian Army soldiers were reportedly executed after opposition fighters overran army checkpoints between Damascus and Aleppo. It is alleged that the men were shot while cowering on the ground.[28] Case owners should give consideration as to whether internal relocation is possible or reasonable on a case-by-case basis; however, in the current circumstances, this option is unlikely to be viable.

2.6 Caselaw

KB (Failed asylum seekers and forced returnees) Syria CG [2012] UKUT 426 (IAC) (21 December 2012)

a. This country guidance replaces previous guidance in SA & IA (Undocumented Kurds) Syria CG **[2009] UKAIT 00006**.

b. In the context of the extremely high level of human rights abuses currently occurring in Syria, a regime which appears increasingly concerned to crush any sign of resistance, it is likely that a failed asylum seeker or forced returnee would, in general, on arrival face a real risk of arrest and detention and of serious mistreatment during that detention as a result of imputed political opinion. That is sufficient to qualify for refugee protection. The position might be otherwise in the case of someone who, notwithstanding a failed claim for asylum, would still be perceived on return to Syria as a supporter of the Assad regime.

Note: Case owners should note that the above determination may be subject to appeal, however as stated by the Court of Appeal in **SG(Iraq) [2012] EWCA Civ 940**, country guidance determinations of the Upper Tribunal remain authoritative unless and until they are set aside on appeal or replaced by a subsequent country guidance determination. Case owners must therefore follow the above guidance pending the outcome of any appeal.

RT (Zimbabwe) & Ors v Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012)

The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support

[25] COIS Report: Syria 15 August 2012 para.27.05
Freedom House: Women's Rights in the Middle East 2010
[26] Human Rights Watch, 17 September 2012: Syria: End Opposition use of Torture, Executions
[27] Reuters 9 September 2012: Simultaneous bombs hit Army compounds in Aleppo
[28] BBC News: Syria 2 November 2012:Amnesty condemns videoed 'execution' by rebels

for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

The two country guidance cases listed below must not be relied upon by case owners; they depend upon a picture of country conditions in Syria which is no longer accurate. Decision-making and submissions in court must instead be based upon the latest country of origin information.

SA & IA (Undocumented Kurds) Syria CG [2009] UKAIT 00006

AR (Kurd: not risk per se) Syria CG [2006] UKAIT 00048

3. Main categories of claims

3.1 This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Syria. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below. All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction 'Considering the Asylum claim and 'assessing credibility').

3.3 For any asylum cases which involve children either as dependents or as the main applicants Officers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The UK Border Agency instruction 'Every Child Matters; Change for Children' sets out the key principles to take into account in all Agency activities.

3.4 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant does not qualify for asylum or Humanitarian Protection, consideration must be given to any claim for leave to remain on the basis of their family or private life. Case owners must also consider if the applicant qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual

circumstances.

3.4.1 Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR
An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Case owners are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason, or to a grant of Humanitarian Protection because the Article 3 threshold has been met.

3.4.2 Other severe humanitarian conditions and general levels of violence meeting the Article 3 threshold.
There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.

3.4.3 As a result of the Sufi & Elmi v UK judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for Humanitarian Protection.

3.4.4 Consideration of Article 15(c) of the Directive
The levels of violence in large areas of Syria change in intensity and location depending on the level of fighting between the government and opposition, but government forces are additionally targeting urban and rural areas of perceived support for the opposition. Overall, the level of violence in Syria is sufficiently high to meet the threshold for subsidiary protection under Article 15(c) of the Directive for most applicants who originate from the cities and surrounding areas. Case owners must nevertheless consider whether the 15(c) threshold is met in each case individually, taking account of the circumstances of the individual applicant. The possibility of internal relocation to another part of Syria should similarly be considered on an individual basis, but relocation is very unlikely to be possible or reasonable for the vast majority of applicants.

3.5 Credibility

3.5.1 This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see section 4 – Making the Decision in the Asylum Instruction 'Considering the asylum claim and assessing credibility'. Case owners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the UK Border Agency file. In all other cases, the case owner should satisfy themselves through CRS

database checks that there is no match to a non-biometric visa. Asylum applications matched to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 General security and humanitarian situation

3.6.1 Some applicants will claim that return to Syria would place them at real risk of harm as a result of the levels of violence in Syria due to the uprising and the government's use of force against the armed and unarmed opposition, and also the violent response of the armed opposition.

3.6.2 **Treatment:** The Arab Spring sparked protests in Deraa, southern Syria in January 2011. Protests rapidly spread throughout the country, as demonstrators called for political reform, democracy and subsequently, regime change. The protests had escalated to an uprising by 15 March 2011. Events in Syria have been influenced by ongoing protests elsewhere in the Middle East, and described as 'unprecedented' in Syria.[29] The Syrian government has responded with violent repression. The UN High Commissioner for Human Rights, Navi Pillay, reported throughout 2011 many horrific cases of security forces subjecting civilians, including women and children, to severe human rights violations in their attempts to crush the protests. Extrajudicial killings are a major issue. It is believed that hundreds of civilians died in custody in 2011. Some appeared to have been tortured to death, and others summarily executed.[30] Since then, Human Rights Watch (HRW) has released a report which details torture and ill-treatment of detainees throughout Syria's extensive network of detention centres and prisons.[31]

3.6.3 The demands of protesters in Syria include equal rights for Kurds, broad political freedoms for all, such as freedom of speech, assembly and of the press, and for the ruling Baath Party to allow other political parties. There have been widespread demands for President Bashar al-Assad to step down. Protests included street marches, hunger strikes and generalised civil resistance.[32] A new constitution was announced on 27 February 2012, following a (disputed) referendum.[33] The new constitution dropped an article giving the Baath Party unique status as the "leader of the state and society" in Syria. It allowed new political parties to be formed, although with numerous restrictions on the nature and affiliations of such parties.[34] Parliamentary elections took place in Syria in May 2012; President Bashar al-Assad claimed that the results were proof of the support of the people for his governmental reforms. The Syrian Higher Elections Committee said there had been a 51% turnout of eligible voters for the polls. This was strongly disputed by the opposition, who stated that the polls were a farce. The turnout in areas of conflict such as Homs was not reported.[35]

3.6.4 Following the outbreak of protests and civil unrest in March 2011, human rights activists have reported that state-sponsored armed militias in black uniforms are assisting the government in the crackdown imposed by the authorities, leaving more

[29] Periscope 23 March 2011: Syrians have broken the fear barrier
[30] Foreign & Commonwealth Office 2011: Syria: Human Rights & Democracy
[31] Human Rights Watch Report: Torture Archipelago July 3 2012
[32] BBC News 19 April 2011: Syria protests
[33] Reuters 27 February 2012: Syria approves new constitution
[34] BBC News 16 May 2012: Syria election results show support for reforms, says Assad
[35] BBC News 16 May 2012: Syria election results show support for reforms, says Assad

than 3,000 dead (by May 2012). These militias, known as the 'Shabiha' are accused of killing and beating protestors, and of carrying out a campaign of intimidation that has included executions, drive-by shootings and sectarian attacks. Activists report that the presence of Shabiha militia gangs allows the government to deny any involvement in the most repressive actions against protestors. Membership of this group is drawn primarily from President Assad's minority Alawite sect. In May 2011, citizens fleeing an assault on the western village of Tell Kalakh, near the Lebanese border, reported that some residents had had their throats cut by black-uniformed Shabiha. There are also reports that soldiers and police who tried to prevent the killing of civilians by Shabiha militia in Tell Kalakh and other areas had been shot dead. In June 2011, activists and witnesses reported that hundreds or even thousands of Shabiha had been sent to help the security forces crush dissent in various Syrian cities.[36]

3.6.5 Since March 2011, the security forces have killed hundreds of protesters and arbitrarily arrested thousands, subjecting many of them to torture in detention. The same report stated that security forces prevented the wounded from accessing medical treatment and imposed a siege on several towns, depriving the population of basic services. The scale and nature of human rights abuses were reported as being systematic and part of a state policy; it is considered that they are likely to constitute crimes against humanity.[37] By May 2012, the United Nations estimated that approximately 10,000 people, mostly civilians, had been killed since the uprising began.[38] Amnesty International reported that journalists and human rights defenders have been subjected to torture in detention during 2012. A prominent journalist living and working in Damascus since 1981 was detained in inhumane conditions by the Syrian Air Force Intelligence for approximately three weeks, prior to being deported to Jordan. His treatment in a military hospital was reportedly even worse than in the Intelligence branch.[39] In an earlier report, Amnesty International referred to a number of human rights activists, arrested by the Security Forces at various times, and reportedly subjected to torture and beatings.[40]

3.6.6 On 2 November 2011, it was announced that the Syrian government had accepted a detailed peace agreement proposed by the Arab League. The plan proposed by the League included an end to violence and killing, the release of all recently detained prisoners, the withdrawal of all military equipment from Syrian cities and full access to Arab and international media for citizens.[41] The following day, government tank fire was reported in the city of Homs, apparently killing three civilians.[42] Since then, levels of violence and killing have escalated rapidly. In April 2012, Mr Nabil El-Araby, chief of the Arab League, stated that full implementation of the peace plan had not (so far) happened.[43] In April 2012, the UN Security Council resolved to send in a team of unarmed military observers to monitor implementation of the peace plan.[44]

3.6.7 On 21 May 2012, the head of UN peace-keeping (Herve Ladsous) met with Syrian government and opposition group representatives in the city of Homs, during a visit

[36] BBC News 29 May 2012: Syria Unrest: Who are the Shabiha?
[37] Human Rights Watch 1 June 2011: "We've Never Seen Such Horror"
[38] The Telegraph 22 May 2012: UN says al Qaeda behind Syria suicide bombs death toll
[39] Amnesty International 17 May 2012: Deported Palestinian journalist speaks out about torture in custody
[40] Amnesty International 27 April 2012: Detained Syrian human rights defenders report torture
[41] BBC News 2 November 2011: Syria Accepts Arab League plan
[42] BBC News 3 November 2011: Syria Unrest - Tank fire in Homs
[43] Al Arabiya News17 April 2012 :Arab League says Syria failed to implement Peace Plan
[44] The Guardian 14 April 2012 UN Council votes to send military observers

to assess progress made on the ground by UN military observers.[45] Both sides expressed their commitment to the six-point peace plan, and also noted that violence was finally diminishing in the city since the Security Council authorised the deployment of unarmed military observers in Syria in April 2012.[46] However, bomb blasts in Damascus during 2012 (including May) undermined confidence in the peace process.[47] A report commissioned by the UN, published in May 2012 states that the Syrian army and security forces are responsible for most of the serious human rights abuses committed in Syria since March 2012. It also points to evidence that opposition forces, although guilty of fewer abuses, nevertheless have tortured and summarily executed captured soldiers.[48] [49]

3.6.8 On 25th May 2012, a village near Houla in Homs Province was the scene of a massacre. UN observers in Syria confirmed the deaths of at least 108 people, of whom 49 were children and 34 were women. Some had been killed by shell fire, but the majority were reportedly shot or stabbed at close range, according to eye witnesses. The Syrian government has denied responsibility, claiming that 'armed terrorists' are responsible. However, anti-government activists, eye witnesses and human rights groups, including the UN High Commission, believe that the Syrian army and the Shabiha were responsible.[50] On 6 June 2012, a further massacre of 78 people was carried out in the village of Qubair near Hama. The victims were primarily women and children, and according to local activists, the Shabiha were again responsible.[51] The majority of Western powers have expelled senior Syrian diplomats following the massacre, including the United Kingdom.[52] The provinces of Deraa, Homs, Deir al-Zor and Idlib are the most affected by violence, although protests and violence have been reported in other areas of the country, including the mainly Alawite province of Latakia.[53]

3.6.9 On 31 May 2012, the UN Secretary General, Ban Ki-moon warned that Syria is on the edge of 'catastrophic civil war' and demanded that the Syrian government act on its commitment to Kofi Annan's peace plan.[54] The UN unarmed military observers in Syria have currently suspended their mission, because levels of violence in the areas of protest are too high. However, their leader, General Mood, stated that the UN team will remain in Syria.[55] The International Committee of the Red Cross described the fighting in areas of Homs and Idlib as "localised civil war",[56] and this has since spread rapidly to other urban areas.

3.6.10 Since May 2012, the situation in Syria has continued to deteriorate, as levels of violence have increased dramatically, spreading to most of the major cities including Damascus, Aleppo, Homs, Deraa, Hama, Suwayda and Idlib. Most of the fighting is in the main cities situated in the western half of the country, but rural areas are increasingly involved.[57] An Amnesty International Briefing reported that the Syrian Army are carrying out indiscriminate air bombardments and artillery attacks in Jabal al-Zawiya, other parts of Idlib and the north Hama regions. Amnesty International

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[45] UN News Service 21 May 2012: UN Peacekeeping chief in Syria to assess progress of military observers
[46] UN News Service 14 April 2012: Syria: Security Council authorizes deployment of advance military observers
[47] BBC News Syria10 May 2012: Damascus bomb increases pressure on UN
[48] BBC News Syria 24 May 2012: Syrian army responsible for rights abuses - UN report
[49] BBC News: Syria 2 November 2012:Amnesty condemns videoed 'execution' by rebels
[50] BBC News Syria 29 May 2012: Houla: How a massacre unfolded
[51] BBC News Syria 7 June 2012: Syria violence: Hillary Clinton condemns Qubair killings
[52] BBC News Syria 29 May 2012: Houla deaths - Western states to expel Syrian diplomats
[53] Reuters News 5 June 2012: Syria bars diplomats, gunships in action
[54] The Guardian: 31 May 2012 Syria: Ban Ki-moon warns of catastrophic civil war
[55] BBC News 20 June 2012: Syria "truce agreed" to evacuate Homs civilians
[56] UNHCR June 2012: International Protection Considerations - people fleeing Syria
[57] BBC News 20 August 2012:Syria: Mapping the insurgency

witnessed daily indiscriminate air strikes and shelling in towns and villages throughout the region during their visit (from 31 August to 11 September 2012).[58]

3.6.11 A number of activist groups reported that August 2012 had seen the highest ever number of fatalities during the conflict, largely due to the Assad regime directing its air force to carry out shelling of residential areas, artillery bombardment and use of other heavy weaponry. An estimated 5,000 deaths were reported, including many children.[59] In October 2012, various human rights groups have reported that since the uprising began, at least 28,000 Syrians have disappeared, abducted by soldiers or militia. These reports are substantiated by the UN, although actual numbers cannot be accurately determined while the violence continues.[60]

3.6.12 With the escalation of violence over large areas of the country, the number of people leaving Syria to find safety in bordering countries has risen sharply. The UNHCR reported that the number of Syrians registered or awaiting registration as refugees in countries neighbouring Syria (Jordan, Turkey, Lebanon and Iraq) has now exceeded 300,000.[61] Damascus and Aleppo now have hundreds of displaced civilians, including local families and those fleeing fighting in other cities. Supplies of food and medicines are limited, and local aid groups are hampered by fear of being identified by the regime.[62] A UNHCR report from 23 October 2012 stated that Lebanon now has over 100,000 registered refugees, with more waiting to register. Governments in states bordering Syria estimate there are tens of thousands more Syrians who have yet to register. Egyptian officials have stated there are as many as 150,000 Syrians in the country, but very few have registered.[63]

3.6.13 At a UN Security Council meeting on the situation in Syria, it was reported that 2.5 million people inside Syria are in grave need of assistance and protection. As winter approaches, their most pressing needs are for water and sanitation, food and shelter, blankets and healthcare. Fewer than half of Syrian primary healthcare facilities and hospitals are fully functional, and the destruction of pharmaceutical plants and storage facilities mean drugs and equipment are scarce. Many people are unable to access health facilities due to violence, military checkpoints and fuel shortages.[64] On 11 December 2012, the UNHCR reported that there were now over 500,000 Syrian refugees in the region, including Jordan, Egypt, Lebanon, Turkey, Iraq and North Africa. A spokesperson stated that numbers are rising by more than 3000 per day.[65]

3.6.14 **Conclusion:** Where applicants are likely to be perceived by the Syrian authorities as having sympathies or actual ties to the opposition, asylum should be granted. This will apply mainly to applicants who are accepted as originating from the main cities and areas of fighting. In these areas, levels of lethal violence including aerial bombardment are extremely high and the risk of attack and injury is consequently very real.

3.6.15 Grants of Humanitarian Protection under the terms of paragraph 339C of the Immigration Rules must be considered where asylum is not justified. The humanitarian crisis, which has so far continued to deteriorate, means that some

[58] Amnesty International 19 September 2012: Syria: Indiscriminate attacks terrorize and displace civilians
[59] The Huffington Post 2 September 2012: Syria Death Toll: August was deadliest Month
[60] BBC News 18 October 2012: Syria: 28,000 disappeared say rights groups
[61] UNHCR Refworld 2 October 2012: Number of registered Syrian refugees triples to more than 300,000
[62] BBC News 6 September 2012: Syria crisis: desperate plight of displaced civilians
[63] Reliefweb 23 October 2012: Syria: Situational regional roundup
[64] UN Security Council 30 August 2012: Meeting on situation in Syria; plight of externally & internally displaced persons
[65] UNHCR: Number of Syrian refugees registered in region tops 500,000 mark 11 December 2013

applicants, in their individual circumstances, could well reach the Article 3 ECHR threshold referred to in 3.4.1, 3.4.2, and 3.4.3 above. For those who do not meet this threshold, the level of violence in large areas of Syria is sufficient to meet the threshold for Article 15(c) of the Qualification Directive for most applicants. Case owners must therefore consider, on the basis of the latest objective information and the circumstances of the individual applicant, whether the 15(c) threshold is met. In doing so, case owners must consider carefully whether the existence of such factors mean that the harm they fear is not in fact indiscriminate, but targeted, if not at them personally, then at a Refugee Convention defined population to which they belong, in which case a grant of asylum is likely to be more appropriate. The possibility of internal relocation to another part of Syria should similarly be considered on an individual basis, but is very unlikely to be possible or reasonable.

3.7 Kurds

3.7.1 Applicants may make an asylum and/or human rights claim based on a fear of ill-treatment amounting to persecution at the hands of the State, on the basis of their ethnicity.

3.7.2 **Treatment:** Kurds make up approximately 9% of the Syrian population, and mostly live in the northeast part of the country, although large Kurdish communities also live in most of the big cities.[66] Syria is a multi-ethnic state where many different ethnic groups and religions co-exist. However, demands for Kurdish minority rights continue to be interpreted by the government as threats to the unity and security of the state, particularly in relation to Syrian Kurds. The authorities arrested hundreds of Kurdish citizens during 2010, many of whom were prosecuted on charges of seeking to annex part of Syria to another country.[67] Kurds continue to suffer repression and Kurdish political activists have been routinely arrested during 2011.[68]

3.7.3 Kurds in Syria face many restrictions on cultural and linguistic expression. The teaching of Kurdish is prohibited, but Kurdish festivals, such as the Nowruz celebrations in March, were not subjected to violent disruption by security services during 2011, unlike previous years.[69] The law requires that owners and senior editors of print publications are Arab citizens. Approximately 120,000 Syrian Kurds lost their citizenship following a population census in 1962. Consequently, those individuals and their descendants continue to be severely disadvantaged in terms of social and economic opportunities. Stateless Kurds have only limited access to university education, and their lack of citizenship and identity documents restricts their right to travel to and from Syria. The UNHCR estimated there were approximately 300,000 stateless Kurds in 2009. Most stateless Kurds do not have the economic means to leave the country. They are also restricted in their movement within the country as they are unable to check in to hotels without permission from the security services.[70]

3.7.4 Following recent legislation, it is prohibited to employ persons without an ID card in

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[66] COIS Report: Syria 15 August 2012 para.20.03
USSD: Syria Background Note 9 March 2012
[67] Human Rights Watch 2009: Repression of Kurdish culture & Rights in Syria
[68] Foreign & Commonwealth Office: Syria: Human Rights & Democracy 2011
[69] USSD Human Rights Report: Syria 2011 section 6
[70] COIS Report: Syria 15 August 2012 Section 20
UNHCR: Universal Periodic Review: Syria 2011

the private sector, in addition to the previous ban on employing such persons in the public sector. Kurdish exile groups estimate that as many as 300,000 Syrian Kurds are deprived of citizenship and therefore unable to obtain passports, identity cards, or birth certificates. This prevents them from voting, owning land or obtaining government employment. Kurds suspected of being activists are often dismissed from schools and public-sector jobs. In 2009, the authorities made it more difficult for employers to hire non-citizens, resulting in the dismissal of many Kurds from their jobs.[71]

3.7.5 Syrian Kurds are divided by the authorities into three main groups: Syrian Kurds, foreign Kurds (Ajanib) and 'concealed' Kurds, or Maktoumeen. Syrian Kurds have retained their Syrian nationality. Foreign Kurds were stripped of their nationality (see above) and registered in official archives as foreigners. Concealed Kurds are denationalised Kurds characterised by the Syrian authorities as 'concealed'. They were originally deprived of their citizenship during the census of 1962, and since then they have not been registered in official records at all.[72] There are approximately 80,000 people within this category. The situation of concealed Kurds is complex, as they comprise persons whose fathers may be classified as foreigners, and whose mothers are citizens, or persons whose fathers are aliens and whose mothers are concealed. There are also persons whose parents are both concealed. These are in addition to the approximately 280,000 undocumented Kurds who live in Syria but without citizenship.[73]

3.7.6 On 7 April 2011, President Assad issued Decree No.49 declaring that stateless Kurds in the Hassake Governorate registered as "foreigners" could apply for citizenship. By September 13th, the website KurdWatch reported that 51,000 stateless Kurds had received identity cards indicating their citizenship. This decree does not extend to the approximately 160,000 "unregistered" stateless Kurds, who remained without a national identity by December 2011.[74]

3.7.7 The death in suspicious circumstances of Kurdish military conscripts continued throughout 2010. Reportedly there were 11 deaths, of which 6 were allegedly suicides.[75] However, during 2011, there were no reports of suspicious conscript deaths in the military.[76] The UN CAT noted concerns about the treatment of Kurdish political activists, and military courts' convictions on Kurdish detainees on vague charges of "weakening national sentiment" or "spreading false or exaggerated information". The government used less violence and arrested fewer Kurds than in previous years. One Kurdish activist (Berazani Karro) is believed to have been released from prison, following his sentencing to five years in prison in 2010 and having reportedly been tortured in detention.[77]

3.7.8 Syrian Kurds have been active in large numbers in the recent protests against the regime. Kurdish activists condemned the continued oppression by the authorities, but had initially maintained a conciliatory approach to the unrest, possibly hoping for further concessions following Decree 49 relating to 'foreigners' in north-eastern Syria. However, the Kurdish Yek Party stated that if the oppression continued, Kurds would join the fray, despite any concessions. Since then, Kurds have been

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[71] COIS Report: Syria 15 August 2012 para. 20.12
[72] Support Kurds in Syria: January 2010 Circular aimed at Kurds
[73] COIS Report: Syria 15 August 2012 Section 20
Freedom House: Freedom in the World 2012
[74] USSD Human Rights Report: Syria 2011 section 2D
[75] USSD Human Rights report: section 1a Syria 2010
[76] USSD Human Rights Report: Syria 2011 section 6
[77] USSD Human Rights Report: Syria 2011 section 1C

involved in anti-government protests, both separately and with non-Kurdish protestors. Arrests and deaths of Kurds have been recorded, often together with non-Kurdish protestors.[78]

3.7.9 Human Rights Watch (HRW) have reported that large numbers of Syrian Kurds are fleeing the country, mainly to Kurdish Iraq. Their report referred to local Iraqi authorities who estimated that approximately 5,000 Syrian refugees have moved to Iraqi Kurdistan since the start of 2012. Many Syrian Kurds told HRW they had left Syria because they feared the security forces. Others left to avoid being compulsorily conscripted into the Syrian army, and many were deserters from the Syrian army. These reportedly left after witnessing various human rights abuses.[79] One defector stated that his battalion arrested and machine-gunned 30 men in retaliation for the death of one Syrian soldier. A number of Syrian Kurds reported being shot at by Syrian border guards.[80] There are reports that Syrian Kurds face difficulties in Northern Iraq (Kurdistan) as they are confined to refugee camps where conditions are extremely Spartan.[81]

3.7.10 The continuing conflict in Syria has affected changes for Kurds in Syria, particularly in the small north-eastern part of the country close to the Turkish border, where they are reportedly gaining political control and positive advantage from the crisis.[82] A number of commentators have raised concerns over the current volatility of the situation, and the impact of Kurdish political aims on the overall situation.[83] In the predominantly Kurdish areas of Syria, conditions for Syrian Kurds may have eased with the withdrawal of Syrian Army forces. Within the main urban areas, where fighting is most intense, Syrian Kurds are facing similar pressures to other Syrians.

3.7.11 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

Caselaw (section 2.6 above)

3.7.12 Conclusion: Syrians of Kurdish ethnic origin do face societal and legal discrimination and unequal treatment on the basis of their ethnicity. It is likely to amount to persecution when the individual is treated as stateless and severely disadvantaged in a way which is in fact persecutory on ethnic grounds, or has a profile as an activist, or has publicised his opposition to the authorities, for example through protests or participation in political parties opposed to the regime. A grant of asylum will be applicable in cases where it can be demonstrated that the level of discrimination amounts to persecution.

3.7.13 Asylum claims by stateless Palestinians whose place of habitual residence was Syria, should be considered in the same way as those from Syrian nationals. However, if claimants refer to having availed themselves of the protection or assistance of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) this assistance may exclude them from the protection of the Refugee Convention under Article 1D of the Refugee Convention. Cases where

[78] Kurdwatch.org May 2012 Kurds killed in Syria
[79] Human Rights Watch: 14 May 2012: Syrian Kurds fleeing to Iraqi safe haven
[80] Human Rights Watch: 14 May 2012: Syrian Kurds fleeing to Iraqi safe haven
[81] The Daily Star, Lebanon 15 March 2012: Syrian Kurds get cold reception from Iraqi Kurds
[82] BBC News Syria: 28 July 2012: Crisis in Syria emboldens country's Kurds
[83] BBC News Syria: 10 August 2012: Will Syria's Kurds benefit from the crisis?

it is accepted that the applicant was in receipt of UNRWA assistance before leaving Syria should be referred to OPRU for advice after the asylum interview has established the facts of the case.

3.7.14 Present conditions in Syria are particularly violent and volatile in several provinces; case owners should consider the individual details and circumstances on a case by case basis, within the context of the latest available country information.

3.7.15 Asylum claims from Syrian applicants of Kurdish ethnic origin may be accompanied by a claim to stay in the UK on the grounds of statelessness. A stateless person is someone who is not considered as a national by any country under the operation of its law.

3.7.16 The UK is a signatory to the 1954 UN Convention Relating to the Status of Stateless Persons. The 1954 Convention is the primary international instrument that regulates the status of non-refugee stateless persons and ensures that stateless persons enjoy human rights without discrimination. The 1954 Convention does not however require signatories to grant leave to stateless persons. There is no provision in primary legislation, the Immigration Rules or UK Border Agency published policy that requires the UK Border Agency to grant leave to stateless persons on the sole basis that they are stateless.

3.7.17 For applicants within this category who have demonstrated some opposition to the authorities, or who have already come to the adverse attention of the authorities on the basis of political opposition to the regime, please refer to **3.8** below.

3.8 Political Opposition to the Government

3.8.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of the State, on the basis of their political activity or affiliation. This includes those individuals known to have taken part in demonstrations and protests during the current violent uprising.

3.8.2 **Treatment:** The constitution provides the right for citizens to peacefully change their government through elections. In practice, citizens do not have this right, because elections are neither free nor fair. The president and his senior aides, particularly those in the military and security services, make most of the political and economic decisions with limited public accountability.[84] During presidential, parliamentary and local elections in 2007 the government barred international election monitors from entering the country to monitor elections. Local and international human rights organisations found all three elections were unfair, and served to reassert the political monopoly of power held by President Assad's regime.

3.8.3 The government did not generally permit the establishment of independent political parties, though in recent years, citizens tried to establish political parties but were not granted licences. During 2010, the government tolerated a few parties, e.g. the Communist Action Party, the Communist Union Movement and the Arab Social Union. Members of these parties were subject to harassment but not to automatic arrest for membership during 2010. Islamist parties were subject to immediate

[84] USSD Human Rights Report: Syria 2011 section 3

arrest, and in previous years, execution.[85] & [86] (For further consideration of membership of Islamist parties, see section 3.9 below).

3.8.4 The Ba'ath Party is the ruling party, and the regime ensures it has a majority in all government and popular associations, e.g. women's and worker's groups.[87] Members of the Alawite religious minority hold the majority of cabinet and parliamentary seats. In 2010, there was one Druze and one Kurdish minister within parliament. Women and minority groups generally participated in the political system without restriction during 2011, and the president had a female vice president and three female cabinet ministers in office. In addition, the president had two high-ranking female advisors. However, President Assad and the Ba'ath Party suppress all political opposition.[88]

3.8.5 Syria remained continuously under a national 'State of Emergency' imposed in 1963. This was used over many years to suppress and punish even peaceful dissent. Political activists, Kurdish activists and others who criticised or opposed the government or exposed human rights violations, were subject to arbitrary arrest, prolonged detention or even sentenced to prison terms after unfair trials before the grossly deficient Supreme State Security Court or Military and Criminal Courts.[89] The 'State of Emergency' was rescinded in March 2012, but the government continues to impose severe limitations on Syrian citizens' ability to exercise the right to freedom of expression and assembly. There has been no discernible benefit to citizens from repealing the State of Emergency.[90]

3.8.6 The Syrian government announced limited electoral reforms in July. It introduced new legislation stipulating that elections would be held using a secret ballot, with each Syrian national having one vote. However, controversial articles of the Syrian constitution remained, and opposition groups claimed that state security control over government institutions made the legislative reforms superficial in practice.[91] Both municipal and parliamentary elections (in December 2011 and May 2012) have been heavily criticised by opposition groups and by the international community as unfair and lacking in credibility.[92]

3.8.7 Major political protests erupted in Syria in March 2011, initially in the southern city of Deraa; these have since spread across the country. The UN High Commissioner for Human Rights, Mrs Navi Pillay, said that a UN fact-finding mission to Syria found a pattern of widespread or systematic human rights violations by Syrian security and military forces, which included murder, enforced disappearances, torture, deprivation of liberty and persecution. Her report referred to the period of 15 March 2011 to 15 July 2011, but indications are that the pattern of violations is continuing to the present time. Her assessment was that the scale and nature of the acts in question were likely to constitute crimes against humanity.[93] Since the above reports, the then UN leader, Ban Ki-Moon, estimated that the death toll had probably topped 10,000.[94]

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[85] USSD Human Rights report: section 3 Syria 2010
[86] USSD Human Rights Report: Syria 2011 section 3
[87] USSD Human Rights Report: Syria 2011 section 3
[88] USSD Human Rights Report: Syria 2011 section 3
[89] COIS Report: Syria 15 August 2012 para. 3.05
USSD: Syria Background Note 9 March 2012
[90] Foreign & Commonwealth Office: Syria: Human Rights & Democracy 2011
[91] Foreign & Commonwealth Office: Syria: Human Rights & Democracy 2011
[92] BBC Newsbeat Syria: 4 May 2012: Syrian elections branded a 'sham'
[93] UN OHCHR: Report of Fact-finding Mission August 2011
[94] The Telegraph18 May 2012: UN says al Qaeda behind Syria death blasts

3.8.8 The Syrian security forces have become progressively more brutal and oppressive in their efforts to suppress popular protest and civil disorder. Private citizens using mobile phone cameras to record demonstrations and the often lethal attempts of the security forces to suppress them have been increasingly targeted and shot at by security forces. Reporters without Borders reported that a number of journalists were detained and tortured/ill-treated in detention.[95] On 28 August 2011, President Assad approved a new law 'opposing any monopoly (Article 12) in the media sector', and proclaiming freedom of expression as a fundamental principle. It declared an intention to facilitate access to information and prevent officials from denying access to certain kinds of data. However, the new law calls for 'responsible freedom of expression' and bans any reporting that threatens national unity. It further bans any report about the armed forces, including the army. Despite the new law, 'Reporters without Borders' reported that a harsh crackdown has been going on for the past six months (since the law was promulgated), many journalists and free speech defenders have been jailed, and the number of citizens being killed grows by the day.[96]

3.8.9 Where individuals are suspected of political or national security offences, arrests are often carried out in secret, and cases assigned in a seemingly arbitrary manner to military, security or criminal courts. Suspects are detained incommunicado for prolonged periods without charge or trial, and refused access to a judicial determination regarding pre-trial detention.[97]

3.8.10 The UN Human Rights Commissioner, Mrs Navi Pillay, has called on all members of the international community to take 'international protective action' to protect the civilian population, before the continual ruthless repression and killings drive the country into a full-blown civil war. She stated that the Syrian government had failed to protect its own population, and that there is growing evidence that members of the military are defecting, having refused to fire on civilians. She said there were signs that suggested the crisis was descending into an armed struggle.[98] Since then, many of Assad's soldiers have defected, many to join the Free Syria Army. In addition, a growing number of high profile Syrians have defected, among them diplomats and ambassadors.[99]

3.8.11 During 2012, the conflict and fighting has accelerated and there is now civil war in the country. Residential areas in many cities are regularly subjected to aerial and artillery bombardment. In areas of strong support for opposition and rebel fighters, local populations are perceived by government forces to be opposed to the Assad regime, and have been ruthlessly crushed by the Syrian military forces for many months.[100] The UN Envoy to Syria, Mr Lakhdar Brahimi, proposed a ceasefire for the Eid-al-Adha holiday in October, and the Syrian government formally agreed to it. The Free Syrian Army stated they would reciprocate any ceasefire, but other rebel groups reportedly are not taking the plan seriously. In fact, the ceasefire began on 26 October 2012, but localised fighting broke out in a number of areas.[101] Meanwhile, heavy fighting has continued within the country, and the UN estimates that to date (October 2012) at least 20,000 people have been killed. A UN commission is investigating human rights abuses within the country, and have

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[95] Reporters sans Frontieres 29 August 2011: Syria Government announces schizophrenic media laws
[96] Syria 2011: Reporters sans Frontieres
[97] COIS Report: Syria 15 August 2012 para.12.01
USSD Human Rights Report: Syria 2011 section 1d
[98] The Telegraph: October 17 2011 UN calls for international action against Syria
[99] BBC News Syria: 7 August 2012: Tracking the defectors
[100] BBC News Syria 17 September 2012: Aleppo's deadly aerial warfare
[101] BBC News Syria: 26 September 2012: Eid-al-Adha ceasefire marred by clashes

stated their intention to pursue those accused of war crimes in the conflict.[102]

3.8.12 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

Caselaw (section 2.6 above)

3.8.13 Conclusion: The Supreme Court held in RT (Zimbabwe) that the rationale of the decision in HJ (Iran) extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

3.8.14 Opposition activists are of interest to the Syrian authorities. As such they are at risk of treatment amounting to persecution and will qualify for asylum. However, since opposition towards the Assad regime is not tolerated in any form by the government, persons who do not have a particular political profile, such as low level activists and individual government critics are also likely to be perceived by the authorities as opposing the regime and similarly would face a risk of persecution and ill-treatment.

3.8.15 The Syrian Government is repressive of dissent and anti-regime activity is not allowed within the country. The level of lethal brutality employed by the authorities since March 2011 has steadily increased, and many thousands of citizens have been killed in the streets or arbitrarily arrested and detained. Syrian citizens have been targeted and killed by government sniper fire simply for recording demonstrations on mobile phones. Where it is accepted that the applicant has previously been involved in opposition political activity, or whose beliefs make it likely he will in future take part in such activity, or who could be perceived to hold opposing views if returned to Syria, a grant of asylum will be appropriate.

3.8.16 Case owners should note that members of the Syrian armed forces have been responsible for serious human rights abuses of civilians. If it is accepted that an applicant was an active operational member of the security forces, case owners should consider whether one of the Exclusion clauses may be applicable. In addition, some members of the armed opposition forces have been guilty of serious human rights abuses of captured Syrian soldiers. Case owners should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

3.9 Affiliation to the Muslim Brotherhood

3.9.1 Some applicants will make an asylum or human rights claim based on ill-treatment amounting to persecution at the hands of the authorities due to their affiliation to the Muslim Brotherhood.

3.9.2 Treatment: The establishment of political parties affiliated to the Muslim Brotherhood or to Islamists is not permitted by the government, and members of such parties are subject to immediate and arbitrary arrest.[103] All of the country's Internet service providers (3) regularly blocked access to a variety of websites,

[102] BBC News Syria 25 October 2012: Syria government to give Eid-al-Adha ceasefire decision
[103] USSD Human Rights Report: Syria 2011 section 3

numbering approximately 180. The government specifically blocked access to websites associated with political opposition, with particular emphasis on Kurdish groups, and on the Muslim Brotherhood and the Syrian Muslim Brotherhood.[104]

3.9.3 The Alawis (Alawite) constitute Syria's largest religious minority. They practise a form of Islam that began by splintering off from the Shiite branch, and integrates doctrines from other religions, particularly Christian, but also pagan and Gnostic. 'Alawi' literally means "those who adhere to the teachings of Ali", the son-in-law of the Prophet Muhammad. They believe that Ali is the incarnation of the deity in the divine triad.[105] Syria's 75% majority Sunni population considers the Alawi to be heretical because of their belief that Ali is Muhammad's successor, and their rejection of traditional Islamic restrictions. Many conservative Sunni Muslims do not regard the Alawis as Muslims at all.[106] Despite their minority status, the Alawis have dominated the government, the Ba'ath Party, key military positions, resources and national wealth and have preserved their power since 1970 with Hafez-al-Assad's successful coup. The Alawi power base in Damascus is safeguarded through authoritarian means; civil and political rights in Syria were suspended under the "State of Emergency Law", which was over 30 years old.[107] The 'State of Emergency Law' was repealed by President Assad in March 2012.

3.9.4 The Muslim Brotherhood is an Islamic, Sunni fundamentalist and anti-government movement whose popularity grew markedly in the late 1970s. Unlike similar Islamic fundamentalist movements in some other Middle Eastern countries, the Muslim Brotherhood opposed the Assad regime not so much for its secularism as for its sectarian favouritism. To protest Alawi domination, the Muslim Brotherhood, together with other like-minded groups, undertook a series of violent attacks against the Ba'ath Party government and civil authorities. After the government's attempts at negotiation failed, Muslim Brotherhood attacks increased in frequency, and the government responded with extreme violence. The Assad regime isolated the Muslim Brotherhood adherents in their strongholds of Aleppo and Hamah. In February 1982, with no regard for the safety of civilians, the full force of the Syrian army was brought to bear on the rebels in Hamah. Entire sections of the city (including the ancient quarter) were reduced to rubble by tank and artillery fire, and over 25,000 citizens were killed. This included between 5,000 and 10,000 of the Brotherhood members.[108]

3.9.5 Since 1980, membership of the Muslim Brotherhood has been a capital offence in Syria and since the crackdown in 1982, most of its leaders were sent into exile. The organisation has no effective operational base in Syria, and its leaders are primarily based in London and Paris. The only other prominent Islamic party in Syria is the Islamic Liberation Party (Hizb al-Tahrir al-Islami) and its members are subject to frequent arrests by the Syrian authorities. President Assad's regime continues to arrest and detain those suspected of Islamist activities with ties to the Muslim Brotherhood.[109] In October 2005, the Muslim Brotherhood joined with other opposition groups in signing the Damascus Declaration, which called for the establishment of a liberal democracy in Syria. Because of fears relating to Sunni domination, President Assad is believed to have tried to obstruct the Brotherhood's

[104] USSD Human Rights Report: Syria 2011 section 2A
[105] 'Angelfire' accessed 14 October 2011: The Alawis
[106] Global security: http://www.globalsecurity.org/military/world/syria/overview.htm
[107] MAR Data Assessment (accessed 26 October 2012): Assessment for Alawi in Syria
[108] GlobalSecurity accessed 26 October 2012: Syria - Overview
[109] The World Almanac of Islamism – 14 July 2011 Syria - Muslim Brotherhood

rapprochement with secular opposition forces.[110]

3.9.6 Despite doubts concerning the level of active support within the country, according to a number of human rights organisations, Syria continued not only to hold hundreds of Muslim Brothers in prison, but also continued to convict large numbers in the SSSC in recent years.[111] There are an estimated 2,500 to 3,000 political prisoners in Syria, many of whom have never been tried. The majority are believed to be Islamists; political activists are frequently monitored and harassed by security services even after release from prison.[112] Persons who have past connections with the Muslim Brotherhood have been prosecuted upon their return to Syria.[113]Reports indicate that the Muslim Brotherhood are regaining a profile in Syria, and even gaining in influence with the opposition activists[114]. [115] However, the Syrian Human Rights Committee (SHRC) reported that "....law 49/1980...condemns to death any member of the Muslim Brotherhood, their children, relatives or sympathisers".[116] There is evidence that persons who have unsuccessfully sought asylum in other countries have been prosecuted on return to Syria.[117]

3.9.7 Various Islamist groups have increased their status and influence in Syria since the outbreak of the civil war, including the Farouk Brigade and other jihadists. This has heavily impacted on the political situation, because the Free Syria Army is primarily a secular force, and many of its members are defected soldiers from the Syrian Army; these are often disliked and distrusted by ordinary citizens. The Islamists have considerable influence, particularly in the north, in Aleppo, Idlib and areas close to the Turkish Border.[118] The conflict has become increasingly sectarian, with opposition groups increasingly divided on political, religious and tribal lines.[119] The various Islamist opposition groups reportedly have better funding and weaponry than most of the Free Syrian Army rebel groups. They are reportedly responsible for setting up Sharia courts, and allegedly have executed many captured government soldiers.[120]

3.9.8 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

Caselaw (section 2.6 above)

3.9.9 Conclusion: The Supreme Court held in RT (Zimbabwe) that the rationale of the decision in HJ (Iran) extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution.

3.9.10 Where applicants can demonstrate that they are/were active members of the

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[110] Global Politician accessed 26 October 2011: Muslim Brotherhood
[111] COIS Report: Syria 15 August 2012 para. 15.19
Human Rights Watch: Far from Justice - Syria's SSSC Feb 2009
[112] Freedom House:: Country Report Syria 2011
[113] USSD Human Rights Report: Syria 2011 section 2D
[114] Washington Post accessed 31 October 2012: Syria's Muslim Brotherhood is gaining influence over anti-Assad revolt
[115] Gatestone Institute November 2011: http://www.gatestoneinstitute.org/2562/syria-fundamentalists
[116] COIS Report: Syria 15 August 2012 para. 15.20
Syrian Human Rights Committee: Tenth Annual Report: Syria 2011
[117] COIS Report: Syria 15 August 2012 para. 15.24
USSD Human Rights Report: Syria 2011 section
[118] The Telegraph 13 October 2012: rebel fighters fear the growing influence of their 'Bin Laden' faction
[119] The Guardian 22 March 2012: Islamists seek influence in Syria uprising
[120] BBC News: Syria 25 October 2012: Discord grows between Islamist and secular rebels

Muslim Brotherhood in Syria, and are either known as such to the Syrian authorities, or would be on return, a grant of asylum is likely to be appropriate. Since the onset of political protest and civil unrest in March 2011, the authorities have cracked down on all expression of political opposition with increasing brutality. It is likely that while these circumstances prevail, there is an even greater risk of ill-treatment to Islamic activists, particularly since the Syrian authorities have publicly blamed various Islamic groups for the current state of disorder and violence.

3.10 Forced Military Conscription

3.10.1 Some applicants will apply for asylum or make a human rights claim based on a fear of being forced to join the Syrian Army to fight on behalf of President Al-Assad's regime.

3.10.2 **Treatment:** Male citizens of Syria are subject to compulsory military conscription from the age of 18 years. In March 2011, President Assad issued a decree lessening the mandatory army conscription from 21 months to 18 months.[121] This was seen as an attempt to appease discontent among young Syrians, who resented the withholding of food aid from families whose members escaped conscription, and frequent random ID checking.[122] For the Syrian Arab Navy, the minimum service obligation is for eighteen months. Women are not subject to conscription, but can volunteer to serve. The obligation to perform military service is based upon the 1953 National Service Act. All men between the ages of 18 and 40 are eligible for military service, with the exception of stateless Kurds.[123]

3.10.3 Military exemption is possible for domestic reasons, e.g. where a family has only one son and for serious medical conditions.[124] Although the term of military service was recently reduced to 18 months, this was followed by a decision in late November 2011 to suspend the delay of military conscription for administrative or schooling reasons, according to the official news agency SANA (Syria Arab News Agency). Accordingly, dozens of young men left the country at short notice to avoid undergoing immediate military service.[125] On 5 November 2011, the Syria Arab News Agency announced that President Bashar al-Assad had issued the legislative decree No.124 for the year 2011; this granted a general amnesty to persons of military age, who had avoided undergoing military conscription tests or from undertaking military service without lawful excuse. Such persons were required to report to their recruitment divisions within 60 days starting from the circulation date of the decree.[126]

3.10.4 Conscientious objection to military service is not legally recognised in Syria, and there are no provisions for substitute service. The Syrian government reportedly has stated that there have been no known cases of conscientious objection in Syria.[127] Penalties for draft evasion are dependent on the circumstances, and range from one to six months imprisonment, up to five years. Military desertion is punishable by five years imprisonment or by five to ten years if the deserter has left

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[121] CIA World Fact Book: Syria 2012
[122] War Resister's International 19 March 2011: Syria shortens term of conscription
[123] COIS Report: Syria 15 August 2012 para. 9.02 – 9.03
World Coalition to Stop the Use of Child Soldiers: Global Report: May 2008
[124] War Resisters International: Syria: Conscription accessed 12/06/2012
[125] SANA: Labour In Vain January 2012
[126] COIS Report: Syria 15 August 2012 para.9.14
SANA: http://www.sana.sy/eng/361/2011/11/05/380134.htm
[127] War Resisters International: Syria: Conscription accessed 12/06/2012

the country. Punishment for desertion can vary according to the deserter's rank, and the circumstances under which the desertion has taken place. Desertion to enemy ranks is punishable by execution.[128] This has been increasingly reported as the violent repression in civilian/residential areas intensified.[129] In addition, there is evidence that soldiers who have deserted are joining the rebels (the Free Syria Army) and fighting against the authorities.[130]

3.10.5 The Syrian authorities have used extreme force in their attempts to crush and repress the protests and rebellion. The Syrian Army are reported to have used heavy weaponry and artillery fire against the protesters, including in civilian and residential areas. The Syrian authorities have stated that attacks on residential areas have been launched to deal with "armed terrorist strongholds" in response to appeals from citizens.[131] There are conflicting reports and accusations that the recent massacres are the responsibility of either the Syrian Army, the paramilitary Shabiha, Opposition activists or Sunni fundamentalists.[132] The UN has condemned the use of force and heavy weaponry by the Syrian Army, and primarily blames the Syrian authorities for the violence and large numbers of civilian fatalities.[133] A report by UN investigators said that State security forces continued to use lethal force against anti-government demonstrations in Idlib, Homs, Aleppo, Hama, Damascus and Deraa, and in numerous villages throughout the country.[134]

3.10.6 Large numbers of soldiers of the Syrian Army have deserted, or attempted to desert. The majority of these have joined the Free Syrian Army (FSA) of the opposition, who form the bulk of its manpower.[135] In December 2011, scores of army soldiers were killed by machine gun fire (by the Syrian Army) as they attempted a mass desertion from an army base in northern Syria.[136] However, increasing numbers of soldiers from the Syrian Army are reportedly deserting, the majority switching sides to the Free Syrian Army, amid reports that the Syrian authorities are slowly losing control of their security forces, and of the country.[137] On 21 June 2012, it was reported that a Syrian fighter plane had landed at a military air base in the north of Jordan and that the pilot has been granted political asylum. The Syrian state TV channel reported only that a fighter plane, flown by an air force colonel, had gone missing during a training mission.[138]

3.10.7 Deserting Syrian soldiers have reported being forced to fire at unarmed civilians and protesters, including women and children. They also stated that they risked being shot if they refused. Many soldiers have claimed that they were told the protesters were infiltrators, Salafists or other perceived enemies of the Syrian government, later finding out they had in fact participated in massacres of civilians.[139] The NGO Human Rights Watch released a report "By All Means Necessary" which details interviews and reports from Syrian soldiers who have succeeded in deserting the army and fleeing the country. They described many examples of summary execution of protesters and of soldiers refusing to take part in atrocities, in addition

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[128] War Resisters International: Syria: Conscription accessed 12/06/2012
[129] BBC News 20 December 2011: Dozens of army deserters 'gunned down'
[130] BBC News 3 Jan 2012 : Syrian army deserters kill 18
[131] BBC News 12 June 2012: Syria conflict: fears of new massacre
[132] BBC News 8 June 2012: Houla: How a massacre unfolded
[133] BBC News 28 May 2012: William Hague says risk of civil war & collapse increasing
[134] BBC news 24 May 2012: Syrian army 'responsible for rights abuses' - UN report
[135] Der Spiegel 11 June 2012: Syrian Army unable to stop flood of deserters
[136] The Telegraph 20 December 2011: Syrian forces accused of machine-gunning hundreds of deserting soldiers
[137] Spiegel International 11 June 2012: Syrian Army unable to Stop Flood of Deserters
[138] BBC News 22 June 2012: Syrian fighter pilot defects to Jordan
[139] Al Jazeera News 9 June 2011: Syrian forces 'ordered to shoot to kill'

to summary arrests and detention, torture and severe ill-treatment of protesters.[140] The later HRW report "Torture Archipelago" contains many interviews with defectors from military and intelligence installations, which further describe torture and extreme ill-treatment of detainees.[141]

3.10.8 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

Caselaw (section 2.6 above)

3.10.9 Conclusion: The Syrian Government is brutally repressive of dissent and conscientious objection is not recognised within the country. The level of lethal force employed by the authorities since March 2011 has steadily increased, and large numbers of soldiers have been killed for attempting to desert, or refusing to fire on civilians. During the current conflict the Syrian authorities are likely to require a greater number of conscripts, to support President Assad's regime. Given the situation in Syria, where it is accepted that the applicant is a deserter from the Syrian Army, or is likely to be subject to military conscription on return, a grant of asylum will be appropriate because the Syrian authorities will regard such deserters as opponents of the regime.

3.10.10 Case owners should note that members of the Syrian armed forces have been responsible for serious human rights abuses of civilians. If it is accepted that an applicant was an active operational member of the security forces, case owners should consider whether one of the Exclusion clauses may be applicable. In addition, some members of the armed opposition forces have been guilty of serious human rights abuses of captured Syrian soldiers. Case owners should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

3.11 Returning failed asylum seekers

3.11.1 Some applicants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of the state authorities due to them returning to Syria, having claimed asylum in another country.

3.11.2 Treatment: The law provides for the prosecution of any person who attempts to seek refuge in another country to escape a penalty in Syria. Persons who have unsuccessfully sought asylum in other countries and who have past connections with the Muslim Brotherhood have been prosecuted upon their return to the country. The government routinely arrested dissidents and also former citizens with no known political affiliation who tried to return to the country after years or even decades in exile.[142] A joint fact-finding mission by the Danish Immigration Service and the Austrian Red Cross reported that Kurdish failed asylum seekers and persons who had left Syria illegally would generally face detention, investigation and ill-treatment upon return.[143]

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[140] Human Rights Watch: By All Means Necessary December 2011
[141] Human Rights Watch Report: Torture Archipelago July 3 2012
[142] USSD Human Rights Report: Syria 2011 section 2D
[143] DIS/ACCORD Austrian Red Cross 2010: Human Rights Issues concerning Kurds in Syria

3.11.3 Various Western diplomatic sources have stated that there is a sophisticated computer system employed at border controls to screen persons upon entry into Syria. Each security service maintains its own list of wanted persons, but the lists contain information from various security offices from all parts of the country. Immigration authorities are able to quickly identify whether a returnee has a security file. Persons with a security file are transferred from the detention facilities of the immigration services to the security agency's detention centre.[144] There have been a number of reports citing individuals who have been returned to Syria, subsequently to face detention and ill-treatment, or to disappear.[145]

3.11.4 The Kurdish Human Rights Project reported that "…some Syrian nationals who have been returned to the country after living abroad have been arbitrarily detained on arrival or shortly after their return. To seek asylum abroad is perceived as a manifestation of opposition to the Syrian government, so returned asylum seekers face the likelihood of arrest".[146] It is reported that failed asylum seekers would be detained upon return to Syria simply because they had been abroad. The person would be detained and interrogated by the security services; reports generally indicate that ill-treatment in detention is likely. Detainees are normally released after a period of weeks, unless they have an established profile as a political or religious activist.[147] Since the outbreak of violent civil disorder, the Syrian authorities have become progressively more brutal in their treatment of individuals perceived to be opposed to the Assad regime. Following the lifting of the Emergency Law in April 2011, security forces continued their previous practices and have carried out larger numbers of arbitrary arrests.[148] As levels of violent repression of political protest have intensified, anyone perceived to be critical of, or hostile to, the Syrian authorities is likely to face arbitrary arrest and extreme ill-treatment in detention.[149]

3.11.5 It has been reported that Syrian nationals in the UK have been threatened by the Syrian authorities. Diplomats and their staff at the Syrian Embassy in London were alleged to be working for the Syrian Intelligence Services, carrying out surveillance and threatening members of the Syrian opposition based in London.[150] In the United States, the Syrian Ambassador was summoned to meet with top State Department officials who expressed concerns relating to the conduct of Syrian Embassy staff in the United States. There is evidence that Embassy staff have conducted photographic and video surveillance of Syrians taking part in peaceful demonstrations in the United States.[151] Although, following the massacre in Houla, all senior Syrian diplomats were expelled from the majority of Western countries, including the UK and the U.S. lower-ranking staff remained in post.[152]

3.11.6 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

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[144] COIS Report: Syria 15 August 2012 para. 32.23
Danish Immigration Service/ACCORD/Austrian Red Cross: Human Rights issues concerning Kurds 2010
[145] COIS Report: Syria 15 August 2012 para. 32.24 – 25
Amnesty International: Urgent Action April 2010
[146] COIS Report: Syria 15 August 2012 para. 32.20
Kurdish Human Rights Project: Submission to the UNHCR, Special Rapporteur, June 2010
[147] Danish Immigration Service, May 2010 Danish Fact-Finding Mission
[148] USSD Human Rights Report: Syria 2011 section 1D
[149] Human Rights Watch Report: Torture Archipelago July 3 2012
[150] The Times: 24 June 2011 Diplomat leads secret police threats
[151] The Telegraph: 13 October 2011 Threats to Syrians in US
[152] BBC News: 29 May 2012 Houla deaths: Western states to expel Syrian diplomats

Caselaw (section 2.6 above)

3.11.7 Conclusion: The Syrian authorities have become increasingly repressive in recent years, and reports indicate that most returnees, including failed asylum seekers, may be at risk of ill-treatment on return to Syria. The available evidence suggests that returnees of Kurdish ethnicity and those whose opposition to the government is known or suspected by the security services would be at particular risk.

3.11.8 Following the principle established in RT (Zimbabwe) claimants cannot be expected to lie about their political opinion (or lack thereof). Given the growing civil unrest and increasingly volatile conditions, it is likely that returnees would be viewed with suspicion by the authorities, and credible reports of the surveillance of Syrian activists and demonstrators in the UK are likely to increase this risk.

3.11.9 The recent country guidance case of KB (Failed asylum seekers and forced returnees) Syria CG [2012] UKUT 426 (IAC) (21 December 2012) found that it is likely that a failed asylum seeker or forced returnee would, in general, face a real risk of arrest and detention on return, and of serious mistreatment during that detention as a result of imputed political opinion. The Upper Tribunal accepted that the position might be otherwise in the case of someone who, notwithstanding a failed claim for asylum, would nevertheless be perceived on return to Syria as a supporter of the Assad regime.

3.11.10 Careful consideration should be given to the particular circumstances of the individual, including the reasons for having left Syria, any previous activities within the military or security services, any political profile, or any evidence of having taken part in demonstrations or other expressions of opposition to the regime, including any such activity in the UK. The intention and the ability of the Syrian authorities to monitor all expressions of opposition should not be underestimated. Even where there has been no previous expression of anti-regime views, a grant of asylum will be appropriate if there is a real risk of the individual being perceived as having opposition sympathies.

3.11.11 Case owners should note that members of the Syrian armed forces have been responsible for serious human rights abuses of civilians. If it is accepted that an applicant was an active operational member of the security forces, case owners should consider whether one of the Exclusion clauses may be applicable. In addition, some members of the armed opposition forces have been guilty of serious human rights abuses of captured Syrian soldiers. Case owners should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

3.12 Women

3.12.1 Some Syrian female applicants may make an asylum and/or human rights claim based on fearing mistreatment or death at the hands of either state or non-state agents, due to their gender.

3.12.2 Treatment: The 1973 Constitution calls for equality among all citizens, and includes an article obliging the state to remove all obstacles to women's advancement. Government policies have encouraged women's education and participation in the

labour market. However, Syria remains a strongly traditional Islamic country, and the majority of women continue to live a traditional lifestyle.[153] Syria acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in March 2003; however the government filed several reservations affecting significant provisions of the covenant. Although officials at the time indicated their willingness to revisit these, and implement the Convention more thoroughly, few definite changes have occurred.[154]

3.12.3 Women have the right to vote, although the benefits of their political emancipation have been significantly negated due to the increasingly repressive political climate. However, women have generally participated in the political system without formal restriction in recent years. During 2011, a female vice president and three female cabinet ministers were in office.[155] Syria has no legislation specifically prohibiting gender-based discrimination, and there are no avenues for complaint for women who have been denied political, social, cultural and economic rights.[156] The personal status of women is governed by Islamic law. Several civil laws have been reformed to create gender equality; however, many of these have not been put into force, since social conventions prevent it. Under criminal law, if a man and a woman separately commit the same criminal act of adultery, the woman's punishment will be double that of the man. Personal status law for Muslim women is governed by Sharia law, and is discriminatory in marriage, divorce and inheritance matters; church law governs personal status issues for Christians, in some cases banning divorce. Women are treated as full persons before the civil and criminal courts, which are secular. In Sharia courts, a woman's testimony is worth only half that of a man.[157]

3.12.4 Many women (primarily in rural areas) do not understand their legal rights, and so cede these rights in response to social pressures, particularly with respect to property rights. Opposition to increased women's rights arises mainly from Islamic fundamentalist groups, and also from conservative customs and cultural attitudes that relegate women to second place.[158] These ingrained patriarchal values, combined with an authoritarian political system leave women vulnerable to gender-based violence, inside and outside the home. Domestic violence is common throughout Syria, but is not illegal.[159] Spousal rape is excluded as an offence under the legal definition of rape.[160] Women are expected to uphold the honour of the family, and any failure to conform to social norms attracts adverse attention, often culminating in violence, murder and so-called 'honour killings'. In 2009, the Penal Code was amended to increase the penalty for 'honour killings', from one year to two years, but honour continues to be a mitigating factor in sentencing. It is estimated that approximately two hundred women are killed in 'honour killings' each year.[161]

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[153] COIS Report: Syria 15 August 2012 para. 23.01 – 02
UN Development Programme: Arab Statistics - Governance in the Arab Region
[154] COIS Report: Syria 15 August 2012 para. 23.03
Freedom House: Women's Rights in the Middle East 2010
[155] USSD Human Rights Report: Syria 2011 section 3
[156] COIS Report: Syria 15 August 2012 para. 23.08
Freedom House: Women's Rights in the Middle East 2010
[157] COIS Report: Syria 15 August 2012 para. 23.11 – 15
USSD Human Rights Report: Syria 2011 section 3
Freedom House: Syria- Countries at the Crossroads 2011
[157] USSD Human Rights Report: Syria 2011 section 3
[158] Freedom House 2010: Women's Rights survey
[159] Freedom House: Syria: Freedom in the world 2012
[160] Freedom House 2010: Women's Rights survey
[161] Freedom House: Syria: Freedom in the world 2012

3.12.5 The (Catholic) Sisters of the Good Shepherd operate an emergency shelter and telephone hotline in Damascus for female victims of domestic violence. Shelter workers reported that the police had become increasingly helpful in referring women to the shelter. There are at least four private shelters for female victims of domestic violence in Damascus.[162] In addition, the first shelter for trafficked women opened in Damascus in 2008. It is operated by a local NGO with support from the International Organisation for Migration and the Ministry of Social Affairs and Labour. It provides medical and psychological services in addition to legal assistance.[163]

3.12.6 The continuing civil unrest in Syria puts women at greater risk than before. The security forces have killed many thousands of protesters. It is reported that security forces deliberately targeted rescuers and medical workers who were attempting to take away the dead and injured. During the siege of Daraa earlier in the spring of 2011, people who were leaving their houses to obtain essential supplies, and also bystanders were shot and killed by security forces. These have included women and children on many occasions.[164] Women and children were particularly targeted during the massacres at Houla and Qubair. The UN News Agency reported that approximately 2000 people comprising both Muslims and Christians, (mainly women and children and the elderly) fled into Lebanon during May 2012. Many of these are being supported by Catholic charities such as Caritas and Aid to the Church In Need.[165] Military attacks on residential and civilian areas have increased in most of the major cities within the last year, and women and children have been prominent in the fatality and casualty figures.[166]

3.12.7 Journalists have been targeted by the security forces, including several female journalists who have been subjected to arbitrary arrest, kidnap, detention and torture.[167] Reporters without Borders reported on 30 April 2012 that the female journalist Yara Michel Shammas (daughter of a high profile human rights lawyer, Michel Shammas) had been freed on bail, although she currently continues to face charges that carry the death penalty. They noted that dozens of journalists and 'netizens' are detained in Syrian jails, and listed by name at least 30 journalists and bloggers who are of particular concern. A substantial number of these are women.[168] In Syrian prisons and detention centres, the majority of detainees are men. However, the HRW report "Torture Archipelago" provides interviews with women and children who have been tortured and sexually abused in detention.[169]

3.12.8 See also:

Actors of protection (section 2.4 above)

Internal relocation (section 2.5 above)

Caselaw (section 2.6 above)

3.12.9 Conclusion: The authorities have made some steps towards promoting gender equality by appointing women to senior positions and providing equal access to

[162] USSD Human Rights Report: Syria 2011 section 6
[163] Freedom House 2010: Women's Rights survey
[164] Human Rights Watch 1 June 2011: "We've Never Seen Such Horror"
[165] Catholic Herald May 2012: Caritas shelters Syrian refugees fleeing violence
[166] BBC News Syria: Damascus suburb sees heavy fighting
[167] Reporters sans Frontieres: 29 August 2011: Syria Government announces schizophrenic media laws
[168] Reporters sans Frontieres: 30 April 2012: Young woman freed on bail but still facing possible death sentence
[169] Human Rights Watch Report: Torture Archipelago July 3 2012

education, but a large number of discriminatory laws remain in force. State protection is statutorily available to women in Syria; however, impunity within the police force remains a serious problem, and societal and family pressures are likely to prevent the majority of women from approaching the State for protection against domestic violence and other abuses.

3.12.10 The current situation of worsening violence and heavy fighting, with the continuing brutality of the police and security services, further reduces the likelihood of the state authorities being willing or able to provide protection. Where it is accepted in individual cases that the authorities are unwilling or unable to provide protection, and internal relocation is also not viable in the individual circumstances, a grant of asylum or Humanitarian Protection will be appropriate.

3.13. Prison Conditions

3.13.1 Applicants may claim that they cannot return to Syria due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Syria are so poor as to amount to torture or inhuman treatment or punishment.

3.13.2 The guidance in this section is concerned solely with whether prison conditions are generally such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If there is a real risk of detention for political or other Convention reasons, there will also be a real risk of torture and ill-treatment contrary to Article 3 ECHR and asylum should be granted.

3.13.3 **Consideration**: Prison conditions are generally poor, and do not meet international standards for health and sanitation. Facilities generally lack proper ventilation and lighting, potable water and sufficient sleeping areas. Released prisoners frequently complain of sickness and injury due to inadequate conditions. The government did not permit visits by independent human rights observers during 2010. The government generally prohibited independent monitoring of prison and detention centre conditions, although in September 2011, the government did allow the Red Cross to tour the central prison in Adra, Damascus.[170] The number of prisoners and detainees held in Syrian prisons and detention centres has increased rapidly since the onset of the civil disturbances, and it is reported that the authorities converted stadiums to prisons for anti-regime demonstrators, particularly in Banias and Dar'aa.[171]

3.13.4 Prisoners have the right to complain about ill treatment and prison conditions; however the authorities rarely investigated such complaints. There is reportedly no available ombudsman to advocate on behalf of prisoners and detainees. Severe overcrowding at some prisons forces prisoners to sleep on the floor, and prison officials reportedly withheld food to punish prisoners.[172] According to local and international human rights organisations, the government held prisoners and detainees without adequate basic and emergency medical care. There were reports of prisoners being beaten by other prisoners, while guards stood by, watching. The government did not provide statistics on the numbers of prisoners or

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[170] COIS Report: Syria 15 August 2012 para.13.01
USSD Human Rights Report: Syria 2011
[171] COIS Report: Syria 15 August 2012 para. 13.01 – 2
USSD Human Rights Report: Syria 2011
UN Committee Against Torture: Syria Report 2012
[172] USSD Human Rights Report: Syria 2011 section 1C

detainees in the country.[173]

3.13.5 There are separate detention facilities for men, women and children, but the government do sometimes hold minors in adult facilities. Pre-trial detainees, particularly those held for political or security reasons were usually held separately from convicted prisoners. However, according to local human rights organisations, political prisoners were sometimes deliberately placed in crowded cells with convicted and alleged criminals and subjected to verbal and physical threats.[174] Facilities for political or national security prisoners, especially Islamists, are generally much worse than for common criminals. Each branch of the four security services operates its own detention centres; most cases of reported torture occurred in these facilities, according to local human rights organisations.[175] There is reliable evidence that torture and severe ill-treatment are endemic throughout the detention facilities of all four security services.[176]

3.13.6 The law and constitution (under Article 28) prohibits torture and other cruel, inhuman or degrading treatment or punishment but that provision is worthless and security forces continue to use torture routinely. Former prisoners, detainees and reputable local human rights groups reported that torture methods include: electrical shocks; pulling out fingernails; burning genitalia; forcing objects into the rectum; beating victims whilst suspended from the ceiling; hyper-extending the spine; using a backward-bending chair to fracture the spine, and stripping prisoners naked for public view. In previous years, Amnesty International (AI) documented 38 types of torture used against detainees in the country. AI reported that torture was most likely to occur at detention centres operated by the security forces. Courts systematically used “confessions” extracted under duress as evidence, and defendants’ claims of torture were almost never investigated.[177] Violence against women is prevalent in Syrian society, and the mistreatment of female prison detainees has included cases of rape and violence.[178]

3.13.7 Since the beginning of anti-government protests in March 2011, the security forces have killed hundreds of protesters and arbitrarily arrested thousands, subjecting many of them to brutal torture in detention. According to the Human Rights Watch report “We’ve never seen such horror” it is believed the security forces detained hundreds of people every day. Some of them were released several days or weeks later, but many have not reappeared and in most cases the families have had no information on their fate.[179] However, the independent monitoring of prison or detention centre conditions and the publication of any materials on the prevailing conditions is prohibited by the government. Limited access by diplomatic and consular officials was permitted in some individual cases during 2010.[180]

3.13.8 In July 2012, HRW published another report, cataloguing over 200 interviews with former detainees and defectors from the Syrian military and intelligence services. The interviews graphically describe the levels of torture and ill-treatment meted out to detainees in Syria. They cover the whole range of detention and prison facilities, and torture is reportedly endemic throughout.[181] It was reported that in most cases,

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[173] USSD Human Rights Report: Syria 2011 section 1C
[174] USSD Human Rights Report: Syria 2011 section 1C
[175] USSD Human Rights Report: Syria 2011 section 1C
[176] Human Rights Watch report: Torture Archipelago July 3 2012
[177] USSD Human Rights Report: Syria 2011 section 1C
[178] Freedom House 2010: Women's Rights survey
[179] Human Rights Watch Report: We've never seen such horror - Syria 2011
[180] USSD Human Rights report: Syria 2010
[181] Human Rights Watch report: Torture Archipelago July 3 2012

detainees were not informed of charges against them until their arraignment, which was often months after their arrest. Security detainees in 2011 did not have access to lawyers before or during questioning, or throughout the preparation and presentation of their defense.[182]

3.13.9 The International Committee of the Red Cross (ICRC) reported in June 2012 that they were permitted to visit thousands of detainees held under the jurisdiction of the Ministry of the Interior in Damascus Central Prison, although only 23 of these were permitted private interviews with their delegates.[183] However, there are reliable reports that the Syrian authorities transferred perhaps hundreds of detainees to off-limits military sites to hide them from Arab League monitors when they were in the country.[184]

3.13.10 Syria maintains the death penalty for certain crimes, although this sentence is sometimes commuted to life imprisonment. Capital crimes are: treason, murder, political acts such as bearing arms against Syria in the ranks of the enemy, desertion of the armed forces to the ranks of the enemy, acts of incitement under martial law or in wartime, violent robbery, drug trafficking, rape, verbal opposition to the government, and membership of the Muslim Brotherhood. In practice, the death penalty is most often applied to charges relating to membership of the Muslim Brotherhood and other Islamic political groups, membership of other banned political groups opposing the government, and to membership of Syrian Kurdish political groups.[185] During 2010 the Supreme State Security Court sentenced more than 100 citizens to punishments ranging from 3 years to execution for charges relating to membership of banned political groups.

3.13.11 Conclusion: Prison and detention centre conditions in Syria are life-threatening, with overcrowding and the absence of medical facilities being particular problems. Deprivation of food, lack of independent scrutiny, and torture are also a serious concern. Conditions for ordinary, non-political prisoners were previously generally acknowledged to be better than those for political prisoners; however, since the outbreak of civil unrest in March 2011 the authorities have become increasingly brutal.

3.13.12 Where applicants can demonstrate a real risk of imprisonment on return to Syria a grant of Humanitarian Protection will be appropriate, since prison and detention centre conditions are life-threatening.

3.13.13 Prison conditions in Syria for political prisoners are severe, and taking into account the torture and absence of adequate medical care, conditions for such individuals in prisons and detention centres in Syria are likely to reach the Article 3 threshold. The anti-government protests that have been occurring since March 2011 have further increased the risk of severe ill-treatment in prisons and detention centres. A grant of asylum will be appropriate where individual applicants are able to demonstrate a real risk of imprisonment as a political prisoner on return to Syria.

3.13.14 For further information on dealing with applicants with a political profile, please

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[182] COIS Report: Syria 15 August 2012 para. 12.01
USSD Human Rights Report: Syria 2011
[183] COIS Report: Syria 15 August 2012 para.13.03
International Committee of the Red Cross: Annual Report 2011
[184] COIS Report: Syria 15 August 2012 para.13.06
Human Rights Watch: Syria: Detainees Hidden from International Monitors December 2011
[185] COIS Report: Syria 15 August 2012 para.14.01 – 4
Foreign & Commonwealth Office: Human Rights & Democracy Report 2011

refer to section **3.8** above. Depending on the level and type of political activities the applicant has participated in, case owners may need to consider whether one of the Exclusion clauses applies. Case owners should refer such cases to a Senior Caseworker in the first instance.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instruction on Discretionary Leave)

4.2 With particular reference to Syria the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instruction on Discretionary Leave.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Syria. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR. Case owners should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).

4.4.2 The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of N (FC) v SSHD [2005] UKHL31, it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.

4.4.3 That standard continues to be followed in the Upper Tribunal (UT) where, in the case of GS and EO (Article 3 – health cases) India [2012] UKUT 00397(IAC) the UT held that a dramatic shortening of life expectancy by the withdrawal of

medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.

4.4.4 The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR. All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.

4.4.5 Where a case owner considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave. Case owners must refer to the Asylum Instruction on Discretionary Leave for the appropriate period of leave to grant.

5 Returns

5.1 There is no policy which precludes the enforced return to Syria of failed asylum seekers who have no legal basis of stay in the United Kingdom. However, case owners must note that all cases where a removal is being considered must first refer to the relevant Horizon country specific page, where guidance on the current situation regarding returns to Syria may be found.

5.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.

5.3 Any medical conditions put forward by the person as a reason not to remove them which have not previously been considered must be fully investigated against the background of the latest available country of origin information and the specific facts of the case; and a decision made as to whether removal remains the correct course of action, in accordance with chapter 53.8 of the Enforcement Instructions and Guidance.

5.4 Syrian nationals may return voluntarily to any region of Syria at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Border Agency, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.

5.5 The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Syria. The programme was established in 1999, and is open to those awaiting an asylum

decision or the outcome of an appeal, as well as failed asylum seekers. Syrian nationals wishing to avail themselves of this opportunity for assisted return to Syria should be put in contact with Refugee Action Details can be found on Refugee Action's web site at: www.choices-avr.org.uk.

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