



Home Office

# OPERATIONAL GUIDANCE NOTE

## Syria

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### 1. Introduction

- 1.1** This document provides Home Office caseworkers 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. Caseworkers must refer to the relevant asylum instructions (AIs) for further details of the policy on these areas.
- 1.2** Caseworkers 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.
- 1.3** The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant country of origin information (COI) and any other pertinent data, such as country caselaw.

- 1.4 COI is published by the [Country of Origin Information Service \(COIS\)](#) and is available on the intranet.
- 1.5 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, caseworkers 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.
- 1.6 Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.
- 1.7 If, following consideration, a claim is to be refused, caseworkers 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 Caseworkers should refer to the relevant COI Service country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth \(FCO\) Human Rights and Democracy Report](#), which examines developments in countries where human rights issues are of greatest concern.
- 2.2 **Actors of protection**
  - 2.2.1 Caseworkers must refer to section 7 of the AI - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and 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.
  - 2.2.2 Caseworkers 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.
  - 2.2.3 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.
  - 2.2.4 Syria is a republic ruled by the authoritarian regime of President Bashar al-Assad. The president makes key decisions with counsel from a small number of security advisors, ministers and senior members of the ruling Baath Party. The constitution mandates the primacy of Baath Party leaders in state institutions and society. Assad and the party leaders dominate all three branches of government. Parliamentary elections held in May 2012 were neither free nor fair by international standards, and several opposition groups boycotted them. Civilian authorities no longer control the four major branches of the security forces. The government's

security branches have traditionally operated autonomously with no defined boundaries between their areas of jurisdiction. Military Intelligence and Air Force Intelligence report to the Ministry of Defence, the Political Security Directorate reports to the Ministry of Interior, and the General Intelligence Directorate reports directly to the Office of the President. The government's relationship to and coordination with Shabiha groups (pro-government criminal militia) was unclear, yet Shabiha engaged in arrest operations, detaining and torturing those suspected of supporting the opposition.<sup>1</sup>

- 2.2.5** In 2011-12 security forces used tanks, gunfire and mass arrests to try to crush anti-government street protests inspired by the Arab Spring in Tunisia, Egypt and Lebanon. These protests rapidly took on a more formal nature when the opposition began to organise political and military wings for a long uprising against the Baath government. As 2012 wore on, the stand-off escalated into civil war, with defections from the government signalling the steady collapse of central authority.<sup>2</sup>
- 2.2.6** The number of persons killed since the violence began has reportedly surpassed 100,000. Armed hostilities have steadily expanded and leave no area within Syria unaffected by the conflict and its massive humanitarian consequences. Frontlines are reported to be relatively static overall, and any change in control between pro-government forces and armed opposition groups requires major military efforts, inflicting heavy losses of lives and massive destruction of both public infrastructure and private property. Areas under de facto control or with a presence of armed opposition groups are reported to be subjected to shelling by government forces, and the authorities are reported to prevent food and medical supplies reaching the population in these areas. Similarly, armed opposition groups have targeted or laid siege on government-held areas. The conflict is marked by a disregard for the protection of civilians as parties to the conflict have repeatedly violated international humanitarian law and committed other grave human rights violations, including but not limited to: arbitrary arrest, torture and other forms of ill-treatment, enforced disappearances, abductions, summary and extrajudicial killings, forced displacement and use of heavy or banned weaponry against civilian populations.<sup>3</sup>
- 2.2.7** According to a July 2013 report from the UN Special Rapporteur on the human rights of internally displaced persons, "the erosion of political authority, the rule of law and the capacity of the Government to provide basic services and ensure security in areas under its effective control, as well as the increasing divisions among dissident armed groups, is contributing to an ever more unstable and fractious environment."<sup>4</sup>
- 2.2.8** The main human rights problems during 2012 and 2013 have been the regime's massive, countrywide attacks and strategic use of citizen killings to intimidate and control; specific targeting of activists and their families; and using civilians, including

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<sup>1</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013: Executive Summary

<http://www.state.gov/documents/organization/204595.pdf>

<sup>2</sup> BBC News: Middle East: Syria Profile: 8 October 2013

<http://www.bbc.co.uk/news/world-middle-east-14703856>

<sup>3</sup> UNHCR: International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, Conflict and Security Situation

<http://www.refworld.org/docid/5265184f4.html>

<sup>4</sup> United Nations, Report of the Special Rapporteur on the human rights of internally displaced persons, Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic, 15 July 2013, III. Context, A. Political and military context paragraph 7

[http://www.ohchr.org/Documents/Issues/IDPersons/A\\_67\\_931Syria\\_report.pdf](http://www.ohchr.org/Documents/Issues/IDPersons/A_67_931Syria_report.pdf)

children, as human shields. The government denied citizens' rights to change their government peacefully. They also denied citizens the right to practice freedom of speech, mobility, association, access to legal representation, and medical assistance. Impunity is pervasive and entrenched, as the government do not attempt to punish, arrest, or prosecute state officials who violate human rights.<sup>5</sup> These conditions have continued to deteriorate throughout 2013.

- 2.2.9** Criminal gangs known as the Shabbiha operate in Syria, and are responsible for serious organised crime including drugs and weapons smuggling, protection rackets and extortion. In addition, they are known to engage in lethal assaults on the general population, including drive-by shootings, executions and sectarian attacks. Their membership is reportedly made up primarily of members of the Alawite sect, including members of the President's family, and other families loyal to the regime. The Shabbiha are able to act with impunity. The authorities state that it is 'criminal gangs' who are carrying out the attacks, and have denied using pro-regime militia.<sup>6</sup>
- 2.2.10** Extreme sexual violence has become a widely used weapon of oppression and torture by government forces, as well as by the Shabbiha.<sup>7</sup> Men and women, boys and girls, including those as young as twelve, have been subjected to rape and other forms of violent and degrading sexual torture. Much of the abuse takes place in detention centres and prisons, but the Shabbiha are known to carry out rape and other sexual violence during home raids and residential sweeps. The full extent of sexual torture in Syria is not known; because the social stigma is so great victims are reluctant to report abuse. Survivors also may face dangers when they make crimes public.<sup>8</sup>
- 2.2.11** According to reports from international media and human rights organisations, armed opposition groups engaged in abuses, including kidnapping, detention, car bombings, summary execution and torture of security force members, government supporters, and persons identified as pro-government militia members, as well as forced evacuations from homes based on sectarian identity.<sup>9</sup>
- 2.2.12** The constitution provides for an independent judiciary, but courts are regularly subject to political influence, and outcomes of cases with political context appear to be predetermined. An estimated 95% of judges are Baathists, or are closely aligned with the Baath Party. Defendants are presumed innocent, and legally entitled to representation of their choice. There are no juries. Defendants and their lawyers have access to government-held evidence relevant to their cases. However, human rights lawyers note that in some politically charged cases, the prosecution case files that defence lawyers were allowed to see did not include any evidence. Defendants cannot legally be compelled to testify or to confess guilt, but family members report that intimidation by judges and prosecutors sometimes elicits false confessions.<sup>10</sup> Additionally, reports from news media suggested that some,

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<sup>5</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013: Executive Summary <http://www.state.gov/documents/organization/204595.pdf>

<sup>6</sup> BBC News: Syria unrest: Who are the Shabbiha? 29 May 2012  
<http://www.bbc.co.uk/news/world-middle-east-14482968>

<sup>7</sup> Refugees International: Syrian Women & Girls: No Safe Refuge: 15 November 2012  
<http://refugeesinternational.org/policy/field-report/syrian-women-girls-no-safe-refuge>

<sup>8</sup> Human Rights Watch: Syria: Sexual Assault in Detention: 15 June 2012  
<http://www.hrw.org/news/2012/06/15/syria-sexual-assault-detention>

<sup>9</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012: Executive Summary: <http://www.state.gov/documents/organization/204595.pdf>

<sup>10</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013: section 1c

and in certain cases all, of these procedures were denied to those accused of political crimes or violence against the regime. Sentences for those accused of anti-government activity tended to be harsh, with violent offenders and nonviolent offenders punished similarly.

**2.2.13** Human Rights Watch reports that in July 2012, “Syria adopted an overly broad Counterterrorism Law that criminalizes almost all peaceful opposition activity. The government has used the new Counterterrorism Court and the longstanding military field courts to target activists and punish peaceful dissent. Both of these systems deny defendants basic fair trial rights. The charges in these courts are brought under the guise of security or countering armed opposition, but the allegations actually involve distributing humanitarian aid, participating in peaceful protests, and documenting human rights abuses”.<sup>11</sup> People tried before the courts are also subject to lengthy pre-trial detention in apparent violation of Syrian law.<sup>12</sup>

**2.2.14** In December 2013, Human Rights Watch reported that “criminal prosecutions of serious crimes present immense challenges. Most significantly, political will to permit independent and impartial criminal prosecutions is often in short supply in countries like Syria (...) particularly when persons in positions of authority or close to those in power are implicated”.<sup>13</sup>

**2.2.15** The security agencies, operating independently of the judiciary, routinely extract confessions by torturing suspects and detaining their family members. The government lifted its emergency law in April 2011, but security agencies still have virtually unlimited authority to arrest suspects and hold them incommunicado for prolonged periods without charge. At the end of 2012, an estimated 100,000 people were missing or detained for political reasons. Extrajudicial killings have increased dramatically since the conflict began.<sup>14</sup>

**2.2.16** If the applicant’s fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, the provision of effective state protection is unlikely to be available given the internal armed conflict and absence of the rule of law. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information.

## **2.3 Internal relocation.**

**2.3.1** Caseworkers must refer to the AI on [Internal Relocation](#) and in the case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a ‘reasonable’ option, so as to apply the test set out in paragraph 339O of the Immigration Rules.

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<http://www.state.gov/documents/organization/204595.pdf>

<sup>11</sup> Human Rights Watch, Political Detainees Tortured, Killed: Military and Counter-Terrorism Courts Used to Punish Peaceful Dissent, 3 October 2013, <http://www.hrw.org/news/2013/10/03/syria-political-detainees-tortured-killed>

<sup>12</sup> Human Rights Watch, Syria: Counterterrorism Court used to Stifle Dissent, 25 June 2013

<http://www.hrw.org/news/2013/06/25/syria-counterterrorism-court-used-stifle-dissent>

<sup>13</sup> Human Rights Watch, Syria: Criminal Justice for Serious Crimes under International Law, December 2013 <http://www.hrw.org/news/2013/12/17/syria-criminal-justice-serious-crimes-under-international-law>

<sup>14</sup> Freedom House: Freedom in the World 2013: Syria, January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/syria>

- 2.3.2** 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.
- 2.3.3** 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.
- 2.3.4** Caseworkers 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.
- 2.3.5** Where a category of applicants' fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given as to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents.
- 2.3.6** If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.3.7** 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". Relative freedom of movement varies by region and by individual, due to the continuous fighting in most areas of Syria, and particularly Damascus and Aleppo. Movement was relatively freer in the northern and western regions, especially once rebels were increasingly controlling these areas. However, freedom of movement for government supporters or assumed supporters, and particularly the Alawi and Shia communities, is highly restricted in rebel-held areas.<sup>15</sup>
- 2.3.8** Overall, internal movement and travel are strongly discouraged by both the regime and the opposition. The violence, combined with significant cultural pressures, leads to severely restricted freedom of movement for women in many areas. In addition, the law enables some male relatives to place travel bans on women.<sup>16</sup>
- 2.3.9** As of May 2012, people trying to leave reported that the Assad regime does not want people leaving Syria, as it reflects negatively on the country.<sup>17</sup> Civilians caught between urban strategic areas are exposed, vulnerable to the constant risk of being

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<sup>15</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 2d <http://www.state.gov/documents/organization/204595.pdf>

<sup>16</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 2d <http://www.state.gov/documents/organization/204595.pdf>

<sup>17</sup> IRIN News: Middle East: Jordan-Syria: Refugees say it is becoming harder to leave: 21 March 2012 <http://www.irinnews.org/report/95120/jordan-syria-refugees-say-it-is-becoming-harder-to-leave>

hit by snipers. Women and children are frequently the victims of snipers, and are deliberately targeted.<sup>18</sup>

**2.3.10** UNHCR reports in October 2013 that “the number of persons killed since the violence began has reportedly surpassed 100,000, with 6.8 million persons, or one third of the population in need of humanitarian assistance; a significant increase from 1 million in March 2012. Increases in humanitarian needs of the population have also been noted particularly in the governorates of Aleppo, Rural Damascus, Idlib, Deir Ez-Zour, Hama, Dera’a, Raqqa, Lattakia and Damascus. Since January 2013, needs have tripled in Aleppo, while they have doubled in Rural Damascus and Deir Ez Zour. Within Syria itself, an estimated 4.25 million people have been displaced as of April 2013, with many having been displaced multiple times; indicators show that this number has grown significantly since then. Access to food, water, housing, health care, education and non-food items is severely affected by the cumulative effects of armed conflict and the related destruction of infrastructure, disruption of essential services and loss of livelihoods. The scale, nature and intensity of the conflict, bureaucratic obstacles, and a lack of adherence to international humanitarian law by all parties to the conflict severely limit humanitarian access to populations in need within the country. Of particular concern are populations in besieged areas that are reported to be virtually cut off from basic supplies and remain largely inaccessible to humanitarian actors”.<sup>19</sup>

**2.3.11** By December 2013, UNOCHA reported that “9.3 million people, nearly half the population, are now in need of humanitarian assistance, and an estimated 6.5 million people are internally displaced. Deterioration in food security is evident in several parts of the country which, when combined with worsening water, sanitation and healthcare services, contributes to a growing risk of malnutrition among women and children. There are critical gaps in essential healthcare delivery particularly in trauma, primary, and reproductive healthcare services. Insufficient access to safe water requires urgent attention, in conjunction with poor sanitation and hygiene practices, all of which increase the risk of an outbreak in communicable disease. Psychosocial distress and mental health concerns, the erosion of livelihoods, asset losses, and weakened coping mechanisms need to be urgently addressed. The shortage of adequate and dignified shelter and basic household items remains a major concern, as is hindered access to education, falling enrolment rates and the availability of safe learning spaces”.<sup>20</sup>

**2.3.12** The Special Rapporteur on the human rights of internally displaced persons reported in July 2013 that “internally displaced persons face significant protection concerns in relation to the ongoing conflict, both during flight and in displacement. Given the near absence of areas providing safety, they are often at risk of being subjected to continued violence, including indiscriminate attacks, targeted attacks on particular communities and attacks, or threats thereof, against locations where they have sought refuge. A number of other protection risks also affect internally displaced persons in particular, including the separation of families during flight, and

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<sup>18</sup> UNHCR: Periodic Update: Syria: 20 December 2012

<http://reliefweb.int/sites/reliefweb.int/files/resources/Syria%20Commission%20of%20Inquiry%20releases%20new%20update.pdf>

<sup>19</sup> UN High Commissioner for Refugees (UNHCR), International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, Humanitarian Situation and Forced Displacement

<http://www.refworld.org/docid/5265184f4.html>

<sup>20</sup> UNOCHA, Humanitarian Bulletin Syrian Arab Republic, Issue 39, 3-16 December 2013

<http://reliefweb.int/sites/reliefweb.int/files/resources/Syria%20Humanitarian%20Bulletin%20No%2039.pdf>

increased risks of harassment, sexual violence and human trafficking. The presence of explosive remnants of war in areas they are travelling through during their flight, in displacement or upon return, is a further protection risk".<sup>21</sup>

**2.3.13** The government generally did not cooperate with the UNHCR and other humanitarian organisations in assisting refugees and asylum seekers. It increased its reliance on security checkpoints and expanded these into civilian areas. Foreign diplomats have been barred from visiting most parts of the country and rarely grant permission to travel outside Damascus. The consistently high levels and unpredictable locations of violence result in severe constraints on movement throughout the country.<sup>22</sup>

**2.3.14** Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Case workers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socioeconomic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

## **2.4 Country guidance caselaw**

**[Supreme Court. RT \(Zimbabwe\) & others 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 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.

**[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

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<sup>21</sup> Report of the Special Rapporteur on the human rights of internally displaced persons, Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic, 15 July 2013, VI. Protection of and assistance to internally displaced persons and affected communities during displacement, B. Priority Needs, 1. Protection paragraph 24-25, [http://www.ohchr.org/Documents/Issues/IDPersons/A\\_67\\_931Syria\\_report.pdf](http://www.ohchr.org/Documents/Issues/IDPersons/A_67_931Syria_report.pdf)

<sup>22</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 2d <http://www.state.gov/documents/organization/204595.pdf>



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.

### **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.
- 3.2** 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.
- 3.3** All asylum instructions (AIs) can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).
- 3.4** Each claim should be assessed to determine whether there is a reasonable likelihood 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 the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the AI '[Considering the asylum claim and assessing credibility](#)').
- 3.5** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account.
- 3.6** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate. (See AI on [humanitarian protection](#)). Where an application for asylum and humanitarian protection falls to be refused, caseworkers 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.
- 3.7** They must also consider whether there are any compelling reasons for granting discretionary Leave (DL) to the individual concerned. (See AI on [discretionary leave](#)).

### **Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR**

- 3.8** 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).

- 3.9** Caseworkers 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.

### **Other severe humanitarian conditions and general levels of violence**

- 3.10** 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.
- 3.11** 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.
- 3.12** 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.

### **Credibility**

- 3.13** Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence and country of origin information. Caseworkers 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 AI ['Considering the asylum claim and assessing credibility'](#).
- 3.14** Caseworkers 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 Home Office file.
- 3.15** In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches 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.

### **3.16 General security and humanitarian situation**

- 3.16.1** Applicants may make an asylum and/or human rights claim on the basis that return to Syria would place them at real risk of harm, due to the levels of violence in Syria resulting from the uprising and the government's use of force against the armed and

unarmed opposition, and also the violent response of the armed opposition.

- 3.16.2 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. The Syrian government has responded with violent repression. In July 2012, the International Committee of the Red Cross (ICRC) categorised the conflict in Syria as an internal armed conflict under international humanitarian law. This categorisation means those committing or ordering attacks on civilians, including the crimes of murder, torture, rape and disproportionate force against civilian areas, can be charged with war crimes in violation of international humanitarian law at a later date.<sup>23</sup>
- 3.16.3** 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.<sup>24</sup> Human Rights Watch (HRW) released a report in July 2012 documenting arbitrary arrests, unlawful detentions, enforced disappearances, ill-treatment, and torture committed in Syria against “tens of thousands of people” since the beginning of anti-government protests in March 2011.<sup>25</sup>
- 3.16.4** In December 2012, a Periodic Update covering events between September and December 2012 by the Independent International Commission of Inquiry on the Syrian Arab Republic stated that the unrelenting violence in Syria has resulted in thousands of deaths, untold thousands of wounded, detained and disappeared, and physical destruction of buildings and infrastructure on a massive scale. Hundreds of thousands have fled their homes and those that remain struggle to secure basic necessities. Civilians have borne the brunt of escalating armed confrontations as the front lines between Government forces and the armed opposition have moved deeper into urban areas. International human rights and humanitarian law violations have continued unabated, alongside a proliferation of both anti- and pro-Government armed entities.<sup>26</sup>
- 3.16.5** The July 2013 report by the Independent International Commission of Inquiry on the Syrian Arab Republic covering events from January to May 2013, stated that “The conflict in the Syrian Arab Republic has reached new levels of brutality. In the present report, the commission of inquiry documents, for the first time, the systematic imposition of sieges, the use of chemical agents and cases of forcible displacement”.<sup>27</sup> It further noted that “...Hostilities in the Syrian Arab Republic have

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<sup>23</sup> Reuters News Agency: Red Cross Ruling Raises Questions of Syrian War Crimes: 14 July 2012 <http://www.reuters.com/article/2012/07/14/us-syria-crisis-icrc-idUSBRE86D09H20120714>

<sup>24</sup> BBC News: “Syria should be referred to ICC, UN’s Navi Pillay says” 13 December 2011 <http://www.bbc.co.uk/news/world-middle-east-16151424>

<sup>25</sup> Human Rights Watch Report: Torture Archipelago July 3 2012 <http://www.hrw.org/node/108415/section/9>

<sup>26</sup> UNHCR: Periodic Update: Syria: 20 December 2012 <http://reliefweb.int/sites/reliefweb.int/files/resources/Syria%20Commission%20of%20Inquiry%20releases%20new%20update.pdf>

<sup>27</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [5<sup>th</sup> Report], 18 July 2013, Summary, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/156/20/PDF/G1315620.pdf?OpenElement>

steadily expanded in recent months to new regions, increasingly along a sectarian divide. Brutal tactics adopted during military operations, particularly by government forces, have frequently led to massacres and destruction on an unprecedented scale.<sup>28</sup>

**3.16.6** The August 2013 report by the Independent International Commission of Inquiry covering events from May to July 2013 describes Syrian cities and towns suffering “relentless shelling and sieges”.<sup>29</sup> It describes the conflict as being “deadlocked, with both warring parties convinced that a military victory is possible. This has led to an intensification of hostilities along distinct, though fluid, battle lines. Fighting continued, with both sides consolidating forces in their primary strongholds. Government forces continued to control major cities and lines of communications, while anti-government armed groups reinforced their presence in large swathes of the northern and eastern governorates, and areas along the Jordanian border. More regional actors were sponsoring flows of fighters and equipment, increasingly along sectarian lines, leading to a rise in corresponding violence. Meanwhile, the conflict has expanded beyond the country’s borders, re-igniting tensions in fragile neighbouring countries and threatening regional peace and security”.<sup>30</sup>

**3.16.7** In December 2013, over 400 people were killed, including 117 children, following a 10-day Syrian regime air offensive on Aleppo.<sup>31</sup> Human Rights Watch has labelled as “unlawful” the relentless aerial campaign by President Bashar al-Assad’s regime, especially the use of the massively destructive barrel bombs in civilian areas”.<sup>32</sup>

**3.16.8** With regard to the humanitarian situation, the Independent International Commission of Inquiry on the Syrian Arab Republic noted in its August 2013 report that:

“According to estimates of United Nations humanitarian agencies, 6.8 million people, trapped in conflict-affected and opposition-held areas, and refugees in neighbouring countries are in need of urgent assistance. Half of these are children. Shortages of food, medicine, fuel and electricity, especially acute in besieged cities, have had a grave impact on the fundamental economic and social rights of the Syrian people. Precarious water and sanitation conditions lead to a rising risk of summer epidemics. The destruction of hospitals in the country’s main cities severely undermined the provision of health services, particularly for individuals suffering from chronic diseases. According to the United Nations Children’s Fund, one fifth of the country’s schools are being used for military purposes or have been converted into shelters, affecting education for hundreds of thousands of children. Despite the rapidly growing

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<sup>28</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [5<sup>th</sup> Report], 18 July 2013, B. Military Context, paragraph 18, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/156/20/PDF/G1315620.pdf?OpenElement>

<sup>29</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, Summary, <http://www.ohchr.org/EN/HRBodies/HRC/IIICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>30</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, B. Military Context, paragraph 23, <http://www.ohchr.org/EN/HRBodies/HRC/IIICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>31</sup> Agence France-Presse, Air blitz death toll in Syria's Aleppo passes 400, 25 December 2013, <http://reliefweb.int/report/syrian-arab-republic/air-blitz-death-toll-syrias-aleppo-passes-400>

<sup>32</sup> Agence France-Presse, Air blitz death toll in Syria's Aleppo passes 400, 25 December 2013, <http://reliefweb.int/report/syrian-arab-republic/air-blitz-death-toll-syrias-aleppo-passes-400>

humanitarian needs, access to people in conflict affected areas remains severely hindered. Humanitarian workers face bureaucratic and operational obstacles. Besides security risks, the proliferation of checkpoints controlled by the Government and the armed opposition restricts cross-line humanitarian operations. Health-care providers continue to be targeted by government forces and members of some anti-government armed groups. The number of internally displaced Syrians is now 4.25 million. The spread of the conflict to cities once viewed as safe has forced many Syrians into recurrent displacement. Internally displaced persons have been targeted in Homs governorate. To date, 1.6 million Syrians have become refugees. Women in refugee camps face gender-based violence, including rape, forced marriage and sexual exploitation.”<sup>33</sup>

**3.16.9** The same report noted that “War crimes, crimes against humanity and gross human rights violations continue apace” and “Government forces and affiliated militia have committed murder, torture, rape, forcible displacement, enforced disappearance and other inhumane acts.” Many of these crimes were perpetrated as part of widespread or systematic attacks against civilian populations and constitute crimes against humanity. War crimes and gross violations of international human rights law – including summary execution, arbitrary arrest and detention, unlawful attack, attacking protected objects, and pillaging and destruction of property – have also been committed. The tragedy of 4.25 million internally displaced persons in the Syrian Arab Republic is compounded by recent incidents of these persons being targeted and forcibly displaced.<sup>34</sup>

**3.16.10** Anti-government armed groups have also committed war crimes, including murder, sentencing and execution without due process, torture, hostage-taking and pillage. They continue to endanger the civilian population by positioning military objectives in civilian areas. The violations and abuses committed by anti-government armed groups did not, however, reach the intensity and scale of those committed by government forces and affiliated militia”.<sup>35</sup> The report finds that “there are reasonable grounds to believe that chemical agents have been used as weapons. The precise agents, delivery systems or perpetrators could not be identified. The parties to the conflict are using dangerous rhetoric that enflames sectarian tensions and risks inciting mass, indiscriminate violence, particularly against vulnerable communities. War crimes and crimes against humanity have become a daily reality in the country, where the harrowing accounts of victims have seared themselves onto the conscience of the members of the commission”.<sup>36</sup>

**3.16.11** In December 2013, Amnesty International reported “serious abuses of human rights committed in detention facilities run by the Islamic State of Iraq and al-Sham

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<sup>33</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, C. Socioeconomic and humanitarian context, paragraphs 32-35,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>34</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, C. Socioeconomic and humanitarian context, paragraphs 32-35,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>35</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, Summary,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>36</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, Summary, <http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

(ISIS), an armed opposition group that currently controls significant swathes of territory and people in northern Syria, including in al-Raqqa governorate and in and around Aleppo and Idlib”.<sup>37</sup> It also notes that “ISIS forces have committed numerous serious rights abuses, including some that amount to war crimes; they include abductions, arbitrary detention, torture and other ill-treatment, and unlawful killings. Those targeted by ISIS for abduction and arbitrary detention have included a wide range of individuals, including people suspected of committing ordinary crimes, such as theft or murder, and others accused of committing religiously prohibited acts, such as zina (sex out of wedlock) and alcohol consumption. As well, ISIS forces have targeted local people suspected of organizing protests and opposition to their rule, including community activists and members of local councils set up to provide services to residents following the withdrawal of Syrian government forces, other civil society and media activists, and commanders and members of rival armed groups, including those operating as part of the Free Syrian Army (FSA). ISIS is also alleged to have abducted foreign nationals, including journalists, staff of international organizations and religious figures.”<sup>38</sup>

**3.16.12** In October 2013, UNHCR stated that “armed hostilities have steadily expanded and leave no area within Syria unaffected by the conflict and its massive humanitarian consequences”. Increases in humanitarian needs of the population have also been noted particularly in the governorates of Aleppo, Rural Damascus, Idlib, Deir al-Zour, Hama, Dar’a, Raqqa, Lattakia and Damascus. Since January 2013, needs have tripled in Aleppo, and doubled in Rural Damascus and Deir al-Zour.

**3.16.13** According to UNHCR “most Syrians seeking international protection are likely to fulfil the requirements of the refugee definition contained in Article 1A(2) of the 1951 Convention relating to the Status of Refugees, since they will have a well-founded fear of persecution linked to one of the Convention grounds. For many civilians who have fled Syria, the nexus to a 1951 Convention ground will lie in the direct or indirect, real or perceived association with one of the parties to the conflict. In order for an individual to meet the refugee criteria there is no requirement of having been individually targeted in the sense of having been “singled out” for persecution which already took place or being at risk thereof. Syrians and habitual residents of Syria who have fled may, for example, be at risk of persecution for reason of an imputed political opinion because of who controls the neighbourhood or village where they used to live, or because they belong to a religious or ethnic minority that is associated or perceived to be associated with a particular party to the conflict”.<sup>39</sup>

**3.16.14** By December 2013, UNOCHA reported that “9.3 million people, nearly half the population, are now in need of humanitarian assistance, and an estimated 6.5 million people are internally displaced.”<sup>40</sup>

<sup>37</sup> Amnesty International, Rule of Fear: ISIS abuses in detention in Northern Syria, 19 December 2013, <http://www.amnesty.org/en/library/asset/MDE24/063/2013/en/32d380a3-cc47-4cb6-869f-2628ca44cb99/mde240632013en.pdf>

<sup>38</sup> Amnesty International, Rule of Fear: ISIS abuses in detention in Northern Syria, 19 December 2013, <http://www.amnesty.org/en/library/asset/MDE24/063/2013/en/32d380a3-cc47-4cb6-869f-2628ca44cb99/mde240632013en.pdf>

<sup>39</sup> UNHCR: International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013 <http://www.refworld.org/docid/5265184f4.html>

<sup>40</sup> UNOCHA, Humanitarian Bulletin Syrian Arab Republic, Issue 39, 3-16 December 2013 <http://reliefweb.int/sites/reliefweb.int/files/resources/Syria%20Humanitarian%20Bulletin%20No%2039.pdf>

**3.16.15** In December 2013, the BBC reported that civilians in Syria are facing the prospect of starvation, primarily those living in rebel-held areas around Damascus and Homs. In these areas, there is no electricity, and no food, gas or medicine is allowed to enter the town. The UN has expressed grave concern about reports that over half a million people remain trapped in Rural Damascus and there are cases of severe malnutrition amongst children.<sup>41</sup>

**3.16.16** In January 2014, international talks began in Geneva to try to work out a political solution to the Syrian conflict. The UN mediator, Lakhdar Brahimi, has brought the two opposing sides together, and officials from both the US and Russia have given assurances that they would try to 'unblock the situation'. Since talks began, approximately 1,400 people have been evacuated from Homs during a ceasefire brokered by the UN. However, evacuations have since paused and 381 men and boys remain in Syrian government detention.<sup>42</sup> The BBC reported in February that the death toll in Syria has now risen to over 140,000 people, and that 250,000 civilians continue to be trapped in besieged communities. Meanwhile, the Assad regime continues to drop barrel bombs on civilian populations.<sup>43</sup>

See also: [Actors of protection](#) (section 2.2 above)  
[Internal relocation](#) (section 2.3 above)  
[Caselaw](#) (section 2.4 above)

**3.16.17 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. Persons in areas held by armed opposition groups are also subjected to serious human rights abuses because they are suspected of opposing their rule or because they are suspected of committing ordinary crimes.

**3.16.18** 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 continued to deteriorate, means that most applicants, in their individual circumstances, will reach the Article 3 ECHR threshold referred to in **3.8 – 3.12** 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.

**3.16.19** When considering whether the Article 15(c) threshold is met, case workers must consider carefully whether the individual circumstances of each applicant, including whether 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.

**3.16.20** The possibility of internal relocation to another part of Syria is at this stage extremely unlikely to be possible or reasonable.

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<sup>41</sup> BBC News: Syria: 'Growing suffering of Syria's besieged civilians' 5 December 2013  
<http://www.bbc.co.uk/news/world-middle-east-25240296>

<sup>42</sup> BBC News: Syria: 'Both sides say Geneva peace talks deadlocked' 14 February 2014  
<http://www.bbc.co.uk/news/world-middle-east-26197864>

<sup>43</sup> BBC News: Syria: 'As Syria devours itself, UN dithers on aid' 20 February 2014  
<http://www.bbc.co.uk/news/world-us-canada-26277562>

### 3.17 Kurds

**3.17.1** 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.

**3.17.2 Treatment:** Kurds make up approximately 9% of the Syrian population.<sup>44</sup> Roughly 35 to 40 percent of the Kurds live in the foothills of the Taurus Mountains north of Aleppo. An equal number live in the Jazirah; about 10 percent in the vicinity of Jarabulus northeast of Aleppo; and from 10 to 15 percent in the Hayy al Akrad (Quarter of the Kurds) on the outskirts of Damascus.. Tens of thousands of Syrian ethnic minority Kurds have been stateless since changes to Syria's nationality laws in the 1960s.<sup>45</sup>

**3.17.3** The government actively restricted national and ethnic minorities from conducting traditional, religious, and cultural activities. The Kurdish population--citizens and noncitizens--faced official and societal discrimination and repression as well as greater government-sponsored violence than in previous years. While in prior years the government showed tolerance to the Kurds, reportedly in an attempt to manipulate sectarian tensions for propaganda purposes, during 2012 government forces arrested, detained, and reportedly tortured numerous Kurdish activists. According to local media, the government instigated military assaults during Kurdish festivals such as the New Year (Nowruz) celebrations. The government continued to limit the use and teaching of the Kurdish language. It also restricted publication of books and other materials in Kurdish, Kurdish cultural expression, and the celebration of Kurdish festivals. Authorities continued enforcement of an old ruling requiring that at least 60 percent of the words on signs in shops and restaurants be in Arabic. Officials reportedly sent patrols to commercial districts to threaten shop owners with closure if they refused to change the names of their stores into Arabic. Minority groups--especially Kurds, whom the government appeared to target specifically--regarded the step as a further attempt to undermine their cultural identity.<sup>46</sup>

**3.17.4** Since 1962, the Syrian state has divided Kurds in Syria into three major demographic categories: Syrian Kurds, foreign Kurds (Ajanib) and 'concealed' Kurds, (Maktoumeen). Syrian Kurds have retained their Syrian nationality. Foreign Kurds were stripped of their citizenship and registered in official archives as foreigners. Concealed Kurds are denationalised Kurds who have not been registered in official records at all and whom Syrian authorities characterize as 'concealed'.<sup>47</sup> The U.S. Department of State noted in 2012 that "As a result of this loss of citizenship, these Kurds and their descendants lacked identity cards and therefore were unable to access government services, including health care and education. They also faced social and economic discrimination. Furthermore, stateless Kurds do not have the right to inherit or bequeath assets, and their lack of

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<sup>44</sup> GlobalSecurity.org: Syrian People – Kurds undated (accessed 17 December 2013), <http://www.globalsecurity.org/military/world/syria/kurds.htm>

<sup>45</sup> Foreign & Commonwealth Office Human Rights & Democracy Report: 2012, April 2012: Syria:

<http://www.hrdreport.fco.gov.uk/wp-content/uploads/2011/01/2012-Human-Rights-and-Democracy.pdf>

<sup>46</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, April 2012, section 6 <http://www.state.gov/documents/organization/204595.pdf>

<sup>47</sup> United States Institute of Peace, The Kurds in Syria: Fueling Separatist Movements in the Region?, April 2009, <http://www.usip.org/sites/default/files/resources/kurdsinsyria.pdf>



citizenship or identity documents restricted their travel to and from the country”.<sup>48</sup> In December 2013 UNHCR published an article on stateless Kurds describing how unregistered stateless Kurds had no rights or status.<sup>49</sup>

- 3.17.5** Kurdish exile groups estimate that as many as 300,000 Syrian Kurds have been unable to obtain citizenship, passports, identity cards, or birth certificates, preventing them from owning land, obtaining government employment, and voting. Suspected Kurdish activists are routinely dismissed from schools and public-sector jobs. While the government pledged in 2011 to give citizenship rights to thousands of Kurds in eastern Syria, conditions for Kurds remained harsh, and Kurdish militias have taken up arms to defend their areas amid the civil war.<sup>50</sup>
- 3.17.6** In April 2011, President Assad issued Decree No.49 declaring that stateless Kurds in the al-Hassake province registered as “foreigners” could apply for citizenship. By September 2011 the website KurdWatch reported that 51,000 stateless Kurds had received identity cards indicating their citizenship. However, the decree did not extend to the approximately 160,000 “unregistered” stateless Kurds, who remained without a national identity by December 2012.<sup>51</sup>
- 3.17.7** Syria’s ethnic Kurds have faced decades of discrimination and marginalisation under Assad’s rule, and Syrian Kurds staged their own anti-government protests after the conflict began in March 2011. However, more recently, most of the fighting has been against Islamist rebels.<sup>52</sup> President Massoud Barzani of Iraq’s semi-autonomous Kurdistan region has threatened to intervene to defend the Kurdish population caught up in Syria’s civil war. He said that if Kurds were “under threat of death and terrorism” then Iraqi Kurdistan would be “prepared to defend them”. Recent fighting between Kurds and Islamist anti-government forces has left dozens dead in northern Syria. These areas have been run by Kurdish local councils and militia since President Bashar al-Assad’s forces withdrew from them in 2012.<sup>53</sup>
- 3.17.8** 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, mainly young men told HRW they had left Syria because they feared the security forces because of their political activism or participation in anti-government protests. Others left to avoid being compulsorily conscripted into the Syrian army or deserted after “witnessing abuses and the targeting of civilians”.<sup>54</sup> 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

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<sup>48</sup> U.S. Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 2d

<http://www.state.gov/documents/organization/204595.pdf>

<sup>49</sup> UNHCR, Lacking nationality, some refugees from Syria face acute risks, 20 December 2013,

<http://www.unhcr.org/52b45bbf6.html>

<sup>50</sup> Freedom House: Freedom in the World 2013: Syria, January 2013

<http://www.freedomhouse.org/report/freedom-world/2013/syria>

<sup>51</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2012 section 2d

<http://www.state.gov/documents/organization/204595.pdf>

<sup>52</sup> BBC News: Middle East: Iraqi Kurd leader Massoud Barzani issues Syria warning: 10 August 2013

<http://www.bbc.co.uk/news/world-middle-east-23650894>

<sup>53</sup> BBC News: Middle East: Iraqi Kurd leader Massoud Barzani issues Syria warning: 10 August 2013

<http://www.bbc.co.uk/news/world-middle-east-23650894>

<sup>54</sup> Human Rights Watch: 14 May 2012: Syrian Kurds fleeing to Iraqi safe haven, 14 May 2012,

<http://www.hrw.org/news/2012/05/14/syrian-kurds-fleeing-iraqi-safe-haven>

guards.<sup>55</sup>

**3.17.9** The International Crisis Group reported that where security forces withdrew in majority-Kurd areas in 2012 “Kurdish groups stepped in to replace them: to stake out zones of influence, protect their respective areas, provide essential services and ensure an improved status for the community in a post-Assad Syria”.<sup>56</sup> The same report notes that the Democratic Union Party (PYD) is the “most influential of these [Kurdish] parties” and its “military force, the YPG [People’s Protection Committees/Popular Protection Units], has established checkpoints throughout Kurdish areas, replacing the regime. It claims to be acting in defense of Kurd-populated areas, chiefly to protect them from non-Kurdish opposition armed groups that hold positions in the vicinity”.<sup>57</sup> An April 2013 report by the International Crisis Group highlighted that the PYD both fought with and against the Syrian government<sup>58</sup>, whilst the Institute for War and Peace Reporting (IWPR) also notes clashes in northern Syria between Kurdish militia and Arab militias in October 2013 “consisting of the al-Qaeda-affiliated Islamic State in Iraq and Syria (ISIS); Ahrar al-Sham [...] and units from the Free Syrian Army (FSA)”.<sup>59</sup> The Mouvement contre le racism et pour l’amitié entre les peuples reported in September 2013 that Kurdish people in the Northeast of Syria “often find themselves in-between the fighting forces, where they are forced to chose a side in the bloody conflict - either by the governmental or anti-governmental forces” and reported on specific incidences of “heavy clashes” in July 2013, leading to “a massive influx of refugees into Iraqi Kurdistan” in August 2013 where “up to 20,000 Kurds from Syria crossed the Tigris river”.<sup>60</sup>

**3.17.10** At the end of July 2013, a prominent Syrian Kurdish politician was killed in a car bomb attack in north-eastern Syria.<sup>61</sup> Agence France-Press reported in July 2013 that up to 300 Kurdish civilians were being held by Islamists in northern Syria in exchange for a rebel chief.<sup>62</sup> Amnesty International reported in early October 2013 on the on-going detention “in conditions amounting to enforced disappearance” of a Kurdish rights activist, arrested in September 2012 by persons believed to be part of Syria’s State Security.<sup>63</sup>

<sup>55</sup> Human Rights Watch: 14 May 2012: Syrian Kurds fleeing to Iraqi safe haven, 14 May 2012, <http://www.hrw.org/news/2012/05/14/syrian-kurds-fleeing-iraqi-safe-haven>

<sup>56</sup> International Crisis Group, Syria’s Kurds: A Struggle Within a Struggle, 22 January 2013, Executive Summary,

[http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Syria/136-syrias-kurds-a-struggle-within-a-struggle.pdf](http://www.crisisgroup.org/~/media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Syria/136-syrias-kurds-a-struggle-within-a-struggle.pdf)

<sup>57</sup> International Crisis Group, Syria’s Kurds: A Struggle Within a Struggle, 22 January 2013, Executive Summary and V. growing Militarisation,

<http://www.crisisgroup.org/~media/Files/Middle%20East%20North%20Africa/Iraq%20Syria%20Lebanon/Syria/136-syrias-kurds-a-struggle-within-a-struggle.pdf>

<sup>58</sup> International Crisis Group, Blurring the Borders: Syrian Spillover Risks for Turkey, 30 April 2013, III. Tensions in Turkey’s Syrian Microcosm of Hatay, B. Kurdish Fears,

<http://www.crisisgroup.org/~media/Files/europe/turkey-cyprus/turkey/225-blurring-the-borders-syrian-spillover-risks-for-turkey>

<sup>59</sup> Institute for War and Peace Reporting (WPR), Kurds vs Islamists and FSA in Syrian Town, 23 October 2013, <http://iwpr.net/report-news/kurds-vs-islamists-and-fsa-syrian-town>

<sup>60</sup> Mouvement contre le racism et pour l’amitié entre les peuples, Written statement submitted by Mouvement contre le racism et pour l’amitié entre les peuples, a nongovernmental organization on the roster, 10 September 2013

<sup>61</sup> BBC News, Car bomb kills Kurdish politician in northern Syria, 30 July 2013,

<http://www.bbc.co.uk/news/world-middle-east-23506429>

<sup>62</sup> Agence France-Presse, Jihadists free Kurdish civilians in north Syria: NGO, 22 July 2013, <http://reliefweb.int/report/syrian-arab-republic/jihadists-free-kurdish-civilians-north-syria-ngo>

<sup>63</sup> Amnesty International, Torture fears for Kurdish rights activist, 4 October 2013, <http://www.amnesty.org/en/library/asset/MDE24/055/2013/en/c01fb69d-aaa1-484a-92df->

**3.17.11** In October 2013, UNHCR noted that “Persons (perceived to be) opposing armed opposition groups and Kurdish armed groups in areas under the de facto control of such armed groups” and “Kurds and members of other minority ethnic groups” are “likely to be in need of international protection in the sense of the 1951 Convention”.<sup>64</sup>

**See also:**

**Actors of protection (section 2.2 above)**

**Internal relocation (section 2.3 above)**

**Caselaw (section 2.4 above)**

**3.17.12 Conclusion:** Syrians of Kurdish ethnic origin face state, societal and legal discrimination as well as unequal treatment on the basis of their ethnicity. This is likely to amount to persecution by the state, especially when the individual is treated as stateless, has a profile as an activist or is perceived as supporting the political or armed opposition. In such cases a grant of asylum will usually be applicable. Please refer also to the COI and guidance provided below in section 3.17 ‘Political Opposition to the Government’.

**3.17.13** Conditions in Syria are extremely volatile throughout the country and fighting is now ongoing between Kurds and armed opposition groups including Islamists and the Free Syrian Army. Caseworkers should consider the individual details and circumstances on a case by case basis, within the context of the latest available country information where an applicant is claiming persecution at the hand of non-state actors.

**3.1.14** Where an applicant does not qualify for asylum or humanitarian protection, consideration should be given to whether they qualify for leave to remain as a stateless person.

**3.17.15** 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. In April 2013, the UK introduced a procedure for stateless persons<sup>65</sup> under Part 14 of the Immigration Rules<sup>66</sup>. This was followed by Statelessness Guidance for caseworkers, published on 1 May 2013.<sup>67</sup> Caseworkers designated to assess applications for leave to remain as a stateless person must determine whether or not an applicant meets the definition of a stateless person and other criteria under Part 14 of the Immigration Rules and in accordance with the Statelessness Guidance. Where the relevant criteria are met, stateless persons are entitled to limited leave to remain for a period not exceeding 30 months and, subsequently, indefinite leave to remain.

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[59fe52285ba4/mde240552013en.pdf](#)

<sup>64</sup> UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, Risk Profiles, <http://www.refworld.org/docid/5265184f4.html>

<sup>65</sup> UKBA, Stateless Person, Undated [Last accessed: 07/01/2014], <http://www.ukba.homeoffice.gov.uk/visas-immigration/while-in-uk/stateless/>

<sup>66</sup> UKBA, Immigration Rules, Part 14 – Stateless persons, Undated [Last accessed: 07/01/2014], <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part14/>

<sup>67</sup> UKBA, Applications for leave to remain as a stateless person, 1 May 2013, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/stateless-guide/stateless-guide.pdf?view=Binary>

### 3.18 Perceived opposition to the government

**3.18.1** 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.

**3.18.2 Treatment.** 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.<sup>68</sup> The U.S. Department of State reported that during 2012 "The Assad regime continued to use indiscriminate and deadly force to quell protests, including military assaults on cities and residential areas throughout the country" and "According to multiple human rights organizations and media reports, the government used official security forces, including military, intelligence, and police, in addition to Shabiha, to target and kill those supporting the opposition movement or persons thought to be associated with armed or political opposition groups. Armed shabiha groups, principally composed of Alawites, engaged in widespread repression, arrest, and killing, including house raids in population centres. Reports from local news and human rights organizations attributed to the shabiha lethal tactics such as shooting victims at close range, knife stabbings, and burnings. There were reports that such killings also accompanied other forms of abuse, such as rape. While the extent of command and control within Shabiha ranks was unclear, Shabiha partook in what appeared to be concerted offensives in collaboration with formal government military forces".

**3.18.3** The vast majority of disappearances reported appeared to be politically motivated with the regime targeting critics, specifically anti-government protesters, their families, and associates. The U.S. Department of State highlights that "Throughout the year the government detained critics and charged them with a wide range of political crimes, including treason. The number of political prisoners and detainees--both citizens and foreigners--was difficult to determine due to the lack of official government information [...] They were held without charges or trials, and the government did not inform their families. If tried, detainees appeared in criminal courts". According to the same report "The government and its affiliated militias consistently engaged in physical abuse, punishment, and torture of both opposition members and civilians". Targeted killings occurred, which extended to include family members and close associates of those individuals. Throughout the country pro-government rooftop snipers directly targeted individuals in streets, including civilians going about their daily lives as well as those affiliated with the opposition. In addition, "while the constitution provides for freedom of speech and the press, the government virtually eliminated these rights. Those that attempted to exercise these rights were terrorized, abused, or killed".<sup>69</sup>

**3.18.4** The August 2013 report by the Independent International Commission of Inquiry on the Syrian Arab Republic found that "the Government, including its intelligence agencies, employed widespread, systematic torture to interrogate, intimidate and punish its perceived opponents. Torture was used in detention centres, security

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<sup>68</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 3 <http://www.state.gov/documents/organization/204595.pdf>

<sup>69</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 3 <http://www.state.gov/documents/organization/204595.pdf>

branches, prisons and hospitals”.<sup>70</sup> The Syrian government also used the threat of rape as a “tool to terrorize and punish women, men and children perceived as being associated with the opposition”.<sup>71</sup> The same report further found that “There was a significant presence of security services in State hospitals in Qamishli (Al Hasakah) and Damascus. Nurses working in Damascus hospitals received instructions to deny medical aid to members of the opposition, many of whom elected not to seek medical assistance in hospitals based on a well-founded fear of arrest, detention, torture or death”.<sup>72</sup>

**3.18.5** Amnesty International documented and reported on the targeting of professional media workers and “citizen journalists” who have been “targeted for the very abuses they have bravely tried to document in Syria’s bitter armed conflict – unlawful killings, torture, enforced disappearances, abductions and intimidation – by both pro-government and anti-government forces. Tens are known to have paid for their courage with their lives”.<sup>73</sup> Similarly, Reporters Sans Frontieres notes that the Syrian government “continues its relentless persecution of news providers that it regards as unwanted witnesses” and finds that Syria has become the “world’s most dangerous country for journalists, citizen-journalists and other information activists”.<sup>74</sup>

**3.18.6** In early October 2013, Human Rights Watch began a campaign to shed light on the “tens of thousands of political detainees” unlawfully held, many “for long periods and tortured”, “solely on the basis of their peaceful activity”.<sup>75</sup> In July 2012, Syria set up Counterterrorism Courts under the Counterterrorism Law which criminalizes almost all peaceful opposition activity.<sup>76</sup> Similarly, the Independent International Commission of Inquiry on the Syrian Arab Republic highlighted the use of “enforced disappearances” in Syria by all actors in the conflict, but in relation to the use by the Syrian government stated that investigations “uncovered a consistent country-wide pattern in which people – mainly adult males – have been seized by the Syrian security and armed forces, as well as by pro-Government militias, during mass arrests, house searches, at checkpoints and in hospitals. In some instances, the disappearances appeared to have a punitive element, targeting family members of defectors, activists, fighters as well as those believed to be providing medical care

<sup>70</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, E. Torture and ill-treatment, paragraph 76,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>71</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, F. Sexual violence, paragraph 95,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>72</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, B. Specifically protected persons and objects, paragraph 147,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>73</sup> Amnesty International, Shooting the Messenger: Journalists targeted by all sides in Syria, May 2013, <http://www.amnesty.org/en/library/asset/MDE24/014/2013/en/21378ab6-6e60-49c0-b7b5-ee849bf84cf6/mde240142013en.pdf>

<sup>74</sup> Reporters Sans Frontieres, News providers targeted by both government and opposition forces, 28 August 2013, [http://en.rsf.org/syria-news-providers-targeted-by-both-28-08-2013\\_45115.html](http://en.rsf.org/syria-news-providers-targeted-by-both-28-08-2013_45115.html)

<sup>75</sup> Human Rights Watch, Political Detainees Tortured, Killed: Military and Counter-Terrorism Courts Used to Punish Peaceful Dissent, 3 October 2013, <http://www.hrw.org/news/2013/10/03/syria-political-detainees-tortured-killed>

<sup>76</sup> Human Rights Watch, Political Detainees Tortured, Killed: Military and Counter-Terrorism Courts Used to Punish Peaceful Dissent, 3 October 2013, <http://www.hrw.org/news/2013/10/03/syria-political-detainees-tortured-killed>

to the opposition”.<sup>77</sup>

**3.18.7** In June 2013, Human Rights Watch reported on the specific targeting of women activists, and their detention and abuse. It found that “Syrian military and pro-government forces known as Shabiha have arbitrarily detained female opposition activists as well as female relatives and neighbours of pro-opposition activists and fighters, and in a number of cases, subjected them to torture and sexual abuse”.<sup>78</sup> The Syrian Human Rights Committee reported that “estimations indicate that the number of female prisoners exceeds 8,000, whilst the number of male prisoners is estimated to be around 150,000. It is clear that the Syrian regime is imprisoning and targeting more women in order to force male activists from within their relatives to reveal themselves or stop their opposition activities.”<sup>79</sup> The Euro-Mediterranean Human Rights Network also stated that “Women opposition activists and human rights defenders have been particularly targeted during arrest campaigns in regions known to be opposition strongholds. Between March 2011 and April 2013, according to the SNHR, more than 5,400 women have been arrested by the Syrian government, including 1,200 university students, and the whereabouts of many remain unknown.”<sup>80</sup>

**3.18.8** UNHCR finds that “Real or perceived opponents of the Syrian Government, including but not limited to members of political opposition parties; human rights and civil society activists; protestors; civilians residing in urban neighbourhoods, villages and towns (perceived to be) opposing the Government; army defectors and deserters; draft evaders; family members and affiliates of (perceived) Government opponents” are “likely to be in need of international protection in the sense of the 1951 Convention”.<sup>81</sup>

**See also:** [Actors of protection](#) (section 2.2 above)  
[Internal relocation](#) (section 2.3 above)  
[Caselaw](#) (section 2.4 above)

**3.18.9 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.

**3.18.10** Those perceived to be opposition sympathisers or 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,

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<sup>77</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Without a trace: Enforced disappearances in Syria, 19 December 2013,

<http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/ThematicPaperEDInSyria.pdf>

<sup>78</sup> Human Rights Watch, Detention and Abuse of Female Activists: Women Detail Torture and Abuse by Government in New Testimonies, 24 June 2013, <http://www.hrw.org/news/2013/06/24/syria-detention-and-abuse-female-activists>

<sup>79</sup> Syrian Human Rights Committee, 60 Female Prisoners Released, whilst thousands remain imprisoned, 25 October 2013, <http://www.shrc.org/en/?p=22962>

<sup>80</sup> Euro-Mediterranean Human Rights Network, Violence against Women, Bleeding Wound in the Syrian Conflict, November 2013, 3. Arbitrary detention, enforced disappearances and abduction, <http://www.euromedrights.org/eng/wp-content/uploads/2013/11/Doc-report-VAW-Syria.pdf>

<sup>81</sup> UNCHR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, [http://www.ecoi.net/file\\_upload/1930\\_1382612028\\_5265184f4.pdf](http://www.ecoi.net/file_upload/1930_1382612028_5265184f4.pdf)

including 'citizen journalists', news providers, protestors and family members of perceived 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.

**3.18.11** 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.

**3.18.12** Caseworkers 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, caseworkers 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. Caseworkers should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

### **3.19 Affiliation to the Muslim Brotherhood**

**3.19.1** 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.

**3.19.2 Treatment:** The U.S. Department of State 2012 International Religious Freedom Report on Syria reported that according to Law 49 "affiliation with the Muslim Brotherhood is punishable by death" and sentencing ranges from imprisonment to the death penalty and may be extended to children or relatives. The report further noted that during 2012 "violence or repression against those affiliated with the Muslim Brotherhood was common practice for the regime" and "The government targeted, arrested, abused, and killed those it accused, often falsely, of cooperating with the Muslim Brotherhood, Salafist, or other movements it considered "extreme". According to the same report the Syrian government "broadened the scope of those it considered both Muslim Brotherhood affiliates and religious extremists, and used such labels to justify the mistreatment of potential oppositionists. Extrajudicial punishment of these individuals and groups was exacted during the year as the result of the ongoing conflict".<sup>82</sup>

**3.19.3** The Muslim Brotherhood is a Sunni fundamentalist, 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 (Arab Socialist Resurrection) Party government. After Assad's attempts

at negotiation failed, Muslim Brotherhood attacks increased in frequency, and the government responded in kind. Using his armed forces, in late 1981 Assad finally 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.<sup>83</sup>

**3.19.4** Persons who have past connections with the Muslim Brotherhood have been prosecuted upon their return to Syria.<sup>84</sup> The Washington Post reported in May 2012 that the Muslim Brotherhood “has resurrected itself to become the dominant group in the fragmented opposition movement pursuing a 14-month uprising against President Bashar al-Assad. Exiled Brotherhood members and their supporters hold the biggest number of seats in the Syrian National Council, the main opposition umbrella group. They control its relief committee, which distributes aid and money to Syrians participating in the revolt. The Brotherhood is also moving on its own to send funding and weapons to the rebels”.<sup>85</sup>

**3.19.5** The Euro-Mediterranean Human Rights Network published a report in November 2013 where it documented the rape of a 19 year-old girl who “belongs to a large family which is known to be close to the Muslim brotherhood party” and who was “arbitrarily detained from October 2012 to January 2013 in several security branches and detention facilities in which she was exposed to sexual violence and raped on two different occasions”.<sup>86</sup> In October 2013, UNHCR found that “Real or perceived opponents of the Syrian Government, including but not limited to members of political opposition parties” and “family members and affiliates of (perceived) Government opponents” are “likely to be in need of international protection in the sense of the 1951 Convention”.<sup>87</sup>

**See also:**

**Actors of protection (section 2.2 above)**

**Internal relocation (section 2.3 above)**

**Caselaw (section 2.4 above)**

**3.19.6 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.

**3.19.7** Where applicants can demonstrate that they are/were active members of the 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.

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<sup>83</sup> GlobalSecurity.org, Military-World-Syria-Overview-Government-Politics-Hafiz al Assad, Undated [Last accessed: December 2013], <http://www.globalsecurity.org/military/world/syria/hafiz-al-assad.htm>

<sup>84</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 2d <http://www.state.gov/documents/organization/204595.pdf>

<sup>85</sup> Washington Post: Syria's Muslim Brotherhood is gaining influence over anti-Assad revolt, 13 May 2012. [http://www.washingtonpost.com/world/syrias-muslim-brotherhood-is-gaining-influence-over-anti-assad-revolt/2012/05/12/gIQAAtloJLU\\_story.html](http://www.washingtonpost.com/world/syrias-muslim-brotherhood-is-gaining-influence-over-anti-assad-revolt/2012/05/12/gIQAAtloJLU_story.html)

<sup>86</sup> Euro-Mediterranean Human Rights Network, Violence against Women, Bleeding Wound in the Syrian Conflict, November 2013, 2. Sexual violence as a weapon of war, <http://www.euromedrights.org/eng/wp-content/uploads/2013/11/Doc-report-VAW-Syria.pdf>

<sup>87</sup> UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, Risk Profiles, <http://www.refworld.org/docid/5265184f4.html>



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 Muslim Brotherhood activists and supporters, particularly since the Syrian authorities have publicly blamed various Islamic groups for the current state of disorder and violence. Please also refer to the COI and guidance provided above in section 3.17 'Political Opposition to the Government'.

### **3.20 Forced military conscription, forced recruitment, military deserters and defectors**

**3.20.1** 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.

**3.20.2 Treatment:** Male citizens of Syria are subject to compulsory military conscription from the age of 18 years.<sup>88</sup> In March 2011, President Assad issued a decree lessening the mandatory army conscription from 21 months to 18 months.<sup>89</sup> 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.<sup>90</sup> 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.<sup>91</sup>

**3.20.3** Military exemption is possible for domestic reasons, e.g. where a family has only one son and for serious medical conditions. 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.<sup>92</sup> 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.

**3.20.4** Conscientious objection to military service is not legally recognised in Syria, and there are no provisions for substitute service. According to War Resisters' International website "Draft evasion and desertion are punishable under the 1950 Military Penal Code, as amended in 1973. Under art. 68 failure to report for military

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<sup>88</sup> CIA World Fact Book: Syria 2012, updated 4 December 2013

<https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html>

<sup>89</sup> The Independent: 'Syria mourners call for revolt after deaths' 19 March 2011

<http://www.independent.co.uk/news/world/middle-east/syria-mourners-call-for-revolt-after-deaths-2246607.html>

<sup>90</sup> War Resister's International: Syria shortens term of conscription, 19 March 2011

<http://wri-irg.org/node/12388> accessed 6 December 2013

<sup>91</sup> CIA: The World Fact-book: Syria: Military service and obligations, updated 4 December 2013, <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html> accessed 6 December 2013

<sup>92</sup> Reuters: Strained Syrian army calls up0 reserves; some flee, 4 September 2012

<http://www.reuters.com/article/2012/09/04/us-syria-crisis-army-deserters-idUSBRE8830CH20120904>

service is punishable by one to six months' imprisonment in peacetime, and a month to five years' imprisonment in wartime. Quitting the country without leaving behind an address, hence evading call-up is punishable by three months' to two years' imprisonment plus fines. Under art. 101 desertion is punishable by five years' imprisonment; or by five to ten years' if the deserter has left the country; by fifteen years' if the deserter has taken military material with him or if the desertion occurs in wartime or during combat or if the individual deserted previously. The length of imprisonment depends on the deserter's rank and the circumstances under which the desertion has taken place. Under art. 102, desertion in the face of the enemy is punishable by life imprisonment. Execution is allowed under art. 102(deserting to enemy ranks) and art. 105 (deserting in the face of the enemy during wartime after conspiring to do so)." BBC News reported in December 2011 that "Dozens of army deserters have been shot dead by Syrian troops as they tried to flee their bases and join anti-government protests".<sup>93</sup>

**3.20.5** 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. 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.<sup>94</sup> 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. According to the article "Syria has condemned the pilot as a traitor".<sup>95</sup>

**3.20.6** Al-Jazeera reported that 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.<sup>96</sup> Human Rights Watch released a report "By All Means Necessary" which interviewed defectors who told HRW that "they witnessed officers or intelligence agents killing military personnel who refused to follow orders". Others were "detained because they refused to follow orders or challenged government claims" and some were beaten and tortured.<sup>97</sup>

**3.20.7** USAID reported in January 2013 that displaced Syrians in Iraq "reported physical abuse, harassment, and forced conscription by armed entities in the outskirts of Damascus".<sup>98</sup> The Independent International Commission of Inquiry on the Syrian Arab Republic also found in its February 2013 report that "the Government is enlisting young men arrested at checkpoints or during attacks on civilian areas".<sup>99</sup>

<sup>93</sup> BBC News: Syria unrest: 'Dozens of army deserters 'gunned down' 20 November 2011

<http://www.bbc.co.uk/news/world-middle-east-16258387>

<sup>94</sup> The Telegraph: Syrian forces accused of machine-gunning hundreds of deserting soldiers, 20 December 2011

<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/8968755/Syrian-forces-accused-of-machine-gunning-hundreds-of-deserting-soldiers.html>

<sup>95</sup> BBC News: Syrian fighter pilot defects to Jordan, 22 June 2012

<http://www.bbc.co.uk/news/world-middle-east-18535330>

<sup>96</sup> Al Jazeera News: Syrian forces 'ordered to shoot to kill', 9 July 2011

<http://www.aljazeera.com/news/middleeast/2011/07/201179132942963909.html>

<sup>97</sup> Human Rights Watch Report: Torture Archipelago July 3 2012

<http://www.hrw.org/node/108415/section/9>

<sup>98</sup> USAID, Syria – Complex Emergency Fact Sheet, 17 January 2013,

[http://www.ecoi.net/file\\_upload/1788\\_1381751418\\_syria-ce-fs07-01-17-2013.pdf](http://www.ecoi.net/file_upload/1788_1381751418_syria-ce-fs07-01-17-2013.pdf)

<sup>99</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent

In March 2012 Syria banned all men between the ages of 18 and 42 from traveling outside the country without prior authorisation, according to local media.<sup>100</sup>

- 3.20.8** The Independent International Commission of Inquiry on the Syrian Arab Republic reported in August 2013 that “Internally displaced persons are especially vulnerable to arbitrary arrest as they fled conflict-affected areas, often without documents. Arrests appeared to be predicated on the person’s originating from a restive area or being a family member of wanted persons, such as defectors”.<sup>101</sup> It further found that “Government forces intentionally destroyed the homes, farms and businesses of defectors, suspected anti-government members and supporters during raids”.<sup>102</sup> In September 2013 the Syrian Human Rights Committee reported that three defected soldiers (one lieutenant, one soldier and a conscript) respectively from Damascus, Douma and Harasta were summarily executed by Syrian intelligence.<sup>103</sup>
- 3.20.9** With regards to children, the Independent International Commission of Inquiry on the Syrian Arab Republic found in its February 2013 report that “Official Syrian conscription systems are disintegrating. Children under 18 years of age are seized at checkpoints, and Government-affiliated militia use sectarian affiliation, kinship systems and cash to fill their ranks. These methods may have led to the recruitment of underage soldiers. Children are used as informers; both sides punish “informants” with judicial or extrajudicial execution”.<sup>104</sup> The Independent International Commission of Inquiry on the Syrian Arab Republic found in its July 2013 report that “the use of children in combat was increasing” and that “some armed groups recruit and use children for active participation in hostilities”.<sup>105</sup> In its report from August 2013 the same source noted that “Three 17-year-old boys were forcibly recruited at checkpoints in Aleppo; one was killed within two weeks. Young recruits were reportedly mistreated and pushed towards frontlines by older soldiers. Sixteen- and 17-year-olds have been observed in the National Defence Forces”.<sup>106</sup> The same report noted also the recruitment of children by armed opposition groups: “Some armed groups recruited children under the age of 18. The ranks of both

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international commission of inquiry on the Syrian Arab Republic [4<sup>th</sup> Report], 5 February 2013, F. The use of children in hostilities, paragraph 25,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>100</sup> Agence France-Presse, Syria imposes travel ban on men under 42: reports, 27 march 2012,

<http://reliefweb.int/report/syrian-arab-republic/syria-imposes-travel-ban-men-under-42-reports>

<sup>101</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, B. Arbitrary arrest and unlawful detention, paragraph 57,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>102</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, C. Pillaging and destruction of property, paragraph 161,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>103</sup> Syrian Human Rights Committee, Daily Report on the Violation of Human Rights in Syria: 25/09/2013, 25 September 2013, <http://www.shrc.org/en/?p=22899>

<sup>104</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [4<sup>th</sup> Report], 5 February 2013, G. Violations of children’s rights, paragraph 115,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>105</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [5<sup>th</sup> Report], 18 July 2013, H. Violations of children’s rights, paragraphs 101 and 102,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>106</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, G. Violations of children’s rights, paragraph 103,

<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

Liwa Al-Tawheed and Jabhat Al-Nusra included fighters between the ages of 14 and 18. (...) In Afrin (Aleppo) and Al Hasakah, the YPG (Popular Protection Units) recruited boys and girls from the age of 12”.<sup>107</sup>

**3.20.10** In October 2013, UNHCR stated that “Children who are victims of or at risk of child-specific forms of violence, underage and forced recruitment, and systematic denial of access to education” and “Real or perceived opponents of the Syrian Government, including army defectors and deserters; draft evaders;” are “likely to be in need of international protection in the sense of the 1951 Convention”.<sup>108</sup>

**See also:** [Actors of protection](#) (section 2.2 above)  
[Internal relocation](#) (section 2.3 above)  
[Caselaw](#) (section 2.4 above)

**3.20.11 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 require a greater number of conscripts to support President Assad’s regime. Minors have been forcibly recruited at checkpoints by state forces and have also been forcibly recruited by armed opposition groups. 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.

**3.20.12** Caseworkers 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, caseworkers 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. Caseworkers should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

### **3.21 Returning failed asylum seekers**

**3.21.1** 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.

**3.21.2 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.

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<sup>107</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, G. Violations of children’s rights, paragraphs 108-110,  
<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>108</sup> UNHCR, International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013, Risk Profiles, <http://www.refworld.org/docid/5265184f4.html>

The government has routinely arrested dissidents and also former citizens with no known political affiliation who attempted return to the country after years or even decades in exile.<sup>109</sup> A joint fact-finding mission by the Danish Immigration Service and the Austrian Red Cross interviewed a senior HRW researcher, who stated that “returned failed asylum seekers are most likely detained upon return to Syria, although not necessarily for a long period of time. It was added that there is a high likelihood of ill-treatment during the initial detention which can amount to torture if the person is expected to know something of interest to the security service”. A Western diplomatic source also interviewed for the fact-finding mission report stated that “failed asylum seekers would be detained upon return to Syria simply because of the fact that he or she has been abroad. The person would be subjected to interrogation by the security services. However, it is unclear how the person would be treated during this detention that in some cases could last for weeks or even longer”.<sup>110</sup>

**3.21.3** A western diplomatic source interviewed for the fact-finding mission report stated that the computer system employed at border controls to screen persons upon entry into Syria works well. Border guards check whether the name of someone who enters Syria can be found on one of the wanted persons lists of the security services. These lists contain information from the various security services’ offices from all parts of the country, including from Qamishli. Immigration authorities are thus able to see whether a returnee has a file with the security services, and can subsequently inquire about the file’s details with the authorities from these cities or municipalities. It was added that there is no single list of wanted persons but that every security agency maintains its own list. Persons with a security file are transferred from the detention facilities of the immigration services to the security agency’s detention centre.<sup>111</sup>

**3.21.4** The Kurdish Human Rights Project in its submission in June 2010 to the UN High Commissioner for Human Rights 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”.<sup>112</sup>

**3.21.5** 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.<sup>113</sup> As levels of violent repression of political protest have intensified, anyone perceived to be critical of, or hostile to, the Syrian

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<sup>109</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 6

<http://www.state.gov/documents/organization/204595.pdf>

<sup>110</sup> DIS/ACCORD Austrian Red Cross 2010: Human Rights Issues concerning Kurds in Syria, May 2010 [http://www.ecoi.net/file\\_upload/90\\_1273216397\\_2010-05-dis-accord-human-rights-issues-concerning-kurds-in-syria.pdf](http://www.ecoi.net/file_upload/90_1273216397_2010-05-dis-accord-human-rights-issues-concerning-kurds-in-syria.pdf)

<sup>111</sup> DIS/ACCORD Austrian Red Cross 2010: Human Rights Issues concerning Kurds in Syria, May 2010 [http://www.ecoi.net/file\\_upload/90\\_1273216397\\_2010-05-dis-accord-human-rights-issues-concerning-kurds-in-syria.pdf](http://www.ecoi.net/file_upload/90_1273216397_2010-05-dis-accord-human-rights-issues-concerning-kurds-in-syria.pdf)

<sup>112</sup> Kurdish Human Rights Project, Submission to the Office of the United Nations High Commissioner for Human Rights, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 21 June 2010, <http://www.khrp.org/khrp-news/human-rights-documents/2010-publications.html>

authorities is likely to face arbitrary arrest and extreme ill-treatment in detention.<sup>114</sup>

**Actors of protection (section 2.2 above)**

**Internal relocation (section 2.3 above)**

**Caselaw (section 2.4 above)**

- 3.21.6 Conclusion:** The Syrian authorities have become brutally repressive in recent years, particularly since March 2011. Reports indicate that most returnees, including failed asylum seekers, are likely to 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.
- 3.21.7** 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.
- 3.21.8** 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.
- 3.21.9** 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.
- 3.21.10** Caseworkers 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, caseworkers 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. Caseworkers should seek advice from a Senior Caseworker if they consider that an applicant in this category may have been responsible for crimes against humanity.

## **3.22 Women**

**3.22.1** Some applicants may make an asylum and/or human rights claim based on a fear of

sexual or gender based violence..

**3.22.2 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. However, Freedom House reports that "legal reforms necessary to ensure equality between genders have been very limited, and women lack channels through which they may challenge discriminatory laws and practices". 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.<sup>115</sup>

**3.22.3 Personal status, retirement, and social security laws discriminate against women** according to the U.S. Department of State 2012 annual report. 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.<sup>116</sup> Many women (primarily in rural areas) do not fully understand their legal rights, and so cede these rights in response to social or family 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. Patriarchal values in society and the authoritarian political system leave women vulnerable to gender-based violence, both inside and outside the home.<sup>117</sup>

**3.22.4** The U.S. Department of State reported that "The law does not specifically prohibit domestic violence, and violence against women was extensive and went unpunished. The vast majority of domestic violence and sexual assault cases were not reported; victims traditionally have been reluctant to seek assistance outside the family for fear of social stigmatization. Security forces consistently treated violence against women as a social rather than criminal manner. Observers reported that when some abused women tried to file a police report, police did not investigate their reports thoroughly, if at all, and in other cases police officers responded by abusing the women, including by sexual harassment, verbal abuse, hair pulling, and slapping".<sup>118</sup> Freedom House noted that "perpetrators of killings classified as 'honour crimes' are punished with reduced sentences ranging from five to seven years in prison. Women's rights groups estimate that there are hundreds of such killings each year. Personal status law for Muslims is governed by Sharia, and is discriminatory in marriage, divorce and inheritance matters. Church law governs personal status issues for Christians, in some cases barring divorce."<sup>119</sup>

**3.22.5** Rape is a felony, but the government does not effectively enforce existing rape laws. During 2012, rape was widespread and regime forces, including the Shabiha,

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<sup>115</sup> Freedom House: Women's Rights in the Middle East: 2010

[http://www.freedomhouse.org/sites/default/files/inline\\_images/Syria.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/Syria.pdf)

<sup>116</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 6

<http://www.state.gov/documents/organization/204595.pdf>

<sup>117</sup> Freedom House: Women's Rights in the Middle East: 2010

[http://www.freedomhouse.org/sites/default/files/inline\\_images/Syria.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/Syria.pdf)

<sup>118</sup> U.S. Department of State, Country Reports on Human Rights Practices for 2012: Syria, 19 April 2013, section 6, <http://www.state.gov/documents/organization/204595.pdf>

<sup>119</sup> Freedom House: Freedom in the World 2013: Syria, January 2013,

<http://www.freedomhouse.org/report/freedom-world/2013/syria>

used rape as a tactic of war. There are no laws against spousal rape. Rapists face no punishment if they agree to marry their victim, and families of victims sometimes agree to this arrangement, to avoid the heavy social stigma attached to rape. Observers of the refugee crisis have reported that women, men and community leaders consistently identify sexual violence as a primary reason for their families leaving the country.<sup>120</sup>

**3.22.6** In March 2013, a Brookings Institution report stated that “increasing incidents of sexual violence suggest that rape is being used as a weapon of war”.<sup>121</sup> In April 2013, the International Federation for Human Rights report based on interviews with Syrian women who have fled Syria found that “rape and other forms of sexual violence [were] committed by pro-government forces during house searches, following arrest at checkpoints and in detention. There were also accounts of such crimes having been committed by antigovernment armed groups. Many of those interviewed also spoke of the risk of women being abducted, by all parties to the conflict, in order to obtain information or as bargaining chips for the release of prisoners. Women who talked to FIDH indicated that most of them were subsequently victims of exclusion. According to several women and organisations providing support services, survivors of rape are sometimes forced into marriage, in order to “save family honour””.<sup>122</sup>

**3.22.7** In August 2013, the International Commission of Inquiry on the Syrian Arab Republic found that “Sexual violence has played a prominent role in the conflict, owing to the fear and threat of rape and by the violence committed. It occurs during raids, at checkpoints and in detention centres and prisons across the country. The threat of rape is used as a tool to terrorize and punish women, men and children perceived as being associated with the opposition. Underreporting and delayed reported of sexual violence is endemic, making an assessment of its magnitude difficult”.<sup>123</sup>

**3.22.8** BBC News reported that “Women in Syria are increasingly the targets of violent abuse and torture by government forces and armed groups.” The Euro Mediterranean Human Rights Network (EMHRN) reported that approximately 6000 women have been raped since the start of the conflict in March 2011, who were then socially stigmatised, and often forced to flee their homes. They stated that women, often with their children, are also targeted by snipers and used as human shields. According to BBC News hundreds of Syrian women have been subjected to arbitrary arrests and enforced disappearances, and have undergone various forms of torture, in state detention facilities. EMHRN stated that women are deliberately targeted because of political issues, but also because they are easy and vulnerable targets. They reported that the kidnapping of women has become a

<sup>120</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 6

<http://www.state.gov/documents/organization/204595.pdf>

<sup>121</sup> Brookings Institution, Syria’s Unseen Crisis: Displaced Women Face Rape, Insecurity, Poverty, 8 March 2013, [http://www.brookings.edu/research/opinions/2013/03/08-women-syria-bradley?cid=em\\_idp031213](http://www.brookings.edu/research/opinions/2013/03/08-women-syria-bradley?cid=em_idp031213)

<sup>122</sup> International Federation for Human Rights (FIDH), Violence against Women in Syria: Breaking the silence, 9 April 2013, <http://www.fidh.org/en/north-africa-middle-east/syria/Violence-against-women-in-Syria-Breaking-the-silence-13134>

<sup>123</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, F. Sexual violence paragraph 95,

<http://www.ohchr.org/EN/HRBodies/HRC/IIICISyria/Pages/IndependentInternationalCommission.aspx>



strategy of exchanging prisoners and exacting revenge, and that the nature of the crimes – rape and gang rape – leaves women isolated.<sup>124</sup>

**3.22.9** In October 2013, UNHCR stated that “Sexual and gender-based violence is reported to be one of the features of the conflict, even if delayed reporting has made judging the magnitude of this difficult” ( ) Rape and other forms of sexual violence are reported to be affecting men, women and children, and are committed mostly in detention, and in the context of house searches, military raids and at checkpoints. Reports indicate that the threat of rape is being used as a tool to coerce confessions. UNHCR considers that “Women and girls who are victims of or at risk of sexual violence, early and forced marriage, domestic violence, “honour crimes”, sexual exploitation, and, in particular, women without male protection” are “are likely to be in need of international protection in the sense of the 1951 Convention”.<sup>125</sup>

**3.22.10** The March 2013 Brookings report found that “Inadequate assistance and growing impoverishment have led to a vicious cycle in which women and girls who have fled sexual and gender-based violence are exposed to exploitation as they struggle to find food and fuel to survive. Domestic violence rates increase in such circumstances, and many desperate families marry off their daughters at younger ages than usual in order to secure some meagre protection for them, and reduce the number of mouths to feed in a household”.<sup>126</sup> The August 2013 Independent International Commission of Inquiry on the Syrian Arab Republic similarly found that in refugee camps “women and girls are vulnerable to sexual exploitation, forced marriage and trafficking. There are increasing incidents of domestic violence”.<sup>127</sup>

**See also:** [Actors of protection](#) (section 2.2 above)  
[Internal relocation](#) (section 2.3 above)  
[Caselaw](#) (section 2.4 above)

**3.22.11 Conclusion:** A large number of discriminatory laws remain in force in Syria. Cultural, societal and family pressures are likely to prevent the majority of women from approaching the State for protection against domestic violence and other abuses. Even those that do approach the police are unlikely to receive adequate protection as the authorities consider these violations a ‘private matter’.

**3.22.12** The current situation of worsening violence and heavy fighting; the fact that sexual violence and the deliberate targeting of women has become a feature of the Syrian conflict; the continuing brutality of the police and security services and their involvement in serious human rights abuses against women; all further reduce the likelihood of the state authorities being willing or able to provide protection. In rebel-held areas, the state authorities are unable to protect women against gender and

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<sup>124</sup> BBC News: Syria: ‘Syria conflict: Women ‘targets of abuse and violence’ 26 November 2013  
<http://www.bbc.co.uk/news/world-middle-east-25100122>

<sup>125</sup> UNHCR: International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II, 22 October 2013  
<http://www.refworld.org/docid/5265184f4.html>

<sup>126</sup> Brookings, Syria’s Unseen Crisis: Displaced Women Face Rape, Insecurity, Poverty, 8 March 2013,  
[http://www.brookings.edu/research/opinions/2013/03/08-women-syria-bradley?cid=em\\_idp031213](http://www.brookings.edu/research/opinions/2013/03/08-women-syria-bradley?cid=em_idp031213)

<sup>127</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, C. Socioeconomic and humanitarian context, paragraph 36,  
<http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx>

sexual violence.

**3.22.13** Given the level of sexual and gender based violence against women, the inability of the State to provide protection, and the risk of gender and sexual violence during displacement, most applicants are likely to be able to demonstrate a need for international protection. All relevant factors should be taken into account, including the age, health, educational and economic status, and the individual circumstances of the applicant. Female applicants subjected to sexual violence and able to show that they are accused of offences against family honour are likely to be able to show that they fall into the category of a Particular Social Group.

### **3.23 Prison conditions**

**3.23.1** 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.

**3.23.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of humanitarian protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

**3.23.3 Consideration.** According to the US State Department Country Report on Human Rights Practices for 2012, prison conditions in Syria remain harsh and life-threatening. The facilities are generally poor and do not meet international standards for health and sanitation. Human rights groups reported during 2012 that intelligence services operated between 27 and 72 separate formal detention centres throughout the country and the regime appeared prepared to open more as the conflict spread. Reports from many international NGO sources suggest there are many more informal detention sites throughout the country, and that the government holds thousands of prisoners in unknown locations. Reports of mistreatment and abuse of prisoners are common.<sup>128</sup>

**3.23.4** Prior to March 2011, the authorities generally held pre-trial detainees separately from convicted prisoners; however, holding them together in inadequate spaces has since become commonplace. Juvenile and adult prisoners are detained together, and there are reports that children as young as eight may be imprisoned with adults. The government generally prohibited independent monitoring of prison or detention centre conditions, and diplomatic and consular officials had less access than in previous years. The International Committee of the Red Cross was allowed to visit one prison facility in Aleppo, in May 2012.<sup>129</sup>

**3.23.5** Due to increased arrests and mass detentions of anti-regime demonstrators, the authorities converted military bases, stadiums, zoos, schools, hospitals and other large public facilities into prisons in numerous cities during 2012, including

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<sup>128</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 1c

<http://www.state.gov/documents/organization/204595.pdf>

<sup>129</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 1c

<http://www.state.gov/documents/organization/204595.pdf>

Damascus, Aleppo, Daraa and Banyas. Activists have reported that the regime also housed arrested protesters in factories and vacant warehouses; these are overcrowded and lack adequate bathroom facilities.<sup>130</sup>

**3.23.6** According to local and international NGOs, the government held prisoners and detainees in severely cramped accommodation with little or no access to restroom facilities or adequate food. Detention conditions at security and intelligence service facilities continued to be the harshest, while facilities administered by the Ministry of Justice were less severe. Facilities generally lacked proper ventilation, lighting, access to potable water or adequate food, medical staff and equipment, and sufficient sleeping quarters. Released prisoners frequently complain of sickness and injury due to the conditions.<sup>131</sup>

**3.23.7** The 2012 U.S. Department of State notes that “Facilities for political or national security prisoners, especially accused Islamists, continued to be much worse than those for common criminals. According to local NGOs, authorities deliberately placed political prisoners in crowded cells with convicted and alleged felons and subjected them to verbal and physical threats and abuse. Political prisoners also reported they often slept on the ground due to lack of beds, were subjected to frequent searches, and faced solitary confinement if authorities found them possessing forbidden items. Guards regularly eavesdropped on political prisoners’ conversations with their lawyers and visiting family members. According to reports from families, authorities refused many political prisoners access to family or counsel. Some former detainees and human rights observers reported that the government denied political prisoners access to reading materials, including the Quran, and prohibited them from praying in their cells”.<sup>132</sup>

**3.23.8** According to released detainees and defectors, the methods of torture included prolonged beatings, often with batons or wires, holding the detainees in fixed positions for prolonged periods of time, electrocution, sexual assault and humiliation, the pulling out of fingernails, and mock executions. The interrogators and guards also subjected detainees to various forms of humiliating treatment, such as making them kiss their shoes and declare that President Bashar al-Assad was their god. All detainees described appalling detention conditions, with overcrowded cells in which detainees could only sleep in turns. Several former detainees stated they had witnessed people dying in detention as a result of torture. At least 865 detainees died in custody in 2012, according to local activists. In cases of custodial death that Human Rights Watch reviewed, the bodies bore unmistakable marks of torture including bruises, cuts, and burns. The authorities provided the families with no information on the circumstances surrounding the deaths. Family members were unable to obtain information as to the fate or whereabouts of their detained relatives in the majority of cases.<sup>133</sup>

**3.23.9** The August 2013 report of the Independent International Commission of Inquiry states that “Deaths in custody rose markedly. Deaths from torture were recorded in

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<sup>130</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 1c <http://www.state.gov/documents/organization/204595.pdf>

<sup>131</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 1c <http://www.state.gov/documents/organization/204595.pdf>

<sup>132</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013 section 1c <http://www.state.gov/documents/organization/204595.pdf>

<sup>133</sup> Human Rights Watch: World Report 2013: Syria, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/syria>

centres controlled by the Air Force, Political and General Intelligence and Military Security. Many cases were recorded in General Intelligence Branch 295, 20 km east of Damascus, and Branch 251, in Damascus. One former detainee held in the Al-Fehar Branch of Political Security in Al-Mezzeh (Damascus) barely survived. He detailed the deaths of others. Detainees were tortured to death in Military Security Branch 215 (Damascus)".<sup>134</sup> According to a November 2013 Reporters Sans Frontières article, "corroborative reports issued by Syrian human groups indicate that thousands of detainees died inside governmental detention centers where detention conditions fall short of minimum human rights and humanitarian standards. Detainees in governmental detention facilities face on a daily basis the most severe human rights violations including the widespread and systematic use of torture during pre-trial and post-trial periods, widespread policy of starvation and deliberate neglect of health of some detainees leading in many cases to their death".<sup>135</sup>

**3.23.10** The August 2013 report of the Independent International Commission of Inquiry reports that "Thousands of people have been apprehended since the conflict began. Most face a string of interwoven human rights violations, often culminating in their torture or death. Some bribe their way out; a relatively small number were "amnestied". Others eventually appeared before a judge and were sentenced. Most languished in overcrowded cells with no access to judicial oversight, legal counsel or their families. The Government, including its intelligence agencies, employed widespread, systematic torture to interrogate, intimidate and punish its perceived opponents. Torture was used in detention centres, security branches, prisons and hospitals. Medical professionals at some military hospitals were co-opted into the maltreatment of hospitalized detainees. Detention centres and prisons were the locations most often cited for sexual violence".<sup>136</sup>

**3.23.11** The 2012 U.S. Department of State notes that "the Syrian Network for Human Rights (SNHR) reported 42 methods of torture used by authorities, including eight common positions involving tying the prisoners hands and beating their bodies with wires or sticks, in particular in genital areas. Other reported methods of physical torture included: removal of nails and hair, stabbing and cutting off body parts, burning with acid or cigarettes, applying electric shocks, denying medical care, and hanging, among other methods. Multiple human rights organizations reported other forms of torture, including forcing objects into the rectum and vagina, hyperextending the spine, and putting the victim into the frame of a wheel and whipping exposed body parts. A March AI report catalogued the regime's torture methods and documented a pattern of beatings with sticks, rifle butts, and electrical cables. A common practice was "dulab" (tire), in which the victim was forced into a vehicle tire, then hoisted into the air and beaten on the feet. Even more common during the year was "shabeh," where the victim was suspended from a raised hook, handle, or doorframe and then beaten. Also common was crucifixion. Cases of reported rape and sexual torture, including against children, were widespread and possibly systematic." The SNHR also reports that psychological torture methods

<sup>134</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, paragraphs 54 and 41 <http://www.ohchr.org/EN/HRBodies/HRC/IIICISyria/Pages/IndependentInternationalCommission.aspx>

<sup>135</sup> Reporters Sans Frontières, Syria - Urgent appeal for the release of prisoners of conscience and all detainees in Syria, 26 November 2013 [http://en.rsf.org/syria-urgent-appeal-for-the-release-of-26-11-2013\\_45509.html](http://en.rsf.org/syria-urgent-appeal-for-the-release-of-26-11-2013_45509.html)

<sup>136</sup> Independent International Commission of Inquiry on the Syrian Arab Republic, Report of the independent international commission of inquiry on the Syrian Arab Republic [6<sup>th</sup> Report], 16 August 2013, E. Torture and ill-treatment paragraphs 76, 82 and 97 <http://www.ohchr.org/EN/HRBodies/HRC/IIICISyria/Pages/IndependentInternationalCommission.aspx>

included forcing prisoners to witness the rape of other prisoners, threatening family members (in particular female family members) with rape, forced undressing, and insulting the prisoner's beliefs.<sup>137</sup>

**3.23.12** In areas where government control became weak or nonexistent, for example in parts of the north of Syria, localised correction structures were set up. In these cases, there were varied reports of control and oversight, including their administration by civilian and religious leaders.<sup>138</sup>

**3.23.13 Conclusion:** Prison and detention centre conditions in Syria are life-threatening, with overcrowding and the absence of sanitation and medical facilities being particular problems. Deprivation of food, lack of due process or independent scrutiny, and a high incidence of torture and deaths in detention are also serious concerns. 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 and this distinction can no longer be assumed.

**3.23.14** 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 and 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.

**3.23.15** For further information on dealing with applicants with a political profile, please refer to section **3.17** above. Depending on the level and type of political activities the applicant has participated in, caseworkers may need to consider whether one of the Exclusion clauses applies. Caseworkers should refer such cases to a Senior Caseworker in the first instance.

#### **4. Unaccompanied minors claiming in their own right**

**4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.

**4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Syria to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as an Unaccompanied Asylum Seeking Children (UASC).

**4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005

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<sup>137</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013 section 1c

<http://www.state.gov/documents/organization/204595.pdf>

<sup>138</sup> US Department of State, Country Report on Human Rights Practices: Syria, 2012, 19 April 2013, section 1c

<http://www.state.gov/documents/organization/204595.pdf>

imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.

- 4.4 Information on the infrastructure within Syria which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).
- 4.5 Caseworkers should refer to the AI: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

## 5. Medical treatment

- 5.1 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.
- 5.2 Caseworkers 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).
- 5.3 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.
- 5.4 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, and the absence of resources through civil war or similar human agency.
- 5.5 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.
- 5.6 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.

**5.7** Where a caseworker 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. Caseworkers must refer to the AI on [Discretionary Leave](#) for the appropriate period of leave to grant.

## **6. Returns**

**6.1** 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.

**6.2** 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.

**6.3** Any medical conditions put forward by the person as a reason not to remove them and 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. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).

**6.4** Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:

- leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
- leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
- leaving the UK under one of the [Assisted Voluntary Return \(AVR\) schemes](#).

**Country Specific Litigation Team  
Immigration and Border Policy Directorate  
Home Office  
21 February 2014**