



OPERATIONAL GUIDANCE NOTE

SYRIA

CONTENTS

1. Introduction	1.1 – 1.3
2. Country assessment	2.1 – 2.3
Actors of protection	2.4.1 – 2.4.9
Internal relocation	2.5.1 – 2.5.4
Country guidance caselaw	2.6
3. Main categories of claims	3.1 – 3.4
Kurds	3.6
Political Opposition to the Government	3.7
Affiliation to the Muslim Brotherhood	3.8
Returning Failed Asylum Seekers	3.9
Women	3.10
Prison Conditions	3.11
4. Discretionary Leave	4.1 – 4.2
Minors claiming in their own right	4.3
Medical treatment	4.4
5. Returns	5.1 – 5.3

1. Introduction

- 1.1 This document provides UK Border Agency caseowners 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. Caseowners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2 Caseowners *must not* base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseowners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

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

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

- 1.3 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

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

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

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

<http://centralcontent.fco.gov.uk/resources/en/pdf/human-rights-reports/accessible-hrd-report-2010>

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

2.4 Actors of protection

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

- 2.4.2** The Syrian Arab Republic adopted its Constitution on 13 March 1973; Article 1 states, "The Syrian Arab Republic is a democratic, popular, socialist and sovereign state". The Supreme Constitutional Court (SCC) rules on the constitutionality of laws and decrees, hears special appeals regarding the validity of parliamentary elections, and tries the president if he is accused of criminal offences, but it does not hear appeals from the civil and criminal justice system.¹ Syria is not an electoral democracy. Under the Constitution, the president is nominated by the ruling Ba'ath Party and approved by popular referendum for seven-year terms. In practice, these referendums are orchestrated by the regime, as are elections for the 250-seat, unicameral People's Council, whose members serve four-year terms and hold little independent legislative power. Almost all power rests in the executive branch.²

- 2.4.3** Syria has an extensive internal security system, which includes the various branches of the police, in addition to Syrian Military Intelligence (SMI), Syrian Air Force Intelligence (SAFI) and civilian Intelligence agencies, i.e. the Political Security Directorate (PSD) and the General Intelligence Directorate (GID). All of these operate independently, usually outside the control of the legal system.³ The role of the security services extends far beyond strictly security matters under a continuing 'state of emergency' originally declared by the

¹ COIS Report, section 5 [Syria September 2010](#)

² Freedom House: Country Report [Syria 2011](#)

³ COIS Report, section 9.07 [Syria September 2010](#)

government in 1963. The Security Services are described as 'pervasive' in Syrian society. They arrest and detain individuals without due process.⁴ The PSD operates under the Ministry of the Interior (MOI); the GID is a stand-alone institution. All four security services actively repress internal dissent and monitor individual citizens. The MOI controls the four separate divisions of the police forces: emergency police, traffic police, neighbourhood police and riot police.⁵ In addition to city police which operate in Damascus and other major cities, there is a paramilitary force of approximately 8,000, the Gendarmerie, which operates in rural areas. Syria also has a border guard force, known as the Desert Guard, or the Frontier Force; this numbers approximately 10,000.⁶ Syria's many security and intelligence services have one mission: to gather intelligence on opponents of President Bashar al-Assad and his regime, and then neutralise them. The larger organisations have their own detention cells and interrogation centres. All of the security organisations are directly responsible to the president and his closest advisors.⁷

- 2.4.4** Impunity is a serious problem within the police and security forces. In 2008, President Assad issued a law mandating that only the General Command of the Army and Armed Forces may issue an arrest warrant in the case of a crime committed by a military officer in the pursuit of his normal duties, and that such cases must be tried in military courts. During 2010 there were no known prosecutions or convictions of police and security force personnel for human rights abuses. No mechanisms for investigations of security force abuse are in existence.⁸
- 2.4.5** The security agencies routinely extract confessions by torturing suspects and detaining their family members; the agencies have almost unlimited authority to arrest suspects and detain them incommunicado for prolonged periods without being charged. The majority of the estimated 2,500 to 3,000 political prisoners in Syria have never been tried.⁹ The United Nations Committee Against Torture stated that the State Party has established secret detention facilities under the command of intelligence services; these are not accessible to independent monitoring and inspection agencies, and are not subject to review by the Syrian authorities. Detainees are deprived of fundamental legal safeguards. The Committee was extremely concerned at allegations that those detained in such facilities could be held for prolonged periods without any judicial review, and in practice, in incommunicado detention and subject to torture or cruel, inhuman or degrading treatment.¹⁰
- 2.4.6** Although the Constitution prohibits arbitrary arrest and detention, in practice these are significant problems. Human rights violations committed by the security forces included deaths in custody, various methods of torture including sleep deprivation, beating, kicking and whipping, electric shocks, suspending victims from the ceiling by their wrists or ankles, being burned, and extreme hyperextension of the spine (often fatal).¹¹ A key purpose of torture and other ill-treatment in cases reported to Amnesty International is to extract information and confessions from detainees about their political activities. Many claimed to have made forced confessions which were used as evidence against them in court. In both SSSC and military courts, confessions extracted under torture were reportedly used systematically as 'evidence'.¹²
- 2.4.7** The constitution provides for the independence of the judiciary; in practice, the judiciary is under the control of the regime and security services. Corruption and political interference continue to hinder the judicial authority, and individuals accused of crimes in Syria are denied access to a fair legal process. The immunity of judges is not guaranteed under Syrian law, and they can easily be removed from their post, or impeached. Prisoners are

⁴ COIS Report, section 9.01-02 [Syria September 2010](#)

⁵ USSD Human Rights report: [Syria 2010](#)

⁶ COIS Report, section 9.05-06 [Syria September 2010](#)

⁷ COIS Report, section 9.08 [Syria September 2010](#)

⁸ USSD Human Rights report: [Syria 2010](#)

⁹ Freedom House: Country Report [Syria 2011](#)

¹⁰ COIS Report, section 9.09 [Syria September 2010](#)

¹¹ Amnesty International: Chap.2.3 [Syria: Briefing to the Committee Against Torture](#)

¹² Amnesty International: Chap.7 [Syria: Briefing to the Committee Against Torture](#)

not allowed access to their lawyers prior to trial, and lawyers are not allowed to speak for them in court.¹³ The UN Committee Against Torture (UN CAT) (May 2010) expressed concern at the numerous, consistent and serious allegations that the Supreme State Security Court (SSSC) fails to function in accordance with the international standards for courts of law.¹⁴

- 2.4.8** On 17 December 2010, a Tunisian man burned himself to death in protest at his treatment at the hands of the police and the civil authorities. This sparked a wave of political protest and street demonstrations throughout Tunisia, and culminated in the ousting and flight of the longstanding President, Zine El Abidine Ben Ali in January 2011. These political protests spread rapidly to other countries in the Middle East, helped by widespread internet access and social networking sites. Waves of popular unrest swept the Arab world, becoming known as the 'Arab Spring'. Protests began in Syria in January 2011, but escalated to an uprising by 15 March 2011. Protests in Syria have been influenced by the ongoing protests elsewhere in the Middle East, and have been described as 'unprecedented' in Syria.¹⁵
- 2.4.9** The demands of protesters in Syria include equal rights for Kurds, broad political freedoms for all, such as freedom of speech, assembly and of the press, and for the ruling Baath Party to allow other political parties. There have been widespread demands for President Bashar al-Assad to step down. Protests have included street marches, hunger strikes and generalised civil resistance.¹⁶
- 2.4.10** Since the outbreak of protests and civil unrest in March 2011, human rights activists have reported that state-sponsored armed militias in black uniforms are assisting the government in the crackdown imposed by the authorities, leaving more than 3,000 dead (to date). These militias, known as the *Shabiha* are accused of killing and beating protestors, and of carrying out a campaign of intimidation that has included executions, drive-by shootings and sectarian attacks. Activists report that the presence of *Shabiha* militia gangs allows the government to deny any involvement in the most repressive actions against protestors. Membership of this group is drawn primarily from President Assad's minority Alawite sect. In May 2011, citizens fleeing an assault on the western village of Tell Kalakh, near the Lebanese border, reported that some residents had had their throats cut by black-uniformed *Shabiha*. There are also reports that soldiers and police who tried to prevent the killing of civilians by *Shabiha* militia in Tell Kalakh and other areas had been shot dead. In June 2011, activists and witnesses reported that hundreds or even thousands of *Shabiha* had been sent to help the security forces crush dissent in various Syrian cities.¹⁷
- 2.4.11** It is reported that since March 2011, the security forces have killed hundreds of protestors and arbitrarily arrested thousands, subjecting many of them to torture in detention. The same report stated that security forces prevented the wounded from accessing medical treatment, and imposed a siege on several towns, depriving the population of basic services. The scale and nature of human rights abuses were reported as being systematic and part of a state policy; it has been suggested that they may constitute crimes against humanity.¹⁸
- 2.4.12** On 2 November 2011, it was announced that the Syrian government had accepted a detailed peace agreement proposed by the Arab League. The plan proposed by the League includes an end to violence and killing, the release of all recently detained prisoners, the withdrawal of all military equipment from Syrian cities and full access to Arab and international media for citizens. It is not yet clear whether or not the proposed plan will in fact be implemented by the Syrian authorities.¹⁹ The following day, government tank fire

¹³ Foreign & Commonwealth Office: [FCO Human Rights Report, Syria 2010](#)

¹⁴ COIS Report, section 11.13 [Syria September 2010](#)

¹⁵ Periscope: [Syrians have broken the fear barrier](#)

¹⁶ BBC News: [Syria protests](#)

¹⁷ BBC News: [Syria Unrest: Who are the Shabiha?](#)

¹⁸ Human Rights Watch: ["We've Never Seen Such Horror"](#)

¹⁹ BBC News: [Syria Accepts Arab League plan](#)

was reported in the city of Homs, apparently killing three civilians.²⁰

2.5 Internal relocation.

- 2.5.1** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 2.5.2** Given the situation in Syria and the current determination of the authorities to maintain control throughout the country, internal relocation will not be a feasible means of avoiding state-sponsored or state-tolerated persecution. If an applicant has a well-founded fear of non-state agents in their home area and can be shown to be able to relocate to a part of the country where they would be safe, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or Humanitarian Protection may be refused. But relocation will not be a reasonable option in localities where the expression of popular dissent continues to be met by the use of lethal force.
- 2.5.3** The constitution provides for freedom of movement “within the territories of the state unless restricted by a judicial decision or by the implementation of laws”. Citizens are technically free to travel internationally; in practice the government limits freedom of movement for foreign travel and emigration by requiring citizens to apply for exit visas. Also, the authorities frequently impose travel bans on political opposition activists and civil and human rights activists. Travel bans are imposed without explanation of their basis or duration, including cases where citizens requiring to travel for health reasons. The number of activists believed to be affected by a travel ban was reportedly in the tens of thousands, and was increasing during 2010.²¹
- 2.5.4** Although women participate actively in public life, and are represented in most professions, a woman’s husband or other male relative may request that his wife’s travel abroad, and his children’s, may be prohibited. Foreign embassies reported a number of such incidents during 2010.²² Freedom of movement for married women is restricted under the personal status law. In particular, a ‘disobedient’ wife is not entitled to financial support from her husband for the duration of her ‘disobedience’, which can include leaving the conjugal home for reasons in contravention of Shari’a law.²³

2.6 Caselaw

SA & IA (Undocumented Kurds) Syria CG [2009] UKAIT 00006 **The AIT found *at the time* that:**

The discrimination and deprivations experienced by Syrian Kurds are not such as to amount to persecution or breach of their human rights if returned to Syria.

²⁰ BBC News: [Syria Unrest - Tank fire in Homs](#)

²¹ USSD Human Rights report: section 2d [Syria 2010](#)

²² USSD Human Rights report: section 5 [Syria 2010](#)

²³ COIS Report, section 26.04 [Syria September 2010](#)

A person with an actual or perceived profile of being anti-regime would be at real risk of persecution by the authorities on return to Syria. The greatest risk is to Islamists but the risk extends to other groups such as Kurdish or human rights or democracy activists.

There is no internal relocation option for a person who is perceived by the Syrian authorities to have an anti-regime political profile.

Anti-regime activities undertaken by Syrians abroad, which are held to be credible and of which the Syrian authorities are aware, will contribute to their risk profile on return and will be taken as seriously as prior anti-regime activity in Syria.

A rare attendance at a crowded demonstration outside the Syrian Embassy by a person with no other political involvement or activity from which he might be identified (for example by a person who is simply seeking to bolster an otherwise weak asylum claim) will not constitute a real risk of coming to the adverse attention of the Syrian authorities. However regular attendances at such demonstrations over a lengthy period of time would increase the risk profile, as would membership of and active involvement in other overt political activities and/or organisations which might be penetrated by informers. The greater and more varied the activity, the greater the risk. The extent of the risk is fact sensitive in each case.

There is no real risk that leaving Syria illegally would, in the absence of additional aggravating factors, result in ill-treatment on return amounting to persecution or a breach of human rights.

A failed asylum seeker will not be perceived as being an opponent of the regime simply by reason of having claimed asylum abroad and will not as such be at real risk of persecutory ill-treatment on return.

A stateless, undocumented, Kurd who left Syria illegally and is a failed asylum seeker but is not perceived by the Syrian authorities as having an anti-regime profile, will not be at real risk of persecutory ill-treatment or a material breach of his human rights on return.

AR (Kurd: not risk per se) Syria CG [2006] UKAIT 00048
The Tribunal found *at the time* that:

A Syrian Kurd with no political history does not face a risk of persecution or breach of his human rights on return to Syria. This decision replaces SY (Kurd – No Political Profile) Syria CG [2005] UKIAT 00039 as country guidance.

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Syria. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies

for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

- 3.4** All Asylum Instructions can be accessed via the on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

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

3.5 Credibility

- 3.5.1** This guidance is not designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. Caseowners 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. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matched to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 Kurds

- 3.6.1** 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.
- 3.6.2** **Treatment.** Kurds make up approximately 9% of the Syrian population, and mostly live in the northeast part of the country, although large Kurdish communities also live in most of the big cities.²⁴ Syria is a multi-ethnic state where many different ethnic groups and religions co-exist. However, demands for Kurdish minority rights continue to be interpreted by the government as threats to the unity and security of the state, particularly in relation to Syrian Kurds. There are regular reports of arbitrary arrests of Kurds and deaths of Kurds in military service.²⁵ The authorities arrested hundreds of Kurdish citizens during 2010, many of whom were prosecuted on charges of seeking to annex part of Syria to another country.²⁶
- 3.6.3** Kurds in Syria face many restrictions on cultural and linguistic expression. The teaching of Kurdish is prohibited and Kurdish festivals, such as the Nowruz celebrations in March, are regularly disrupted by the security services.²⁷ The law requires that owners and senior editors of print publications are Arab citizens. Approximately 120,000 Syrian Kurds lost their citizenship following a population census in 1962. Consequently, those individuals and their descendants continue to be severely disadvantaged in terms of social and economic opportunities. Stateless Kurds have only limited access to university education, and their lack of citizenship and identity documents restricts their right to travel to and from Syria. The UNHCR estimated there were approximately 300,000 stateless Kurds in 2009.²⁸ Most stateless Kurds do not have the economic means to leave the country. They are also restricted in their movement within the country as they are unable to check in to hotels without permission from the security services.²⁹
- 3.6.4** Following recent legislation, it is prohibited to employ persons without an ID card in the private sector, in addition to the previous ban on employing such persons in the public sector. Kurdish exile groups estimate that as many as 300,000 Syrian Kurds are deprived of citizenship and therefore unable to obtain passports, identity cards, or birth certificates.

²⁴ COIS Report, section 20.03 [Syria September 2010](#)

²⁵ Foreign & Commonwealth Office: [Human Rights Report 2010](#)

²⁶ Human Rights Watch: [Repression of Kurdish culture & Rights in Syria](#)

²⁷ COIS Report, section 20.06 [Syria September 2010](#)

²⁸ COIS Report, section 20.18 [Syria September 2010](#)

²⁹ COIS Report, section 20.23-24 [Syria September 2010](#)

This prevents them from voting, owning land or obtaining government employment. Kurds suspected of being activists are often dismissed from schools and public-sector jobs. In 2009, the authorities made it more difficult for employers to hire non-citizens, resulting in the dismissal of many Kurds from their jobs.³⁰

- 3.6.5** Syrian Kurds are divided by the authorities into three main groups: Syrian Kurds, foreign Kurds (Ajanib) and 'concealed' Kurds, or Maktoumeen. Syrian Kurds have retained their Syrian nationality. Foreign Kurds were stripped of their nationality (see above) and registered in official archives as foreigners. Concealed Kurds are denationalised Kurds characterised by the Syrian authorities as 'concealed'. They were originally deprived of their citizenship during the census of 1962, and since then they have not been registered in official records at all.³¹ There are approximately 80,000 people within this category. The situation of concealed Kurds is complex, as they comprise persons whose fathers may be classified as foreigners, and whose mothers are citizens, or persons whose fathers are aliens and whose mothers are concealed. There are also persons whose parents are both concealed. These are in addition to the approximately 280,000 undocumented Kurds who live in Syria but without citizenship.³²
- 3.6.6** The death in suspicious circumstances of Kurdish military conscripts continued throughout 2010. Reportedly there were 11 deaths, of which 6 were allegedly suicides. However, Kurdish leaders estimated that there have been approximately 40 mysterious deaths of Kurdish conscripts in the last three years (prior to April 2011).³³ The UN CAT noted concerns about the treatment of Kurdish political activists, and military courts' convictions on Kurdish detainees on vague charges of "weakening national sentiment" or "spreading false or exaggerated information". The UN CAT report also stated that abuses were intentionally and frequently inflicted on Kurds in Syria with the consent or acquiescence or officials and encouraged by the government.³⁴
- 3.6.7** Syrian Kurds have been active in large numbers in the recent protests against the regime. Kurdish activists condemned the continued oppression by the authorities, but had initially maintained a conciliatory approach to the unrest, possibly hoping for further concessions following Decree 49 relating to 'foreigners' in north-eastern Syria. However, the Kurdish Yek Party stated that if the oppression continued, Kurds would join the fray, despite any concessions. Since then, arrests and deaths of Kurds have been recorded, often together with non-Kurdish protestors.³⁵
- 3.6.8** **See also:**
[Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)
[Caselaw](#) (section 2.5 above)
- 3.6.9** **Conclusion.** Syrians of Kurdish ethnic origin do face societal and legal discrimination and unequal treatment. It is likely to amount to persecution when the individual is treated as stateless and severely disadvantaged in a way which is in fact persecutory on ethnic grounds, or has a profile as an activist, or has publicised his opposition to the authorities, for example through protests or participation in political parties opposed to the regime. A grant of asylum will be applicable in cases where it can be demonstrated that the level of discrimination amounts to persecution. Case owners should consider the individual details and circumstances on a case by case basis, within the context of the latest available country information.

³⁰ Freedom House: Country Report [Syria 2011](#)

³¹ Support Kurds in Syria: January 2010 [Circular aimed at Kurds](#)

³² COIS Report, section 20.26 [Syria September 2010](#)

³³ USSD Human Rights report: section 1a [Syria 2010](#)

³⁴ USSD Human Rights report: section 1c [Syria 2010](#)

³⁵ Kurdwatch.org October 2011 [Kurds killed in Syria](#)

- 3.6.10** Asylum claims from Syrian applicants of Kurdish ethnic origin may be accompanied by a claim to stay in the UK on the grounds of statelessness. A stateless person is someone who is not considered as a national by any country under the operation of its law.
- 3.6.11** The UK is a signatory to the 1954 UN Convention Relating to the Status of Stateless Persons. The 1954 Convention is the primary international instrument that regulates the status of non-refugee stateless persons and ensures that stateless persons enjoy human rights without discrimination. The 1954 Convention does not however require signatories to grant leave to stateless persons. There is no provision in primary legislation, the Immigration Rules or UK Border Agency published policy that requires the UK Border Agency to grant leave to stateless persons on the sole basis that they are stateless.
- 3.6.12** For applicants within this category who have demonstrated some opposition to the authorities, or who have already come to the adverse attention of the authorities on the basis of opposition to the regime, please refer to **3.7** below.

3.7 Political Opposition to the Government

- 3.7.1** 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.
- 3.7.2** **Treatment.** The constitution provides the right for citizens to peacefully change their government through elections. In practice, citizens do not have this right, because elections are neither free nor fair. The president and his senior aides, particularly those in the military and security services, make most of the political and economic decisions with limited public accountability.³⁶ During the most recent presidential, parliamentary and local elections (in 2007) the government barred international election monitors from entering the country to monitor elections. Local and international human rights organisations found all three elections were unfair, and served to reassert the political monopoly of power held by President Assad's regime. Opposition groups estimated voter turnout in the presidential election at significantly less than 50%; the official government statistics reported voter turnout to be 96%, with President Assad and his ruling Ba'ath Party winning 98% of the vote. External observers unanimously dismissed the voter statistics as fraudulent, and unrepresentative of observed participation.³⁷
- 3.7.3** The government does not generally permit the establishment of independent political parties. In recent years, citizens tried to establish political parties but were not granted licences. During 2010, the government tolerated a few parties, e.g. the Communist Action Party, the Communist Union Movement and the Arab Social Union. Members of these parties were subject to harassment but not to automatic arrest for membership during 2010. Islamist parties were subject to immediate arrest, and in previous years, execution.³⁸ (For further consideration of membership of Islamist parties, see section **3.8**).
- 3.7.4** The Ba'ath Party is the ruling party, and the regime ensures it has a majority in all government and popular associations, e.g. women's and worker's groups.³⁹ Members of the Alawite religious minority hold the majority of cabinet and parliamentary seats. In 2010, there was one Druze and one Kurdish minister within parliament. Women and minority groups generally participated in the political system without restriction during 2010, and the president had two high-ranking female advisors. However, President Assad and the Ba'ath Party suppress all political opposition.⁴⁰
- 3.7.5** Syria has remained continuously under a national 'State of Emergency' imposed in 1963.

³⁶ USSD Human Rights report: section 3 [Syria 2010](#)

³⁷ USSD Human Rights report: section 3 [Syria 2010](#)

³⁸ USSD Human Rights report: section 3 [Syria 2010](#)

³⁹ USSD Human Rights report: section 3 [Syria 2010](#)

⁴⁰ USSD Human Rights report: section 3 [Syria 2010](#)

This has been used over many years to suppress and punish even peaceful dissent. Political activists, Kurdish activists and others who criticised or opposed the government or exposed human rights violations, were subject to arbitrary arrest, prolonged detention or even sentenced to prison terms after unfair trials before the grossly deficient Supreme State Security Court or Military and Criminal Courts.⁴¹

- 3.7.6** Major political protests erupted in Syria in March 2011, initially in the southern city of Deraa; these have since spread across the country. At first, protesters were simply calling for reform and an end to corruption, but demonstrations were quickly suppressed by live ammunition rounds. Since then, civil unrest has intensified, and mass rallies, as well as individual protesters, are calling for the fall of the regime. It is reported that more than 2,200 people have been killed in the uprisings, and thousands have been arrested.⁴² The UN High Commissioner for Human Rights, Mrs Navi Pillay, said that a fact-finding mission found a pattern of widespread or systematic human rights violations by Syrian security and military forces, which included murder, enforced disappearances, torture, deprivation of liberty and persecution. Her report referred to the period of 15 March 2011 to 15 July 2011, but indications are that the pattern of violations continues to the present time. Her assessment was that the scale and nature of the acts in question might amount to crimes against humanity.⁴³ Since the above reports, the death toll has increased to 3000, a figure that includes 187 children.⁴⁴
- 3.7.7** The Syrian security forces have become progressively more brutal and oppressive in their efforts to suppress popular protest and civil disorder. Private citizens using mobile phone cameras to record demonstrations and the often lethal attempts of the security forces to suppress them have been increasingly targeted and shot at by security forces. Reporters without Borders reported that a number of journalists have been detained and tortured/ill-treated in detention.⁴⁵ On August 28 2011, President Assad approved a new law 'opposing any monopoly (Article 12) in the media sector', and proclaiming freedom of expression as a fundamental principle. It declared an intention to facilitate access to information and prevent officials from denying access to certain kinds of data. However, the new law calls for 'responsible freedom of expression' and bans any reporting that threatens national unity. It further bans any report about the armed forces, including the army. Despite the new law, 'Reporters without Borders' reported that a harsh crackdown has been going on for the past six months, many journalists and free speech defenders have been jailed, and the number of citizens being killed grows by the day.⁴⁶
- 3.7.8** The UN Human Rights Commissioner, Mrs Navi Pillay, has called on all members of the international community to take 'international protective action' to protect the civilian population, before the continual ruthless repression and killings drive the country into a full-blown civil war. She stated that the Syrian government had failed to protect its own population, and that there is growing evidence that members of the military are defecting, having refused to fire on civilians. She said there were signs that suggested the crisis was descending into an armed struggle.⁴⁷
- 3.7.9 See also:**
- [Actors of protection](#) (section 2.3 above)
 - [Internal relocation](#) (section 2.4 above)
 - [Caselaw](#) (section 2.5 above)
- 3.7.10 Conclusion.** 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

⁴¹ COIS Report, section 15.02 [Syria September 2010](#)

⁴² Timeline: Unrest in Syria [Aljazeera Report](#)

⁴³ UN OHCHR: [Report of Fact-finding Mission August 2011](#)

⁴⁴ BBC News: [Syria uprising](#)

⁴⁵ Reporters sans Frontieres [Syria Government announces schizophrenic media laws](#)

⁴⁶ Syria 2011: [Reporters sans Frontieres](#)

⁴⁷ The Telegraph: October 17 2011 [UN calls for international action against Syria](#)

March 2011 has steadily increased, and thousands of citizens have been killed in the streets or arbitrarily arrested and detained. Syrian citizens have been targeted and killed by 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 is likely to be appropriate.

3.8 Affiliation to the Muslim Brotherhood

- 3.8.1** 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.
- 3.8.2** *Treatment.* The establishment of independent political parties is not permitted by the government, and members of Islamist parties are subject to immediate and arbitrary arrest. In previous years they were also sentenced to execution, though there were no reports of executions of Islamists in 2010.⁴⁸ All of the country's Internet service providers (3) regularly blocked access to a variety of websites, numbering approximately 180. The government specifically blocked access to websites associated with political opposition, with particular emphasis on Kurdish groups, and on the Muslim Brotherhood and the Syrian Muslim Brotherhood.⁴⁹
- 3.8.3** The Alawis (Alawite) constitute Syria's largest religious minority. They practise a form of Islam that began by splintering off from the Shiite branch, and integrates doctrines from other religions, particularly Christian, but also pagan and Gnostic. 'Alawi' literally means "those who adhere to the teachings of Ali", the son-in-law of the Prophet Muhammad. They believe that Ali is the incarnation of the deity in the divine triad.⁵⁰ Syria's 75% majority Sunni population considers the Alawi to be heretical because of their belief that Ali is Muhammad's successor, and their rejection of traditional Islamic restrictions. Many conservative Sunni Muslims do not regard the Alawis as Muslims at all.⁵¹ Despite their minority status, the Alawis have dominated the government, the Ba'ath Party, key military positions, resources and national wealth and have preserved their power since 1970 with Hafez-al-Assad's successful coup. The Alawi power base in Damascus is safeguarded through authoritarian means; civil and political rights in Syria are suspended under the "State of Emergency Law", which are over 30 years old.⁵²
- 3.8.4** The Muslim Brotherhood is an Islamic, Sunni fundamentalist and anti-government movement whose popularity grew markedly in the late 1970s. Unlike similar Islamic fundamentalist movements in some other Middle Eastern countries, the Muslim Brotherhood opposed the Assad regime not so much for its secularism as for its sectarian favouritism. To protest Alawi domination, the Muslim Brotherhood, together with other like-minded groups, undertook a series of violent attacks against the Ba'ath Party government and civil authorities. After the government's attempts at negotiation failed, Muslim Brotherhood attacks increased in frequency, and the government responded with extreme violence. The Assad regime isolated the Muslim Brotherhood adherents in their strongholds of Aleppo and Hamah. In February 1982, with no regard for the safety of civilians, the full force of the Syrian army was brought to bear on the rebels in Hamah. Entire sections of the city (including the ancient quarter) were reduced to rubble by tank and artillery fire, and over 25,000 citizens were killed. This included between 5,000 and 10,000 of Brotherhood members.⁵³

⁴⁸ USSD Human Rights report: Section 3 [Syria 2010](#)

⁴⁹ USSD Human Rights report: Section 2a [Syria 2010](#)

⁵⁰ 'Angelfire' accessed 14 October 2011: [The Alawis](#)

⁵¹ Global security: <http://www.globalsecurity.org/military/world/syria/overview.htm>

⁵² MAR Data Assessment: [Assessment for Alawi in Syria](#)

⁵³ GlobalSecurity: [Syria - Overview](#)

- 3.8.5** Since 1980, membership of the Muslim Brotherhood has been a capital offence in Syria and since the crackdown in 1982, most of its leaders were sent into exile. The organisation has no effective operational base in Syria, and its leaders are primarily based in London and Paris. The only other prominent Islamic party in Syria is the Islamic Liberation Party (Hizb al-Tahrir al-Islami) and its members are subject to frequent arrests by the Syrian authorities. President Assad's regime continues to arrest and detain those suspected of Islamist activities with ties to the Muslim Brotherhood.⁵⁴ In October 2005, the Muslim Brotherhood joined with other opposition groups in signing the Damascus Declaration, which called for the establishment of a liberal democracy in Syria. Because of fears relating to Sunni domination, President Assad is believed to have tried to obstruct the Brotherhood's rapprochement with secular opposition forces.⁵⁵
- 3.8.6** Despite doubts concerning the level of active support within the country, according to a number of human rights organisations, Syria continues not only to hold hundreds of Muslim Brothers in prison, but also continued to convict large numbers in the SSSC in recent years.⁵⁶ There are an estimated 2,500 to 3,000 political prisoners in Syria, many of whom have never been tried. The majority are believed to be Islamists; political activists are frequently monitored and harassed by security services even after release from prison.⁵⁷
- 3.8.7 See also:**
- [Actors of protection](#) (section 2.3 above)
 - [Internal relocation](#) (section 2.4 above)
 - [Caselaw](#) (section 2.5 above)
- 3.8.8 Conclusion:** Applicants who 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, are likely to be able to establish a well-founded fear of persecution. 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 a greater risk of ill-treatment.
- 3.9 Returning failed asylum seekers**
- 3.9.1** 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.
- 3.9.2 Treatment.** The law provides for the prosecution of any person who attempts to seek refuge in another country to escape a penalty in Syria. Persons who have unsuccessfully sought asylum in other countries and who have past connections with the Muslim Brotherhood have been prosecuted upon their return to the country. The government routinely arrested dissidents and also former citizens with no known political affiliation who tried to return to the country after years or even decades in exile.⁵⁸ A joint fact-finding mission by the Danish Immigration Service and the Austrian Red Cross reported that Kurdish failed asylum seekers and persons who had left Syria illegally would generally face detention, investigation and ill-treatment upon return.^{59, 60}
- 3.9.3** Various Western diplomatic sources have stated that there is a sophisticated computer system employed at border controls to screen persons upon entry into Syria. Each security

⁵⁴ The World Almanac of Islamism - [Syria - Muslim Brotherhood](#)

⁵⁵ Global Politician: [Muslim Brotherhood](#)

⁵⁶ COIS Report, section 15.16-17 [Syria September 2010](#)

⁵⁷ Freedom House:: Country Report [Syria 2011](#)

⁵⁸ USSD Human Rights report: Section 2d [Syria 2010](#)

⁵⁹ COIS Report, section 31 [Syria September 2010](#)

⁶⁰ DIS/ACCORD Austrian Red Cross 2010: [Human Rights Issues concerning Kurds in Syria](#)

service maintains its own list of wanted persons, but the lists contain information from various security offices from all parts of the country. Immigration authorities are able to quickly identify whether a returnee has a security file. Persons with a security file are transferred from the detention facilities of the immigration services to the security agency's detention centre.⁶¹

- 3.9.4** The Kurdish Human Rights Project reported that "...some Syrian nationals who have been returned to the country after living abroad have been arbitrarily detained on arrival or shortly after their return. To seek asylum abroad is perceived as a manifestation of opposition to the Syrian government, so returned asylum seekers face the likelihood of arrest".⁶² It is reported that failed asylum seekers would be detained upon return to Syria simply because they had been abroad. The person would be detained and interrogated by the security services; reports indicate that ill-treatment in detention is likely. Detainees are normally released after a period of weeks, unless they have an established profile as a political or religious activist.⁶³
- 3.9.5** It has been reported that Syrian nationals in the UK have been threatened by the Syrian authorities. Diplomatic staff at the Syrian Embassy in London were alleged to be working for the Syrian Intelligence Services, carrying out surveillance and threatening members of the Syrian opposition based in London.⁶⁴ In the United States, the Syrian Ambassador was summoned to meet with top State Department officials who expressed concerns relating to the conduct of Syrian Embassy staff in the United States. There is evidence that Embassy staff have conducted photographic and video surveillance of Syrians taking part in peaceful demonstrations in the United States.⁶⁵
- 3.9.6 See also:**
[Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)
[Caselaw](#) (section 2.5 above)
- 3.9.7 Conclusion.** The Syrian authorities have become increasingly repressive in recent years, and there are numerous reports indicating that some returnees, including failed asylum seekers, may be at risk of ill-treatment on return to Syria. The available evidence suggests that returnees of Kurdish ethnicity and those whose opposition to the government is known or suspected by the security services would be at particular risk. Given the growing civil unrest and increasingly volatile conditions, it is possible that returnees may 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.
- 3.9.8** 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. Caseowners should consider claims in this category in the light of the current situation, and the latest available country information from COI Service. Where it is accepted that an individual can show a well founded fear of ill-treatment on return, a grant of asylum is likely to be appropriate.

Women

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

⁶¹ COIS Report, section 31 [Syria September 2010](#)

⁶² Kurdish Human Rights Project: [KHRP Impact Report 2009](#)

⁶³ Danish Immigration Service, May 2010 [Danish Fact-Finding Mission](#)

⁶⁴ The Times: 24 June 2011 [Diplomat leads secret police threats](#)

⁶⁵ The Telegraph: 13 October 2011 [Threats to Syrians in US](#)

- 3.10.2 Treatment.** The 1973 Constitution calls for equality among all citizens, and includes an article obliging the state to remove all obstacles to women's advancement. Government policies have encouraged women's education and participation in the labour market. However, Syria remains a strongly traditional Islamic country, and the majority of women continue to live a traditional lifestyle.⁶⁶ 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.⁶⁷
- 3.10.3** Women have the right to vote, and the Vice-President, Dr Najah Al-Attar is a woman. The benefits of their political emancipation have been significantly negated due to the increasingly repressive political climate.⁶⁸ However, women have generally participated in the political system without formal restriction in recent years.⁶⁹ Syria has no legislation specifically prohibiting gender-based discrimination, and there are no avenues for complaint for women who have been denied political, social, cultural and economic rights.⁷⁰ The personal status of women is governed by Islamic law. Several civil laws have been reformed to create gender equality; however, many of these have not been put into force, since social conventions prevent it. Under criminal law, if a man and a woman separately commit the same criminal act of adultery, the woman's punishment will be double that of the man. Personal status law for Muslim women is governed by Sharia law, and is discriminatory in marriage, divorce and inheritance matters; church law governs personal status issues for Christians, in some cases banning divorce. Women are treated as full persons before the civil and criminal courts, which are secular. In Sharia courts, a woman's testimony is worth only half that of a man.⁷¹
- 3.10.4** Many women (primarily in rural areas) do not understand their legal rights, and so cede these rights in response to social pressures, particularly with respect to property rights. Opposition to increased women's rights arises mainly from Islamic fundamentalist groups, and also from conservative customs and cultural attitudes that relegate women to second place.⁷² These ingrained patriarchal values, combined with an authoritarian political system leave women vulnerable to gender-based violence, inside and outside the home. Domestic violence is common throughout Syria, but is not illegal. Spousal rape is excluded as an offence under the legal definition of rape.⁷³ Women are expected to uphold the honour of the family, and any failure to conform to social norms attracts adverse attention, often culminating in violence, murder and so-called 'honour killings'. In 2009, the Penal Code was amended to increase the penalty for 'honour killings', from one year to two years, but honour continues to be a mitigating factor in sentencing. It is estimated that approximately two hundred women are killed in 'honour killings' each year.⁷⁴
- 3.10.5** The (Catholic) Sisters of the Good Shepherd operate an emergency shelter and telephone hotline in Damascus for female victims of domestic violence. Shelter workers reported that the police were increasingly helpful in referring women to the shelter. There are at least four private shelters for female victims of domestic violence in Damascus.⁷⁵ In addition, the first shelter for trafficked women opened in Damascus in 2008. It is operated by a local NGO with support from the International Organisation for Migration and the Ministry of Social Affairs and Labour. It provides medical and psychological services in addition to legal assistance.⁷⁶

⁶⁶ COIS Report, section 22.1 [Syria September 2010](#)

⁶⁷ COIS Report, section 22.1-3 [Syria September 2010](#)

⁶⁸ COIS Report, section 22.17 [Syria September 2010](#)

⁶⁹ USSD Human Rights report: Section 3 [Syria 2010](#)

⁷⁰ COIS Report, section 22.6 [Syria September 2010](#)

⁷¹ COIS Report, section 22.7-13 [Syria September 2010](#)

⁷² Freedom House 2010: [Women's Rights survey](#)

⁷³ Freedom House 2010: [Women's Rights survey](#)

⁷⁴ Freedom House 2010: [Women's Rights survey](#)

⁷⁵ USSD Human Rights report: Section 6 [Syria 2010](#)

⁷⁶ Freedom House 2010: [Women's Rights survey](#)

3.10.6 The continuing civil unrest in Syria puts women at greater risk than before. The security forces have killed many hundreds of protesters. It is reported that security forces deliberately targeted rescuers and medical workers who were attempting to take away the dead and injured. During the siege of Daraa earlier in the spring of 2011, people who were leaving their houses to obtain essential supplies, and also bystanders were shot and killed by security forces. These have included women and children on many occasions.⁷⁷ Journalists have been targeted by the security forces, and this includes several female journalists who have been subjected to arbitrary arrest, kidnap, detention and torture.⁷⁸

3.10.7 See also:

[Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.10.8 Conclusion. The authorities have made some steps towards promoting gender equality by appointing women to senior positions and providing equal access to education, but a large number of discriminatory laws remain in force. State protection is available to women in Syria; however, impunity within the police force remains a serious problem, and societal and family pressures are likely to prevent the majority of women from approaching the State for protection. The current situation of worsening civil unrest, with the continuing brutality of the police and security services, further reduces the likelihood of the state authorities being willing or able to provide protection. Where it is accepted in individual cases that the authorities are unwilling or unable to provide protection, and internal relocation is also not viable in the individual circumstances, a grant of asylum or Humanitarian Protection will be appropriate.

3.11 Prison conditions

3.11.1 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.

3.11.2 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.

3.11.3 Consideration. Prison conditions are generally poor, and do not meet international standards for health and sanitation. Facilities generally lack proper ventilation and lighting, potable water and sufficient sleeping areas. Released prisoners frequently complain of sickness and injury due to inadequate conditions. The government did not permit visits by independent human rights observers during 2010. The government prohibited independent monitoring of prison and detention centre conditions, and also the publication of any documents on conditions in such establishments.⁷⁹

3.11.4 Prisoners have the right to complain about ill treatment and prison conditions; however the authorities rarely investigated such complaints. There is reportedly no available ombudsman to advocate on behalf of prisoners and detainees. Severe overcrowding at some prisoners forces prisoners to sleep on the floor, and prison officials reportedly withheld food to punish prisoners.⁸⁰ According to local and international human rights organisations, the government held prisoners and detainees without adequate basic and emergency medical care. There were reports of prisoners being beaten by other prisoners,

⁷⁷ Human Rights Watch: "[We've Never Seen Such Horror](#)"

⁷⁸ Reporters sans Frontières [Syria Government announces schizophrenic media laws](#)

⁷⁹ USSD Human Rights report: [Syria 2010](#)

⁸⁰ USSD Human Rights report: [Syria 2010](#)

while guards stood by, watching. The government did not provide statistics on the numbers of prisoners or detainees in the country. Human rights observers estimated that there were between 2,500 and 3,000 political detainees in 2010, over half of whom were in Sednaya Prison.⁸¹

- 3.11.5** There are separate detention facilities for men, women and children. The government reportedly did sometimes hold minors in adult facilities. Pre-trial detainees, particularly those held for political or security reasons were usually held separately from convicted prisoners. However, according to local human rights organisations, political prisoners were sometimes deliberately placed in crowded cells with convicted and alleged criminals and subjected to verbal and physical threats.⁸² Facilities for political or national security prisoners, especially Islamists, are generally much worse than for common criminals. Each branch of the four security services operates its own detention centres; most cases of reported torture occurred in these facilities, according to local human rights organisations.⁸³
- 3.11.6** The law and constitution (under Article 28) prohibits torture and other cruel, inhuman or degrading treatment or punishment but that provision is worthless and security forces continue to use torture routinely. Former prisoners, detainees and reputable local human rights groups reported that torture methods include: electrical shocks; pulling out fingernails; burning genitalia; forcing objects into the rectum; beating victims whilst suspended from the ceiling; hyper-extending the spine; using a backward-bending chair to fracture the spine, and stripping prisoners naked for public view. In previous years, Amnesty International (AI) documented 38 types of torture used against detainees in the country. AI reported that torture was most likely to occur at detention centres operated by the security forces. Courts systematically used “confessions” extracted under duress as evidence, and defendants’ claims of torture were almost never investigated.⁸⁴ Violence against women is prevalent in Syrian society, and the mistreatment of female prison detainees has included cases of rape and violence.⁸⁵
- 3.11.7** Since the beginning of anti-government protests in March 2011, the security forces have killed hundreds of protesters and arbitrarily arrested thousands, subjecting many of them to brutal torture in detention. According to the Human Rights Watch report “*We’ve never seen such horror*” it is believed the security forces detained hundreds of people every day. Some of them were released several days or weeks later, but many have not reappeared and in most cases the families have had no information on their fate.⁸⁶ However, the independent monitoring of prison or detention centre conditions and the publication of any materials on the prevailing conditions is prohibited by the government. Limited access by diplomatic and consular officials was permitted in some individual cases during 2010.⁸⁷
- 3.11.8** Syria maintains the death penalty for certain crimes, although this sentence is sometimes commuted to life imprisonment. Capital crimes are: treason, murder, political acts such as bearing arms against Syria in the ranks of the enemy, desertion of the armed forces to the ranks of the enemy, acts of incitement under martial law or in wartime, violent robbery, drug trafficking, rape, verbal opposition to the government, and membership of the Muslim Brotherhood. In practice, the death penalty is most often applied to charges relating to membership of the Muslim Brotherhood and other Islamic political groups, membership of other banned political groups opposing the government, and to membership of Syrian Kurdish political groups.⁸⁸ During 2010 the Supreme State Security Court sentenced more than 100 citizens to punishments ranging from 3 years to execution for charges relating to

⁸¹ USSD Human Rights report: [Syria 2010](#)

⁸² USSD Human Rights report: [Syria 2010](#)

⁸³ USSD Human Rights report: [Syria 2010](#)

⁸⁴ USSD Human Rights report: [Syria 2010](#)

⁸⁵ Freedom House 2010: [Women's Rights survey](#)

⁸⁶ Human Rights Watch Report: [We've never seen such horror - Syria 2011](#)

⁸⁷ USSD Human Rights report: [Syria 2010](#)

⁸⁸ COIS Report, section 14 [Syria September 2010](#)

membership of banned political groups. However, all death sentences were commuted to imprisonment of 12-15 years.⁸⁹

- 3.11.9 Conclusion** Prison conditions in Syria are generally poor, with overcrowding and the absence of medical facilities being particular problems. Deprivation of food, lack of independent scrutiny, and severe physical abuse are also a cause for concern. Conditions for ordinary, non-political prisoners are 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 there is a lack of current, objective information to reflect actual conditions in Syrian prisons. The asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.
- 3.11.10** Where applicants can demonstrate a real risk of imprisonment on return to Syria a grant of Humanitarian Protection may be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.
- 3.11.11** Prison conditions in Syria for political prisoners are severe, and taking into account the torture and absence of adequate medical care, conditions for such individuals in prisons and detention centres in Syria are likely to reach the Article 3 threshold. The anti-government protests that have been occurring since March 2011 have further increased the risk of severe ill-treatment in prisons and detention centres. A grant of asylum will be appropriate where individual applicants are able to demonstrate a real risk of imprisonment as a political prisoner on return to Syria.
- 3.11.12** For further information on dealing with applicants with a political profile, please refer to section 3.7. Depending on the level and type of political activities the applicant has participated in, case owners may need to consider whether one of the Exclusion clauses applies. Case owners should refer such cases to a Senior Caseworker in the first instance.

4. Discretionary Leave

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.
- 4.2** With particular reference to Syria the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.
- 4.3 Minors claiming in their own right**
- 4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Syria. Those who cannot be returned should, if they do not qualify for leave on

⁸⁹ USSD Human Rights report: [Syria 2010](#)

any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

- 4.4.1** Applicants may claim they cannot return to Syria due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** The Syrian Arab Republic is a middle-income country with a population of 22.5 million, 55% of whom live in urban areas. Rapid economic growth in recent years has not been accompanied by adequate levels of job creation, and unemployment, particularly amongst youth, is high. The total expenditure on health as a percentage of GDP was 3.2% in 2008.⁹⁰ The overall average life expectancy is 74.5 years.⁹¹
- 4.4.3** There were no reports of violence or discrimination towards persons with HIV/AIDS in 2010. Human rights activists believe the extent of the problem in Syria is widely underreported.⁹² Syria has a low-level concentrated HIV epidemic, though infection rates have increased in recent years. ARV treatment is provided free of charge, and is available to all patients in need of medication, although the variety of drugs is limited to a combination of two, with no alternatives in case of intolerance or resistance. The number of physicians specialising in HIV care and management is small, partly due to the relatively small number of people living with HIV/AIDS in Syria. A Ministry of Health Regulation (no 38) passed in 1997 specifically states that the civil rights of all Syrian citizens infected with HIV are protected, including their rights of access to medical care, social care, education and employment. However, recent studies with people living with HIV indicated a continuing concern over these rights, especially those pertaining to job opportunities, and obtaining medical treatment.⁹³
- 4.4.4** There is limited information on the availability and quality of psychiatric health care in Syria. However, actual treatment of severe mental disorder is available at the primary level. Regular training of primary care mental health professionals is carried out, but there are reportedly no community care facilities for patients with mental disorders. The main psychiatric hospital, the Ibn Sina Psychiatric Hospital in Damascus, has 800 beds treating 600 male patients and 200 female patients, distributed over 18 wards. Of these, 100 are under legal confinement. Treatment regimes are mainly based on the use of psychoactive drugs, and rehabilitation via work, social and artistic activities.⁹⁴
- 4.4.5** The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making 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.

5. Returns

- 5.1** There is no policy which precludes the enforced return to Syria of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 5.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-

⁹⁰ Global Extension of Social Security: [Syria 2010](#)

⁹¹ World Health Rankings: [Health Profile: Syria 2010](#)

⁹² USSD Human Rights report: [Syria 2010](#)

⁹³ COIS Report, section 25.12 [Syria September 2010](#)

⁹⁴ COIS Report, section 25.14 [Syria September 2010](#)

368 of the Immigration Rules.

- 5.3** Syrian nationals may return voluntarily to any region of Syria at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration Service, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.
- 5.4** The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Syria. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Syrian nationals wishing to avail themselves of this opportunity for assisted return to Syria should be put in contact with Refugee Action. Details can be found on Refugee Action's web site at:

www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx

Country Specific Litigation Team
Immigration Group
UK Border Agency
10 November 2011