



OPERATIONAL GUIDANCE NOTE

Yemen

CONTENTS

1. Introduction	1.1 – 1.
2. Country assessment	2.1 – 2.
3. Main categories of claims	3.1 – 3.5
Blood feuds	3.6
Women	3.7
Opposition Activists	3.8
Jews	3.9
Prison conditions	3.10
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
6. List of source documents	

1. Introduction

- 1.1 This document summarises the general, political and human rights situation in Yemen and provides information on the nature and handling of claims frequently received from nationals/residents of that country. It must be read in conjunction with any COI Service Yemen Country of Origin Information at:

http://www.homeoffice.gov.uk/rds/country_reports.html

- 1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
 API on Humanitarian Protection
 API on Discretionary Leave
 API on the European Convention on Human Rights
 API on Article 8 ECHR

- 1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims. 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 API on Article 8 ECHR.

Source documents

- 1.5 A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** Yemen has been a republic since 1978, and has a population of approximately 21 million. The law provides that the president be elected by popular vote from among at least two candidates endorsed by parliament. A 2001 referendum extended the president's term from five to seven years allowing President Saleh, who has been president of the unified Republic of Yemen since 1990, to remain in office, subject to re-election in 2006, until 2013. The prime minister is appointed by the president and as head of government, in consultation with the president, selects the Council of Ministers to assist in the duties of the executive branch. Although the country maintains a multiparty system, the General People's Congress (GPC) dominates the government. The bicameral legislature is composed of an elected 301-seat House of Representatives (Majlis al-Nuwaab) and an appointed 111-member Consultative Council (Majlis al-Shura). The 2003 parliamentary elections were considered to be generally free and fair; however, there were problems with underage voting, confiscation of ballot boxes, voter intimidation, and election-related violence.¹ Yemen's long-running President, Ali Abdullah Saleh, was re-elected on 23rd September 2006 to another seven-year term, gaining 77% of the vote according to state-run TV. It was the first time Mr Saleh had faced a serious challenge since coming to power 28 years ago.²
- 2.2** The government generally respected human rights in some areas; however, its record remained poor in other areas such as poor prison conditions, limited freedom of association, religion, government corruption and lack of transparency and discrimination against women. The government and unidentified parties usually associated with the government or security forces intensified harassment of journalists and political critics in 2005.³ The Yemenis did, however, create a new position of Minister of Human Rights in April 2001 and has established a full Ministry. The current Minister is Dr. Khadija Al-Hysami.⁴
- 2.3** In March 2005 the government resorted to military force after an armed rebellion in the northern governorate of Saada resumed. The rebellion was led by the "Shabab al-Moumineen" (The Believing Youth), a movement that follows the teachings of Shiite cleric Hussein Badr Eddine al-Houthi, who was killed by security forces in September 2004. The government confirmed that 500 troops were killed; however, press reports estimated that approximately 500 troops and "hundreds" of rebels were killed during the fighting. Some al-Houthi supporters captured during the first and second conflict remained in detention or were prosecuted at year's end. Intermittent clashes between rebels and government troops in the north continued.⁵
- 2.4** Tribal violence resulted in a number of killings and other abuses in 2005, and the government's ability to control tribal elements remained limited. However in several cases long-standing tribal disputes were resolved through government-supported mediation by nongovernmental actors. In 2005 there were no reports of politically motivated disappearances; however there were some reports of tribal kidnappings, traditionally committed to attract government attention to a particular grievance.⁶
- 2.5** The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment however members of the Political Security Office (PSO) and Ministry of Interior (MOI) police forces tortured and abused persons in detention in 2005. Authorities used force during interrogations, especially against those arrested for violent crimes. Although penal law

¹ USSD Yemen 2005 Introduction

² BBC News September 2006

³ USSD Yemen 2005 Introduction

⁴ FCO Yemen Country Profile 21 September 2006

⁵ USSD Yemen 2005 Section 1

⁶ USSD Yemen 2005 Section 1

permits amputations and physical punishment such as flogging for some crimes, which the government maintains is in accordance with Shari'a (Islamic law), there were no reports of amputations or floggings during 2005.⁷

- 2.6** The government acknowledged in 2005 that torture occurred; however, it claimed that torture was not official policy. In 2004 and 2005 journalists, government, and human rights nongovernmental organization (NGO) officials reported that both instances and severity of torture in MOI prisons declined. In cases where there was torture, illiteracy, lack of training among police, corruption, and pressure from superiors to produce convictions usually played a role.⁸
- 2.7** The law provides for an "autonomous" judiciary and independent judges; however, the judiciary was weak and severely hampered by corruption and executive branch interference in 2005. The executive branch appoints judges, removable at the executive's discretion. There were reports that some judges were harassed, reassigned, or removed from office following rulings against the government. Many litigants maintained, and the government acknowledged, that a judge's social ties and occasional bribery influenced the verdict more than the law or the facts. Many judges were poorly trained; some were closely associated with the government. The judiciary was hampered further by the government's frequent reluctance to enforce judgments. Tribal members at times threatened and harassed members of the judiciary.⁹
- 2.8** Yemen remains the poorest country in the Middle East.¹⁰

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Yemen. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. 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 API's, 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 claimant 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 API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant 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** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

⁷ USSD Yemen 2005 Section 1

⁸ USSD Yemen 2005 Section 1

⁹ USSD Yemen 2005 Section 1

¹⁰ FCO Yemen Country Profile 21 September 2006

3.5 All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Blood Feuds

3.6.1 Some claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of non-state agents due to blood feuds.

3.6.2 Treatment.

3.6.3 Tribal violence continued to be a problem during 2005, and the government's ability to control tribal elements responsible for acts of violence remained limited. Tensions over land or sovereignty in particular regions, which periodically escalated into violent confrontations, continued between the government and a few tribes.¹¹

3.6.4 The Yemeni Observatory for Human Rights harshly criticised the state of local human rights in its 2005 report, particularly in regard to local vendettas and illegal detentions. The report registered 3,320 deaths as a result of deliberate acts of revenge between 2002 and 2005.¹²

3.6.5 Sufficiency of protection. The primary state security and intelligence gathering apparatus is the Political Security Office (PSO), which reports directly to the president. The newer National Security Bureau (NSB) also reports directly to the president's office. Many of its duties by the end of 2005 were still not clearly delineated and appeared to overlap with the PSO. The police Criminal Investigative Department (CID) reports to the Ministry of Interior (MOI) and conducts most criminal investigations and arrests. The Central Security Organization (CSO), also a part of the MOI, maintains a paramilitary force. Corruption was a problem in 2005, and there were no government investigations of police corruption during 2005. There were reports in 2005 that some police stations maintained an "internal affairs" section commissioned to investigate abuses, and that any citizen has the right to raise an abuse case with the prosecutor's office commissioned to investigate cases. Enforcement of the law and effective investigations were irregular due to weak government power in tribal areas and lack of resources.¹³

3.6.6 In several cases long-standing tribal disputes were resolved through government-supported mediation by nongovernmental actors.¹⁴ However, although the Yemeni authorities are willing to offer sufficiency of protection a lack of resources and weakness in government power in tribal areas means that in practice their ability to provide sufficient protection is limited, therefore sufficiency of protection may not always be available.

3.6.7 Internal relocation. The law provides for freedom of movement, and the government respected this with some restrictions. The government limited the movement of women, foreigners, and tourists. The two latter groups were required to obtain government permission before leaving the country.¹⁵ Male relatives are expected to accompany women when travelling; however, enforcement of this requirement was not consistent in. Some women reported being able to travel freely without male accompaniment.¹⁶ In practice, the government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads in 2005.¹⁷ In certain areas armed tribesmen

¹¹ USSD Yemen 2005 Section 5

¹² IRIN Middles East

¹³ USSD Yemen 2005 Section 1

¹⁴ USSD Yemen 2005 Section 1

¹⁵ USSD Yemen 2005 Section 2

¹⁶ USSD Yemen 2005 Section 5

¹⁷ USSD Yemen 2005 Section 2

occasionally either manned their own checkpoints or operated alongside military or security officials and subjected travellers to physical harassment, extortion, or theft.¹⁸

3.6.8 Although not required by law, women customarily were asked if they had permission from a male relative before applying for a passport or leaving the country. One women's rights NGO asserted in 2005 that women were barred from leaving the country upon a husband's or male relative's request and that this requirement was strictly enforced when women travelled with children. During 2005 there were several reports of women who were turned away at the airport because they did not have the permission of or were unaccompanied by a male relative.¹⁹

3.6.9 Generally there is freedom of movement throughout Yemen; it is unlikely that internal relocation would be unduly harsh for men, and women with male partners or relatives. However any internal travel restrictions for single unaccompanied women are inconsistently applied therefore in some cases single unaccompanied women may simply not be able to relocate internally and this would need to be assessed on an individual basis.

3.6.10 Caselaw.

Skenderaj [C/2001/1336 promulgated 26 April 2002] the Supreme Court of Judicature held that families involved in the Blood Feud were not a distinct social group and that the threat to Skenderaj was "a private matter." The critical factor in cases where a victim of non-state persecution is unwilling to seek state protection is not necessarily whether the state is able and willing to provide a sufficiency of protection to the *Horvath* standard, though in many cases it may be highly relevant to the victim's well-founded fear of persecution. The test is whether the potential victim's unwillingness to seek it flows from that fear.

3.6.11 Conclusion. Tribes within Yemen are important informal civil authorities that can invariably mediate and resolve a threat which will negate any element of fear the claimant had. Where tribal elders or the tribal structure can successfully mediate and subdue a particular conflict, it is likely that the threat of persecution will not materialise. The grant of asylum or Humanitarian Protection in such cases is unlikely to be appropriate. It is nevertheless possible that claimants unable to avail themselves of such tribal support will be able to demonstrate a continuing threat from a tribal dispute which could amount to persecution.

3.6.12 In general as outlined in the case of Skenderaj (see above) victims of a blood feud are unlikely to be members of a particular social group (PSG) and a grant of asylum will not usually be appropriate. In cases where there is no sufficiency of protection and internal relocation is not an option claimants may qualify for a grant of Humanitarian Protection. However, in line with the position of the UNHCR²⁰ there may be some individuals who because of the circumstances of their case may be considered to be a members of a PSG and where a grant of asylum may be appropriate. However, the majority of claimants from this category of claim will not qualify for either a grant of asylum or Humanitarian Protection as internal relocation is not generally considered unduly harsh.

3.7 Women fearing domestic violence

3.7.1 Some female claimants will apply for asylum or make a human rights claim based on the grounds that they are the victims of domestic violence and are unable to seek protection from the authorities.

3.7.2 Treatment. The law provides for equal rights and equal opportunity for all citizens; however, discrimination based on race, gender, and disability existed in 2005. Entrenched cultural attitudes often limited women's ability to enjoy equal rights.²¹ The law, social

¹⁸ USSD Yemen 2005 Section 2

¹⁹ USSD Yemen 2005 Section 2

²⁰ UNHCR position paper blood feuds (March 2006)

²¹ USSD Yemen 2005 Section 5

custom, and Shari'a, as interpreted in the country, discriminated against women, particularly in domestic matters. For example, men were permitted to take as many as four wives, although very few did so. Husbands were also allowed to divorce their wives without justifying their action in court. A woman was also permitted to divorce; however, she usually had to provide a justification, such as her husband's nonsupport, impotence, or taking of a second wife without her consent. Laws mandating that a wife must obey her husband were abolished by presidential decree in 2004.²²

- 3.7.3** The government continued to support women's rights as exemplified by local law and the expansion of the public role of women. The government supported several NGO-sponsored conferences to increase the role of women in political life. There were a number of NGOs working for women's advancement, including: the Social Association for Productive Families, which promoted vocational development for women; the Women and Children's Department of the Center for Future Studies, which organized seminars and published studies on women and children; the Woman and Child Development Association, focused on health education and illiteracy; the Yemeni Council for Motherhood and Childhood, which provided micro credit and vocational training to women; and the Zahara Women's Association for Welfare, which conducted voter education and grassroots education in 2005.²³
- 3.7.4** *Sufficiency of protection.* The primary state security and intelligence gathering apparatus is the Political Security Office (PSO), which reports directly to the president. The newer National Security Bureau (NSB) also reports directly to the president's office. Many of its duties by the end of 2005 were still not clearly delineated and appeared to overlap with the PSO. The police Criminal Investigative Department (CID) reports to the Ministry of Interior (MOI) and conducts most criminal investigations and arrests. The Central Security Organization (CSO), also a part of the MOI, maintains a paramilitary force. Corruption was a problem in 2005, and there were no government investigations of police corruption during 2005. There were reports in 2005 that some police stations maintained an "internal affairs" section commissioned to investigate abuses, and that any citizen has the right to raise an abuse case with the prosecutor's office commissioned to investigate cases. Enforcement of the law and effective investigations were irregular due to weak government power in tribal areas and lack of resources.²⁴
- 3.7.5** The law provides for protection against violence against women; however, the provision was rarely enforced in 2005. Although spousal abuse occurred, it generally was undocumented. Violence against women and children was considered a family affair, and usually not reported to the police. Due to social norms and customs, an abused woman was expected to take her complaint to a male relative (rather than the authorities) to intercede on her behalf or provide her sanctuary if required. A small shelter for battered women in Aden assisted victims, and telephone hotlines operated with moderate success in Aden and Sana'a. The law criminalizes rape; however, it was a problem. The punishment for rape is imprisonment up to 15 years; however, it was seldom imposed.²⁵
- 3.7.6** The penal code allows leniency for persons guilty of committing a "crime against honour," a violent assault or killing committed against females for perceived immodest or defiant behaviour. Legal provisions regarding violence against women state that an accused man should be put to death for killing a woman. However, a husband who kills his wife and her lover may be fined or imprisoned for a term of one year or less.²⁶
- 3.7.7** There is a lack of legal procedures in place to prosecute perpetrators of domestic violence and individuals may not be able to access sufficiency of protection due to cultural constraints. Although the Yemeni authorities may be willing to offer sufficiency of protection

²² USSD Yemen 2005 Section 1

²³ USSD Yemen 2005 Section 5

²⁴ USSD Yemen 2005 Section 1

²⁵ USSD Yemen 2005 Section 5

²⁶ USSD Yemen 2005 Section 5

a lack of resources and weakness in government power in tribal areas means that in practice their ability to provide sufficient protection is limited, therefore sufficiency of protection may not always be available. Therefore it is unlikely that the authorities will generally be able to offer sufficiency of protection.

- 3.7.8 *Internal relocation.*** The law provides for freedom of movement, and the government respected this with some restrictions. The government limited the movement of women, foreigners, and tourists. The two latter groups were required to obtain government permission before leaving the country.²⁷ Male relatives are expected to accompany women when travelling; however, enforcement of this requirement was not consistent. Some women reported being able to travel freely without male accompaniment in 2005.²⁸ In practice, the government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads.²⁹ In certain areas armed tribesmen occasionally either manned their own checkpoints or operated alongside military or security officials and subjected travellers to physical harassment, extortion, or theft.³⁰
- 3.7.9** Although not required by law, women customarily were asked if they had permission from a male relative before applying for a passport or leaving the country in 2005. One women's rights NGO asserted in 2005 that women were barred from leaving the country upon a husband's or male relative's request and that this requirement was strictly enforced when women travelled with children. During 2005 there were several reports of women who were turned away at the airport because they did not have the permission of or were unaccompanied by a male relative.³¹
- 3.7.10** Generally there is freedom of movement throughout Yemen it is unlikely that internal relocation would be unduly harsh for women with male partners or relatives. However any internal travel restrictions for single unaccompanied women are inconsistently applied therefore in some cases single unaccompanied women may simply not be able to relocate internally and this would need to be assessed on an individual basis.
- 3.7.11 *Conclusion.*** Women in Yemen generally experience discrimination and in some cases spousal abuse. Yemen remains a patriarchal society and despite some advances in the general position of women they remain discriminated against both in terms of the law and tradition. The question of internal relocation will require consideration in light of the facts pertaining to each individual case. Both societal and familial pressures mean that most women are unlikely to approach the state for protection. It is not that the state authorities are unwilling to offer protection. Although the authorities may be willing to offer protection a lack of legal procedures and resources means that in practice their ability to provide sufficient protection is limited, therefore sufficiency of protection may not always be available. It is considered that women in Yemen do not form a particular social group as the lack of protection usually stems from the authorities general inability to protect its citizens, men or women, from harm. Therefore a grant of Humanitarian Protection will be appropriate for women facing persecution or treatment which breaches Article 3 where there is not a sufficiency of protection and internal relocation is not viable.

3.8 Opposition Activists

- 3.8.1** Some claimants will make an asylum or human rights claim based on ill treatment amounting to persecution at the hands of the state due to being active in opposition to the Government.
- 3.8.2 *Treatment.*** During 2005 the government arbitrarily arrested an increased number of persons with views critical of the government. On 15 May 2005, the government arrested

²⁷ USSD Yemen 2005 Section 2

²⁸ USSD Yemen 2005 Section 5

²⁹ USSD Yemen 2005 Section 2

³⁰ USSD Yemen 2005 Section 2

³¹ USSD Yemen 2005 Section 2

journalist and activist Abdul Rahim Mohsen, who founded an organization to advocate political reform. Mohsen was held incommunicado for three days before he was released and charged with possessing alcohol. By the end of 2005 Mohsen had still not been prosecuted on the charge.³²

- 3.8.3** The precise number of political prisoners, if any, was unclear, and human rights activists were unable to provide any specific data on political prisoners in 2005. Although most citizens were uninhibited in their private discussions of domestic and foreign policies, they generally were cautious in public, fearing harassment for criticism of the government. Newspaper journalists reported that government harassment, including threatening phone calls to them and their families, attacks on their homes, brief imprisonments, and personal surveillance intensified during 2005. Many journalists practiced self-censorship due to fear of government reprisal.³³
- 3.8.4** In May 2006 President Saleh pardoned two imams, Yahia Hussein al-Dailami, sentenced to death, and Muhammed Ahmad Miftah, sentenced to eight years' imprisonment. The two were originally convicted of establishing contacts with Iran for the purpose of harming the country. The two men publicly opposed the Government's action in Saada and formed the Sana'a Youth Organization, a Zaydi religious-based group that supported Houthism. Both men maintained that they only advocated peaceful dissent against government action in Saada.³⁴
- 3.8.5** Security forces continued to arbitrarily arrest and detain a number of persons with views critical of the government.³⁵
- 3.8.6** **Sufficiency of protection.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.8.7** **Internal relocation.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.8.8** **Conclusion.** Those who are seen to be actively opposed to the government in Yemen are likely to face harassment which in some cases might lead to ill-treatment amounting to persecution. High profile activists who have come to the attention of the authorities might face ill-treatment amounting to persecution. Where an individual claimant can demonstrate that they will face persecution a grant of asylum will be appropriate. However, those who have been involved in demonstrations but have no known political profile and are not known to the authorities are unlikely to come to the attention of the Yemeni authorities on return. Therefore the majority of claimants from this category of claim will not face ill-treatment or persecution and so would not qualify for asylum or Humanitarian Protection.
- 3.9** **Jews**
- 3.9.1** Some claimants will make an asylum or human rights claim based on ill treatment amounting to persecution at the hands of non state agents due to being Jewish.
- 3.9.2** The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, there were some restrictions. The Constitution declares that Islam is the state religion, and that Shari'a (Islamic law) is the source of all legislation. Muslims and followers of religions other than Islam are free to worship according to their beliefs; however, the Government prohibits conversion from Islam and proselytization of Muslims. Although relations among religions remained generally amicable and continued to contribute to religious freedom, there were some attacks on Jews.³⁶

³² USSD Yemen 2005 Section 1

³³ USSD Yemen 2005 Section 2

³⁴ USSD Yemen International Religious Freedom Report 2006. Section 2

³⁵ USSD Yemen 2005 Section 2

³⁶ USSD Yemen International Religious Freedom Report 2006. Introduction

- 3.9.3** During 2005 Jews faced some incidents of anti-Semitism. Jewish citizens reported being attacked by a number of students chanting anti-American and anti-Israel slogans. The students damaged their cars and kicked them. Jewish children in the town of Raida usually rode to school in a covered truck to protect them from stones. After the ruling party tried to put forward a Jewish parliamentary candidate, the General Election Committee adopted a policy barring all non-Muslims from running for parliament. The Jewish population has diminished significantly over the last 50 years from tens of thousands to a few hundred due to voluntary emigration.³⁷ Less than 500 Jews are scattered in the northern part of the country, primarily in the vicinity of Raida and Saada.³⁸
- 3.9.4** Most Jews actively participate in some form of formal religious service or ritual, although not always in a public place of worship.³⁹ The Government does not keep track of an individual's religious identity and there is no law that requires religious groups to register with the State. Throughout the country, Christian church and Jewish synagogue services are held regularly in private homes or facilities, such as schools, without harassment, and such facilities appear adequate to accommodate the small numbers involved.⁴⁰ On 23 April 2006, President Saleh met with a delegation of Yemeni Jews from the Amran governorate to discuss their concerns. According to official media, President Saleh also ordered "concerned bodies" to help ease their plight.⁴¹
- 3.9.5** **Sufficiency of protection.** The primary state security and intelligence gathering apparatus is the Political Security Office (PSO), which reports directly to the president. The newer National Security Bureau (NSB) also reports directly to the president's office. Many of its duties by the end of 2005 were still not clearly delineated and appeared to overlap with the PSO. The police Criminal Investigative Department (CID) reports to the Ministry of Interior (MOI) and conducts most criminal investigations and arrests. The Central Security Organization (CSO), also a part of the MOI, maintains a paramilitary force. Corruption was a problem in 2005, and there were no government investigations of police corruption during 2005. There were reports in 2005 that some police stations maintained an "internal affairs" section commissioned to investigate abuses, and that any citizen has the right to raise an abuse case with the prosecutor's office commissioned to investigate cases. Enforcement of the law and effective investigations were irregular due to weak government power in tribal areas and lack of resources.⁴²
- 3.9.6** Although the Yemeni authorities might be willing to offer sufficiency of protection a lack of resources and weakness in government power in tribal areas means that in practice their ability to provide sufficient protection is limited, therefore sufficiency of protection may not always be available.
- 3.9.7** **Internal relocation.** The law provides for freedom of movement, and the government respected this with some restrictions. The government limited the movement of women, foreigners, and tourists. The two latter groups were required to obtain government permission before leaving the country in 2005.⁴³ Male relatives are expected to accompany women when travelling; however, enforcement of this requirement was not consistent. Some women reported being able to travel freely without male accompaniment.⁴⁴ In practice, the government did not obstruct domestic travel; however, the army and security forces maintained checkpoints on major roads. In certain areas armed tribesmen

³⁷ USSD Yemen 2005 Section 2

³⁸ USSD Yemen International Religious Freedom Report 2006. Section 1

³⁹ USSD Yemen International Religious Freedom Report 2006. Section 1

⁴⁰ USSD Yemen International Religious Freedom Report 2006. Section 2

⁴¹ USSD Yemen International Religious Freedom Report 2006. Section 3

⁴² USSD Yemen 2005 Section 1

⁴³ USSD Yemen 2005 Section 2

⁴⁴ USSD Yemen 2005 Section 5

occasionally either manned their own checkpoints or operated alongside military or security officials and subjected travellers to physical harassment, extortion, or theft.⁴⁵

- 3.9.8** Although not required by law, women customarily were asked if they had permission from a male relative before applying for a passport or leaving the country. One women's rights NGO asserted in 2005 that women were barred from leaving the country upon a husband's or male relative's request and that this requirement was strictly enforced when women travelled with children. During 2005 there were several reports of women who were turned away at the airport because they did not have the permission of or were unaccompanied by a male relative.⁴⁶
- 3.9.9** Isolated attacks in recent years by anti-Jewish extremists have convinced most of the country's Jews to relocate to the town of Raida for safety and to sustain their community.⁴⁷
- 3.9.10** Generally there is freedom of movement throughout Yemen; it is unlikely that internal relocation would be unduly harsh for men, and women with male partners or relatives. Internal relocation for the Jewish population from isolated attacks to a Jewish community is not generally considered unduly harsh. However any internal travel restrictions for single unaccompanied women are inconsistently applied therefore in some cases single unaccompanied women may simply not be able to relocate internally and this would need to be assessed on an individual basis.
- 3.9.11 Conclusion.** In general the Jewish population within Yemen may face discrimination and harassment however this will not usually amount to persecution, therefore a grant of asylum would not be appropriate in the majority of cases. However if a claimant is able to establish a risk of ill treatment amounting to persecution and on their individual circumstances internal relocation is unduly harsh then a grant of asylum would be appropriate.

3.10 Prison conditions

- 3.10.1** Claimants may claim that they cannot return to Yemen due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Yemen are so poor as to amount to torture or inhuman treatment or punishment.
- 3.10.2** 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 claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.
- 3.10.3 Consideration.** Torture continued to remain a problem in PSO prisons in 2005, which were not monitored by other government agencies. There were credible reports pointing to a preferred use of nonphysical abuse, such as sleep deprivation, cold water, and threats of sexual assault, as the primary form of torture in PSO prisons. In October 2005 two former PSO prisoners reported being repeatedly tortured and made to sleep without blankets in cold cells while being held without charge. There were reports that the MOI's Criminal Investigative Department (CID) routinely used torture to obtain confessions. Defence attorneys and some human rights NGOs observed that most confessions introduced as evidence against defendants in criminal courts were obtained through torture. Government sources vehemently denied this.⁴⁸

⁴⁵ USSD Yemen 2005 Section 2

⁴⁶ USSD Yemen 2005 Section 2

⁴⁷ USSD Yemen International Religious Freedom Report 2006. Section 3

⁴⁸ USSD Yemen 2005 Section 1

- 3.10.4** Throughout 2005 the government took effective steps to curb torture in MOI prisons. From February 2005 to October 2005, the government, in conjunction with a national human rights NGO, the United Nations Development Program (UNDP), and the British government, trained over 340 MOI officers on the illegality of torture. Under the initiative, the same NGO printed and the government distributed a human rights guide for MOI officers. In the first week of July, 360 female officers completed similar training. The MOI, in conjunction with the Ministry of Human Rights (MHR), also intensified its monitoring of prison conditions around the country.⁴⁹
- 3.10.5** Although some observers noted improvements in MOI prison conditions in 2005, local and international observers reported that prison conditions, particularly in rural areas, remained poor and did not meet internationally recognized standards. Although the MHR and a number of NGOs were granted limited access to MOI prisons, the government severely limited access to PSO prisons by independent human rights observers.⁵⁰
- 3.10.6** Many prisons, particularly in rural areas, were still overcrowded in 2005 with poor sanitary conditions and inadequate food and health care. In some cases prison authorities exacted bribes from prisoners to obtain privileges or refused to release prisoners who completed their sentences until family members paid a bribe.⁵¹
- 3.10.7** Although women were held separately from men, and conditions were equally poor in women's prisons, their conditions differed in some respects. By custom, young children and babies born in prison were likely to be incarcerated along with their mothers. Local tradition requires male relatives of female prisoners to arrange their release; however, female prisoners regularly were held in jail past the expiration of their sentences because their male relatives refused to authorize their release due to the shame associated with their alleged behaviour.⁵²
- 3.10.8** In some rural and women's prisons, children were held with adults, and pretrial detainees were held with convicted prisoners. Security and political detainees generally were held in separate facilities operated by the PSO.⁵³
- 3.10.9** Unauthorized "private" prisons, in rural areas controlled by tribes, remained a problem in 2005. Tribal leaders misused the prison system by placing "problem" tribesmen in "private" jails, either to punish them for noncriminal indiscretions or to protect them from retaliation. At times such prisons were simply rooms in a tribal sheikh's house. Although senior government officials did not sanction these prisons, there were credible reports of the existence of private prisons in government installations. During 2005 the government stepped up efforts to close down unauthorized prisons with limited success.⁵⁴
- 3.10.10** The government spent approximately 2 million dollars (383 million Yemeni riyals) during 2005 to help MOI prisons meet international standards and to alleviate overcrowding. The government built new prisons in four governorates, refurbished or expanded six additional prisons, and increased funding to implement prisoner education programs throughout the country. The government also built halfway houses for juvenile offenders in Sana'a and Taiz.⁵⁵
- 3.10.11** Although limited access was granted to family members of PSO-held detainees, requests for access by parliamentarians and NGOs were routinely denied. Access to MOI prisons was at times permitted in 2005, although parliamentarians and NGOs complained that it was subject to several limitations.⁵⁶

⁴⁹ USSD Yemen 2005 Section 1

⁵⁰ USSD Yemen 2005 Section 1

⁵¹ USSD Yemen 2005 Section 1

⁵² USSD Yemen 2005 Section 1

⁵³ USSD Yemen 2005 Section 1

⁵⁴ USSD Yemen 2005 Section 1

⁵⁵ USSD Yemen 2005 Section 1

⁵⁶ USSD Yemen 2005 Section 1

3.10.12 Caselaw

[2003] UKIAT 00021 S (Yemen) 7 July 2003

Although prison conditions in Yemen are harsh we do not accept there is a real risk of inhumane or degrading treatment or punishment. Prison conditions in Yemen do not amount to a breach of Article 3 (para 12).

3.10.13 Conclusion. Whilst prison conditions in Yemen are poor with overcrowding and poor sanitary conditions being a particular problem, these conditions will not normally be sufficiently severe to meet the high Article 3 threshold. Similarly where the risk of imprisonment is for reason of one of the five Refugee Convention grounds, a grant of asylum will not be appropriate. In addition to these adverse conditions there are reports that officials act with impunity and regularly mistreat inmates. The information available does not suggest that particular groups of inmates are more at risk of such mistreatment than others. There is no evidence that the mistreatment is of such a systematic nature as to make removal a breach of Article 3 on these grounds.

3.10.14 Even where claimants can demonstrate a real risk of imprisonment on return to Yemen a grant of Humanitarian Protection will not generally 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.

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 API 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 API on Article 8 ECHR.
- 4.2** With particular reference to Yemen 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 API on Discretionary Leave and the API 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 they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.
- 4.4 Medical treatment**
- 4.4.1** Claimants may claim they cannot return to Yemen 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 health status of Yemen is poor. The health system in Yemen had been in a state of prolonged crisis due to long-term under-funding, poor management and a model poorly suited to the country's needs. Yemen adopted primary health care (PHC) in 1978, with the aim to cover the entire population by 2000. PHC coverage reaches only about 30% of the population in rural areas and 45% of the population overall. Besides the public health sector there is a significant and largely unregulated private health sector. Official and unofficial fees are charged for health services, and the frequent unavailability of drugs in public facilities sends patients to seek prescribed drugs in the private pharmaceutical sector. Low coverage of public services combined with user fees and widespread poverty pose significant barriers to equitable access across geographical areas and population groups.⁵⁷
- 4.4.3** There are approximately 8000 private health care entities in Yemen. 1800 of these are in Sana'a, including 34 private, general and specialty hospitals and more than 1750 clinics and pharmacies. Most public health facilities are short of basic equipment and need rehabilitation to live up to reasonable standards. However, in some parts of the country and in some health facilities the quality of service reaches far above the average.⁵⁸
- 4.4.4** United States Agency for International Development (USAID) renovates health clinics and other facilities, provides equipment and improves counselling services and community health education. During 2005, this included training more than 700 health workers in counselling and health education and distributing printed materials. Through mobile health teams, USAID brought health care services to over 20,000 people in remote areas of Yemen. In addition, USAID trains midwives and improves emergency obstetric and neonatal care in Yemen.⁵⁹
- 4.4.5** After being polio-free for almost a decade, Yemen saw an outbreak in the southwestern part of the country in April 2005. With the assistance of the World Health Organization, immediate intensive immunization campaigns have helped contain the disease. Although a case was discovered in February 2006. Alongside polio, malaria is considered another major health threat with 60 percent of Yemen's population at risk of the disease.⁶⁰
- 4.4.6** So far, Yemen has not been touched significantly by the AIDS pandemic, although data collection is regarded as poor. The MDG progress report notes that Yemen lacks the institutional capacity to support a sustained prevention campaign if the disease were to take hold.⁶¹
- 4.4.7** 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 caseworker considers that the circumstances of the individual claimant 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** 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

⁵⁷ Country Co-operation Strategy for WHO and The Republic of Yemen 2002 – 2007

⁵⁸ Country Co-operation Strategy for WHO and The Republic of Yemen 2002 – 2007

⁵⁹ USAID May 2006

⁶⁰ One World Yemen Guide August 2006

⁶¹ One World Yemen Guide August 2006

State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

- 5.2** Yemeni nationals may return voluntarily to any region of Yemen at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Yemen. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Yemen nationals wishing to avail themselves of this opportunity for assisted return to Yemen should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- US Department of State Country Report on Human Rights Practices in Yemen. Dated 8 March 2006 <http://www.state.gov/g/drl/rls/hrrpt/2005/61703.htm>
- US Department of State International Religious Freedom Report. Dated 8 November 2005 <http://www.state.gov/g/drl/rls/irf/2005/51614.htm>
- US Department of State International Religious Freedom Report. Dated 15 September 2006 <http://www.state.gov/g/drl/rls/irf/2006/71436.htm>
- IRIN News. Middle East: Weekly round up of Human Rights violations. Dated 13 July 2006. http://www.irinnews.org/report.asp?ReportID=54582&SelectRegion=Middle_East&SelectCountry=MIDDLE_EAST
- UNHCR position on claims for refugee status under the 1951 Convention relating to the Status of Refugees based on a fear of persecution due to an individual's membership of a family or clan engaged in a blood feud. Dated 17 March 2006 <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=RSDLEGAL&id=44201a574>
- World Health Organisation. Country Co-operation Strategy for WHO and The Republic of Yemen 2002 – 2007. http://gfi02.dmz/77869124/246673448T060829114529.txt.binXMysM0dapplication/pdfXsysM0dhttp://www.who.int/countries/en/cooperation_strategy_yem_en.pdf
- USAID. Asia and the Middle East. Dated 22 May 2006 http://www.usaid.gov/locations/asia_near_east/countries/yemen/
- The Foreign and Commonwealth Office Country Profile –Yemen. Dated 21 September 2006 <http://www.fco.gov.uk/servlet/Servlet?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019829189485>
- One World Yemen Guide Dated 29 August 2006 <http://uk.oneworld.net/guides/yemen/Health>
- BBC News. Yemeni Leader wins by landslide. 23 September 2006 http://news.bbc.co.uk/1/hi/world/middle_east/5374606.stm