

OPERATIONAL GUIDANCE NOTE

SYRIA

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1. Introduction

1.1 This document evaluates the general, political and human rights situation in Syria and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, 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 This guidance must also be read in conjunction with any COI Service Syria Country of Origin Information published on the Horizon intranet site. The material is also published externally on the Home Office internet site at:

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

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, caseowners 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.

Source documents

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

2. Country assessment

- 2.1** In 1963 the Alawite-controlled pan-Arab Ba'ath (Renaissance) party took control of Syria. It still rules the country today headed by President Dr Bashar al-Asad.¹ President Asad has reiterated his desire for Syrian modernisation and implemented the first tentative steps towards economic and social reform, but progress is slow. There were some indications of political reform: political discussion groups, for example, were allowed to meet but freedom of expression and association is limited.²
- 2.2** Until relatively recently the media situation in Syria had been stagnant with only 4 official newspapers, 2 official TV stations, an official satellite station and a smattering of private economic magazines. However, on 12 March 2006 the Minister of Information, Mohsen Bilal inaugurated a "media city" near the airport, aimed at attracting foreign media companies including internet magazines and satellite channels. Any media organisation set-up in the "media city" would be regulated as a foreign organisation and may be under slightly less restrictions than local outlets outside of the "city". There has also been a blossoming of new, private media outlets. The Minister of Information has reportedly signed licences for 130 new private media organisations: including two new "independent" political dailies, Al Baladana and Al Watan, two private TV channels and Al Cham. There are also 4 private radio stations, Al Ghad, al-Medina, Al-Arabiya and Arabesque. More independent news internet-sites have been set-up and seem to be operating with little state blocking of their sites. All continue to be restricted by the Syrian publications Law which is awaiting reform. Redlines in media coverage remain including criticism of senior state officials, sectarianism and criticism of Syria's foreign policy.³
- 2.3** In June 2005 Syria's ruling Ba'ath party voted to ease a State of Emergency that has been in force for more than 40 years to only apply to "crimes that threatened the state security."⁴
- 2.4** The Constitution guarantees the independence of the judiciary; however the courts were subject to political interference in 2005⁵ and 2006.⁶ The Syrian judiciary is divided into secular and religious courts. Secular courts under the jurisdiction of the ministry of justice hear both civil and criminal cases. Separate religious courts deal with matters of personal status, family, and inheritance. While spiritual courts handle marriage, divorce, and custody cases for Druze and non-Muslims, the Shari'a court administers all other family law cases for Syrian citizens. A number of other courts with specialized jurisdictions include the Court of Juvenile Offenders, Court of Customs, Court of Labour Conflict, and the Military Courts. The Supreme State Security Court (SSSC) hears political and national security cases, operating under the provisions of the 1963 Emergency Law – its verdicts are not subject to judicial appeal.⁷ Neither male nor female citizens prosecuted within this system enjoy constitutionally guaranteed rights to a fair trial.⁸
- 2.5** The government's human rights record remained poor in 2006, and it continued to commit serious abuses. There were significant limitations on citizens' rights to change their government and reports that members of the security forces tortured and physically abused prisoners and detainees. Security forces arbitrarily arrested and detained individuals, while lengthy pretrial and incommunicado detention remained serious problems. Beginning in April 2005 and continuing throughout 2006, the government increasingly violated citizens' privacy rights and stepped up already significant restrictions on freedoms of speech, press, assembly, and association. Violence and societal discrimination continued against women and the government discriminated against minorities, particularly the Kurds.⁹

¹ Canadian IRB, Dec 2001, p1

² FCO, Country Profile, January 2007 2006

³ FCO Syria Desk Officer Information, November 2006

⁴ BBC June 2005

⁵ COIS Report February 2007 Section 10

⁶ FCO Syria Desk Officer Information, November 2006

⁷ COIS Report February 2007 Section 10

⁸ Syria by Catherine Bellafronto, 2004, p277

⁹ USSD 2006, Introduction

- 2.6** Although there has been a slight improvement under President Bashar al-Asad, concerns still remain about the detention and treatment of political prisoners in Syria. Local human rights groups have no legal existence in Syria. A few are tolerated, but they operate in a grey zone. Amnesty International was allowed to visit Syria in January 2006, the first time since 1997.¹⁰
- 2.7** The authorities also continued in 2005 to deny activists – as well as leaders of opposition groups – permission to travel abroad.¹¹ The Syrian Human Rights Committee confirmed that the list of those denied the right to travel abroad for political reasons encompasses the names of tens of thousands of citizens comprising mostly of those released from the country's prisons, but also including political opponents and the relatives of many of these opponents, a number of human rights and civil society activists, as well as members of other parties and groups. Accompanying the prevention of travel is the prohibition of obtaining a passport or exit clearance. Additionally, their names are kept at the borders to ensure they do not leave the country, and they are often called upon to appear at the security branches for questioning and interrogation.¹²
- 2.8** Most of Syria's ethnic minority groups are fully integrated into Syrian society, with the important exception of the stateless Kurds who mainly reside in the al-Jazira region. This group are not entitled to Syrian nationality and have no civil and political rights. The Tenth Baath Party Congress recommended that this issue be tackled. There has been some media reporting that negotiations are underway, but the reports have been sporadic and not from official sources. The legal status of resident Palestinians in Syria is almost identical to that of Syrian citizens, with the exception of the right to vote and restrictions on property.¹³
- 2.9** Syria acceded to the International Covenant on Civil and Political Rights on 23 March 1976, but has not signed the two additional protocols. It has also acceded to the International Covenant on Economic, Social and Cultural Rights (3 January 1976), the Convention on the Banning of all Forms of Racial Discrimination (21 May 1969), the Convention on the Elimination of All Forms of Discrimination Against Women (27 April 2003). Syria has also ratified the Convention on the Rights of the Child (ratification 14 August 1993) and the Optional Protocol to the Convention on the Rights of the Child (17 November 2003). On 19 August 2004, Syria signed the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁴
- 2.10** UN Security Council Resolution 1559, adopted on 2 September 2004, required all Syrian forces, including intelligence and security personnel, to withdraw from Lebanon; and for all Lebanese and non-Lebanese militias to be disarmed. Following the bombing in Beirut on 14 February 2005 that killed the former Lebanese Prime Minister Hariri along with 22 others, and injured over 200, there was increased international pressure on Syria to comply fully with the demands of UNSCR 1559. The UN Secretary General's Special Envoy Terje Roed-Larsen announced on 3 April 2005 that Syria had agreed to a total military and intelligence withdrawal from Lebanon by the end of April 2005. The UN confirmed that all Syrian troops had departed by the end of April 2005.¹⁵

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 Syria. It also contains any common claims that may raise issues covered by the Asylum Instruction 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

¹⁰ FCO, Country Profile, January 2007

¹¹ COIS Report February 2007 Section 16

¹² Syrian Human Rights Committee, June 2006, p34

¹³ FCO, Country Profile, January 2007

¹⁴ FCO, Country Profile, January 2007

¹⁵ FCO, Country Profile, January 2007

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 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 Asylum Instruction 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. Caseowners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the Asylum Instruction on Assessing the Claim)
- 3.5** 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.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Kurds**
- 3.6.1** Many claimants will make an asylum or human rights claim based on ill treatment amounting to persecution at the hands of the State due to their ethnicity.
- 3.6.2 *Treatment.*** It is estimated that Kurds made up approximately 8-15 percent of the 18 million inhabitants of Syria. In January 2006 it was estimated that Syrian Kurds numbered approximately 1.75 million.¹⁶ Decree No 93, issued in August 1962, ordered the holding of a census in Hasakeh province, in north-eastern Syria, for the purpose of identifying foreign nationals who had crossed the border from Turkey. Those not fulfilling any of the criteria were registered as foreigners.¹⁷ No reliable official records are available, but according to Amnesty and UNHCR it is estimated that there are now around 300,000 Kurds who are not entitled to Syrian nationality and therefore are denied accompanying rights of nationals.¹⁸ Roughly half the Kurdish population were located in the northeast – Hassakeh (Hasaka) and Jazeera (Jazira) – and in Afrin, Aleppo, Kubani and Kurd Dagh in the north to northwest. The other half were mostly to be found in the urban centres of Aleppo and Damascus.¹⁹ Syrian Kurds speak Kumanji Kurdish, although many are bilingual and those who have been living in Arabic-speaking areas for more than a generation normally speak Arabic.²⁰
- 3.6.3** Persons that participated in the August 1962 census but were unable to prove their entitlement to Syrian citizenship (or refused/were unable to pay large bribes to retain it) are known as Ajanib (foreigners) and were issued 'Red Cards', which state that they are not Syrian nationals and are not entitled to travel. Others who did not take part in the census, or

¹⁶ COIS Report February 2007 Section 18

¹⁷ Danish Immigration Fact Finding Report to Syria and Lebanon, 17-27 September 2001, p17

¹⁸ AI, March 2005

¹⁹ COIS Report February 2007 Section 18

²⁰ Danish Immigration Fact Finding Report to Syria and Lebanon, 17-27 September 2001, p11

who were unable to be registered at birth due to the lack of status of their parent(s), are known as Maktoumeen ('those who are muted') and have no identity document. These impact on Kurds' access to services such as health, education, ability to travel abroad, purchase property, and register businesses, cars, marriages and births. Ajanib and Maktoumeen are unable to access government health care and must pay for all health services. The children of Ajanib can access primary education but find it more difficult to access secondary and higher education whereas Maktoumeen children's education is very restricted with attendance at higher education practically impossible.²¹

- 3.6.4** Kurds suffer from identity-based discrimination, including restrictions placed upon the use of the Kurdish language and culture. In addition according to Amnesty International, large proportions (roughly 17%) of the Syrian Kurds are effectively stateless.²² However there have been, and still are, many Kurds in positions of power or influence in Syria and these are often cited by Syrian Arabs as evidence of Kurdish equality and immersion in the state. These Kurds tend to be urban and affluent, to speak Arabic rather than Kurmanji and to be reconciled to the 'Arabness' of their identity.²³
- 3.6.5** In terms of abuse or harassment by the Syrian authorities, the Kurds in Syria – both nationals and stateless, but particularly those involved in the struggle for their people's political and civil rights – have been under increasing pressure since the Qamishli riot of March 2004. The trouble began at a football match in Qamishli in the Jazira on 12 March 2004 when hostilities between Kurdish and Arab supporters ended with the security forces shooting dead at least seven Kurds. This was followed by further shootings at their funerals. Thousands demonstrated in Qamishli and in Kurdish areas across Syria – the Jazira, Afrin, Aleppo and Damascus. Some protests turned into riots, government and private property was ransacked and burned and a police station was attacked in Amude. The Syrian authorities reacted with brutality, beating, arresting and imprisoning large numbers of Kurds. The army moved into Kurdish regions in force, tanks and helicopters appeared in Qamishli and a week later calm was restored.²⁴
- 3.6.6** Despite the March 2005 release of some 312 Kurds arrested during March 2004's 'uprising', Kurdish dissent has continually flared up over the past two years. In March and May-June 2005 the arrest of approximately 40 and 60 Kurds were made at the Kurdish New Year celebrations (Newroz) and the funeral of Kurdish Sheikh Ma'shuq Khaznawi respectively²⁵.
- 3.6.7** The Syrian Government appeared to be making guarded attempts at conciliation with its large Kurdish minority, with President Bashar al-Assad admitting the existence of the Kurds in Syria when making an unprecedented visit to Jazeera, and the March 2005 Presidential pardon that led to the aforementioned prisoner releases. On the central issue of citizenship for the Ajanib and Maktoumeen, in recent years members of the Government have spoken of finding a solution, particularly since the Qamishli riots; most recently the President himself in his November 2005 address stated that he wished to solve the problem of nationality.²⁶ Shakib Hajou, a representative of the Kurdish Haderkan tribe from the Al-Hasakah district, said a 43-member delegation representing all the Kurdish tribes in Syria, met recently with Ba'ath Party official Muhammad Sa'id Bakhtian, and two other regional politicians in Damascus in early 2006. They discussed restoring citizenship to Kurds at the earliest possible opportunity. Bakhtian said an order will be issued within the next month granting citizenship to about 300,000 Kurds. It was unclear whether they will be granted

²¹ COIS Report February 2007 Section 18

²² AI, March 2005

²³ COIS Report February 2007 Section 18

²⁴ COIS Report February 2007 Section 18

²⁵ COIS Report February 2007 Section 18

²⁶ COIS Report February 2007 Section 18

gradually or at one time.²⁷ But other promises of a resolution to the plight of stateless Kurds have been made before and have failed to come to fruition.²⁸

- 3.6.8** In the last months of 2006 Amnesty International, Syrian Human Rights Committee, IRIN and Reporters sans Frontières all reported on the continued abuse of the Kurds at the hands of the Syrian authorities. Most of the harassment, which usually involved arrest and/or detention, appeared inspired by the actual or suspected political or civil activism on the part of those targeted by the security services.²⁹
- 3.6.9 *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.
- 3.6.10 *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.
- 3.6.11 *Caselaw***
AR [2006] UKAIT 00048 CG
 The Tribunal conclude that the deprivations experienced by Syrian Kurds are not such as to amount to persecution or breach of their human rights if returned to Syria. (Para 88)
 The Tribunal found 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. (Para 92)
- 3.6.12 *Conclusion.*** Generally Syrians of Kurdish ethnic origin may face some unequal treatment or discrimination but this will rarely amount to persecution. It will only do so when the individual has made public his opposition to the authorities for example through protests or participation in political parties that oppose the regime. A grant of asylum or Humanitarian Protection will only be applicable in cases where it can be demonstrated the level of discrimination reaches persecution. Therefore it is unlikely that non-political Kurds in this category would qualify for asylum or Humanitarian Protection and such claims are likely to be unfounded. For those that have demonstrated some opposition to the authorities please refer to the section on Political opposition to the Syrian Government.
- 3.6.13** For Kurds that claim statelessness it is worth bearing in mind that for discrimination to amount to persecution, measures must involve persistent and serious ill treatment without just cause. They must be of a substantially prejudicial nature and must affect a significant part of the individual's existence to the extent that it would make the individual's life intolerable if they were to return to the country in which they are likely to be persecuted. If there is evidence that a Kurd who is stateless has been treated to such a level they should be granted asylum.

3.7 Political opposition to the Syrian Government

- 3.7.1** 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 their political activity or affiliation.
- 3.7.2 *Treatment.*** The president and the Ba'ath Party suppressed political opposition. The constitution provides that the Ba'ath Party is the ruling party and ensures it a majority in all government and popular associations, such as workers' and women's groups. The Ba'ath Party and nine other smaller political parties comprise the National Progressive Front (NPF), originally established in 1971. The NPF represented the only framework for legal political party participation for citizens; however, the Ba'ath Party dominated it, and the one-party character of the political system remained. Other political parties of the NPF were satellites and conformed strictly to Ba'ath party and government policies.³⁰ Syrians do not

²⁷ Kurdish Media 2006

²⁸ COIS Report February 2007 Section 18

²⁹ COIS Report February 2007 Section 18

³⁰ COIS Report February 2007 Section 14

have the right to form opposition parties. All political parties must join the NPF and support the principles of socialism and Arab nationalism. The NPF is guaranteed 167 seats in the People's Assembly through a constitutional clause.³¹ The NPF comprises of the following political parties:

- al-Hizb al-Ba'th al-'Arabi al-Ishtiraki (Socialist Arab Rebirth Party)
- al-Hizb al-Quami al-Ijtima'i al-Suri (Syrian Social Nationalist Party)
- al-Hizb al-Shuyu'i al-Suri (Communist Party of Syria)
- al-Ittihad al-Ishtiraki al-'Arabi (Arab Socialist Unity)
- al-Wahdawiyyun al-Dimukatiyyun Al-Ijtima'iyyun (Social Democratic Unionists)
- al-Wahdawiyyun al-Ishtirakiyyun (Socialist Unionists)
- Harakat al-Ishtirakiyyun al-'Arabi (Arab Socialist Movement)³²

3.7.3 In June 2004 Syria's ruling Ba'ath Party decided to ban all unofficial political parties and groups which had to that point been tolerated.³³ Illegal parties or those in exile are:

- Party of Modernity and Democracy

Kurdish illegal parties/parties in exile are:

- Partîya Demokrata Kurdî li Sûrîyê / Al-Partî (Kurdish Democratic Party in Syria / The Party)
- Partîya Hevgirtina Gelê Kurd (Kurdish Popular Union Party in Syria)
- Partiya Yekîfî Demokrat a Kurdi li Sûrîyê (Kurdish Democratic Unity Party in Syria)
- Reform Party of Syria³⁴

In June 2005 Congress decided to allow new political parties to be formed, however it was expected that parties based on religion or ethnicity were likely to remain banned

3.7.4 The Annual Report on Human Rights 2006 from the Syrian Human Rights Committee noted that political activity is monopolised by the Ba'ath Party along with, on a limited level, the parties of the NPF who have given their allegiance to the Ba'ath. All political activity beyond that of these groups is prohibited; there exists either unauthorised groups who face extreme limitations, or groups and parties that the authorities continue to uproot and eradicate. The report documents numerous instances of arbitrary arrest during the period June 2005 to May 2006 as a result of suspicion by the authorities and the pressurising of regime opponents families.³⁵ Amnesty International confirmed that in 2005 hundreds of people were arrested for political reasons.³⁶ Examples of political "crimes" are given by Human Rights Watch in its 2006 report: Dr. Arif Dalila, a prominent economics professor and one of many imprisoned critics of the government, continues to serve a ten-year prison term imposed in July 2002 for his non-violent criticism of government policies. His health deteriorated sharply in 2006; reports indicate that he suffered a stroke.³⁷

3.7.5 Facilities for political or national security prisoners were generally worse than those for common criminals. Released political detainees have reported inadequate prison conditions, including overcrowded cells and a shortage of beds. The torture of political detainees was a common occurrence.³⁸ Please see 3.11 for information on prison conditions.

3.7.6 In a positive development, the Government released more than one hundred long-time political prisoners in 2004, bringing to more than seven hundred the number of such prisoners freed by President Bashar al-Asad since he came to power in June 2000.³⁹ In

³¹ Syria by Catherine Bellafronto, 2004, p287

³² Electionworld.org, 19 October 2004

³³ AFP, June 2004

³⁴ Electionworld.org, 19 October 2004

³⁵ Syrian Human Rights Committee, June 2006

³⁶ AI Country Report Syria 2005

³⁷ HRW, Syria Country Report, January 2007

³⁸ USSD 2006, section 1

³⁹ HRW, Syria Country Report, January 2005

March 2005, the government released 312 political prisoners. They included Muhannad al-Dibs and Muhammad `Arab, Damascus University students, whom the Supreme State Security Court (SSSC) had just sentenced to three years in jail for organizing a protest against the suspension of two Aleppo University students.⁴⁰ In November 2005 Syria freed 190 political prisoners, including two prominent human rights activists.⁴¹

- 3.7.7** Whilst recently there has been some tolerance of dissent in Syria, boundaries still exist. In Syria there are still lines most people don't cross. Two taboos, identified in a BBC article dated May 2005, are sectarian affairs and the President of the Republic. These are two red lines that nobody can cross. Mr Saleh, a writer, who spent 16 years in Syrian jails for opposing the regime stated that "No one is completely safe in Syria, but perhaps I can express my opinions and ideas more freely than at any other time before."⁴²
- 3.7.8** **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.
- 3.7.9** **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.
- 3.7.10** **Conclusion.** The Syrian Government is repressive of dissent and anti-regime behaviour is generally not allowed on any substantial scale within the country. If it is accepted that the claimant has been involved in either high or low level political activity opposing the Government and this has come to the attention of the authorities, there is a real risk they will encounter State-sponsored ill-treatment amounting to persecution within the terms of the 1951 Convention. This risk will be dependent on the nature of the dissent, how it was expressed, and whether we accept that the authorities are aware of the dissent. The grant of asylum in such cases is likely to be appropriate.

3.8 Women

- 3.8.1** 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 their gender.
- 3.8.2** **Treatment.** The law does not specifically prohibit domestic violence, and violence against women occurred during 2006. An April 2006 study funded by the UN Development Fund for Women (UNIFEM) and conducted by the state-run General Union of Women, reported that as many as one in four women surveyed in the country had been victims of violence. Local observers, however, pointed out discrepancies in the numbers and the wording of the report.⁴³
- 3.8.3** The penal code of 1949 affords women special protections from verbal and physical harassment and violence perpetrated by men however patriarchal social customs tend to tolerate a man hitting his wife, and women are often discouraged from reporting violence against themselves or their children.⁴⁴ A woman's family may intervene on her behalf by speaking to her abusive husband, but families will rarely tolerate the public attention of a legal suit and will most often encourage the woman to remain in the marriage.⁴⁵
- 3.8.4** The Syrian Penal Code covers violence against women, including the offence of rape. Rape is a felony; however, there are no laws against spousal rape. According to the law, 'the punishment for a man who rapes a woman (other than his wife) is at least 15 years in

⁴⁰ HRW, Syria Country Report, January 2006

⁴¹ BBC, 2 November 2005

⁴² BBC, 16 May 2005

⁴³ USSD 2006, section 5

⁴⁴ Syria by Catherine Bellafronto, 2004, p278, 282

⁴⁵ Syria by Catherine Bellafronto, 2004, p282

prison.' However, if the individual who commits the crime agrees to marry the victim, he faces no punishment. The victim's family sometimes agrees to this arrangement to avoid the social scandal and stigma attached to rape. If the victim is too young for marriage, the rapist receives a longer prison sentence. No statistics were kept on spousal rape because it is not a crime under the law.⁴⁶

- 3.8.5** The law specifically provides for reduced sentences in 'honour' crimes, which are violent assaults by a male against a female, usually a family member, with intent to kill for alleged sexual misconduct. No official statistics were kept on honour crimes. The UN Committee on the Elimination of the Discrimination against Women's (CEDAW's) August 2005 report states that the Syrian Commission for Family Affairs "... formed a committee of legal experts to study the Personal Status Act and draft a family law. Legal experts similarly studied the articles of the Penal Code relating to so-called 'honour crimes' and a draft for their amendment has been proposed.⁴⁷ According to a legal source that the Danish fact finding team consulted in 2001 honour killings occurred among both Christians and Muslims in Syria. In many instances, honour killings go unpunished, in part because judges in such cases have the power to pardon the offender. In addition, the source pointed out, the offender all too often proves able to produce witnesses to "corroborate" allegations that the offender's wife had sexual relations with another man. The source added that the media frequently portray honour killings as suicide.⁴⁸
- 3.8.6** Husbands and wives can claim adultery as grounds for divorce; however, criminal law discriminates against women in this regard. A man can only be accused of adultery if his actions occur in the home which he shares with his wife; a woman can be accused of adultery regardless of venue. Also, the court accepts any evidence a man presents when claiming adultery; if a woman attempts to file for divorce based on adultery, her husband must admit to the crime or there must be a third witness to the act. There were no reported cases where a woman successfully filed for divorce based on adultery. Under criminal law, if a man and woman separately commit the same criminal act of adultery, the woman's punishment is double that of the man's.⁴⁹
- 3.8.7** ***Sufficiency of protection.*** The vast majority of cases were likely unreported, and victims generally were reluctant to seek assistance outside the family. In some cases observers reported that the abused women tried to file a police report, but the police did not respond aggressively, if at all, to their claims. Women reported incidents at police stations of sexual harassment, verbal abuse, hair pulling, and slapping by police officers when attempting to file police reports, particularly at the Criminal Security branch at Bab Musallah in Damascus. Battered women have the legal right to seek redress in court, but few did so because of the social stigma attached to such action.⁵⁰ Women are treated as full persons in the civil and criminal court system. In the Shari'a court, however, a woman's testimony is considered to be worth only half that of a man. While there are no legal barriers to women's access to justice, social barriers prevent them from taking advantage of the judicial system to the same extent as men. For example women are discouraged from presenting their claims in police stations, which are largely staffed by male police officers, for fear of experiencing shame, discomfort, or sexual harassment.⁵¹
- 3.8.8** Victims of domestic violence have the legal right to seek redress in court, but few did so because of the social stigma attached to such action. The Syrian Women's Federation offered counselling services to battered wives to remedy individual family problems. The Syrian Family Planning Association also provided counselling. Some private groups, including the Family Planning Association, organized seminars on violence against women.

⁴⁶ COIS Report February 2007 Section 21

⁴⁷ COIS Report February 2007 Section 21

⁴⁸ Danish Fact Finding Report Syria, September 2001, p46 and IRIN News Syria: Popular campaign takes aim at "honour killings." November 2006

⁴⁹ COIS Report February 2007 Section 21

⁵⁰ COIS Report February 2007 Section 21

⁵¹ Syria by Catherine Bellafronto, 2004, p278

There was believed to be at least one private shelter specifically designated for battered women who fled from their husbands.⁵²

- 3.8.9** When considering access to State protection social, traditional, and familial issues pertaining to the women must be taken into account. There are mechanisms available in Syria to allow women facing ill-treatment or persecution to obtain protection or redress. However many women may be unable, or unwilling through fear, to access protection and where this is the case there will not be a sufficiency of protection for that particular individual.
- 3.8.10 *Internal relocation.*** Social pressure restricts many women from travelling or living alone.⁵³ There is no information indicating that married women are prevented from travelling within the country however social pressures may ensure that the woman herself restricts this. Internal relocation may be a viable option for women however factors such as the social and professional background of an individual claimant and her family support will be major considerations when determining relocation as an option.
- 3.8.11 *Conclusion.*** Syrian women balance growing opportunities in the public sphere with continuing social and legal restrictions in their private lives.⁵⁴ Syria 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. Sufficiency of protection will be dependent on the nature of fear, and where the persecution stems from. There are mechanisms for protection available to women in Syria, but it is due to both societal and familial pressures that most women are unlikely to approach the state for protection. It is not that the state authorities are unwilling or unable to offer protection. Where State protection is available, women are unlikely to qualify for asylum or Humanitarian Protection. However, in individual cases where internal relocation is not a viable option, a grant of asylum on grounds of membership of a particular social group may be appropriate if persecution is inflicted on women for reasons of their gender and the State authorities are unwilling or unable to intervene. If persecution is inflicted for other, non-Convention reasons, and the State's failure to intervene has nothing to do with the victim's gender, a grant of Humanitarian Protection would be appropriate if internal relocation is not a viable option.
- 3.9 Affiliation to the Muslim Brotherhood**
- 3.9.1** 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 their affiliation to the Muslim Brotherhood.
- 3.9.2 *Treatment.*** Law 49/1980, passed on 7 July 1980, which criminalised the act of joining or supporting the Muslim Brotherhood and instigated the death penalty as punishment for those convicted under this law.⁵⁵ Although the sentence is usually commuted to a 12 year prison term.⁵⁶ Despite doubts concerning the amount of support – particularly active support – within the country, according to a number of human rights organisations in 2005 Syria continued not only to hold thousands of Muslim Brothers in prison but also continued to convict large numbers in the Supreme State Security Court (SSSC) in recent years.⁵⁷
- 3.9.3** Once considered the most imminent threat to Syrian stability, the Syrian Muslim Brotherhood, formerly the largest Islamist opposition group, has been largely in exile since its defeat at the hands of the Asad regime in 1982, when Syrian forces attacked the

⁵² USSD 2006, section 5

⁵³ Syria by Catherine Bellafronto, 2004, p280

⁵⁴ Syria by Catherine Bellafronto, 2004, p278

⁵⁵ COIS Report February 2007 Section 14

⁵⁶ AI, 13 May 2005

⁵⁷ COIS Report February 2007 Section 14

Brotherhood's stronghold in the city of Hama and killed approximately 10,000 people. Since then, the government has attempted to co-opt the forces of political Islam by continuing to outlaw the Muslim Brotherhood and keep its activists in prison, while promoting Islam as a social force for national unification.⁵⁸

- 3.9.4** Since the election of Ali Sadr al-Din al-Bayanouni as general supervisor (*muraqib am*) in 1996, the brotherhood has negotiated on and off with the government (through intermediaries) in hopes of reaching an accommodation. These negotiations made some progress after the ascension of Bashar Assad, who released several hundred brotherhood members from prison, but the regime remained unwilling to grant Bayanouni's three core demands - a general amnesty that would free thousands of Brotherhood members still in detention, permission for all exiles to return home, and a lifting of the government's ban on the Brotherhood.⁵⁹
- 3.9.5** According to a Danish Fact Finding Mission in 2001 members or supporters of the Muslim Brotherhood risk arrest on the slightest suspicion of opposition activity, the regime being secular in nature and opposed to any kind of fundamentalism. The Muslim Brotherhood is seen as the only well organised opposition in Syria, which makes it a potential threat to the regime. Anyone openly expressing support for the Muslim Brotherhood would promptly be arrested, but would not be sentenced to death. In addition people risk being wrongfully accused of belonging to the Muslim Brotherhood, e.g. anyone who has expressed sympathy for the movement in private conversations. Moreover relatives or acquaintances of detainees also risk arrest.⁶⁰ Amnesty International noted that in 2004 and 2005, dozens of people suspected of being connected to the Muslim Brotherhood have been arrested upon their voluntary or forced return home from exile.⁶¹
- 3.9.6** Hundreds of cases per year were believed to pass through the Supreme State Security Court (SSSC) which is not independent of executive branch control. Many cases reportedly involved charges relating to membership in various banned political groups, including religious parties such as the Muslim Brotherhood, the Islamic Liberation Party, the Party of Communist Action, Syrian Kurdish Parties and the pro-Iraqi wing of the Ba'ath Party. Sentences as long as 15 years have been imposed in the past. Human rights NGOs were not permitted to visit the SSSC; however, local lawyers affiliated with local NGOs acted as defence counsel in some cases.⁶²
- 3.9.7** During the last months of 2006, SHRC and IRIN both reported on the sentencing to death of a man found guilty of membership of the Muslim Brotherhood under Law 49/1980; as is usually the case, his sentence was reduced to 12 years imprisonment.⁶³
- 3.9.8** **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.
- 3.9.9** **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.
- 3.9.10** **Conclusion.** Members of the Muslim Brotherhood or those who have a credible link to the Muslim Brotherhood, who are able to establish that their link will mean that they would be treated with extreme suspicion in Syria are likely to have a well-founded fear of persecution.

⁵⁸ COIS Report February 2007 Section 14

⁵⁹ COIS Report February 2007 Section 14

⁶⁰ Danish Fact Finding Report Syria, September 2001, p39-40 and Syrian Human Rights Committee, June 2006

⁶¹ AI, 12 August 2005, p2

⁶² USSD 2006, section 1

⁶³ COIS Report February 2007 Section 14

3.9.11 Caseowners should note that members of the Muslim Brotherhood have been responsible for organised attacks and terrorist campaigns against the Syrian authorities in the past which may amount to serious human rights abuses or war crimes and crimes against humanity. If it is accepted that the claimant was an active operational member or combatant for the Muslim Brotherhood and the evidence suggests that he/she has been involved in such actions, then caseowners should consider whether one of the Exclusion clauses is applicable. Caseowners should refer such cases to a Senior Caseworker in the first instance.

3.10 Returning failed asylum seekers

3.10.1 Some claimants 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.

3.10.2 *Treatment.* The law provides for the prosecution of any person attempting to seek refuge in another country or travel abroad illegally.⁶⁴ However the authorities are unlikely to try a failed Syrian asylum seeker on the basis of applying for asylum alone. Although it would not help their case if they were to be tried for some other crime. In addition the Syrian authorities would not automatically know an individual had applied for asylum in the UK.⁶⁵

3.10.3 *Sufficiency of protection.* As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.10.4 *Internal relocation.* As this category of applicants' 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.

3.10.5 *Caselaw.*

AR Syria CG [2006] UKAIT 00048

The Tribunal find that there is no evidence to indicate that the authorities would be aware that he has applied for asylum in the United Kingdom. Dr George's views on this were essentially speculative as to the ability of the security services in Syria monitoring the activities of Syrians in the United Kingdom. The evidence shows that the appellant would face no more than a risk of imprisonment potentially up to a period of three months. They do not consider that the evidence shows a real risk of ill-treatment giving rise to a breach of his protected rights on return in that regard. Accordingly the Tribunal do not consider that the risk factor with regard to this aspect of his claim is such as to place him at a real risk of persecution or breach of his human rights. The Tribunal see no reason to disagree with the earlier conclusions of the IAT in SY Syria CG [2005] UKIAT 00039. Para 92

SY CG [2005] UKIAT 00039

The Tribunal concluded that a person without political profile returning to Syria having left without authorisation is not a person who faces a real risk of persecution or breach of their human rights.

3.10.6 *Conclusion.* There is no evidence to suggest that individuals who have been absent from Syria for any period of time or who are returning failed asylum seekers are liable for adverse treatment by the authorities solely for these reasons. Moreover, there is no evidence that an application for asylum abroad, should the authorities become aware that one had been made, will in itself put a Syrian national at risk of state-sponsored ill-treatment amounting to persecution within the terms of the 1951 Convention. The grant of asylum or Humanitarian Protection in such cases is therefore not likely to be appropriate.

3.11 Prison conditions

3.11.1 Claimants 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 the Syria are so poor as to amount to torture or inhuman treatment or punishment.

⁶⁴ USSD 2006. Section 2

⁶⁵ FCO, letter dated 2 November 2004

- 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 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.
- 3.11.3 *Consideration.*** Prison conditions in 2005 generally were poor and did not meet international standards for health and sanitation. At some prisons security officials demanded bribes from family members. Overcrowding and the denial of food remained problems at several prisons. According to the Arab Organization for Human Rights (AOHR), Abdul Karim Dhaon, an official at the Ministry of Health, was arrested in May 2004 for allegedly writing a report about the unacceptable conditions at the prisons he supervised. Dhaon was released in December 2004, and his case was on appeal at year's end.⁶⁶ According to local and international human rights organisations prisoners and detainees were held without adequate medical care, and some prisoners with significant health problems reportedly were denied medical treatment. Some former detainees reported that the Government prohibited political prisoners from having access to reading materials, including the Koran.⁶⁷ Amnesty International in an article dated 12 August 2005 observed that scores of Syrians – notably human rights defenders and former political prisoners and prisoners of conscience – were prohibited from travelling abroad.⁶⁸
- 3.11.4** There were separate detention facilities for men, women, and children, however several reports in 2005 cited minors being held in adult facilities. Pretrial detainees, particularly those held for political or security reasons were usually held separately from convicted prisoners. Facilities for political or national security prisoners generally were worse than those for common criminals in 2006. Released political detainees confirmed reports of poor prison conditions, including overcrowded cells and a shortage of beds.⁶⁹
- 3.11.5** The government did not permit any independent monitoring of prison or detention centre conditions; however, diplomatic and consular officials were granted access in some cases.⁷⁰
- 3.11.6** During 2004, Human Rights Association of Syria (HRAS) reported numerous cases of security forces using torture on prisoners in custody. The torture of political detainees was a common occurrence. Torture was most likely to occur while detainees were being held at one of the many detention centres run by the various security services throughout the country, particularly while the authorities were attempting to extract a confession or information.⁷¹
- 3.11.7** In September 2005 Amnesty International reported that three young women were being held hostage by the authorities to put pressure on their husbands to give themselves up. They were held incommunicado, in solitary confinement in the tiny, filthy, underground cells known as "tombs" at the Military Intelligence Palestine Branch in the capital, Damascus, where they were at risk of torture and further ill-treatment. Two of them were pregnant, and the other had her young baby with her. The women were arrested when the security forces were unable to find their husbands, who were alleged to be involved with Jund al-Sham. They were released from detention towards the end of 2005.⁷² AI has reported that torture is widely used at the Palestine Branch and that "tomb" cells are infested with cockroaches and other insects, as well as rats, which walk over and sometimes bite prisoners. The

⁶⁶ COIS Report February 2007 Section 12

⁶⁷ USSD 2006, section 1

⁶⁸ AI, 12 August 2005, p2

⁶⁹ COIS Report February 2007 Section 12

⁷⁰ COIS Report February 2007 Section 12

⁷¹ USSD 2006, section 1

⁷² AI, 27 March 2006

underground cells are less than two metres high, less than two metres long and about one metre wide. Some prisoners are held there for years, often incommunicado and without charge.⁷³

- 3.11.8 Conclusion.** Whilst prison conditions in Syria are poor with overcrowding and the absence of medical facilities being particular problems, conditions for ordinary, non-political prisoners are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Syria 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.
- 3.11.9** Prison conditions in Syria for political prisoners are severe and taking into account torture and an absence of adequate medical care, conditions for such individuals in prisons and detention facilities in Syria are likely to reach the Article 3 threshold. Therefore a grant of asylum will be appropriate where individual claimants are able to demonstrate a real risk of imprisonment as a political prisoner on return to Syria. Please refer to section 3.9 when dealing with an applicant with a political profile. Dependant on the level and type of political activities the claimant has participated in, caseowners may need to consider whether one of the Exclusion clauses applies. Caseowners should refer such cases to a Senior Caseworker in the first instance.

4. Discretionary Leave

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instruction on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instruction 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 Instruction on Discretionary Leave and the Asylum Instruction 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 or support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception 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 or support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

⁷³ AI, 28 September 2005

- 4.4.1** Claimants 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 percentage of population with access to local health services was reported in 2004-2005 as 100 per cent in urban areas, and 90 per cent in rural areas.⁷⁴ According to the World Health Organisation (WHO) in 2001 the health system was based on primary health care and was delivered at three levels: village, district and provincial. At village level, there were rural health centres and health units. At district level, there were larger health centres including training facilities and specialised physicians. District health centres were staffed with at least one physician, one nurse, one public health technician. Some larger centres were additionally staffed with dentists, paediatricians, obstetricians, pharmacy technicians, laboratory technicians, midwives and health visitors. On average, there were 9.8 health workers per district health centre. A small district general hospital also existed in each district.⁷⁵
- 4.4.3** At provincial level, there were urban health centres staffed with specialised physicians and dentists in addition to various technicians. Among the services provided in health centres were immunisation, maternal and child health, family planning, control and prevention of communicable diseases, environmental control, preventive care for chronic non-communicable diseases, and health education. At the provincial level, there were also large general hospitals and specialised hospitals.⁷⁶
- 4.4.4** A mental health policy and a national mental health programme were both formulated in 2001; also present was mental health legislation concerning the admission and discharge of patients in Government psychiatric hospitals. The treatment of mental health problems was available at primary health care level in 2005.⁷⁷ For mental health patients there were 800 beds at Ibn Sina Hospital in Damascus distributed over 18 wards allotted for the treatment of 600 male patients and 200 female patients, out of whom 100 were under legal confinement. Treatment of such patients was mainly conducted through the use of psychoactive drugs, rehabilitation by work and other social and artistic activities. Ibn Khaldoun Hospital, in Aleppo, included 400 beds, 250 of which were for male patients and 150 for female patients, receiving more or less the same type of medical treatment used at Ibn Sina Hospital in Damascus.⁷⁸
- 4.4.5** Damascus included a psychiatric department providing therapeutic psychiatric services at the Ministry of Health Hospital of Ibn Al-Nafees; a teaching psychiatric department which provided similar services at Al-Moassat Hospital of Damascus University; as well as two more mental health departments providing such services at two military hospitals affiliated to military medical services. In addition to these hospitals, there were special foundations attached to the Ministry of Work and Social Affairs, which provided treatment and rehabilitation to the mentally handicapped and delinquents, under the supervision of licensed psychiatrists.⁷⁹
- 4.4.6** Around 250,000 HIV tests are performed annually in Syria, a large part of these mandatory. In 1999, 196,341 blood transfusion units were tested as well as 44,231 Syrians travellers seeking job opportunities abroad (mainly in the Arab Gulf countries.) Blood donation is mandatory and collected at least once in a lifetime from adults applying for driving licenses or entering public service, universities and the military. All foreigners applying for marriage licenses, residency or work are tested for HIV. Results of HIV testing of the various high and low risk groups are consistently below 0.5%. In results reported in 2001, only 12 (0.07%) of 16,401 high-risk individuals, including IDUs [intravenous drug users], MSM [men

⁷⁴ COIS Report February 2007 Section 24

⁷⁵ WHO Country profiles, 7 April 2001, p2

⁷⁶ WHO Country profiles, 7 April 2001, p2

⁷⁷ COIS Report February 2007 Section 24

⁷⁸ WHO Country profiles, 7 April 2001, p3

⁷⁹ WHO Country profiles, 7 April 2001, p3

who have sex with men] and bar girls, were positive; of 323,087 blood donors, three (<0.01%) were positive. In a 2001 study on STI [sexually transmitted infections] prevalence among 800 pregnant women and 200 women attending gynaecology services in urban and rural areas of Damascus, there was no HIV infection.⁸⁰

- 4.4.7** Where a caseowner 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 State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** Syrian nationals may return voluntarily to any region of Syria 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 Syria. 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. Syrian nationals wishing to avail themselves of this opportunity for assisted return to Syria should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

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