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OPERATIONAL GUIDANCE NOTE

IRAN

CONTENTS

1. Introduction

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

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

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

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

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

2. Country assessment

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

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

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

http://fcohrdreport.readandcomment.com/wp-content/uploads/2011/02/Cm-8339.pdf

2.3 Actors of protection

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

2.3.2 Several agencies share responsibility for law enforcement and maintaining order, including the Ministry of Intelligence and Security (MOIS), Law Enforcement Forces under the Interior Ministry, and Iran's Islamic Revolution Guards Corps (IRGC). The security forces were not considered fully effective in combating crime, and corruption and impunity were problems. Regular and paramilitary security forces such as the Basij committed numerous serious human rights abuses, but there were no transparent mechanisms to investigate security force abuses and no reports of

government actions to reform the abusers.[1]

2.3.3. According to Freedom House, the security forces often use physical force and psychological pressure against political activists, journalists, bloggers, artists, student leaders, women's rights advocates, human rights lawyers, and members of religious, ethnic, and sexual minorities.[2] In 2012, Amnesty International described the security forces, including the Basij militia, as operating with "near total impunity and there was virtually no accountability for the unlawful killings and other serious violations committed at the time of mass, largely peaceful, protests following the 2009 presidential election and in earlier years".[3] In March 2012, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran also observed that "…the rule of law meant to protect human rights is frequently breached, impunity is promoted by a reluctance to hold violators accountable, and the space for public scrutiny of policies and actions that have an impact on the integrity of governance is severely restricted".[4]

2.3.4 Jane's Sentinel Security Assessment, updated 1 February 2011 stated that "The MOIS is Iran‟s intelligence and state security service. The agency is responsible for fighting opposition to the regime not only at home but also abroad. Some Iranian intelligence agents have operated in foreign locations under diplomatic cover, as part of a drive to collect intelligence on Iranian opposition elements operating outside Iran. The MOIS has had a particular focus on the Mujahideen e-Khalq (MEK) opposition militia group and its allied political group, the National Council of Resistance of Iran (NCRI). Monarchists, Iranian Kurdish dissidents and left-wing groups have also come under the scrutiny of the MOIS.[5] There were reports during the year [2011] that the MOIS arrested and harassed family members of political prisoners and human rights activists, especially the in-country family members of activists living outside of the country. [6]

2.3.5 Jane's Sentinel Security Assessment, updated 1 February 2011 also stated that the Law Enforcement Forces (Niruha-ye Entezami-ye Jomhuri-ye Islami) (LEF) was created in 1991 through a merger of the police, gendarmerie, and the revolutionary committees and is charged with combined duties: law enforcement, border control, and maintaining public order. Although nominally under the leadership of the Ministry of the Interior, the Supreme Leader has to approve a nominee that the president proposes as LEF chief. Units within the LEF have overlapping responsibilities. The Social Corruption Unit of the LEF deals with social behaviour of an immoral nature. However, there is a similar unit in the LEF called the Edareyeh Amaken Omumi (Public Establishments Office), which concerns itself with the type of music people listen to, the interaction of people of the opposite sex in public places and various forms of perceived lewd behaviour. Maintaining security along Iran‟s borders is an important role of the LEF. Iran has been stepping up security on its borders, with the LEF using what has been described as „modern technologies‟ in order to counter drug trafficking, smuggling and the movement of individuals considered to pose a threat to state security.[7]

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[1] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1; Role of the Police & Security Apparatus.
[2] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[3] Amnesty International, Annual Report 2012 State of the World's Human Rights, Iran, 24/05/2012, Background
[4] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012, II. Methodology, paragraph 12
[5] UK Border Agency, Country of Origin Information Service, Iran Country Report June 2011 (paragraphs 9.04)
[6] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1f: Arbitrary Interference with Privacy, Family Home or Correspondence.
[7] UK Border Agency, Country of Origin Information Service, Iran Country Report June 2011 (paragraphs 9.06)

2.3.6 The same source indicates that the IRGC, commonly known as the Pasdaran (Guardians), is composed of five main branches – Ground Forces, Air Force, Navy, Basij militia and the Qods Force special operations branch. There is also an Intelligence Directorate. The IRGC has a cultural and military mission. Its cultural role is in safeguarding the achievements of the Islamic Revolution, while its military role lies in supporting the regular forces when required.[8] On November 1, [2011] the government established the "Cyber Command" under the IRGC, replacing and strengthening the "Cyber Army." Like its predecessor, the Cyber Command was officially charged with monitoring, identifying, and countering cyber threats against national security; in practice the organization harassed individuals who spoke out against human rights violations committed by the government or criticized the government in any way.[9]

2.3.7 The Basij Force is the instrument used by IRGC to implement domestic security measures. The Basij Force also contributes to the gathering of intelligence. Now apparently based at more than 70,000 locations nationwide, members of the Basij are organised into five main elements: the Pupil Basij, the Student Basij, the University Basij, the Public Service Basij and the Tribal Basij. The diverse range of these units demonstrates the various roles of the militia, and the fact that the aim of the Basij is not just to forge a paramilitary force, but to reinforce support for the regime through ideological dissemination.[10]

2.3.8 The Basij and informal groups known as the Ansar-e Hizballah (Helpers of the Party of God) were aligned with extreme conservative members of the leadership and acted as vigilantes. However, the Basij also served in the IRGC ground forces. While some Basij units received formal training, many units were disorganized and undisciplined. During government-led crackdowns on demonstrations, the Basij were primarily responsible for the violence against the protesters.[11]

2.3.9 The constitution provides that the judiciary be "an independent power;" but in practice the court system was corrupt and subject to political influence. On November 4 [2011], the UNHRC expressed concern about the lack of judicial independence, stating that the judiciary was compromised by undue pressure from the executive branch. Authorities generally respected court orders, although they also acted extra judicially at times, especially concerning arrests, searches, and seizures.[12]

2.3.10 According to the constitution, the Court of Administrative Justice--under the supervision of the head of the judiciary--investigates the grievances of citizens with regard to government officials, organs, and statutes. In practice citizens had limited ability to sue the government. Citizens were not able to bring lawsuits against the government for civil or human rights violations. Dispute resolution councils are available to settle minor civil and criminal cases through mediation before referral to courts.[13]

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[8] UK Border Agency, Country of Origin Information Service, Iran Country Report June 2011 (paragraphs 9.11)
[9] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2a: Internet Freedom.
[10] UK Border Agency, Country of Origin Information Service, Iran Country Report June 2011 (paragraphs 9.20 / 23)
[11] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1; Role of the Police & Security Apparatus.
[12] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1e; Denial of Fair Public Trial
[13] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1e Civil Judicial Procedures and Remedies.

2.3.11 Lack of access to justice continues to underpin the majority of human rights abuses in Iran. A large proportion of cases are highly politicised, with reports of intimidation used as a means to extract confessions, lack of access to legal counsel, failure to disclose the charges to the defence or accused, restricted consular access and arbitrary sentencing from judges. Televised confessions in high-profile cases have continued, prejudicing trials prior to their hearing. Many courts still operate in a closed fashion, with some refusing even to issue written orders of a sentence until after it has been carried out.[14]

2.4 Internal relocation.

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

2.4.2 Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

2.4.3 The constitution provides for freedom of movement within the country, foreign travel, and emigration, and repatriation. The government placed some restrictions on these rights. The government required exit permits for foreign travel for all citizens. Some citizens, particularly those whose skills were in demand and who were educated at government expense, had to post bond to obtain an exit permit. The government also restricted foreign travel of some religious leaders and individual members of religious minorities and scientists in sensitive fields, and it increasingly targeted journalists, academics, opposition politicians, and activist (including women's rights activists) for travel bans and passport confiscation during the year.[15]

2.4.4 Women faced difficulties travelling independently, especially in rural areas, where they faced significant official and unofficial harassment for travelling alone. Rural women’s freedom of movement outside the home or village was particularly restricted, often requiring a male guardian’s permission or a male chaperone. A woman must have the permission of her husband, father, or other male relative to

[14] UK Foreign & Commonwealth Office HR report 30/04/2012: Countries of Concern: Iran.
[15] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2d,” Freedom of Movement ---“

obtain a passport. A married woman must receive written permission from her husband before she leaves the country.[16] Certain public spaces are segregated by sex and certain services are completely out of reach for women. For example, a woman cannot stay in a hotel unless she is accompanied by a male relative, even though there are no laws specifically barring women from such places.[17]

2.4.5 It may be practical for applicants who may have a well-founded fear of persecution in one area to relocate to other parts of Iran where they would not have a well-founded fear, and taking into account their personal circumstances, it would not be unduly harsh to expect them to do so.

2.5 Country guidance and other relevant caselaw.

Given the deterioration in human rights in Iran since the 2009 Election and the deterioration in relations with the international community, Iranian case law, especially the older Country Guidance cases need to be considered in the context of the latest country information. The courts stated that a country guidance (CG) case remains authoritative unless and until it is set aside on appeal or replaced by a subsequent CG determination (paragraph 67). However the Immigration and Asylum Upper Tribunal noted in TK (Tamils – LP updated) Sri Lanka CG [2009] UKAIT 00049 "(paragraph 6)… "country guidance is not inflexible; it must be applied by reference to new evidence as it emerges"

Supreme Court. RT (Zimbabwe) & others *v* Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012)
The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

Country Guidance:

SA (Iranian Arabs-no general risk) Iran CG [2011] UKUT 41(IAC).
The Tribunal concluded that the Iranian state is suspicious of those Iranian citizens who are also Arabs and regards London as a centre of separatist activity. Being an Iranian Arab returned from the United Kingdom enhances other risk factors but an Iranian Arab does not risk persecution or other ill treatment solely by reason of ethnicity.

BA (Demonstrators in Britain – risk on return) Iran CG [2011] UKUT 36 (IAC).
The Tribunal found that:

1. Given the large numbers of those who demonstrate here and the publicity which demonstrators receive, for example on Facebook, combined with the inability of the Iranian Government to monitor all returnees who have been involved in demonstrations here, regard must be had to the level of involvement of the

[16] U.S. Department of State, 2011 Human Rights Report, Iran 25/05/2012 Section 2d," Freedom of Movement ---"
[17] Freedom House, Women's Rights in the Middle East and North Africa 2010, 03/03/2010, Iran, Autonomy, security and freedom of the person

individual here as well as any political activity which the individual might have been involved in Iran before seeking asylum in Britain.

2. (a) Iranians returning to Iran are screened on arrival. A returnee who meets the profile of an activist may be detained while searches of documentation are made. Students, particularly those who have known political profiles are likely to be questioned as well as those who have exited illegally.
(b) There is not a real risk of persecution for those who have exited Iran illegally or are merely returning from Britain. The conclusions of the Tribunal in the country guidance case of **SB (risk on return -illegal exit) Iran CG [2009] UKAIT 00053** are followed and endorsed.
(c) There is no evidence of the use of facial recognition technology at the Imam Khomeini International airport, but there are a number of officials who may be able to recognise up to 200 faces at any one time. The procedures used by security at the airport are haphazard. It is therefore possible that those whom the regime might wish to question would not come to the attention of the regime on arrival. If, however, information is known about their activities abroad, they might well be picked up for questioning and/or transferred to a special court near the airport in Tehran after they have returned home.

3. It is important to consider the level of political involvement before considering the likelihood of the individual coming to the attention of the authorities and the priority that the Iranian regime would give to tracing him. It is only after considering those factors that the issue of whether or not there is a real risk of his facing persecution on return can be assessed.

4. The following are relevant factors to be considered when assessing risk on return having regard to sur place activities:

(i) Nature of sur place activity:
- Theme of demonstrations – what do the demonstrators want (e.g. reform of the regime through to its violent overthrow); how will they be characterised by the regime?
- Role in demonstrations and political profile – can the person be described as a leader; mobiliser (e.g. addressing the crowd), organiser (e.g. leading the chanting); or simply a member of the crowd; if the latter is he active or passive (e.g. does he carry a banner); what is his motive, and is this relevant to the profile he will have in the eyes of the regime?
- Extent of participation – has the person attended one or two demonstrations or is he a regular participant?
- Publicity attracted – has a demonstration attracted media coverage in the United Kingdom or the home country; nature of that publicity (quality of images; outlets where stories appear etc)?

(ii) Identification risk:
- Surveillance of demonstrators – assuming the regime aims to identify demonstrators against it how does it do so, through, filming them, having agents who mingle in the crowd, reviewing images/recordings of demonstrations etc?
- Regime's capacity to identify individuals – does the regime have advanced technology (e.g. for facial recognition); does it allocate human resources to fit names to faces in the crowd?

(iii) Factors triggering inquiry/action on return:

- Profile – is the person known as a committed opponent or someone with a significant political profile; does he fall within a category which the regime regards as especially objectionable?
- Immigration history – how did the person leave the country (illegally; type of visa); where has the person been when abroad; is the timing and method of return more likely to lead to inquiry and/or being detained for more than a short period and ill-treated (overstayer; forced return)?

(iv) Consequences of identification:

- Is there differentiation between demonstrators depending on the level of their political profile/adversity towards the regime?

(v) Identification risk on return:

- Matching identification to person – if a person is identified is that information systematically stored and used; are border posts geared to the task?

Supreme Court. HJ & HT *v* SSHD [2010] UKSC31 7 July 2010

The Supreme Court hereby established the test which should be applied when assessing a claim based on fear of persecution because of an applicant's sexual orientation which is as follows:

(i) Is the applicant gay or someone who would be treated as gay by potential persecutors in the country of origin?

(ii) If yes, would gay people who live openly be liable to persecution in that country of origin?

(iii) How would the applicant behave on return? If the applicant would live openly and be exposed to a real risk of persecution, he has a well-founded fear of persecution even if he could avoid the risk by living discreetly.

(iv) If the applicant would live discreetly, why would he live discreetly? If the applicant would live discreetly because he wanted to do so, or because of social pressures (e.g. not wanting to distress his parents or embarrass his friends) then he is not a refugee. But if a material reason for living discreetly would be the fear of persecution that would follow if he lived openly, then he is a refugee.

Boroumand, R (on the application of) v Secretary of State for the Home Department [2010] EWHC 225 (Admin) (17 February 2010)

Even if it is accepted that there is a real risk that the applicant will face execution on return to Iran it is not disproportionate to grant them a period of DL (6 months) and exclude them from HP. "In principle, if the Secretary of State is entitled not to give a person humanitarian protection because that person has committed a serious crime it is neither irrational nor disproportionate to limit the normal period of leave. Mr Southley accepted for the purpose of this case that there is nothing incompatible with Article 8 in granting leave for periods of six months provided, however, that applications are determined promptly" (paragraph 85)

SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053

(i) Events in Iran following the 12 June 2009 presidential elections have led to a government crackdown on persons seen to be opposed to the present government and the Iranian judiciary has become even less independent.

Persons who are likely to be perceived by the authorities in Iran as being actively associated with protests against the June 2009 election results may face a real risk of persecution or ill treatment, although much will depend on the particular circumstances.

(ii) Iranians facing enforced return do not in general face a real risk of persecution or ill-treatment. That remains the case even if they exited Iran illegally. Having exited Iran illegally is not a significant risk factor, although if it is the case that a person would face difficulties with the authorities for other reasons, such a history could be a factor adding to the level of difficulties he or she is likely to face.

(iii) Being a person who has left Iran when facing court proceedings (other than ordinary civil proceedings) is a risk factor, although much will depend on the particular facts relating to the nature of the offence(s) involved and other circumstances. The more the offences for which a person faces trial are likely to be viewed as political, the greater the level of risk likely to arise as a result. The degree of risk will vary according to the nature of the court proceedings; being involved in ongoing court proceedings is not in itself something that will automatically result in ill-treatment; rather it is properly to be considered as a risk factor to be taken into account along with others.

(iv) Being a person involved in court proceedings in Iran who has engaged in conduct likely to be seen as insulting either to the judiciary or the justice system or the government or to Islam constitutes another risk factor.

(v) Being accused of anti-Islamic conduct likewise also constitutes a significant risk factor.

Pre 2009 cases

SZ and JM (Christians – FS confirmed) Iran CG [2008] UKAIT 00082.

SH (Baha'is) Iran CG [2006] UKAIT 00041 (27 April 2006)

RM and BB (Homosexuals) Iran CG [2005] UKIAT 00117 (08 July 2005)

TB (PSG, women) Iran [2005] UKIAT 00065 (09 March 2005)

This case is not a country guidance case but received a determination specific to the facts of the case.

The Tribunal found the Appellant would be persecuted on return because she belonged to a particular social group *viz.,* "Young Iranian women who refuse to enter into arranged marriages". The Tribunal reasoned (at paragraph 69 iv):

"the real risk of this appellant suffering serious harm on return to Iran is primarily for non-Convention reasons (the vindictiveness and retribution of the appellant's father and the Mullah). However, as we consider there would also be a failure of state protection against that serious harm, we find that there is a causal nexus between the persecution (accepting that: Persecution = failure of state protection + serious harm) and her membership of a particular social group."

Whilst the Tribunal considered that women in Iran may constitute a particular social group, it did not come to a finding on it and there is no conclusive statement on this point.

FS and others (Iran, Christian Converts) Iran CG [2004] UKIAT 00303 (17 November 2004)

HD (Prison, Record of Proceedings) Iran [2004] UKIAT 00209 (30 July 2004)

FF (Single woman, Illegal exit, Iran) Iran [2004] UKIAT 00191 (13 July 2004)

BE (Military service, Punishment, Landmines) Iran [2004] UKIAT 00183 (8 July 2004)

AH (Gashgai nomads no persecution) Iran CG [2004] UKIAT 00169 (22 June 2004)

ME (Male Adulterer Convention Reason? Risk) Iran CG [2003] UKIAT 00166 (09 December 2003)

HA (Article 3, Refugee, Adultery, Punishment) Iran CG [2003] UKIAT 00095 (17 October 2003

SS (Risk, Manastry) Iran CG [2003] UKIAT 00035 (08 August 2003)

ZH (Women as Particular Social Group) Iran CG [2003] UKIAT 00207 (06 June 2003)

FT (Fair Trail Adultery) Iran CG [2002] UKIAT 07576 (03 April 2003)

SF (Article 3- Prison Conditions) Iran CG [2002] UKIAT 00973

3. Main categories of claims

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

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

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

3.3 For any asylum cases which involve children either as dependents or as the main

applicants, case owners must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The UK Border Agency instruction 'Every Child Matters; Change for Children' sets out the key principles to take into account in all Agency activities

3.4 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant 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

3.5 Credibility

3.5.1 This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'establishing the facts of the claim (material and non-material facts)' in the Asylum Instruction 'considering the protection (asylum) claim' and 'assessing credibility'. Case owners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to anon-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 Political Opponents and Opposition supporters

3.6.1 Applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the state due to being a political opponent or supporter of political opposition to the current Iranian regime.

3.6.2 **Treatment:** The constitution provides citizens the right to peacefully change the president and the Majlis through free and fair elections, but the authority of unelected representatives over the election process severely abridged this right in practice. There was no separation of state and religion, and clerics had significant influence in the government. The supreme leader also approved presidential candidates.[18] The UN Special Rapporteur reported that "A former Member of Parliament (wishing to remain anonymous) conveyed that the scope for free and fair elections in his country is severely undermined by the Guardian Council's ability to select candidates. The same witness also described widespread fraud during the 2008 parliamentary elections and the 2009 presidential election, which the witness asserted was meant to target candidates deemed to represent a reformist agenda."[19]

3.6.3 Outside observers regarded the 2009 Presidential elections as neither free nor fair. International observers were not allowed entry to monitor the election results. Authorities increased censorship and surveillance during the campaign, blocking cellular telephone signals and access to social networking and opposition Web sites. The government also harassed and arbitrarily arrested political activists, members of the country's religious and ethnic minority communities, students, trade

[18] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 3 Respect for Political Rights
[19] Report of the Special Rapporteur on the situation of Human Rights in the Islamic Republic of Iran, 06/03/2012 C; Free and fair elections, paragraph 23.

unionists, and women's rights activists during the pre-election period. On November 20, Ali Saeedi, the supreme leader's representative to the IRGC, reportedly stated that those who challenged the 2009 election results were "worthy of death" and that the IRGC and the Basij should not have "any hesitations" about crushing them.[20] In June [2011] security forces intimidated and suppressed demonstrators marking the two-year anniversary of the disputed 2009 presidential election. Multiple press accounts reported scenes of police chasing protesters with clubs, deploying tear gas, and making numerous arrests at a silent rally in Tehran.[21] On 24 September 2012 the Guardian reported that the son and daughter [Mehdi and Faezeh Hashemi] of former Iranian president, Akbar Hashemi Rafsanjani, were separately detained and charged with anti-state propaganda. Both Mehdi and Faezeh Hashemi are accused of fomenting the 2009 post-election protests; whilst their father is a moderate supporter of Iran's opposition Green movement and its leaders Mousavi and Mehdi Karroubi, who are being held under house arrest.[22]

3.6.4 The constitution provides for the establishment of political parties, professional associations, Islamic religious groups, and organizations for recognized religious minorities, as long as such groups do not violate the principles of "freedom, sovereignty, and national unity" or question Islam as the basis of the Islamic Republic. The government limited freedom of association in practice through threats, intimidation, imposing arbitrary requirements on organizations, and arresting group leaders and members. [23] Members of political parties and individuals with any political affiliation that the government deemed unacceptable faced harassment, violence, and sometimes imprisonment. The government banned several opposition organizations and political parties; for example the Islamic Participation Front and the Islamic Revolution Mujaheddin Organization were banned in September 2010 after they protested the controversial results from the 2009 presidential elections.[24]

3.6.5 In May 2012, Amnesty International reported that over six hundred students, as well as some university lecturers, had been arrested since 2009, many of whom were subsequently imprisoned.[25] In September 2012, Amnesty International also noted that "dozens of university students in cities across Iran have been interrogated or arbitrarily arrested in recent weeks, marking an escalation in the authorities' clampdown on students as the academic year begins. Some universities have banned women from certain areas of study. Members of some religious minorities and student activists have been specifically targeted, with many being banned from further study or summoned to serve prison sentences for earlier offences – in many cases merely because they peacefully exercised their right to freedom of expression, association or assembly".[26]

3.6.6 The constitution permits assemblies and marches "provided they do not violate the principles of Islam." In practice the government restricted freedom of assembly and closely monitored gatherings to prevent antigovernment protests. Such gatherings included public entertainment and lectures, student and women's meetings and protests, labour protests, online gatherings and networking, funeral processions,

[20] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 3 Respect for Political Rights
[21] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2b Freedom of Peaceful Assembly and Association.
[22] Guardian, Rafsanjani under pressure after children are jailed, 24/09/2012.
[23] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2b Freedom of Peaceful Assembly and Association
[24] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 3 Respect for Political Rights
[25] Amnesty International, Joint Statement on the Right to Education and Academic Freedom in Iran, 31 May 2012
[26] Amnesty International, Students in Iran face growing clampdown as academic year begins, 21/09/2012

and Friday prayer gatherings. The government continued to prohibit and forcibly disperse peaceful demonstrations. Paramilitary organizations such as Ansar-e Hizballah also harassed, beat, and intimidated those who demonstrated publicly for reform. They particularly targeted university students. Nonviolent demonstrators protested in the streets of Tehran and other cities in February and March [2011] to show support for prodemocracy movements in neighbouring countries and to protest the arrests and detention of opposition leaders. The Basij forces reacted violently and forcibly cracked down on the demonstrations, leading to hundreds of arrests and at least three deaths. [27]

3.6.7 The constitution provides for freedom of expression, except when the words are deemed "detrimental to the fundamental principles of Islam or the rights of the public." In practice the government severely restricted freedom of speech and it used the law to intimidate or prosecute not just individuals directly criticizing the government, but also those raising topics such as women's or minorities' rights. Individuals could not criticize the government publicly or privately without reprisal, and the government actively sought to impede criticism. The government monitored meetings, movements, and communications of opposition members, reformists, activists, and human rights defenders. The government often charged individuals with crimes against national security and insulting the regime based upon letters, e-mails, and other public and private communications.[28] Authorities systematically targeted university campuses to suppress social and political activism, including banning independent student organizations, imprisoning student activists.[29] Between three and five students were killed, dozens injured, and about 100 arrested when security forces attacked the dormitories of Tehran University a few days after the June [2009] vote. Similar raids on universities were reported in other cities, including Isfahan and Shiraz, where according to opposition sources two students were killed.[30]

3.6.8 Through the Cyber Army and Cyber Command, **[see 2.3.6]** the government monitored Internet communications, especially social networking Web sites, such as Face book, Twitter, and YouTube, and collected individuals' personally identifiable information in connection with peaceful expression of views. Freedom House and other human rights organizations reported that authorities sometimes stopped citizens at Tehran International Airport as they arrived in the country, and asked them to log into their YouTube and Face book accounts.[31] In September 2012, Freedom House reported that "Iranian internet users suffer from routine surveillance, harassment, and the threat of imprisonment for their online activities, particularly those critical of the authorities. Since June 2009, the authorities have cracked down on online activism through various forms of judicial and extra-legal intimidation. An increasing number of bloggers have been threatened, arrested, tortured, kept in solitary confinement, and denied medical care, while others have been formally tried and convicted".[32] In June 2012, Reporters Without Borders reported that 10 bloggers and netizens had been arrested since 21 May in Tehran, Mashhad, Hamadan and other cities for "insulting Islam" and that the authorities were detaining the relatives of foreign-based netizens as hostages.[33] The same

[27] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2b Freedom of Peaceful Assembly and Association
[28] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2a, Freedom of Speech
[29] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2a, Freedom of Speech: Academic Freedom
[30] Freedom House, Countries at the crossroads, 2012, Iran 20/09/12
[31] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2a: Internet Freedom.
[32] Freedom House, Freedom on the Net 2012 - Iran, 24 September 2012
[33] Reporters Without Borders, Islamic Republic Internationalizes Crackdown on Dissent, 28/06/2012

source noted in March 2012 that "for the first time, four netizens have been given the death penalty, and three of them may be executed at any time. Iran's already harsh repression has become even more brutal".[34]

3.6.9 Opposition politicians and party groupings have faced especially harsh repression since the 2009 presidential election, with many leaders – including former lawmakers and cabinet ministers – facing arrest, prison sentences, and lengthy bans on political activity.[35] Several people were killed and hundreds arrested in a heavy-handed response by security forces to protests on February 14 [2011] by opposition groups in Tehran. For months following these protests, gatherings were met by a pre-emptive deployment of security forces. Prior to the start of these protests, two opposition leaders (and presidential candidates in 2009), Mir Hossein Mousavi and Mehdi Karroubi, [Green Movement] were detained in their homes. They have been held incommunicado since, with only sporadic visits by family members permitted. Despite a large security presence at their homes to prevent them from leaving, there have been several instances of gunfire targeting their properties, with no arrests made. On 15 February, Iranian parliamentarians chanted in parliament for them to be tried and executed – with the call for a trial echoed by the president.[36]

3.6.10 Iran continues to subject jailed political activists to solitary confinement for long periods of time, denying them access to family members, legal representation, and any news from the outside world. Psychological torture, including mock executions, as well as physical torture and rape have been reported by political prisoners and prisoners of conscience. Relatives of political prisoners also come under state pressure if they publicize the plight of their loved ones through media interviews and other actions. As part of its campaign against any form of dissent, the regime similarly pressures and harasses the Iran-based relatives of political activists and journalists working outside of the country.[37]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.6.11 **Conclusion:** The Supreme Court held in **RT (Zimbabwe)** that the rationale of the decision in **HJ (Iran)** extends to the holding of political opinions. An individual should not be expected to modify or deny their political belief, or the lack of one, in order to avoid persecution. The country evidence does not show that as a general matter, those with no political opinion would be put in situations where they are required to demonstrate loyalty to the government. However the Iranian authorities take serious action against individuals who they believe are critical of or pose a threat to the state and this treatment may amount to persecution.

3.6.12 Where an individual can show that they have taken part in opposition political activities or will otherwise be perceived as being involved in opposition politics and as a result would come to the adverse attention of the authorities, they would face a serious risk of persecution on account of their activities and a grant of asylum would be appropriate.

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[34] Reporters Without Borders, Enemies of the Internet 2012, 12 March 2012, Iran
[35] Freedom House, Freedom in the World 2012: Iran: 12/07/2012
[36] UK Foreign & Commonwealth Office Human Rights & Democracy report 2011, published April 2012, Countries of Concern: Iran
[37] Freedom House, Countries at the crossroads, 2012, Iran 20/09/12

3.6.13 Those who have engaged in opposition political activity in the UK might, depending on their level of involvement, similarly face a real risk of persecution on return to Iran on account of that activity and in such cases a grant of asylum will also be appropriate. The test to be applied in such cases is set out in detail in BA (Demonstrators in Britain- risk on return) Iran CG [2011] UKUT 36 (IAC) - see above **Caselaw section.**

3.7 Treatment of Journalists and Human Rights Activists

3.7.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities due to actual or perceived criticism of the government in their roles as journalists or human rights activists.

3.7.2 During the year [2011] the government rounded up students, journalists, lawyers, political activists, artists, and members of religious minorities. The government charged many with crimes such as “propaganda against the regime,” “insulting the regime,” and apostasy, and treated such cases as national security trials. According to opposition press reports, the government also arrested, convicted, and executed persons on questionable criminal charges, including drug trafficking, when their actual offenses were reportedly political.[38] In an article 30 January 2012 Justice for Iran reported “Multiple articles in the new Code are concerned with increasing the severity of punishments for people charged with “action against national security.” This is while presently almost all of the political prisoners and prisoners of conscience have been accused of “actions against national security” due to their activities in the fields of human rights, civil society, journalism, defending the rights of the minorities -----. For example, under the new Code, the punishments issued for individuals who have been sentenced to imprisonment or lashing for “actions against national security” can in no way be suspended or subject to a statute of limitation.”[39]

Journalists

3.7.3 **Treatment**: The constitution provides for freedom of expression and of the press, except when the words are deemed “detrimental to the fundamental principles of Islam or the rights of the public.” The law states that “anyone who undertakes any form of propaganda against the state” can be imprisoned for as long as one year; the law does not define “propaganda.” The law also provides for prosecution of writers for instigating crimes against the state or national security, or for “insulting” Islam; the latter offense is punishable by death. The government severely restricted freedom of speech and of the press, and it used the law to intimidate or prosecute not just individuals directly criticizing the government, but also those raising topics such as women’s or minorities’ rights. Freedom House considered the country “not free” in terms of media freedom.[40] Amnesty International reported that “Journalists continue to be at risk of ill-treatment and of torture”.[41] Whilst Reporters without Borders stated “Many detained journalists are being subjected to inhuman and degrading conditions and denied their most basic rights”. [42]

[38] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1, e, Political Prisoners and Detainees
[39] Iran Update: Guardian Council Approves New Islamic Penal Code, 30/01/2012
[40] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2, Freedom of Speech and Press
[41] Amnesty International,We are ordered to crush you – Expanding repression of dissent in Iran Amnesty International 28/02/2012, 4.7 Journalists.
[42] Reports without Borders: Journalists and Media hounded from all quarters, 10/05/2012

3.7.4 The Committee to Protect Journalists (CPJ) in its book Attacks on the Press 2011 reported that "Two years after a contested presidential election, Tehran continued to use the mass imprisonment of journalists to silence dissent and quash critical news coverage. Imprisoned journalists suffered greatly amid the crowded and unsanitary conditions of notorious prisons such as Rajaee Shah and Evin. The health of many detainees severely deteriorated, while numerous others suffered abuse at the hands of prison guards. The detainees also faced a battery of punitive measures, from the denial of family visits to placement in solitary confinement. Authorities continued a practice of freeing some prisoners on furloughs while making new arrests. Six-figure bonds were often posted by the furloughed journalists who faced immense political pressure to falsely implicate their colleagues in crimes. While some large international news organizations maintained a presence in Tehran, their journalists could not move or report freely, particularly outside the capital. Politically sensitive topics, such as the country's nuclear program, were largely off-limits to local and international reporters. The government also restricted adversarial reporting by using sophisticated technology to block websites, jamming satellite signals, and banning publications." At close of 2011 CPJ ranked Iran as "the world's worst jailer, with 42 journalists behind bars, of whom 21 were held in solitary confinement". [43] The Islamic Republic of Iran also holds the world record for imposing jail terms on women journalists and bloggers. At least 57 have been arrested and sentenced to prison terms ranging from six months to seven years by revolutionary courts since June 2009.[44]

3.7.5 The UK Foreign & Commonwealth Office noted in its 2011 Human Rights & Democracy report that "Journalists and bloggers were targeted by the authorities. In addition to the suspension of Etemad newspaper for printing an interview criticising conservative politicians and elements of the regime, a large number of journalists were detained in 2011. The Committee for the Protection of Journalists released a report at the end of 2011 showing that Iran has once again more journalists in jail than anywhere else in the world. The arrests of six journalists in September and October, accused of working for the BBC and of espionage, were particularly concerning. We understand that all have now been released. However, too many others remain in prison. Women's rights activists and journalists were targeted for harassment and intimidation in 2011. Two reporters, Maryam Majd and Pegah Ahangarani, known for their activism, were arrested and detained when attempting to travel to Germany to cover the Women's Football World Cup as journalists. Maryam was held over a month without charge and then released when her physical condition deteriorated."[45] On April 29, journalist Siamak Pourzand, age 80, who was held under house arrest in recent years due to his advanced age and health problems, committed suicide by jumping from the sixth-story balcony of his apartment in Tehran. In 2002 authorities sentenced Pourzand to 11 years in prison for "spying and undermining state security" and "links with monarchists and counterrevolutionaries," after torturing and holding him in solitary confinement for months.[46]

3.7.6 According to reports received by the [UN] Special Rapporteur, at least 150 journalists have fled the country since the presidential election of 2009 owing to fear of repression and persecution. In a letter to the Special Rapporteur, Reporters without Borders stated that approximately 50 publications had been suspended

[43] Committee to protect Journalists "Attacks on the Press in 2011- IRAN" 29/02/2012
[44] Reporters Without Borders, Islamic Republic jails two more women journalists, 10/09/2012
[45] UK Foreign & Commonwealth Office Human Rights & Democracy report 2011, published April 2012, Countries of Concern: Iran
[46] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1, e, Political Prisoners and Detainees

since the election, and that most press trials are conducted in private, despite the fact that the Constitution stipulates that press trials must be judged by a jury. In an interview, two recently detained journalists (who wish to remain anonymous) reported increasing censorship in the country. They claimed that the Ministry of Cultural Guidance and/or the National Security Council often directly censored newspapers by telling them what issues to cover through memos or telephone calls. One interviewee stated that newspaper editors were called and threatened to refrain from writing about reformist politicians, and that the Office of the Supreme Leader had instructed the press to refrain from reporting on allegations of widespread corruption in the country. They reported that press offices were raided and searched, and equipment was often confiscated.[47] In a July 13 letter to UN special rapporteur Ahmed Shaheed, imprisoned journalist Issa Saharkhiz accused authorities of using harsh prison conditions to slowly kill political prisoners. Saharkhiz, one of the founders of the Society for the Defence of Press Freedom in Iran, was arrested in 2009 and sentenced to three years in prison for “insulting the leader and the regime.” At the end of 2011he was at Rejai Shahr Prison and had not been permitted temporary medical leave despite severe health problems. Opposition Web site Saham News reported on August 29 that prison officials beat Saharkhiz on his way to the prison infirmary.[48]

3.7.7 The Press Court has extensive power to prosecute journalists for such vaguely worded offenses as "mutiny against Islam," "insulting legal or real persons who are lawfully respected," and "propaganda against the regime." The use of "suspicious sources" or sources that criticize the government is also forbidden. Numerous periodicals were closed for morality or security offenses during 2011, including the independent newspapers Shahrvand-e Emrooz and Roozegar. According to an August 2011 Human Rights Watch report, at least 40 publications have been shut down since 2009. Iran leads the world in the number of jailed journalists, with 42 behind bars at the close of 2010 and many serving lengthy prison sentences. Several dozen other journalists were arrested, coerced into self-incriminating confessions, and released on exorbitant bail payments. The Committee to Protect Journalists reported in June 2011 that 18 journalists had been forced into exile in the past 12 months.[49]

Human Rights Activists

3.7.8 **Treatment:** The government restricted the work of human rights groups and activists and often responded to their inquiries and reports with harassment, arrests, monitoring, unlawful raids, and closures. The government continued to deny the universality of human rights and stated that human rights issues should be viewed in the context of a country’s “culture and beliefs.” [50]

3.7.9 Amnesty International in its 2011 report on Iran stated: Human rights defenders were subject to serious human rights violations as they continued to press for greater respect for the rights of women and ethnic minorities and for an end to executions of juvenile offenders and stoning executions. Women’s rights activists, lawyers, trade unionists, ethnic minority rights activists, students and others campaigning for human rights, unfairly tried and imprisoned in previous years, continued to be held. Others faced arbitrary arrest, harassment, prosecution and

[47] Report of the Special Rapporteur on situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. IV Situation of Human Rights, D: Journalists., paras 52&53.
[48] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1, e, Political Prisoners and Detainees
[49] Freedom House, Islamic Republic of Iran, 12 July 2012.
[50] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 5 Government Attitude regarding International and Non Governmental Investigation of Alleged Violations of Human Rights.

unfair trials. Some were prisoners of conscience; others were banned from travelling abroad. The ban on independent trade unions was maintained. Emadeddin Baghi, a journalist, author and head of a banned NGO that advocated prisoners' rights who was detained between December 2009 and June 2010, began serving a seven-year prison sentence in December; he had been prosecuted for his peaceful human rights and journalistic activities. The authorities harassed and, in some cases, arrested members of grassroots human rights organizations, including the Committee of Human Rights Reporters (CHRR) and Human Rights Activists of Iran (HRAI). [51]

3.7.10 The UK Foreign & Commonwealth Office noted in its 2011 Human Rights & Democracy report that "the crackdown on human rights defenders and lawyers continued in 2011 with arrests and detentions and the targeting of family members as a means of exerting pressure. As the year progressed, the pattern moved from the detention of high-profile lawyers, many of whom had already been imprisoned or forced to flee Iran, to journalists. The increasing use of a prison term followed by a ban on a lawyer or journalist exercising their profession is a particularly disturbing form of sentence, and ensures that human rights defenders are unable to resume their work long after they have been released from jail. Two high-profile human rights defenders, Nasrin Sotoudeh and Shiva Nazar-Ahari, were sentenced to eleven- and five-year jail terms respectively for their work in promoting human rights. Due to the nature of her charges, treatment in custody and the sentence passed down, the case of Nasrin Sotoudeh, a prominent lawyer, was of particular concern. She was arrested in August 2010 and held in solitary confinement. On 9 January, she was sentenced to 11 years in prison with a further 10-year ban on practising law on charges of acting against national security, spreading propaganda against the regime and cooperating with a banned organisation (Nobel Prize Winner Dr Shirin Ebadi's Defenders of Human Rights Centre {DHRC}). This sentence was later reduced to a six-year jail term on appeal. Narges Mohammadi, deputy head of the DHRC, first arrested and detained for one month in 2010, was also sentenced to 11 years in jail in September. Similarly vague and illegitimate charges are often levelled against human rights defenders in Iran.[52] The government continued to exert significant pressure on the DHRC and systematically harassed, arrested, and prosecuted lawyers and others affiliated with the organization. Taghi Rahmani, a human rights defender and husband of Narges Mohammadi, was arrested 9 February, five days ahead of a planned anti regime demonstration. He was released on 15 May on bail of 150 million toman and subject to a travel ban preventing him leaving the country.[53]

3.7.11 Courts routinely applied suspended sentences to human rights activists; this form of sentencing acted as de facto probation, leaving open the option for authorities to suddenly and arbitrarily arrest or imprison individuals. This threat was sometimes enough to silence activists or pressure them into providing information about other activists.[54] In his report of 6 March [2012] the UN's Special Rapporteur to Iran highlighted his concern regarding several Human Rights activists.[55]

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[51] Amnesty International Annual Report 24/05/2012 State of the World's Human Rights, Iran, Human Rights Defenders.
[52] UK Foreign & Commonwealth Office Human Rights & Democracy report 2011, published April 2012, Countries of Concern: Iran
[53] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 5 Government Attitude regarding International and Non Governmental Investigation of Alleged Violations of Human Rights.
[54] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 5 Government Attitude regarding International and Non Governmental Investigation of Alleged Violations of Human Rights.
[55] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012.C Human rights defenders and prisoners of conscience.

3.7.12 Throughout 2010 and early 2011, women's rights defenders continued to face serious reprisals for their legitimate work on human rights issues. Many faced intimidation, harassment and, in some cases, detention or travel bans, often on the basis of "external security threats" invoked by the authorities. Their freedom of assembly was also routinely denied by the authorities. In particular, dozens of members of the "One Million Signatures" Campaign, a grassroots campaign to abolish gender discrimination in Iranian laws, were repeatedly imprisoned on often spurious charges such as "propaganda against the system" and "acting against national security".[56] Fereshteh Shirazi, a prominent member of the Million Signatures Campaign for women's rights, was detained in September. On 31 December, reports emerged that she had been sentenced to three years in prison for her women's rights-related work.[57] In September 2012, Freedom House stated that: "The regime has escalated its crackdown on women's rights activists, arresting them and sentencing them to prison. Women were at the forefront of the 2009 postelection protests, and since then at least 80 women's rights activists have been arrested, 30 of whom are currently in jail".[58] In August 2012, Amnesty International documented the cases of 10 women prisoners of conscience and reported that "In addition to discrimination enshrined in law, a catalogue of repressive measures is also used against women's rights defenders who challenge this situation and campaign for women to be able to enjoy all their internationally recognized rights. These repressive measures are also used against other women, particularly those from ethnic or religious minorities, who appear to be targeted either on account of their ethnic origin or faith, or because they stand up for the rights of their communities to be treated equally and in line with Iran's international human rights obligations".[59]

3.7.13 Despite numerous appeals, including from the UN, the government denied requests from all international human rights NGOs to establish offices in, or conduct regular investigative visits to, the country. The International Committee of the Red Cross and the UNHCR both operated in the country with some restrictions. On June 17, 2011 the UNHRC appointed Ahmed Shaheed as the special rapporteur to fulfil the mandate; he officially commenced on August 1[2011]. The government repeatedly denied Shaheed's requests to visit the country, preventing him from travelling to the country during the year. Iranian officials denounced his report as "one-sided," outdated, and speculative, and they ignored his repeated calls for cooperation and access. The government undertook a media campaign during the year to undermine the mandate of the special rapporteur.[60]

3.7.14 Amnesty International in its report Death sentences and Executions in 2011 stated it is aware of at least nine lawyers who are currently held in detention in Iran apparently on account of their defence work for other human rights activities, or the legitimate exercise of their freedom of expression. Despite this, Mohammad Javad Larijani, the Secretary General of the Iranian Judiciary's High Council for Human

[56] Observatory for Protection of HR Defenders "Steadfast in Protest" Annual Report 2011 - Iran, Ongoing harassment of women's rights defenders.
[57] UK Foreign & Commonwealth Office Human Rights & Democracy report 2011, published April 2012, Countries of Concern: Iran
[58] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[59] Amnesty International, Iran: Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran, 02/08/2012
[60] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 5 Government Attitude regarding International and Non Governmental Investigation of Alleged Violations of Human Rights.

Rights, stated at a UN conference on 16 November 2011 that "no lawyer is in prison because he is a lawyer or he is a defender of human rights."[61]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.7.15 Conclusion. Government critics, including journalists and human rights defenders are subjected by the Iranian authorities to harassment, intimidation, arbitrary arrest, incommunicado detention, and are at risk of ill treatment and persecution. Each case should be considered on its individual merits, but claimants who fall into this category and can show that they have come to the adverse attention of the authorities or are reasonably likely to do, will qualify for asylum. Internal relocation will rarely be an option as the fear is of the Iranian State.

3.8 Christians / Christian converts

3.8.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities due to their conversion to Christianity or actively seeking to convert others (proselytising).

3.8.2 Treatment. The US State Department in its 2011 Religious Freedom report for Iran notes that the constitution recognises Ja'afari (Twelver) Shia Islam as the official state religion. While the constitution states that "other Islamic denominations are to be accorded full respect", only three non-Islamic religious groups -Zoroastrians, Christians, and Jews - are officially recognised as religious minorities. These three religions are permitted to practice under the constitution as long as their members do not proselytize; however, this right was denied in practice (see 3.8.8 below).[62] The fourth article of the constitution states that all laws and regulations must be based on Islamic criteria and official interpretation of Sharia (Islamic Law). The constitution and other laws and policies do not protect religious freedom and in practice, the government severely restricted this right. During 2011, the government's respect for and protection of the right to religious freedom continued to deteriorate.[63]

3.8.3 The population is 98 percent Muslim; according to UN figures, 300,000 Christians live in the country, the majority of whom are ethnic Armenians. Unofficial estimates for the Assyrian Christian population ranged between 10,000 and 20,000. There are also Protestant denominations, including evangelical religious groups. Christian groups outside the country estimated the size of the Protestant Christian community to be less than 10,000, although many Protestant Christians reportedly practice in secret. [64]

3.8.4 While the law does not explicitly stipulate the death penalty for the offence of apostasy, courts have administered such punishment based on their interpretation of religious fatwas.[65]

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[61] Amnesty International Death sentences and Executions 2011
[62] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012, Executive Summary
[63] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012 Section II, Legal/policy framework
[64] US State Department, July-December 2010 International Religious Freedom Report, 13/09/2011 - Iran
[65] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1: Arbitrary or Unlawful Deprivation of Life.

3.8.5 The Norwegian Landinfo report of July 2011 Iran: Christians and Converts notes that "According to Iranian religious tradition, there is a difference between offences that are committed in a public space and things that take place in the shelter of privacy. Issues that are at odds with Islam and take place in public must be punished, while things that take place in the private sphere, and thereby are concealed, will to a larger extent be tolerated. This could include drinking alcohol, illicit sexual affairs, illegal films, books and music as well as religious practices. A large number of Iranians, irrespective of their ethnic background and religious affiliation, in practice lead two lives: one in the public space and another in the private. As long as the private matters remain private and Islamic rules and values are not challenged or violated in a visible manner, Iranian authorities will normally not interfere in the private sphere of the citizens. Traditionally, problems with the authorities have occurred with regard to external and evangelical activity targeting Muslims". However Landinfo report goes on to note that "Following the election of Mahmoud Ahmadinejad as president in 2005, the political climate and the general situation with regard to human rights deteriorated dramatically. The situation became even further aggravated following the contentious presidential election in June 2009 and a deterioration of the situation for non-Muslim minorities has been observed.[66]

3.8.6 The legal system fosters religious abuse and discrimination. The constitution does not provide for the rights of Muslim citizens to choose, change, or renounce their religious beliefs. The government automatically considers a child born to a Muslim father to be a Muslim and conversion from Islam is deemed apostasy, which is punishable by death. Non-Muslims may not engage in public religious expression, persuasion, or conversion among Muslims, and there are restrictions on published religious material. For example, publishing houses are pressured by officials to cease operations and the government reportedly confiscated at least 6,500 Bibles during the year. Proselytizing of Muslims by non-Muslims can be punishable by death.[67] In the Muslim context, conversion is associated with the issue of apostasy – renouncement of Islam. When seen in a historical and theoretical framework, traditional Islamic law divides the world into dar-ar-islam, the realm of Islam, and dar-al-harb, the realm which is at war against Muslims. Accordingly, a conversion is therefore first and foremost a renouncement of Islamic unity, and in Muslim history this has been compared to treason, political rebellion or opposition. This mind set also explains why Christian missionary activity towards Muslims is either prohibited or subject to strong restrictions in most Muslim countries. In a Muslim context, apostasy is not only associated with conversion. It also includes blasphemy, for example offending the Prophet Mohammed and Muslim faith and practices. [68]

3.8.7 The standard of proof for conversion and thereby apostasy amounts to four confessions at four different occasions in front of a Muslim judge. The accused must also be an adult in the religious sense (which in Iran is 15 years for boys and 9 years for girls), be of sound mind and have acted with due intention, i.e. not under intoxication, duress or pressure. The court of law must have specific evidence of conversion in order to sentence the accused. If a person accused of apostasy testifies to being a Muslim in a court of law, it is unlikely that he or she will risk further prosecution. The punishment for conversion for a Muslim man, if all criteria have been met, is a death sentence. If all criteria have been met there are no other

[66] Landinfo, COI Centre, Report Iran- Christians & Converts, 7/07/2011, 7 Christians and converts in perspective.
[67] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012 Section II, Government practices
[68] Landinfo, COI Centre, Report Iran- Christians & Converts, 7/07/2011 5. About Islam and apostasy

alternatives, meaning that the judge cannot substitute the death penalty with a prison sentence for a male convert. A female convert will be sentenced to life imprisonment. If she repents and declares herself a Muslim again, she may be released. The precondition for a release, however, is that she has not been sentenced (or indicted) for other offences. [69]

3.8.8 The government actively denied Christians freedom of religion. Christians, particularly evangelicals, experienced increased harassment and surveillance during the year. The government enforced its prohibition on proselytizing by closely monitoring the activities of evangelical Christians, discouraging Muslims from entering church premises, closing churches, and arresting Christian converts. Members of evangelical congregations were required to carry membership cards, photocopies of which had to be provided to the authorities. Worshippers were subject to identity checks by authorities posted outside congregation centres. The government restricted meetings for evangelical services to Sundays, and church officials were ordered to inform the Ministry of Information and Islamic Guidance before admitting new members. Christians of all denominations reported the presence of security cameras outside their churches, allegedly to confirm that no non-Christians participated in services. There were a number of examples of Muslims who converted to Christianity being arrested, detained, or questioned.[70]

3.8.9 At least 300 arrests of Christians were reported during 2011. The status of some of these cases was not known at year's end. Authorities released some Christians almost immediately, while they held others in secret locations without access to attorneys. During the year, authorities also arrested several members of "protected" Christian groups such as Armenian Apostolics and Assyrians. There were numerous incidents during the year of Muslim converts to Christianity facing arrest and sentencing. Many arrests took place during police raids on religious gatherings, during which religious property also was confiscated. [71]

3.8.10 Yousef Naderkhani was sentenced to death in October [2011] after being convicted of apostasy.[72] Before his arrest in October 2009, Naderkhani led a congregation of about 400 Christians in Rasht. The congregation is part of a nationwide evangelical group called the Church of Iran, many of whose members have been arrested and prosecuted since 2009.[73] The Christian Post (CP) of 8 July, reported that Naderkhani was still on death row and due to stand trial again on 8 September for alleged crimes against national security. His original offence was to protest in October 2009 the government's decision to force all children, including his two sons, to read the Qu'ran.[74] However according to an article of 8 September from the International Campaign for Human Rights in Iran "At the court session on Saturday, Naderkhani was acquitted of the charge of 'apostasy,' as well as the new charge of 'extortion.' He was only sentenced to three years in prison on the charge of 'propaganda against the regime,' and as he had already spent this time in prison, he was therefore released—."[75]

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[69] Landinfo, COI Centre, Report Iran- Christians & Converts, 7/07/2011 6. Iranian law and apostasy
[70] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012 Section II, Government practices
[71] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012, Section II, Government practices
[72] Amnesty International Annual Report 24/05/2012: 2011 State of the World's Human Rights, Iran, Freedom of Religion
[73] International Campaign for Human Rights in Iran, 08/09/2012, Christian Pastor Youcef Nadarkhani Acquitted of Apostasy, Released.
[74] Christian Post article 8/07/2012: Youcef Nadarkhani marks 1000 days in Prison as 2.5 million Twitter Users Campaign for Release.
[75] International Campaign for Human Rights in Iran, 08/09/2012, Christian Pastor Youcef Nadarkhani Acquitted of Apostasy, Released.

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.8.11 Conclusion: According to the case law (**SZ and JM and FS and others**), one of the fundamental questions to be determined in each case is whether there is a real risk that a Christian, or a Christian convert has already or will come to the attention of the authorities. Case owners should obtain the most up to date country information, noting the current information contained in paragraph 3.8.9 above as to closer scrutiny of Christian worshippers.

3.8.12 Christians who can demonstrate that in Iran or in the UK they have and will continue to practise evangelical or proselytising activities because of their character or their affiliation to evangelical churches or who would wear in public outward manifestations of their faith such as a visible crucifix, will attract the adverse notice of the authorities on return to Iran and should be considered at risk of persecution. In such cases a grant of asylum will be appropriate.

3.8.13 Moreover, there may be some Christian converts who can demonstrate that they have come to the attention of the authorities previously for different reasons and this in combination with their conversion will put them at real risk of persecution. The conversion plus additional risk factors may compel the authorities to show an adverse interest in the individual where knowledge of the conversion in itself would not be of interest. Where applicants are able to demonstrate such a risk, a grant of asylum is likely to be appropriate.

3.9 Baha'is

3.9.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of state and non state actors due to their Baha'i faith.

3.9.2 Treatment: The largest non-Muslim minority in Iran are the Bahais, who number 300,000 to 350,000. While not discussed in the constitution, the government considers Baha'is to be apostates and defines the Baha'i Faith as a political "sect." The government prohibits Baha'is from teaching and practicing their faith and subjects them to many forms of discrimination that followers of other religions do not face.[76] Bahais were barred from all leadership positions in the government and military. The Ministry of Justice stated that Bahais were permitted to enrol in schools only if they did not identify themselves as such and that Baha'is preferably should be enrolled in schools with a strong and imposing religious ideology. The government requires Baha'i students to identify themselves as a religion other than Baha'i to register for the entrance examination. This action precluded Baha'i enrolment in state-run universities, since a tenet of the Baha'i Faith is not to deny one's faith. Baha'is are banned from the social pension system. In addition, Bahais were regularly denied compensation for injury or criminal victimization and the right to inherit property. Bahai marriages and divorces were not officially recognized, although the government allowed a civil attestation of marriage to serve as a marriage certificate.[77]

[76] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012, Executive summary
[77] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012, Section II, Legal/policy framework

3.9.3 The government continued to imprison and detain Baha'is based on their religious beliefs. The government arbitrarily arrested Baha'is and charged them with violating Islamic penal code articles 500 and 698, relating to activities against the state and spreading falsehoods, respectively. Often the charges were not dropped upon release, and those with charges pending against them feared arrest at any time. Most were released only after paying a large fine or posting high bail. Government officials reportedly offered Baha'is relief from mistreatment in exchange for recanting their religious affiliation, and if incarcerated, made recanting their religious affiliation a precondition for release.[78]

3.9.4 The Baha'is have remained a target for persecution from the Iranian authorities throughout 2011. In April, the Iranian courts decided to re-try and re-sentence seven Baha'i spiritual leaders who had been sentenced to 20 years in prison in September 2010, on allegations of security-related crimes, but later had the terms reduced, with a number of charges overturned. Their re-trial happened suddenly and behind closed doors, with NGO reports stating that the accused were not given the opportunity to discuss their case with their lawyers. Their original 20-year sentences were reinstated. They remain in jail, with Iran ignoring international requests for information on their case. The Iranian authorities also stepped up their campaign to close the premises of Baha'i Institute of Higher Education (BIHE) across Iran. BIHE was set up in 1987 as a result of the Iranian authorities' attempts to prevent declared Baha'is from receiving Iranian state education. In 2011, there was an increase in the frequency of raids on the homes and workplaces of faculty members. Seven key faculty members were tried and convicted, reportedly on the grounds of practising the Baha'i faith and on charges relating to national security. They were all sentenced to between four and five years in prison.[79]

3.9.5 The UN Special Rapporteur for Iran in his report of 6 March 2012 stated he continued to be alarmed by communications that demonstrated the systemic and systematic persecution of members of unrecognized religious communities, particularly the Baha"i community, in violation of international conventions.[80] In addition to documenting the arbitrary arrest and detention of Baha'is for their beliefs, he also reported that Baha'is are subjected to severe socio-economic pressure; in some cases, they have been deprived of property, employment and education.[81]

3.9.6 Since August 2004, some 617 Baha'is have been arrested in Iran. There are about 116 Iranian Baha'is currently in prison because of their religion. To date, the cases of some 498 Baha'is are still active with authorities. These include individuals in prison, those who have been released pending trial, those who have appealed their verdicts, those awaiting notification to begin serving prison sentences, and a few who are serving periods of internal exile; thousands more have been deprived of education, questioned, threatened, denied their pensions, or debarred from earning a livelihood. Most of the detentions follow the familiar pattern of agents of the Ministry of Intelligence showing up at the homes of Baha'is, searching the premises

[78] U.S. State Department, 2011 International Religious Freedom Report – Iran, 30/07/2012, Section II, Government practices
[79] UK Foreign & Commonwealth Office Human Rights & Democracy report 2011, published April 2012, Countries of Concern: Iran
[80] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012.F Unrecognised religious communities, paragraph 59.
[81] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. F. Unrecognized religious communities, paragraph 60-61

and confiscating items such as computers and books, then arresting the residents.[82]

3.9.7 An Open Democracy article of 9 September 2012 stated "in 2011 Mohammad Javad Larijani, the government's representative to the United Nations Human Rights Council publicly denied that Baha'i face any discrimination in Iran and told the council that all Baha'i in Iran have access to education and other rights. Even the public mention of Baha'i by a senior government official was in itself the breaking of a traditional taboo, and a reflection of how much the public discourse around Baha'i has shifted. As a result, more Iranian journalists and analysts started publicly to talk about the rights of Baha'i.[83]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.9.8 **Conclusion:** It is evident Baha'i face discrimination and harassment in their daily lives and up to date country information must be obtained. When an applicant can demonstrate that he or she has been, or is reasonably likely to be, adversely targeted by the Iranian authorities on the basis of their faith, then a grant of asylum will be appropriate.

3.10 Adulterers

3.10.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of state and non state actors due to actual or alleged act of adultery.

3.10.2 **Treatment:** Book 2 of the Islamic Penal Code of Iran defines adultery and refers to punishments for committing adultery (Articles 63 to 102). Punishments include flogging, stoning and, in certain situations, death. (Mission for Establishment of Human Rights in Iran [MEHR])[84] Amnesty International in its December 2010 report " Iran – Executions by stoning" states Stoning is mandatory under the Iranian Penal Code for "adultery while married" for both men and women.[85] The law also permits a man to kill his adulterous wife and her consorts if he is certain she consented.[86]

3.10.3 In 2002, the then Head of the Judiciary declared a moratorium on stoning. However, Iranian law gives judges wide discretionary powers when deciding on sentencing, and since 2002 at least five men and one woman have been stoned to death. Additionally, at least two men and one woman sentenced to stoning have been hanged instead. In January 2009, the Spokesperson for the Judiciary stated that the directive to judges on the moratorium had no legal weight and that judges could ignore it.[87] There were no reported executions by stoning during the year. The law provides that a victim of stoning is allowed to go free if he or she escapes. It is much more difficult for women to escape as they are buried to their necks whereas men are buried only to their waists. According to Amnesty International (AI) death sentences by stoning continued to be passed, but no stonings were known to be carried out. AI reported that at least 15 prisoners, mostly women, remained at risk of

[82] Baha'i World News Service- Human Rights in Iran, 09/09/2012
[83] Open Democracy Iran & Human Rights – a new landscape, 09/09/2012
[84] Islamic Penal Code of Iran, ratified 28 November 1991, Book Five (Ta'azirat) ratified 22 May 1996
[85] Amnesty International,, Iran Executions by Stoning, December 2012.
[86] U.S. Department of State, 2011 Human Rights Report, Iran 25/05/2012 Section 6: Women
[87] Amnesty International,, Iran Executions by Stoning, December 2010.

stoning. [88]

3.10.4 The new Islamic Penal Code [still to be signed into law – see 3.10.7] considers any sexual relationship outside of marriage a crime. According to the new Code, a sexual relationship between a man and a woman outside of marriage is 'adultery,' and is punishable subject to Hadd. Punishments under Hadd could be 100 lashes, or, in some cases, execution.[89] The Telegraph on 13 February reported **"**Iran has issued major reforms to its penal code that bans death by stoning. Stoning is usually reserved for men and women found guilty of adultery. Amnesty International warns that due to quirks of the Iranian legal system, the reforms are not as clear cut as they appear."[90] EA World View in an article of 29 January commented " A review of the bill by Forum for Justice raises serious concerns that sexual relations outside of wedlock and extramarital affairs remain criminalized. The new bill does not proscribe stoning as a punishment and gives judges free reign to cite religious interpretations of the law, which allows them to continue using stoning and other harsh punishments". [91] Justice for Iran in an article 11 April noted "The cosmetic changes to the new legal code only indicate that the Islamic Republic of Iran has given into international pressure by burying their problematic actions into the complexity of their legal justice system. They do not represent a genuine change of heart about the practice or implementation of stoning. In comparison to the previous penal code, stoning has been removed from the section of the code dealing with penalties for different forms of 'adultery'. However, adultery remains a crime in the new code, though now the punishment is to be decided by the Supreme Leader."[92]

3.10.5 The same article noted "the word 'stoning' appears twice in other articles of the new penal code, although details about its implementation, such as the appropriate size of stones to be used, wrapping the convicted person in a white shroud (kafan) and burying the male adulterer in the soil up his waist and a female up to her shoulders, are all gone. According to Article 172, denial after confession will not be accepted except for those crimes which have brought either an execution or stoning sentence. Article 198 remains on the books, articulating the number of witness statements (that of at least four males, or three males plus two females) which have to be secured in order to issue a stoning sentence. Since the punishment for adultery is no longer explicitly outlined in the new penal code, according to Article 221 judges are obliged to ask the Supreme Leader to issue a religious order *(*fatwa*)* in such cases. Consensus amongst Shi'a jurists (maraaje*)* is that the proper punishment for adultery is only stoning, and nothing else will suffice. According to the same strict judicial rules, the judge is not allowed to alter this punishment. Therefore, if Iran's Supreme Leader issues a different punishment for adultery, it will likely be considered invalid by many religious leaders, even if it is execution by hanging or another less inhuman form of execution." [93]

3.10.6 The UN Special Rapporteur in his report of March [2012] stated that he "joins the Human Rights Committee in expressing its concern about the use of stoning as a method of execution, maintains that adultery does not constitute a serious crime by international standards; and strongly urges the Government to enforce its

[88] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1: Arbitrary or Unlawful Deprivation of Life.
[89] Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, 07/05/2012, 1. Sexual Relationships Outside of Marriage, 1.1 Adultery
[90] Telegraph "Iran moves to ban stoning" 13/02/2012
[91] EA World View 29/01/2012 " Iran Update: Guardian Council approves new Islamic Penal Code".
[92] Justice for Iran 11/04/2012 "Radical or Cosmetic; How Would Be Khamenei's Fatwa about Stoning?
[93] Justice for Iran 11/04/2012 "Radical or Cosmetic; How Would Be Khamenei's Fatwa about Stoning?

moratorium on stoning. The Special Rapporteur welcomes the fact that stoning has now been omitted from the new Penal Code and hopes all existing cases will be reviewed to ensure that such penalties are not carried out".[94]

3.10.7 Human Rights Watch in August 2012 reported that "For the new code to take full effect, President Mahmoud Ahmadinejad must sign it into law and it must be published in the country's official journals. However, President Ahmadinejad has not yet signed the bill into law. Once he signs it, it will undergo a three year trial period. In April 2012 Ayatollah Sadegh Larijani, the head of Iran's Judiciary, announced that in the meantime he had instructed courts to apply the previous code---".[95] Human Rights Watch also noted that under the new Penal Code, in cases where the offending party accused of extramarital sex is not married, the punishment is 100 lashes. Similarly, if a man is married but has not yet had penetrative sex with his wife and commits adultery, a judge must sentence him to 100 lashes, a shaved head, and one (lunar) year of internal exile.[96] The Iran Human Rights Documentation Centre reports that "According to Iran's laws, men can concurrently take four permanent wives while having countless number of temporary ones. In light of this law, a married man, when arrested for adultery, can claim that he had [privately] recited the Sigheh [the verse pertaining to temporary marriage contract], but failed to register the marriage. Furthermore, many married men who commit adultery carry on with their affairs under the pretext of having multiple wives (permanent or temporary) and in so doing evade any legal scrutiny or punishment. Meanwhile, a married woman could potentially be subject to stoning after a single incident of adultery, and the law fails to leave any door open for her to avoid the consequences".[97]

3.10.8 In a high profile case of Sakineh Mohammadi-Ashtiani "the judiciary authorities commuted Ashtiani's sentence from death by hanging to 10 years in prison. In 2006, after having been convicted and punished with 99 lashes for involvement in her husband's murder, a court had sentenced Ashtiani to death by stoning for adultery, suspended in September 2010. According to a July 8 report received by the International Committee against Stoning (ICAS), Ashtiani remained in Tabriz Central Prison, where she had attempted suicide as a result of psychological pressure from her incarceration, impending sentence, and deprivation of family visits."[98] Amnesty International reported on 25 July 2012 Sakineh Mohammadi Ashtiani remains imprisoned in north-west Iran apparently still facing a stoning sentence. Her lawyer, Javid Houtan Kiyan, arrested on account of his advocacy for her, remains held as a prisoner of conscience, and is reported to have been sentenced to a lengthy prison term. He is believed to have been tortured during his detention.[99]

3.10.9 Those sentenced are frequently poor or otherwise marginalized members of society. Most of those sentenced to death by stoning are women for the simple reason that they are disadvantaged in the criminal justice system, and face wide-ranging discrimination in law, particularly in regard to marriage and divorce. In a

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[94] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. Legal Issues B Capital Punishment., paragraph 22.
[95] Human Rights Watch, Codifying Repression – An assessment of Iran's New Penal Code, 28/08/2012 1 Background..
[96] Human Rights Watch, Codifying Repression – An assessment of Iran's New Penal Code, 28/08/2012, IV. Death Penalty for Protected Conduct or Non-Serious Crimes, Adultery
[97] Iran Human Rights Documentation Center, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, 07/05/2012, 1. Sexual Relationships Outside of Marriage, 1.1 Adultery
[98] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section1e Trial procedures.
[99] Amnesty International, 25/07/2012, Sakineh Mohammadi Ashtiani's fate unclear while lawyer languishes in jail.

country where the literacy rate of women is lower than that of men, women are more susceptible to unfair trials as they are more likely to sign false "confessions" that they have not understood. they are generally poorer than men as their job opportunities are restricted, which means they are less able to obtain good legal advice. Women from ethnic minorities are less likely than men in their communities to speak Persian, the language of courts, so they often do not understand what is happening to them in the legal process or even that they face death by stoning. However, in recent years more men are known to have been stoned to death than women.[100]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.10.10 Conclusion. Whilst it is apparent Iran has still to implement the new Penal Code, (and thus the old code still applies), adultery will remain a criminal activity attracting degrading treatment which can include torture and/or the death penalty. The key considerations in cases where applicants claim to fear persecution due to adultery are: the marital status of the applicant, whether they did indeed commit adulterous acts; whether this was known or likely to be made known to the husband (in a female applicant's case), the public and the Iranian authorities; and whether persecution and serious harm would be among the likely consequences of this public knowledge**.**

3.10.11 Where an individual is at risk of being prosecuted for adultery a grant of Humanitarian Protection or asylum will be appropriate. A male adulterer who has transgressed Iranian law cannot be regarded as facing persecution on account of his membership of a particular social group. However women are not treated equally before the law and may therefore face persecution on account of their membership of a particular social group and the grant of asylum in these circumstances may be appropriate

3.11 Gay men, lesbians, bisexual and transgender persons (LGBT).

3.11.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities because of their LGBT sexuality.

3.11.2 Treatment: In an article 30 January 2012 Justice for Iran reported that "the Guardian Council ratified the final text of the new Islamic Penal Code and did not find any part of this code to be in contravention of Islamic Sharia law and the Iranian Constitution. Passage of this code renders the former penal Code ineffective, providing the new and more severe code as replacement."[101] The Guardian reported on 13 February 2012 "experts who have studied the new code believe the amendments have complicated some other parts of the law, especially the punishment of homosexuality. (see section 3.10.7 – the new code is not yet law and the old code still applies] Sodomy for men was punishable by death for all individuals involved in consensual sexual intercourse, but under the new amendments the person who played an active role will be flogged 100 times if the sex was consensual and he was not married, but the one who played a passive role

[100] Amnesty International,, Iran Executions by Stoning, December 2010.
[101] Justice for Iran; 30/01/2012, Ratification of the Islamic Penal Code

will still be put to death regardless of his marriage status. [102]

3.11.3 The new code provides a slightly modified definition of mosaheqeh (lesbianism), which is also considered a "crime against God." The punishment for lesbianism is 100 lashes. The New Code also defines non-penetrative sexual relations between two men that involve sexual organs as tafkhiz (foreplay between men). The mandatory "crime against God" punishment for foreplay between men is 100 lashes. However, the new code discriminates against non-Muslims by requiring judges to issue a death sentence for the "active" partner accused of unlawful foreplay if he is non-Muslim and the "passive" partner is Muslim.[103]

3.11.4 Under the new code a death sentence may still be applied for a juvenile if he or she has committed crimes that are considered to be "claims of God" and therefore have mandatory sentences (such as sodomy). The country does not provide a clear distinction between the age of majority – when minors cease to legally be considered children – and the minimum age of criminal responsibility, which is 15 for boys and nine for girls under Iranian law.[104]

3.11.5 The U.S. State Department reported that during 2011 "the punishment of a non-Muslim gay man or lesbian was harsher if the gay man or lesbian's partner was Muslim. Punishment for same-sex sexual activity between men was more severe than for such conduct between women. In some cases security forces raided houses and monitored Internet sites for information on LGBT individuals.[105]

3.11.6 In September President Ahmadinejad called same-sex sexual activity a "despicable act…that is dirty and harmful to humanity." In January [2011] he was quoted as stating: "Homosexuality means the divorce of humanity from its integrity." During his official response to the UN Human Rights Council, President Ahmadinejad categorically refused to answer all six questions regarding the LGBT situation in his country, stating only that the LGBT issue is "beyond the mandate of the International Covenant on Civil and Political Rights." The supreme leader referred to same-sex sexual conduct as a "shameful act."[106]

3.11.7 During 2011there was an increase in the frequency of charges of homosexuality against individuals on death row, or those executed. However, because such persons were generally convicted on a number of different charges and because of the lack of due process, it was unclear in most cases whether such charges of homosexuality were the basis for the executions. On September 4, authorities at Karoun prison in Ahvaz Province executed by hanging three individuals convicted of sodomy. While the circumstances of the case remained unclear at year's end, the fact that they were executed on sodomy charges alone, and not sodomy by coercion or rape, which was normally how sodomy was charged, was significant. It was also the first case in many years in which the only declared charge was sodomy and not combined with other criminal acts, such as rape and armed robbery or national security crimes.[107] According to the Iranian Queer Organisation, "There

[102] The Guardian 13/02/2012 "Iran misleading international community with death penalty claims".
[103] Human Rights Watch, Codifying Repression – An assessment of Iran's New Penal Code 28/08/2012, Iv Death Penalty for Protected Conduct or Non Serious Crimes , Sodomy and Lesbianism..
[104] The Guardian 13/02/2012 "Iran misleading international community with death penalty claims".
[105] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 Discrimination, Societal Abuses and Trafficking in Persons.
[106] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 Discrimination, Societal Abuses and Trafficking in Persons.
[107] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 Discrimination, Societal Abuses and Trafficking in Persons.

are many reports of officers targeting gay parties and hang out places, creating fraudulent charges against gay and transgender persons, and blackmailing gays and lesbians who fear public disclosure of their sexual orientation".[108]

3.11.8 The UN Special Rapporteur reported that "Iranian officials often qualify homosexuality as a disease, and insist on applying stringent punishment for acts perceived as homosexual in nature. For example, in 2011, two prominent Iranian soccer players were indefinitely suspended and fined for committing an "immoral act" on the field by appearing to intimately touch each other during goal-scoring celebrations". He also reported that "Human rights defenders who advocate for members of the lesbian, gay, bisexual and transgender community are often subject to Government intimidation and prosecution. Dr. Houtan Kian, a lawyer who has defended individuals accused of sodomy and adultery, was officially indicted on 11 charges, including defamation of the Iranian judiciary, espionage, disclosing secret and classified information (relating to information on the murder of political prisoners by the Government through undetectable medical methods), fraud and falsifying identities. He has reportedly been severely tortured, including sustaining close to 60 cigarette burns on his body, especially around his genitals and on his legs.[109]

3.11.9 The law defines transgender persons as mentally ill, encouraging them to seek medical help in the form of gender-reassignment surgery. The government provided grants of as much as 4.5 million toman ($4,500) and loans of as much as 5.5 million toman ($5,500) for transgender persons willing to undergo gender reassignment surgery. Human rights activists and NGOs reported that some members of the gay and bisexual community were pressured to undergo gender reassignment surgery to avoid legal and social consequences in the country.[110]

3.11.10 Lesbians, gay men, bisexual and transgender people (LGBT) also face hostility from a society that is intolerant of sexual identities other than heterosexuality.[111] In 2011, U.S. State Department reported that "the size of the LGBT community was unknown, as many individuals feared identifying themselves".[112] The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) notes that "Parents have forced their homosexual children to have sex-change operations, local psychologists and psychiatrists who still deem homosexuality as a mental illness have prescribed cures".[113] Human Rights Watch states that "Iran's sexual minorities suffer much harassment, discrimination, and abuse at the hands of private actors, including members of their family and society at large. … in Iran sexual minorities are particularly vulnerable to such abuse because state law criminalizes same-sex conduct and imposes the death penalty for certain same-sex acts. Not only are sexual minorities prevented from availing themselves of the general protections afforded under the law, they must also fear possible prosecution under the law should they seek help from authorities. Iranian law, therefore, creates a "chilling effect" on the ability (and desire) of victims to report abuses against them, and

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[108] Iranian Queer Organisation (IRQO), Humanity Denied: The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Iran, 30 September 2011, III. Dignity Denied: Torture and Inhuman or Degrading Treatment of Sexual Minorities i. State Agents , paragraph 43

[109] Report of the Special Rapporteur to the UN Human Rights Council of 6 March 2012. IV Human Rights: H Treatment LGBT community: Paragraphs 67-68.

[110] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 Discrimination, Societal Abuses and Trafficking in Persons.

[111] Amnesty International, We are ordered to crush you – Expanding repression of dissent in Iran, 28//02/2012, 4.11 Lesbian, Gay Men and Bisexual an Transgender People.

[112] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 Discrimination, Societal Abuses and Trafficking in Persons

[113] ILGA, Iran's persecution of gay community revealed, 23 May 2012

renders them more vulnerable to harassment, abuse, blackmail, and extortion by private actors".[114]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.11.11 Conclusion: Case owners must refer to the Asylum Instruction on sexual orientation and gender identity in the asylum claim. Whilst the timescale for the implementation of the new Penal Code is unclear, in reality the situation for LGBT individuals in Iran remains severe. Internal relocation will rarely be an option as the fear is of the Iranian state.

3.11.12 The country evidence is that LGBT activists, who come to the attention of the authorities, are in danger of persecution at the hands of the state and should be granted asylum.

3.11.13 If there is a real risk that a gay man, lesbian or bisexual sexual relationship will come to the attention of the authorities, the applicant would on return to Iran face a real risk of persecution and, as gay men, lesbians and bisexuals in Iran may be considered to be members of a particular social group, should be granted asylum.

3.11.14 If an individual chooses to live discreetly because he/she wants to avoid embarrassment or distress to her or his family and friends he/she will not be deemed to have a well-founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to her or his sexual orientation. In this regard case owners should consider carefully the country evidence about the homophobic culture that rules Iranian society and that gay men and lesbians face ostracism and abuse from their families, friends and acquaintances.

3.11.15 If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well-founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well-founded fear of persecution due to their sexual orientation.

3.12 Kurds and supporters of KDPI, Komala or PJAK.

3.12.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities due to their Kurdish ethnicity and / or political affiliation.

3.12.2 Treatment: The constitution grants equal rights to all ethnic minorities and allows for minority languages to be used in the media and in schools. In practice minorities did not enjoy equal rights, and the government consistently denied their right to use their language in school. The government disproportionately targeted minority groups, including Kurds, for arbitrary arrest, prolonged detention, and physical abuse. There are between five and 11 million ethnic Kurds in the country, who have

[114] Human Rights Watch, We are a buried generation, December 2010 IV. Family, school and society

frequently campaigned for greater regional autonomy.[115] Kurds are particularly vulnerable as a minority population in Iran for two main reasons: some Kurds have a long history of struggle for national autonomy in Iran and they are mostly Sunni Muslims (a minority in Shi'a Iran). The Islamic Republic of Iran has continued a pattern established by previous regimes of creating a strong centralised state that is intolerant of ethnic dissidents. [116]

3.12.3 A Human Rights Watch (HRW) report dated 9 January 2009 noted that "Left-leaning Kurdish activists formed the Komala Party in Mahabad in the 1940s. In July 1945, Komala changed its name to the Kurdistan Democratic Party of Iran (KDPI). After the 1979 revolution, another left-leaning movement, also calling itself Komala, took up arms against the central government in an attempt to gain Kurdish independence. Komala unilaterally laid down its arms in the 1990s.The Iranian government has not since alleged any armed activities by Komala members or sympathizers.[117] Jane's Sentinel Security Assessment, 23 January 2009, stated that the full name is the Kurdish Communist Party of Iran. It adds that "As an independent Marxist group Komala aims to establish a social system based on social justice and equality. It strives to end oppression and to achieve autonomy for Iranian Kurds. While the group aims to secure the right of self-determination it also seeks changes in the existing status quo of Iranian politics at large."[118]

3.12.4 [see also 3.12.6 below] The KDPI [Kurdish Democratic Party of Iran] had supported the overthrow of the Shah and many Kurds participated in the 1979 revolution, but they were quickly marginalized by the new regime. The KDPI helped to organise a rebellion in the region which was met with brutal violence. Human Rights Watch reported that more than 271 Iranian Kurdish villages were destroyed and depopulated between 1980 and 1992.' An estimated 10,000 Kurds were killed in the two years after the revolution. Although strong feelings of nationalism remain among some of the Kurds in Iran, most Kurds express their identity non-violently. However, journalists and historians who publish their thoughts or opinions on Kurdish nationalism have been tried, imprisoned and often sentenced to death. They are usually convicted of enmity with God', a vague charge that is often used by the regime to silence its critics. [119]

3.12.5 The Free Life Party of Kurdistan (PJAK), a separatist militant group linked to the Kurdistan Workers' Party (PKK) of Turkey, has conducted a number of guerrilla attacks in recent years and was declared a terrorist organization by the United States in 2009. Iranian efforts to combat the PJAK have included raids into Kurdish territory in neighboring Iraq.[120] Currently PJAK is the only group engaged in armed struggle against the Iranian government. The KDPI and other Kurdish parties claim that they have no relationship with PJAK.[121] Iranian forces regularly bombarded areas along the Iran-Iraq Kurdish border, targeting purported terrorist activities. The Iranian shelling resulted in civilian casualties. For example, on July 28, shelling near the town of Sidakan killed a 13-year-old boy. State media rarely provided reporting

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[115] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 National/Racial/Ethnic Minorities
[116] The Foreign Policy Centre, A revolution without rights? Women, Kurds and Bahais searching for equality in Iran, 25 November 2008. Background: Women, Kurds and Baha'is in Iran
[117] Human Rights Watch Iran: Freedom of Expression and Association in the Kurdish Regions, 9 January 2009 iii Background
[118] UK Border Agency, Country of Origin Information Service, Iran Country Report June 2011 (paragraphs 15.87/89)
[119] The Foreign Policy Centre A revolution without rights? Women, Kurds and Bahais searching for equality in Iran, 25 November 2008 Background: Women, Kurds and Baha'is in Iran
[120] Freedom House, Freedom in the World 2012 - Iran, 12 July 2012,
[121] Human Rights Watch Iran: Freedom of Expression and Association in the Kurdish Regions, 9 January 2009 iii Background

or figures on the number killed or injured. [122]

3.12.6 Freedom House in its Iran 2011 report stated that "Kurdish opposition groups suspected of separatist aspirations, such as the Democratic Party of Iranian Kurdistan (KDPI), are brutally suppressed."[123] Amnesty International noted in its report of February 2012 that "Members of the Kurdish minority who express any form of peaceful dissent are vulnerable to accusations of participation in banned Kurdish political groups such as KDPI, Komala and PJAK. Such accusations put them at even greater risk of serious human rights violations including torture and the death penalty".[124]

3.12.7 Politically active groups and individuals are considered a threat to national security by the Iranian government. If the Iranian authorities consider a person to be working against national security, (the person may for example be accused of being a spy or of cooperating with an oppositional religious, ethnic or political group), they may face severe punishment ranging from ten years imprisonment to execution. For instance, being in possession of a CD, a pamphlet or something similar made by the Kurdish Democratic Party of Iran (KDPI), Komala or other Kurdish organisations, may be considered as an act against national security. This form of persecution for political activities is a problem all over Iran. However, the authorities are watching Kurdish areas and Tehran more carefully than other areas.[125].

3.12.8 The government used security laws, media laws, and other legislation to arrest and persecute Kurds solely for exercising their right to freedom of expression and association. The government reportedly banned Kurdish-language newspapers, journals, and books and punished publishers, journalists, and writers for opposing and criticizing government policies. Although the Kurdish language is not banned, schools did not teach it. Authorities suppressed legitimate activities of Kurdish NGOs by denying them registration permits or bringing spurious charges of security offenses against individuals working with such organizations. There were several instances of Kurdish activists sentenced for political crimes during 2011.[126]

3.12.9 The UN Special Rapporteur in his report of 6 March on Human Rights in Iran commented that he "continues to receive reports about human rights violations affecting ethnic minorities, in law and in practice. As at 31 October 2011 15 Kurdish activists were reportedly on death row on charges including "acting against national security", "corruption on earth" and espionage. Farzad Kamangar, a Kurdish teacher, was executed together with three other Kurds on 9 May 2010, at Evin Prison. Mr Kamangar was arrested by the Ministry of Intelligence in 2006 and sentenced to death on charges of Moharebeh [enmity with God] and for alleged membership of and activities with the Kurdistan Workers‟ Party.[127] The US State Department 2011 Human Rights report for Iran states "On January 24, the government executed Kurdish political prisoners Jafar Kazemi, an editor and publisher of academic books at Amir Kabir University and 2009 election protester, and Mohammad Ali Haj Aghaie, also an election protester, after they reportedly

[122] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section1 Arbitrary or Unlawful Deprivation of Life
[123] Freedom in the World 2011 – Iran, 12 May 2011
[124] Amnesty International We are ordered to crush you – Expanding repression of dissent in Iran 28/02/2012, 4.12 Religious and Ethnic Minorities
[125] Danish Immigration Service Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc.', released April 2009 2.3 Punishment for imputed political opinion.
[126] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 6 National/Racial/Ethnic Minorities
[127] Report of the Special Rapporteur on the situation nof human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. G: Ethnic minorities, paragraph 63.

refused to give televised confessions on January 17 in Evin Prison. Aghaie was a long-standing political activist who had been previously convicted for his participation in the 1980s government opposition.[128]

3.12.10 The Iranian authorities continued to execute political prisoners, and to use the death penalty as a tool against minorities.[129] Hossein Khezri, a member of Iran's Kurdish minority was executed on 15 January 2011 after being convicted of moharebeh due to his membership of the Party For Free Life of Kurdistan (PJAK). He said in a letter written in October 2010 from Oroumieh Prison that he was tortured after his arrest. Kurdish political prisoner Zeynab Jalalian learned in December [2010] her death sentence had been commuted.[130]

3.12.11 The charges made against Kurdish activists often include allegations of unspecified breaches of national security or violating morality, which create a legal exemption from honouring human rights protections outlined in the constitution. For example, freedom of expression is allowed, 'except when it is detrimental to the fundamental principles of Islam or the rights of the public.' Activities that count as being 'against' Islam or the Islamic Republic can be very broadly defined to suit the purposes of the local or national government. Such charges are used as a pretext for cracking down on criticism, activism or dissent of any kind."[131]

3.12.12 Human Rights Watch reported in August 2012 that "At least 28 Kurdish prisoners are also known to be awaiting execution on various national security charges, including "enmity against God." Human Rights Watch believes that in a number of these cases, Iran's judicial authorities convicted, sentenced, and executed individuals simply because they were political dissidents, and not because they had committed terrorist acts.[132]

3.12.13 According to the Iran Human Rights Documentation Centre, "Evidence demonstrates that the Islamic Republic of Iran's arrest of Kurdish activists follows a pattern. First, local branches of the government's intelligence and security apparatus typically initiate a pretext for arrest, such as allegations related to other illegal activity. Most often these relate to espionage, possession of arms or other materiel, or drug trafficking. Such pretexts are not, however, always invoked -in some instances, Kurdish minorities have been targeted for simply being in possession of a pamphlet or CD made by Kurdish political parties."[133]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.12.14 Conclusion: There is no evidence to suggest that an applicant of Kurdish ethnic origin, in the absence of any other risk factor, would on return face a real risk of ill mistreatment or persecution to Article 3 level purely on account of his or her ethnic

[128] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section1 Arbitrary or Unlawful Deprivation of Life
[129] Amnesty International We are ordered to crush you – Expanding repression of dissent in Iran 28/02/2012, 4.12 Religious and Ethnic Minorities
[130] Amnesty International Death sentences and Executions 2011 27/03.2012
[131] The Foreign Policy Centre, A revolution without rights? Women, Kurds and Bahais searching for equality in Iran, 25 November 2008 Legal Obstacles, Kurds.
[132] HRW August 2012, Codifying Repression – An assessment of Iran's New Penal Code. 28/08/2012 Summary
[133] Iran Human Rights Documentation Center, On the Margins: Arrest, Imprisonment and Execution of Kurdish Activists in Iran Today, 11/04/2012, Introduction

origin. However the government disproportionately targeted minority groups, including Kurds, for arbitrary arrest, prolonged detention and physical abuse.

3.12.15 Applicants who are able to demonstrate that they are known, or suspected, by the government to be members or supporters of the KDPI, Komala, or PJAK, will be at real risk of persecution and a grant of asylum will generally be appropriate.

3.12.16 Case owners should also have regard to the fact that members of PJAK have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant for PJAK and the evidence suggests that he/she has been involved in such actions, case owners should consider whether they fall to be excluded from the 1951 Refugee Convention under Article 1F. Case owners should refer all such cases to a Senior Caseworker in the first instance.

3.13 Smugglers

3.13.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities due to their criminal activities as smugglers.

3.13.2 **Treatment:** According to a UNHCR official **"**it is easier to enter into Pakistan and Afghanistan, due to the fact that Afghans and Pakistanis living in the border regions cross the border easily and continuously. The majority of the population living in the poverty-stricken regions of the South East of Iran resort to lucrative activities such as the smuggling of goods and human beings. Kurds live on both sides of the border between Iran and Turkey and this, in addition to the difficulty of controlling borders in the mountainous regions of Kurdistan, makes the smuggling of goods and people easier for smugglers. As to Oman and the United Arab Emirates, moving from the southern regions of Iran to those countries by using local boats is a long standing tradition. People living on both sides of the Gulf construct their own boats with minimum instruments and use them for their own shipping activities.[134]

3.13.3 The Islamic Republic of Iran is a major transit route for opiates smuggled from Afghanistan through Pakistan to the Persian Gulf, Turkey, Russia, and Europe. A large share of opiates leaving Afghanistan (at least 40 percent) transits Iran for domestic consumption as well as to consumers in Russia and Europe. Knowledgeable observers estimate that at least 40 per cent of Afghan opium production enters Iran, with a large share of that 40 percent remaining for Iran's own consumption.[135] The new [Penal] code abolishes the death penalty for individuals under 18 years of age who commit "discretionary crimes," including drug offenses. Nonetheless, judges can still sentence drug offenders to death under Iran's draconian antinarcotics law. This law, which was initially passed by Iran's Expediency Council in 1988 and then amended in 1997 and again in December 2010, imposes the death penalty for crimes including trafficking, possession or trade of more than 5kg of opium and other specified drugs; producing, trafficking, possession or trade of 30g of heroin or morphine (and repeated offences involving

[134] Canadian Immigration & Refugee Board Iran: Iran: The passport; its features and procedures for application including whether an applicant who was refused a passport would be notified and have recourse; the use and prevalence of fraudulent or counterfeit passports to exit Iran; ease of illegal entry into and exit from Pakistan, Turkey, and Azerbaijan overland, and Oman and the United Arab Emirates by sea; whether authorities seize passports from certain individuals to prevent their departure from the country (2004 - February 2006), 03/04/2006

[135] US Department of State's International Narcotics Control Strategy Report (INCSR), Jan to Dec 2011, Iran, A Introduction, published March 2012

smaller amounts); and the manufacture, trafficking, and possession of specified synthetic and non-medical psychotropic drugs. The law also provides a mandatory death sentence for the "heads of the gangs or networks," in addition to armed smuggling.[136]

3.13.4 Al Arabya News reported on 11 September 2012 that Iran had publicly hanged five men convicted of drug trafficking in the southern city of Shiraz, the governmental newspaper IRAN reported on Saturday [8 September]. They had been convicted of smuggling different amounts of narcotics. Amnesty International said in its annual review of death sentences and executions worldwide published in March that Iran executed at least 360 people in 2011, three-quarters of them for drugs offences, up from at least 252 in 2010.[137] Death Penalty News reported 3 June 2012 that "According to local authorities in western Afghanistan province of Nimroz, the dead bodies of three Afghans who were hanged in Iran were handed over to their families. Officials also said the three were hanged in connection to drugs smuggling charges".[138]

3.13.5 Mohammad Jangali, a 38 year old trainee truck driver from the Kouresunni minority, was executed on 10 October 2011 after drugs were found in a truck he was driving in 2008. He is believed to have signed a "confession" prepared by the Ministry of Intelligence under torture. His family was given no information about the case by the authorities until they were contacted by the prison to say that he would be executed in eight hours and they should come now if they wanted to see him. He maintained until his death that he had not known that the truck contained drugs. In cases of drugs offences prosecuted under the Anti-Narcotics Law, those sentenced to death seem not to have any right to appeal at all.[139] In August 2012, Human Rights Watch noted that "Iran's anti-narcotics law imposes mandatory death sentences for possession and trafficking of small amounts of illicit drugs, tries alleged drug offenders behind closed doors in revolutionary courts where they are regularly denied their due process rights, and severely restricts their right to appeal even in cases where the punishment is death".[140] In March 2012, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran renewed his call on the Government to implement a moratorium on the death penalty, especially in drug-related cases. [141] Amnesty International reports that "Some Iranians have claimed that the authorities accuse political activists of drug smuggling to conceal the execution of political prisoners."[142]

3.13.6 Each year about $5 billion worth of goods are smuggled into Iran, the state-run Mehr News Agency reported in June 2011, citing the country's Customs and Excise Department. About 80 percent of cell phones sold in the country are brought in illegally. Fishermen by day, Iran's black marketers make the two-hour journey across the Strait of Hormuz after dark to Oman to bring back flat-screen televisions, cell phones, and food. In the short term, there's little the government can do to stop the black marketers. Local producers aren't competitive because they have limited capacity and aging technology. Those making alcohol runs can have their boat

[136] Human Rights Watch Codifying Repression – An assessment of Iran's New Penal Code. 28/08/2012, Draconian Drug Related Punishments.
[137] Al Arabya News, 11/09/2012, Iran publicly hangs five drug smugglers
[138] Death Penalty News, 04/06/2012, Iran: Three Afghan nationals hanged for drug smuggling.
[139] Amnesty International Death sentences and Executions 2011 27/03/2012 Middle East and North Africa.
[140] Human Rights Watch, Iran: Donors Should Reassess Anti-Drug Funding, 21/08/2012
[141] United Nations, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 06/03/2012 paragraph 21
[142] Amnesty International, Iran: Addicted to death: Executions for drugs offences in Iran, 15/12/2011, Political prisoners condemned for alleged drugs offences.

confiscated or go to jail. “Smuggling edible goods is easier than shoes and clothing products, because if arrested by the Iranian coast guard there is a lesser fine for these things. [143] The Khasab speedboats [across the Straits] are far from the only back channel into Iran. Drug traffickers easily cross the hinterland borders with Pakistan and Afghanistan, and black market networks stretch across the frontiers with Iraq and Turkey. Authorities in Iraq's Kurdish region have been under pressure for years to crack down on fuel trucks heading into Iran in violation of US sanctions.[144]

3.13.7 Based on statistics available in 2011, every year around $730m- (£465m-) worth of alcoholic drinks are smuggled into Iran; this estimates to around 60m to 80m litres. Some 80% of the alcohol is brought in through its Western border, from Iraqi Kurdistan. Police were able to seize just a quarter of the smuggled alcohol. [145]

3.13.8 The UN Special Rapporteur in his report of 6 March on Human Rights in Iran commented that he was informed of the systematic killings of kulbars (back carriers) and kasebkaran (tradesmen), Kurds residing in border areas. The kulbaran, who ferry cargo across the border on their backs or smuggle commodities such as tea, tobacco and fuel to earn a living, are particularly affected. Iranian law regards the activities of the kulbari as a crime that is punishable by several months of detention or a fine equal to the value of the seized commodities. The Special Rapporteur received reports, however, that Iranian border guards indiscriminately shoot at these individuals, thereby killing and wounding dozens of kulbari annually, as well as their horses.[146]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.13.9 Conclusion. Smuggling is endemic in Iran, particular with UN imposed sanctions and there is a clear differential in penalties between those smuggling drugs and those Iranians dealing in other goods. The greater risk to the latter is primarily of being injured or killed whilst in the act of smuggling, rather than from the penalties if caught. In any event persons fleeing from prosecution, or punishment, for an offence are not normally refugees.

3.13.10 Prosecution, however, can be considered persecution if it involves victimisation in its application by the authorities. Punishment which is cruel, inhuman or degrading (including punishment which is out of all proportion to the offence committed) may also constitute persecution. Few applicants will be able to demonstrate that they would be subject to a disproportionate punishment as a result of their criminal activities. However, for individuals who are able to demonstrate that they face the death penalty, or a real risk of suffering severe punishment, which is meted out to some smugglers in Iran then a grant of Humanitarian Protection may be appropriate - **[see section 3.17 as regards prison conditions].**

3.13.11 Case owners should also have regard to the fact that a person’s criminal activities may mean that they fall to be excluded from the 1951 Refugee Convention under

[143] Bloomberg Business Week 02/08/2012, “Iran’s smugglers feel the squeeze”.
[144] Guardian, 23/01/2012, “From flat screen TVs to Dutch flowers: Iranian smugglers defy sanctions threat”.
[145] BBC News 20/06/2012 “Iran’s hidden alcoholism problem”.
[146] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. G: Ethnic minorities, paragraph 64.

Article 1F and that a grant of Humanitarian Protection or Discretionary Leave would not be appropriate. Such cases should be referred to a Senior Caseworker**.**

3.14 Former members of state security organisations

3.14.1 Some applicants may make an asylum and/or human rights claim based on fear of ill-treatment amounting to persecution at the hands of the Iranian authorities due to their previous membership of state security organisations (such as the IRGC, Pasdaran or Basil) and having spoken out against abuses committed by those organisations; [see also section 2.3 for details of the Iranian Security Services].

3.14.2 Treatment. Several agencies share responsibility for law enforcement and maintaining order, including the Ministry of Intelligence and Security, Law Enforcement Forces under the Interior Ministry, and Iran's Islamic Revolution Guards Corps (IRGC). The Basij and informal groups known as the Ansar-e Hizballah (Helpers of the Party of God) were aligned with extreme conservative members of the leadership and acted as vigilantes. The security forces were not considered fully effective in combating crime, and corruption and impunity were problems. Regular and paramilitary security forces such as the Basij committed numerous serious human rights abuses. [147]

3.14.3 Iran's Islamic Revolution Guards Corps (IRGC) was set up shortly after the 1979 Iranian revolution to defend the country's Islamic system, and to provide a counterweight to the regular armed forces. It has since become a major military, political and economic force in Iran, with close ties to the Supreme Leader, Ayatollah Ali Khamenei, and President Mahmoud Ahmadinejad, a former member. It also controls the paramilitary Basij Resistance Force and the powerful bonyads, or charitable foundations, which run a considerable part of the Iranian economy. [148]

3.14.4 Jane's Sentinel Security Assessment updated 1 February 2011 stated that "The Islamic Revolutionary Guards Corps (IRGC), commonly known as the Pasdaran (Guardians), is composed of five main branches; Ground Forces, Air Force, Navy, Basij militia and the Qods Force special operations branch. There is also an Intelligence Directorate. The IRGC has a cultural and military mission. Its cultural role is in safeguarding the achievements of the Islamic Revolution, while its military role lies in supporting the regular forces when required. Because of its dual political and military role, the IRGC also has an internal security role, which includes local intelligence gathering; this role has grown in importance since the end of the war with Iraq. While co-operation between the IRGC and the national police is institutionalised, it is best to treat the IRGC predominantly as a military land force that parallels the regular army.[149]

3.14.5 Following President Ahmadinejad's disputed re-election in June [2009], the Revolutionary Guards warned demonstrators against further protests. Many people in Iran saw the subsequent crackdown on the opposition as an assertion of control by the Revolutionary Guards. The Guards are thought to control around a third of Iran's economy through a series of subsidiaries and trusts.[150]

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[147] U.S. Department of State, 2011 Human Rights Report, Iran 25/05/2012 Section 1; Role of the Police & Security Apparatus.
[148] BBC News 18/10/2009: Profile Iran's Revolutionary Guards
[149] UK Border Agency Country of Origin Report, Iran June 2011 (para 9.11)
[150] BBC News 18/10/2009: Profile Iran's Revolutionary Guards

3.14.6 The Basij Resistance Force is a volunteer paramilitary organization operating under the Islamic Revolutionary Guards Corps (IRGC). It is an auxiliary force with many duties, especially internal security, law enforcement, special religious or political events and morals policing. The Basij have branches in virtually every city and town in Iran. The Basij have become more important since the disputed 2009 election, since when domestic demands for reform and anticipating economic hardships from international sanctions, the Supreme Leader Ayatollah Ali Khamenei has mobilized the Basij to counter perceived threats to the regime. The Basij's growing powers have in turn increased the force's political and economic influence and contributed to the militarization of the Iranian regime. Members include women as well as men, old as well as young, though most today are believed to be between high school age and the mid-30s. The perks can include university spots, access to government jobs and preferential treatment .[151]

3.14.7 The Basij were pivotal in suppressing the anti-government protests after the disputed presidential election on June 12, 2009. Various branches of the Basij were mobilized to counter anti-government protests at high schools, universities, factories and on the street. Yet the Basij also performed poorly, as they were unable to suppress demonstrations through their local branches. The Iranian press reported that neighborhood Basij were not willing to beat up neighbors who protested against the election result by chanting "God is great" from their homes. Some Basij members at high schools and universities also reportedly deserted their assignments after commanders chiefs tried to mobilize them to intimidate, harass or beat up fellow students engaged in sit-ins and demonstrations against the election results. And many Basij members evaporated in the face of angry demonstrators in major population centers. Basij and IRGC commanders reported transporting Basij members from outside towns to counter dissidents as the local Basij members were not ready to act in their own neighborhoods or place of work.[152]

3.14.8 There has been no improvement in the human rights situation in Iran in 2011, and in some areas there has been deterioration; NGOs reported numerous cases of torture and other ill-treatment against detained persons in 2011. Iran continues to implement the death penalty in ways that contravene international law. The rate of executions over the last 12 months continued at an exceptionally high level, and the practice of the execution of juveniles continued.[153] Freedom House reported in September 2012 that the regime regards anyone who expresses the slightest dissent as a threat. Citizens who criticize the establishment, engage in peaceful protests, or advocate for human rights and democracy are intimidated, harassed, arrested, tried, imprisoned, and tortured.[154] There were reports that the government and its agents committed multiple acts of arbitrary or unlawful killings, including those caused by torture, denial of medical treatment, and beatings. There were several extrajudicial killings by government Basij forces surrounding the February protests in support of the Arab Spring uprisings. Basij forces reportedly killed protesters during rallies and while pursuing protesters after they had dispersed. On February 14 two university students were shot by men on motorcycles, which friends indicated was a hallmark of the Basij.[155]

See also: **Actors of protection (section 2.3 above)**

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[151] US Institute of Peace, Iran Primer,21/10/2010, Basij Resistance Force
[152] US Institute of Peace, Iran Primer,21/10/2010, Basij Resistance Force
[153] UK Foreign & Commonwealth Office HR report 2012: Countries of Concern, Iran.
[154] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[155] U.S. Department of State, 2011 Human Rights Report, Iran, 24/05/2012 Section 1; Respect for the Integrity of the Person, including freedom from: a. Arbitrary or Unlawful Deprivation of Life.

Internal relocation (section 2.4 above)

Caselaw (section 2.5 above)

3.14.9 Conclusion. There is a real risk that those members of the internal security and intelligence services who have spoken out against abuses committed by those organisations and have come to the attention of the authorities would on return to Iran face a real risk of persecution and should be granted asylum for reason of his or her political opinion.

3.14.10 Depending on the particular circumstances, former members of the internal security and intelligence services who are perceived to have spoken out against abuses committed by those organisations may similarly face a real risk of persecution or ill-treatment on return. Case owners must consider carefully whether the personal circumstances of the individual concerned are such that he or she would face a real risk of persecution on return to Iran.

3.14.11 Those applicants who have been members of the IRGC or Basij may have been witness to abuses and/or taken part in abuses whilst they were members. If it is accepted that the applicant was an active operational member of the IRCG or Basij and has been involved in such actions, case owners should consider whether the claimant falls to be excluded from the 1951 Refugee Convention under Article 1F. Case owners should refer all such cases to a Senior Caseworker in the first instance.

3.15 Illegal Exit from Iran

3.15.1 It is unlikely that any applicants would base their claim for asylum solely on the consequences of their illegal departure from Iran and in itself, that this would be sufficient to warrant protection. It is possible that illegal exit may be an aggravating factor in other categories of claim and as such a risk factor to be taken into account.

3.15.2 Treatment. The government required exit permits for foreign travel for all citizens. Some citizens, particularly those whose skills were in demand and who were educated at government expense, had to post bond to obtain an exit permit. The government also restricted foreign travel of some religious leaders and members of religious minorities and scientists in sensitive fields. It also increasingly targeted journalists, academics, opposition politicians, and activists--including women's rights activists--for travel bans and passport confiscation during the year. A woman must have the permission of her husband, father, or other male relative to obtain a passport. A married woman must receive written permission from her husband before she leaves the country.[156]

3.15.3 Checks are carried out, at the time of passport issue, in relation to any other outstanding security issues, such as outstanding warrants, which could prevent either a male or a female from being issued the passport. This takes place at the time of the general passport application rather than when issuing any particular 'exit stamp'. This is done using a specialised database, which is also the same system used at the airport when conducting the final verification of eligibility to travel at the security checkpoint.[157]

[156] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 2d Freedom of Movement, Internally Displaced Persons, Protection of Refugees and Stateless Persons.

[157] Advisory Panel on Country Information, Evaluation of the August 2008 COI report on Iran, 23/09/2008; 31 Exit / Entry Procedure, http://apci.homeoffice.gov.uk/PDF/eleventh_meeting/APCI.11.2%20Iran.pdf

3.15.4 According to Said Hamid Sajdrabi, in charge of passport border control at Imam Khomeini International Airport, Permission to leave Iran might be revoked in cases where the authorities find it necessary. This may be because a person has outstanding issues with the government or other reasons that may lead to the authorities revoking the permission. Hence, a person may not be allowed to leave even though he or she has permission to do so. The Immigration Police may revoke the permission to leave anywhere in the airport, since the airport is under the jurisdiction of the Immigration Police.[158]

3.15.5 According to Article 34, any Iranian who leaves the country illegally, without a valid passport or similar travel documents, will be sentenced to between one and three years imprisonment, or will receive a fine between 100,000 and 500,000 Rials (£6-£30). In order to deal with the cases relating to illegal departure, a special court is located in Mehrabad Airport in Tehran. Its branch number is given as 1610. If an Iranian arrives in the country, without a passport or any valid travel documents, the official will arrest them and take them to this court. The court assesses the background of the individual, the date of their departure from the country, the reason for their illegal departure, their connection with any organisations or groups and any other circumstances. The judge will decide the severity of the punishment within the parameters of Article 34. This procedure also applies to people who are deported back to Iran, not in the possession of a passport containing an exit visa; in this case the Iranian Embassy will issue them with a document confirming their nationality. Illegal departure is often prosecuted in conjunction with other, unrelated offences.[159]

3.15.6 H. Mirfakhar, Director General, Consular Affairs, Ministry of Foreign Affairs noted that a person who has left Iran illegally and who is not registered on the list of people, who cannot leave Iran, will not face problems with the authorities upon return, though the person may be fined. A person who has committed a crime and has left Iran illegally will only be prosecuted for the crime previously committed and not for leaving the country illegally. The Attorney at Law stated that if a person has outstanding issues with the authorities (other than leaving illegally) he or she may very likely be punished for these upon return. The punishment will be according to law, however, it may also come to a stricter punishment since the person has left Iran illegally.[160]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.15.7 Conclusion: As the Tribunal concluded in SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053 Iranians facing enforced return do not in general face a real risk of persecution or ill-treatment. That remains the case even if they exited Iran illegally. Illegal exit may however add to the difficulties an applicant would face if they had attracted the adverse attention of the authorities for another reason.

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[158] Danish Immigration Service 2008 Fact finding Mission to Iran 24 August – 2 September 2008; Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID cards, Summons and Reporting etc, 7. Exiting and entering Iran, 30/04/2009
[159] Advisory Panel on Country Information,, Evaluation of the August 2008 COI report on Iran, Illegal Departure, http://apci.homeoffice.gov.uk/PDF/eleventh_meeting/APCI.11.2%20Iran.pdf
[160] Danish Immigration Service 2008 Fact finding Mission to Iran 24 August – 2 September 2008; Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID cards, Summons and Reporting etc, 7. Exiting and entering Iran, 30/04/2009

3.16 Women

3.16.1 Some women applicants may make a claim for asylum because they fear gender-based persecution (where the type of harm is related to their gender) or because the reason for persecution is their gender. [see also section 3.7.12].

3.16.2 ***Treatment.*** The constitution nominally provides women with equal protection under the law and all human, political, economic, social and cultural rights in conformity with Islam[161]. However, provisions in the Islamic civil and penal codes legalise the subordination of women, treating them as second-class citizens with unequal rights.[162] Freedom House reported in September 2012 that "The law deprives women of equal rights in marriage, divorce, child custody, inheritance, and other areas. A woman's testimony in court is officially worth half that of a man and a woman needs the permission of her father or husband to travel. Women can run for seats in the parliament and city councils, but they cannot stand as candidates for the presidency or the Assembly of Experts" [the body of 86 clerics who chose the supreme leader].[163] Amnesty International notes that "women in Iran face widespread discrimination under the law" and that a Family Protection Bill which would increase discrimination against women remains under discussion in parliament.[164]

3.16.3 Amnesty International also reports that "Discrimination against women extends beyond just the Penal Code in Iran and includes other facets of society, including access to higher education and the right of women to choose what they wear in public as they are subject to a state-imposed dress code.[165] Freedom House noted in September 2012 that "The authorities have continued to enforce restrictions on citizens' dress. Young men and women whom police find to be inappropriately dressed are harassed, detained, or forced to pay fines".[166] The UN Secretary-General reported that "strict implementation of the morality code concerning dress and attempts to criminalize improper veils have limited women's participation in public and social arenas. Equally worrisome are statements made by authorities that blame victims for inducing attackers to violate their physical integrity. These include reports of Government officials citing women's dress as the cause of recent attacks that took place in Isfahan in June 2011, where 14 women were kidnapped and gang raped while attending a private party".[167]

3.16.4 In September 2012, Human Rights Watch reported that Iran had introduced bans on female enrolment in specific academic fields in many universities, quotas that limit the percentage of women students in certain fields of study, and segregation in classrooms and facilities.[168] The government is reported to periodically crack down on behaviour it considers un-Islamic, including mingling between the sexes outside

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[161] COI Service Iran Country Report August 2010 (para 21.10)
[162] COI Service Iran Country Report August 2010 (para 23.09)
[163] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[164] Amnesty International, Iran: Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran, 02/08/2012, The situation of women's rights in Iran
[165] Amnesty International, Iran: Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran, 02/08/2012, The situation of women's rights in Iran
[166] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[167] United Nations, The situation of human rights in the Islamic Republic of Iran Note by the Secretary-General, 23/09/2011 paragraph 56
[168] Human Rights Watch, Iran: Ensure Equal Access to Higher Education, 22/09/2012

of marriage[169]. Physical contact between unrelated men and women is strictly prohibited and is punishable by lashing.[170] Freedom House reports that "Iranian state media promote traditional roles for women as mothers and wives, rather than as active professionals."[171]

3.16.5 The 2011 U.S. State Department reports that while women were represented in many fields, including the legislature and municipal councils, a woman must seek her husband's consent before working outside the home. Despite the number of women in universities, the unemployment rate for women was nearly triple that of their male counterparts and a 2011 World Economic Forum report found that women in Iran earned on average two-thirds of a man's salary for the same job.[172]

3.16.6 The U.S. State Department also notes that "Most rape victims did not report the crime to authorities because they feared punishment for having been raped, as they could be charged with adultery for being in the presence of an unrelated male while unaccompanied, indecency, or immoral behavior. They also feared societal reprisal such as ostracism. According to the penal code, rape is a capital offense, and four Muslim male witnesses or a combination of three male and two female witnesses to the rape itself are required for conviction. The stringent witness requirement was also a possible reason for low reporting of rape to authorities. A woman or man found making a false accusation of rape is subject to 80 lashes".[173] Spousal rape is not illegal and the law does not specifically prohibit domestic violence. Spousal abuse and violence against women was common. The UNHRC condemned the lack of laws protecting women from domestic violence as well as the lack of investigation, prosecution, and punishment of perpetrators of domestic violence.[174] The new Penal Code, yet to come into effect, still considers rape to be forced adultery or fornication - thereby excluding marital rape.[175]

3.16.7 Amnesty International is concerned that "the age at which girls may be married is discriminatory and very low, and that girls entering marriage at such a young age are not capable of giving meaningful informed consent. Under the Civil Code, girls may be married at the age of 13; boys at 15. Unmarried girls and women must have the permission of their father or guardian to marry, and fathers can apply to the courts for permission for their daughters to marry from the age of nine lunar years."[176] A woman has the right to divorce only if her husband signs a contract granting that right, cannot provide for his family, or is a drug addict, insane, or impotent. A husband is not required to cite a reason for divorcing his wife.

3.16.8 BBC News on 22 September [2012] reported that "with the start of the new Iranian academic year, a raft of restrictions on courses open to female students has been introduced, raising questions about the rights of women to education in Iran - and

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[169] Iran Focus, Iran shuts down coffee shops in morality crackdown, 16/07/2012
[170] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women
[171] Freedom House, Countries at the Crossroads: Iran, 20/09/2012
[172] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women
[173] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women
[174] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Women
[175] Human Rights Watch, Codifying Repression – An assessment of Iran's New Penal Code, 28/08/2012, IV. Death Penalty for Protected Conduct or Non-Serious Crimes, Adultery
[176] Amnesty International, Iran: Amnesty International's submission to the Commission on the Status of Women regarding concerns about the harassment and imprisonment of women, including rights defenders and members of minorities, in Iran, 02/08/2012, The situation of women's rights in Iran

the long-term impact such exclusions might have. More than 30 universities have introduced new rules banning female students from almost 80 different degree courses. Women make up more than 60% of the overall student body and since the unrest after the 2009 presidential election the process of segregation of the sexes has accelerated as conservative politicians have tightened their grip on the country. Women played a key role in those [2009] protests - from the traditionally veiled but surprisingly outspoken wives of the two main opposition candidates, to the glamorous green-scarved demonstrators out on the streets of Tehran and other cities".[177]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.16.9 Conclusion: Those actively involved in women's rights groups are at risk on return of arbitrary arrest and detention as well as smear campaigns in the state-run media, verbal and physical harassment, travel bans, and other forms of suppression. As such they are likely to qualify for asylum for reason of their imputed political opinions.

3.16.10 Iran is a strongly patriarchal society and women remain discriminated against both in law and practice. Women who have a well-founded fear of persecution as a result of their gender should be treated as being members of a particular social group as they are discriminated against in matters of fundamental human rights and are unlikely to be protected by the state. Women applicants who can demonstrate that they have a well-founded fear of persecution as a result of their gender and that they have no recourse to state protection or internal relocation should be granted asylum.

3.17 Prison conditions

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

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

3.17.3 Consideration: Prison conditions were harsh and life threatening. Prisoners committed suicide as a result of the harsh conditions, solitary confinement, and torture to which they were subjected. Prison authorities often refused medical treatment for injuries prisoners suffered at the hands of their torturers and from the poor sanitary conditions of prison life. Hunger strikes in protest of their treatment were common. Prisoners and their families often wrote letters to authorities, and in some cases to UN bodies, to highlight and protest their treatment. As a result of the letters, prison officials often beat prisoners and revoked their visitation and

[177] BBC News "Iranian University bans on women causes consternation", 22/09/2012.

telephone privileges.[178] The 2011 U.S. State Department report noted that "there were reports of prison guards and other inmates brutalizing and raping prisoners, especially political prisoners, with impunity".[179] In 2012, Amnesty International stated that "in reality torture is routinely and widely used. In many instances, torture and other ill-treatment are used to extract "confessions" under duress. Methods frequently reported by detainees include severe beatings; electric shocks; confinement in tiny spaces; hanging upside down by the feet for long periods and rape or threats of rape of both men and women, including with implements. Detainees are also frequently subject to death threats, including mock executions; threats to arrest and torture family members; actual arrest of family members; deprivation of light or constant exposure to light and deprivation of food and water. Accusations of torture are routinely ignored in court and not investigated, while "confessions" extracted under duress are accepted as evidence".[180]

3.17.4 Overcrowding was a significant problem, forcing many prisoners to sleep on the floor, in the hallways, and even outside in the prison yard. There were reports of food being tampered with to create stomach illness among the prisoners. There were frequent water shortages and sanitation problems. Prisoners were severely restricted in their access to fresh air and often were granted permission to go outside only during the hottest or coldest times of the day. There were reports of officials sending prisoners outside without clothes for prolonged periods of time. Ventilation in the prison was lacking, with the stench of poor sanitation and water facilities permeating the cells. Prisoners were often subjected to sensory deprivation, with either 24-hour light or complete darkness.[181] The Iranian Human Rights Documentation Centre reported that "Allegations of rape and sexual violence of political prisoners by authorities began to emerge after the Islamic Republic of Iran was established in 1979 and have continued, to varying degrees, to the present." [182] In 2012, Amnesty International noted that "Up to 12 people reportedly died in custody in suspicious circumstances, including where medical care may have been denied or delayed; their deaths were not independently investigated. At least 10 others died during unrest at Ghezel Hesar Prison in Karaj near Tehran in March".[183] In June 2012, Reporters Without Borders reported that "Suspicious deaths and mistreatment continue to be reported in the country's jails, especially Evin and Raja'i Shahr".[184]

3.17.5 The government did not permit independent monitoring of prison conditions by any outside groups, including UN groups or special rapporteurs. Prisoners were able to submit complaints to judicial authorities, but often with censorship and retribution for doing so. Authorities did not initiate credible investigations into allegations of inhuman conditions. There was no information on whether the penal system employed prison ombudspersons and no indication that any steps were taken to improve recordkeeping or use alternative sentencing for non-violent offenders. To the contrary, the authorities utilized secret detention facilities, frequently held prisoners incommunicado, and mixed violent and non-violent offender populations.

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[178] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1c Prison and Detention Centre conditions.
[179] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1c Prison and Detention Centre conditions
[180] Amnesty International We are ordered to crush you – Expanding repression of dissent in Iran 28/02/2012, 3.1 Torture and other ill-treatment in detention
[181] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1c Prison and Detention Centre conditions
[182] Iranian Human Rights Documentation Centre "Surviving rape in Iran's prisons".
[183] Amnesty International, Annual Report 2012 State of the World's Human Rights, Iran, 24/05/2012, Torture and other ill-treatment
[184] Reporters Without Borders, Appeal by Nobel peace laureate Shirin Ebadi and three human rights NGOs, 05/06/2012

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3.17.6 The UN Special Rapporteur to the UN Human Rights Council in his report of 6 March 2012 noted "A compilation of prisoner interviews, public statements and letters submitted to the Special Rapporteur about circumstances in nine of the country's prisons [footnote 22 of the report states that the nine prisons referred were: Evin Prison, Gohardasht Prison, Qezelhesar Prison, Mashha's Vakil Abad Prison, Qarchak Prison, Hassan Abad, Khorin Prison, Lakan Prison and Yazd Central Prison] described conditions that fall well below the minimum standards proclaimed by the United Nations, such as severe overcrowding, inadequate access to water, insufficient prisoner segregation practices, extremely poor quality and unhygienic facilities, hazardous ventilation conditions, insufficient access to medical services, paltry nutritional provisions and the perpetuation of violence and use of prisoners to facilitate punishment. The Special Rapporteur spoke with four detainees who had been arrested and detained at the Kahrizak Detention Centre in the days following the 2009 presidential election, and whose testimonies corroborated many of the allegations concerning prison conditions made in the present report." [186]

3.17.7 Prison conditions for women were generally at least as poor as those for men. [187] Amnesty International reported that "Some family members of a group of around 600 women, including some political prisoners, transferred in 2011 to Gharchak (or Qarchak) prison, near Tehran wrote a letter to the Head of the Islamic Human Rights Commission in May 2011. The letter described the conditions in which they were held and alleged that guards had beaten prisoners who had complained "…Prison authorities at Gharchak refuse to provide prisoners with food and water and according to the prisoners there are no regular meal times and prison authorities serve food at their convenience. The 600 female prisoners have access to only four bathrooms and the same bathrooms must be used by everyone for taking showers, washing their clothes and washing other items such as dishes. Furthermore, the water supply is cut off during most of the day."[188]

3.17.8 Under the law, detainees must be held in facilities controlled by the Prisons Organization. However, in practice, many of those arrested, particularly those suspected of opposing the government, are arrested without a warrant or on the basis of a general arrest warrant that does not specify them by name or fully explain the reason for arrest, and are taken to detention facilities run by intelligence bodies such as the Ministry of Intelligence or the Revolutionary Guards Intelligence branch. It is common for detainees to be held incommunicado for days, weeks or even months after arrest with no chance to understand or challenge the basis for their detention, in conditions which can amount to enforced disappearance. Detainees' families are often unable to obtain any information concerning their whereabouts, and are shuffled from pillar to post as they try to find out if their relatives are even in the hands of the authorities. [189]

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[185] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1c Prison and Detention Centre conditions

[186] Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran to the UN Human Rights Council of 6 March 2012. III Legal Issues: E Detention Facilities, paragraph 30.

[187] U.S. Department of State, 2011 Human Rights Report, Iran 24/05/2012 Section 1c Prison and Detention Centre conditions

[188] Amnesty International, We are ordered to crush you – Expanding repression of dissent in Iran Amnesty International 13/02/2012 3.2 Poor Prison conditions.

[189] Amnesty International, We are ordered to crush you – Expanding repression of dissent in Iran Amnesty International 13/02/2012 3. From arrest to execution: pattern of human rights violations.

3.17.9 On July 8, 2012, the head of Iran's High Council for Human Rights Javad Larijani publicly denied the existence of political prisoners in Iran. Larijani made the denial in response to a call by Member of Parliament Ali Motahari for the Tehran Prosecutor to "end the mistreatment of political prisoners and their families." Larijani also denied mistreatment of any prisoners. Despite Larijani's remark, Iran currently imprisons hundreds of people on politically motivated charges.[190]

3.17.10 The country's penal code is based on Sharia (Islamic law) and provides for flogging, amputation, and execution by stoning or hanging for a range of social and political offenses; these punishments are carried out in practice. Iran has the highest number of executions per capita in the world, with hundreds carried out each year. While many are executed for drug-related offenses, a number of political prisoners convicted of moharebeh (enmity against God) also receive death sentences. Iran's overall execution rate has increased significantly under Ahmadinejad. In January 2011 alone, it was reported that 83 people, including three political prisoners, were executed. By September, there had been more than 200 officially announced executions, including over two dozen public hangings, while at least 146 others were carried out in secret, without the knowledge of the inmates' lawyers or relatives. The total number of executions in 2011 was reportedly as high as 600. Contrary to Iran's obligations under the Convention on the Rights of the Child, the judiciary continues to execute juvenile offenders.[191]

3.17.11 Amnesty International in its 2011 annual report on Iran reported that "The authorities acknowledged 252 executions, including of five women and one juvenile offender. There were also credible reports of more than 300 other executions that were not officially acknowledged, mostly in Vakilabad Prison in Mashhad. At least 143 juvenile offenders remained on death row. The actual totals were likely to have been higher as the authorities restricted reporting on the death penalty. Death sentences were imposed for drug smuggling, armed robbery, murder, espionage, political violence and sexual offences. The authorities imposed the death penalty and used execution as a political tool. No stonings were reported, but at least 15 prisoners, mostly women, remained at risk of stoning.[192]

3.17.12 Conclusion: The available country information indicates that conditions are harsh and life threatening in Iranian prisons; this for all categories of prisoner / detainees, including those on remand awaiting trial. However a thorough analysis for the different categories of prisoner / detainee is hindered by the position of the Iranian authorities that there are no political prisoners and no mistreatment of prisoners/ detainees; as well as Iran's deteriorating relationship with the International community.

3.17.13 As conditions in prisons and detention facilities are harsh and potentially life threatening in Iran, they are likely to reach the Article 3 threshold. Case owners will therefore have to carefully consider the individual facts, in particular (a) the reasons for detention, (b**)** the likely length and type of detention and the individual's gender, age and state of health.

3.17.14 It is clear that opponents of the regime will suffer ill treatment amounting to persecution. As imprisonment is related to one of the five Refugee grounds – political or perceived political opinion, a grant of asylum will be appropriate.

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[190] International campaign for Human Rights in Iran, 12 July 2012." Officials should stop denying the existence of political prisoners"

[191] Freedom House, Freedom in the World, 2012, Iran, 12/07/2012.

[192] Amnesty International Annual Report 2011 State of the World's Human Rights, Iran, 24/05/2012, Death Penalty

3.17.15 Where case owners believe that an individual is likely to face imprisonment on return to Iran, they should also consider whether the applicant's actions merit exclusion by virtue of Article 1F of the Refugee Convention. Where case owners consider that this may be the case they should contact a senior caseworker for further guidance

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Iran the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should **not** imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. Case owners should refer to the Agency's guidance on Family Tracing following the Court of Appeal's conclusions in the case of **KA (Afghanistan) & Others [2012] EWCA civ1014**. In this case the Court found that Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of Unaccompanied Asylum Seeking Children (UASCs).

4.3.2 At present we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Iran. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Applicants may claim they cannot return to Iran 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 Since the revolution of 1979, a Primary Health Care network has been established throughout the country. In rural areas, each village or group of villages contains a Health House, staffed by trained "Behvarz" or community health workers – in total, more than 17,000, or one for every 1,200 inhabitants. These Health Houses, which

constitute the basic building blocks for Iran's health network, are the health system's first point of contact with the community in rural areas. In addition, Rural Health Centres were put in place. They include a physician, a health technician and an administrator, and deal with more complex health problems. On average, there is one Rural Health Centre per 7,000 inhabitants. In urban areas, similarly distributed urban health posts and Health Centres have been established. The whole network is managed and administered through District Health Centres, answerable to the Ministry of Health and Medical Education. [193]

4.4.3 Iran has fairly good health indicators. More than 85 per cent of the population in rural and deprived regions, for instance, has access to primary health care services. Despite having a proper and elaborate system in place, Iran, however, has not been able to keep pace with the rapidly changing demographic developments. Rural areas in some parts of the country are not fully covered and health centres are inadequately equipped to meet community needs.[194] Restricted access and low service availability in the less developed provinces (Sistan and Baluchistan) result in poor health indices compared to the rest of the country. Maternal and child health have improved but malnutrition and low-weight births are higher than average in rural areas. Non Communicable diseases and accidents are increasing, accounting for 24% and 18% of all deaths respectively. Mental health disorders and substance abuse are highly prevalent (21.9%), particularly in females (25.9% versus 14.9% in males).[195] Life expectancy is 70 (male) and 75 (female).[196]

4.4.4 In the 2010 Report on the Global AIDS Epidemic the UNAIDS/WHO Working Group estimated that around 91,000 adults aged 15 or over in Iran were living with HIV; the prevalence percentage was estimated at around 0.2% of the adult population, which equals the prevalence percentage in the UK[197].

4.4.5 According to the WHO Country Cooperation Strategy for 2010-2014 some 95% of the population benefit from medical insurance coverage. However, it is estimated that 8% - 12% of people own more than one insurance scheme. It goes on to state that "the distribution of health resources is not equitable and the present arrangements are unable to ensure provision of basic health care services to all citizens. If covered by health insurance, patients pay 25% of the fee for outpatient and 10% of the fee for inpatient treatment (consultation, laboratory investigations or medicines). Fees do not vary across age ranges." [198]

4.4.6 Information from the UK Foreign & Commonwealth Office dated 14 February 2011 noted: "Most drugs are readily available in Iran and those medicines not easily available, which are approved by the US Food and Drug Administration, can be ordered through the Red Crescent Society or governmental pharmacists, by presenting a doctor's prescription. The prices for medications bought in Iran are much cheaper than UK prescription and dispensing charges. There has also been considerable development in the pharmaceutical industry in Iran during the last decade. The essential raw materials for the majority of medicines are imported from overseas and then the medicine is produced and packaged locally. This is again subsidised by the Government. Care should be taken that the medicines prescribed

[193] UNICEF Iran's Excellent Primary Health Care System, UNICEF (undated article – accessed 27/07/2012)
[194] UNICEF Iran's Excellent Primary Health Care System, UNICEF (undated article, accessed 27/07/2012)
[195] World Health Organisation (WHO) Country Cooperation Strategy, Iran, April 2009
[196] WHO Country Profile Iran 2012
[197] UK Foreign & Commonwealth Office, Travel Advice 27 July 2012
[198] World Health Organisation, Country Cooperation Strategy for 2010-2014, 2011

comply to [sic] international standards".[199] For the past 15 years, local companies have been producing 95% of all local needs, but the pharmaceutical industry is restricted by the price control strategy imposed by the Ministry of Health and Medical Education (MOHME) to keep the cost of pharmaceuticals low and affordable. The substantially low prices of locally produced generic medicines encourage irrational use and smuggling of medicines to neighbouring countries. The MOHME over the past few years has gradually withdrawn the access of the pharmaceutical industry to subsidized hard currencies and this has increased the price of pharmaceuticals.[200]

4.4.7 Conclusion: The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 There is no policy which precludes the enforced return to Iran of failed asylum seekers who have no legal basis of stay in the United Kingdom.

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

5.3 The US State Department in its HR report for Iran of 2012 reported that "The [Iranian] government monitored Internet communications, especially social networking Web sites, such as Facebook, Twitter, and YouTube. Freedom House and other human rights organizations reported that authorities sometimes stopped citizens at Tehran International Airport as they arrived in the country, asked them to log into their YouTube and Facebook accounts, and in some cases forced them to delete information."[201]

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

5.5 The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Iran. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Iranian nationals wishing to avail themselves of this opportunity for assisted return to Iran should be put in contact with Refugee Action. Details can be found on Refugee

[199] UK Border Agency Country of Origin Information Service report, Iran, 28/06/2011, section 26.01
[200] World Health Organisation, Country Cooperation Strategy for 2010-2014, 2011, 2.3 Health
[201] U.S. Department of State, 2011 Human Rights Report, Iran 25/05/2012 Section 2a: Internet Freedom.

Action's web site at:

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

Country Specific Litigation Team
Operational Policy and Rules Unit
Strategy & Intelligence Directorate
UK Border Agency
October 2012