Comments on the Operational Guidance Note on Iran, prepared for Still Human Still Here by Christel Querton (Asylum Aid), Stephanie Huber and Elizabeth Williams, Research Information and Policy Unit (RIPU) of the Immigration Advisory Service (IAS)

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1. This document has been prepared by members of the Still Human, Still Here campaign. It is being published, along with the COI referred to within it, to help legal practitioners representing asylum seekers. It is meant to be used as a guide to some of the COI available. It was prepared 15 April 2010 although amendments have been made to refer to recent caselaw. There is, however, no guarantee that the COI referred is comprehensive and it should not be a substitute for case specific COI research.

2. THIS DOCUMENT IS A GUIDE FOR LEGAL PRACTITIONERS OF RELEVANT COI, WITH REFERENCE TO THE OPERATIONAL GUIDANCE
3. The website of the UK Border Agency (UKBA) gives a description of the OGNs as following:

*Operational guidance notes (OGN) summarise the general, political and human rights situation in a particular country, and describe common types of asylum claim. [...] They aim to provide clear guidance on whether the main types of claim are likely to justify the grant of asylum, humanitarian protection or discretionary leave.*

Further the UKBA notes on its website that “Country information in OGNs and Country policy bulletins is sourced to the most recent country of origin information produced by the Research Development and Statistics (RDS) branch of the Home Office”.

4. There are five main criteria by which the quality of Country of Origin Information can be examined. Country of Origin Information (COI) must be:
   - Publicly available
   - Accurate
   - Up to date
   - Reliable
   - Transparent and Traceable

5. The Iran OGN is dated 28 January 2009 and is now 15 months old. The sources referred to in the OGN date from between January 2003 and January 2009.

6. The sources cited in the Iran OGN are not all publicly available. There are four letters from the FCO dated from 26 June 2006 to 31 July 2008. The exact content of the letters are not known.

7. The latest COIS Report is dated 26 January 2010 and is used to cross-reference the information provided in the OGN. Other publicly available COI has been used to support any comments in this review.

8. The OGN would benefit from referring to a wider and more accurate selection of sources.
9. The incomplete referencing in the OGN makes it difficult to check where the information was taken from. It would be useful for case-owners if the references included a paragraph number to enable them to more easily refer to the COIS Report or other publicly available sources of COI.

10. It appears that case law is not always accurately described and that important elements of the cases have been omitted from the OGN and has resulted in a partial reflection of the importance of the cases (see section on adulterers).

11. In other instances, it appears in the conclusions that additional elements of the claim are requested of an applicant to demonstrate his or her well-founded fear of persecution when neither the case law nor the objective country information supports such a view.

*Christian Converts and Christian evangelisers and/or proselytisers*

12. The UK House of Commons has expressed concern in July 2009 over the treatment and arrests of Christians in Iran.\(^1\) Compass Direct reported that the treatment of Christians in Iran is because they are seen as “fronts for the West”.\(^2\) Apostasy is being punished with the death penalty or life imprisonment.\(^3\)

13. The Landinfo Country of Origin Information Centre (Norway) reported that:

> Conversion in a Muslim context is related to the question of apostasy – the renunciation of Islam. Seen from a historical perspective and in a theoretical framework, according to traditional Islamic law, the world is divided into Dar-al-Islam, territory under Muslim rule, and Dar-al-Harb, territory at war with Muslims. Consequently, conversion is primarily renunciation of Muslim unity and, in Muslim history, it has been compared with high treason or associated with political rebellion or opposition.\(^4\)

14. Compass Direct reported that:

> Christians, particularly evangelicals, continued to be subject to harassment and close surveillance," the report states. "The government vigilantly enforced its prohibition on proselytizing by closely monitoring the activities of evangelical

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\(^1\) UK Parliament House of Commons, Commons Hansard Debates 08 July 2009 (Westminster Hall): Human Rights (Iran), 08/07/2009.

\(^2\) Compass Direct (USA), Iran Scraps Mandatory Death Penalty for 'Apostates', 29/06/2009.

\(^3\) European Parliament, European Parliament resolution of 10 February 2010 on Iran, 10/02/2010.

\(^4\) Landinfo Country of Origin Information Centre (Norway), Christians and converts in Iran, 13/06/2009.
Christians, discouraging Muslims from entering church premises, closing churches, and arresting Christian converts.5

15. The UKBA emphasises that although in theory apostasy is punishable by death, no converts have been executed (para. 3.6.10). It is necessary to note that the grant of asylum is not restricted to those who are at risk of unlawful killing by the state. Persecution is defined as serious harm coupled with the lack of state protection. The information consulted confirms that apostates are being harassed, arbitrarily detained, put under surveillance and discriminated against.

16. There are numerous reports of harassment, arrests and unlawful detention of Christian converts in Iran.6 The treatment of Christian converts, and not specifically Christian proselytisers was described as following:

The government increased the arbitrary arrests of Christian converts and regularly raids their houses and churches. The police generally interrogates them, threatens them to return to Islam, and detains them for an unspecified time, varying from one day to several years. Several times converts from Islam are charged with offenses based on religious belief, offenses based on drugs smuggling, on the threat of 'state security', or 'anti government activities'. It is common practice to maintain the charges against the prisoners after their release, in order to have a reason to threaten them with re-imprisonment.7

17. There have been reports that the treatment of Christian converts has worsened since the contested elections in June 2009.8 The European Parliament noted that “security forces

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5 Compass Direct (USA), Iranian Pastor Tortured, Threatened for 'Converting Muslims', 08/03/2010.
6 US Department of State, Persecution of Religious Minorities in Iran, 12/03/2010.
Compass Direct (USA), Three Iranian Converts Ordered to Stop 'Christian Activities', 31/03/2009.
ASSIST News Service (USA), Iranian Security Officers Arrest Five Christian Converts from Islam; Two Women Converts Still In Prison, 02/06/2009.
Compass Direct (USA), Iranian Authorities Pressure Father of Convert, 20/05/2009.
Compass Direct (USA), Three Iranian Converts Ordered to Stop 'Christian Activities', 31/03/2009.
8 Compass Direct (USA), Iranian Pastor Tortured, Threatened for 'Converting Muslims', 08/03/2010.
Compass Direct (USA), Iran Arrests, Coerces Christians over Christmas Season, 06/01/2010.
Compass Direct (USA), Iran Tightens Grip on Christians as Unrest Roils, 11/08/2009.
have stepped up their systematic harassment of religious minorities”. It was also reported that torture and threats of execution in prison of individuals accused of converting Muslims take place.

18. Paragraph 3.6.3 of the OGN states that there were no reported instances of the death penalty being applied for apostasy during 2007 or in the past fifteen years. This information is provided in a letter from the FCO. The COI relied on is therefore not transparent and traceable. The information consulted suggests that individuals tried and arrested for their conversion to Christianity are often accused of different types of crimes.

19. At paragraph 3.6.4, the OGN notes that “in the same letter, the FCO judged that whilst verbal intimidation and monitoring of Christian converts has increased since 2004, there is no evidence to suggest that arrests, or violence against, converted Christians has increased”. The comments regarding transparency and traceability of COI apply here as well. The information consulted demonstrated that the treatment of Christians has worsened since Amadinejad came to power in 2005 and that this treatment had further deteriorated since the contested June 2009 elections. Finally, current Country Guidance caselaw has established that any individual accused by the authorities of anti-Islamic behavior is at risk of persecution on religious and political grounds.

20. Paragraph 3.6.4 also notes that: “the FCO also advised that the harassment Christian converts face is more likely to be extra-judicial and without connection to the Government”. None of the sources consulted, including the COIS report, confirm this assessment.

21. The UKBA gives no evidence to assert that “Christian converts are able to practise their faith up to a point without attracting the attention of the authorities” (para. 3.6.10, also at para. 3.6.5).

22. The OGN states at paragraph 3.7.3 that proselytisers are more likely to face persecution than those who do not. This does not imply that Christians who do not actively seek to convert Muslims are not at risk of persecution on return to Iran. This is supported by the US Department of State Annual Report on Human Rights in Iran, which states that:

ASSIST News Service (USA), Threatening Situation for Christians in Iran as Apostasy Decision Looms Large in Iranian Parliament, 29/07/2009.


10 Compass Direct (USA), Iranian Pastor Tortured, Threatened for 'Converting Muslims', 08/03/2010.


Christians, particularly evangelicals, continued to be subject to harassment and close surveillance. During the reporting period, the Government vigilantly 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 must be provided to the authorities. Worshippers were subject to identity checks by authorities posted outside congregation centers.  

The OGN notes in its conclusion at paragraph 3.6.10 that case law has established that the fundamental question is whether the asylum seeker has already or will come to the attention of the authorities and that Converts who practise their religion cautiously and with reasonable discretion are unlikely to face a real risk of persecution. Given the references in the preceding paragraph of the OGN to the ‘discretion’ test contained in SZ and JM (Christians – FS confirmed) Iran CG [2008] UKAIT 00082 we consider that this needs to be reviewed in the light of HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31.

23. In relation to internal relocation at paragraphs 3.6.8 and 3.7.6 we refer to the section on internal relocation below.

**Political Opponents/Opposition Supporters**

24. On 13 June 2009, violent clashes occurred throughout the Iranian capital Tehran after opposition leader Mir Hossein Mousavi accused the government of fraud in the presidential election. It was reported that at least 500 people, including political activists, students and journalist were arrested. 15 On Mahmoud Ahmadinejad’s inauguration day, on 5 August 2009, protesters gathered to express their discontent with the elections and reports of arrests were made. 16 Women have been significantly present at the demonstrations and in the movement in general, asking for equal rights and have suffered violent retaliation as a result. 17

25. In December 2009, the funeral of leading reformist cleric Grand Ayatollah Hossein Ali Montazeri turned into a mass protest against the June 2009 elections despite the heavy presence of security forces. The funeral also led to demonstrations at Tehran's Sharif University and at the Science and Industry University. 18

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15 The Guardian, Iran arrests 500 activists in wake of election protests, 17/06/2009.
16 The Guardian, Iran protests against Ahmadinejad's inauguration, 05/08/2009.
18 The Guardian, Iran braces for protests as 'up to 1m' attend funeral of reformist cleric, 21/12/2009.
26. Mr Mousavi who came second in the Presidential elections in June 2009 has since been fired from his post as head of the Arts Institution.\(^{19}\)

27. On 27 December 2009, there were at least eight dead following anti-government protests in Tehran and 300 reported arrested. There have been reports of the government of Iran wishing to close down any opposition groups.\(^{20}\) A demonstration followed the arrest of 33 mothers who set up the group of Mourning Mothers for their children who have been killed in the post-June 2009 violence and protests. The mothers were requesting accountability for the deaths and arrests of their children.\(^{21}\) CBS News reported in February 2010 that “the Fars agency - which is linked to Iran's powerful Revolutionary Guard - also quoted Iran's deputy police chief, Ahmad Reza Radan, as saying that security forces will come down hard on any displays of dissent”. According to CBS News, he also said "we won't allow any space to seditionists".\(^{22}\)

28. Amnesty International reported that at least 4000 people had been arrested and at least 36 killed since 12 June 2009 in relation to the contested elections.\(^{23}\) The Amnesty Report provides a very detailed account of events relating to freedom of expression, arbitrary arrests and detention, unlawful killings and excessive use of force, torture and ill-treatment, “show trials” and impunity. We consider that extensive reference should be made in the OGN to this report as it provides one of the most comprehensive and concise reporting of events between June and December 2009.

29. Human Rights Watch also published a report in February 2010\(^{24}\) covering issues such as violence against peaceful protestors, raids in residential areas and abuse of detainees. It was reported that:

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\text{The worst abuses against ordinary protestors have taken place at police stations and detention centers, most notoriously at the Kahrizak detention center outside of Tehran. At least three detainees have died due to injuries sustained in Kahrizak. In August, authorities dismissed the director of Kahrizak and said that three guards would be prosecuted for prisoner abuse. In January 2010, a parliamentary panel investigated the deaths and allegations of torture and named former Tehran Prosecutor-General Saeed Mortazavi as the person responsible. Although the panel dismissed allegations of sexual abuse, it found that}
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\(^{19}\) BBC News - Middle East, Iran's Mousavi loses public post, 22/12/2009.
\(^{20}\) BBC News – Middle East, Iran opposition figures arrested after protests, 29/12/2009.
\(^{21}\) The Christian Science Monitor, Iran braces for demonstration showdown: Will the future of Iran be changed?, 10/02/2010.
\(^{22}\) CNN World, Detention of 33 Iranian mothers sparks protest, group says, 10/01/2010.
\(^{23}\) CBS News, Iran Arrests Activists Before 2/11 Rallies, 10/02/2010.
\(^{24}\) Amnesty International, Iran: Election contested, repression compounded, 10 December 2009.
widespread violations had taken place in the detention center. However, neither Mortazavi nor anyone else implicated in the abuse has yet been prosecuted.

Authorities also abused detainees in Evin, a large prison complex where Human Rights Watch has previously documented systematic abuses. In Evin, authorities held prominent political figures and activists, who gave confessions that appeared to have been coerced incriminating themselves and others of vaguely-worded political offenses. In August, the government held the first mass trial for over 100 reformists, with defendants confessing to having colluded to promote a “velvet revolution.” After the first day of the trial, state television showed two of the defendants, Mohammad Ali Abtahi and Mohammad Atrianfar, denying that their confessions were coerced and claiming to have “changed” their opinions since they were detained. Testimonies collected by Human Rights Watch indicate that authorities coerced the detainees into providing these confessions. Families of detainees told Human Rights Watch that their relatives were put under severe physical and psychological pressure to produce self-incriminating statements.

Despite widespread repression in the weeks following the election, peaceful demonstrations and expressions of opposition continued. Former candidates and their supporters, primarily depending on the internet, have spoken out against human rights violations and called on the government to hold abusers accountable. In response, the government harassed and intimidated activists, journalists, and human rights defenders, detaining many, subjecting some to trials that did not meet international fair trial standards, and convicting others solely for exercising their right to peaceful dissent.25

30. The New York Times reported the arrests of opposition activists, photographers, artists, Children’s rights advocates, women’s rights activists, students and journalists.26 Reports demonstrate that the government is attempting to silence the opposition by arresting political leaders and their relatives and suppressing demonstrations by force.27 The government has published photographs of protesters on the internet in the aim of identifying them.28

31. Iran’s Parliament admitted that abuses and prison conditions led to the death of three detainees arrested in the aftermath of the June 2009 elections. The Parliament’s report denied that any sexual violence had taken place in the prisons. The report, however, “made no mention of Iran’s deputy police chief, Brigadier General Ahmad Reza Radan, who is said to have supervised torture sessions at Kahrizak, which included spraying prisoners with water and beating them with electric cables”.29

27 Times Online, Iranian regime rounds up relatives of opposition leaders in bid to stop protests, 30/12/2009.
28 The Christian Science Monitor, Iran uses Internet as tool against protesters, 04/01/2010.
29 The Guardian, Iran’s parliament exposes abuse of opposition prisoners at Tehran jail, 10/01/2010.
32. The UN High Commissioner for Human Rights, Navi Pillay, has expressed serious concerns over the arbitrary detention of demonstrators, rights activists, journalists and the political opposition. She stated specifically that “many have been given harsh sentences, including capital punishment, for their role in post-election protests after questionable trials”.30

33. The UK House of Commons referred to the persecution of anyone who disagrees with the prevailing political views.31

34. The case of **SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053** found that:

> 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 12 election results may face a real risk of persecution or ill treatment, although much will depend on the particular circumstances.32

And that:

> Being accused of anti-Islamic conduct likewise also constitutes a significant risk factor.33

The Judges allowed the appellant’s appeal both on asylum and human rights grounds. The Court found that he was at risk of persecution on return due to political and religious grounds because the authorities had branded him guilty of anti-Islamic conduct.34

### Adulterers

35. The information provided in the OGN generally coincides with the sources consulted for this review. In July 2008 HJT Research reported that according to BBC News at least three people had been executed by stoning on charges of adultery despite a moratorium by the Iranian judiciary chief Ayatollah Mahmoud Hashemi Shahroudi in 2002.35 HJT Research reported that a man had been stoned to death for adultery on 5 May 2009.36 Amnesty International reported that one woman had been executed by hanging for adultery on 21 May 2009 in Adelabad Prison in Shiraz, southern Iran and that seven

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30 UN News Centre, UN human rights chief voices concern about abuses in Iran, Sri Lanka, 04/03/2010.
32 Paragraph 53(i).
33 Paragraph 53(v).
34 Paragraphs 66-68.
35 HJT Research, Iran sentences eight women and one man to death by stoning for adultery, 21/07/2008.
36 HJT Research, 'Man stoned to death for adultery in Iran', 05/05/2009.
adults had been sentenced to be stoned to death for the "crime" of "adultery while being married".37

36. Objective country of origin information demonstrates that execution by stoning for adultery is being practiced38 and that the execution may be carried out by local officials.39

37. Further, as reported by Amnesty International, the evidentiary requirements to prove adultery leave a wide margin of appreciation to Judges. Amnesty noted that:

“The knowledge of the judge”, a provision in Iranian law that allows judges to make their own subjective and possibly arbitrary determination whether an accused person is guilty even in the absence of clear or conclusive evidence.40

38. It is also incorrect to state that an applicant who has been unjustly accused of adultery is unlikely to be convicted wrongly of adultery. Radio Free Europe reported that legal procedure and safeguards were not always properly followed. No information provided in the COIS Report or in the OGN suggests that individuals accused of adultery are unlikely to be wrongly convicted of adultery.

39. At footnote 22, the OGN refers to “United Nations High Commissioner for Refugees (UNHCR): Adultery in Iran/Particular Social Group dated 1 January 2005 (page 3)”, this is then referenced as “United Nations Commissioner for Human Rights: Adultery in Iran/Particular Social Group dated 1 January 2005” in the list of sources documents. This document could not be found via the internet. The OGN states that this document notes that:

The critical questions for determining whether the claimant has protection needs are whether he did indeed commit adulterous acts under the Iranian Penal Code; whether this was known or likely to be made known to the public and the Iranian authorities; and whether persecution and serious harm would be among the likely consequences of this public knowledge.

This information cannot be verified and the correct source should be acknowledged.

40. The current OGN in the section on caselaw refers to the case of HA (Article 3-Refugee-Adultery-Punishment) Iran CG [2003] UKIAT 00095. We note that the name of the case has been incorrectly reported in the current OGN. We note that the findings of the Tribunal are unclear. The IAT accepted that return to Iran for an individual sentenced for adultery would breach Article 2 and 3 ECHR. The appeal by the SSHD was allowed on asylum ground because it was not accepted that the applicant was at risk of persecution

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37 Amnesty International, Further Information on Urgent Action 50/09 – Iran: Death penalty/ Stoning (seven people sentenced to be stoned to death for the "crime" of "adultery while being married"; one person executed), 29/05/2009.
38 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
39 HJT Research, Iran sentences eight women and one man to death by stoning for adultery, 21/07/2008.
on religious or political grounds. The IAT in this case did not consider whether the applicant would fall within a Particular Social group.

41. The IAT in the case of ME (Male Adulterer – Convention Reason? - Risk) Iran CG [2003] UKIAT 00166 found that the applicant could not form part of a Particular Social group because he was not discriminated against due to his sex or nationality, he was therefore not a member of a particular social group because only his persecution defined him as such. The IAT did note however, that:

Applying these principles to the facts of the case, it may well be that a woman in the same position as the claimant would be able to raise an argument that she was a member of a particular social group since her position as a woman in Iran subjects her to discriminatory laws, e.g. those governing the number of witnesses required to prove adultery, setting her apart from society.41

Women can therefore be at risk of persecution on account of their membership in a particular social group if they are sentenced for adultery. The case law suggest that male adulterers (or those accused of adultery) should be granted Humanitarian Protection as it has not been accepted by the Tribunal that claimants in this type of category fall within the definition of a Particular Social Group under the UN Refugee Convention. Humanitarian Protection would only be relevant where there is no other Convention grounds raised in an applicant’s case. There may be other reasons why someone is accused of adultery, for example if they are a political opponent of the regime, and therefore another Convention reason established. In citing the case of ME, the OGN fails to refer to the entire paragraph 11. What the case law therefore suggests is that it may be difficult for a man to demonstrate that he forms part of a Particular Social Group because he does not necessarily form part of a distinct social entity, through legal and cultural discrimination for example, such as women.

42. The COIS Report dated January 2010 notes at paragraph 23.34 that:

On 29 October 2009, Amnesty International reported that:
"The majority of those sentenced to death by stoning are women, who suffer disproportionately from such punishment. One reason is that they are not treated equally before the law and courts, in clear violation of international fair trial standards. The age of criminal responsibility for women is lower than that for men and a woman's testimony is worth only half that of a man. They are particularly vulnerable to unfair trials because in Iran they are more likely than men to be illiterate and more likely to sign confessions to crimes they did not commit. Discrimination against women in other aspects of their lives also leaves them more susceptible to conviction for adultery, said Amnesty."

Amnesty International also reported in August 2008 that “women do not receive equal treatment with men under Iranian law and in the courts, and they are also more likely to receive unfair trials because their higher illiteracy rate may make them more likely to
sign confessions to crimes they did not commit". This information is relevant in assessing whether a women accused of adultery would fall into the definition of a Particular Social Group under the UN Refugee Convention.

Gay men and lesbians

43. The January 2009 Iran Operational Guidance Note (OGN) is now over 1 year old and could benefit from some more up to date country of origin information (COI). In July 2010, the UKBA re-issued the Iran OGN in light of the Supreme Court case of HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31. The revised OGN simply stated that the section on gay men and lesbians was currently under review and that case owners should consult a Senior Caseworker as necessary. The following section therefore comments on the section as issued in the 28 January 2009 Iran OGN and has been updated following the Supreme Court judgment.

44. This section specifically examines the use of COI in the OGN with regard to

a. the selected COI in relation to the policy conclusion reached
b. the current availability of COI in the public domain and the policy conclusion reached

45. The country information used throughout section 3.9 is problematic both for its lack of currency today and for its lack of currency at the time of publication, with most sources referred to being published in 1999, 2001, 2005, and 2007.

46. There is also a lack of relevant information with regard to judicial charges raised against LGBT people and recent planned (and executed) executions, as well as any information on the difficulties an LGBT person might face living ‘discreetly’ in order not to attract the attention of the Iranian authorities.

Currency of COI

47. The conclusion reached in paragraph 3.9.10 that individuals having come or likely to come to the attention of the Iranian authorities are at real risk of persecution is supported by the selected country information. However, as mentioned already above, the COI is outdated. Moreover, in one instance, information included by the Foreign and Commonwealth Office (FCO) is not corroborated by other sources published before the letter, nor is it substantiated by sources published after the FCO letter.

➢ Up-to-date information

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42 Amnesty International, 'Urgent Action 224/08 - Iran: Fear of flogging (woman sentenced to 100 lashes after being found guilty of adultery at a retrial)', 13/08/2008.
48. With regard to more up-to-date information, though not exhaustive, it is recommended that the following sources are consulted, including those mentioned elsewhere in this review:

- International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), A Glance at Iranian Gay Life and their Prosecution, Arrest and Torture, 13/02/2010, http://ilga.org/ilga/en/article/mmWGbSg1Ng: Documents cases provided by the Iranian Railroad for Queer Refugees (IRQR) of “persecution and hate crimes perpetrated by authorities of the Iran, Islamic Republic against gay/queer men”.
- Iranian Railroad for Queer Refugees (IRQR), Be Very Careful in Arranging Meetings, 26/01/2010, http://www.irqr.net/English/233.htm: Warns of the undercover work by police, Basij and Revolutionary Guards on internet sites, pretending to be “homosexual, arrange meetings with people, and then arrest them or force them to give money”

➢ COI on the treatment of lesbians

49. With regard to COI on the treatment of lesbians, the Iranian Railroad for Queer Refugees (IRQR) documents cases of Iranian lesbians being “forced into marriage, persecuted, become victims of extortion, "persuaded" to undergo hormone treatment and/or sex reassignment procedure, take unnecessary medication for serious mental disorders, raped and tortured”.

➢ FCO letter

50. With regard to a letter by the FCO from 15th April 2008 relied upon in the August 2008 Iran COIS report and cited in the January 2009 Iran OGN at paragraphs 3.9.3, 3.9.4 and 3.9.10, sources available at the time of publication of this letter do not corroborate the statement made that:

We are not aware of any individual who has been executed in Iran in recent years solely on the grounds of homosexuality [...] We are aware of concerns that homosexuals may have been charged with crimes such as rape and kidnap and then executed, but again cannot confirm that this has happened.

51. On the contrary, Gay City News notes in an article published in December 2007 that Iran executed (by hanging) a young man convicted of sodomy (of acts said to have occurred at a minor age with another minor) on the 5th of December 2007. The International Gay

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43 International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Lesbians in Iran: Stories of Persecution and Torture, 15/02/2010.
44 Home Office UK Border Agency, Operational Guidance Note Iran, 28/01/2009, para. 3.9.3.
45 Gay City News (USA), Journalist, Victim's Lawyer Attest to Executed Iranian's Railroading, 06/12/2007.
and Lesbian Human Rights Commission (IGLHRC) reports in July 2007 that a “spokesperson for the Iranian Judiciary” announced an intention to hang “20 criminals […] in Tehran on a variety of charges, including rape and sodomy”, and discussed the Iranian court’s strategy of combining rape and sodomy charges.\textsuperscript{46}

52. Moreover, more recent COI corroborates the fact that persons are executed solely on the grounds of homosexuality. The IGLHRC reports in November 2009 that “Courts in Iran have sentenced a number of men to death after they were accused and convicted of sodomy” and document several cases in 2006, 2007, 2008 and 2009, while investigating “other possible cases in which men have been charged with sodomy, convicted, and sentenced to death”.\textsuperscript{47} Gay City News reports in December 2009 that twelve men, including eight teenagers, were awaiting “execution on sodomy” and further notes that “[I]t is extremely difficult to obtain information about death penalty cases involving homosexuality under today’s repressive theocratic regime […] where the press is heavily censored and journalists, regime critics, and human rights advocates are routinely persecuted and arrested and where the subject of same-sex relations is officially considered a political and religious taboo”.\textsuperscript{48} Human Rights Watch (HRW) similarly reports in November 2009 about the planned execution of three men “under charges of male homosexual conduct allegedly committed when they were children”.\textsuperscript{49} The Iranian Railroad for Queer Refugees reports in October 2009 that a 21 year old had been sentenced to death under charges of his homosexual activity when he was a teenager\textsuperscript{50} and that another man had been “executed after being convicted of sexual abuse and rape during sexual relations between males”\textsuperscript{51}.

‘Discretion’

53. As a point of general concern are the paragraphs that form part of 3.9.8 Internal relocation and the last paragraph that forms part of the Conclusion of section 3.9. Both fail to adequately address the issue of ‘discretion’ that often arises in LGBT asylum/human rights applications particularly in the light of \textit{HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31}.

54. The Supreme Court unanimously held that to pretend that one’s sexual orientation or sexuality does not exist or that the behavior by which it manifests itself can be suppressed is to deny that person’s fundamental right to be who they are. Lord Hope said that the Court of Appeal in the case of \textit{J v Secretary of State for the Home Department} should have considered that it was “wrong to say that an applicant for protection was “expected” to live discreetly if it was intended as a statement of what the applicant must do”. Lord Hope clearly stated that it was a fundamental error to refuse asylum to an applicant on the

\textsuperscript{46} International Gay and Lesbian Human Rights Commission (IGLHRC), Iran’s Sodomy Law: Reading Between the Lines, 20/07/2007.
\textsuperscript{48} Gay City news (USA), Twelve Men Face Execution for Sodomy in Iran, 10/12/2009.
\textsuperscript{49} HRW, Iran: Revoke Death Sentences for Juvenile Offenders, 04/11/2009.
\textsuperscript{50} Iranian Railroad for Queer Refugees (IRQR), Nemat Safavi has been sentenced to Death, 31/10/2009.
\textsuperscript{51} Iranian Railroad for Queer Refugees (IRQR), Rahim Mohammadi Executed in Iran for A Homosexual Act, 14/10/2009.
basis that it would be reasonable to expect him to be discreet even if s/he is unwilling or unable to do so. The Lords accepted the proposition put forward by the appellants that what should be considered is not what the applicant could do if returned but what he would do. The Supreme Court thereby rejected the ‘reasonably tolerable’ test established by the Court of Appeal in \textit{J v Secretary of State for the Home Department}.

55. The Lords set out a two stage process to be considered when examining a claim for asylum based on fear of persecution due to one’s sexual identity. The first stage is to consider whether the applicant is gay. The second stage includes a series of questions related to what the situation will be on return. The questions in the second stage relate to how the applicant will behave if returned and how others will react to that behaviour. More specifically:

1) Is there a risk of persecution for gays who live openly in the country of origin?
2) What would the applicant do if returned to his country of origin? In assessing how the applicant will behave on return, “he cannot and must not be expected to conceal aspects of his sexual orientation which he is unwilling to conceal, even from those whom he knows may disapprove of it”. What is reasonably tolerable to conceal is not part of this test. If the applicant would live openly and thereby be exposed to a real risk of persecution, s/he has a well-founded fear of persecution.
3) If the applicant would in fact live discreetly, the decision-maker must consider why he would do so.
4) If the applicant chooses to conceal part of his sexual identity on return in response to social pressures or for cultural or religious reasons and not due to a fear of persecution then s/he will not be granted asylum. Lord Hope expressly stated that the applicant should not expect to live a life as openly as s/he does in the UK as the purpose of the Refugee Convention is not to guarantee to everyone the same human rights standards as in the country of refuge.
5) If the applicant is likely to conceal his/her sexual identity due to a fear of persecution or because the fear of persecution is a material reason for living discreetly, it will be necessary to assess whether the fear is well-founded and if it is asylum must be granted.

56. An article published by Gozaar in March 2007 gives a brief analysis of the way that the legal and policy framework proscribing same sex activity in Iran render the private act of sex between consenting adults into a public act (where it would not be, for example, in the case of a legally married heterosexual couple). A previous article published by Gozaar describes the ways in which Iranian gay men and lesbians are denied the public life belonging to citizenship, stating that “we are not allowed to form organizations, and we are denied the right to officially register non-government organizations (NGOs) in connection with sexual minorities”. Moreover, the Iranian Queer Organisation describes the new regime’s repression of ‘immorality crimes’ that prescribe a limited form of

\footnotesize{Gozaar (Freedom House), Sexuality: A Private or Public Issue? A Look at Iran's Laws Pertinent to Women and Sexuality, 01/03/2007.}
\footnotesize{Gozaar, Iranian Sexual Minorities Deprived of Citizenship Rights (Speech by Arsham Parsi, Secretary General of the Organization of Iranian Homosexuals), 09/12/2006.}
heterosexual and traditional Islamic lifestyle whose transgression is to be brutally suppressed. It seems reasonable to observe that the criminalising of ‘immorality’ forms the context for current treatment of gay men and lesbians in Iran.

57. Several sources have reported on the increased censorship of the internet and in particular blogs, potentially exposing gay men and lesbians, who might use blogging and online chatting as a way to communicate. The Iranian Railroad for Queer Refugees (IRQR) warns in January 2010 of the undercover work by police, Basij and Revolutionary Guards on internet sites, pretending to be “homosexual, arrange meetings with people, and then arrest them or force them to give money”. Similarly, Freedom House reports in March 2009 that “[S]ites concerning gays and lesbians are routinely censored”.

Women

58. We consider it relevant to include in this section information relating to the arbitrary arrests by the government of women’s rights activists. It was also reported that the level of persecution of women’s rights activists increased since the period leading up to the presidential elections. Amnesty International reported that in the run-up to the elections:

Repression significantly increased against people expressing support for social and political reform; against those seen by the intelligence and security services as disloyal to the system. Among those particularly targeted were students, women’s rights activists, lawyers, advocates for greater rights for Iran’s ethnic minorities and unrecognized religious minorities, such as the Baha’is and the Ahl-e Haq.

59. Section 3.10.11 on Internal Relocation states as follows:

In 2007, the Government reportedly placed some restrictions on freedom of movement rights. Citizens could travel within the country and change their place of residence without obtaining official permission, however, the Government required exit permits for foreign travel for all citizens. Some citizens, particularly those whose skills were in short supply and who were educated at government
expense, had to post bonds to obtain exit permits. During the year, the Government restricted the foreign travel of certain individual members of religious minorities and several religious leaders, as well as some scientists in sensitive fields. The Government also confiscated passports and placed travel bans on several journalists, academics, and activists.

Freedom of movement is only one relevant factor in assessing internal relocation in cases relating to women applicants who base their claim for asylum on gender-based persecution or because the persecution is a result of their gender. Sources consulted reported that:

_The Civil Code also restricts women's freedom of movement. For example, according to article 1005, as the exclusive head of the family the man has the right to control his wife's freedom of movement and behaviour in many situations. She must show the written and notarized approval of her husband in order to obtain a passport and to be allowed to travel abroad. A woman's freedom of movement is also seriously curtailed by the numerous rules upholding sex segregation in public space. Additionally, an unaccompanied woman must obtain permission from her husband or the local authorities in order to stay at a hotel._

The US Department of State notes that “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”.

60. The paragraph on Internal Relocation in the OGN in the section on Women also states that “Internal relocation may be a viable option for women who fear domestic violence”. However, there is no reference to any evidence to support this claim. Sources consulted noted the absence of shelters for women fleeing domestic violence. Furthermore, this assertion fails to consider the practicalities for women to leave their husband both legally and culturally. Domestic violence is considered a private matter in Iranian society and is rarely discussed openly. Domestic violence is not a crime under the law.

61. This part of the paragraph fails to address the specific factors that should be taken into account when assessing the possibility of an internal flight alternative in gender based claims.

_Iranian society in general does not encompass freedom of movement for females but it is not impossible. Factors such as the social and professional background

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61 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
Rooz Online, Abused Women Lose Refuge, 02/03/2006.
of an individual applicant and family support will be a major consideration when determining relocation as an option.\(^{63}\)

In practice it is very difficult for women to find employment and women only constitute 12 % of the workforce.\(^{64}\) It is difficult for uneducated women to find employment and they will have to rely on their family networks for support.\(^{65}\) Women need the permission of their husband when working outside the home.\(^{66}\) Women are discriminated against in respect of housing rights, land, inheritance and property.\(^{67}\) This seriously affects their ability to seek protection from many forms of gender based persecution that take place within the family or in the community. More specifically it was noted that:

Whether a woman can live on her own or not depends on the social environment surrounding the woman and her family. In general, it depends on the family, the neighbourhood and the society at large. It makes a difference whether the woman lives in a big city or a small town and on her financial situation. In smaller towns it is often more difficult to survive socially due to the importance of the social stigma. It is also difficult to find work and support oneself. The possibility of support from the family may therefore be vital for the wellbeing of the woman. However, a woman living on her own could in some places be at risk of being seen as morally depraved. She may be in danger of harassment and may risk sexual abuse. It was emphasised that it is difficult to say where this may happen. It can happen in Tehran in less educated families as well as within wealthier areas and it may happen in smaller towns in the countryside. Again, this depends on the specific social environment that the individual woman is part of.\(^{68}\)

\textbf{Kurds and supporters of the KDPI, Komala, or PJAK}

62. The treatment of ethnic Kurds in Iran is inadequately addressed in the January 2009 OGN. Only at paragraphs 3.11.2-3.114 is the treatment of Kurds \textit{per se} addressed:

3.11.2 Treatment. The Constitution grants equal rights to all ethnic minorities and according to reports ethnic Kurds can be found in all walks of life in Iran both in the private and public economic sectors as well as in Iran's military and civilian establishments. Kurds make up some 7 per cent of Iran's population of 68 million, and have campaigned for greater attention from the Government, citing

\(^{63}\) Iran OGN, paragraph 3.10.11.

\(^{64}\) ABC News, Lipstick Revolution: Iranian Women Take to the Streets, 19/06/2009.

\(^{65}\) Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.


\(^{68}\) Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
provincial underdevelopment, inadequate political representation, and inattention to their cultural needs. [37]

3.11.3 It was reported by the Kurdish press in March 2004 that demonstrations were triggered by events within the Kurdish area of Iraq when as a result of the signing of the Iraqi Constitution it transpired that Iraqi Kurdistan had gained considerable status within the Iraqi federal plan. The demonstrations followed as a result of Iranian Kurds showing solidarity and support with the Iraqi Kurds. The security forces reportedly reacted vigorously to the demonstrators. Iranian troops are permanently stationed in Kurdish areas. [38]

3.11.4 In 2005 and 2006 there were a series of incidents focused on local Kurds’ ethnic identity. In March 2006, Kurds clashed with police, reportedly resulting in three deaths and over 250 arrests. There were also clashes in June 2005, and there were strikes and demonstrations in July and August 2005 following the killing of a Kurdish activist by security forces. According to HRW and other sources, security forces killed at least 17 persons and wounded and arrested large numbers of others during this period. [39] […]

3.11.10 Conclusion. Unless the individual has come to the direct attention of the Iranian authorities, it is unlikely that the authorities will demonstrate an interest in an individual of Kurdish ethnicity […]

63. The above country information is not representative of the original source of information and is not representative of the information currently available in the public domain.

64. The final sentence of paragraph 3.11.2 states that Kurds have “campaigned for greater attention from the Government, citing provincial underdevelopment, inadequate political representation, and inattention to their cultural needs.” This information fails to adequately address the treatment of ethnic Kurds by the Government. It paints an overly optimistic view of the situation and also implies that Kurdish groups alone have campaigned for the improvement in Kurdish rights.

65. This paragraph does not represent the situation for ethnic Kurds as reported at the time of publication of the January 2009 OGN. For example, a report from Amnesty International details the “deep rooted discrimination” experienced by Kurdish communities, including the denial of social, political and cultural rights and economic neglect which has resulted in entrenched poverty. [69] The Foreign Policy Centre reports that “Kurds suffer not only from state-level discrimination and harassment, but also from neglect.” [70] Similarly, Human Rights Watch reports in its 2008 Annual Report, that "Iran's ethnic and religious minorities are subject to discrimination and, in some cases, persecution." [71]

[70] Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha'is searching for equality in Iran, 25/11/2008.
66. Moreover there is evidence that Kurds are often suspected of complicity with Kurdish opposition groups by virtue of their ethnicity alone. According to the Foreign Policy Centre, the authorities often claim that Kurdish cultural activities or human rights advocacy are fuelled by partisan agendas that threaten national security. The same source describes a culture of suspicion against Kurds as being ‘hostile dissenters’ and that even the peaceful expression of Kurdish identity is often misinterpreted as the spreading of propaganda or working against the regime.

67. Several sources indicate that in the context of a very poor human rights environment in Iran, Kurds are particularly vulnerable given the regime’s ongoing conflict with Kurdish opposition parties and the perception of any form of opposition from the Kurdish regions as being linked to a wider ‘separatist’ agenda.

68. It is noteworthy that in addition to these sources of information being available at the time of publication of the January 2009 Iran OGN, the information from Human Rights Watch was even reported in the August 2008 Iran COIS report (at paragraph 20.08), which is one of the referenced sources given for paragraph 3.11.2 of the OGN.

69. Recent information that post-dates the publication of the January 2009 Iran OGN reports a similar situation regarding the treatment of ethnic Kurds in Iran. A western embassy interviewed by the Danish Immigration Service notes that “it is obvious that even Kurds who are not politically active face increasing difficulties with the Iranian authorities, such as discrimination and harassment solely on the grounds of their ethnicity”. Moreover, the most recent U.S. State Department Country Report on Human Rights Practices reports that the government disproportionately targeted minority groups, including Kurds, for “arbitrary arrest, prolonged detention, and physical abuse”.

70. The subsequent three paragraphs of the OGN address the treatment of three Kurdish opposition groups in Iran: the KDPI, Komala and PJAK:

3.11.5 There are two major Kurdish parties in Iran as well as many smaller ones, including Kurdish branches of other Iranian political parties. The Kurdistan Democratic Party of Iran (KDPI), the largest and best organised of the Kurdish opposition groups, was founded after the Second World War and sought

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72 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha'is searching for equality in Iran, 25/11/2008.
73 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha'is searching for equality in Iran, 25/11/2008.
74 Kurdish Human Rights Project (UK), Impact Report 2008 (Iran excerpt), 20/05/2009 [Excerpt], International Federation for Human Rights (FIDH), Human rights situation in the Islamic Republic of Iran, 16/03/2009.
Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha'is searching for equality in Iran, 25/11/2008.
75 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
autonomy for Kurds in Iran. The KDPI reportedly ended its 'armed struggle' in the 1990s and the KDPI Congress in July 2004 changed the party's demands, replacing their previous aim of "democracy for Iran and autonomy for Kurdistan" with the aim of "federalism for Iran and national rights for Kurds". In 2005, the UNHCR reported that the punishments given to members of the KDPI have mainly remained concentrated on imprisonment terms. However, the UNHCR also noted that there have been a number of executions mainly reported by sources of the opposition. [40]

3.11.6 The Revolutionary Organisation of the Toilers of Kurdistan, Komala, is the other major Kurdish party. While it has often violently disagreed with the KDPI, the Komala has supported the KDPI's stance for democracy and autonomy. According to the U.S. Department of State, two political activists associated with Komala, Sassan al-Kanaan and Mohammad Golabi, were executed in February and March 2003. [41] The regime has also been reported to use allegations that an individual is a member of a banned organisation, such as Komala, in order to silence them. [42]

3.11.7 KDPI and Komala have more recently abandoned armed struggle in favour of a federal solution. However, Iran continues to face armed opposition mainly from the Kurdistan Independent Life Party (PJAK), thought to be affiliated to the Turkish PKK, which reportedly began operations in 2004. In September 2005, the Provincial Head of the Judiciary in West Azerbaijan stated that since March 2005 over 120 members of the security forces had been killed and 64 injured in clashes with PJAK. It was reported in April 2006 that Iranian police arrested seven activists from PJAK and charged them with inciting ethnic rioting in 2005. The Iranian authorities stated that the activists were involved in clashes in the West Azerbaijan province in which at least 17 people were killed. PJAK reportedly continued to conduct guerrilla attacks in 2007. [43]

71. The OGN then concludes that:

3.11.10 Conclusion. Unless the individual has come to the direct attention of the Iranian authorities, it is unlikely that the authorities will demonstrate an interest in an individual of Kurdish ethnicity or a low level supporter of the KDPI or Komala. However, there is objective evidence which indicates that leaders and militant supporters of the KDPI and Komala would be at a real risk of persecution because of their activities. For applicants that are able to demonstrate that they fall within this category, a grant of asylum would be appropriate. There have been reports that the regime may use allegations that an individual is a member of a banned organisation to silence them. In credible cases of this type a grant of asylum will only be appropriate where the individual
is able to demonstrate that he/she has come to the attention of the authorities and as a result faces a serious risk of persecution.

3.11.11 Active members of PJAK who are able to establish that they are known to the Iranian authorities as activists may be at risk of ill-treatment amounting to persecution. Case owners should note 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 one of the Exclusion clauses is applicable. Case owners should refer all such cases to a Senior Caseworker in the first instance.

72. In paragraph 3.11.5 only one source is cited as evidence of the government’s treatment of the KDPI. This is a 2005 report from UNHCR. As this is an outdated source, it could give the impression that no more recent information on the treatment of members of this group was available.

73. In fact, an Amnesty International report available at the time of publication of the January 2009 OGN noted that “hundreds of political prisoners affiliated to the KDPI and other proscribed political parties are serving prison sentences, convicted after unfair trials. Others face prosecution for membership of or sympathy with the KDPI”.

74. Moreover, it appears that the country information cited at 3.11.5 does not support the argument in the conclusion at 3.11.10 that only individuals that have come to the ‘direct attention’ of the authorities would be of interest to the authorities. In addition to it being unclear what might constitute ‘direct attention’, the country information cited in the OGN does not distinguish between the arrest and execution of low-level and high ranking KDPI members.

75. In fact, the country information available in the public domain does support the contention that low-level supporters and sympathisers of Kurdish opposition groups are at risk in Iran.

76. The Danish Immigration Service reports that whilst there is no definition of what constitutes a political offence in the Iranian Penal Code, the punishment for being a political opponent, according to sections 498 and 499 is severe. A report from the Foreign Policy Centre (UK) notes that although there are no specific anti-Kurdish laws in the constitution, the authorities find pretexts for persecuting Kurds who openly and non-violently profess their group identity, charging them with unspecified breaches of national security. Others have been charged under various articles of the Penal Code with such offences as “being a member or supporter of an organisation that has waged armed

77 Amnesty International, Iran: Human rights abuses against the Kurdish minority, 30/07/2008.
78 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
79 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha’is searching for equality in Iran, 25/11/2008.
struggle against the Islamic Republic”, or "advertising against the order of the Islamic Republic of Iran", and even “acting against state security” and "enmity with God", which carry a death sentence.80

77. Human Rights Watch similarly notes that ‘security laws’ are invoked to give the government wide scope for suppressing a range of peaceful activities by activists, journalists, and writers.81 According to the Kurdish Human Rights Project, cited by the Foreign Policy Centre in 2008, there are more than 200 Kurdish prisoners of conscience in Iran many of whom have been charged with unspecified breaches of national security.82

78. The Danish Immigration Service (DIS) Fact Finding Mission reports that Individuals who join a group and have knowledge of the group's objectives can be sentenced from three months to five years of imprisonment under the Penal Code, demonstrating the risk for low-level members of Kurdish opposition groups in Iran.83 Further evidence that low-level members, even sympathisers of Kurdish parties, are at risk in Iran can be seen in that an international organisation responding to the DIS mission stated that “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”.84 The DIS also reports that the risk of ill-treatment for such activities has increased under the Presidency of Ahmadinejad, citing the example that carrying a leaflet or just a piece of paper in Kurdish language, which might be seen as an indicative of political activity, may now incur a sentence of 10 years, whereas before he came to power, would only incur a one year prison term.85 According to a representative of the National Council of Resistance of Iran (NCRI), interviewed by the Immigration and Refugee Board of Canada, when asked whether ordinary supporters of any political cause or group distribute pamphlets, and what the authorities' reaction to such an activity might be, they stated that “this is rather a frequent occurrence. On a number of occasions, such individuals have been arrested and in some cases, even shot on the spot. Others have been sentenced to long-term prison terms. The government has demonstrated zero tolerance toward such activity.”86

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80 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha’is searching for equality in Iran, 25/11/2008.
81 Human Rights Watch, Iran: Freedom of Expression and Association in the Kurdish Regions, 09/01/2009.
82 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha’is searching for equality in Iran, 25/11/2008.
83 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
84 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
85 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
86 Immigration and Refugee Board of Canada, Treatment of supporters of opposition groups or parties since 2003; whether ordinary supporters of political causes or groups distribute pamphlets by hand; whether persons perceived as political opponents can work for state companies, 28/06/2006.
79. An international organisation in Turkey emphasised to the DIS that “a person opposing the government does not need to be high profile to be persecuted”.87 Similarly, according to an international organisation reporting to the Danish Immigration Service, low-level political opponents, who may not even be aware of the overall aims and goals of the organisation they are assisting, are equally persecuted by the authorities.88 The international organisation gave the following example:

“As an example, a person may have been told by his uncle to carry a parcel from one place to another. The person may not know what he or she is carrying and may not even be in a position to question or refuse the demand from his uncle. If the authorities catch the person, and it turns out that the parcel contains for instance pamphlets or CDs with political views opposing the government, the person carrying the information will be treated as a political opponent, even though the person in question has never been involved in the movement and hardly knows anything about it”.

80. This is corroborated by Deputy Director Rachel Bernu and Legal Director Catriona Vine of the Kurdish Human Rights Project (KHRP) who stated that “it is of no relevance to the Iranian authorities at what level a person is politically active in acts that are considered to be in opposition to the government”.

81. Moreover, the DIS reported that “often no strong evidence is required in court cases concerning political activities”.91 This point is also made by the International Federation for Human Rights (FIDH) which reports that activists belonging to ethnic and religious minorities (Kurds are predominately Sunni Muslims), are sometimes accused of terrorism, attacks against national security and treason even with no concrete evidence against them; “The authorities do not seem to make any distinction between peaceful advocacy for the right of minorities and terrorist attacks by armed groups”.

82. In addition to low-level supporters and sympathisers of Kurdish groups being imprisoned under vaguely defined security laws, Amnesty International reports that, “the Iranian authorities have a history of executing political prisoners when the authorities believe that crimes have been committed by people from the same group”.

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87 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
88 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
89 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
90 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
91 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
92 International Federation for Human Rights (FIDH), Human rights situation in the Islamic Republic of Iran, 16/03/2009.
83. Amnesty International, cited in the DIS report states that the level of harassment of many Kurds has increased in recent years and notes that reports appear to suggest that officials from Eteła’at may harass and intimidate activists in order to gain information which could be used against them or others they may know, at a later date. This suggests that persons affiliated to Kurdish opposition groups may be at risk in Iran if they have not come to the ‘direct attention’ of the authorities.

84. Moreover, according to the European Parliament resolution of 10 February 2010 on Iran, the security forces are carrying out a campaign of arbitrary arrests and executions against Kurdish civil society and political activists. Similarly, the Kurdistan Peace and Development Society notes that “any cultural or political activism has been deemed as ‘endangering national security’”. The FCO in its 2009 Annual report on Human Rights notes that “members of Iran's ethnic minority groups from the Ahwaz, Kurdistan, Khuzestan, Baluchistan and Turkmenistan regions also face increasing intimidation. Large numbers have been detained on charges of endangering national security.”

85. In March 2010 Amnesty International expressed concern the Iranian authorities are again using executions as a tool of intimidation and to stop political unrest, as had been employed following the disputed 2009 elections. The same source notes that “since last year's unrest, the number of Iranian Kurds being sentenced to death for political offences has continued to rise”. In January 2010 two Kurdish political prisoners were executed and according to sources consulted by the U.S Department of State, at the end of 2009, 16 Kurdish political prisoners faced execution. According to the European Parliament resolution of 10 February 2010 on Iran, 21 Kurds were on death row. Amnesty International reported that the Kurdish political prisoners facing death sentences are often charged with the crime of ‘Moharebeh’, or enmity towards God.

86. This climate of intimidation, arbitrary arrest and detention is further evidence that persons affiliated to Kurdish opposition groups may be at risk in Iran without having come to the ‘direct attention of the authorities.’

87. Moreover, in the section of the OGN on Prison conditions, with regards to the treatment of political prisoners in Iran, the OGN concludes:

3.14.11 Prison conditions for political prisoners in Iran are more severe and taking into account that political prisoners may be held in unofficial detention

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94 Danish Immigration Service, Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc., 30/04/2009.
97 Amnesty International, Iran executions send a chilling message, 30/03/2010.
98 Amnesty International, Iran executions send a chilling message, 30/03/2010.
99 International Campaign for Human Rights in Iran, Death Sentence Issued for Female Kurdish Political Prisoner, 21/01/2010.
101 Amnesty International, Iran: Halt executions of Kurdish and other political prisoners, 12/01/2010.
centres or prisons outside judicial control without access to legal defence and suffer violations of freedom of expression and other abuses, conditions for political prisoners in Iran are likely to reach the persecution threshold and a grant of asylum will be appropriate where exclusion is not justified.

88. Moreover, according to the Director of the KHRO, cited in a submission to the OHCHR, the Kurdish political prisoners are discriminated against, compared to other Iranian citizens. The Foreign Policy Centre reports that according to the testimony of human rights organisations “arbitrary detention, disappearances, unfair trials and indefinite solitary confinement are routine treatment for Kurdish prisoners”.

89. With regards to paragraph 3.11.6 that describes the activities of Komala, only two sources are cited that evidence the treatment of members and affiliates of this group. One details the 2003 executions of two political activists associated with this group. No more recent incidents of ill-treatment are cited, which may be taken to assume that no more information was available. However, on the contrary, in November 2009 Amnesty International reported the execution of a Kurdish member of Komala was sentenced to death for "enmity against God". A report from Kurd Net in 2008 states that four “militants linked to an outlawed Kurdish rebel Komalah group in the western Kurdish city of Sanandaj” were arrested, while the official news agency reported the intelligence authorities in Kurdistan as claiming that two “terrorist cells” had been identified and dismantled. Amnesty International reports the execution in September 2005 of a Kurdish man who had been sentenced to death after an “unfair trial” on charges of "armed struggle against the Islamic regime" and "membership of a proscribed organization", believed to stem from his activities on behalf of Komala. A report from the International Confederation of Free Trade Unions (ICFTU) in 2005 gives information about the arrest of 7 trade unionists following labour day celebrations in Sazeq who were subsequently charged with “collaboration with the banned leftist political organization Komala” and “collaboration with the infidel”. According to the source, accusations of “sympathizing with Komala are routinely used by the Iranian judiciary against progressive labour, social and human rights activists”.

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102 Office of the United Nations High Commissioner for Human Rights (OHCHR), Joint written statement submitted by Europe - Third World Centre and others (Stop the repression against Kurdish people in the Islamic Republic of Iran), 24/02/2010.
103 Foreign Policy Centre (UK), A revolution without rights? Women, Kurds and Baha'is searching for equality in Iran, 25/11/2008.
104 Amnesty International, Iran must halt imminent execution of Kurdish man, 10/11/2009.
105 Kurd Net, Iran arrests Kurdish militants from Komalah group, 14/02/2008.
107 International Confederation of Free Trade Unions (ICFTU), Iran (Kurdistan): First hearing in Mahmoud Salehi's trial held behind closed doors in Sazeq, 01/02/2005.
108 International Confederation of Free Trade Unions (ICFTU), Iran (Kurdistan): First hearing in Mahmoud Salehi's trial held behind closed doors in Sazeq, 01/02/2005.
Student activists

90. The treatment of student activists is inadequately addressed in the Iran OGN. Only three paragraphs of country information is included in the OGN before reaching the conclusion in paragraph 3.12.7:

3.12.2 Treatment. The pressure for democratic reform in Iran changed dramatically after the student protests at Tehran University in 1999. These protests marked the beginning of the contemporary student movement. They began over the closure of the well known newspaper Salam. Students were violently attacked and at least one student was killed. President Khatami called for an investigation and trial of those responsible, but no convictions were ever returned. The date has been a flashpoint for violence and tension, and the authorities have tried to keep large crowds from gathering at the university campus in Tehran on the anniversary of the 1999 event. [44]

3.12.3 In June 2003, thousands of Iranians took to the streets to protest against draft proposals to privatise universities in Iran. About 4,000 people were reportedly arrested all over the country as a result of the protests and subsequent clashes with militant supporters of religious leaders and the Special Forces. According to reports, up to 2,000 of those arrested were still held a month later, but most have since been released. Few students were reported among those arrested during the clashes which indicated that the dissent was by no means confined to student issues or the campuses where the trouble began. [45]

3.12.4 According to some reports, students in Iran have lost interest in politics because the political situation is not changing, and the centre of gravity of their activities has shifted towards cultural and social initiatives. However, student activity and shows of dissent continued to erupt sporadically during 2007 and there have also been allegations regarding the arrest and ill-treatment of student activists such as Ahmad Batebi. In May 2006, a representative of the Student Movement Coordination Committee for Democracy in Iran reported that the repression of student activists has become "harsher" in recent years and the current regime has become more "intelligent" in how it deals with them. [46] […]

3.12.7 Conclusion Those who are seen to be actively opposed to the current Government are likely to face ill-treatment in Iran. High-profile student activists who have come to the attention of the authorities are likely to face ill-treatment amounting to persecution. Where an individual applicant can demonstrate that they will face persecution a grant of asylum will be appropriate. However, students who have been involved in demonstrations but have no known political profile and are not known to the authorities are unlikely to come to the attention of the Iranian authorities on return. Therefore, the majority of applicants from
this category of claim will not face ill-treatment or persecution and so would not qualify for asylum or Humanitarian Protection.

91. Despite the fact that the OGN was published in January 2009, the most recent country information cited in the paragraphs above relates to ‘sporadic’ student activity in 2007. The country information contained in this section is therefore woefully outdated and does not accurately reflect the situation for student activists in Iran.

92. It was reported by the Immigration and Refugee Board of Canada that in December 2007, there were widespread arrests of student activists in Iran, prior to and following demonstrations organized by student groups. According to Amnesty International, cited by in the IRB report, approximately 70 people were arrested and several were tortured while imprisoned. The International Campaign for Human Rights in Iran (ICHRI) similarly reports that "as many as 65 students were detained and subjected to torture and ill-treatment". The ICHRI reports that after the students were released, many continued to face threats and intimidation by authorities and that several students were suspended from their studies. This information, covering events reported at the time of the publication of the OGN indicates that students involved in demonstrations were of continued interest to the authorities, contrary to the conclusion set out in paragraph 3.12.7 of the OGN.

93. UNESCO reports that between 2007-2009, a succession of academics, teachers and students were arrested on charges of conspiring with "enemy governments", endangering national security, insulting Islam and its clerics, "intent to commit propaganda" or participating in demonstrations. Similarly the Danish Immigration Service reports that throughout 2008, the authorities used arbitrary detention and prosecutions to clamp down on students expressing views perceived to be a threat to the status quo.

94. In May 2009, Amnesty International reported that Iranian students faced arbitrary arrests and repressive measures in the run up to the elections. The same source reports that students detained for taking part in demonstrations had been subject to ill-treatment, with others being held incommunicado.
95. In February 2010 the European Parliament released a resolution on Iran that described the ‘severe crackdown’ after the June 2009 elections and the arbitrary arrest of peaceful protestors and dissidents, including students committed by Iran’s security forces in order to intimidate critics and stifle dissent.117 The U.S. Department of State similarly reported that “the government rounded up students and political activists prior to demonstrations to prevent them from organizing or participating in the events”.118 The same source notes that paramilitary organizations such as Ansar-e Hizballah harassed, beat, and intimidated those who demonstrated publicly for reform and particularly targeted students.119 Amnesty International also reported that students were particularly targeted following the election. The same source notes that 133 students were reportedly arrested, many of whom were tortured during a brutal attack on a university dormitory in Tehran on 14 June. (AI 10/12/2009).

96. Similarly, the Canadian IRB details that students were expelled from universities, arrested and detained for participating in anti-government protests and demonstrations.120 It was also reported that the Basij attacked students at their dormitories in Tehran University, killing at least five and injuring several students.121

97. Moreover according to sources cited by the IRB, students suspected of participating in post-election protests were summoned before disciplinary committees at a number of universities further indicating that student demonstrators are of continued interest to the authorities.122

98. In the run up to “national students' day" in December 2009 it was reported that hundreds of students received threatening emails warning them not to take part in the demonstrations and that Basij militia members were reported to be present in large numbers on campuses.123 This indicates the degree of Government surveillance of students, and the fact that the students’ identification and details are known to the authorities. In December 2009 Amnesty International reported that students continued to be targeted for arrest (AI 10/12/2009).

99. In March 2010 it was reported that the death sentence for a student involved in a December 2008 anti-government protest had been upheld.124 Reportedly he was charged with "moharebeh" or "waging war against God" for taking part in the demonstrations, not as a leader, but for throwing rocks.125 Human Rights Watch reports that members of the Liberal Student and Alumni Association, an active group in peaceful demonstrations

120 Immigration and Refugee Board of Canada, Iran: Student protests in Iran; treatment by Iranian authorities of student protestors (December 2007 - December 2009), 05/01/2010.
121 Immigration and Refugee Board of Canada, Iran: Student protests in Iran; treatment by Iranian authorities of student protestors (December 2007 - December 2009), 05/01/2010.
122 Immigration and Refugee Board of Canada, Iran: Student protests in Iran; treatment by Iranian authorities of student protestors (December 2007 - December 2009), 05/01/2010.
123 Voice of America News, Iran's Supreme Leader Blames West for Student Protests, 06/12/2009.
following the disputed presidential election in June, have been accused of, and in some cases formally charged with "being at enmity with God" which carries the death sentence.126

100. Further evidence that it is not ‘high level’ student activists alone that are at risk of persecution can be seen in that family members of student activists have been targeted by the authorities.127

101. It should also be noted that in a submission to the OHCHR, the Third World Centre and others, report that it is particularly Kurdish students that have been subject to “arbitrary arrests, imprisonment, torture and humiliation”.128

102. Neither the evidence contained within the OGN, nor the available country evidence supports the conclusion in paragraph 3.12.7 that students who have been involved in demonstrations would not be known to the authorities.

**Prison Conditions**

103. The Conclusion of the Iran OGN on prison conditions notes that:

**3.14.10 Conclusion.** Whilst prison conditions in ordinary prisons in Iran are reportedly poor with overcrowding and solitary confinement being particular problems, conditions are unlikely to reach the Article 3 threshold. Therefore, even where applicants can demonstrate a real risk of imprisonment on return to Iran a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his or her particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility, and the individual’s age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

**3.14.11** Prison conditions for political prisoners in Iran are more severe and taking into account that political prisoners may be held in unofficial detention centres or prisons outside judicial control without access to legal defence and suffer violations of freedom of expression and other abuses, conditions for political prisoners in Iran are likely to reach the persecution threshold and a grant of asylum will be appropriate where exclusion is not justified.

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126 Human Rights Watch, Iran: End Persecution of Peaceful Activists, 09/01/2010.
127 Human Rights Watch, Iran: End Persecution of Peaceful Activists, 09/01/2010.
128 Office of the United Nations High Commissioner for Human Rights (OHCHR), Joint written statement submitted by Europe - Third World Centre and others (Stop the repression against Kurdish people in the Islamic Republic of Iran), 24/02/2010.
104. It is important to refer to the prevalence of rape and sexual violence in prisons in Iran. The COIS Report of January 2010 reports that:

13.10 On 6 November 2009, Human Rights Watch called for Iran's judiciary to "...immediately investigate cases of sexual assaults in prison and prosecute those responsible, instead of covering up these crimes. Human Rights Watch has documented three cases of sexual assault in Iranian prisons on persons arrested since the disputed June 12, 2009 presidential election. In the most recent case, the medical examiner's office confirmed that multiple injuries suffered in prison by Ebrahim Mehtari, a young activist, resulted from torture and mistreatment consistent with his allegations of sexual abuse. But Judiciary authorities refused to conduct further investigations and instead told Mehtari and his family that there would be severe consequences if they talked about the abuse he suffered."

105. Whereas the OGN suggest that prison conditions for political prisoners are likely to reach the persecution threshold and a grant of asylum will be appropriate, prison conditions for non-political prisoners will not automatically infer the grant of Humanitarian Protection. The OGN states specifically at paragraph 3.14.10 that:

The individual factors of each case should be considered to determine whether detention will cause a particular individual in his or her particular circumstances to suffer treatment contrary to Article 3; relevant factors being the likely length of detention, the likely type of detention facility, and the individual’s age and state of health.

Gender is not specifically mentioned in the relevant factors to consider and is relevant in the context of the reported prevalence of rape and other type of sexual violence in prisons.

106. Any breach of Article 3 ECHR will depend on the individual circumstances of the applicant. This is established by the case law of the European Court of Human Rights.

UK Foreign and Commonwealth Office (FCO), Iran's human rights record, 15/02/2010.

130 See for example Soering v UK (Application no. 14038/88) at paragraph 100: “As is established in the Court’s case-law, ill-treatment, including punishment, must attain a minimum level of severity if it is to fall within the scope of Article 3 (art. 3). The assessment of this minimum is, in the nature of things, relative; it depends on all the circumstances of the case, such as the nature and context of the treatment or punishment, the manner and method of its execution, its duration, its physical or mental effects and, in some instances, the sex,
and should be taken into account by case-owners when assessing a claim for Humanitarian Protection.

107. In light of the existence of illegal detention centres from which no information can be gathered,\textsuperscript{131} it seems unfounded to conclude that there is a difference in treatment between political prisoners and non-political prisoners contrary to Article 3 ECHR in Iranian prisons.

108. What should also be considered is that the likelihood of prison conditions reaching a level of serious harm in contravention of Article 3 ECHR may also be affected by the applicant being \textit{perceived} as a political opponent. The large number of reported arbitrary detentions\textsuperscript{132} suggests that applicants may be detained on suspicion of political opposition without necessarily being officially part of the opposition. We refer to the section on “Risk of Political Opponents/Opposition Supporters” above.

109. The numerous allegations of torture and sexual assaults in Iranian prisons and the absence of legal safeguards suggest that a careful analysis of the risk of ill-treatment in prison on return should be undertaken. Objective country information on prison conditions in Iran do not necessarily reflect the dichotomy adopted in the OGN between political and non-political prisoners, in particular since the crackdown that has followed the June 2009 elections. Further to the unrest following the June 2009 elections, the information suggests that any individual suspected of opposing Ahmadinejad is at risk of ill-treatment contrary to Article 3 ECHR in prison.

Iran Human Rights Documentation Center (USA), Covert Terror: Iran's Parallel Intelligence Apparatus, 19/03/2009.
Inter Press Service News Agency (IPS), Iran: Ahmadinejad Sworn in Amid Protests, 06/08/2009.

\textsuperscript{132} UK Foreign and Commonwealth Office (FCO), Iran's human rights record, 15/02/2010.
Internal Relocation

110. We note that the OGNs are concentrating on only one part of the internal relocation legal test and fail to adequately reflect and consider all the elements necessary to assess whether internal relocation is a viable option for the applicant.

111. All sections in the OGN contain a paragraph on internal relocation that reads:

*Where this category of applicants' fear is of ill-treatment/persecution by the state authorities, this does not mean that case owners should automatically presume that internal relocation is not an option. As Lord Bingham observed in Januzi ([2006] UKHL 5):

“The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in another place within the state. The converse may also be true. All must depend on a fair assessment of the relevant facts.”

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 Iran 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.*

112. The paragraph relating to internal relocation under each category of claimants refers to the case of Januzi v Secretary of State for the Home Department [2006] UKHL 5 before the UK House of Lords in 2006. The quote in the OGN fails to reflect the complete test required in assessing the viability of the application of the internal flight alternative in asylum or humanitarian protection claims. The quote simply states that IFA should be considered even if the actor of persecution is the State.

113. The legal test established by Courts in the UK as to whether IFA is a viable option is to examine whether relocation would be unduly harsh. Lord Hope stated in Januzi that "The words 'unduly harsh' set the standard that must be met for this to be regarded as unreasonable. If the claimant can live a relatively normal life there judged by the standards that prevail in his country of nationality generally, and if he can reach the less hostile part without undue hardship or undue difficulty, it will not be unreasonable to expect him to move there."

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133 Paragraph 41. This was re-iterated in CM (Kenya) v Secretary of State for the Home Department [2007] EWCA Civ 312 (13 February 2007) at paragraph 8.
114. The guidance offered by the UNHCR suggests a standard to assess the reasonableness of relocation by examining whether the claimant can “lead a relatively normal life without facing undue hardship”. The UNHCR Guidelines of 2003 state that: “conditions in the area must be such that a relatively normal life can be led in the context of the country concerned”.

115. The Court of Appeal noted that some conditions are unreasonable even if they are widespread in the place of relocation.

116. What decision-makers should consider when determining whether relocation would be unduly harsh for women refugees is the cumulative effects of relocation itself in terms of social, cultural, economic, legal and psychological aspects. Protection is the area of relocation must be effective and of a durable nature. Decision makers should also ensure that access to the area of relocation is safe.

117. Decision-makers should refer to the Asylum Policy Instructions on Gender and in particular note that:

In considering the reasonableness of relocation the decision-maker may need to take into account gender issues. For example, in certain countries, financial, logistical, social, cultural and other factors may mean that women face particular difficulties. This may be particularly the case for widows or single parents. Women may have family ties i.e. children who are not able to relocate, they may face a particular form of discrimination in the place of relocation, or be unable to work such that they cannot survive in the place of relocation.

State Protection

118. As a generic point that applies across all OGNs we consider that guidance should refrain from using the language of “sufficiency of protection”. The UK Border Agency accepts that protection must be effective and the applicant must be able to access it, if a claim for international protection is to be refused on these grounds.

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134 UNHCR Guidelines on International Protection of 23 July 2003, in paragraph 7 II(a).
136 APIs on Gender in the Asylum Claim.
137 See, for example, the attached letter from Amelia Wright, Head of Asylum Policy to Alaisdair Mackenzie, Acting Chair of ILPA and Nuala Mole, Director of the AIRE Centre dated 08/02/10 headed Response to ILPA and the AIRE Centre comments to the UK Border Agency on the recast Procedures and Qualification Directives.
Recent Case Law

119. In the case of Keshmiri v. Turkey, the European Court of Human Rights found that deporting the applicant of Iranian nationality to Iran would be a breach of Turkey’s obligations under the European Convention on Human Rights. The applicant was a member of the People's Mojahedin Organisation in Iran (“the PMOI”, also known as the “Mojahedin-e-Khalq Organization”) since 1985 and had been threatened with deportation to Iran or Iraq by the Turkish authorities.

120. The applicant contended that his removal to Iran would expose him to a real risk of death and/or torture and ill-treatment. In particular, he argued that he was at risk of being sentenced to the death penalty in Iran because of his membership with the PMOI.

121. The Court found that the facts of this case were very similar to those of Abdolkhani and Karimnia v. Turkey, where it found that returning the applicants, who were members of the PMOI, to Iran would subject them to treatment contrary to Article 3 ECHR. The Court found no reason to depart from their established jurisprudence and unanimously concluded that there would be a violation of Article 3 ECHR if the applicant was removed to Iran or Iraq.

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