

Refugee by association

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Many Syrians, even when they have not been individually singled out, meet the refugee criteria on the grounds of being at risk of persecution because of a perceived association, in the broadest sense, with one of the parties to the conflict.

What may appear to be generalised or indiscriminate violence in Syria is in reality often specifically targeting particular populations on the basis of an imputed political opinion, that is, their perceived support for one of the sides in the conflict. Such violence is really only 'indiscriminate' in that it does not differentiate between military objectives and civilians and civilian objects. Based on these findings, UNHCR considers that Syrians may be at risk of persecution by reason of imputed political opinion because of who controls or controlled the neighbourhood, village or town where they used to live, or because they belong to a religious group that is associated or perceived to be associated with a particular party to the conflict.¹

For example, in a recent decision, Belgium's asylum appeal court reversed a first instance ruling to grant only subsidiary protection status to a Syrian woman from the town of Saqba in Rural Damascus. Instead, she was recognised as a refugee, based on the court's finding that residents of Saqba, an area under the control of armed opposition groups, were collectively considered to be supporting the opposition and as a result had come under repeated and sustained attacks by government forces, including aerial shelling and attacks with chemical weapons.

The understanding of who is considered to be 'opposition' or 'pro-government' in Syria is being interpreted by parties to the conflict in very broad terms. Reports by the Independent International Commission of Inquiry² and independent human rights organisations have extensively documented that those opposing, or perceived to be opposing, the government are subjected to arbitrary arrest, *incommunicado* detention, torture, and summary and extra-judicial execution. Similarly, it has been

documented that civilians supporting, or perceived to be supporting, the government have been subjected to a range of human rights violations by armed opposition groups, albeit not on the same scale. But more than that, and seemingly going beyond the targeting of known opponents, dissenting political opinion can also be attributed by association to a range of people. This includes, for example, family members.

Even more broadly, whole neighbourhoods, villages and towns have been targeted **by association**. Government and pro-government forces subjected areas where armed opposition fighters were believed to be present or where anti-government protests took place to military raids, often accompanied by summary executions of men, women and children, mass arrests, pillaging and destruction of property. Increasingly, as whole areas fell under control of armed opposition groups, the Government of Syria, according to consistent reports, systematically subjected these locations to extensive artillery shelling and aerial bombardment, often using imprecise weaponry such as barrel bombs and cluster ammunition. Opposition-held areas have also been put under suffocating sieges. Snipers positioned at access points reportedly target persons who attempt to leave or enter besieged areas without passing through government-controlled checkpoints. Persons leaving opposition-held areas are reported to find themselves at risk of arrest, detention and abuse solely on the basis of their origin as indicated on their ID cards.

Similarly, reports indicate that armed opposition groups frequently consider locations where the government maintains control as generally pro-government, targeting these areas, and thus their inhabitants,

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indiscriminately with imprecise mortar, rocket and sniper fire, improvised explosive devices and military raids or cutting off electricity, water, food and medical assistance. 'Pro-government' is often interpreted in broad terms, and includes areas with government military installations or personnel but also with populations considered supportive of the government, often on the basis of their religious make-up or a perceived association with the government appearing not to go beyond the civilians' physical presence in neighbourhoods, villages or towns under the control of the Syrian government.

This perception of opposition to or support for the 'other side' is based on little more than the civilians' physical presence or origin in neighbourhoods or villages presently or previously under the control of, or having a presence of, armed opposition groups or, alternatively, the government itself. Civilians in such areas are at risk of persecution by reason of either their perceived opposition to, or support for, the government. The risk of them being harmed is very real and is in no way diminished by the fact that they may not be targeted for or exposed to harm on an individual basis.

A person arrested and tortured by the government, or at risk of such treatment, for participating in an anti-government protest, or a person abducted or at risk of execution by an armed opposition group on the basis of his or her perceived support for the government, would meet the refugee criteria of the 1951

Convention and should be granted refugee status. What is, however, less acknowledged is that an individual can also meet the refugee criteria without having been individually singled out but rather on the grounds of being persecuted on the basis of association in a broad sense. An understanding of the particular dynamics of the conflict in Syria leads to the conclusion that such a person is not just fleeing generalised violence.

For Syrians this matters. In many countries of asylum, the rights attached to subsidiary or complementary forms of protection are not the same as those attached to refugee status. In particular, Syrians granted a subsidiary or complementary form of protection are in some countries not entitled to family reunification. Not only does prolonged family separation prevent families from restarting their lives but it also contributes to decisions for separated family members to embark on dangerous journeys, by land or, particularly risky, by sea. For an individual Syrian, whether he or she is recognised as a refugee or is granted another form of protection can make all the difference.

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1. UNHCR *International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update II*, 22 October 2013, p8. www.refworld.org/docid/5265184f4.html
2. www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/IndependentInternationalCommission.aspx