

APPEAL AGAINST THE IMMINENT “VOLUNTARY RETURNS” OF IRAQI DETAINEES TO IRAQ

25 September 2007

We, the undersigned, are concerned about the “voluntary return” operations of Iraqi refugees in detention in Lebanon to Iraq. Such returns are contrary to the principle of non-refoulement and to the UN position on non-returnability to Iraq of the Iraqi refugees from Southern and Central Iraq.

The Iraqi Embassy in collaboration with the International Organization for Migration (IOM), and the Lebanese authorities are currently preparing the necessary arrangements for the upcoming “voluntary return” of approximately 250 Iraqis from Lebanese detention centers to Iraq.

Refugees and asylum seekers are arrested solely on grounds of illegal entry and/or illegal stay and kept in detention for long periods after the expiry of their judicial sentences. Most Iraqis, if not all, see their return to Iraq as the only way out of prison: faced with indefinite imprisonment with no or little hope to be released by the Lebanese General Security Office - despite of UNHCR’s intervention on behalf of detainees known to them. This explains why some Iraqi detainees sign on their return to Iraq with the hope to leave Iraq again.

It is our opinion that such “voluntary returns” are in fact refoulement of Iraqi refugees.

UNHCR defines “voluntary” as the absence of any physical, psychological, or material pressure and considers that choosing to return when the legal status and rights of refugees are not recognized in the country of asylum is not an act of free will.

As prolonged detention after the expiry of the sentence is considered a physical, psychological and material pressure against refugees and as most refugees lack legal status in Lebanon, the voluntariness to return to Iraq expressed by Iraqis in detention is seriously flawed.

IOM and UNHCR have repeatedly stated that today they do not promote “voluntary return” of Iraqis. Yet, IOM in collaboration with the Iraqi Embassy are organizing what they call “voluntary return” operations on an ad-hoc basis.

UNHCR’s role in these operations is limited to counseling the detainees prior to their return. Yet, it seems that in reality UNHCR is viewed as approving such returns. Upon receiving the list of Iraqi detainees from the Iraqi Embassy, UNHCR conducts a counseling session stressing that it does not support the return to Iraq, that as Iraqis, they are considered as refugee by UNHCR and that they have the right to seek international protection in Lebanon. In the course of counseling, refugees are asked whether or not they want to seek asylum or maintain their refugee status. In case of a refusal, UNHCR makes sure that the person does not wish to seek asylum and intends to return to Iraq. It is our opinion that by participating in the process of these operations, UNHCR is allowing other actors to undermine its protection role.

We are further concerned that IOM and, the Lebanese authorities are putting the lives of Iraqi refugees in danger by returning them to war-torn Iraq without providing any guarantees for their security, any assistance or rehabilitation and without monitoring the situation of returnees inside Iraq.

We call on UNHCR, IOM and the Lebanese authorities to:

- halt the up-coming and all future so called “voluntary return’ of Iraqi detainees to Iraq in compliance with the UN Return Advisory on Iraq.

We call on the Lebanese authorities to:

- put an end to the practice of prolonged arbitrary detention of refugees and asylum-seekers
- respect the fundamental principle of non-refoulement of refugees and asylum-seekers
- acknowledge the serious deterioration of the security situation in Iraq and grant a temporary residency on humanitarian grounds for Iraqi refugees.

LEGAL BACKGROUND

Lebanon is not a party to the 1951 Refugee Convention and does not have a national legislation to protect refugees. Also, Lebanese authorities do not recognize the refugee certificates issued by UNHCR. Therefore, the majority of refugees in Lebanon lack legal status and are treated as illegal immigrants.

In December 2006, UNHCR issued a Return Advisory on Iraqis in which it stated that “[n]o Iraqi from Southern or Central Iraq should be forcibly returned to Iraq until such time as there is substantial improvement in the security and human rights situation in the country.”

UNHCR Handbook on Voluntary Repatriation considers that “voluntary” refers to the “absence of any physical, psychological, or material pressure” and that “[o]ne of the most important elements in the verification of voluntariness is the legal status of the refugees in the country of asylum. If refugees are legally recognized as such, their rights are protected and if they are allowed to settle, their choice to repatriate is likely to be truly free and voluntary. If, however, their rights are not recognized, if they are subjected to pressures and restrictions and confined to closed camps, they may choose to return, but this is not an act of free will.”

Article 1 (1) (d) of IOM Constitution also stresses on the requirement of voluntariness in order to provide its services for voluntary repatriation.

SIGNATORIES

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