

FRONTIERS POSITION ON THE LACK OF THE INTERNATIONAL PROTECTION OF IRAQI REFUGEES IN LEBANON

September 2007

The arrest, detention and refoulement of Iraqi refugees and asylum seekers in Lebanon is a growing concern in the context of the deteriorating security situation in Iraq. Humanitarian assistance by itself will not protect the Iraqis from being arrested, detained and deported. UNHCR's focus must not only be on humanitarian assistance to the Iraqi refugees in the region, but also on establishing a full protection regime.

Lebanon is not a party to the 1951 Refugee Convention and does not have an effective legislation regulating asylum. Therefore, the majority of refugees in Lebanon lack legal status and are treated as illegal migrants.

There are no official statistics but there may be more than 40,000 Iraqi refugees in Lebanon. Restrictive measures by Lebanon and other Arab country hinder Iraqis from seeking safer haven in neighboring countries. As a result, Iraqi refugees find it next to impossible to obtain an entry visa to Lebanon so they enter Lebanon illegally, often assisted by smugglers.

While the international community was reluctant to acknowledge that many Iraqis fled their country before and during the first years of the US led Coalition's invasion of Iraq, it was forced to admit the magnitude of the refugee influx after the bombing of the holy Shiite shrine in Samarra on 22 February 2006 that marked the rise of sectarian violence inside Iraq. The "Temporary Protection" regime implemented by UNHCR since 2003 whereby Iraqis should have been protected against refoulement has been replaced in January 2007 by the recognition of Iraqi refugees on a *prima facie* basis. Yet, both regimes have not been effective in providing protection for Iraqi refugees.

The magnitude of the Iraqi refugee influx in the region raises fears of 'Palestinisation' of their plight. The international community is focusing almost solely on humanitarian assistance, rather than the search for durable solutions. Lebanon – like other Arab states – is reluctant to improve the legal status and living conditions of Iraqi refugees for fear they will once again have to carry a hosting burden which will carry on for decade after decade.

As a result, their illegal status denies them any form of socio-economic protection from the Lebanese authorities. The options for a regularization of their status are not adapted to their conditions. With no adequate assistance from UNHCR and NGOs to cover their basic needs, they are forced to work illegally and can readily be exploited. Further, access to education and health care are extremely limited and child labor is increasing.

More alarming, Lebanese arresting authorities, judges, prosecutors, and General Security (the authority responsible for the regulation of the entry and stay of foreigners) are disregarding

the refugee status granted by UNHCR to Iraqi refugees. Faced with no immediate durable solutions such as repatriation and/or resettlement, Iraqi refugees in Lebanon are forced to bear the continuous risk of arrest, prolonged detention and refoulement. The feeling of being neglected by an international community engaged in the business of humanitarian assistance and obliviate of protection concerns is growing stronger and stronger among the Iraqi refugees communities in the region.

- **Arrest and Detention**

In 2007, the number of arrests of Iraqi refugees has alarmingly increased. By the end of August, it is estimated that more than 400 Iraqis were detained in Lebanese detention centers on grounds of illegal entry and/or stay. In July alone, over 150 Iraqis were said to have been arrested and joined the other Iraqis who have been in prolonged detention. Considering that official statistics are not easily accessible by the public, it is reasonable to state that the number of detained refugees is underestimated.

It is a common knowledge that detention conditions in Lebanon are worrying but they are even more worrying when it comes to refugees. There have been reported cases of ill-treatment and torture in police stations and prisons. Refugees are also often reported to go on hunger strike requesting that their arbitrary detention is brought to an end. Further, detainees in Lebanon are strongly dependent on their families in order to be provided with basic needs that are not provided by the Lebanese authorities such as mattresses, covers, clothes and medications. Yet, refugees are often denied this external support as some do not have relatives in Lebanon while others are not visited by their relatives who are also in an illegal status in Lebanon and afraid of being arrested if they do visit.

- **Refoulement**

In 2007, there have been at least three reported cases of deportation of Iraqi refugees recognized by UNHCR. One of these cases involved an Iraqi family with two teenagers. The four members of the family were refouled to the Syrian border after the father was detained for a week without trial although UNHCR had intervened requesting their release. Frontiers is concerned that similar cases will occur in the future and might become a pattern of systematic refoulement by the Lebanese authorities.

- **“Voluntary Returns” Operations**

Iraqi refugees are kept in detention after the expiry of their judicial sentences as a coercive measure to force them to “agree” to return to Iraq. The Iraqi Embassy in Lebanon, in coordination with IOM, organizes their “voluntary return” to Iraq, as a measure to alleviate the Lebanese detention centers overcrowded with Iraqi detainees. In 2006, approximately 60 Iraqis were returned to Iraq on a monthly basis. Since early 2007, around 75 people were returned and approximately 250 Iraqis were on the list to be imminently “returned” to Iraq in August 2007.

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 authorities - despite of UNHCR’s intervention on behalf of detainees known to them, they prefer to sign on their return with the hope to leave Iraq again.

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.”¹

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 and cannot be considered as an act of free will.

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 refugees 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 Frontiers’ opinion that by participating in the process of these operations, UNHCR is allowing other actors to undermine its protection role.

The arrest and detention and threat of “deportation” under the cover of “voluntary return” is a flagrant violation of the right to seek asylum, the international customary principle of non-refoulement and UNHCR Return Advisory on Iraqis.

It is therefore Frontiers opinion that the return of Iraqis from Lebanese detention centers is not in reality “voluntary” but rather amounts to refoulement.

Frontiers is therefore concerned that IOM and the Lebanese authorities, are participating in the refoulement of Iraqi refugees contrary to the principle of non-refoulement and to the UN position on non-returnability of the Iraqi refugees.

Frontiers is more 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.

Conclusions and Recommendations

Frontiers believes that the international community must address the root causes of the plight of the Iraqi people inside and outside Iraq in order to come out with substantial recommendations to end the occupation and the escalating violence in Iraq.

¹ UNHCR, Handbook on Voluntary Repatriation, p. 10 electronic version

Frontiers believes that the international community must share the responsibility of the humanitarian crisis suffered by the Iraqi people by softening the conditions for admission of Iraqi refugees into their countries, increasing the assistance provided to the disadvantaged Iraqi refugees and ensuring that available resources are channeled directly to Iraqis rather than to operational costs.

Frontiers also believes that no protection regime – whether it is individual status determination, temporary protection or *prima facie* recognition - can be effective when it is solely implemented by UNHCR without the involvement of the national authorities, such as Lebanon, and in the absence of national legal frameworks for the protection of refugees, especially in the Middle East.

In the meantime and in light of the serious protection concerns and risk of refoulement, Frontiers recommends UNHCR and the international community to:

- Remind the Lebanese government of its obligation as a member of the international community to recognize and protect the basic and fundamental human rights of refugees from Iraq during their stay in the country.
- Request from the Lebanese government to acknowledge the UNHCR guidelines regarding the refugees from Iraq and to establish a mechanism to receive and protect refugees from Iraq fleeing the generalised violence in their country, by allowing their safe admission to the country and granting them temporary residencies on humanitarian grounds.
- Ensure that the arrest of refugees from Iraq is limited to identification of identity and for security reasons or other criminal charges
- Request from IOM to halt assistance to current and future return convoys and adhere to UNHCR guidelines and advisory concerning the non-returnability to Iraq of refugees from Iraq
- Assist the Lebanese government and national NGOs in order to grant the refugees from Iraq access to basic services such as health and education, and allow self-reliance opportunities.