



B u l l e t i n

Iranian Refugees

At Risk

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“UNSAFE HAVEN” :

Iranian Kurdish Refugees in Iraqi Kurdistan (Part III)

The first and second parts of this report described the perilous situation of Iranian Kurdish refugees in Northern Iraq and the lack of adequate provision made by the United Nations High Commissioner for Refugees (UNHCR).

In the third part, which is presented in this issue, the report goes on to examine the abusive and unfair treatment Iranian Kurdish refugees encounter in Turkey after fleeing from Northern Iraq.

IV. TURKEY: THE GAUNTLET TO SAFETY CONTINUES

Since the creation of the so-called “safe haven” in Northern-Iraq, thousands of Iranian refugees residing in this region have fled what is in reality a very *unsafe* haven and crossed into Turkey. The flow has continued in spite of the dangers of the journey across the border between Turkey and Iraq, which is closely guarded and littered with mines.

Turkey’s hostile response to the flow of refugees from Iraqi Kurdistan predates the

creation of “safe haven”.¹ Shortly after the creation of the Kurdish enclave in 1991, Turkish authorities expressed the view that Northern Iraq was now safe and no one there had any good reason to seek asylum abroad.² Since then, the authorities have sought all possible means to deter refugees from entering Turkey from Northern Iraq. Those asylum seekers who are not summarily deported at the border are often subjected to ill-treatment and encounter a battery of new procedural obstacles which also frequently conclude in deportation.

Policies adopted by the UNHCR Branch Office in Turkey further compromise the protection of Iranian asylum seekers who have entered Turkey from Northern Iraq.

1994 ASYLUM REGULATIONS

Turkey is one of the last remaining countries explicitly to discriminate between refugees on the basis of their national origin. Iranians are barred from considera-

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ARBITRARY IMPLEMENTATION OF THE REGULATIONS BY THE POLICE AT THE BORDER

The 1994 Asylum Regulation requires that Iranian asylum seekers entering Turkey from Northern Iraq (who are usually without travel documents) register and present themselves for interview by the police in Şirnak. Iranian asylum seekers are required to reside in Silopi, a village near the Iraqi border in the province of Şirnak, until their application for “asylum seeker” status under the regulation is assessed by the Ministry of Interior. If granted temporary residence to seek resettlement in a third country, they will then be instructed to move to other towns.

Şirnak is one of the ten provinces in the southeast Turkey that are under state of emergency legislation due to a bloody 13-year struggle between security forces and the armed members of the banned *Kurdistan Workers’ Party*. The state of emergency gives wide-ranging powers to the security forces and local governors, who legitimize human rights violations under the pretext of “security threats”. *Amnesty International* reports that Turkish citizens can still be swept off the streets and into police station, where they may be held for up to a month. There they will be unprotected by even the most basic safeguards against torture, still a standard method of interrogation. The organization also reports that prosecution of police for human rights violations are almost unknown in southeast Turkey.⁸ Independent investigation of human rights violations is also difficult since movement is strictly controlled in the region. Local authorities have the power to expel visitors, and investigators and critics of the security policy in southeastern Turkey are regarded as potential ►

tion as refugees because Turkey maintains a geographical limitation on the 1951 UN Refugee Convention. Non-European refugees in Turkey are only granted “temporary asylum” on the condition that they will be resettled in a third country. On November 30, 1994, the Turkish government announced a new directive *Regulation on the Procedures and the Principles related to Mass Influx and the Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to seek Asylum from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum From a Third Country* [hereafter the 1994 Asylum Regulation].³

The new regulations require that non-European asylum seekers in Turkey present themselves within five days of arrival to the police. Those who arrive without travel documents must approach the police station closest to where they entered the country. The 1994 Asylum Regulation instructs police near the borders to conduct interviews to determine if the new arrivals should be officially recognized as “asylum seekers”. “Asylum seekers” who pass this hurdle receive a temporary residence. Article 1 of the 1994 Regulation defines an “asylum seeker” as a foreigner who has been found by the Turkish authorities to have a well-founded fear of being persecuted according to the usual criteria laid down in the UN Refugee Convention and Protocol.⁴ In spite of this, any recognized “asylum seeker” who fails to get resettled in a third country in “reasonable time” will be deported.⁵

The implementation of the 1994 Asylum

Regulation has created daunting obstacles for all Iranians seeking asylum in Turkey, regardless of the border by which they enter. Many have been summarily deported because of failure to register their claims within five days of their entry into Turkey, for lacking identification documents or using false documents. UNHCR has confirmed that nearly half of the 133 Iranians known to be forcibly returned to Iran in 1995/1996 had already been recognized as refugees by the UNHCR, and all the others were still cases under consideration. It is believed that a much larger number are rejected at the borders, or arrested and deported before they reach the UNHCR office, and therefore leave no record of their attempt to seek asylum in Turkey.⁶

In addition to the rigid application of the five-day rule and the geographic restriction for filing claims at the borders, the 1994 Asylum Regulation has been criticized by a wide range of critics including reputable refugee and human rights organizations and Turkish scholars on technical and substantial grounds. Police officers, for example, clearly do not have the expertise or training necessary for receiving and/or evaluating asylum seekers. Decisions are made and reviewed not by an independent and specialized body but by anonymous officials at the Interior Ministry who appear equally unqualified for the task. Internal appeal mechanisms are partial, being simply referred back to the same department that made the original decision. Asylum seekers have no realistic chance of obtaining legal assistance or representation to assist them in the process.⁷

◀ enemies of the state.⁹

Iranian asylum seekers must reside in the virtually depopulated village of Silopi next to the Iraqi border in the south of Şırnak province where life is already harsh and insecure. In January 1997, a representative of the Iranian Refugees' Alliance traveled to Silopi. The living conditions of asylum seekers were dire. They lived in one-room clay houses without bathrooms or running water - often without electricity. In some houses, people and animals lived under the same roof. Food and other basic needs were scarce or unaffordable.

There was no specialized medical care for people in Silopi. UNHCR offered little or no financial support to asylum seekers in Silopi, where jobs are scarce even for the local people. When asylum seekers found temporary work they were grossly underpaid. For example one person reported that he had been paid only 100,000 TL (\$1 US) for unloading ten Tons of cargo from a truck and another said that he was given 1 million TL (\$10 US) for eight days' construction work.

The austerity of the Iranian asylum seekers' living conditions was compounded by a harsh war-zone regime. In Silopi, as in the rest of the state of emergency area, civilians are under the frequently brutal control of the military. Asylum seekers all expressed fear that the police suspected them of supporting the Workers' Party's guerrillas. Military backed "village guards" (state-sponsored paramilitary forces comprised of local Kurds) arbitrarily raided their dwellings to search for guerrillas, and also occupied their homes as temporary operation bases.

In this context, asylum seekers found it extremely difficult to speak frankly to the police about their own political activities during their asylum registration interview. Asylum seekers feared that if they disclose, for example, their activities in defense of Kurdish national minority rights in Iran, they would immediately be associated with the illegal Kurdish groups in Turkey and deported on security grounds.

While the police interview is supposed to

be for the purposes of recording the reasons for seeking asylum, many asylum seekers said that most of the questions asked were aimed at identifying cross border routes. One asylum seeker said that he was threatened with having his children held in the bathroom of the police station because the police commissioner was dissatisfied with his account. Others said they were threatened with deportation to Iran. Competent interpreters were not provided during interviews, and asylum seekers reported that as a consequence they had difficulty in



Arman was grabbed and thrown against the wall by the Şırnak police commissioner in charge of foreigners resulting in a sprinkled wrist simply because he had gone to inquire about his asylum application. Jan. 1997

presenting their case properly. In Şırnak, Iranians resorted to using a canteen worker at the police station who happened to speak Kurdish to assist with translation. But since he spoke a different dialect of Kurdish, communication was still difficult.

In Silopi, the Iranian Refugees' Alliance could not find one man or woman who had not been repeatedly beaten or insulted by the police commissioner responsible for foreigners. Some of the asylum seekers were able to show physical marks of the beatings. However, in the absence of any support from the UNHCR, asylum seekers with the constant threat of instant deportation hanging over them, were unwilling to initiate any legal complaints.

Unfortunately, mute submission to police abuse was no guarantee against summary deportation. In the absence of any appeal or supervision of the interview process, police often arbitrarily refused to register asylum seekers who had complied with all the requirements of the 1994 Asylum Regulation.

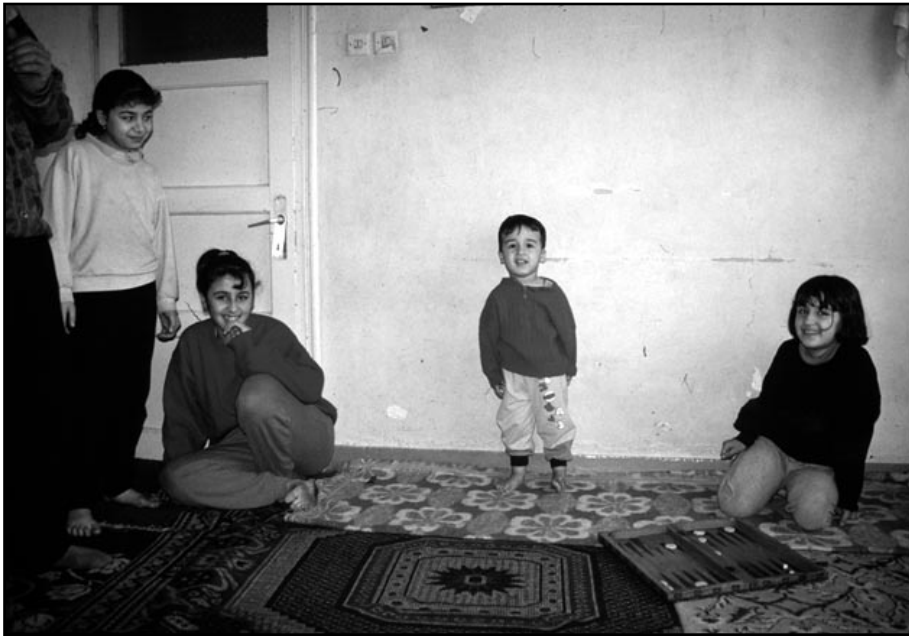
Standard police practice in Şırnak clearly constituted a breach of the principle of *non-refoulement*. The 1951 UN Refugee Convention prohibits states from sending anyone against their will to a country where they may be at risk of human rights

violations (the fundamental principle of *non-refoulement*.) At its 28th session, the Executive Committee of the UNHCR (ExCom), of which Turkey is a member, reiterated that no reservations are permitted to this fundamental principle. It was clearly stated that this principle applies not only with respect to the country of origin but to any country where a person has reason to fear persecution. In addition, in circumstances where access to asylum procedures constitutes the only means of avoiding *refoulement*, denial of access constitutes a breach of the principle of *non-refoulement*.

In view of these hazards, Iranians entering Turkey from Northern Iraq before the summer of 1996 did their best to evade the police in Silopi/Şırnak in order to reach the UNHCR office in Ankara, where

they hoped to get an opportunity for resettlement in a third country. Because they were breaking the law, such asylum seekers still faced instant deportation as "illegals" if caught. Nevertheless, the fact that UNHCR would agree to process their claims and proceed with their resettlement in third countries gave them some chance of reaching eventual safety, whereas by staying in Silopi/Şırnak they would almost certainly have faced summary deportation.

In fact, most asylum seekers who avoided registration at the border in 1995 and 1996 managed to hide in towns around Ankara while UNHCR processed their claims. Unfortunately, when the time came to move on to third countries, the Turkish authorities would not issue them exit ▶



Children of “illegal” Iranian asylum seekers spending their days inside substandard dwellings in fear of arrest and deportation by the police. Dec. 1996

permits, saying that as unregistered aliens they were “illegals” and should be deported. The statistics available to Amnesty International indicate that during the period of 1 January to 30 April 1997, at least 106 Iranians who had been recognized by UNHCR, and in some cases accepted by resettlement countries were arrested and forcibly returned to Iraq. This punitive operation was in clear violation of the 1951 UN Refugee Convention. The forcible returns were in breach of the principle of *non-refoulement*, since refugees were returned to a place where they lacked protection [see parts I & II]. Furthermore, the Convention prohibits the imposition of penalties on refugees due to their illegal presence and requires an unconditional examination of each and every refugee’s claim. In addition, Conclusion 15 of the Executive Committee of the UNHCR (Excom) states that “while asylum-seekers may be required to submit their asylum request within a certain time limit, failure to do so, or the non-fulfillment of other formal requirements, should not lead to an asylum request being excluded from consideration.” In other words, if a government is to retain a time limit on the submission of claims, international standards require that the time limit should not be applied in a strict fashion, so as to exclude asylum applications from consideration solely on

the grounds that applicants have failed to apply within the time limit.

UNHCR’S RESPONSE: SOFT WITH THE GOVERNMENT, TOUGH WITH THE REFUGEES

By summer 1996, hundreds of “illegal” refugees were trapped in Turkey as a result of their failure to register with the local police in Şirnak. The Turkish authorities were vehemently criticizing UNHCR and resettlement countries for processing the claims of “illegals”. Resettlement countries also became frustrated at the increasing number of visas and plane tickets subject to expiry or cancellation because the authorities would deny refugees exit permits. In addition, UNHCR’s financial resources were being strained by extended financial support to a large number of refugees who should by then have been resettled in third countries.

Although the Turkish government was determined to end the presence of “illegals”, it was not willing to rectify the abusive conditions in Şirnak which were the main cause of asylum seekers’ refusal to follow the regulations and register asylum applications in Şirnak. Facing a dilemma, UNHCR decided to give in to governmental pressure without seeking any reciprocal guarantees from the authorities that asylum seekers would not be

forcibly returned by the border police. On 15 June 1996, the UNHCR office in Ankara announced that it would no longer interview ex-Northern Iraq asylum seekers in Ankara. Any assistance to them was made contingent upon their return to Silopi/Şirnak and registering with the police there. Some asylum seekers resisted the instructions and persisted to be interviewed in Ankara. But in the face of UNHCR’s tough posture, most realized that they had no choice but to return to the border. Predictably scores were summarily deported when they returned to Şirnak and approached the police. Official statistics are not available for the number of summary deportations to Northern Iraq but in the winter of 1997 when Iranian Refugees’ Alliance representatives were visiting Turkey there was a report that 23 refugees were forcibly returned to Northern Iraq in a single day. Several refugees interviewed by the Alliance in January 1997 in Silopi had already been summarily deported once in summer or fall 1996. Asylum seekers also gave the organization a list of 78 persons who were deported in December 1996.

The UNHCR office in Silopi began interviewing refugees in summer 1996. Arriving asylum seekers approached the UNHCR hoping that the office would assist them and prevent their summary deportation. They met a stark welcome. Every asylum seeker who met with the Iranian Refugees’ Alliance complained about the UNHCR local officer who tried to “strip them of the little dignity they had been left after mistreatment by the police”. For example, some asylum seekers said that on their first encounter the local officer admonished them for coming to Turkey and out of hand branded them as economic migrants. Some were told that they “do not even look like political refugees”. When they protested, the UNHCR officer, like the police, threatened asylum seekers with deportation. UNHCR officer subjected asylum seekers to body searches during their interviews. Some were forced even to take off their shoes so that they could be searched for any hidden valuables which might excuse the UNHCR from providing financial assistance. Apparently the discovery of a pack of US brand cigarettes could lead ►

◀ to assistance being withheld. Financial assistance was only granted to refugees after their cases had been assessed and approved by the UNHCR. This process took on average six months. In the meantime, some families received from the UNHCR two or three blankets and a gas heater. For most of them, the blankets were insufficient, and the heaters too costly to run. Problems in UNHCR's processing caused further delays in granting financial assistance, and in asylum seekers' eventual transfer to central areas of Turkey. Many said that they had to be re-interviewed because their first interview was conducted without the assistance of a competent interpreter or by the local officer who seemed to lack expertise in asylum matters.

Far worse was the UNHCR's indifference to the local police mistreating and unlawfully deporting refugees. On January 19, 1997, Iranian Refugees' Alliance met with five asylum seekers in Silopi who had been hiding in nearby mountains for approximately 20 days in fear of summary deportation. On the day they entered Turkey, the police took their identity documents and UNHCR registration letters but arbitrarily refused to register them. After a week, they learned that the police had begun a search to arrest them for deportation. They contacted a UNHCR officer from Ankara who was in Silopi temporarily and asked her to approach the police on their behalf. However, when the police told her that "they have no record of such people attempting to register with the police," she told the asylum seekers that "they will have to find a solution for themselves." Two of the asylum seekers eventually managed to travel clandestinely to Ankara but the others were caught and deported by the police.

Publicly, UNHCR remained similarly silent. These systematic abuses were neither reported nor condemned. When Iranian Refugees' Alliance asked one senior UNHCR legal officer in Ankara who had happened to express frustration at "what was happening in Silopi", why Turkey was not criticized at the recent UNHCR Executive Committee meeting in

October 1996, she said that "the failure had disappointed her too."

In spite of the uneasiness expressed by this staff member, UNHCR not only persisted in holding back from its duty to condemn the serious violations of the 1951 UN Refugee Convention committed by Turkey, a member of its Executive Committee, but also refused to publicize the statistics on deportations to Northern Iraq. In response to the Iranian Refugees' Alliance's request for statistics, the office claimed that the "information is unknown" to them "as many were



Group of Iranian ex-Northern Iraq asylum seekers in Silope reporting their conditions. Jan. 1997

deported prior to the registration/interview with UNHCR Turkey".¹⁰ However, it is common knowledge that most asylum seekers endeavor to register with the UNHCR prior to requesting asylum-seeker status from the police. "No one dares to approach the police without a UNHCR police letter for fear of instant deportation," Iranian Refugees' Alliance was told repeatedly by asylum seekers. In any event, the agency should disclose even incomplete figures, as an acknowledgment of the practice and to give some guide to the scale of the problem.

UNHCR strayed even farther from its principles when responding to the Turkish authorities' campaign to deport the "illegals" to Northern Iraq. Facing criticism from many circles for its insouciant attitude, the Ankara Branch Office in Turkey resorted to an interpretation of *non-refoulement* - the most basic principle of refugee protection - that was straightforwardly perverse. This principle, which

properly proscribes the forcible return of a refugee to *any* country where a person has reason to fear persecution, was disingenuously reinterpreted by the UNHCR Branch Office in Turkey to the effect that the prohibition is limited to the return of a refugee to "a refugee's country of origin and not to a country of first asylum".¹¹ In short, despite an initial period of sensitivity to refugees, UNHCR's decision in summer 1996 to coerce the asylum seekers to go back to the borders was the beginning of a slippery slope at the bottom of which this international agency ended up concealing the government's systematic abuse of the right to seek asylum and rationalizing egregious violations of international refugee law.

UNHCR's compromised position is not new in Turkey. UNHCR has long preferred quiet diplomacy and susceptibility to government pressure to open and serious criticism of the government. However, in this instance, UNHCR's own future policy vis-a-vis ex-Northern Iraq asylum seekers was clearly a factor too. While government violations escalated, a UNHCR plan also was unfolding which would exclude all ex-Northern Iraq refugees from any form of UNHCR assistance in Turkey. UNHCR's criticism of *refoulements* would barely have carried much weight with the Turkish government while the agency was simultaneously moving this plan into position. Soon the UNHCR itself was going to provide the government with an alibi to legitimize the *refoulement* of ex-Northern Iraq refugees.

UNHCR'S IRREGULAR MOVER POLICY

On February 13, 1997, at the peak of Turkey's campaign against ex-Northern Iraq Iranian asylum seekers, UNHCR announced that from then on, it, too, would refuse any assistance, including resettlement, to this group of Iranians. Although UNHCR determined these Iranians to have refugee status, i.e. to have a well-founded fear of persecution, it decided to consider them as "irregular movers" who have already found protection in Northern Iraq.¹²

The July 1997 revised UNHCR ▶

PLAYING PINBALL WITH REFUGEES

Karim and Ghader's Story

Its December 1996. Karim and Ghader both had immediately approached the UNHCR Office in Silopi/Şirnak (in southern Turkey). They had to be interviewed so that the UNHCR could determine whether or not they were refugees qualifying for assistance by that office. At the end of their interviews, they were both given registration papers and instructed to register immediately with the Turkish police. Turkish law requires asylum seekers to register with the police unit nearest to the border where they entered within five days of their entry into Turkey. Failure to do so results in deportation.

Since Ghader entered Turkey on a Friday and his interview with the UNHCR took almost a whole day he could not go to the police the same day. He had to wait until Monday. Ghader requested the Şirnak police for registration the next Monday, but when six more asylum applicants arrived at the police station, the police became angry and forcibly removed Ghader from the premises. The next day (the fifth day) was the last day on which Ghader could register with the police and avoid summary deportation. However, on Tuesday, Ghader again was forcibly removed from the police station when twenty other new asylum-seekers came to the police station.

On the following night, the police arrested Ghader in the house where he was residing. He spent the next two days in a dirty and freezing cold jail cell in Şirnak. The police photographed and fingerprinted him. They also took all his documents, including his birth certificate and political party documents. They also asked him some biographical questions and detailed information on how he had crossed the border. During interrogation, the police threatened Ghader with deportation to Iran and beat him on the face until he was bleeding from nose and mouth.

After two days in detention, Ghader was visited by a UNHCR officer. The UNHCR officer said that there was nothing he could do to help him -- or twenty-two other Iranian asylum seekers who were also in custody under similar circumstances. Ghader was summarily deported to Northern Iraq along with the twenty-two other asylum seekers on December 20, 1996. The police retained the birth certificate which he had earlier been required to surrender to them.

Karim's interview with the UNHCR was brief and he was thus able to make it to the police in Şirnak on the first day of his entry. He asked the police to register an asylum claim for him as required by law. But for two days the police refused to register him. On the third day, he was told to buy 100 file folders and return to the police station. Karim obeyed these instructions from the police. At that time, he was photographed and only asked a few biographical questions. No interpreter was provided for these interviews. By chance, at the police station there was a Turcoman asylum seeker from Northern Iraq who spoke limited Kurdish and assisted with the interview. At no time did the police ask Karim why he was seeking asylum in Turkey. After some brief questions, Karim was also forced to submit to the police his birth certificate, the only piece of valid identification in his possession, and told to come back the next Monday with an address in Silopi.

The next Monday Karim returned to the police station as instruct-

ed but he was sent away and told to wait until contacted at his Silopi address. A few days later, he completed his interview with UNHCR. On January 1, 1997, when Karim and four other asylum-seekers approached the police to inquire about their temporary residence permit, they were inexplicably detained, fingerprinted and summarily deported back to Northern Iraq.

Both Ghader and Karim were stripped of their identification - most importantly their birth certificates - before being deported. Ministry of Interior instructions authorize deportation of asylum seekers who cannot present an identity document within 15 days of their arrival. Therefore, if Ghader or Karim attempted to re-enter they would be deportable due to lack of documentation.

On arrival back in Northern Iraq, both Ghader and Karim (as well as the other returned asylum seekers) were detained by the security forces of the Kurdistan Democratic Party of Iraq. Ghader was held in a cell flooded with 30 cm of water in Zakho where he had no choice but to remain standing throughout the two days of his detention. Karim was detained in Zakho for three days before being taken to Dohuk and released. Their mutual ill-fated experience in Turkey and lack of security and shelter in Northern Iraq finally brought Karim and Ghader together in Erbil.

Before they met up they both had separately approached the UNHCR offices in Dohuk and Erbil. UNHCR told them that because their UNHCR files were in Turkey, they should return to Turkey. Fearing that their lives were in danger in Iraq from Iranian government agents operating there, and denied UNHCR's protection, Karim and Ghader called on friends and family for money to flee to Turkey again. In the meantime they sought refuge in the house of a former political colleague whose house was near the offices of the United Nations in Erbil. On one of the few occasions that they left their hide-out, they found that they were being followed by an unmarked vehicle carrying four armed passengers, which they eventually managed to elude.

A few weeks later, after receiving money, Karim and Ghader embarked on the dangerous journey back to Turkey. They crossed the border on 21 and 24 February respectively. Ghader lost his shoes in the strong current of the river that marks the border and had to walk barefoot for four hours in mud and slush.

This time, neither registered at the Şirnak police station, as required by the law, because they feared a second arbitrary deportation by the border police - a virtual certainty since neither had any valid ID. Instead, they went directly to Ankara and requested the assistance of UNHCR Ankara. They were again interviewed. The UNHCR even seemed to appreciate Karim's rank in his political party, since his interview was prolonged in order for UNHCR to gather further data about the internal affairs and structure of the particular party committee of which he was a member. The interviewer even invited Karim to visit the office for secondary questioning about these issues, but in view of the risks of travelling to the office, Karim declined to make the second visit.

Ghader and Karim then went into hiding hoping that this time UNHCR would be able to help. Three months later, Ghader received a letter from the UNHCR informing him that UNHCR was "unable to

assist you in Turkey. The only assistance we can give you is for your return to the country where you have lived since leaving your country of origin." Some months later Karim received a similar letter.

These decisions were made on the basis of a new policy implemented by UNHCR as of February 13, 1997, that ex-Northern Iraq Iranian refugees in Turkey were to be considered as "Irregular Movers." As a result, Ghader and Karim have been forced to live in hiding since late February 1997. They face instant deportation if caught by the Turkish police since they were not able to register with the police and UNHCR will not resettle them in a third country.

Ahmad and Aziz's Story

Since 1994, Ahmad, together with his wife and four children had shared a house in the town of Ranieh in the Sulaymaniyeh region of Northern Iraq with Aziz, his wife and two children, his widowed mother and his three younger siblings. All had fled from Iran to Northern Iraq in the mid-eighties and had been politically active until mid 1993 and 1994 respectively. Aziz's father had been killed in 1991 in Northern Iraq.

Both families had been recognized as refugees by the Erbil office of UNHCR. Neither of the two families' cases was ever processed for resettlement by the UNHCR in Erbil. The only assistance they received from UNHCR was a paltry ration of cooking oil, sugar, flour and lentils. Occasionally they managed to find work for a day or two and would sometimes sell vegetables in the market to make ends meet.

Ahmad and Aziz constantly felt threatened by the Iranian government's agents operating in Northern Iraq and were attacked several times. On one occasion, in December 1994, at around 8pm Ahmad, Aziz and another colleague were chased by several armed men whom they believed to be agents of the Iranian regime. They escaped the men and ran home. They bolted the door, but the attackers fired with Kalashnikovs through the door, wounding Aziz. They reported the incident to the police but nothing was done. Though in fear of their lives, the two families had no choice but to continue to live in Northern Iraq.

In 1996, the Iranian government stepped up its illicit armed activities in Northern Iraq. In August 1996, more than 2,000 Iranian soldiers entered Northern Iraq and attacked KDPI bases in Erbil. Fighting between the two main Iraqi Kurdish parties also escalated as a result of an invasion by more than 30,000 of Saddam Hussein's Republican Guard at the invitation of one of the two rival Kurdish political parties. (see part I of this report)

With financial help from family and friends, Aziz and his family finally managed to flee to Turkey in August 1996. His wife was about to give birth to their third child. No one in his family had any valid identity documents. Certain that they would be deported if they approached the police in Şirnak as prescribed by the 1994 Asylum Regulation, they traveled directly to Ankara with three other families in similar circumstances. For unknown reasons UNHCR agreed to interview and process the cases of the two other families but insisted that they could not interview Aziz and his family and another family unless they first return to Şirnak and register with the police. Unexpectedly, the next day that they approached the UNHCR again Aziz's wife went into labor. At this



Ramyar, whose timely birth on arrival of his parents to Turkey saved him and his family from becoming pinballs in the hands of the UNHCR and the Turkish police. Jan. 1997

point, UNHCR agreed to process Aziz and his wife and children but insisted that the rest of the family should go back to Şirnak.

Feeling that UNHCR's response was unreasonable and discriminatory, Aziz and his family staged a sit-in in front of the UNHCR offices for two weeks but UNHCR remained intransigent. Threatened with arrest and immediate deportation by the Turkish police, the whole family ended their sit-in and moved to a town near Ankara where, with the help of other Iranians, they lived in hiding from the Turkish police. After eight months, UNHCR finally agreed to assist the family as a whole. They were fortunate not to have been discovered and deported in the meantime.

Ahmad and his family crossed the border to Turkey illegally on February 5, 1997. Fearing summary deportation by the border police, they too avoided the police in Şirnak and travelled directly to Ankara. Two days later Ahmad registered with UNHCR in Ankara. By contrast with the response his former housemate Aziz had encountered, Ahmad was interviewed by UNHCR and not instructed to head back to the border. Ahmad felt fortunate until he was told four months later that UNHCR would not give him any assistance in Turkey other than helping him go back to Northern Iraq.

Ahmad and his family were all classified as "irregular movers" even though the irregular mover policy had been officially announced effective from February 13, 1997 (a week after Ahmad registered with UNHCR). Ahmad never found out why UNHCR discriminated against him. Subsequently, he and his family went into hiding in a town near Ankara.

Ahmad's daughter, who is a refugee in Sweden, managed to obtain them a family reunification visa to Sweden four months later. Unfortunately, because Ahmad and his family never registered with the police, they are trapped in Turkey. In order to exit the country they would have to approach the police but feel they cannot do this for fear that they would be immediately deported to Northern Iraq. Despite the fact that a third country is ready to accept them, and contrary to UNHCR's own professed exceptions to irregular movement on family unification grounds [see definition of irregular mover] the UNHCR office in Turkey has so far rejected Karim's pleas for assistance. Should they be arrested, they will be deported.■

◀ Resettlement Handbook states that UNHCR applies the following working definition:¹³

An *irregular mover* is a refugee/asylum seeker who leaves a country where he/she has found or could have found and enjoyed basic protection, to seek asylum in another country, unless doing so for compelling reasons. Such compelling reasons include a threat to physical security of self or accompanying close family members, or family reunion with immediate family members who are not themselves irregular movers in the current country.

This definition is based on a new UNHCR "Policy on Urban Refugees".¹⁴ It is claimed that due regard has also been paid to the 1989 ExCom Conclusion (No. 58 (XL)) on Irregular Movers when adopting the definition. However, as many critics of the new Policy on Urban Refugees have pointed out, the ExCom Conclusion defines Irregular Movers as persons "who have found protection in a particular country" but nevertheless "move in an irregular manner" to other countries to "seek asylum or permanent resettlement."¹⁵ [emphasis added]. It says nothing whatsoever to indicate that a country ought to be considered safe simply because a refugee "could have found" protection there. As James Hathaway, professor of refugee law at York University in Toronto, has pointed out, Conclusion 58 "only restrains the freedom of international movement of refugees who have, in fact, already been granted the rights guaranteed to them under international law."¹⁶ In response to sharp criticism of the Urban Refugee Policy by many, including non-governmental organizations, scholars, and even UNHCR's own officials, UNHCR changed the wording of the definition of Irregular Mover in December 1997, to conform with the Excom Conclusion 58. The "key consideration is ... whether or not the refugee had found protection [in another country]", the revised policy states.¹⁷ However, the case of ex-Northern Iraq Iranian asylum seekers in Turkey demonstrates that the problem is not definitional. Ex-Northern Iraq Iranian asylum seekers are not Irregular Movers even by the looser termed definition because even if they

had stayed in Northern Iraq, the local authorities or the UNHCR could not ensure their protection. These refugees are determined as such by the UNHCR on the basis of a novel notion of "protection", and not whether or not they have or could have found it. In its Irregular Mover determinations, UNHCR uses a definition of protection that is endlessly shrunk to fit whatever was available to refugees before movement, regardless of its adequacy and effectiveness. As a result, the unchanged part of the "working definition", which addresses the "compelling reasons" for movement, is conveniently disregarded when these determinations are made. The remainder of this section will discuss the Irregular Mover policy implemented in Turkey and will demonstrate that the flaws of this policy are so fundamental that it contradicts the principles of refugee protection that UNHCR is obliged to uphold.

Although Iranian refugees in Northern Iraq constitute a very small number of UNHCR's urban refugee caseload worldwide, those who have moved on to Turkey constitute 40-50 percent of UNHCR's Iranian caseload there. Therefore, some official explanation might be expected from UNHCR for deeming that suddenly, from February 13, 1997, the precarious conditions which prompted hundreds of Iranians to flee before that date no longer existed. To date, however, UNHCR has offered no proper explanation. Responses by the UNHCR Branch Office in Turkey and by the Headquarters in Geneva are mutually contradictory, and evasive on the question of security conditions in Northern Iraq.

When criticized by refugee and human rights groups, staff members of the UNHCR Branch Office in Turkey have justified the policy by overstating the UNHCR's resettlement activities in Northern Iraq, and grossly understating the security risks there. The Ankara Branch Office has painted a picture of security conditions in Northern Iraq that has no grounding in reality. For example, it has been said that the terrorist activities of the Iranian government in Northern Iraq have only targeted "armed fighters" of political groups and not "refugees". It also has been said that Iranian refugees in

Northern Iraq are safe in the areas controlled by the Iraqi Kurdistan Democratic Party (KDP), one of the rival ruling parties in Northern Iraq. As discussed in parts I & II of this report, many refugees as well as armed fighters have been attacked, individually or in groups by Iran's agents. Members of both groups have been killed, injured, or poisoned. These incidents have not been limited to areas under the rule of the Patriotic Union Of Kurdistan (PUK), the other ruling party which is closer to the Iranian government, but have also taken place in the rival KDP-controlled areas. It is the widespread and indiscriminate character of these attacks that has made Northern Iraq an unsafe country of first asylum for all "refugees".

The Resettlement Handbook states that protection is fundamental to the definition of Irregular Mover. Staff in UNHCR Turkey agree but operate their own unique definition of "protection." In response to Iranian Refugees' Alliance's concerns, one senior staff member of UNHCR Ankara offered the following view:¹⁸

According to the information we have, as of 12 February 1997, adequate protection for Iranian refugees is offered by UNHCR in northern Iraq. This protection includes resettlement to a third country for cases with security problems in northern Iraq. There should thus be no protection problem for the Iranian refugee to return to northern Iraq where they were settled prior to coming to Turkey.

As noted in part II of this report, the only form of assistance other than resettlement provided by UNHCR to selected Iranian refugees in Northern Iraq is a meager food ration. Therefore, this "adequate protection" actually consists of a dole of food and a low expectation (20% by 1997 statistics) of future resettlement. Although the officer in question acknowledges that "cases with security problems" exist in Northern Iraq, she conveniently ignores the fact that these "security problems" are what prompts asylum seekers to cross into Turkey. To say that refugees have security problems and then conclude that they have no protection problem is inherently contradictory. It is not only incompatible with the Excom ▶

Conclusion 58 but contradicts UNHCR's own criteria for use by its staff. For example, the criteria is defined in the Urban Refugee Policy in the following general terms:¹⁹

A refugee who is compelled to move because of specific protection or security problems in his or her previous country clearly cannot be considered to have found protection there.

When Iranian Refugees' Alliance asked how would UNHCR regard an asylum seeker who has resided in Northern Iraq only on transit to Turkey, the Branch office said that even such a refugee "may very well be considered as an irregular mover not qualifying for assistance in Turkey". She went on to shed some light on the more specific criteria used in these determinations:²⁰

When these kind of decisions [on irregular mover cases] are taken we consider all relevant circumstances in the case, i.e. the time spent in northern Iraq, where they stayed, how

they earned their living, what they did during their stay in northern Iraq, family or other links in northern Iraq etc. Basically, the decision will reflect whether it would have been reasonable for the asylum seeker to both have approached UNHCR in northern Iraq and to have remained in that area considering all the circumstances in the case.

The criteria mentioned above exclude from consideration the fundamental components of protection, i.e. the physical security of the refugee in the country of asylum and the threat of *refoulement* to their country of origin. In the case of Iranian refugees in Northern Iraq, these basic elements of protection have been absent since the creation of the so-called "safe haven". [see parts I & II] Whether a refugee sold vegetables in a market in Erbil to make ends meet or shined shoes on the streets of Sulaymaniyeh and for how long have very little to do with the security threats posed by the Iranian gov-

ernment agents, and with the local authorities' unwillingness and inability to protect refugees against these threats and against *refoulement* to Iran.

Evidently, the only factor noted by the Resettlement Handbook that seems to have attracted the attention of UNHCR staff in these determinations is the so-called "pull factors" for irregular movement. The Resettlement Handbook goes on to say that:²¹

... irregular movement is caused by push and pull factors, sometimes both at the same time. Push factors may include intolerance, insecurity, poverty without prospects for improvement, and breakdown of law and order. Pull factors could include better economic conditions, higher levels of care and maintenance assistance, access to education, access to better resettlement possibilities, more tolerant refugee determination and alienstrafficking.

There is no doubt that almost all ex- ➤

WORDS WHICH CONTRADICT DEEDS

In seeking to justify its Irregular Mover policy and in order to induce asylum seekers' voluntary return to Northern Iraq, staff at the UNHCR Branch Office in Ankara promise asylum seekers that if the UNHCR Offices in Northern Iraq determine them as "security cases", then they will be "swiftly" resettled in third countries from there.

The emptiness of these promises was clearly demonstrated to those asylum seekers who fled from Northern Iraq to Turkey before the Irregular Mover policy came into effect. Their cases were processed by the UNHCR office in Ankara which has much greater resources and facilities for processing claims and organizing resettlement referrals than UNHCR offices in Northern Iraq, but was still unable to process cases "swiftly." Even the most compelling security cases experienced significant delays.

The documents shown here were provided to the UNHCR office in Turkey by Mr. S., a former political activist, as evidence of his rank in the party in which he served for almost two decades, rising to membership of the central committee. Mr S. resided in Northern Iraq for more than fifteen years prior to coming to Turkey. During a one hour interview with the Iranian Refugees' Alliance, his knowledge, experience and demeanor showed him to be a man with a political history of high profile which put him at risk even in Turkey, and who undoubtedly deserved the highest priority for resettlement in a third country.

Nonetheless, it took the UNHCR office in Ankara three months to assess Mr S.'s refugee claim. Subsequent to his formal recogni-

tion as refugee, UNHCR took an additional four months just to start a resettlement referral for him and his family. Mr. S. and his family finally exited Turkey after more than a year and a half. Part of the delay for their exit was due to their "illegal" status and difficulties in obtaining an exit permit from the Turkish authorities. But at least seven months of this time was spent in the normal UNHCR's asylum and resettlement procedures. "If this is the fast track in Turkey," pondered Mr S., "what can we hope from understaffed and overworked UNHCR Offices operating under fiendishly difficult circumstances in Northern Iraq."■



◀ Northern Iraq refugees would improve their economic conditions to some extent by moving out of the dire economic conditions in Northern Iraq (see part I) into Turkey. Even more evident is the improvement in access to resettlement possibilities (see part II). Simply observing that there are important pull factors does not amount to proper refugee determination - particularly if the "compelling reasons to move" which operate as push factors are ignored. These compelling reasons, as described by UNHCR's own definition of Irregular Mover in the Resettlement Handbook, include "a threat to physical security of self or accompanying close family members" or "family reunion". With such blind disregard for the push factors, it is no surprise that refugees such as Maryam, whose reasons to flee Northern Iraq squarely fit in the above "compelling reasons" are rejected out of hand by UNHCR in Turkey.

Maryam, a political activist, fled to Turkey from Northern Iraq in August 1997. Her father was a prominent leader of a Kurdish political organization opposed to the Iranian government. One of her brothers was killed by the Iranian security forces in 1986, after which she and the rest of her family fled to Northern Iraq. But they were not safe there either. Her brother and nephew were seriously injured by a bomb planted in their car. Another brother was shot and injured by an unidentified assailant near Sulaymaniyeh. Three months later a bomb was thrown in the yard of their house. In 1993 her eleven year old niece was abducted and only found twelve hours later after the intervention of the local Iraqi Kurdish security forces.

In April 1995, Maryam married a political refugee resident in Sweden. She contacted the UNHCR in Sulaymaniyeh shortly after in order to unite with her husband. A year later UNHCR interviewed her, but a further year went by without response. In August 1997, Maryam was finally told that the Swedish authorities had requested to interview her. Since this was not possible in Northern Iraq, Maryam had no choice but to cross the border into Turkey illegally in order to contact the Swedish embassy in Ankara. She was interviewed by the embassy some months later and given a refugee visa to join her

husband in Sweden. The embassy advised her to contact the UNHCR in order to solve her exit problems.

Maryam registered with the UNHCR in December 1997. But in March 1998, instead of facilitating her transfer to Sweden in line with UNHCR's protection principles and family reunification guidelines, UNHCR informed her that she too was an Irregular Mover and that they can only assist her to return to Northern Iraq. "When I was interviewed by the UNHCR, I felt as if I had been intentionally gagged by the UNHCR in order to not tell my real reasons behind my move to Turkey," said Maryam after receiving her rejection letter. "Now I know why," she continued sadly.

Unfortunately, UNHCR Ankara's perverse Irregular Mover determination procedure also deliberately squanders the rare opportunity of collecting first hand individual testimony about the levels of security for Iranians in that region. Testimonies received from ex-Northern Iraq asylum seekers by the Iranian Refugees' Alliance are very powerful. We believe that if UNHCR allows such evidence to guide its decisions then no ex-Northern Iraq refugee would be condemned out of hand as an Irregular Mover.

On the other hand, correspondence received from the UNHCR Headquarters in Geneva by the Iranian Refugees' Alliance recognizes the precarious situation in Northern Iraq. However, the UNHCR Geneva also relies on the relative increase in resettlement efforts from Northern Iraq in 1997 and much wishful thinking about the future to justify returning refugees. Noting that a total of 774 Iranians had been resettled in 1997 (while over 3,000 still remain) the *Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East* (CASWANAME) promises that "UNHCR will endeavor to meet any protection needs beyond that number, if the resettlement countries continue their policy and conditions allow."²² [emphasis added]

However, resettlement for Iranians in Northern Iraq is a far from certain prospect [see part II] and anyway, resettlement at a distant future date does not amount to protection and security now.

In April 1998, the Iranian Refugees'

Alliance intervened in the case of three ex-Northern Iraq asylum seekers, urging UNHCR Geneva to reverse the Irregular Mover determinations on humanitarian grounds. These asylum seekers entered Turkey in December 1996 (before the February 13, 1997 cut-off date for Irregular Movers). However, due to no fault on their part, they were summarily deported to Northern Iraq by the Şırnak police shortly after arrival. They re-entered Turkey after the cut-off date unaware that such a policy had been put in place. Iranian Refugees' Alliance argued it was morally unacceptable for UNHCR, as a bystander to the original summary deportation, to now apply the Irregular Mover policy cut-off date to these asylum seekers.

In response, the UNHCR Geneva recalled that the Irregular Mover policy also had the aim of "dissuading the refugees from embarking on a perilous trip to Turkey in search of resettlement opportunities" and that "any attempt to reverse it may negatively reflect on the life and the security of the refugees who, in case irregular movers policy is canceled, may be tempted to transit by that very dangerous zone".²³ There is no doubt that the journey through the Turkish southeast border is perilous. However, should these refugees be penalized because they felt obliged to run that risk twice over? Should their testimony that the threats against their lives and security in Northern Iraq outweighed the dangers of the journey to Turkey be simply ignored? Should they be left to their own devices adrift in Turkey, leading precarious lives including security risks by the Iranian government's agents operating in Turkey and risk of *refoulement* to Iran by the Turkish police, in order to show to others that UNHCR means business? UNHCR Geneva's answer is apparently "yes" on all counts. The expressed concern to save refugees from dangerous cross-border journeys is not convincing when contrasted with UNHCR's indifference to the very real dangers in Northern Iraq which are driving asylum seekers across the border. UNHCR Geneva is, however, right about one thing: the Irregular Mover policy has deterred the movement of refugees to a great extent. In January 1997, when Iranian Refugees' Alliance visited ▶

◀ Silopi there were close to hundred Iranian families in Silopi, but in April 1998 this had dropped to only five. It is now clear that this is a trend that both UNHCR and the Turkish authorities will want to maintain.

The Irregular Mover policy is designed to protect UNHCR and its resources from refugees. As host countries become more reluctant to allocate quotas for resettlement, UNHCR Ankara faces increasing difficulties in resettling its caseload.²⁴ Quota shortages impose serious financial burdens for UNHCR Ankara because refugees who cannot be resettled must be maintained for extend-

ed periods of time. Quota shortages also make the relationship between the UNHCR and the Turkish government more complex and tense. As noted before, Turkey only allows non-European asylum seekers a limited time to stay in Turkey in order to have their refugee applications assessed by UNHCR and be resettled in a third country. Turkey has explicitly stated that it will not tolerate UNHCR recognized refugees who are not able to resettle. Speedy resettlement, in other words, is virtually a refugee's only safeguard against forcible return by the Turkish government. Inability to resettle refugees

presses UNHCR to adopt a confrontational attitude toward the Turkish government, insisting that the government allow refugees to stay in Turkey for extended periods of time. This is a role that the UNHCR has consistently avoided in Turkey for the past two decades.

By excluding ex-Northern Iraq refugees from UNHCR's case-load in Turkey, UNHCR considerably reduces the demand for resettlement and consequent expenditures in Turkey and helps to stabilize its historically marginal role in the country. Containing the surplus of refugees in Northern Iraq assists UNHCR in controlling its relationship with refugees too. ▶

OTHER PROTECTION PROBLEMS INSIDE TURKEY

In addition to risking *refoulement* to Northern-Iraq by the Turkish police, asylum seekers who are branded as Irregular Mover by the UNHCR also risk *refoulement* to Iran by the police as well as physical threats to their lives by the Iranian government agents operating inside Turkey.

During the past years, numerous cases have been reported where asylum seekers have been forcibly returned to Iran immediately after being arrested by the Turkish police. Amnesty International wrote in September 1997 that even those asylum seekers recognized by the UNHCR as refugees are not safe in Turkey. The organization said that it is aware of numerous cases where Turkey has sent asylum-seekers back to Iran the same day despite UNHCR protests. In one case, an Iranian ex-political prisoner who approached the Turkish authorities for registration on 25 April 1996, accompanied by a UNHCR lawyer, was arrested on the spot and returned to Iran that same day. Only a few cases are reported by the organization to have been released on intervention by the UNHCR on the condition that they would be swiftly resettled in a third country by the UNHCR.

Existence of security agreements between Iran and Turkey further the risk of *refoulement* to Iran for Iranian opposition members in Turkey. There have been at least three of these agreements signed by the two governments, starting in 1992. According to Amnesty International, in April 1996, the two governments reportedly signed an agreement stipulating the reciprocal exchange of opposition activists. The information available to Amnesty International indicates that after the signing of this agreement, the numbers of Iranian asylum-seekers sent back to Iran increased sharply. In August 1996, it was reported that the Turkish Government intended to present an agreement to the Iranian authorities, aimed at coordinating efforts against separatist Kurds and "terrorist organizations". The agreement was said to contain provisions for the reciprocal extradition of opposition elements.

In the past years, several Iranian opposition members have been

killed in Turkey by agents of the Iranian government. On 4 June 1992 Ali Akbar Ghorbani, a member of the People's Mujahedin Organization of Iran (PMOI), was abducted in Istanbul; his body, which reportedly bore the marks of torture, was discovered in a forest near Yalova in Turkey in January 1993. In December 1992, Abbas Gholizadeh, a member of Derafsh-e-Kaviani (Flag of Freedom Organization, a monarchist group) was abducted near his home in Istanbul; there are reports that persons have been arrested who admitted to abducting and killing him. On 25 August 1993 Mohammad Ghaderi, a former member of the Kurdistan Democratic Party of Iran (KDPI), was abducted from his home in Kirsehir, also reportedly by two men disguised as Turkish policemen. His mutilated body was discovered some ten days later. On 28 August 1993 Bahram Azadifar, also a member of the KDPI, was found dead in his house in Ankara. He had reportedly been visited by two men disguised as Turkish policemen who killed him instantly. On 4 January 1994, Taha Kermanj, a leading member of the KDPI (Revolutionary Command), was shot dead near his home in Çorum. He had fled to Turkey in early 1993 from northern Iraq, where he had reportedly received death threats from Iranian agents.

There are reports that three men, two of them Iranians, have been arrested in connection with this killing. Most recently, Zahrah Rajabi and Abdul Ali Moradi were assassinated in Istanbul on 20 February 1996. Two trials in connection with these killings have conclusively shown that they were carried out by agents of the Iranian government. On 24 January 1997 the seventh Criminal Court of Istanbul, Turkey condemned Reza Barzegar Massoumi, an Iranian citizen born in Orumiyeh, to 32 years and 6 months of imprisonment with hard labor for his participation in the premeditated murder of Zahra Rajabi and Ali Moradi. According to the verdict, the accused stated in his confession that he had acted under instruction of the Iranian intelligence service.■

◀ In recent years, UNHCR has faced serious confrontations with refugees when the agency has denied them assistance and, in particular, resettlement. Refugees who are recognized by the UNHCR but whose resettlement is delayed are more likely to protest in Turkey, where they can find organizational support, than refugees living dangerously and hand to mouth in Northern Iraq.

There is no doubt that UNHCR has a difficult task in dealing with resettlement shortages and host governments' reluctance to allocate more quotas. However, the Irregular Mover policy is not a genuine solution to these real problems because it contradicts the principle of *non-refoulement*. The policy coerces refugees to return to or remain in an unsafe place and gives the Turkish authorities *carte blanche* to carry out unfettered *refoulements*. Already, some refugees have reportedly been deported after being rejected for assistance by the UNHCR in Turkey. This policy will have ominous consequences when other governments follow the logic set forth by UNHCR and begin using the Irregular Mover argument to block ex-Northern Iraq Iranian refugees from applying for asylum in their countries and send them back to Turkey or Northern Iraq.

UNHCR's Irregular Mover policy puts the whole fragile fabric of refugee protection at risk also by relinquishing the principles which NGOs are so strenuously trying to bring to bear on governments in upholding refugees' rights - and in lobbying governments for more resettlement quotas. The efforts of NGOs will inevitably be confounded when the prime worldwide agency for refugee protection relinquishes principle and resorts to expedient measures in order to save resources and preserve political relations.

A particularly disturbing example of this is how UNHCR's intransigence blocked a 1997 initiative on behalf of Iranian refugees in Northern Iraq by Inter-Action, a membership association of 160 US private and voluntary organizations. InterAction had proposed that the United States contribute a block of refugee admissions for the 3,000 Iranian refugees in Northern Iraq considered at risk from agents of the Iranian government. Because the United States requires a face-

to-face interview with the refugees and does not send any personnel to Iraq, InterAction suggested that the refugees who had received positive file reviews from both the US and one other Nordic country (which accepts refugees with only file reviews) participate in this program.²⁵ InterAction requested that UNHCR negotiate with Turkey to bring the selected Iranians to Ankara for processing with the guarantee that whoever is not taken for resettlement by the US would be taken by the Nordic country which had positively reviewed the person's file. Unfortunately, InterAction's ingenious and creative proposal fell on deaf ears. UNHCR was obviously opposed to the initiative as a matter of principle. The Irregular Mover Policy dictates that cooperation between UNHCR and the governments should exclusively be in the context of "discouraging future irregular movers".²⁶

V. Conclusion & Recommendations

Refugees have a fundamental right to safe asylum including the right to physical security in the country they are given asylum. They should also not be forced back from their country of asylum to a place where they may be persecuted and should be ensured that their other basic human rights are respected.

True asylum is denied to Iranian refugees in Northern Iraq where they are not protected against security threats or against *refoulement*. Third country resettlement by UNHCR, the only durable protection solution for Iranian refugees who find themselves in Northern Iraq, has been a painstakingly slow and unpredictable process. Many thousands of refugees in need of immediate resettlement have not been resettled so far and are unlikely to be settled in the future either. The consequent induced movement of Iranian asylum seekers from Northern Iraq in search of immediate and long-term protection must, therefore, be recognized as legitimate and responded to appropriately.

While every effort should be made to increase resettlement opportunities from Northern Iraq and to expedite the process, it is an obligation of the international community to ensure

that all governments also refrain from rejecting and returning Iranian refugees who flee Northern Iraq.

For geographical reasons, Turkey has been the major country of asylum for ex-Northern Iraq Iranian refugees. However, the Turkish government has frequently permitted police to deny these asylum seekers access to asylum procedures and summarily deport them back to Northern Iraq. Those who do gain access to the asylum procedures must suffer austere conditions, and are not protected against abuse and ill-treatment.

The Turkish government should establish supervisory mechanisms sufficient to stop abusive and arbitrary treatment of ex-Northern Iraq Iranian asylum seekers, including summary deportations. The government must provide these Iranians safe asylum for as long as necessary and should ensure humane living conditions while they are residing there.

The 1994 Asylum Regulations should be amended to meet the minimum standards for fair and satisfactory refugee determination. To date, several internationally recognized organizations, such as Amnesty International and the US Committee for Refugees,²⁷ have made sound and practical recommendations to the Turkish government to bring its asylum system in line with internationally recognized minimum standards. The Turkish government should take steps to implement these recommendations.

As a matter of immediate urgency the following restrictions should be abolished immediately:

- 1) the geographical restriction to apply for asylum and to remain in southeastern border towns which subjects asylum seekers to highly insecure, austere and inhuman conditions,
- 2) the five day limit to apply for asylum, failure of which leaves asylum-seekers liable to immediate deportation, and
- 3) the requirement to submit Identity documents, failure of which also leaves asylum seekers liable to immediate deportation.

UNHCR's preemptory Irregular ▶

◀ Mover policy against ex-Northern Iraq Iranian asylum seekers in Turkey denies them any assistance, including resettlement in a third country. The policy gives the Turkish government a free hand to *refoule* refugees. The policy also gives a green light to other governments to deny ex-Northern Iraq Iranian asylum seekers access to their asylum procedures and summarily to deport them. UNHCR has been entrusted with the responsibility of ensuring that refugees receive safe and true asylum. It is, therefore, morally reprehensible for UNHCR to coerce refugees to return from Turkey to Northern Iraq and to try to contain them in a place where physical safety cannot be guaranteed and humanitarian aid is scarce. A relative increase of substantially deficient resettlement opportunities from Northern Iraq should not be used to preclude the option of seeking durable protection outside of Northern Iraq for those who, due to threats of immediate danger, still are compelled to seek asylum in a different country. To insist that refugees enjoy reasonable protection in an unsafe and unstable zone also devalues the hard-won principles of asylum and protection.

UNHCR's Irregular Mover policy should cease immediately. Deficient resettlement quotas in Turkey should be solved by strenuously pressing the governments of resettlement countries. UNHCR should actively seek cooperation and support the efforts of NGOs in making the public in resettlement countries aware of the plight of needy refugees and lobbying governments for more resettlement quotas.

Endnotes

1. In 1992, conditions in the three camps holding more than 19,000 Iraqi Kurdish refugees still in Turkey from the 1988 exodus were reported to be appalling. For the three years before the 1991 Gulf war, the camps were surrounded by barbed wire and troops. Camps were overcrowded, with intermittent electricity, and unclean water. Kurds claimed that children died from exposure, malnutrition and disease. International visitors were denied access and movement in and out the camps was strictly limited. Even

UNHCR did not receive access to refugees until the middle of 1991. There have been persistent reports since 1988 of Turkish authorities forcibly returning the refugees to Iraq. In 1990, Amnesty International reported on numerous cases of Iraqis who were *refouled* and expressed concern that many more might have been coerced to return. Turkish authorities received plenty of criticism from Western countries for their treatment of Iraqi Kurdish refugees.

Then, in the after math of the Gulf War, when a mass exodus of Iraqi Kurds arrived on Turkey's borders at the end of March 1991, Turkey closed its borders. Anyone who ventured more than a hundred yards or so into Turkey were pushed back by Turkish soldiers, firing warning shots in the air. A staff report issued by the U.S. Senate Subcommittee said, "If the refugees had been permitted to cross the border—even by half a mile—to enter more hospitable Turkish valleys and facilities, some of the tragic loss of life could have been minimized..." The Turkish Foreign Ministry estimated that in the first week of April, 1,500 children died on the journey. Additional scores reportedly died after reaching the border, succumbing to diarrhea, hunger, and exposure. The Western coalition, supported Turkey in keeping the Kurds out by creating the "safe haven" zone. See Amnesty International, *TURKEY: Discriminatory treatment of non-European Refugees and Asylum Seekers*, March 1994, EUR 44/16/94; Bill, Frelick, *The False Promise of Operation Provide Comfort—Protecting Refugees or Protecting State Power?*, Middle East Report, May-June 1992; US Committee for Refugees, *World Refugee Survey-Turkey, 1990-1997*; Lawyers Committee for Human Rights, *Asylum Under Attack, A Report on the Protection of Iraqi Refugees and Displaced Persons One Year After the Humanitarian Emergency in Iraq*, April 1992.

2. In 1993, Officials of Interior Ministry told Amnesty International delegates that, as far as the Turkish authorities were concerned, there were no genuine refugees coming from Iraq. Amnesty also reported that the government refused to grant permission to Iraqi refugees recognized by UNHCR and accepted by resettlement countries to leave Turkey.

Amnesty international, *TURKEY: Discriminatory treatment of non-European Refugees and Asylum Seekers*, March 1994, EUR 44/16/94. It is also said that the reason Iraqi asylum seekers were subject to summary treatment by the border police in Şirnak could be due to the Turkish authorities' presumption that northern Iraq is safe for Iraqi Kurds and that they can be returned there without fear of persecution, despite the internecine turmoil among the Kurdish political factions there. US Committee for Refugees, *Barriers to Protection; Turkey's Asylum Regulations*, 1996.

3. Official Gazette, 30 Nov. 1994, No. 22127.

4. Article 1 of the Asylum Regulation describes "refugees" and "asylum seekers" as follows:

Refugee

A foreigner who as a result of events occurring in Europe and owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Asylum Seeker

A foreigner who owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

5. Article 28 of the 1994 Regulation states: The permits given to foreigners who request residence with the intention of seeking asylum from a third country may not be extended if after given reasonable time the for- ➤

- ◀ eigners are still not able to go to a third country. The foreigners in such situations shall be invited to leave the country.
6. See US Committee for Refugees, *World Refugee Survey*, Turkey, 1995-1997.
 7. For critiques of the 1994 Asylum Regulation See US Committee For Refugees, *Barriers to Protection; Turkey's Asylum Regulations*, July 1996, and *World Refugee Survey-Turkey*, 1996-1997; Amnesty International, *Turkey: Refoulement of non-European refugees - a protection crisis*, September 1997, AI Index: EUR 44/31/97; Kemal Kirişçi, *Is Turkey Lifting the 'Geographical Limitation'? - The November 1994 Regulation on Asylum in Turkey*, IJRL 8:3, 1996; Danish Refugee Council, *Safe Third Country Policies in European Countries*, Jan. 1998); and Iranian Refugees' Alliance, *Preliminary Assessment of the new Turkish Government and UNHCR Refugee Processing System for non-European*, May 1995.
 8. Amnesty International, *TURKEY, No Security Without Human Rights*, October 1996, AI Index: EUR/44/84/96.
 9. Amnesty International, - *Turkey: "Birds or Earthworms" - the Guclukonak Massacre, Its Alleged Cover-Up and the Prosecution of Independent Investigators*, June 1998, EUR 44/24/98.
 10. Letter from UNHCR Ankara eligibility officer to Iranian Refugees' Alliance, dated 24 April 1997.
 11. Letter from UNHCR Ankara representative to Iranian Refugees' Alliance, dated 3 March 1997.
 12. UNHCR Turkey first began considering Iranians coming from Iraq as Irregular Movers in 1992. At that time, UNHCR considered all of Iraq safe for Iranians. As a result, in addition to Iranians who previously resided in Northern Iraq, those who resided in other parts of Iraq also were considered as Irregular Movers. These included former members of the People's Mujahedin Organization of Iran [PMOI] despite the fact that they were justifiably at risk in all areas of Iraq. Former PMOI members were not safe in Northern Iraq not only because of the security risks posed against Iranian opposition members by Iran's agents freely operating in that region but also due to PMOI's serious political conflicts with both of the ruling Iraqi Kurdish parties. Since they were PMOI deserters, they were not protected by the Baghdad government, who supported the PMOI. Despite criticism from refugee and human rights organizations, including Amnesty International, UNHCR continued rejecting Iranians coming from Iraq until the end of 1994, when the policy was cancelled without any explanation.
 13. UNHCR *Resettlement Handbook*, Division of International Protection, United Nations High Commissioner for Refugees, Geneva, July 1997.
 14. The UNHCR Comprehensive Policy on Urban Refugees was drafted in March 1997 and was distributed under cover of UNHCR/IOM/25/97 Corr.1-FOM 30/97/Corr.1 dated May 27 1997. Urban refugees refer to those who reside in cities. They make up about 2 percent of UNHCR's total case load but serving their needs has typically consumed 10 to 15 percent of UNHCR's total budget. UNHCR reports that the nationalities that have tended to dominate urban refugee caseloads include Afghans, Angolans, Eritreans, Ethiopians, Ghanians, Iranians, Iraqis, Liberians, Nigerians, Somalis, Sri Lankans, Sudanese, Congolese (Zairians), Burundians, and Rwandans. The caseload is divided into three categories: irregular movers, *prima facie* refugees (individuals determined to be refugees on the basis of a group determination), and the legitimate urban caseload (persons of urban background or if of rural background for whom a rural resettlement does not exist). The main objectives of the policy, as described by the UNHCR are to ensure protection and to maximize access to solutions, both for individual refugees and for groups, and to make the best use of scarce resources. But many non-governmental organizations, refugee scholars, and even some UNHCR officials disagree. The policy has been vehemently criticized, particularly in regard to the treatment of irregular movers.
 15. Executive Committee Conclusion No. 58 (XL), *Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection*, 1989, paragraph (f).
 16. For critiques of the UNHCR Urban Refugee Policy see US Committee for Refugees, *Refugee Reports*, Vol.18, No. 11, November 30, 1997, and Vol 19, No. 1, January 31, 1998.
 17. As noted in US Committee for Refugees, *Refugee Reports*, Vol 19, No. 1, January 31, 1998.
 18. Letter from UNHCR Ankara eligibility officer to Iranian Refugees' Alliance dated 8 October 1997.
 19. Above note 17.
 20. Letter from UNHCR Ankara eligibility officer to Iranian Refugees' Alliance dated 24 April 1997.
 21. Above note 13.
 22. Letter from Senior Legal Advisor, *Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East* (CASWANAME), Geneva Headquarters to Iranian Refugees' Alliance dated 16 January 1998.
 23. Letter from Senior Legal Advisor, *Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East* (CASWANAME), Geneva Headquarters to Iranian Refugees' Alliance, dated 21 April 1998.
 24. Although not acknowledged publicly, the shortage in Turkey has been continuously acknowledged in UNHCR's internal consultations on resettlement. For example, a UNHCR internal document titled *Formal Consultation on Resettlement* which is circulated among some international NGOs specifically notes that the number of refugees considered in need of resettlement in Turkey *exceeds* the number of available places.
 25. Letter from InterAction's Committee on Migration and Refugee Affairs to Phyllis E. Oakley, Assistant Secretary of State, Department of State, Bureau for Population, Refugees and Migration, dated August 18, 1997.
 26. The UNHCR Resettlement Handbook (above note 13) says:

Irregular Movers should be excluded from resettlement by the UNHCR. This will require periodic comprehensive briefings on the issue to resettlement countries to elicit their cooperation.
 27. See above note 7.
- In nearly all of the cases mentioned in this part, the asylum-seekers' real or full name, as well as any other details which may be used to identify them, has not been used for protection reasons.■

Year End Report 1997

EXPENSES

PROGRAMS:

Humanitarian Aid Projects*:	\$36,132	73.6%
Advocacy and Education:	\$11,793	24.0%
Subtotal:	\$47,925	97.6%

GENERAL EXPENSES:

Management: & General Expenses:	\$521	1.1%
Fundraising:	\$630	1.3%
Subtotal:	\$2,054	2.4%

TOTAL EXPENSES: \$49,076 100.0%

INCOME

Contributions from the Public:	\$45,315	93.9%
Special events:	\$2,925	6.1%

TOTAL INCOME: \$48,240 100.0%

* Cash Assistance distributed:

The Fund to Support Iranian Refugees in Turkey:	\$25,510
The Support Fund for Iranian Refugee Children in Turkey:	\$8,860

About Us

Iranian Refugees' Alliance, Inc. is a non-profit organization registered under the US Internal Revenue Code 501(c)3. We are a community based organization in the US with the mission to preserve and promote the human and civil rights of Iranian refugees and asylum seekers nationally and internationally. Our efforts fall under five categories:

1. monitoring, documenting, and reporting world wide situation of Iranian refugees and asylum seekers, especially where they are most under-served and their rights are abused.
2. defending and promoting the rights of Iranian asylum seekers nationally and internationally.
3. empowering asylum seekers in obtaining refugee status by providing information on asylum matters and their legal rights, affidavits, documentation, translation, referrals and financial support for those in need.
4. preventing forceful return of Iranian refugees as prohibited by international law and assisting their resettlement in safe countries if necessary.
5. supporting newly arrived Iranian refugees in the US who face discrimination and/or disfranchisement, through advocacy, providing information and referrals, translation, and educational outreach.

Our efforts are entirely funded by donations from the public and rely on volunteer labor. ■

YES I WANT TO SUPPORT IRANIAN REFUGEES' ALLIANCE

Here is my gift of:

\$25 \$50 \$100 \$250 \$_____

I like to help on a regular basis. I understand there is no obligation, but I will try to send a (bi-monthly, quarterly, semi-annual) pledge of:

\$25 \$50 \$100 \$250 \$_____

I like to be on IRA's mailing list.

I like to receive information on IRA's humanitarian assistance projects to Iranian asylum seekers in Turkey.

I also like to be on IRA's Volunteer list:

1. Please list any volunteer experience you've had in the past:

2. What is your availability? (M, T, W, Th, F, Sat, Sun, Eves)

3. Foreign Languages:

4. Please check those that interest you:

- | | | |
|---|--|--|
| <input type="checkbox"/> Fundraising | <input type="checkbox"/> Newsletter | <input type="checkbox"/> Teaching English |
| <input type="checkbox"/> Grant Writing | <input type="checkbox"/> Translation | <input type="checkbox"/> Interpretation |
| <input type="checkbox"/> Special Events | <input type="checkbox"/> Web maintenance | <input type="checkbox"/> Job search |
| <input type="checkbox"/> Planning | <input type="checkbox"/> Office Work | <input type="checkbox"/> One-on-One guidance |
| <input type="checkbox"/> Mailings | <input type="checkbox"/> News Database | |
- For New-comers:

Name: _____

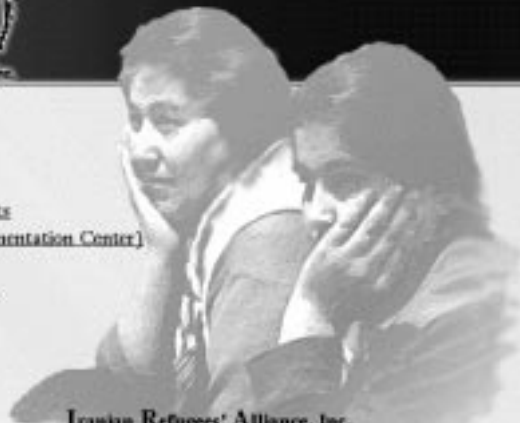
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Iranian Refugees' Alliance, Inc.

Documentation Center

Iranian Refugees' Alliance's Documentation Center is established primarily to provide refugee claimants with documentation such as human rights reports, newspaper clippings, scholarly articles which can be used as evidence in prevailing their claims. In addition, the Center holds a growing collection of published decisions on Iranian refugee claims in European Countries, US, Canada, New Zealand and Australia as well as published decisions of international human rights tribunals on related matters.

Partial index of the Documentation Center can be viewed at the following website:

<http://www.irainc.org/dcenter>

Fees:

US \$25 research fee per packet

US 15 ¢ per page

Fee waivers can be obtained in writing by low-income clients and attorneys handling cases pro bono. ■

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