



**OFF THE RADAR SCREEN:
UNHCR/GOVERNMENT NEGLECT
IMPERILS THOUSANDS OF
IRANIAN KURDISH REFUGEES
IN TURKEY & NORTHERN IRAQ**



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PREFACE

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Cover Images: ex-Northern Iraq Iranian refugees in Van filmed by refugees.

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Preface

This report does not take into account recent developments in Iraq, which at the time of release is a scene of severe humanitarian crisis and great uncertainty. On March 19, 2003, despite global protests, the forces of the United States of America and United Kingdom unleashed their war on Iraq and presently have occupied most of parts of that country. It is not known how long the USA and UK will occupy Iraq, and prospects for a credible democratic Iraqi authority are not particularly bright. The occupying forces have yet to restore order and ensure the provision of humanitarian assistance.

The future is at best unpredictable, with many commentators forecasting years of instability, reconstruction, internal displacement, inter-ethnic conflict, tension with neighboring countries, and a host of new difficulties for aid organizations, including UNHCR. It is not known when the new administration or government of Iraq will be in a position to consider signing the Refugee Convention, and set up even a minimal refugee protection system. For the moment, even after regime change, third country resettlement for Iranian refugees is likely to remain their only reliable protection and durable solution.

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Here, our needs, life and dignity have no value. We suffer these hardships simply because we took our fate in our hands and decided to bypass a blocked resettlement process which, even when it was still working, was slow and arbitrary. It utterly failed the many people who died at the hand of assassins or from lack of medical care. Iranian refugee Van, Turkey, April, 2002

History has shown that when the needs are compelling, and the political will exists, resettlement can be arranged quickly and efficiently. UNHCR Resettlement Handbook, July 2002

Allowing many refugees to spend years in limbo, whether in camps or urban situations, is not a proper reflection of international protection. UNHCR High Commissioner, quoted by Gary Troeller in IJRL, Vol 14, No 1, 2002



refugee on strike in N.Iraq
Erbil 2001

I. Summary

More than a thousand Iranian Kurdish refugees who have fled from Northern Iraq to Turkey since early 2001 are unable to access Turkey's asylum procedures because the United Nations High Commissioner for Refugees (UNHCR) is unwilling to resettle them in third countries.

This group of refugees left Northern Iraq because they were under threat there and refugee resettlements had long since come to a standstill. The refugees are now threatened with expulsion as "illegal immigrants" every day, and because UNHCR refuses them any assistance, they live harshly deprived lives. Many families have existed in this shadow-world for nearly two years. Turkish police have expelled at least a dozen refugees to Iran and summarily returned many more to Northern Iraq. At the time of the release of this

report, at least another thirty families are at imminent risk of expulsion because UNHCR has issued them with pro forma letters stating that they are "irregular movers" and therefore ineligible for resettlement and reported their status to the Turkish authorities.

Another four thousand refugees at least are still trapped in the autonomous Kurdish zone in Northern Iraq living precarious lives, faced with an escalating campaign of violence and intimidation inflicted by the government of Iran. Since 1992 the Iranian authorities or their proxy organizations have reportedly assassinated more than two hundred people and abducted many others. They have poisoned refugees and bombed refugee camps from the air. The group of refugees stranded in Northern Iraq now have no prospect of effective protection because UNHCR suspended resettlements from that country in mid-1999. Many of the victims of the Iranian government's murder campaign were refugees who had been waiting years

for resettlement, UNHCR's principal instrument of protection in this unstable and dangerous region.

The international community has mandated UNHCR to help refugees. According to its mandate, UNHCR has an international responsibility to protect refugees and find permanent solutions for them. In countries where the only instrument of protection and/or durable solution for some refugees is third country resettlement [the other two durable solutions are local integration and voluntary repatriation], UNHCR has the central role in planning and implementing resettlement programs. Resettlement of Iranian refugees from Northern Iraq began after the creation of the autonomous Kurdish zone in 1991. It has since been a grindingly slow and unpredictable process, failing to shift huge backlogs while new cases continue to pile up. Difficulties in submitting cases to resettlement countries and arranging transport have, among other things, constantly dogged the process. Since mid-1999, however, UNHCR has scaled down its resettlement activities to a point of virtual stagnation. UNHCR has complacently relinquished its responsibility to provide resettlement for the past four years, but failed to offer any alternative protection for Iranian refugees in Northern Iraq.

UNHCR blames the Iraqi government for the slowdown, saying that it refuses to issue exit permits for refugees so that they can leave the northern enclave for resettlement in Europe or beyond. UNHCR has been silent about why the Iraqi government would have changed its policy so suddenly after a decade of issuing such permits for the refugees. Nor has UNHCR explained why in four long years it has failed to negotiate a solution with the Iraqi government or pursue alternative exit arrangements. Emerging evidence suggests that dubious actions by UNHCR itself may have caused the rift with the Baghdad government, whose officials reportedly deny that they have any objection in principle to refugee resettlements from Northern Iraq.

From 2000 onwards, many Iranian refugees who did not want to be warehoused indefinitely in an unstable corner of the world, separated by a porous border from their persecutors, moved to Turkey. They consistently report that UNHCR staff

in Northern Iraq explicitly encouraged them to move. By December 2002, between 1,600 to 2,000 refugees had crossed the border into Turkey. Unless there are convincing signs from UNHCR that it intends to resume resettlement from Northern Iraq, thousands more refugees trapped there are likely to attempt to move to Turkey.

But UNHCR in Turkey is trying to duck its responsibilities towards Iranian refugees from Northern Iraq, preferring to implement punitive measures to deter any future movers, saying that they are "irregular movers." Since 1992 UNHCR has intermittently branded refugees who have made secondary moves from Northern Iraq to Turkey as irregular movers – that is, refugees who leave their country of first asylum where they have obtained "effective protection" for non-compelling reasons.

Despite the fact that the agency has never carried out a serious assessment of whether Iranians have obtained effective protection in Northern Iraq or not, UNHCR seems to consider that once it had applied the irregular mover label it could wash its hands of responsibility for protecting this particularly defenseless group, even though many had already obtained refugee status in UNHCR in Northern Iraq and were promised resettlement, or already had pending refugee applications there.

For the past two years, UNHCR has remained silent whenever the Turkish authorities have refouled Iranians from this group, even though this is the gravest possible breach of international refugee law. UNHCR has denied this group all subsistence and medical or resettlement assistance. In February 2002 UNHCR stepped up its collective punishment of this group of refugees by refusing even to register new arrivals. More than 600 ex-Northern Iraq refugees who contacted Iranian Refugees' Alliance for help are not registered by UNHCR, or accepted by the Turkish government as asylum-seekers. Since there is no official record of their presence in Turkey, there is no legal basis to prevent their deportation.

Most of the refugees stranded in Turkey are ex-members of Kurdish political parties which have faced severe persecution by the Iranian government. For them, the stakes are high and protection is literally a matter of life or death. In 2002,

the Iranian government executed Karim Tujali and Khaled Shoghi, both members of the Kurdistan Democratic Party of Iran who had spent most of their political lives in Northern Iraq. Karim Tujali and Khaled Shoghi had both been refouled to Iran by the Turkish authorities in 1998 and 1992 respectively. Karim Tujali was labeled an irregular mover by the UNHCR for the year and a half that he languished in Turkey prior to his *refoulement*.

The refugees' unstable situation is aggravated by UNHCR's obfuscation, lack of transparency and failure properly to inform. A particularly troubling component of this perverse policy is that UNHCR scrubs this population from its public records and consultation forums, thereby effectively isolating an extremely vulnerable group from international concern, and concealing its own calculated neglect. Another is that UNHCR evades responsibility by presenting itself as an unwilling hostage to the Turkish government's intransigence, but in fact the Turkish government's attitude to refugees closely shadows UNHCR's position. Under a geographic limitation to the 1951 Convention, Turkey does not recognize refugees from non-European countries. The most a non-European in Turkey can hope for is a temporary residence permit pending resettlement by UNHCR. If UNHCR is ready to resettle, the Turkish government readily issues residence permits. On the other hand, whenever UNHCR withholds support for a particular group of refugees, the Turkish authorities have treated this as a green light to behave as badly as it chooses toward that group.

Third country resettlement (onward resettlement from the first country of asylum) is discretionary and international law does not require third countries to resettle refugees. But international law obliges all countries, irrespective of whether they have ratified the UN Refugee Convention or attached geographical reservations, not to return a refugee to a situation where they might be at risk of persecution (*non-refoulement*). Making *non-refoulement* contingent upon the offer of resettlement by a third country is clearly in breach of international law. However, rather than

requiring the government's to de-couple its *non-refoulement* obligation from third country resettlement operations in Turkey, UNHCR has always accommodated the Turkish government's imposition.

UNHCR does not deny that it has suspended resettlement in Northern Iraq since mid-1999, but refrains from publicly discussing the principles and premises behind its closed door policy towards refugees who have moved to Turkey to seek the protection and assistance that they were denied in their first country of asylum. Nor has the agency explained why the policy is applied so capriciously and inconsistently. Since 1992 the agency has twice spontaneously reversed the irregular mover policy for ex-Northern-Iraq Iranian refugees, once in 1995-1996 and, more recently, for all the refugees who entered Turkey in 2000.

Another curious and unexpected dimension of this affair is that UNHCR is clearly not operating this policy in order to conserve precious and scarce opportunities for resettlement. According to its own statements, UNHCR fails to fill thousands of offers for resettlement places every year. That UNHCR should throw away thousands of life chances for refugees annually while simultaneously improvising excuses for excluding deserving cases suggests that it favors an inefficient and wasteful resettlement process.

Iranian Refugees' Alliance has no direct information about the reasons behind the capricious shifts in UNHCR's policy towards Iranian refugees, its suspension of resettlement, its refusal to make a genuine assessment of the risks faced by refugees in Northern Iraq, or its arbitrary labeling of refugees as irregular movers when they attempt to find safety in Turkey. Nor are we aware of such reasons when UNHCR recklessly applies the irregular mover policy to refugees of other nationalities residing in other unsafe and unstable regions of the world, for example in East Africa and Asia Pacific. In those situations too the policy has generated sharp criticism from international human rights organizations.

Evidently, the policy has its roots in the negative attitude that UNHCR developed towards

resettlement since the end of the Cold War. Some insiders attribute this attitude to UNHCR's painful institutional memory of handling mass movements of immigrants which was induced by the automatic "no question asked" resettlement policies of the Cold War era. These policies, driven by the U.S.'s opposition to communism in South-east Asia, involved UNHCR in resettling more than two million Vietnamese, Cambodians, and Laotians in the aftermath of the Vietnam War. Others say that the negative attitude merely shows that UNHCR shares governments' post-Cold-War lack of interest in resettlement.

Whatever the reasons, UNHCR's poorly-founded and arbitrary operational policies concerning resettlement set a bad example for governments. Governments worldwide are increasingly active in finding indirect methods of ducking their duty to refugees, and developing a battery of non-transparent obstacles to reduce the "attractiveness" of asylum and deter refugee flows. Western governments increasingly cite the presence of UNHCR as a guarantee of safety and effective protection in countries of first asylum and transit, but UNHCR's prolonged neglect of the Iranian Kurdish refugees in Turkey and Northern Iraq and its discreet repudiation of responsibility toward them show that this guarantee is not a sound one.

UNHCR's policy has reduced thousands of Iranian Kurdish refugees in danger to the status of non-persons. Iranian Refugees' Alliance now hopes to draw international attention to their plight. Based on firsthand interviews with dozens of Kurdish Iranian refugees, this report focuses on the human and legal consequences of their decision to move to Turkey. Evidence from public documents and interviews complement and corroborate the findings of our earlier report *Unsafe Haven: Iranian Kurdish Refugees in Iraqi Kurdistan*, Iranian Refugees' Alliance, 1997/98, (www.irainc.org/text/pub/NIreport.pdf) concerning the perils those still trapped in Northern Iraq continue to face. We have withheld the names and identifying details of interviewees to protect their safety.

II. Why are Iranian Kurds on the move from Northern Iraq?

Kurds have been fleeing Iran to seek refuge in Northern Iraq for over twenty years, since shortly after the founding of the Islamic Republic of Iran in 1979. They fled to escape government repression and human rights abuses. The violations continue today, and so does the flow of refugees. According to UNHCR statistics, approximately 1,400 Iranians lodged new applications with the UNHCR offices in Northern Iraq in 2000-2001.¹ UNHCR also reported that by the end of 2001 the number of Iranians of concern to the agency in Northern Iraq was 4,615. 2,176 of these were resident in Sulaymaniyeh and 2,439 in Erbil.² But most fleeing Iranians do not approach UNHCR. The majority join the Iranian Kurdish political parties with bases in Northern-Iraq.³ The U.S. Committee for Refugees estimates the total number of Iranian refugees in Northern Iraq as twice the number that are registered with UNHCR.⁴ A 1999 Council of Europe report estimates their number to be five times that registered with UNHCR.

Secondary movement to Turkey began after the autonomous Kurdish zone, the "safe haven" was established in 1991. Iranian Kurds moved when the Iranian government began an escalating campaign of violence and intimidation in Northern Iraq. Iranian Refugees' Alliance's earlier report *Unsafe Haven: Iranian Kurdish Refugees in Iraqi Kurdistan*, Iranian Refugees' Alliance, 1997/98, (www.irainc.org/text/pub/NIreport.pdf) documents the perils that Iranian Kurdish refugees face in Northern Iraq.

Unsafe Haven used not only first-hand testimony by refugees, but also news reports, reports from non-governmental organizations and academics, and UNHCR's own publications, to show how Iranian refugees in Northern Iraq are left exposed to mortal danger and the threat of *refoulement*. Third country resettlement by UNHCR, the only durable protection solution for Iranian refugees in Iraq, was a grindingly slow and yet unpredictable process. Many thousands of refugees in need of urgent resettlement are still waiting with little or no prospect of ever resettling to a place of safety.

Precarious security conditions

Since the publication of *Unsafe Haven*, the threats to the security of Iranian Kurdish refugees in Northern Iraq have not diminished. The internationally respected U.S. Committee for Refugees reports that conditions in Northern Iraq remain “very dangerous for Iranian refugees.”⁵

In recent years, there has been considerable public debate as to whether or not the statelets in Northern Iraq can protect their citizens. This debate was in response to various European refugee host countries rejecting large numbers of Iraqi Kurdish refugee applicants on the pretext that there was an internal flight alternative within the ‘safe-haven.’

The UK Immigration Advisory Committee recently published a comprehensive article reflecting a general consensus among international human rights organizations and many state parliaments that every individual in Northern Iraq is the victim of a “lack of state protection.” The article echoes the findings of *Unsafe Haven* that the ruling parties in Northern Iraq, that is, the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), have committed widespread human rights abuses in the context of their long-standing rivalry. Despite a peace agreement the two parties have failed to normalize relations and have failed to impose effective law enforcement. The article concludes that “no individual could be expected to receive effective protection from either [party].”

The UK Immigration Advisory Committee’s article emphasizes the precarious nature of the ‘safe haven’ in Northern Iraq. The very existence of the KDP and PUK statelets is entirely dependent on U.S.-British protection, which is “extremely inadequate,” while “no guarantees exist as to how long that protection will remain.”⁶

The article’s author Natasha Carver asserts that international agencies working in Northern Iraq such as UNHCR and the International Committee of the Red Cross “do not have measures to protect citizens and are very often unable to protect even their own employees.” Any military action against Iraq, she points out, is likely to destabilize Northern Iraq still further.⁷

In this connection it is worth glancing at what

happened to the many Iranian Kurds who had the misfortune to be in Northern Iraq during the 1991 war and fled back across the border into Iran (along with millions of Iraqi Kurds) to escape attacks by the Baghdad regime. Some of these were later able to make their way to Turkey. In their refugee claims they report that some returnees were immediately spotted and detained by the Iranian authorities. The sequel for them, and for others who returned in the guise of native Iraqi Kurds but were later identified and detained, was imprisonment, torture, and in some cases, execution. With war looming again in Iraq, what power can protect Iranian Kurdish refugees if Iran, or Iran-backed forces, were to sweep into the collapsed “safe-haven” or if Baghdad resumes attacks?

Turkey has indicated that if war breaks out in Iraq, it will move troops into the north to prevent refugees from crossing the border into its own territory, claiming that a large influx might present a security threat. So the only flight alternative for residents of Northern Iraq will be towards Iran, which has declared that it will accept the refugees conditionally. Tehran initially said it would seal off its borders in case of a refugee influx, but later indicated that it would take in Iraqi refugees “only if it is established that their lives are in danger.” The Iranian authorities would not permit the refugees to move on to Iranian cities.⁸ This means that the authorities intend to carry out detailed checks and screening of refugees on the borders, a potential death-trap for Iranian refugees.

The northern enclave fails to provide state protection and may be profoundly destabilized in the event of war, but it is also infested with Islamic forces acting as proxies for the Iranian government, and Iranian government agents. This is a further source of insecurity for Iranian refugees. Iran has maintained good relations with KDP and especially PUK over the years.⁹ The Iran-backed Islamic Movement of Kurdistan (IMK) is now the most powerful Islamic group in Northern Iraq and has become a serious player there. Following the PUK-KDP peace agreement, IMK was given control of extensive territory near the Iranian border, and has developed its presence and influence throughout Northern Iraq.

The IMK, Hizbollah and the Shi’a Supreme Council of the Islamic Revolution in Iraq (SCIRI)

have all attacked Iranians in Northern Iraq,¹⁰ but the proliferation of other Islamic groups in Northern Iraq also threatens Iranian refugees. Increasingly active groups include the Islamic League Of Kurdistan, The Kurdistan Islamic Union, Hamas, Tawhid, Salafi, Al-Nahze, Amal Al-Islami and Al-Jihad, and Jund al-Islam (now known as Ansar al-Islam).¹¹

Shortly after the September 11th attacks, Northern Iraq was recognized as an unstable and inaccessible region offering a potential haven for Islamist groups, and a naturally attractive environment for Al-Qaeda. On September 11th a militant Islamist group calling itself Jund al-Islam (The Army of Islam) erupted onto the scene in Northern Iraq, establishing itself on the strategic Shinirwe Mountain overlooking the town of Halabja.¹² The group immediately declared their “jihad” against the “secular and apostate forces that are waiting for an opportunity to overpower Islam and the Muslims of Kurdistan; and waiting to implement the sinister plans of the Jewish, Christian and all other apostate leaders,”¹³ similar to the Ayatollah Khomeini’s proclamation in August 1979 of a fatwa (religious order) declaring holy war ‘against the atheist people of Kurdistan of Iran.

Jund al-Islam subsequently began to issue other decrees redolent of those of the ayatollahs in Iran. They made prayers in the Mosque compulsory and a’ba (a black head to ankle cover) mandatory for females. They also banned pictures of women, music, musical instruments and satellite dishes.¹⁴ The Jund al-Islam established governing agencies that echoed the Iranian Islamic model, including the Shari’a Board. This comprised a court, a committee to investigate legal questions and issue decrees, a committee for the promotion of virtue and the prevention of vice, and a committee to supervise the imposition of Islamic law. Another agency, the Mujahidin Military Leadership Council, supervises military matters. The Media Council supervises media outreach, including a Jund al-Islam radio station broadcasting from Darga Shekhan. The council issues circulars and handles foreign relations and grass roots organization.¹⁵

Jund al-Islam has reportedly committed atrocities against secular residents of Northern Iraq, with Iran’s backing. A BBC report on September 26, 2001 states that KurdSat TV showed “horrific pictures of victims of a massacre carried out by Jund al-Islam.”

The unprecedented broadcast showed chilling images of about twenty mutilated bodies, some with their throats cut, others completely decapitated. The corpses were laid out on the floor of a gloomy room. “They used swords and machetes. They were speaking Arabic and Persian,” said a woman from the village to a KurdSat reporter. These killings took place following clashes on 23 September between the PUK and Jund al-Islam in a village near the city of Halabjah. Sources close to the PUK told the BBC that Iran provided Jund al-Islam with logistic support during the fighting.¹⁶ The Jund al-Islam has also allegedly destroyed two Kaka’i shrines (the Kaka’i are a local sect heavily influenced by pre-Islamic practices), assassinated a high-ranking Kurdish official and a moderate Muslim scholar. Local security sources claimed to have uncovered plots to carry out several other assassinations and conduct a wave of bombings, beginning in Sulaymaniyah and spreading across Iraqi Kurdistan.¹⁷

For the time being, the PUK administration is forced to live with the Jund, or Ansar al-Islam as it renamed itself in 2002. Analysts generally agree that neither the PUK nor the KDP are capable of defeating an enemy which receives significant external support, and recent conflicts in Northern Iraq have borne out this view.¹⁸ Meanwhile reports of murder and indiscriminate destruction by the Ansar al-Islam abound.¹⁹ Kurdish sources report that Iran is still arming and training Ansar members, despite Tehran’s denials. Ansar’s wounded are also reportedly treated in Iranian hospitals.²⁰

An Iranian now living in Turkey recently told Iranian Refugees’ Alliance: “living in Northern Iraq is like knowing that Al-Qaeda lives two houses down from you but you can’t do anything about it. The local authorities seem unwilling or incapable of getting rid of the terrorists who threaten their own people, so how can we expect them to protect us?” A recent article by Michael Rubin, from the Washington Institute for Near East Policy, paints a vivid picture of what it is that Iranian refugees are so afraid of. Rubin spent nine months in 2000/2001 as a visiting lecturer in Northern Iraqi universities, and gives the following first hand observations of Islamist groups in Northern Iraq:²¹

During a four month strike in 2001 staged by over 1,500 refugees in Erbil and Sulaymaniyeh in protest to UNHCR's neglect and inefficiency, the coordinating committee of the strike in Erbil published the weekly newsletter MAN (strike in Kurdish). The 9th issue dated August 15, 2001 notes more than 100 killed, injured, disappeared, abducted, refouled to Iran by Turkish police, apprehended by Iranian authorities during cross-border journey to Turkey, and medically urgent cases of Iranians recognized as refugees by the UNHCR in Northern-Iraq.



لیستی کوزراون، ههچیان

مان

بهریښ لیست یزیدین له یزیدین، له وانای لیره کوزراون، له یوزون و نه پابه نه یوزون، له به شیک لهو په ناپهراڼه شهیدانه راده کښن که به درنده کوماری لیست یزیدین نه راده شهید کران:

نوم	تاریخ	پل
کعبه بابکر زارعی	۱۹۹۱	۱
محمد باقر سلیمانزاد	۱۹۹۲	۲
رضا سلیمانزاد	۱۹۹۲	۳
کامران سلیمانزاد	۱۹۹۲	۴
کریم کاکلی	۱۹۹۲	۵
احمد کاکلی	۱۹۹۲	۶
قادر اکبران	۱۹۹۲	۷
صالح احمد یوز	۱۹۹۸	۸
حسن محمد سلیمانزاد	۱۹۹۲	۹
سید علی پور یوز	۱۹۹۲	۱۰
قادر یوز	۱۹۹۲	۱۱

Driving from PUK-administered regions into IMK territory was like entering the Taliban's Afghanistan. White flags fluttered over checkpoints, as young men with Taliban-style beards, brandishing AK-47s, interrogated all but official cars. In 1999, an international aide organization's car was fired on after being waived through an Islamist checkpoint on the road to Tawella. The problem? A foreign woman did not have her head covered. On Fridays at noon, towns would be deserted as IMK militants enforced mosque attendance for locals.

Throughout the safe-haven, Saudi-financed mosques (identified as such with logos and attribution on their walls) preached extreme Salafiyah Islam. A new mosque in rebuilt Halabja dominates the local skyline, while a huge multi-story mosque visible for miles around is nearing completion in Erbil. The IMK is responsible for several new mosques in other towns and villages as well. While the PUK and KDP have not operated offices in each other's territory for five years, the IMK maintains offices (often resembling fortified compounds) throughout the safe haven.

The IMK has not been the sole representative of Islamists in Northern Iraq, though. The Kurdistan Islamic Union professes non-violence, and also supports the Islamic Kurdish League, which presents itself as a non-violent social service organization. While the Islamic Kurdish League generally maintains a positive local image, some senior politicians warn that the group could be the " Hamas of Kurdistan," meaning that the group is slowly expanding its influence among the poor and dispossessed, but could easily turn violent once it feels its base is large enough. Both the IMK and the Kurdistan Islamic Union have their own television broadcasting stations.

Iranian Kurdish opposition parties still regularly report individual acts of aggression against Iranian refugees and dissidents in Northern Iraq carried out by agents of the Iranian government. For example, in summer 2002 the Kurdish Democratic Party of Iran reported that seventeen-year-old Masud Karimian, born in Sardasht, was killed in Erbil, Northern Iraq, on August 12 2002.²² A refugee who knew Masud told Iranian Refugees' Alliance that the young man was a fugitive political prisoner. Local police captured the assassin, an Iraqi from Kirkuk, after he had stabbed Masud to death. The man confessed that he

had been hired to do the killing by the Etela'at [Intelligence forces] of Sardasht.

First hand testimonies of refugees who had been residing in Northern Iraq prior to moving to Turkey, and who were attacked or witnessed the killing and "disappearance" of friends and family vividly express refugees' profound fear and insecurity. A long-standing refugee residing in Erbil told Iranian Refugees' Alliance:

Abdullah Moshirpanahi barely twenty years of age was killed a year after he was recognized as refugee by UNHCR in Erbil. To make ends meet Abdullah used to sell cigarettes in the Bazaar. On October 22, 1999 he was shot to death. His assassins were never found. Kamal Khishtandar born in Marivan was a UNHCR refugee in Erbil from about 1998. To make ends meet he worked in an ice factory, where he broke his leg due to an accident. It took several months for him to recover, after which he went to a border village in Iraq in Shilla near Marivan Iran to meet his family and receive some financial help from them. He was shot to death there in 2000. Khalid Siavany born in Piranshahr disappeared in Diana in 2001. A few days after his disappearance he was found dead with several gun shots in his body. Karim A., born in Baneh another refugee in Erbil was attacked by several gunmen in 2002. He survived the attack but was injured by three bullets to his thigh, abdomen and arm.

Long resident refugee in Sulaymaniyeh told Iranian Refugees' Alliance about recent deaths in his own circle:

Habibolah Fatahi Kord was killed in his own home in 1999 while his case was pending with UNHCR. He and his family lived in a shanty town called Kani Kordeh in the suburbs of Sulaymaniyeh. The assassins raided his home during the night and shot him to death in front of his wife and kids. Abdullah N. and Tahsin R. were attacked and injured in late 1999. They were both UNHCR refugees. Tahsin was the representative of refugees in Erbil. They both survived the attacks and were resettled in third countries in 2000.

Other testimony and documentary evidence by refugees reveal that the Iranian government has been

operating insidious schemes to infiltrate the community of Iranian dissidents in Northern Iraq in order to identify, intimidate and attack them. A refugee resident in Sulaymaniyeh for many years gave a detailed account of how a group of the Iranian government agents tried to establish themselves in Northern Iraq by finding employment with the international non-governmental organization, the Food and Agriculture Organization (FAO). Numerous refugees have told Iranian Refugees' Alliance about IMK's vast fleet of Toyota Land Cruisers and how their black clad passengers have attacked them or other Iranian refugees known to them. Refugees say they are more vulnerable to attacks than active party members who are protected by the parties' peshmerge forces.²³ "We are easily accessible to the assassins. Terror is not simply aimed at eliminating those who are currently politically active. It is also a show of power intended to intimidate, to send a message, to teach the lesson that dissidence is fatal, to force dissidents to go back and surrender in order to stay alive. The fact that we are not party members does not mean that we are not dissidents," said one refugee who resigned from his party after twenty years of activism.

Culprits are rarely arrested and prosecuted. In one instance, Iranian Refugees' Alliance received a photocopy of a court verdict imposed by Sulaymaniyeh Criminal Court on two men who were convicted of attempting to murder an Iranian refugee and his mother in July 1994. According to the verdict one attacker escaped from custody and was therefore tried in absentia. The second attacker was present at the trial with his lawyer. Both men were sentenced to ten years' imprisonment and a fine. The attack is described in the verdict:

The defendant Kayvon Osman Nuri contacted a member of the Iranian government's intelligence service called Salam Tufiq and was paid 7,000 dinars to assassinate the plaintiff Ahmad Ali Muhammad (known as Doctor Ahmad) who is a dissident of the Islamic Republic and belonged to the Komala organization. Afterwards, the defendant Kayvon contacted Abdullah Mirza and Bistun Jabar, but the latter's crime was not proved. On June 19, 1994 the defendants approached the plaintiff's home in Sheikh Mahiedin district driving a Brazilian vehicle with license plate 11483-

Sulaymaniyeh. They possessed two colt handguns which belonged to Kayvon. Bistun Jabar waited in the vehicle while the others approached the plaintiff and his mother. Pretending that they wanted to talk to them, they fired their guns at the plaintiff and his mother. Ahmad Ali Muhammad's right arm and head were injured. His mother was also injured in her buttocks and lost much blood. The defendants then escaped with the vehicle.

Governments and UNHCR should not send refugees back to unstable destinations such as Northern Iraq unless an impartial and expert assessment shows beyond doubt that the return will be durably safe. UNHCR-Turkey has regarded Northern Iraq as safe since 1992, and has implemented returns since then. But UNHCR has not even investigated the conditions prevailing in Northern Iraq, let alone demonstrated its safety. UNHCR was unable to offer any challenge to *Unsafe Haven's* evidence and conclusion that Northern Iraq is actually manifestly unsafe.

Sassan, an Iranian Kurdish refugee whose brother and mother were the victims of the attack described above, moved with his family to Turkey in July 2000. UNHCR in Erbil had already recognized Sassan as a refugee in March 1998. But he was one of the many who after years of anxious waiting had still not been referred for resettlement. Sassan and his family moved to Turkey and settled in Van. When asked to list the reasons for his move, Sassan said:

Lack of security and political stability. The presence of Islamic radicals, as well as intelligence agents of the Iranian government. I cannot say that I was personally attacked by agents of the Iranian government during the four years that I remained in Northern Iraq. But I always feared that, since they did not spare my mother and brother who were refugees and had stopped political activity, why should they spare me and my family. In addition, members of my family who had remained in Iran were constantly pressured and threatened by the government to come and convince me to return to Iran.

Following a thirty minute interpreter-assisted interview with Sassan on August 3, 2000, UNHCR-

Turkey sent him a letter dated August 23, 2000 stating: “we have determined that you already enjoyed safety from persecution in another country before arriving in Turkey. Since Turkey is not your first country of asylum, the UNHCR office in Ankara is not in a position to assist you to remain here, and we suggest you return to the country where you have enjoyed protection since leaving your country of origin.” UNHCR-Turkey made the determination after an unsatisfactory and haphazard process. In the same haphazard fashion, they withdrew their determination a year later and assisted Sassan’s resettlement. Sassan welcomed the decision, but never discovered how it was that previously safe Northern Iraq had suddenly become unsafe for him. [for further discussion of capricious changing of determination, see pages 24-27]

Protracted delays & eventual suspension of resettlement

Resettlement of Iranian refugees from Northern Iraq began after the “safe haven” was established. But as documented in detail in *Unsafe Haven* resettlements moved pitifully slow, failing to shift huge backlogs while new cases continued to pile up throughout the period covered (1993-1997). Difficulties in submitting cases to resettlement countries and arranging transport dogged the process, and Northern Iraq increasingly became a permanent waiting room.

There was a brief improvement in 1997, but since then resettlement figures have lowered more than ever. In 1998 UNHCR planned a resettlement figure of 2,000 from Iraq, but achieved only 1,140.²⁴

This was a 34% fall from 1997. In 1999 UNHCR assisted in the resettlement of only 820 refugees, 632 of whom were from Northern Iraq.²⁵ In mid-1999 UNHCR suspended resettlement altogether, claiming that “the Iraqi government did not regard Iranians in northern Iraq as refugees” any more.²⁶ Whether this was the real reason for the sharp decrease in 1999 remains in doubt and is discussed below. [See pages 13-18] But the results were dramatic. In 2000 a mere forty-one persons were resettled from Northern Iraq. The total number for Iraq in that year was 413, the lowest in four years.²⁷ In 2001 UNHCR resettled 752 refugees from Iraq, and said that a hundred of those were resettled from Northern Iraq on an “exceptional” basis despite the “official ban” on exit visas for refugees staying in Northern Iraq. By the end of the year, UNHCR said that 419 persons qualified for resettlement, and were waiting to leave, while 1,317 persons were still awaiting decisions on resettlement.²⁸

Unsafe Haven showed that even when resettlement from Northern Iraq was not suspended, prolonged delays made resettlement an ineffective instrument of protection for refugees facing daily risks to their lives. Yet, in 1998 UNHCR Headquarters in Geneva wrote to Iranian Refugees’ Alliance insisting that refugees need not move on to Turkey because UNHCR would “endeavor” to meet all resettlement needs in Northern Iraq.²⁹ But since 1999 UNHCR has admittedly not endeavored to resettle refugees from Northern Iraq, so it is difficult to see how UNHCR Headquarters in Geneva can now justify the non-assistance policy to those who move to Turkey.

Resettlement Of Iranian Kurds From Iraq

	1993	1994	1995	1996	1997	1998	1999	2000	2001
Iranian Kurds in Iraq (N. Iraq)	28,500 (6,000)	26,500 (4,000)	27,000 (4,000)	23,762 (3,682)	24,487 (3,700)	19,508 (3,700)	17,026 (3,426)	17,792 (4,215)	16,766 (4,615)
Iranians resettled (N. Iraq)	N/A N/A	280 N/A	255 N/A	514 N/A	1,616 (774)	1,140 N/A	820 (632)	413 (41)	752 (100)

sources: UNHCR and the US Committee for Refugees



UNHCR's undertaking to "endeavor" to resettle Iranians were welcome words of good will, but the large number of high priority cases who have now moved to Turkey as a result of UNHCR's failure to resettle them further attests that they were no more than wishful thinking. As discussed in *Unsafe Haven*, Iranian refugees in Northern Iraq at risk from Iran government predation are prime candidates for resettlement under UNHCR's first priority criterion of "lack of physical safety and legal status," but they also meet one or more of the seven other criteria for resettlement set by UNHCR. Indeed, due to the general lack of state protection in Northern Iraq, or an asylum system in Iraq, all Iranian refugees in Iraq or Northern Iraq also qualify under the eighth resettlement criterion:

- lack of local integration prospect

Many also are:

- survivors of violence and torture
- refugees with certain medical needs
- women at risk
- refugees in need of family reunification
- children and adolescents
- elderly refugees, and
- refugees without prospects for local integration³⁰

The long tense wait in Northern Iraq has been accompanied by a decline in the health of many refugees. Many of the refugees who moved to Turkey have been suffering from health problems which have become life-threatening or led to irreversible loss of function due to lack of proper treatment. Health problems include: the effects of thallium and other chemical poisoning, shell fragment injuries, rheumatism, diabetes, kidney failure, chronic eye problems, cancer and heart problems. Some disabled refugees have been living extremely harsh lives due to lack of medical facilities and expertise.

Some of those with medical problems who are now in Turkey were originally referred for resettlement more than four years ago without any progress being made. For example, Khalid, married with four children, lived in Northern Iraq from 1984 onwards. He approached UNHCR and was recognized as a refugee in 1998. In 1995, aged thirty-five, he developed high blood pressure and in 1999 had a massive heart attack. The same year UNHCR told him that they had referred his case to Geneva for resettlement.

For two years nothing happened. Then, in March 2001, UNHCR allocated him "High Priority" in the Disabled Medical-At-Risk category, a group "considered in need of health services available in a resettlement country." Khalid's Disabled Medical-At-Risk Form notes that he has "chest pains, Hx of HTN [history of hypertension]" and that "he survived an acute MI [Myocardial Infarction]" and states that "with access to services in country of resettlement" he can be treated with "angioplasty and further surgical management." By the time Khalid was determined "High Priority," resettlement from Northern Iraq had been suspended. When Khalid moved to Turkey with his family of four in February 2002 he found that UNHCR-Turkey was not willing to even register him, much less to assist him with his "High Priority" resettlement need or even provide him with medical care. [For discussion of UNHCR's repudiation of its responsibilities in Turkey, see pages 27-35].

Worse, UNHCR neglected to refer other cases with identical or similar problems for resettlement while they waited in Northern Iraq. Abdullah, born in 1963, married with three children, had two heart attacks in 2001. He had been recognized as a refugee in 1998 by the Erbil office of UNHCR but was never referred for resettlement. When Iranian Refugees' Alliance asked him why UNHCR in Erbil had not referred him for resettlement even after two heart attacks, Abdullah told us that a UNHCR officer had told him: "What would be the point? We cannot resettle you anyway."

Shiva, a woman in her thirties, registered with UNHCR in Sulaymaniyeh in 1995. Shortly before she registered she sustained multiple shell fragment injuries when Iranian armed forces shelled bases of Iranian Kurdish opposition parties in Northern Iraq. A letter signed by a radiologist and a surgeon, dated September 28, 1996, notes shell fragments in her skull, chest and near her spine and recommends:

The patient needs further sophisticated investigation including Computerized Tomography Scanner [CT] for her head injury, and she will need further surgery. Therefore, she needs a specialist neurosurgeon. Because of shortage of facilities and specialists here (Kurdistan of Iraq) her urgent surgical referral is advised in order to avoid head injury complications.

Despite the diagnosis in 1996, Shiva was not considered for resettlement. Finally on April 24, 2000 UNHCR processed a “Disabled Medically-At-Risk Form” for her. The form signed by a surgeon in the Sulaymaniyeh Teaching Hospital again confirmed the 1996 findings and again there was a recommendation that she be given “access for reinvestigation and treatment in a country in which there is CT Scan and MRI [magnetic resonance imaging].”

Shortly after the second diagnosis, resettlement from Northern Iraq was suspended. When Shiva finally moved to Turkey in July 2000, she was also a single mother of a three year old girl. Like hundreds of other ex-Northern Iraq refugees, when she moved UNHCR-Turkey denied her all assistance. With no assistance from UNHCR and unable to work legally because of the Turkish government’s ban on employment for non-European refugees (added to her own physical disabilities and her vulnerable status as a woman) Shiva led an exceptionally vulnerable life in Van for more than a year. UNHCR finally resettled Shiva to a third country in February 2002, eight years after her injuries.

Hamid, an ex-political prisoner and survivor of torture, fled from Iran to Northern Iraq in 1998, and registered with UNHCR in Sulaymaniyeh. Due to an eye-condition, his state of health was marked as “Emergency” in his UNHCR- Disabled Medically-At-Risk Form, where a doctor stated that “he is in urgent need to consult a highly specialized ophthalmic centre abroad.” But UNHCR did not initiate a resettlement process for Hamid. On his UNHCR Medically-At-Risk form, the following was written in 1998:

This case start [sic] 5 years ago. The cause of this condition is trauma to both eyes. This trauma led to infection to the posterior and anterior uveal chamber, led to severe uveitis [a condition or syndrome which indicates inflammation within the eye], after that the condition became worse and led to posterior synechia, secondary cataract developed after 1 year from the time of trauma after that the patient have astigmatism and pressure of eyes are about 20/20. If this condition is not treated during the last [sic] 2 years from when this complication happened the patient will end with bilateral blindness.

A number of refugees have reportedly died due to lack of sufficient medical facilities in Northern Iraq. Aref Rasul and Ahmad Khalehi reportedly died in 2000 and 2002 after years of heart problems. Baghi Rasuli died after years of suffering from kidney insufficiency. A refugee from 1997, Rasul Amin Ashayeri died in 1999 from laryngeal cancer. The medical community believes that with early intervention up to 90% of laryngeal cancers, like skin cancers, can be cured with radiation therapy. However, according to a close relative of Rasul Amin Ashayeri, he died because such treatment was not available in Iraq and UNHCR did not even consider him for emergency resettlement to a country where he could be treated:

When Mr. Amin Ashayeri first had hoarseness in his voice, we approached the UNHCR in Erbil and asked for help. They did nothing. So we asked the KDPI for help. The KDPI assisted us to take him to a hospital in Baghdad where he was diagnosed in early stages of laryngeal cancer. But they said that they could not cure it in Baghdad due to lack of facilities and that we should take him to another country. We returned to Erbil and again approached the UNHCR. But again they refused to help. When Mr. Amin Ashayeri’s symptoms worsened, with difficulties in speaking, breathing and eating, we again asked for UNHCR’s help. They turned us down again so we took him to Baghdad once more, with great difficulty. His cancer had progressed, and all they did was to give us some medicine to lessen his pain. We approached the UNHCR several more times but to no avail. For several weeks Mr. Amin Ashayeri coughed blood and then he died. He was sixty five years old.

UNHCR purportedly uses a “prioritization” system to select the few numbers that it has been resettling from Northern Iraq. *Unsafe Haven* argued that under the prevailing conditions of general insecurity in Northern Iraq, where all Iranians with a history of opposition to the Iranian regime are targeted by agents of Iran, any criterion used to prioritize those who face more severe security threats is highly prone to error. However, with medical cases, prioritization is not only possible but essential. The above cases suggest that UNHCR’s system for identifying medically urgent cases is ineffective, providing further

strong motivation for refugees to move.

Finally, the fact that resettlement is a discretionary selection by governments should also be considered as a valid reason for refugees with urgent problems, medical or otherwise, to move to countries with better resettlement opportunities. Mohammad, victim of a landmine explosion in 1989 which wrought such damage that his leg had to be amputated, is one of the many refugees with severe medical problems who suffered unreasonable and arbitrary delays. UNHCR recognized Mohammed as a refugee in 1993 but did not refer him for resettlement until 1998. The letter that he received from UNHCR on November 4, 1998 rather frankly describes the sort of blind lottery for which his name was being entered:

We wish to inform you that your case was referred to UNHCR Geneva for consideration of resettlement to a third country. However, this does not ensure acceptance as few places are available and only a few are accepted. The UNHCR makes a submission but the resettlement country decides on its own to accept a refugee for resettlement or not. If you fit the selection criteria of that country, they may accept you for resettlement.

A short time later, UNHCR told Mohammed that they had submitted his case to Finland. A delegate from Finland interviewed Mohammad a month later. In 1999 the UNHCR office in Erbil informed Mohammad that Finland had rejected his application. No explanations were given, and like other rejected cases Mohammad had no right to appeal. UNHCR told him that his case would next be referred to Norway. Mohammed had heard nothing by July 2002, when he decided to take his fate into his hands by moving to Turkey. He embarked on the dangerous journey to Turkey where he hoped to find better prospects for resettlement but at the very least, relief from the hazards of Northern Iraq. When he finally reached Van after forty five days, UNHCR refused to accept any responsibility for him unless he returned to Iraq. For discussion of UNHCR's repudiation of its responsibilities in Turkey and Mohammad's plight in Turkey, see pages 36-37].

Who suspended resettlement from Northern Iraq?

Since resettlement from Northern Iraq was declared suspended, UNHCR has consistently blamed the Iraqi government but declined to give any further details. Refugee experts suggest that other factors like funding shortfalls may have played a role.³¹ Refugees' accounts suggest a different story. U.S. Committee for Refugees (USCR), which publishes the yearly World Refugee Survey, was the first to report on the suspension of resettlement from Northern Iraq. In June 2000, USCR reported the following based on information provided by UNHCR:³²

Resettlement from northern Iraq, difficult without diplomatic missions there, became harder in 1999. UNHCR assisted in the resettlement of 632 Iranian refugees from northern Iraq in 1999, despite a resettlement planning figure for the year of 2,000 refugees. ... In mid-year, the Iraqi government announced that it did not regard Iranians in northern Iraq as refugees and called upon UNHCR to suspend resettlement. UNHCR did so, but immediately began renegotiating with the authorities to resume resettlement, and reported making slow progress the rest of the year.

Iranian Refugees' Alliance was unable to find any further details on the reasons behind the government's purported call for the suspension of resettlement. A 2001 UNHCR publication repeated the assertion that the Iraqi government did not regard Iranians as refugees. Another published in 2002 replaces the term "restrictions" on exit permits with "official ban." No information has ever been made public on the negotiations between UNHCR and the Iraqi government (purportedly sustained, but certainly completely fruitless after nearly four years.)

It is mysterious that the Iraqi government should suddenly develop a close interest in the recognition and resettlement of refugees when it had trusted UNHCR with that task for more than two decades. But it would be still more mysterious if UNHCR had supinely accepted a ban on resettling individuals who were already individually recognized as refugees by a third country.

Iraq is not a signatory to the 1951 Refugee

In the four years since resettlement from Northern Iraq was declared suspended, the following passages are the only public statements that UNHCR has made about a situation that has brought misery and danger to those whom it is supposed to be protecting. The statements give no information about the Iraqi government's reason for imposing the ban. UNHCR seems to acquiesce in the decision rather than challenging it as a fundamental violation of a state's obligation towards refugees.

During the year, a total of 750 refugees, including 650 Iranian refugees from Al-Tash Camp and 100 Iranian refugees from the three northern governorates, were resettled from Iraq to 10 different resettlement countries. The resettlement of the latter group was exceptional, since it was approved by the Iraqi Government despite the official ban on exit visas for refugees staying in the non-government controlled part of northern Iraq. By the end of the year, 419 persons qualified for resettlement, and were waiting to leave, while 1,317 persons were still awaiting decisions on resettlement.

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Protection and Solutions

UNHCR carried out refugee status determination in the northern areas. However, the Government held to its position that the individuals concerned should not be recognised as refugees as the Government had no effective control over that part of the country and therefore could not be expected to give asylum to a group of asylum-seekers not known to it on an individual basis.

Persons recognised by UNHCR
With regard to durable solutions, the central Government's restrictions since 1999 on exit permits for persons accepted for resettlement and residing in the north of the country slowed down the resettlement process for refugees residing in that area. A total of 413 Iranian Kurdish refugees were resettled in third countries. Meanwhile, some 264 Turkish refugees returned to Turkey. Another group of 362 refugees applied for repa-

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Convention. The government does not grant formal refugee status to asylum seekers nor has it any system to do so. There are more than 100,000 refugees of Iranian, Turkish, Palestinian and other nationalities in Iraq in government-controlled areas or the north, and the Iraqi government has not individually recognized any of them as refugees. Since the 1980s about 20,000 Iranian refugees have lived in the government-controlled Al-Tash refugee camp in western Iraq. In Northern Iraq, in addition to Iranians, UNHCR has been assisting Turkish and Syrian Kurds who are refugees.

Funding for assistance to refugees in government-controlled Iraq as well as the north is met by the proceeds of the sale of oil under the "oil for food" arrangements established under UN Security Council resolution 986. Shipments of food for Northern Iraq under the "oil-for-food" arrangement are transferred from government-controlled Iraq. If the Iraqi government has grown actively hostile to refugee populations on its soil, it is curious that it has imposed no

conditions on the World Food Program or other UN agencies involved in humanitarian assistance to the refugees in government-controlled areas or in the north.

The Executive Committee of UNHCR has repeatedly emphasized the link between international protection and resettlement as an instrument of protection and its important role as a durable solution.³³ For a state to put a ban on resettlement is to deny its most fundamental protection obligations. As such, it is a gross breach of international refugee law. The international community has mandated UNHCR to help refugees. According to its mandate, UNHCR is charged with the international responsibility for seeking durable solutions, including resettlement, for refugees. The agency is expected to play a dynamic and vigorous role in planning and implementing resettlement programs where this is the only durable solution for refugees. If states persistently abuse refugees or impede UNHCR's efforts to protect refugees, UNHCR is entitled to respond through the

Executive Committee and other channels within the U.N.³⁴

In the absence of any hard information it is impossible to know whether UNHCR has made any efforts at all to convince the government to lift the alleged ban. But during the years since the ban was imposed, UNHCR has reported maintaining a quite productive relationship with the government, and even congratulated the Iraqi government for showing an interest in improving refugee protection.³⁵

Skeptical that the Iraqi government really had imposed a nonnegotiable ban on resettlement, Iranian Refugees' Alliance asked many ex-Northern Iraq refugees what they could contribute from their knowledge of events since resettlement was halted in 1999. Their information confirmed that the Iraqi government had indeed complained about the resettlement, but the government's main concern, according to these accounts, was to verify the nationality of those who are getting resettled. According to their account, the Iraqi government had apparently accused UNHCR of resettling Iraqi nationals under the guise of Iranians. Local Kurdish authorities, who have relations with both UNHCR and the central government, have made the same allegation, and claim that central government has obtained evidence that UNHCR has been resettling Iraqi citizens.

Recent developments corroborate the suggestion that the nationality of those resettled is the Iraqi government's principal interest in the issue. Since late 1999, UNHCR has added an additional screening phase to the resettlement process from Northern Iraq. Prior to the change, the Iraqi government would issue, upon a request from UNHCR, special permits to refugees for travel via Baghdad to Amman in Jordan where they would take flights to their resettlement countries. After that date, refugees ready for resettlement must provide authentic documents proving that they are Iranians, and travel to Mosul, outside the Kurdish enclave of Northern Iraq, for an interview with members of the Iraqi Mokhaberat (Iraqi Central Intelligence Service) and Istikhbarat (Iraqi Military Intelligence). UNHCR reportedly assists with transportation and coordinates the refugees' encounter with the Iraqi authorities.

Direct contacts between refugees and the Iraqi authorities have deepened refugees' conviction that

UNHCR's account does not reflect reality, and that the hidden reason for UNHCR's reluctance openly to pursue the issue of resettlement with the Iraqi government is a fear that it may result in embarrassing revelations and its own lack of will to resume resettlement. After a four month sit-in by over 1,500 refugees in Sulaymaniyeh and Erbil in 2001, and efforts by UNHCR and the local authorities to end the protest, two meetings were arranged between refugees, UNHCR staff and Iraqi officials. The meetings were held on October 10 and November 28, 2001 in Mosul and Baghdad respectively. UNHCR staff who participated were from the Erbil and Baghdad offices. The Iraqi authorities were represented by staff from the Interior and Foreign Ministries as well as the Mokhaberat. About thirty refugees staying in Erbil and Sulaymaniyeh represented the refugee community.

Iranian Refugees' Alliance interviewed three of the refugees who attended these meetings. All said that the Iraqi government representatives denied UNHCR's assertion that the government had banned the exit of refugees from Iraq, and emphasized that their only concern was to establish the nationality of those resettled by UNHCR. A joint statement issued by representatives of refugees in Erbil and Sulaymaniyeh on October 13, 2001 in regard to the first meeting notes: "Refugees requested the government officials to comment on UNHCR's justification that the central government does not give exit permits to Iranian political refugees residing in the north. The Iraqi government officials explicitly rejected UNHCR's justification as untrue and said that the Iranian political refugees regardless of where they reside are issued exit visas if UNHCR refers them to us and if we verify that they are not Iraqis. They added that it is UNHCR that is responsible for resettlement of refugees in third countries and not the Iraqi central government. The Iraqi officials also said that they do not prevent any resettlement delegations from entering Northern Iraq."

Finally, the fact that UNHCR has been able to continue resettling refugees (albeit in smaller numbers-see table on page 10) conflicts with the picture it has painted of an "official ban" on exit permits for refugees from Northern Iraq. UNHCR owes some explanation of the basis on which these 141 "except-

FROM THE 1998 STRIKE TO THE 2001 STRIKE

from "MAN" newsletter no 5 & 6, July 18 & 25 2001 (informal translation)

On September 27, 1998 political refugees in Erbil staged an eighteen day sit-in to urge UNHCR to provide faster interviews and resettlement and better material assistance.

After eighteen days UNHCR in Erbil and Baghdad announced that they would agree to some of the refugees' demands. It should be noted that in all the negotiations Messrs. Sultani and Gubartalla from UNHCR's Baghdad Office, Mr. Lino from the Erbil Office, and Ahmad Aref, the Office's Secretary, and Mehdi Khoshnav the Deputy Governor of Erbil were present. A statement of the refugees' demands was prepared, read, and signed. Refugees ended the strike in deference to Mr. Ahmad. Afterwards, some refugees were resettled, some received their eligibility interviews, and some were called in for resettlement processing. However they were all from the 1997 quota.

Since the end of 1998, all aspects of UNHCR's activities in Northern Iraq has slowed down. Now that we are in 2001 there are still refugees who were called for resettlement processing in 1998 but have not yet received any decisions from the Geneva Headquarters. There are also refugees who have received decisions on their resettlement from the Geneva Headquarters and have been assigned to resettlement countries about three years ago but who have not seen any further progress. There are also refugees who have received positive results from the resettlement countries but their cases have also remained dormant indefinitely.

In 1999 the UNHCR office in Turkey called a meeting with refugees. Mr. Lino who is in charge of the Erbil Office clearly stated that UNHCR's work has slowed down and added that the Iraqi government

does not let refugees leave the country. He also said that there is a "political" element impeding the affairs of refugees! Subsequently as of May 1999 the Mosul interviews were added to the other interviews. Prior to that refugees were interviewed only by UNHCR. Now we had to also face another hurdle to get interviewed by the Iraqi government. Since then a number of refugees were rejected by the government because they did not have proper identification.

In May 2000, UNHCR announced to refugees that they cannot overcome the obstacles and it was better that refugees move to Turkey. From July to December 2000 more than 600 refugees moved to Turkey with the help of smugglers and with a lot of hardship. Some were arrested and handed over to the government of the Islamic Republic of Iran.

In a subsequent meeting Mr Lino Bordin specified three tasks for UNHCR: 1) Repatriation of refugees to their countries of origin as far as possible. 2) Integration of refugees in second countries. 3) Resettlement of refugees who lack physical security or have immediate relatives in Europe



MAN was the weekly publication of strikers in Erbil

During another meeting with Mr. Arron from UNHCR Baghdad who was in charge of financial matters, UNHCR proposed to give goats and sheep to refugees or have them work in chicken factories in order to improve their economic situation. We said in reply that our immediate concern is security. More than 300 of us have been attacked by terrorists,



many of them refugees. We have fought against the Islamic Republic of Iran's tyranny for many years and our most essential need is security.

In June 2000 Ms. Nevin who was responsible for eligibility interviews in UNHCR was transferred to another country. Later on it was proven that UNHCR is progressively less committed to accepting refugees and resettling them in third countries. Eligibility interviews which were conducted 10 to 12 months from when refugees first registered were now taking more than two years to take place.

During a meeting with Mr. Ahmed Gubartalla, UNHCR Baghdad representative, when pressed by refugees he promised to solve our problems. But unfortunately there were no developments after he returned to Baghdad. Consequently until Mr. Gubartalla was transferred to Geneva and Mr. Bellamy was appointed as the new representative our problems persisted. Refugees raised their hopes that the new representative would perhaps implement new programs to solve our problems.

On May 16, 2000, Mr Bellamy came to Erbil and in a meeting with refugees said: I have received reports about your problems from Geneva and UNHCR. There are two main obstacles to solving your problems: 1) The Iraqi government does not give you exit permits. 2) Resettlement countries refuse to accept Iranian Kurds.

However when we asked the reasons why the Iraqi government does not issue exit permits to refugees, UNHCR answered with silence. Consequently we issued a statement and addressed UNHCR as follows:

Firstly, 1) If the Iraqi government has problems with UNHCR, Iranian political refugees should not be sacrificed; 2) In any event,

UNHCR is responsible for our fate and therefore UNHCR must take the actions necessary to solve the problems; 3) We are former cadres, peshmerges, and members of political parties and we have not had, and do not have, any problems with the Iraqi government; 4) If UNHCR has resettled suspicious persons and Kurds from Northern Iraq under the pretense that they were Iranians, then UNHCR should be held accountable, not Iranian political refugees; and 5) In dozens of meetings we have asked UNHCR that if the Iraqi government does not allow us, we should be informed of this in writing.

Secondly, 1) If resettlement countries refuse to accept us, how is it that they are accepting Iranian Kurds residing in the Romadieh [the Iraqi government-run Al-Tash camp]. Many of have been resettled in 2000 from Romadieh; and 2) More than 200 cases of Iranian Kurds who moved to Turkey have all been accepted by resettlement countries. So are Iranian Kurds who apply for asylum in other countries.

After these meetings, we realized that the only path in front of us is to appeal to all those who are concerned about human rights and the responsible authorities by uniting and raising our voices. Therefore on June 3, 2001 we staged a strike in front of UNHCR Erbil under shelters in the suffocating summer heat to publicize the plight of 4,000 neglected political refugees and to assert our rights.●



tions” were made, and some explanation of why it was not possible to extend this “exceptional basis” to refugees who had severe health problems or were at risk in other ways.

It is noteworthy that the supposed “official ban” on resettlements came at a time when the pace of UNHCR’s resettlements from Northern Iraq had already significantly slowed. In fact, in September 1998 Iranian refugees in Erbil staged an eighteen-day sit-in as a protest against the slowdown in UNHCR’s refugee processing system in Northern Iraq, and refugees in Sulaymaniyeh also held a protest at about the same time.

The slowdown in resettlement runs parallel to UNHCR’s leading role in the repatriation of Iranian refugees from Iraq to Iran. In contrast to its reticence over the issue of resettlement from Northern Iraq, UNHCR has, in recent years, given extensive coverage to its “redoubled” efforts to negotiate plans between the governments of Iraq and Iran to repatriate Iranian Kurdish refugees from the Al-Tash camp. Repatriation of Iranian refugees started in July 2002, and by the end of September that year, some 1,000 Iranian refugees had been repatriated with UNHCR assistance.³⁶ UNHCR has not responded to reports that the Iranian authorities arrested some of the refugees who had returned earlier on their own initiative and inflicted harsh sentences, including the death penalty, on them.³⁷ UNHCR expects repatriation to continue during 2003. In the two meetings described above between UNHCR and Iraqi officials and refugees from Northern Iraq, held to discuss problems with resettlement, refugees were encouraged to repatriate and were given repatriation forms.

UNHCR’s lack of determination to resettle refugees from Northern Iraq is also evident from the agency’s failure to pursue other solutions for the group by, for example, obtaining temporary visas for refugees to transit through Turkey legally in order to take their flights to their destination resettlement countries if, as claimed, exit visas from Baghdad are genuinely unobtainable. Turkish officials have shown flexibility in that regard by indicating that Turkey would “allow those Iranians whom it had deported to Iraq to transit through Turkey if resettlement countries issued them visas and plane tickets.”³⁸ In addition, the United States has processed and admitted as

refugees large numbers of Iraqi nationals in Northern Iraq who did not have access to U.S. Immigration interviews there. They were moved to Guam via Turkey where U.S. officials could go and interview them.

UNHCR’s failure to get resettlement restarted has left refugees little choice but to move to Turkey by irregular means. The fact that the agency then abnegates all responsibility for the refugees suggests that the agenda to halt resettlement of Iranian Kurdish refugees from Northern Iraq is not driven by the Baghdad government alone.

The final “push” to leave

It is worth noting that the most recent migrations of Iranian refugees to Turkey were also prompted directly by UNHCR itself. When Iranian Refugees’ Alliance asks refugees why they decided to move to Turkey, they nearly always say that local UNHCR staff in Northern Iraq encouraged them to move. The encouragement by the staff is stated in the leaflets and newsletters that refugees published in Northern Iraq as well. For example, one leaflet dated May, 1 2000 published after representatives of refugees met with UNHCR staff in Erbil on 19 & 25 April 2000 quotes UNHCR’s representative as saying that if “refugees manage on their own to move to Turkey or Syria, arrangements can be made for their resettlement from those countries.” Although these allegations have continued since the flow began in 2000, UNHCR has not disclaimed them. Nor has the agency begun an information campaign in Northern Iraq to disclaim the advice and to inform refugees of what really awaits them in Turkey should they move. In fact, refugees who have arrived in 2002 believe that UNHCR staff in Northern Iraq have become even more emphatic in encouraging refugees to leave by saying to them things like “UNHCR’s work in Northern Iraq is finished.”

The journey from Northern Iraq into Turkey is hard and dangerous, with only the most distant promise of relief for refugees once they arrive. Iranian Kurdish refugees from Northern Iraq do not undertake this journey lightly, but as we have established, it is an exodus primarily motivated by cease-

less fear. Unfortunately, once refugees have made it through mountains, minefields or border controls, they will have to rely on UNHCR-Turkey, and UNHCR-Turkey is not a lifeline they can depend upon.

III. Irregular Movers in Turkey- from the fire into the frying pan, & pushed back into the fire

Although Turkey ratified the 1951 Refugee Convention in 1962, it maintained the so-called “geographical limitation” which only recognizes people fleeing from Europe as refugees. Turkey is now the only country in the world to maintain the geographical limitation to the 1951 Convention. The government only grants non-European refugees a temporary residence permit pending resettlement in third countries and providing they can file their asylum claims within 10 days of entering the country. These permits are issued through the so-called “asylum procedures” established by the government since 1995 in which the status of applicants are purportedly assessed according to the usual criteria adopted from the refugee definition in the UN 1951 Refugee Convention.

The Turkish government makes it clear that this permit is granted strictly on the understanding that UNHCR will resettle the refugee in a timely manner. If UNHCR declines resettlement, the government accepts no responsibility to protect persons against *refoulement* even if the government already has found the person to fulfil the UN definition of refugee. Turkey deports these persons to the same country where it has found them to have a well-founded fear of persecution, in violation of the principle of *non-refoulement*. Defined in Article 33(1) of the 1951 UN Convention Relating to the Status of Refugees, the principle of *non-refoulement* obliges states not to send anyone against their will to a country where they would be at risk of persecution.³⁹ *Non-refoulement* is so widely accepted that it has become a rule of customary international law. It is

therefore regarded as binding on all states, whether or not they have signed the 1951 UN Convention and whether or not they have maintained the geographic limitation.⁴⁰

The Turkish government justifies its position by the geographic preference that Turkey maintained when ratifying the 1951 Convention.⁴¹ However, the geographic limitation does not exclude anyone from their entitlement to *non-refoulement*. Furthermore, third country resettlement (onward resettlement from the first country of asylum) is discretionary and international law does not require third countries to resettle refugees. Making *non-refoulement* contingent upon the offer of resettlement by a third country is therefore clearly in breach of international law.

Rather than challenging the government to decouple its *non-refoulement* obligation from third country resettlement operations in Turkey, in its two decades in Turkey, UNHCR has always accommodated the Turkish government’s imposition. The agency regularly apprises the government of who it will resettle and who it will not and refuses to intervene on behalf of persons whom the government has found “to have a well-founded fear of persecution” through its own asylum procedures and later on intends to deport because UNHCR has not recognized them as refugees or determined them to be “irregular movers” and would therefore not resettle them in third countries. As a result of this tacit agreement, the Turkish state’s attitude towards any groups of refugees is largely dictated by UNHCR’s position vis-à-vis that group, and especially its willingness to resettle them. This is despite the fact that UNHCR frequently tries to shrug off shortcomings in its performance as regrettable compromises forced upon it by the Turkish government’s intransigence.

Government shadows UNHCR’s Irregular Mover policy

The fate of ex-Northern-Iraq Iranians moving to Turkey since 1992 shows how UNHCR’s posture governs what Turkish government refugee policy and practice is to be at particular times. For example, in 1999 Turkey agreed to provide exit permits to 3,330 extra-procedure cases (i.e. people subject to deporta-

tion because they failed to register with the police within five days then required) despite its adamant hostile stance towards such cases. Many of these were ex-Northern Iraq Iranian refugees who arrived in 1995-1996 and had already been processed by UNHCR and third countries for resettlement. Turkey relented because UNHCR guaranteed their timely resettlement. By contrast, since 1992 the Turkish government has systematically expelled Iranian ex-Northern Iraq refugees who arrived before or after the 1995-1996 window because UNHCR-Turkey labeled them as “irregular movers” and refused to resettle them.

“Irregular mover” is a term defined by the Executive Committee of UNHCR to refer to 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”.⁴² International refugee and human rights organizations such as the US Committee for Refugees and Human Rights Watch have strongly criticized UNHCR for applying the irregular policy incorrectly to situations where refugees have moved for lack of protection and summarily ordering them returned to the first country of asylum.⁴³

While applying the imperfect science of refugee determination in an unstable region of the world to people who have lived turbulent lives as a consequence of government persecution, and are still living in fear, since 1992 UNHCR-Turkey introduced an extremely restrictive interpretation of the irregular mover policy to Iranians who move from Iraq to Turkey. By labeling refugees as “irregular movers”, UNHCR has been denying them protection, including resettlement in a third country and as a result giving the Turkish government a free hand to deport them.

Unsafe Haven extensively discussed UNHCR-Turkey’s “irregular mover” policy and showed how it is unjustly applied to ex-Northern Iraq Iranian asylum seekers who have left their country of first asylum, but because they have found no physical safety there. *Unsafe Haven* showed that based on UNHCR’s own standards, its coerced return of refugees from Turkey back to Northern Iraq as well as their containment in Northern Iraq, were in violation of international refugee law and UNHCR’s statutory duty of ensuring that refugees receive safe and true asylum.

Despite maintaining the “irregular mover” policy, UNHCR has produced no evidence to justify the existence of “effective protection” in Northern Iraq, nor addressed the criticism of its peremptory application of the policy. UNHCR has also failed to respond to *Unsafe Haven*’s findings. The agency continues to apply the “irregular mover” label indiscriminately to any refugee who has previously resided in Northern Iraq while making the unsubstantiated claim – the false claim, in fact – that refugees had enjoyed safety in Iraq as their country of first asylum. As stated in an internal document, deterrence and containment of refugees in Northern Iraq is UNHCR-Turkey’s sole preoccupation. In UNHCR-Turkey’s own words, Iranians coming from Northern Iraq, as well as Iraqis coming via Iran, are “quite consistently” given the status of irregular mover “in order to discourage potential movements of large groups of refugees, mainly Afghans in Iran and Iranians in northern Iraq, which could destabilize the protection regimen in Turkey.”⁴⁴

UNHCR’s irregular mover policy subordinates proper consideration of the merits of individual cases to a general interest in discouraging large-scale movements. It belies UNHCR’s primary duty to protect individual refugees and exposes them to direct or chain *refoulements* which risk returning refugees back to the hands of their torturers and executioners, as well as forcing refugees to live in hazardous, impoverished and humiliating conditions.

1992–2000 arrivals: a period of hidden catastrophes

Iranian refugees who moved to Turkey from Northern Iraq during the 1990s have already paid dearly for UNHCR-Turkey’s clampdowns on what they describe as irregular moving. *Unsafe Haven* documented a range of them, including Karim Tujali’s repeated unsuccessful efforts to seek asylum in Turkey prior to his *refoulement* to Iran in 1998.

Karim Tujali has since paid the ultimate price. A former member of the Kurdistan Democratic Party of Iran (KDPI), Karim Tujali first entered Turkey and registered with the Turkish authorities and UNHCR on December 11, 1996. Like hundreds of ex-Northern

Iraq refugees who were arbitrarily returned to Northern Iraq with UNHCR's complicity by inaction, he too was arrested and arbitrarily returned to Northern Iraq on January 1, 1997. The Turkish police also confiscated his birth certificate, the only piece of valid identification that he possessed, to make sure that he would be excluded from re-registration if he entered Turkey again.

Karim Tujali faced imminent danger in Northern Iraq, but UNHCR offices in Dohuk and Erbil discouraged him from seeking help from UNHCR in Northern Iraq. He fled again to Turkey on February 21, 1999 unaware that two weeks earlier UNHCR-Turkey had re-imposed its "irregular mover" policy. Knowing that he would be deportable due to lack of identification, he did not register with the police but went directly to UNHCR's office in Ankara. Karim Tujali had a wealth of documentary and testimonial evidence that established his life was gravely at risk in Northern Iraq, which he disclosed to the UNHCR officer who interviewed him on February 24, 1997.

On July 22, 1997, five months after this interview, UNHCR wrote to Karim Tujali telling him that the only assistance they could give him was to return him to Northern Iraq. [see box] Iranian Refugees' Alliance made repeated presentations to UNHCR on behalf of Karim Tujali to reverse the irregular mover determination, but UNHCR Headquarters in Geneva simply said 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 [border] zone". [see *Unsafe Haven* p 24]

Shortly after Karim Tujali

received his irregular mover decision, he reportedly approached UNHCR in Ankara under a different name with a different case history, which did not include a stay in Northern Iraq. This time he was granted refugee status by UNHCR, reportedly on March 25, 1998. Because he did not register with the police he was told by UNHCR that he must resolve his legal status. Consequently, Karim Tujali had to approach the police and risk arrest and forced return. On June 20, 1998 he was summoned by the police in Nevşehir and was told that a police officer would escort him to Van in order for him to register with the police. Karim Tujali never made it to the police in Van. The police knew his real identity. They took him directly to the border and handed him over to the Iranian authorities waiting for him.



Karim Tujali entered Turkey from Northern-Iraq in February 1997 and was determined Irregular Mover by UNHCR five months later. Turkish authorities refouled Karim Tujali to Iran in June 1998, where he was imprisoned and faced torture and mistreatment for four years. The Iranian government executed Karim Tujali on January 22, 2002.

photo: 1997 Turkey

There, Karim Tujali was greeted by members of Iran's Intelligence Department. Karim Tujali later on told fellow prisoners that when the notorious intelligence officer, Haji Ghodrat, first confronted him, he said: "We have been trying to catch you for a year now." Karim Tujali, was arrested and imprisoned, and sentenced to death within two months of his *refoulement*. During four years custody under sentence of death Karim Tujali was constantly tortured in an attempt to induce him publicly to denounce the KDPI which he refused to do.

Karim Tujali was executed by hanging on January 20, 2002. UNHCR periodic reports on Turkey makes no mention of this tragedy or their part in it.

Ahmad's case also illustrates the grueling and hazardous experiences that refugees are unnecessarily subjected to as a consequence of UNHCR's irregular mover policy. Ahmad first fled to Turkey from Northern Iraq on January 2, 1997. He made it to UNHCR in Ankara the same day, but they told him he had to return to Silopi:

I said that I could not go there because the police were refusing to register asylum seekers and returning them to Northern Iraq. But UNHCR insisted that I must return or they would not help me. I complied but never made it to Silopi. I was very close to the Bus Terminal in Ankara when I was spotted by the police, arrested and summarily deported to Northern Iraq.

I returned to Turkey from Northern Iraq a second time on February 22, 1997. I did not know anything about UNHCR's new IM [irregular mover] policy in Turkey. This time I immediately registered with the police and UNHCR in Silopi. Three months later they handed me a letter saying that I am IM and must return to Northern Iraq. I was so fearful of being deported to Iran that I thought it was in my best interest to follow UNHCR's instructions. So I returned to Northern Iraq. Upon return to Northern Iraq, I was arrested by the Kurdistan Democratic Party of Iraq and detained for 27 days under horrible conditions. I was released only after Komala [the Kurdistan Branch of the Communist Party of Iran] intervened on my behalf. Subsequently I went to Sulaymaniyeh.

I stayed in Sulaymaniyeh for a month. It was very dangerous so I decided to flee again. Because I was

already deported from the Silopi border, I feared crossing that border again. So I crossed the border to Iran and entered Turkey from another border. This was a 2 day journey and very risky. This time I approached the police in Van but was told that I had to go to Agri. I complied. In Agri I registered with the police and UNHCR. The UNHCR officer in Agri antagonized me from the moment she saw me. She said that my case was closed and UNHCR could not help me. She continuously told me that I had to leave Agri. I was penniless and did not have valid papers. In the meantime the MIT [Turkey's Intelligence Service] was constantly pressuring me to give them information about political parties in Northern Iraq because I was the only refugee in Agri who resided in Northern Iraq. Finally all of these difficulties made me leave Agri and go to UNHCR in Ankara to find out about my case.

I left Agri on December 22, 1997 [1.10.1376] and reached Ankara on December 24, 1997 [3.10.1376]. Before reaching UNHCR I was spotted and arrested again. A policeman advised me to hide my Iranian documents and introduce myself as Iraqi. I was forcibly returned to Northern Iraq on December 26, 1997 [5.10.1376]. I was detained again. When KDP-Iraq security forces in Dohuk strip-searched me they found my police registration paper in Agri in my shoes. They became suspicious and transferred me to a detention center in Erbil. I stayed there for three days. Then they sent me to the notorious prison in Aqra near Erbil. The place was like a slaughterhouse. For 28 days I was subjected to the most horrifying and brutal forms of physical and psychological torture. The Iraqi Kurdish authorities decided to deport me to Iran but I managed to escape by bribing an official. I fled to Zakho and hid for three days.

Then I again fled to Turkey and contacted UNHCR in Ankara. I gave UNHCR letters and pictures attesting the fact that I was severely tortured. While I was waiting for UNHCR's decision, out of my doomed luck, on May 18, 1998 [28.02.1377] I was again arrested by the Turkish police. Horrified by what happened the last time when I said I was Iraqi, I gave the police my real identity. As I was once registered with the Agri police, the Ankara police transferred me to Agri. I was taken to court in Agri and the court ruled that I'd be released. Despite what the court said the police

CHRONOLOGY OF UNHCR'S IRREGULAR MOVER (IM) POLICY IN TURKEY (1992- MARCH 2003)

- 1992-1994** **IM policy implemented** UNHCR-Ankara instructed Iranian refugees moving from Iraq that Iraq is safe for them, without substantiating this claim, and ordered them back.
- 1995-1996** **IM policy lifted** UNHCR gave no reasons for lifting the policy. UNHCR assisted many of the previously determined IM cases and hundreds of new-arrivals with resettlement. The lifting of the IM policy coincided with the Turkish government's announcement of new asylum regulations and increasing tension between UNHCR and the government. It is believed that UNHCR may have lifted the IM policy in order to build and use a large case-load of UNHCR-recognized refugees as a tactical tool to assert UNHCR's mandate in Turkey, which the Turkish government had explicitly ignored in the asylum regulations issued the previous year.
- 1997** **IM policy re-invoked** UNHCR-Ankara instructed refugees that Northern Iraq was safe. UNHCR's Geneva Headquarters, however, emphasized that refugees are intentionally discouraged to move 'dangerously' because resettlement had supposedly speeded up in Northern Iraq.
- 1998-1999** **Blanket IM policy resumed** The flow of Iranian refugees from Northern Iraq halted as a result of the strict application of the IM policy and the *refoulement* of Karim Tujali by the Turkish authorities to Iran.
- 2000** **IM policy resumed** The flow of refugees to Turkey surged again due to a standstill in resettlement from Northern Iraq. UNHCR-Ankara initially determined refugees as IM and again claimed that Northern-Iraq was safe. Subsequent to UNHCR's IM decisions, the Turkish Ministry of Interior instructed the authorities in Van, where the majority of refugees were residing, to stop registering ex-Northern-Iraq Iranian refugees.
- 2001** **IM policy paused** In Spring 2001, UNHCR spontaneously reversed all the year 2000 IM determinations but gave no reasons for the reversals. It is believed that the IM policy was lifted to divert attention from allegations of malpractice against UNHCR offices in Northern Iraq. UNHCR processed all 2000 arrivals (550 persons according to UNHCR) for resettlement but reported that no 2001 arrivals (about 300 persons according to UNHCR) were 'eligible' for resettlement without giving any reasons for this assertion. As of March 2003, however, no one in the 2001 group has received a written determination, IM or otherwise. Nor has any one received any subsistence or medical assistance from the UNHCR. The government continues to refuse to register them.
- 2002-present** **IM policy resumed** In February 2002 UNHCR also began refusing to register new arrivals from Northern Iraq. As a result, only a few dozen cases managed to register with UNHCR in 2002. Of these about thirty cases have received IM determination letters so far ordering them back to Northern Iraq. The rest remain unregistered by both UNHCR and the government. UNHCR has not disclosed the number of arrivals in 2002-2003. Three hundred and seventeen cases (about 820 persons) have contacted Iranian Refugees' Alliance for help. Nobody in this group has received any subsistence or medical assistance from the UNHCR.

for UNHCR's *pro forma* IM determination letters see pages 21 & 25

refused to release me. The head commissioner phoned the UNHCR officer [name omitted] in A?rı. I heard with my own ears that the UNHCR officer said 'Ahmad is not a refugee in UNHCR's view and you can deport him if you want.' The next day I was taken to the border and handed over to the Iranian authorities. I spent thirteen days in the Etela'at Department in Maku and then on March 9 [18 Isfand] I was transferred to the Saqez prison where I spent 207 days in solitary confinement and underwent more psychological and physical torture. I was released on bail on October 3, 1998 [11.7.1377].

Ahmad told his story to Iranian Refugees Alliance in 1999, after he fled to Turkey for the fifth time. Ahmad was finally recognized as refugee by UNHCR-Turkey and resettled in a third country in 2001.

Several other ex-Northern Iraq refugees who were declared irregular movers by UNHCR-Turkey and returned to Northern Iraq in 1997 and 1998 under duress, moved back to Turkey in 2000-2002. Rahim, is one such refugee. He first moved to Turkey in March 1997 and returned to Northern Iraq in December 1997 after being declared an irregular mover by UNHCR. Rahim moved to Turkey again in August 2000 and told Iranian Refugees' Alliance: "I returned in 1997 because I had no choice. I did not have the money to move on to other countries. I was afraid that I would be deported to Iran. I was a political activist for 17 years. UNHCR in Ankara told me that I should not worry about my safety in Northern Iraq because resettlement from Northern Iraq had become fast track and I had a better chance for resettlement from there. So I went back. Not only was I not resettled during the three years that I lived in fear and uncertainty there, I had to risk my life and all my resources a second time to cross the border into Turkey."

The flow of refugees from Northern Iraq to Turkey came to halt between 1998 and 2000 due to the Irregular Mover policy. However, as post-2000 mass flows of refugees to Turkey show, UNHCR-Turkey's promise of timely resettlement from Northern Iraq (also stated by UNHCR's Headquarters) during these years proved to be untrue for many hundreds of refugees. Considering that by

year 2000, such promises gave in to open acknowledgements by UNHCR that resettlement from Northern Iraq was altogether suspended indefinitely, one expects that UNHCR should no more refuse assistance to refugees who move. But unfortunately as refugees have moved to Turkey, they have again been hit by swings of UNHCR's unpredictable irregular mover clamp downs.

2000 arrivals: the door opens - at a price

The story of the group of Iranian refugees who arrived in Turkey from Northern Iraq in the year 2000 is emblematic both of UNHCR's obstructionism at its most arbitrary, and also of its potential to move refugees swiftly out of harm's way when it decides to act decisively on behalf of refugees' interests. As the chronology demonstrates [see page 23], since its inception in 1992, UNHCR clampdowns on what they describe as irregular moving have been interspersed with periods of greater flexibility. The reasons for these unpredictable swings are unknown. Either UNHCR is bending rules that at other times it says are inflexible, or else in brief moments of clarity it is able to recognize the stark fact that Northern Iraq is clearly unsafe for Iranian refugees.

Following the suspension of resettlement in Northern-Iraq in mid-1999, the first group of refugees moved to Turkey in 2000. By the end of 2000 about 550 registered with UNHCR branch in Turkey. As reported, UNHCR-Turkey initially held to its position that it would not drop its "irregular mover" policy. But as the situation for Iranian refugees in Northern Iraq deteriorated during the year, the UNHCR office in Ankara reported to the US Committee for Refugees that it was willing to make some exceptions on a case-by-case basis for Iranian irregular movers who were able to establish that they fled from Northern Iraq to Turkey because of "protection constraints."⁴⁵

UNHCR never explained what the purported "protection constraints" were, and UNHCR-Turkey's response to refugees who arrived in 2000 was not consistent at all with what it reported to USCR. The agency's first response to the group was to apply the collective punishment that it is still inflicting on post-

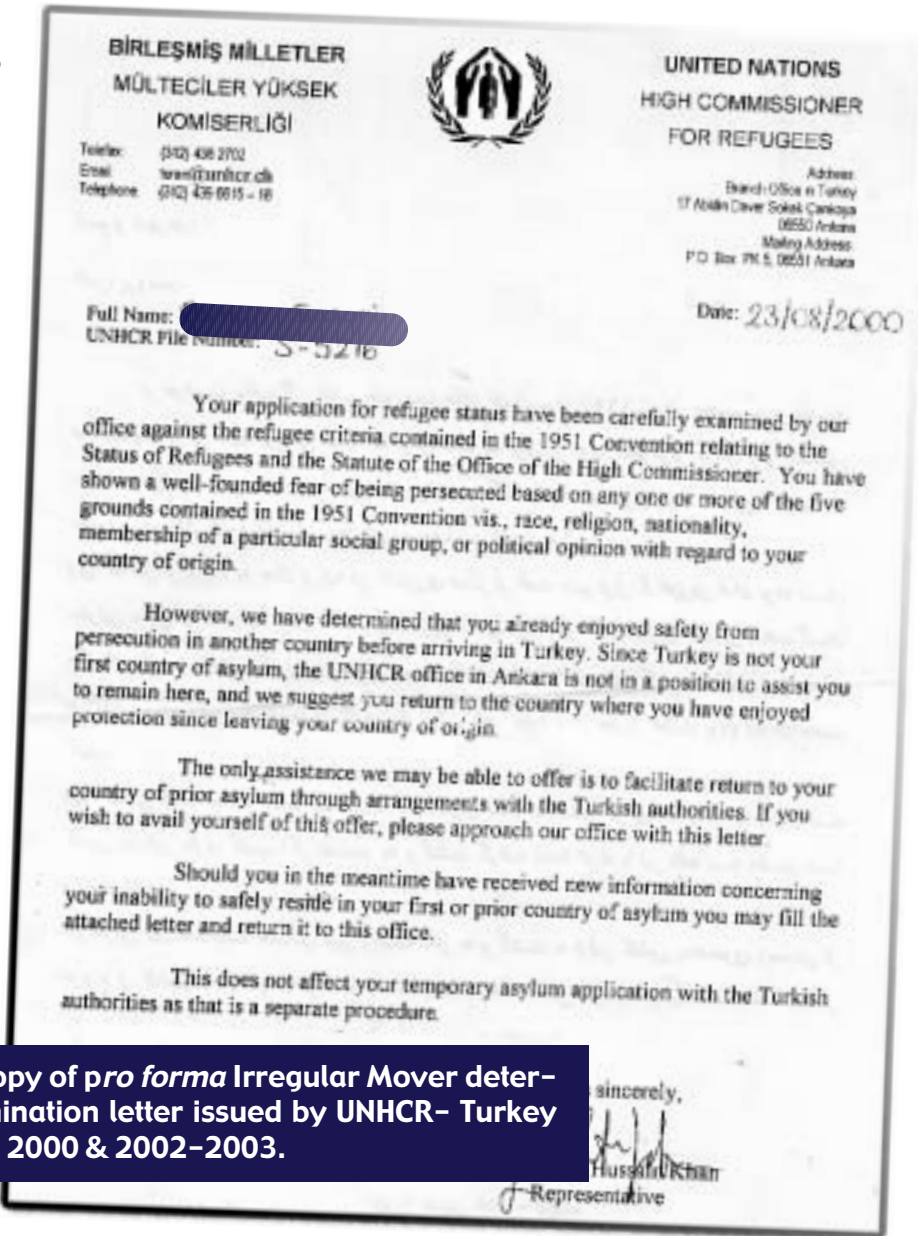
2000 arrivals. All those who received written decisions following perfunctory interviews and “case-by-case” assessments were declared irregular movers. Nor did the agency hold to its “case-by-case exception” policy when fortunately months later it spontaneously agreed to resettle all refugees who arrived in 2000.

When refugees began arriving in 2000, UNHCR-Turkey promptly set up the so-called ‘eligibility’ interviews for them. From July to December 2000, Iranian Refugees’ Alliance recorded interviews with 98 refugees (cases). In mid-August refugees began receiving written letters from UNHCR informing them one after the other that they were irregular movers and summarily ordered them to return back to Northern Iraq. Iranian Refugees’ Alliance received copies of seventeen of these determinations dated between August 15, 2000 and September 6, 2000.

While most refugees received no decisions until nearly a year after their arrival, those who did and were determined as irregular movers had nothing in their case histories to distinguish them as less in danger in Northern Iraq than those who did not. [see above case of Sassan on pages 9-10].

Interestingly, Turkish authorities in Van, unlike UNHCR, initially received ex-Northern Iraq Iranian refugees exactly like other asylum seekers. In 2000 a newly registered asylum seeker approaching the police in Van would be allocated a “police registration number.” The asylum seeker would sign at the police station twice a week while they were called

for interview by UNHCR and the determination process took its course. If UNHCR rejected the case, police would refuse to let the individual sign and eventually order them to be deported. If UNHCR offered them protection as a refugee, then the police would allow the individual to file a formal asylum application and be interviewed by the police. The procedure in Van was a departure from Turkish asylum regulations which prescribe that the police must file asylum applications when refugees first approach them. But the unorthodox procedure was applied uniformly to all refugees, and therefore when the ex-Northern Iraq refugees who had been



copy of pro forma Irregular Mover determination letter issued by UNHCR- Turkey in 2000 & 2002-2003.

told they stood no chance of resettlement from Northern Iraq first began arriving in Turkey in 2000 they were processed in the usual way, receiving police numbers and signing twice a week at the police station.

The aggregation of UNHCR's irregular mover decisions provoked the Turkish government, on November 15, 2000, to announce that they would no longer register ex-Northern Iraq refugees. Subsequent to the government's announcement, UNHCR stopped issuing more irregular mover decisions. The majority of refugees' cases remained undetermined and refugees were kept in limbo for another six months not knowing whether UNHCR would protect and assist them in Turkey or label them as irregular movers.

During this time refugees lived in constant uncertainty, anxiety and fear of deportation because UNHCR also cut all communication with them. Refugees consistently reported that UNHCR staff in Van refused to give them appointments other than for their one time 'eligibility' interview, and constantly urged them in sharp terms to go back to Northern Iraq. The group also lived in dire economic conditions because UNHCR refused all subsistence and medical assistance to them as well. They lacked the most basic means of subsistence. Like other refugees in Turkey they were barred from employment. Many had urgent medical conditions and/or were vulnerable single women. [see Shiva's and Hamid's cases above on page 12].

Numerous Executive Committee Conclusions and several UNHCR guidelines provide guidance on the protection of refugee women and children and on sexual violence.⁴⁶ In January 2001, Shiva, the single mother with serious medical problems who was introduced earlier, wrote to Iranian Refugees' Alliance with the following account which illustrates exactly what "vulnerability" means in such a context:

I registered with UNHCR in Van on August 2, 2000. A Kurd who I later found out to be just an interpreter at UNHCR interviewed me on September 14, 2000. He asked me a lot of biographical questions and also how I came to Turkey. Then I told him that I fled to Northern Iraq in 1981 when I was just sixteen. I was

politically active until 1995. Three brothers of mine were martyred. I was seriously injured in 1994 and I still have shell fragments in my body as a result of which I suffer from many physical and mental problems. While I was there [in Northern Iraq], agents of the Iranian government attempted to kidnap me twice but they did not succeed. I came to Turkey because UNHCR was inactive.

In the past six months I have repeatedly approached the UNHCR office in Van but have received no answers about my situation. I am a single woman and have a fatherless four-year-old daughter. As you know in the east women have always been oppressed and discriminated against. One of my problems here is that because I am a single woman, I am often harassed, falsely accused and abused by others. For example, due to my poor financial situation I shared a flat with some other refugees. Because of my disabilities and lack of any jobs for me I could not pay my share. So I did housekeeping for them instead. After about two months one of them tried to sexually abuse me. When I resisted he threatened to kill me. Then a while later my daughter came to me and said that the man has undressed and taken her to bed with him. When she told me that, I wished death for myself. Since then that man has repeatedly threatened that if I complain to the police he would kill me and escape. The man has also instigated his friends to harass me on the street and spread rumors to terrorize my character. I have now taken refuge with others.

Please help me to leave Turkey quickly and legally and reach a country where I can get the medical attention that I have sorely needed for the past eight years.

Then, in April 2001, UNHCR revoked all the irregular mover decisions it had made earlier and began calling up the refugees for resettlement processing. The Turkish government subsequently issued residence permits to all the 2000 refugees. About a dozen cases who had arrived between November 15, 2000 and December 31, 2000 and who were initially refused registration also received permits from the government after UNHCR agreed to resettle them too.

The fortunate 2000 group began leaving Van for temporary residence in satellite towns around Ankara between June and August of 2001. Most

had been in Turkey for a year or more with no assistance from UNHCR. In order to get permission to leave Van, the police required them to pay exorbitant “fees,” - for example \$400 U.S. dollars for a couple. Most refugees could not afford this and relocation was further delayed.⁴⁷

By the end of the first quarter of 2002, all the refugees in the 2000 group were admitted by third countries such as Norway, Finland and the U.S. and the majority had also left Turkey and began their new lives in their new countries. As of December 2002, to the knowledge of Iranian Refugees’ Alliance, only a few cases from the 2000 group still remain in Turkey.

The resettlement of the 2000 group was a remarkably speedy process once UNHCR agreed to do so. It amply bears out UNHCR’s observation that “when the needs are compelling, and the political will exists, resettlement can be arranged quickly and efficiently.” At the same time it stripped UNHCR irregular mover policy of any credibility whatsoever. If the original irregular mover decisions issued to the 2000 group genuinely meant that in UNHCR’s estimation the refugees had been safe in Northern Iraq, revoking those decisions meant that Northern Iraq was unsafe after all. UNHCR offered no explanation as to what had changed in Northern Iraq in the meantime. Worse still, after all the interviewing to assess ‘eligibility,’ what made a refugee ineligible for resettlement was that they arrived at the office door after January 1, 2001.

2001-2003 arrivals: the door slams shut

The flow of refugees from Northern Iraq to Turkey decreased significantly since the government announced the non-registration policy in November 15, 2000. However, encouraged by UNHCR’s eventual flexibility shown to the 2000 group the number of Iranian refugees arriving in Turkey began to swell again in the second quarter of 2001.

Iranian Refugees’ Alliance is aware of 1100 people who arrived between January 1, 2001 and February 31, 2003 (373 cases).⁴⁸ More than half of these cases have already been recognized as refugees



**Iranian family in front of their squalid living quarters
Van 2002**

by UNHCR offices in Erbil and Sulaymaniyeh. Another even had resettlement processes under way with the Geneva Headquarters. A third had pending refugee claims with these offices. The rest were people who had been politically active with one or other of the expatriate Iranian Kurdish political organizations until shortly before their move, or who had been staying in the Iraqi government-controlled Al-Tash camp, notorious for its primitive living conditions.

But by this time UNHCR had again shifted its attitude to arrivals from Northern Iraq keeping their status undetermined or issuing them irregular mover determinations. The Turkish government, shadowing UNHCR’s approach as always, has continued to deny access to its asylum procedures to any post-2000 Iranian refugees from Northern Iraq whom UNHCR does not commit to resettle. Worse still, in mid-February 2002, for the first time in its two decades in Turkey, UNHCR announced to refugees that it would no longer register them - on the grounds that they have not completed formalities under the government system!

As of February 31, 2003, no refugees from the 2001 group (about 300 persons according to UNHCR) has received a written decision although by early 2002 all have had their so-called ‘eligibility’ interviews completed. Of 820 persons (317 cases) whom Iranian Refugees’ Alliance knows have arrived in 2002-2003 (UNHCR has not disclosed the numbers for these years), only about 150 persons (55 cases) have managed to register with the UNHCR.

These persons have all completed their interviews surprisingly swiftly. At the time of the release of this report, at least thirty of the cases have been issued pro forma irregular mover letters stating that they have “already enjoyed safety from persecution in another country before arriving in Turkey” and ordered back to Northern Iraq. As UNHCR regularly informs the Turkish authorities of the status of decided cases, the status of these refugees were also reported, thus giving the government a green light to deport them.

On February 28, 2003, Van police summoned fifteen of them apparently in order to deport them. The police reportedly also conducted inquiries and searches in public places to find and arrest them. When Iranian Refugees’ Alliance, acting as their authorized representative, contacted the Van office of the UNHCR to make inquiries concerning the police’s intention, the country to which the refugees were slated for deportation, and whether they would be issued formal deportation orders by the police with the right to appeal prior to removal, the office refused to answer, claiming that sharing such information would be “a breach of confidentiality”!

Barring asylum-seekers access to asylum procedures is not only in breach of Turkey’s international obligations toward refugees, it even contravenes Turkey’s own asylum regulations:

- The right to seek and enjoy asylum from persecution is a fundamental human right which has universal applications. Access to asylum procedures is a corollary of this human right. As UNHCR itself points out, access for asylum seekers to fair and efficient procedures for determination of refugee status is a basic prerequisite of international refugee protection, and its importance has been affirmed repeatedly by the UNHCR Executive Committee and by the UN General Assembly.
- Turkish asylum regulations do not preclude refugee groups from accessing the procedures on grounds that Turkey is not their first country of asylum. Article 5 of the Turkish Asylum Regulations clearly states that all such individuals “shall be registered” and “shall be interviewed according to the 1951 Geneva Convention relating to the Status of Refugees”:⁴⁹

By failing to condemn the government’s action, UNHCR has effectively sanctioned a breach of fundamental principles of international refugee protection. Worse still, UNHCR drastically aggravated that breach by its own action not to register refugees itself. The Executive Committee of the UNHCR has acknowledged the importance of “registration” not only for governments but also for UNHCR itself “as a tool of protection, including protection against *refoulement*, protection against forcible recruitment, protection of access to basic rights, family reunification of refugees and identification of those in need of special assistance, and as a means to enable the quantification and assessment of needs and to implement appropriate durable solutions”.⁵⁰

Indeed, UNHCR-Turkey’s non-registration policy simplifies the process of expulsion for the police, and allows UNHCR to turn a blind eye to those expulsions. As noted in *Unsafe Haven*, UNHCR has in the past used the involuntary failure to register by ex-Northern Iraq refugees apprehended in border areas as an excuse for ignoring the massive pattern of summary expulsions at the border. Refugees fear that they are being barred from registration by police and UNHCR as part of a pending plan to summarily expel all those who have moved in from Northern Iraq.

Refoulements to Iran & Northern Iraq

This is not primarily a story about UNHCR’s failure to resettle Iranian refugees to Australia or America as fast as they would like, or about the bureaucratic obstacles that UNHCR and the Turkish authorities put in refugees’ path. It is about UNHCR losing sight of its fundamental duty to protect refugees – to protect them from poverty, exploitation, extortion and ill-treatment. Most importantly, UNHCR has a duty to protect them from *refoulement* because that exposes them to all the other abuses, as testimony below will show.

Most deportations of asylum seekers in Turkey occur summarily in the border areas or while the victims are en route to one of the border towns where asylum registrations are carried out. The number of people arrested without proper documents and immediately dumped back over the border is unknown, since they are not allowed to file asylum applications

and there is no independent monitoring. USCR has reported that Turkish officials on the Iran border are granted the discretion summarily to send back any foreigner apprehended in the two-kilometer zone separating Iran and Turkey.

In recent years, as part of its bid to become a member of the European Union, the Turkish government has adopted increasingly aggressive border policies, including capturing and expelling close to 200,000 asylum seekers and migrants (over 15,000 of them Iranians) in 2000 and 2001. During these years border forces shot and killed at least fifteen migrants attempting to cross the Turkish border.⁵¹

The only agency in a position to shed at least some light on the scale of summary deportation of potential refugees is UNHCR. Every year, UNHCR interviews many cases who report that they had made previous attempts to seek asylum in Turkey but were summarily deported. Some of these refugees say that they were ill-treated by the police and the military before being forcibly returned.

UNHCR keeps no public record of these incidents, but only reports forced return of recognized refugees or asylum seekers whose cases are under consideration. Even within that limited group, UNHCR reported forced return of no less than a hundred asylum seekers and refugees known to the agency in 2001, a marked increase from the twenty-five forcibly returned in 2000.⁵²

The number of near border summary deportations (or push-backs) of Iranian ex-Northern Iraq refugees is very high. Although refugees are reluctant to disclose such past experiences due to their uncertain conditions and fear of being further penalized for re-entering the country, the scale of reports that reaches Iranian Refugees' Alliance is staggering and indicates that the government's figure of 95,000 persons/year is no underestimate. Many have been summarily deported to Northern Iraq more than once. For example, one refugee who was twice forcibly returned to Northern Iraq along with his friend before finally reaching Van paints a graphic picture of some of the abuses that deportees can expect to encounter:

The first time that we entered Turkey was in November 2001. After we crossed the border the smuggler put us in a bus which he drove himself. In

Shamdinan the police stopped the bus and arrested all of us except the smuggler. They slapped, punched and kicked us a lot. They brought a Kurd from Turkey to translate for us. We said that we wanted to seek asylum, we wanted to go to UNHCR but the police ignored us. They just kept threatening us that we should not tell anyone that we were arrested in the bus or that we were mistreated. Before taking us to court they took us to the medical police. Without any examination at all they got certification of health for all of us. In court we told the judge that we wanted to seek asylum, we wanted to go to UNHCR. He too ignored us. After the court, they took us to the Gendarmerie and after a few days they forced us to cross the border into Northern Iraq.

The second time we entered Turkey was in January 2002. This time we were arrested near Van. The police who arrested us first took us to an unknown place near Van. They beat us with clubs and confiscated our money, watch, and everything else we had. They also tore up all of our documents. Afterwards they took us to the foreigner's police station in Van. Without any documents we were sure that if they found out we were Iranians we would be deported to Iran. So we said we were Iraqis and we wanted to seek asylum and go to UNHCR. But they ignored us again. We were again taken to the medical police and the court in the same manner. After that they kept us in detention for 13 days with barely any food and not even a blanket to cover ourselves at nights.

We were given only one simit [Turkish pretzel] each day. While in detention we were forced to clean prison cells. When we asked why we were detained they said they were waiting for 40 deportees to fill the bus. On the 12th day they brought an Iraqi man with serious head injuries. When he lost consciousness they took him to the hospital. When the police came back with the injured man a few hours later they said that we must deport all of you immediately because the man may die here. So they sent us back the next day. Another Iraqi man who was deported with us had his case rejected by UNHCR. He had a letter from UNHCR asking the police to assist him to return. He hoped that the letter would protect him against police's confiscation of his money. Before they took us out of the police station they forced the man to sign a letter that all of his belongings was returned to him. But

before boarding the bus the police confiscated all of his money. This time when we reached the border they handed us directly to the security forces belonging to the Northern Iraq Democratic Party. The Iraqi Kurdish authorities detained us for a week. They released us after our party intervened.

In 2002, Iranian Refugees' Alliance received information about the forced return of a group of twelve Iranian ex-Northern Iraq refugees to Iran. In early 2002 two refugees were arrested near Van, and taken to Van police headquarters. After holding them for two days, police took the refugees to the Iranian border where they were subsequently arrested and jailed by the Iranian authorities. Iranian Refugees' Alliance was able to confirm the reports by speaking to their relatives but relatives requested that the victims' names be withheld for their own protection. The relatives also told Iranian Refugees' Alliance that UNHCR in Van was informed of the refugees' arrest by the Turkish police and imminent *refoulement* while they were still detained in Van but took no action.

In March 2002, Iranian Refugees' Alliance received the names of ten refugees who were arrested from their temporary home in Van by Turkish police. The police took them to the Iranian border and forced them to cross into Iran. They managed to escape back into Turkey but the experience was so terrifying that most decided to leave Turkey rather than relive the nightmare with possibly worse consequences if they were re-detained. Their current whereabouts is unknown. Khalil, one of the deportees, gave an account of the episode:

We were ten single refugees living in one room in Van. On March 23, 2002, around noon while we were preparing lunch the Turkish police, one uniformed and three plain clothes men, raided our house apparently on tips that the house was occupied by illegal Iraqis. When they realized that we were Iranians, they asked us to provide our police papers. No one in the group had a proper paper. This was not our fault. The Turkish authorities in Van refused to give us all the necessary signatures. Nine of us did not even have UNHCR registration papers because UNHCR also refused to register us. So we showed the police the only thing we

had, an A4 paper known as the "police letter" which had some but not all the necessary signatures. When the police saw these papers they tore them up and said you are all illegals. They arrested and took us to the police station.

They searched us and the room and confiscated about \$500 from all of us in addition to four cell phones. In the police station we found out that they were going to deport us to Iran. We begged and repeatedly said to them that we were political refugees from Iran, our lives were in danger in Iran. But they did not listen. After detaining us for about four hours they transferred us to a border police station. We were held in that station until 3:30 am. Then they took us to the border and ordered us to cross. We obeyed because we feared if we do not do what they asked us they would shoot us or escort us until they hand us over to the Iranian authorities.

We walked for about twenty minutes and fortunately the Iranian border authorities did not notice us. Then we turned back and crossed the border to Turkey again. We walked until we reached a Turkish village. From there we called friends and they send us money which we used to return to Van. We immediately went to the UNHCR office in Van. Our friends had already informed the Office that we were deported. An interpreter in the office typed up some of what we told him in the computer and said "we will investigate to see if you are telling the truth." We asked them to please at least register us but they refused. We did not hear from UNHCR again.

Acknowledging that asylum seekers and refugees in border towns are more vulnerable to deportation by the police, UNHCR itself has agreed, at least in theory, to "set a higher priority on providing financial assistance in border towns" to "discourage the authorities from deporting indigent asylum seekers from border areas."⁵³ But none of these safeguards will serve to assist the undocumented ex-Northern Iraq group.

The majority of ex-Northern Iraq refugees are former members of Kurdish opposition parties and the risks of *refoulement* for them are potentially fatal. It is well-known that the Iranian government's persecution of both current and former members of these groups is ruthless inside and outside of Iran. In 2002,

the Iranian government executed five active and former members of the Kurdistan Democratic Party of Iran (KDPI). Three of them, Karim Tujali, Khaled Shoghi, and Saleh Goudarzi were former members of the party who spent most of their political lives in Northern Iraq. Karim Tujali, executed in January 2002 was refouled by the Turkish police in 1998 after moving there from Northern Iraq a year earlier. Khaled Shoghi and Saleh Goudarzi were executed in October 2002. Khaled Shoghi was refouled to Iran by Turkey in 1992. Saleh Goudarzi was obliged to return to Iran from Northern Iraq to stop government's persecution of his family in Iran.⁵⁴

As documented in *Unsafe Haven*, ex-Northern Iraq Iranian refugees' fear of deportation by Turkish authorities is further heightened by security protocols between Iran and Turkey for the reciprocal exchange of opposition activists and information about them. International human rights organizations such as Amnesty International and the U.S. Committee for Refugees have expressed concern over the existence of such protocols and their effect on forced return of Iranians.⁵⁵

On 31 December 2001, in a report to the United Nations Security Council Iranian officials revealed for the first time that the Islamic Republic of Iran and Turkey had established the "High Security Commission" since 1988, purportedly to "coordinate their efforts against and exchange information about terrorism" and that thus far the Commission has held eight sessions and many others at sub-commission working level. The contents of all security protocols so far signed by the commission have not been revealed, but statements made by both governments continue to indicate that one of the main objectives of this commission is to restrict the activities of opposition groups residing in the other country. Most recently, during talks in July 2002 in Ankara the Iranian Interior Minister Musavi-Lari is reported to have said that "The Islamic Republic of Iran regards Turkish security as its own. Anyone attempting to disrupt Turkish security is similar to the one doing against that of Iran." Lari added that Iran expects Turkey to enforce ban on the anti-Iran groups operating in Turkey in return for Iran's firm action against anti-Turkey groups.⁵⁶

Iranian refugees overwhelmingly believe that



refugees making bread at home.

Van 2002

the 1998 *refoulement* of Karim Tujali, an ex-Northern Iraq refugee in Turkey who was executed by the Iranian government in January 2002, took place according to these protocols.

Threats against physical security

The fear of attack by Iranian agents, though greater in Northern Iraq, is also a factor in Turkey. The Iranian government has committed extra-judicial killings in Turkey. In 1993-1994 three Iranian Kurdish refugees formerly residing in Northern Iraq were killed in Turkey after being tracked down to their residences. [see *Unsafe Haven*, page 25] Another clear case pointing directly to agents of Iran hunting dissidents in Turkey occurred in 1988 when a kidnapped Iranian dissident was found in the trunk of a car bearing Iranian diplomatic license plates at the crossing point from Turkey into Iran.⁵⁷ In July 2002, the Turkish Daily News quoted a senior Turkish official saying that the Turkish Interior Minister presented a file to the Iranian Interior Minister on the activities of a fundamentalist illegal armed group called "The Unity of Imams" which operated in Van and received training and logistical support from Iran.⁵⁸

The ex-Northern Iraq refugees' fears of being attacked, killed or abducted by Iran's agents are heightened as a result of the proximity of Van to the Iranian border. Van is a city in Southeastern Turkey city only 50 miles from Iran's western borders. Assassins and abductors can easily evade being

caught because they can escape back to Iran in a matter of hours. They can easily cross the porous borders or even through official check-points.

Furthermore, refugees detecting such threats are reluctant to approach the police because they know that other than profiling themselves as ardent supporters of the Kurdish cause or dissidents of prominence and thereby subjecting themselves to grueling interrogations by the MIT [Turkish Security Service], the police would not even allow them to relocate from Van. Due to their lack of legal status Iranian ex-Northern Iraq refugees are under no circumstances allowed to move around the country.⁵⁹



Misery of life as an undocumented refugee in Van

Refugees anywhere are a potentially vulnerable and disadvantaged group. That vulnerability and disadvantage is greatly magnified in the case of undocumented refugees. Their fear that they can be expelled to Northern Iraq or even Iran at any moment means that they can be preyed upon by police, ordinary citizens and even other members of the refugee community who are in a more secure position. Added to this, they receive no subsistence payments and therefore have no means of support.

UNHCR stated in 1994: “To survive in the country of asylum, the refugee ... needs to have some means of subsistence, as well as shelter, health care and other basic necessities ... Beyond what is required for immediate survival, refugees need respect for the other fundamental human rights to which all individuals are entitled without discrimination.”⁶⁰ In a recent document on reception standards for refugees, UNHCR lays out its principles for providing support to asylum seekers as follows:⁶¹

States have a broad discretion to choose what forms and kinds of support they will offer to asylum seekers. These may range from “in kind” support, such as accommodation, food and health care, to financial payment or work permits to allow self-sufficiency. Although each state has this broad discretion, it is important that the combined effect of these measures is evaluated to ensure that, at a minimum, the basic dignity and rights of asylum seekers are protected and that their situation is, in all the circumstances, adequate for the country in which they have sought asylum.

In Turkey, the government so far has had no provisions whatsoever to provide support for asylum seekers. Nor does it allow such persons to work. Asylum seekers in Turkey are at constant risk of heavy fines, arrest and forced return if they are caught working illegally. Consequently, UNHCR provides the minimum required support to those whom it has registered. Even then, in UNHCR’s own words, the majority “live in conditions of impoverishment.” For the year 2001, UNHCR reported that living conditions were worsened “by the financial crisis in Turkey in early 2001.” In recognition of its humanitarian assistance functions in Turkey UNHCR stipulates

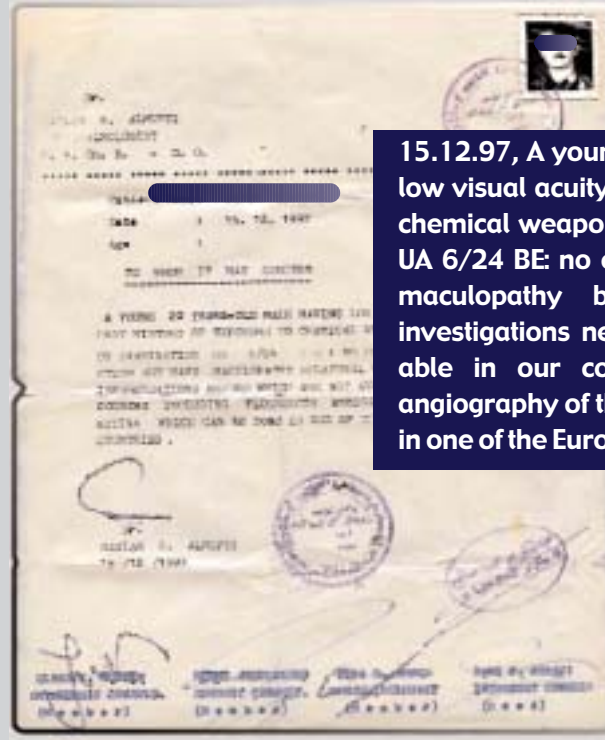
THE PLIGHT OF A 1988 CHEMICAL ATTACK SURVIVOR

On March 16, 1988, Rustam the ten-year-old son of a KDPI peshmerga was living with his mother in a camp near Halabja when Iraqi jets dropped a variety of chemical weapons which experts believe included mustard gas, sarin, VX nerve gas and aflatoxin dissolved in tear gas. Fortunately, nobody from Rustam's family perished but Rustam's eyes burned with pain and in many areas of his body he developed skin discoloration. Right after the chemical attack Rustam and his mother were involuntarily herded to Iran along with thousands of affected Iraqi refugees. The Iranian authorities did not discover that they were Iranians. Rustam sought medical care while in a refugee camp in Iran but he was told that his injury was "not important." When they found the opportunity six months later Rustam and his mother fled back to Northern Iraq.

The KDPI arranged for Rustam to receive medical care in Northern Iraq and Baghdad but his problems continued due to lack of facilities and expertise there. He has since been suffering from a chronic eye problem, causing unstoppable pain, dizziness and progressive loss of sight.

On April 15, 1997, aged nineteen, Rustam asked for UNHCR's help in Erbil to resettle him in a third country. UNHCR gave him refugee status on March 23, 1998 but failed to refer his case for resettlement, despite the fact that several doctors certified that he required medical care that was not available there. When resettlement was declared sus-

pending by UNHCR, Rustam moved to Turkey in November 2001. Because UNHCR-Turkey refused all assistance to him like all the other ex-Northern Iraq refugees, Rustam desperately looked for work to support himself. He finally found work cutting tree branches for 5 million TL [3 U.S. dollars] per day. In summer 2002 Rustam had an accident and fell from the tree. He broke his right arm and shoulder, and his prescription glasses. Because he could not afford treatment in the hospital, he went to a local bonesetter. Four months after his fall, Rustam's right arm's range of motion is very limited and he cannot lift even slightly heavy weights. ●



15.12.97, A young 20 year-old male having low visual acuity past history of exposure to chemical weapons in 1988. On examination UA 6/24 BE: no error of refraction but have maculopathy bilateral where thorough investigations needed which are not available in our country including fluorescein angiography of the retina which can be done in one of the European countries.

ended by UNHCR, Rustam moved to Turkey in November 2001.

Because UNHCR-Turkey refused all assistance to him like all the other ex-Northern Iraq

that “during their stay in Turkey, refugees are largely dependent on UNHCR’s assistance and services (often supplemented by local authorities according to their means). This takes the form of food, shelter, basic health care, schooling, as well as social and legal counseling.” As noted before UNHCR also has said that it has generally set a higher priority on providing financial assistance in border towns to discourage the authorities from deporting indigent asylum seekers from border areas.

But for nearly two years UNHCR has provided no financial support for ex-Northern Iraq Iranian refugees. It has denied them food, shelter, basic health care as well as social and legal counseling. Prior to coming to Turkey from Northern Iraq this group had already long been dependent on international aid and suffered long term inadequate nutrition and medical care. They have no resources to support themselves in Turkey. They are the poorest group of Iranian refugees in Turkey and live in circumstances not of poverty, but complete destitution.

Refugees share many of the problems common to the poor in Turkey. But “illegals” cannot use public services available to the poor in Turkey, such as free government medical clinics or food charities. Their children cannot attend public schools. They live in overcrowded rooms, usually in slum housing, with inadequate heat, unsanitary conditions, and insufficient and dirty drinking water.⁶² Just to eat and clothe themselves they take whatever low paid and often hazardous employment comes their way. These temporary earnings offer temporary relief to their living conditions, but moving around in public exposes them to the risk of capture and deportation. Crime is obviously a temptation.

Health problems are a chronic concern for refugees too poor to afford medical care. They report that even if they are examined by a doctor free of charge, they cannot afford to buy prescribed medicines. A few refugees with basic medical training are providing some assistance but this is also hampered by lack of resources, including basic medicines. One refugee who has been using his training and tirelessly helping refugees with their medical problems reported the following:

Disease and illnesses like colds, food poisoning, bron-



**mother and new born in government
maternity hospital
Van 2002**

chitis, kidney and bladder infection, muscle and joint pain are very common here ... Children are increasingly bearing the brunt of this situation. Malnutrition and anemia is visible in many of them. On the average from every two families one has a child under the age five.

While there is no prenatal, delivery and postnatal care for pregnant and lactating women, one child is born every month on average. Due to the high costs for child delivery at hospitals, 60 to 70 per cent of deliveries are performed in the homes of refugees with the assistance of untrained attendants. The unsanitary conditions of the homes and the use of unsterile equipment expose both the mother and child to serious infections. Often home deliveries become impossible due to complications, and mothers are eventually rushed to the government maternity hospital. In March, August and September three women had to be rushed to the government maternity hospital due to complications. One woman delivered naturally and two underwent c-section. Turkish citizens have cards to use these services free of charge. But for these women the hospital charged from 263 to 750 million TL (155 to 450 US dollars) and threatened that if they did not pay, the mothers and babies would be held hostage in the hospital and charged more until payments are made.

Women here regularly complain from bladder and vaginal infections, intermittent bleeding, irregular menstruation, and abdominal pain. In June one woman miscarried her four month fetus after a prolonged

infection. Lack of contraceptives is a chronic problem for families.

Men who suffer from serious chronic illnesses like diabetes, hemorrhoids, prostate, kidney, eye, and heart problems and need regular medical care and daily medication are unable to receive the treatments they need. We have amputees who need a new prosthesis and we have people who suffer from neurological damages and a range of other illnesses due to being poisoned by thallium or exposed to chemical attacks. The conditions of these men are getting worse every day because most have stopped taking prescribed medication.

It is very difficult for women to find jobs here. But men often find jobs which require heavy lifting for long hours, like moving 70 to 100 kilogram bags of coal or construction work. As a result men, young and old, frequently complain of back aches.

Psychological stress and depression is prevalent among both men and women. Some men have shown suicidal tendencies.

As noted, due to their lack of legal status Iranian ex-Northern Iraq refugees cannot move around the country. Fear of *refoulement* also restricts their ability to move within their town of residence. While Iranian ex-Northern Iraq refugees are not kept in confinement in prisons or closed camps or detention facilities, their freedom of movement is so substantially curtailed that as UNHCR itself suggests “the cumulative impact of the restrictions” on their freedom of movement makes the term “detention” appropriate for their situation. UNHCR defines detention as: “confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.” Considering all the other sufferings that UNHCR intentionally subjects the refugees to, “punitive detention” seems to be a more fitting term.

On March 19, 2001 the Turkish government produced its “National Program of Action for the Adoption of the EU Acquis” (NPAA), outlining the short- and medium-term reforms it plans to make in order to fulfill the formal list of tasks that Turkey

must complete in order to accede to the European Union. The NPAA came at a moment when the situation on the ground in Turkey had never been so bad for such large numbers of refugees. With regard to support for non-European asylum seekers, the document states Turkey’s commitment to “continue to provide comprehensive support to refugees and asylum seekers with assistance such as food, lodging and health services.”⁶³ Notwithstanding the government’s false pretense of past support, its declared commitment to future provision of “comprehensive support to asylum seekers” cannot be taken seriously when the government and UNHCR continue surreptitiously to exclude large groups of refugees from such support.

UNHCR’s uncommunicative & misleading information policy

Despite the large size of the ex-Northern Iraq Iranian Kurdish refugee population arriving in Turkey since 2000, the numbers and conditions of the group have mostly remained off UNHCR’s radar screen. UNHCR’s periodic reports on its activities in Turkey published between 2000-2002 do not mention the group at all. Iranian Refugees’ Alliance has also not been able to find any references or allusions to the group in public documents reporting UNHCR’s regional and international meetings. Nor has the organization received responses to its own inquiries about the group.

Reputable international non-governmental organizations working on refugee matters have also found it very difficult to obtain up-to-date information about this population. The U.S. Committee for Refugees was only given a few lines of outdated information two years after refugees began moving to Turkey. In June 2002, USCR reported the following, based on information provided by UNHCR:⁶⁴

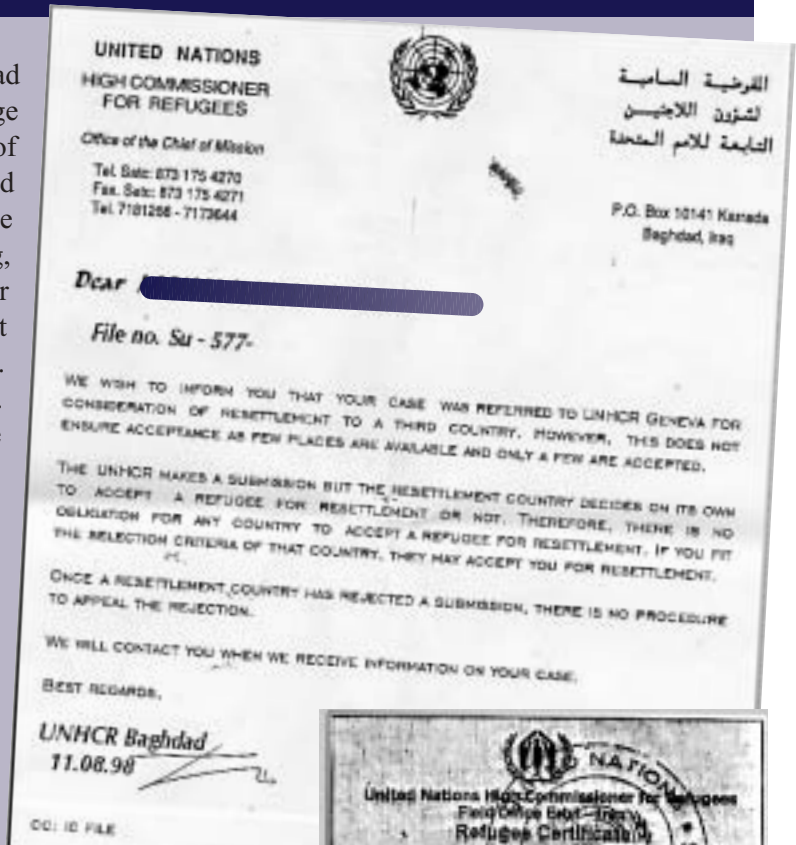
Between January 2000 and December 2001, about 850 Iranian refugees arrived in Turkey from the semi-autonomous Kurdish zone in northern Iraq. The Iranian refugees apparently moved from northern Iraq to Turkey to seek resettlement outside the region; they had no opportunity for resettlement from northern

IS TEN YEARS OF DELAY IN RESETTLEMENT NOT ENOUGH?

On November 5, 1989 Mohammad stepped on an anti-personnel mine in a village named Konemar in the Sona region of Northern Iraq. His left leg was shattered and his right leg was blasted with steel balls. He underwent a series of operations, including, amputation of one of his limbs. It took a year for Mohammad to get a prosthetic left leg but the steel balls still remain in his left leg. Mohammad also suffers from other injuries. He has partial paralysis of the jaw and one arm as well as digestive problems due to an injury to his abdomen. For another two years Mohammad tried to stay close to his political ideals and his party, but after two years his poor health, his disability and lack of medical and rehabilitation facilities and experts forced him to seek a more stable way of life.

In 1993, Mohammad asked UNHCR's help. UNHCR recognized him as a refugee shortly after he registered. But UNHCR failed to submit his case for resettlement for five years. When Iranian Refugees Alliance asked why, Mohammad said that in his view it was "because I was an invalid. I was no longer important to any one, and no one fought for me." On November, 4, 1998 UNHCR finally informed him that his case had been submitted for resettlement. A month later a six person delegation from Finland interviewed him. In 1999 UNHCR in Erbil informed him that Finland has rejected his case for resettlement.

No reasons were given and there was no right of appeal. In the winter of 1999, UNHCR in Erbil informed Mohammad that his case was next referred to Norway. Mohammad waited another two and a half



years without any progress being made in regard to his resettlement. In July 2002 Mohammad decided to take his fate in his own hands and moved to Turkey.

Mohammed paid about \$400, money scraped together over a year, to a smuggler who contracted to take him across Turkey's high security landmine-infested southeastern borders. On the fifth night, about 150 kilometers across the border and while still in the mountains, Mohammad fell from the

horse that he was riding. The smuggler left him behind.

The rest of the journey should have taken about five more days, but Mohammad actually spent forty more days stranded without money, food or warm clothing in the mountains. During this time he mostly ate mountain plants. The socket of his prosthetic leg broke.

He wrapped his cotton belt around the remainder of his own leg to fit the broken prosthesis so that he could keep walking. Soon the skin around the stump broke and with each step his residual limb became deeply bruised. The bone bearing down on the prosthetic leg triggered phantom pain. Dirt and gravel forced up their way into the tissue of his bruised stump causing infection and further pain.

Eventually he reached a road and a truck driver took him the 50 kilometers to Van. By the time Muhammad reached Van his emaciated body was covered with dirt and he was delirious with fever and exhaustion. "I was in such a bad shape that when the driver picked me up and dropped me in front of the gendarmerie at night, the gendarmes just stared at me in awe. I dragged myself in front of them and just kept going. I slept by the road until morning when, by good fortune, I saw an Iranian. He knew my nephew who had moved from Northern Iraq to Van a few months sooner."

One day later on August 19, 2002, Muhammad approached UNHCR for help, most of all for emergency medical assistance. But UNHCR's response was that because he had come from Northern Iraq, they "could not help him or register him." Since then Muhammad has been relying on the support of

his nephew Hamid. "I managed to cure my uncle's infected wound with Betadine that my family sent from Iran, but he is still very sick," says Hamid. "For a while every night from 6pm to 7am I washed dishes in a restaurant for 1.5 million Lires [90 U.S. cents] a night. Now I am working from 8am to 5pm in a plastic factory shoveling and loading waste

material for 5 million a day [3 U.S. dollars]. But with the problems we have with the police, I don't know what the future holds," adds Hamid.

Five months after his move to Turkey Muhammad says:

"The ordeal that I had to go through to get to Turkey last year, and the misery and distress ever since I got to Van have revived the same phantom pain and helplessness that I suffered twelve years ago when I stepped on a mine. The wait for help, lying in

the minefield losing blood; the sight of my shattered and jagged bones sticking out from the end of my leg; the horror and fear of my companion who transported me to the hospital on his shoulder; the wondering if I will live or die; many months of recovery and then surgery to make my leg suitable for prosthesis, lacking mobility, coming into terms with being disabled, dealing with the shame of being a burden to your friends and party, inability to support yourself. I still cannot believe that I survived the journey to Turkey. Since I arrived here I have been ill and confined to my room because I need a new prosthesis. Why can't UNHCR continue my case with Norway from here. What difference does it make if I reach Norway from Turkey rather than Iraq? What is the point in humiliating us and making us suffer like this. What is wrong in seeking a safer and dignified life after waiting ten years for that opportunity?●

Muhammad is clearly not an "irregular mover" though labled as one by UNHCR-Turkey. UNHCR's definition of irregular mover explicitly states that "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" and therefore cannot be considered as one. However, even within the terms of that policy UNHCR states that when determining the status of an individual who has moved from a first country of asylum, UNHCR staff should take into account the "specific protection or security problems" an alleged secondary mover may have faced in his or her first country of asylum before deciding whether or not to afford refugee protection. Since 2002, however, by not registering refugees like Mohammad UNHCR-Turkey has made it crystal clear that, regardless of any "specific protection or security problems," the agency will not assist anyone who moves from Northern Iraq.

Iraq, nor any prospects for local integration or repatriation. Although the Turkish government generally has regarded this group as inadmissible for temporary asylum because it considers northern Iraq to be safe for them, UNHCR negotiated an agreement with the Turkish government that allowed the agency to review the claims of Iranians who arrived from northern Iraq in 2000 (about 550 persons). While UNHCR was working to find resettlement opportunities for the Iranian refugees who arrived before January 1, 2001, the agency and the government would not consider those who arrived after January 1 as eligible for resettlement (about 300 persons).

Information about the group's numbers in 2000-2001 in Turkey and the news about resettlement of the 550 refugees who moved in 2000 were welcome input from UNHCR, elicited by USCR's persistence.

Nevertheless, UNHCR's revelations are less than comprehensive, and less than candid.

Firstly, the picture UNHCR gives of how the Turkish government regards the refugees is not accurate. It is true that Turkish officials have on occasions expressed that Northern Iraq is safe, but no laws or regulations exclude ex-Northern Iraq Iranian refugees from temporary asylum. Nor has the Turkish government actually refused temporary asylum to any refugee on the grounds that they came from Northern Iraq unless UNHCR had already refused to resettle them in third countries for that reason. Even Iraqi nationals, whom the Turkish officials have more emphatically deemed to be "safe" in Northern Iraq, are not officially excluded from receiving temporary asylum in Turkey. Like the Iranians, their status in Turkey is closely indexed to UNHCR's view of their eligibility for resettlement. This is evident in the approval rates of Iraqis and Iranians in the Turkish government's system as compared to UNHCR's. As reported, in 2000-2001, the government's approval rates for Iranians and Iraqis were 94% and 60% respectively. During that time, UNHCR's approval rate for Iranians and Iraqis were 58% and 28% respectively.⁶⁵ The government's lower approval rates for Iraqi asylum seekers closely correlate with their lower approval rate by UNHCR.

What UNHCR described to USCR as an "agreement" with the government which "allowed the

agency to review the claims of Iranians," is scarcely credible. Historically, when dealing with individual refugees, UNHCR has never conducted its business in Turkey on the basis of ad hoc agreements with the government, even when the government has by law barred refugees from temporary asylum in Turkey, for example cases known as "extra-procedural", i.e. cases that have failed to register with the police within the required time limit of 10 days from entry. The Turkish government is very tough on such cases and regularly orders the individuals to be deported and/or denies them exit permits to leave the country when they are accepted for resettlement from third countries. Nevertheless, UNHCR continues without hesitation to conduct refugee determination procedures for such persons and review their claims.⁶⁶

The supposed "agreement" introduced as a precondition for UNHCR to assist the refugees is no more than business as usual for UNHCR-Turkey. That is, UNHCR agrees to resettle and the government agrees to temporary asylum. The passage does not mention how long the supposed negotiations took, but based on events previously described they must have lasted at least a year. It is hard to believe that a straightforward agreement requiring UNHCR to agree to resettle refugees in accordance with its standard existing practice could have required so many months of haggling - particularly at a time when UNHCR says that it was enjoying "close and regular consultation with the Government of Turkey on the functioning of the asylum system, including the eligibility of individual asylum-seekers and how to ensure their protection."⁶⁷

As described in detail above and well documented in their police and UNHCR papers, when ex-Northern Iraq refugees first began arriving in Turkey in 2000 after several years of being deterred by UNHCR's irregular mover policy, Turkish authorities in Van received them exactly like other asylum seekers. UNHCR began to immediately review their claims (not subject to any "agreement" with the government as UNHCR indicated to USCR) too. Shortly interviewing the refugees, UNHCR randomly issued some of them with irregular mover decisions in which UNHCR expressed its view (not that of the government) that refugees were "safe from persecution" in Northern Iraq. In fact, the letters emphasize

the separation of UNHCR and the government's decisions ("this does not affect your temporary asylum application with the Turkish authorities as that is a separate procedure"). [see page 25 for *pro forma* IM letters issued by UNHCR]

It was only when UNHCR suddenly took against the group and demonstrably insisted on its irregular mover policy that the government also changed its tune and began to deny the group temporary asylum. Similarly, when UNHCR agreed to resettle refugees who arrived before January 1, 2001, the government also changed its position and speedily granted them with residence permits. The claim that UNHCR and the government "would not consider those who arrived after January 1 as eligible for resettlement" obscures the reality that the government is again shadowing UNHCR's unwillingness to resettle refugees.

UNHCR's misinformation conceals the unnecessary suffering of large numbers of refugees who were subjected to long term inhuman treatment by the agency. By assisting the 2000 group with resettlement, UNHCR of course did the right thing. However, by basing 'eligibility' simply on the date that refugees arrived at UNHCR office doors, the agency also removed any vestiges of credibility from its irregular mover policy. Pointing an accusatory finger at the government does not vindicate a shabby policy, which shifts according to hidden internal institutional priorities, rather than consistently and transparently fulfilling inviolable protection duties toward refugees.

IV. Denial and delay of resettlement manifestly unjustified

The sorry tale of the Iranian refugees' recent flight from Northern Iraq began when UNHCR suspended third country resettlement there in mid-1999. UNHCR implemented this suspension without discussion or disclosure of the real factors that prompted it. When refugees attempt to overcome the impediments to resettlement from Northern Iraq by moving

to Turkey, UNHCR again demonstrates a capricious unwillingness to resettle the refugees and orders them back to a zone where UNHCR admittedly is failing to provide either protection or resettlement.

There is no doubt that resettlement is a resource intensive process. Lack of resettlement placement quotas and resource limitations, of course, can delay resettlement. Such constraints cannot justify the wilful collective punishment implemented by UNHCR-Turkey, but it is worth examining if and to what extent these constraints genuinely play a role in resettlement of Iranian Kurdish refugees from these countries – especially from Turkey, where UNHCR itself does not report any such impediments whatsoever.

Lack of resettlement quota

In recent years, refugee advocates and UNHCR's own staff have increasingly challenged the notion that lack of resettlement quota is a critical problem. The number of refugee resettlement countries has almost doubled. In addition to the ten traditional countries (Australia, Canada, Denmark, Finland, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the USA), a further eight have been added since 1997 (Argentina, Benin, Brazil, Burkina Faso, Chile, Iceland, Ireland and Spain).⁶⁸ More striking is the fact that vast numbers of potential resettlement places are never filled. Gary Troeller, a former UNHCR Regional Representative believes that in 2000 significantly more places were available than was the case a decade previously. He even suggests that tens of thousands of places were wasted by UNHCR.⁶⁹ While UNHCR in 2000 registered some 40,000 resettlements, the actual number of places available to the office was arguably in the region of 78,000.

Troeller concludes that the availability of more resettlement places should give UNHCR a chance to resettle a greater proportion of refugees who do not have any other durable solutions, and to resettle them sooner. "As the High Commissioner has said, allowing many refugees to spend years in limbo, whether in camps or urban situations, is not a proper reflection of international protection," adds Troeller.

On the issue of quotas, the Refugee Council of

USA, a coalition of refugee resettlement agencies and other refugee advocate groups, expresses a similar view. The Council too believes that although there are more refugees in need of resettlement worldwide than there are places or resources available, more than 10,000 resettlement slots worldwide remain unfilled every year. Over the last decade, then, more than 100,000 refugees in need of resettlement could have been rescued from danger, or given an opportunity to lead productive fulfilling lives, rather than live off handouts in squalid camps.⁷⁰

Turkey seems to be one of those resettlement processing posts where potential places are wasted. The International Catholic Migration Commission (ICMC), a non-governmental organization contracted by the U.S. government to implement the U.S.'s refugee resettlement program in Turkey, reports that UNHCR does not refer enough cases to fill the places made available to the post. In a recent field report, Elizabeth Frantz quotes Turkish authorities and the Canadian embassy to the effect that 3,000-4,000 places are available for refugee resettlement from Turkey. But UNHCR's average resettlement figure from 1995-2000 was about 1,600 per year. In 2000, UNHCR reported a total of 2,334 persons resettled from Turkey and 2,747 in 2001.⁷¹ UNHCR's sole liability in the waste of resettlement places in Turkey is also confirmed by UNHCR's own spokesperson Metin Corabatir: According to Corabatir "UNHCR in Turkey has no informal instructions from Western governments to limit asylum approvals".

Resettlement imposes heavy resource demands

Another reason commonly cited for UNHCR's failure to resettle larger numbers of refugees is understaffing. This problem is undeniable, given the agency's deepening budget problems. The question is whether safety and responsiveness to refugees with lack of any other durable solutions will be brought to the top of competing priorities or not.

For 2001, UNHCR-Turkey reported that its budget was reduced by 20 percent as part of the organization's global prioritization exercise, canceling or postponing a number of UNHCR's programs.

Understaffing was obviously a serious problem. There was reportedly a backlog of 5,209 persons (about 2000 cases) in January 2001. UNHCR also reported long waiting periods for completion of status determination. Asylum seekers and refugees all over Turkey have actually been complaining of much longer waiting periods than those reported by UNHCR and of further malfunctioning of the refugee status determination as a consequence of unqualified interns being appointed as legal officers. They have also reported arbitrary exclusion from financial aid programs and other services.

Nevertheless, as discussed above, the swift processing of 550 ex-Northern Iraq refugees (the 2000 group) for resettlement in 2001, once UNHCR decided to do so, makes it hard to believe that the above shortcomings were so serious as to necessitate excluding all post-2000 arrivals from Northern Iraq, particularly in view of the fact that more than half of the group are already recognized as refugees by UNHCR offices in Northern Iraq and would therefore not require status determination interviews. A number of recognized refugees have also had resettlement processes initiated for them while in Northern Iraq.

It is unclear whether or not UNHCR has devised standard operating procedures which allow for cross processing of cases from the Northern-Iraq offices to Turkey's UNHCR office and avoidance reprocessing cases. However, it is certain that abandoning the peremptory irregular mover policy would actually free up resources for resettlement processing. As part of its irregular mover policy, UNHCR has been pointlessly conducting 'eligibility' interviews for every ex-Northern Iraq refugee, purportedly to detect "irregular movers" on a case-by-case basis. These interviews are reported to be more of a formality rather than a serious investigation into refugees security situation in Northern Iraq [see Sassan's example above], and clearly waste resources badly needed elsewhere.⁷²

If understaffing is an impediment to resettlement for this group of refugees, this may justify some delay in the process, but not UNHCR's wholesale blockage of their resettlement.

UNHCR must make safety and responsiveness to refugees its priority. As a first step, UNHCR could begin by registering those it has so far refused to register in order to find out the precise numbers for resettle-

tlement. The agency should immediately report the numbers and include the group in its Global Appeal and fundraising efforts. In 2001 there was a 20% budget cut, but UNHCR reported substantial extra-budgetary contributions by some donors as well as future contributions for other programs. UNHCR might well be able to raise needed funds to deal with the demands imposed by the ex-Northern Iraq group.

Any existing understaffing problems within UNHCR-Turkey could also be relieved by devolving the processing of all or part of the group (for example, those of the group already recognized as refugees by UNHCR offices in Northern Iraq) to non-governmental organizations under UNHCR supervision. A UNHCR-ICMC [International Catholic Migration Commission] Deployment Scheme, in which UNHCR's resettlement capacity is enhanced by deploying experts from non-governmental organizations to assist with the preparation and presentation of resettlement referrals, has reportedly been strikingly successful in other countries since 1997.⁷³ There is no reason why the same level of success could not be achieved in Turkey considering that ICMC already operates in Turkey to facilitate the U.S.'s resettlement program.

Another opportunity for UNHCR would be to support or at least facilitate the option which U.S. non-governmental organizations have been pressing. The U.S. Refugee Resettlement Program was suspended several weeks after the September 11, 2001 attacks and then restarted on November 21 the same year. But since then, the number of refugees admitted to the United States has been significantly lower than in previous years. In order for the U.S. to meet the 70,000 ceiling for FY 2002, and to reverse a trend of declining admissions that has been in effect for about ten years since the end of the Cold War, non-governmental organizations are advocating an over-haul in the U.S.'s resettlement program.

One area of this advocacy has focused on permitting non-governmental organizations that work directly with refugees in the field to refer individuals whom they know to be at risk to U.S. embassies for consideration for resettlement, rather than waiting for UNHCR to refer them. Currently, in Turkey and many other countries, an individual's application will not be considered for the U.S. resettlement program

unless it is referred by UNHCR.⁷⁴ U.S. non-governmental organizations believe that UNHCR's "gate-keeper" role has slowed down refugee admissions to U.S.⁷⁵ They note that "UNHCR offices in many locations are underfunded and understaffed, and since agency personnel are responsible for the care and maintenance of tens or hundreds of thousands of refugees, they often find little time to identify refugees in need of resettlement. In some countries where UNHCR has well-established resettlement referral programs, instances of corruption and exploitation of refugees seeking resettlement have undermined the program and caused delays in refugees' departures as INS [Immigration and Naturalization Services] conducts additional checks on UNHCR's information."⁷⁶

In a hearing entitled "Empty Seats in a Lifeboat: Are There Problems with the U.S. Refugee Program?" held on February 12, 2002 by the U.S. Senate Subcommittee on Immigration, Immigration and Naturalization Services (INS), Commissioner James Ziglar said that the INS will look for new mechanisms for identifying individuals who are of humanitarian interest to the United States and other "bona fide refugees who [under the current system] never get in to see an INS officer." Ziglar added that "current U.S. government processes and criteria used to identify the pool of applicants eligible for INS refugee interviews needs to be revisited." He proposed undertaking an "organized effort to allow U.S. non-governmental organizations to refer individuals for interviews with INS officers in the field." Individuals referred by non-governmental organizations, he added, "still must pass the legal standard for a refugee, but these referrals would significantly and fairly bring to our attention a larger pool of individuals who are of potential humanitarian or foreign policy interest to the United States."⁷⁷

Another area of focus by U.S. advocates is that the U.S. government should change the priority categories it uses to determine which refugees to admit to the United States, and to identify additional refugee populations for resettlement.⁷⁸ They have proposed that Iranian refugees who entered Turkey via Northern Iraq be considered under either of the first two priorities. In his testimony before Subcommittee on Immigration, Senate Judiciary Committee on "The

U.S. Refugee Admissions Program: Starting Over,” on February 12, 2002 Bill Frelick, formerly Director of U.S. Committee for Refugees, and presently Director of Amnesty International USA’s Refugee program said:

In many parts of the world, UNHCR offices take an extremely restrictive interpretation of “irregular movers” that at times appear to contradict their own policy guidelines. Although the relevant UNHCR Executive Committee Conclusion (58) defines “irregular movers” as refugees who have found protection in another country, UNHCR offices often deny resettlement opportunities to refugees who have moved irregularly from first-asylum countries that do not, in fact, offer secure protection.

In applying this overly restrictive concept, some UNHCR offices appear to have lost track of their protection mandate in an effort 1) to combat the unauthorized migration of refugees and 2) to conserve their scarce resources for refugee care and maintenance by discouraging urban refugees and seeking to maintain refugees in camp settings, which is cheaper for the international community, but usually far less satisfactory for the dignity of the refugee.

PRM could use resettlement to fill an important protection gap left by UNHCR. Such cases, would, of necessity, need to be identified by U.S. embassies (non-governmental organizations could help) rather than UNHCR.

Frelick considers the problem particularly acute for five various groups, including Iranian refugees who entered Turkey via Northern Iraq:

There are hundreds [of Iranian “irregular mover” refugees who arrived via Northern Iraq] in Ankara, and about 5,000 Iranian refugees in Northern Iraq who might be drawn to Ankara if they thought resettlement out of Ankara was a possibility. This has been an extremely vulnerable caseload of mostly Iranian Kurds. Over the years, hundreds have been assassinated by agents of the Iranian regime, according to sources within this community that can’t be independently verified. UNHCR-Ankara recognizes them as refugees, but refuses to refer them for resettlement for fear that it might cause a magnet effect. Magnet effect

or not, they are not safe in Northern Iraq and no one there can guarantee their safety. Their so-called “irregular movement” is completely justified as an attempt to seek asylum from persecution both from their home country as well as from their “country” of first asylum. The U.S. government would have to identify this caseload without UNHCR cooperation and would need to negotiate an exit arrangement with the Turkish authorities. The diplomats won’t start working on this, however, to see if it is possible, unless directed to do so from Washington.

Whether refugees are eventually assisted by UNHCR or by non-governmental organizations, there should be no doubt that by moving to Turkey they themselves have provided economies and greatly facilitated the resettlement process. Resettlement is more streamlined in Turkey than in Northern Iraq. Selection missions that used to have to negotiate arduous trips to Northern Iraq are now conveniently stationed in their embassies in Ankara. Countries such as the U.S. which did not implement resettlement programs in Northern Iraq are now accessible too. Refugees do not need to be shuttled via Baghdad to Jordan for onward flights to destination resettlement countries.

Under these circumstances returning refugees back to Northern-Iraq to spend more years in indefinite limbo and insecurity is not merely, as the High Commissioner puts it, an “improper reflection of international protection”; it is an intentional abdication of international protection.

Negative attitude

Iranian Refugees’ Alliance has no direct information about the reasons behind the capricious shifts in UNHCR’s attitude towards Iranian refugees, its suspension of resettlement, its refusal to make a genuine assessment of the risks faced by refugees in Northern Iraq, or its arbitrary labeling of refugees as irregular movers when they attempt to find safety in Turkey. Nor are we aware of such reasons when UNHCR recklessly applies the irregular mover policy to refugees of other nationalities residing in other unsafe and unstable regions of the world, for example in East

Africa and Asia Pacific. In those situations too the policy has generated sharp criticism from international human rights organization.

Evidently, the policy has its roots in the negative attitude that UNHCR developed towards resettlement since the end of the Cold War. Some insiders attribute this attitude to UNHCR's painful institutional memory of handling mass movements of immigrants which was induced by the automatic "no question asked" resettlement policies of the Cold War era. These policies, driven by the U.S.'s opposition to communism in South-east Asia, involved UNHCR in resettling more than two million Vietnamese, Cambodians, and Laotians in the aftermath of the Vietnam War. Others say that the negative attitude merely shows that UNHCR shares governments' post-Cold-War lack of interest in resettlement.

Whatever the reasons for UNHCR's negative attitude towards resettlement may be, the agency must now genuinely revitalize resettlement as a protection tool, a durable solution, and an international responsibility-sharing tool. According to UNHCR itself, resettlement is still a core mandate responsibility of the agency:⁷⁹

While it serves, in line with UNHCR's Statute, as a tool to ensure the protection of refugees, it is also one of the three durable solutions to be pursued in order to bring the plight of refugees to an end. As a vital tool of international protection, resettlement meets the special needs of refugees whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they have sought refuge. Equally important is the task of seeking durable solutions that will address the safety, human rights, dignity, ability to achieve self-sufficiency and restoration of protection for refugees. Achieving a durable solution for refugees is the most comprehensive way to ensure that all of their protection problems are addressed and resolved. It is a core mandate responsibility for UNHCR.

Since the mid-1990s, UNHCR has made a number of positive policy developments in the area of resettlement. One such development, as noted before, is increase in resettlement opportunities by diversifying the pool of resettlement countries. UNHCR issued the Resettlement Handbook in July

1997,⁸⁰ the first set of guidelines for use in identifying and processing refugees in need of resettlement. In the past UNHCR and resettlement countries worked on a bilateral basis, but now tripartite mechanisms include some of the NGOs. Working groups, annual consultations, regional workshops have been established purportedly to enhance partnerships, developing joint strategies for addressing resettlement needs, information sharing, and the development of a more harmonized approach to resettlement. Reception and integration of resettled refugees are also advanced by way of tripartite conferences.

Another important area of policy development is the acknowledgment that in addition to ensuring the protection of refugees and providing them with a durable solution, resettlement can also be "a particularly useful responsibility-sharing mechanism where there are groups of refugees whose presence in a country of asylum may pose problems for security or other reasons particular to that country."⁸¹ Resettlement can serve as a 'safety-valve' in helping to relieve the strain on countries of first asylum.

However, as far as UNHCR's actual field operations are concerned, the agency has not yet allocated the structure and resources necessary to achieve the desired advances in resettlement. This does not simply mean increasing allocation of staff. It requires an overhaul of UNHCR's widely criticized refugee determination process, a vigorous effort by UNHCR to prioritize co-operation with NGOs in the field, and to institutionalize accountability and transparency to prevent corruption and fraud. UNHCR's non-transparent operational policies described in this report appear to be a symptom of the agency's institutional resistance to such thoroughgoing reform.

Whatever the reasons, UNHCR's poorly-founded and arbitrary operational policies concerning resettlement set a bad example for governments. Governments worldwide are increasingly active in finding indirect methods of ducking their duty to refugees, and developing a battery of non-transparent obstacles to reduce the "attractiveness" of asylum and deter refugee flows. Western governments increasingly cite the presence of UNHCR as a guarantee of safety and effective protection in countries of first asylum and transit, but UNHCR's prolonged neglect of the Iranian Kurdish refugees in Turkey and

Northern Iraq and its discreet repudiation of responsibility toward them show that this guarantee is not a sound one.

V. Conclusion

The resettlement of the group of ex-Northern Iraq Iranian Kurdish refugees who arrived in Turkey in 2000 shows how UNHCR grants dramatic and positive life changes to vulnerable and fearful people when it comes to grips with reality and puts refugees first. But the reckless application of the irregular mover policy to the group for a prolonged period, its sudden mysterious reversal, and its re-imposition on all post-2000 arrivals remained are as disastrous as they are inexplicable, and they continue to blight the lives of Iranian Kurdish refugees in Turkey today. They are living with the uncertainty and fear that come from years deprived of protection, safety, human rights, dignity and an opportunity to achieve self-sufficiency.

Secondary movement of Iranian Kurdish refugees from Northern Iraq to Turkey since 2000 is a consequence of the lack of refugee protection in that region. Refugees invest in hazardous travel through human-smuggling networks to get to Turkey because they are in extreme need of protection. Instead they are confronted with a further layer of uncertainty and fear. Refoulement of refugees into the hands of their persecutors remain a serious threat.

The Turkish and Iraqi governments, as host governments, bear the legal responsibility for the safety of refugees in their territory, and should be held liable for breaches of their rights. Those governments should take immediate action to rectify the situation. But the international community relies on UNHCR to play a dynamic and vigorous role as the promoter of solutions to refugee problems. UNHCR's service to refugees in Northern Iraq has been slack. In Turkey, instead of acting as a consistent and open champion of refugees' interests, it has on occasions betrayed them while passing off the blame to the Turkish government. By keeping this much troubled group of people off the international community's radar screen and reducing them to the status of non-persons,

UNHCR is seriously failing its core mandate responsibility.

VI. Recommendations

Iranian Refugees' Alliance is urging the Turkish and Iraqi governments, UNHCR, the international community (in particular the U.S. Department of State) to act immediately and ensure effective protection for Iranian refugees stranded in Northern Iraq and Turkey.

To the Government of Iraq:

- Continue to issue exit permits for refugees resident in the north who are ready to leave via routes and procedures established by the government, and show flexibility to refugees who may lack identification documents.
- Make public the Iraqi government's position on permitting refugees in the north to leave the country for onward resettlement, including the reasons for restrictions on resettlement, if any such exist, and its conditions for lifting those restrictions.

To the Government of Turkey:

- Permit ex-Northern Iraq Iranian refugees to access asylum procedures and regularize their legal status, in line with Turkey's binding *non-refoulement* obligation and domestic asylum regulations.
- Immediately relocate ex-Northern Iraq Iranian refugees from Van to other towns in central Turkey to improve their security and improve their access to services.
- In line with the requirements of the European Union (EU) Accession Partnership and the declared commitment in the National Plan for accession to the European Union, provide the ex-Northern Iraq Iranian refugees with comprehensive support, including lodging, food

and medical care.

- Ensure that police do not extract exorbitant “fees” from asylum seekers in exchange for access to asylum procedures, residence permits, or permission to move from Van to other cities.

To UNHCR:

- Make a public statement explaining why resettlement from Northern Iraq has been suspended. This statement should give details of steps taken to remove obstacles that UNHCR claims the Iraqi government has raised to prevent resettlement.
- Investigate reports that UNHCR has been resettling Iraqis in the guise of Iranian refugees.
- Redouble efforts to resume resettlement from Northern Iraq, including the option of moving refugees via Turkey.
- Ensure full disclosure of statistics and other relevant information concerning all asylum-seekers and refugees in Turkey, and full reporting on Iranian refugees who have moved to Turkey from Northern Iraq.
- Give a full and detailed statement on UNHCR’s position vis-à-vis Iranian refugees who have moved to Turkey from Northern Iraq, and explain why it has neglected this group’s needs for protection and support.
- Initiate expert and independent research to assess whether Northern Iraq can offer genuine “safety from persecution” for any Iranian refugees, as is claimed in decisions labeling those who move to Turkey as “irregular movers.”
- Require the Turkish government to uphold its binding international obligations to provide all asylum seekers access to asylum procedures irrespective of whether they have been resident in Iraq before moving to Turkey, and to respect the principle of non-*refoulement* in all cases. This means that Turkey should not forcibly return Iranian refugees to Iran or Northern Iraq.
- In line with the necessity that the international

community should share the burden with countries of first and second asylum (and the availability of numerous unfilled resettlement places), provide the Turkish government with guarantees that UNHCR will resettle refugees, and redouble efforts to begin their resettlement from Turkey.

- Immediately register all cases hitherto refused registration.
- Reverse all “irregular mover decisions” that so far imposed on refugees and inform the Turkish authorities that these decisions have been reversed in order to ensure that refugees are not deported.
- Immediately establish regular communication channels with refugees and their communities, and keep them regularly informed of any discussions or negotiations concerning their status in Turkey that UNHCR is conducting with the Turkish government or other entities. Periodically inform the international community of such developments, and encourage non-governmental advice and participation.
- Begin cooperation with non-governmental organizations to fill gaps in meeting refugees’ subsistence and medical needs, and to resolve problems in processing their resettlement to safe third countries.

To the United States & the international community:

- Urge the Turkish and Iraqi governments to respect their responsibilities and obligations toward Iranian refugees in both countries, and to cooperate with UNHCR in finding durable solutions for them.
- Hold UNHCR accountable for its instrumental role in protecting this particularly vulnerable group, and finding them durable solutions.
- Urge UNHCR to refrain from penalizing genuine refugees, apparently in order to discourage others from seeking protection, and instead actively to seek solutions for them, cooperate with non-governmental organizations to improve conditions of refugees, and find

durable solutions for them.

- Urge UNHCR to conduct its activities with the maximum transparency and impartiality, and keep the international community fully informed about the situation of Iranian refugees in Turkey and Iraq.
- Given the suspension of resettlement from Northern Iraq and the inherent difficulties of resettling refugees from there, fund and devise plans in cooperation with UNHCR to move the refugees to temporary asylum in other countries where the resettlement process is more easily managed.
- Expedite, and where necessary increase resettlement opportunities for Iranian ex-Northern Iraq refugees currently in Turkey, and provide increased funding to UNHCR to enable to increase its staff to a level where it is able to cope with the demands for refugee screening and support there.
- The U.S. Department of State should follow the advice of U.S. non-governmental organizations and consider Iranian ex-Northern Iraq refugees in Turkey for resettlement under Priority One or Two, and allow embassy and non-governmental organization referrals for resettlement rather than restricting consideration to UNHCR referrals.

END NOTES

- 1 UNHCR Statistical Data end-2000 & end-2001, <<http://www.unhcr.ch>>.
- 2 UNHCR Statistical Data end-2001, <<http://www.unhcr.ch>>.
- 3 These parties include: The Kurdistan Democratic Party of Iran (KDPI), Komala-the Revolutionary Organization of Kurdish Toilers, The Communist Party of Iran, The Worker Communist Party of Iran, Khabat-The Islamic and Nationalist Organization of Iranian Kurdistan, and The Union of Revolutionaries of Kurdistan.
- 4 U.S. Committee for Refugees, *1997 World Refugee Survey*, Country Report: *Iraq*.
- 5 U.S. Committee for Refugees, *1999-2001 World Refugee Survey*, Country Report: *Iraq*.
- 6 Natasha Carver, Immigration Advisory Service, UK, *Is Iraq/Kurdistan a State Such That it Can be Said to Operate State Systems and thereby Offer Protection to its 'Citizens'?*, International Journal of Refugee law, Vol. 14 No 1 January 2002.
- 7 *ibid*.
- 8 Agence France Presse , *Iraq's neighbours prepare for war refugees*, November 28, 2002.
- 9 see *Unsafe Haven* pp 5-9.
- 10 see *Unsafe Haven* pp 4-5.
- 11 see Michael Rubin, *The Islamist Threat in Iraqi Kurdistan*, Middle East Intelligence Bulletin, Vol.3, No.12, December 2001 and Harem Jaff, KurdishMedia.com, Islamic Terrorist groups, many names, but one obvious aim, October 6, 2001.
- 12 David Nissman, *Men in Black*, Radio Free Europe/Radio Liberty Iraq Report, September 21, 2001.
- 13 BBC, *Iraqi Kurds fear new Islamist group*, October 2, 2001.
- 14 KurdishMedia.com, *Jund al-Islam poisoning Kurdistan with Usama Bin Laden's ideology*, Special Report by Correspondent, September 13, 2001.
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- 16 BBC, *Iraqi Kurds fear new Islamist group*, Tuesday, October 2, 2001.
- 17 above note 15.
- 18 *ibid*.
- 19 Iraqi Kurdistan Dispatch, weekly news bulletin,

- <http://www.ikurd.info/>, July 5, 2002.
- 20 BBC, Jim Muir, '*Al-Qaeda*' influence grows in Iraq, July 24, 2002.
 - 21 above note 15.
 - 22 Kurdistan Democratic Party of Iran, Kurdistan No 13, August 22, 2002 [31/5/1381].
 - 23 see above note 3.
 - 24 U.S. Committee for Refugees, *1999 World Refugee Survey*, Country Report: *Iraq*.
 - 25 U.S. Committee for Refugees, *2000 World Refugee Survey*, Country Report: *Iraq*.
 - 26 *ibid*.
 - 27 U.S. Committee for Refugees, *2001 World Refugee Survey*, Country Report: *Iraq*.
 - 28 UNHCR Global Report 2001-Mideast, June 2002.
 - 29 *Unsafe Haven* p. 24.
 - 30 UNHCR, Division of International Protection, *Resettlement Handbook*, revised edition, July 2002, Chapter 4.
 - 31 U.S. Committee for Refugees, *2001 World Refugee Survey*, Country Report: *Iraq*.
 - 32 U.S. Committee for Refugees, *2000 World Refugee Survey*, Country Report: *Iraq*.
 - 33 see for example, Executive Committee Conclusion (No. 67 (XLII) - 1991), *Resettlement as an Instrument of Protection*.
 - 34 The the Executive Committee of UNHCR (ExCom) is made up of 61 countries that meet every autumn in Geneva to, among other things, advise on protection matters. ExCom sets international standards with respect to the treatment of refugees and provides a forum for wide-ranging exchanges among governments, UNHCR and its numerous partner agencies. Throughout the year, ExCom's Standing Committee meets to review protection and refugee assistance activities as well as financial and management matters. The government of Iraq participates in ExCom as an observer.
 - 35 For example, UNHCR Global Report 2001-Mideast states that in March 2001, the Government of Iraq approved UNHCR's proposal to help the University of Baghdad's Faculty of Law raise awareness of refugee issues; that in July 2001 the Government's participation in the Global Consultations meeting in Cairo (Egypt) showed the country's increasing interest in regional discussions related to further strengthening refugee protection; that in November 2001 a workshop on refugee law was organised for students at the Diplomatic Institute of the Ministry of Foreign Affairs (MOFA) and officials involved in refugee matters.
 - 36 UNHCR, *Global Appeal 2003- The Middle East*, December 2002, <<http://www.unhcr.ch>>.
 - 37 In a letter published in May 2002, the Kurdistan Democratic Party of Iran sought Mary Robinson's assistance to find information about the Iranian Kurdish refugees who were arrested upon return from al-Tash and imprisoned in the Dizel-Abad prison in the city of Kermanshah. Six persons were named to be sentenced from 2-15 years and one person sentenced to death. Iranian Kurdistan Bulletin, Number 2, May 2002 Published by The International Bureau of Democratic Party of Iranian Kurdistan.
 - 38 U.S. Committee for Refugees, *1998 World Refugee Survey*, Country Report: *Turkey*.
 - 39 *Non-refoulement* is defined in Article 33(1) of the UN 1951 Convention Relating to the Status of Refugees:

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
 - 40 Various conclusions of the Executive Committee of UNHCR, a body which has been at the forefront of developing standards and guidelines to protect refugees, reaffirm that the principle of *non-refoulement* forms part of the obligation owed to refugees by the entire international community. See Conclusion No. 77 (XLVI) 1995; Conclusion No. 65 (XLII) 1991; Conclusion No. 50 (XXXIX) 1988; over fifteen years ago in 1982 ExCom stated in Conclusion No. 22 (XXXIII) that *non-refoulement* was acquiring the character of a peremptory norm of international law, that is, one from which states are not permitted to derogate and which can only be modified by a subsequent norm of general international law having the same character. It is important to note that all ExCom conclusions are passed by consensus and that Turkey was a member of ExCom when each of the above conclusions came into being.

The fundamental nature of the principle of *non-refoulement* is also emphasized by the fact that it is one of the few articles in this CRSR51 to which a reservation cannot be made. [Article 42]. It, therefore, applies to every

person fleeing persecution and asking for asylum regardless of their race or nationality or whether they are formally given refugee status or not.

Furthermore, Turkey is party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. also a member of the Council of Europe. Both of these Conventions do not allow any derogation from the obligation to non-*refoulement*, even at times of war and hardship or when the refugee is considered to be a security danger to the host country. All member states of the Council of Europe, as evidenced by Resolution (67) 14 on asylum to persons in danger of persecution and the Declaration on Territorial Asylum of 1977, are required to commit to the principle of non-*refoulement* in regard to any person in danger of torture, cruel, inhuman or degrading treatment. Article 3 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms prohibits return of persons to countries where they are at such risk.

In addition, the Council of Europe told its member states in 1984 "that the principle of non-*refoulement* has been recognized as a general principle applicable to all persons", not just recognized refugees. *Refoulement* also is prohibited under Article 3 of the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The fundamental principle of non-*refoulement* is also contained in many other international human rights agreements, including Article 3 of the UN Declaration on Territorial Asylum; Article 8 of the UN Declaration on the Protection of All Persons from Enforced Disappearance; and Principle No. 5 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

- 41 For example, in a communication to the European Court of Human Rights concerning Application No. 43258/98 (GHH & others v. Turkey) the government states:

In the 1951 Convention relating to the Status of refugees, signatory states were given the option of adhering to the Convention with a geographic preference if they wished so. Turkey, in the light of this option granted by the International Law became a

party to the Convention with a declaration of geographic preference. This preference is that, asylum seekers only from Europe may be granted refugee status by the Turkish Government. Turkey has no obligation to permit residence to non-European asylum seekers. However, for humanitarian reasons, Turkey has been issuing temporary residence permits to asylum seekers from non-European countries, who are recognized by UNHCR until the said organization resettles them to a third country.

- 42 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, para (f). For further discussion of Irregular Mover see *Unsafe Haven* pages 21-26.
- 43 See for example Human Right's Watch's recent report *Hidden in Plain View, REFUGEES LIVING WITHOUT PROTECTION IN NAIROBI AND KAMPALA*, November 2002.
- 44 UNHCR BO Turkey, UNHCR 1998 Knowledge and Information Management Systems, p 25.
- 45 U.S. Committee for Refugees, *2000 World Refugee Survey*, Country Report: *Turkey*.
- 46 These include the 1991 UNHCR Guidelines on the Protection of Refugee Women, the 1995 UNHCR guidelines on prevention and response to sexual violence against refugees and the 1994 UNHCR guidelines on protection and care of refugee children, ExCom Conclusion-Refugee Women; ExCom Conclusion - Refugee Children & Adolescents.
- 47 In September 2001, some refugees who had managed relocate contacted Iranian Refugees' Alliance to say that UNHCR had finally resumed giving them financial assistance after the local police of their new town of residence near Ankara had brought pressure to bear. The police at the new place of residence also expected "fees" from the refugees. According to their account, when the refugees managed eventually to convince the police that they had had no income and were completely indigent, the police contacted the UNHCR to suggest that the refugees should be given assistance.
- 48 According to UNHCR about 300 persons registered in 2001. Iranian Refugees Alliance has recorded 263 persons (133 cases). UNHCR has so far not reported the number of arrivals in 2002 or 2003. As of February 31, 2003 Iranian Refugees' Alliance has gathered informa-

- tion on 820 new arrivals (317 cases) for these years.
- 49 DECISION No. 94/6169 – THE REGULATION ON THE PROCEDURES AND THE PRINCIPLES RELATED TO POPULATION MOVEMENTS AND ALIENS ARRIVING IN TURKEY EITHER AS INDIVIDUALS OR IN GROUPS WISHING TO SEEK ASYLUM EITHER FROM TURKEY OR REQUESTING RESIDENCE PERMISSION IN ORDER TO SEEK ASYLUM FROM ANOTHER COUNTRY Date of entry into force: 30 November 1994.
- 50 Executive Committee Conclusion No. 91 (LII) - 2001, *Registration of Refugees and Asylum-seekers*.
- 51 U.S. Committee for Refugees, *2001 & 2002 World Refugee Survey*, Country Report: *Turkey*.
- 52 *ibid*.
- 53 U.S. Committee for Refugees, *2001 World Refugee Survey*, Country Report: *Turkey*.
- 54 Kurdistan Democratic Party of Iran, Kurdistan, No 15, October 22, 2002; Amnesty International, Fear of imminent execution/Fear of possible ill-treatment or torture, IRAN, Karim Tuzhali (m), former member of the Kurdistan Democratic party of Iran, February 5, 2002; Amnesty International, Torture/Imminent execution, IRAN, 12 Kurdish minority rights activists, including 11 supporters of the Kurdistan Democratic Party of Iran (KDPI) and one supporter of Komala, the Kurdistan section of the Communist Party of Iran (CPI), UA 69/02, March 6, 2002.
- 55 see Amnesty International, *Turkey: Refoulement of non-European refugees - a protection crisis*, September 1997, AI Index: EUR 44/31/97; U.S. Committee For Refugees, *Barriers to Protection; Turkey' Asylum Regulations*, July 1996; and *Unsafe Haven* page 25.
- 56 IRNA, *Iranian, Turkish interior ministers discuss security issues*, July 11, 2002.
- 57 U.S. Committee For Refugees, *Barriers to Protection; Turkey' Asylum Regulations*, July 1996.
- 58 Saadet Oruc, Turkish Daily News, *Security talks with Iran halted due to Iran's reluctance on KADEK issue*, July 13, 2002.
- 59 It must be remembered that asylum seekers in Turkey, even those who have succeeded in filing requests with the police for temporary asylum do not have freedom of movement to seek better opportunities elsewhere. Persons who do not hold valid passports and visas and have failed to register asylum requests face immediate deportation if caught. Those who have their requests pending or have been approved for residence permits must obtain permission for short-term leaves. Permission is granted only if the person has a “valid” reason for example an interview with UNHCR in Ankara and are usually granted for a day. Only those whose asylum requests are approved can request to be transferred to other towns for security reasons and with UNHCR’s recommendation.
- 60 See for example UNHCR Excom Conclusion No.15, para k. UNHCR, “Note on International Protection,” September 7, 1994, at para 9.
- 61 UNHCR, *Reception Standards for Asylum Seekers In the European Union*, Geneva, July 2000.
- 62 It must be remembered that asylum seekers in Turkey, even those who have succeeded in filing requests with the police for temporary asylum do not have freedom of movement to seek better opportunities elsewhere. Persons who do not hold valid passports and visas and have failed to register asylum requests face immediate deportation if caught. Those who have their requests pending or have been approved for residence permits must obtain permission for short-term leaves. Permission is granted only if the person has a “valid” reason for example an interview with UNHCR in Ankara and are usually granted for a day. Only those whose asylum requests are approved can request to be transferred to other towns for security reasons and with UNHCR’s recommendation.
- 63 The English version of the NPAA is available at <http://www.abgs.gov.tr>.
- 64 U.S. Committee for Refugees, *2002 World Refugee Survey*, Country Report: *Turkey*.
- 65 U.S. Committee for Refugees, *2001 & 2002 World refugee Survey*, Country Report: *Turkey*.
- 66 Extra-procedural cases constituted 11% of UNHCR’s caseload in 2000, according to its 2002 Global Appeal for Turkey. The large numbers of ex-Northern Iraq refugees who arrived in 1995-1996 and who also faced exit problems due to failure to register with the police within 5 days of arrival were all processed by UNHCR upon arrival.
- 67 UNHCR, *2002 Global Appeal – Turkey*, December 2001.
- 68 The UNHCR Note on International Protection of September 2001.
- 69 Gary Troeller (UNHCR Regional Representative for the Baltic and Nordic Countries and formerly, Chief

Resettlement Service, UNHCR HQ Geneva 1989-1992), *UNHCR Resettlement, Evolution and Future Direction*, IJRL, Vol 14, No 1, January 2002.

70 The Refugee Council USA, NGO Statement on Resettlement, Global Consultations on International Protection. United Nations High Commissioner for Refugees (UNHCR), Geneva, Switzerland, 22-24 May 2002.

71 1995: 1,533 refugees; 1996: 1,486 refugees; 1997: 1,505 refugees; 1998: 1,587 refugees; 1999: 1,844 refugees; 2000: 2,334 refugees; and 2001: 2,747 refugees. All figures are from USCR's World Refugee Survey.

72 In 2000, Iranian Refugees' Alliance collected information on 98 ex-Northern Iraq cases, 64 of which were already recognized as refugees by UNHCR in Iraq. UNHCR Turkey spent about 90 hours of interviewing these 64 cases while spending another 90 hours to interview the remaining 34 cases who did not have refugee status before entering Turkey. Duration of interviews varied from 15 minutes to 8.5 hours for the first group and from 30 minutes to 8 hours for the second group. For example one case who was both recognized as refugee and had his Refugee Resettlement Form already processed in Northern Iraq was interviewed for 3.5 hours while another case who was not submitted for Resettlement while in Northern Iraq was interviewed 30 minutes.

73 See THE UNHCR – NGO RESETTLEMENT DEPLOYMENT SCHEME, Overview and Follow-up, ANNUAL TRIPARTITE CONSULTATIONS ON RESETTLEMENT, Geneva, 20-21 June 2001; and EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME, STANDING COMMITTEE, 21st meeting, NEW DIRECTIONS FOR RESETTLEMENT POLICY AND PRACTICE, EC/51/SC/INF.2, 14 June 2001.

74 In addition to the UNHCR referral the refugee must also meet other criteria defined in the Department of State's admissions policy. The U.S. State Department develops application criteria and refugee admission levels and presents eligible cases for adjudication by officers of the Immigration & Naturalization Service (INS). Refugees who meet the criteria for application to the United States are interviewed by INS officers who travel to the country of asylum. A refugee may receive assistance in preparing his or her resettlement

application from a voluntary agency or non-governmental organization (non-governmental organization) contracted by the Department of State for this purpose. The application typically consists of INS form I-590, and some family tree and biographical information. The INS officer decides whether the applicant is a refugee as defined under U.S. law. Designation as a refugee by UNHCR does not guarantee admission to the United States.

75 Testimony before Subcommittee on Immigration, Senate Judiciary Committee on The U.S. Refugee Admissions Program: Starting Over, February 12, 2002 Bill Frelick, formerly Director U.S. Committee for Refugees, and presently Director of Amnesty International USA's Refugee program,

76 Immigration and Refugee Services of America (IRSA), *Refugee Rescue At Risk*, May 21, 2002.

77 *ibid.*

78 Currently, the U.S. State Department's Bureau for Population, Refugees, and Migration (PRM) uses five processing priorities intended to establish an order of preference based on U.S. levels of humanitarian concern among refugees, all of whom have a well-founded fear of persecution in their countries of origin. These include: Priority One (P-1), intended for especially urgent cases; Priority Two (P-2), for particular, identifiable nationality (and sub-nationality) groups; Priority Three (P-3), for refugees separated from immediate family members legally residing in the United States; Priority Four (P-4), for more distant relatives; and Priority Five (P-5), for even more distant relatives. (Currently, P-4 and P-5 are not available for any nationality.)

79 Executive Committee of the High Commissioner's Program, New Directions for Resettlement Policy and Practice, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, para 2.

80 Updated July 2002

81 above note 79, para 8.

ABOUT US

Iranian Refugees' Alliance Inc. is a non-profit organization registered under the U.S. Internal Revenue Code 501(c)3. It is established to preserve and promote the human and civil rights of Iranian refugees and asylum seekers nationally and internationally without discrimination. We are not affiliated with any political or religious organization and do not accept government funds. Our efforts are funded by committed and concerned individuals and foundations and fall under five categories:

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

A major part of our international work involves monitoring, documenting, and reporting the worldwide situation of Iranian refugees. We also do extensive work in gathering documentation on the human rights situation in Iran as well as maintaining an up-to-date library of refugee case-law on Iranian refugee claims worldwide. The Alliance also represents individuals before international human rights tribunals and supports other refugee advocates by submitting briefs on their behalf to international and national tribunals, and by providing information and advice.

Our projects in Turkey comprise:

- monitoring and reporting the legal barriers that Iranian asylum seekers and refugees face in seeking protection in Turkey, including the shortcomings and flaws of the government's temporary asylum system as well as UNHCR's refugee status determination procedures and other operational policies
- providing legal counseling to asylum seekers individually and in groups
- intervening with UNHCR on behalf of wrongly rejected cases,
- representing refugees who are unlawfully at imminent risk of forcible return before the European Court of Human Rights, and
- humanitarian assistance.

Through our two on-going humanitarian projects for refugees and asylum seekers in Turkey we have distributed over \$430,000 to approximately 1,300 families in the form of monthly support stipends and yearly school stipends to children.

With regard to Iranian refugees in Iraq, our work has been limited to documenting their conditions and urging the US State Department to undertake an active role in their resettlement.

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