



“UNSAFE HAVEN”:

Iranian Kurdish Refugees in Iraqi Kurdistan

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In nearly all of the cases mentioned in this report, the asylum-seekers' real or full name, as well as any other details which may be used to identify them, has not been used for protection reasons.

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Shortly after the establishment of the autonomous Kurdish entity in Northern Iraq, known as the Kurdish “safe haven” in 1991, the government of Iran stepped up its campaign of terror, violence and intimidation against Iranian Kurds in Northern Iraq. In July 1996, over 2,000 Iranian troops invaded Iraqi Kurdistan, penetrating more than 200 km inside Iraqi Kurdistan in the “safe haven” area, to destroy the bases of the Kurdistan Democratic Party of Iran. While threats of large scale attacks continue, the menace posed by agents sent or hired by Iran has become so alarming that every Iranian Kurd in Northern Iraq feels a price tag on their head.

As a result, a growing number of Iranian Kurdish refugees have been fleeing from Northern Iraq to Turkey in the past years, as this has been their only avenue to resettlement in a safe country—the only possible safe solution for them. However, as the refugees have crossed the mine infested and high security border zone, many have been arbitrarily pushed back across the border by the Turkish border officials without ever having a chance to apply for a temporary residence permit in Turkey. Dozens of others who have been fortunate to receive assistance from the United Nations High Commissioner for Refugees [UNHCR] in Turkey have been forcibly returned to Northern Iraq, some even after having received a third country’s admission for onward resettlement.

Moreover, since February 13, 1997, the UNHCR has changed its policy on assistance for Iranian refugees fleeing Northern Iraq. Citing misinformation, the UNHCR indicated that Iranians in Northern Iraq have acceptable levels of security and have sufficient opportunities for resettlement from Northern Iraq. The UNHCR has since refused to assist many such refugees and has instructed them to return to Northern Iraq. This has been seriously detrimental for the refugees, making them more liable for deportation by the Turkish authorities.

This report describes the perilous situation of Iranian Kurdish refugees in Northern Iraq and classifies Northern Iraq as an unsafe first asylum country for Iranian Kurdish refugees. Based on this information the Iranian Refugees’ Alliance criticizes the use of physical and legal barriers by Turkey and the UNHCR in blocking Iranian Kurdish refugees from Northern Iraq from access to safe asylum.

The first section is an overview of the general situation of the “safe haven” in Northern Iraq. The second section deals with the Iranian government’s activities in the region. The third section deals with UNHCR activities in Northern Iraq and the fourth describes the abusive and unfair treatment Iranian refugees from Northern Iraq have been receiving after fleeing to Turkey.

I. Safe Haven for Whom?

Following the end of the Gulf War and a failed Kurdish insurrection in Northern Iraq, a Kurdish enclave or “safe haven” was established in 1991, in response to the desperate conditions of Iraqi refugees massed in refugee camps along the Turkish and Iranian borders and particularly to Turkey’s decision to close its doors to the tide of refugees. Brutalities committed by the Iraqi army had forced some 1.5 to 2 million people, mostly Kurds, to flee to Turkey and Iran. American, French and English aircraft based at Incirlik air base in Turkey were deployed to enforce a no-fly zone north of the 36th parallel in Iraq. The government of Iraq withdrew its troops from most of the Kurdish region on October 23, 1991.

The “safe haven” project succeeded in wooing more than a million Iraqi Kurds back from the border zones. However, shortly after its establishment, incursions by Baghdad, Iran and Turkey as well as economic privation imposed by Baghdad and the West itself has perverted the very notion of “safe haven”. Despite an aerial exclusion zone north of the 36th parallel, the Iraqi military has continued intermittent, sometimes heavy shelling of Northern Iraq villages by long-range artillery. In August 1996, more than 30,000 of Saddam Hussein’s elite Republican Guard troops moved into the area at the invitation of one of two rival Kurdish political parties. Over 6,500 Iraqi dissidents and Kurds, mostly employees of US-funded non-governmental organizations, were evacuated fearing Baghdad’s return to the north in force. NGOs not funded by the US government, about half of the original total, continued their operations in a climate of growing insecurity and in a society with a significant segment of its professional class evacuated.¹

Turkish military forces have crossed the border into Northern Iraq frequently in order to eliminate the bases of the Kurdish Workers Party’s, a militant organization seeking increased autonomy or independence for the Turkish Kurds. The largest operation included 35,000 Turkish troops which penetrated up to 40 kilometers into Kurd-controlled regions of Northern Iraq. As discussed below, Iranian government’s air and ground attacks have also hit the region on a regular basis.

Baghdad’s 1992-1996 embargo has meant that Kurds in Northern Iraq have been living under a double embargo, as the 1990 UN embargo against Iraq included and continues to include the northern Kurdish regions.² International relief has been limited to emergency needs, and gradually reduced “from nearly \$600 million in 1991, to \$71 million the next year, to \$22

million by the fall of 1996.”³ According to one source, at times it has seemed “as if UN and NGO food rations were all that sustained the Kurdish economy”.⁴ UN relief efforts have excluded the infrastructure construction necessary to rebuild the region’s war-torn economy and to create institutions of civil society, as neither the Western coalition nor the neighboring countries favor granting even the most minimal rights of self-government to Iraqi Kurds.

In mid-1992, elections led to the establishment of an administration shared equally by the two major Kurdish parties, the Patriotic Union of Kurdistan (PUK), headed by Jalal Talebani, and the Kurdistan Democratic Party (KDP) led by Masud Barzani. Although the power-sharing agreement seemed to have averted a 20 year old conflict between the PUK and KDP, bloody internal conflicts between the two parties started in 1994 and have continued in an erratic fashion, with the most recent clash occurring in July 1997. Serious human rights violations have been committed by both parties and significant deterioration in the human rights situation continues under Kurdish control.⁵ Massive new displacement of the population and hampering of aid delivery have further aggravated the humanitarian crisis. Primordial rivalries, lawlessness, and the proliferation of firearms have all contributed to a chronic lack of security for the whole population.

In their rivalry for power, territory and money, the PUK and KDP have given neighbors of the regions under their control, namely Iran and Turkey, as well as Baghdad, free tickets to interfere and assert their control in Northern Iraq by proxy. “Operation Provide Comfort” as the “safe haven” project has been termed by some commentators has become “Operation Provide Cover” for the activities of these governments, which include an extensive military and intelligence presence as well as air and ground attacks as they please. Middle East specialist David McDowall foresees that the Kurdish protagonists are likely to find themselves increasingly fighting for the policy interests of their external patrons, rather than for any intrinsic Kurdish interests.

II. Iranian Kurds in Northern Iraq

Since 1980, tens of thousands of Iranian Kurds have fled to Iraq. The cause of their flight can be traced to the Iranian government’s repression of minority groups and political dissenters. Kurds, numbering 7.5 million⁶, have been among the first political dissenters to face brutal repression and execution by the Islamic govern-



ment of Iran. Nearly 200,000 soldiers dispersed over 3,000 military bases have been deployed to Iranian Kurdistan to prevent even the slightest attempt at rebellion. Military operations include mining the Kurdish zone, specifically the border zone, and the destruction and evacuation of the Iranian Kurdish villages. Kurdish sources estimate that, to date, more than 40,000 Kurdish civilians and some 5,000 cadres and fighters have lost their lives in the conflict.⁷ Approximately 300 Kurdish villages in Iran have been destroyed (271 villages destroyed between 1980-1992 and 113 bombed between July and December 1993).⁸

Nearly 10,000 Iranian Kurds are said to be in Iraqi Kurdistan.⁹ Iranian Kurdish refugees in Northern Iraq had numbered many times more, but in 1982 the Iraqi government transferred them en masse to the Al-tash camp,¹⁰ 160 km (100 miles) west of Baghdad. About 4,000 of them are registered with the UNHCR, and are therefore officially recognized as refugees.¹¹ Most of the refugees are associated with Kurdish political organizations, such as the Kurdistan Democratic Party of Iran (KDPI)¹², the Communist Party of Iran (Komala), the Union of Revolutionary of Kurdistan¹³, and the Organization for National and Islamic Struggle of Iranian Kurdistan (Khebat). Some have previously been members of the parties while others have remained inactive members or take up periodic duties. They have remained in Northern Iraq fearing persecution for their

present or past political activities in Iran or Iraq. Many of them live under the protection and support of the Iranian political organizations in their camps, as the local Iraqi Kurdish administration is unable to provide them security, and material assistance from international aid organizations is not available to all refugees.

Because the majority of Kurds in Iran speak the Sorani dialect, Iranian Kurds in Iraq have lived in Sorani-speaking south of Iraqi Kurdistan, where PUK has been dominant.¹⁴ Currently, most Iranian camps are located in areas around Sulaymaniyeh and south of Erbil, which are under the control of the PUK. Most of those who live on their own also live in and around Sulaymaniyeh and Erbil. Only a small number of Iranian Kurds live in areas under the control of the KDP.

Since the Iraqi Kurds took control of Northern Iraq after the 1991 Gulf War, Iranian Kurdish organizations have acceded to the Kurdish administration's demand to not stage cross-border military activities against Iran. However, the Iranian government continues to cite such armed attacks as justification for its military incursions in Northern Iraq.

Although Iran claims to be targeting the bases of the organizations, it has often targeted the residential camps and personal residences of the refugees, who are not only known as dissenters of the Islamic regime, but despite their current relationship with the political parties are always considered as their potential supporters.

Similarly, both party militants and refugees have been targets of Iran's individual terrorist attacks.

Iran's Air Attacks

After the cease-fire in 1989 between Iran and Iraq, Iran began hitting bases of Iranian Kurdish organization and villages inhabited by Iranian Kurds, which at the time were located near the border. However, after March 1993, the Iranian government began systematic shelling and aerial bombings of the border villages inside the territories controlled by Iraqi Kurds. Many of the attacks, including the first bombings in March 1993, which destroyed the Azadi Hospital run by two French international medical non-governmental organizations, took place in the no-fly zone above the 36th parallel, where the U.S. and other Western aircraft patrol the skies. Throughout 1993 and 1994 villages near the Iran-Iraq border which had been recently rebuilt were destroyed again, thousands more of the population became newly displaced, and dozens of civilians were killed or wounded.¹⁵ Six months after the first attacks, one report said that the UNHCR was drawing up plans to resettle about 5,000 Iranian Kurds who had fled their homes on Iraq's northern border with Iran.¹⁶

Two reports by the Federation International des Ligues des Droit de l'Homme (FIDH) Fact Finding Commission shed more light on the extent of Iran's air attacks.¹⁷ For example, between August 1993 and August 1994, FIDH's report listed 35 attacks directed by the Iranian armed forces in the region of Sulaymaniyeh, including bombardment by artillery and rocket, border violations or fly-overs, installations of military bases and the laying of mines. At the time of these attacks several people were injured, the population was evacuated, and vineyards and orchards were burned.¹⁸ In one series of artillery bombardments in the Raniya region, FIDH reported that at some moments as many as six bombs a minute are alleged to have fallen on Qala Diza, killing 40 people and wounding some 50 others.¹⁹

To complement and facilitate air attacks, Iranian ground forces advanced several miles into Northern Iraq.²⁰ Members of Revolutionary Guards were dispatched admittedly on "intelligence" missions to gather information for more bombardment of the region. Some Guards were captured by Iraqi Kurdish forces, but were released after Iran threatened to bomb major towns like Sulaymaniyeh.²¹

Iran's goal in the air raids, however, went beyond harming Iranian dissident Kurds and party bases in Northern Iraq. Massive numbers of Iraqi Kurds were also targeted in air attacks.²² The intention was to

make Iraqi Kurds pay a high price all along the region's 200-mile border for supporting their Iranian brothers by leaving thousands of villagers homeless and destroying their livelihood. Once hundreds of local Kurds who used to live off trade in anything they could buy on the Iranian market lost their business as a result of the attacks, the Iranian government stepped up its efforts to use them against the Iranian Kurds. Those who wanted to continue buying from the Iranian market were now required to "pay for border access with information." Iranian officials visited homes of Kurdish farmers regularly, "pressing them to take weapons to protect the border." According to Kurdish officials, some important tribal leaders agreed.²³

Iran's Islamist Allies

Looking for strategic and ideological zones of influence in Iraqi Kurdistan, Iran had long created and supported Kurdish Islamic parties. After the creation of the Kurdish autonomous entity, Iran initially relied on these parties.

The most powerful group, the Islamist Movement of the Iraqi Kurdistan (IMIK), was formed in 1986 during the Iran-Iraq war and is headed by Shaik Uthman Abd al-Aziz.²⁴ In an interview, its leader declared IMIK's aim "to establish an Islamic state in Northern Iraq similar to the one in Iran."²⁵ There is ample evidence of Iran supporting and using the IMIK to reinforce its military presence in Northern Iraq. In October 1993, arms left behind by the IMIK during clashes with the PUK were said to have Persian writing on them.²⁶ In 1994, several Kurdish officials, including the minister of military affairs and customs officials at the Iranian border, said that Iran's Revolutionary Guards had set up a joint military base in areas controlled by the IMIK.²⁷

A second group is the Hizbollah, which was formed in 1982 in Iran, and is led by Sheikh Muhammad Khalid Barzani (a cousin of [KDP leader] Masud Barzani).²⁸ Sources close to United Nations' guards in Baghdad have described the group as an "offshoot of Iran's Revolutionary Guards" which is "free to operate in Northern Iraq" and is "well-armed, well-paid and well-organized."²⁹ In late 1988 the group split and the Revolutionary Hizbollah was formed, led by Adham Barzani. It is based in the Diyana region.³⁰

A number of killings, abductions and forcible returns of Iranian Kurds in Northern Iraq have been attributed to these Islamic groups. Majid Salduzi and Mulla Ahmad Khezri, two Iranian refugees who had stopped being members of the KDPI three years earlier but continued to live in Iraqi Kurdistan because of their record of political activities, were reportedly captured in

January 1995 and handed over to Iran by the Revolutionary Hizbollah forces.³¹ According to the KDPI they were executed in Urumieh on March 1, 1996,³² and a 1997 Amnesty International report listed their names among the political prisoners who were reportedly executed in Iran in 1996.

Seven KDPI activists were reported to be arrested by the IMIK on October 20, 1996 in the Halabja region. The KDPI held Anwar Anabi, a military commander of the IMIK, responsible for the act and said after Anabi turned them over to the Islamic Republic, the seven were taken to a Pasdaran jail in Paveh, where they have been tortured and face possible execution.³³

Another Iraqi Islamic group controlled by Iran is the Shi'a Supreme Council of the Islamic Revolution in Iraq (SCIRI). The Badr forces, SCIRI's armed militia, are estimated to be 5000 strong. In October 1995, following an agreement between the PUK and Mohammed Baqr al-Hakim of the SCIRI during a visit to Tehran, at least one brigade of Badr forces, the Imam Ali, was moved to Northern Iraq from the south.³⁴ Analysts marked this as a new threshold in Iran's drive for ascendancy in the "Western-protected" enclave.³⁵

Iran's Bases Of Operation Inside Northern Iraq

Iran is also said to have "tentacles" all over the north, from humanitarian missions to intelligence bureaus.³⁶ It maintains several intelligence offices in Northern Iraq, run by the Revolutionary Guards. According to Iranian Kurdish sources such offices are located in Erbil, Sulaymaniyeh, Raniya, Masif, Diyana, Halabja, and Dohuk. Depending on which Iraqi Kurdish party controls the region, that party's armed forces stand guard in front of these offices. In 1996, an "intelligence leak" disclosed plans by Iran's Ministry of Intelligence and Revolutionary Guards to conduct "intelligence activity" and "possibly a chain of explosions" in Iraq. It also stated that "talks with tribal leaders south of al-Sulaymaniyeh" to cooperate and plan "terrorist operations" had already begun in Northern Iraq.³⁷ "Among the field officers who moved to Northern Iraq were commanders of camps run by the Islamic Revolutionary Guards, namely Brigadier Generals Mohammad Karmi of Hamzah camp, Javad Ja'fari of Ramadan camp, 'Abdol Reza Maskari of Nasr camp in Naqadeh, Shela'i of Zafar camp in Kermanshah."³⁸

In the past three years, Iran has also begun establishing Red Crescent Society offices in Northern Iraq. According to Kurdish sources many of the employees at these offices are recruited from Iran's Security and Intelligence forces and from the Ramadan camp.³⁹

Iran's long-standing campaign to assassinate Kurdish dissidents was recently highlighted in the "Mykonos Trial." The Berlin Supreme Court trial, which concluded in April 1997, convicted one Iranian and four Lebanese for the murder of three Kurdish Iranian dissidents and their translator in Berlin in 1992. The German judge said that the order to assassinate the four Iranians came from the Committee for Special Operations, which includes the Iranian President Akbar Hashemi Rafsanjani, Secret Service chief Ali Fallahian, Foreign Minister Ali Akbar Velayati, and Iran's spiritual leader, Ayatollah Khamenei. By formally implicating the Iranian government in the assassinations, this ruling proved that the Iranian government is committed to terrorism against its dissidents abroad at any price. If Iran is willing to risk such scandalous international condemnation in Europe, then whatever terrorist measures it uses outside the scrutiny of the West in Northern Iraq should not come as a surprise.

Iranian Kurds describe the purpose of these offices as intelligence gathering and providing cover for violent attacks against Iranian Kurds. For example, one report in April 1996 said that the terrorists who killed four members of one refugee family and a fifth refugee, Mansur Fadaie, returned to the Red Crescent Society office in Sulaymaniyeh, after which they easily transferred to the Ramadan camp.⁴⁰ On April 21, Iranian agents driving a Red Crescent Society ambulance attacked an Iranian Kurdish refugee camp in the Bainjan region of Sulaymaniyeh. One assailant, captured by camp guards, acknowledged that the attackers had been dispatched by the Security and Intelligence office in Kermanshah (Iranian Kurdistan) to carry out terrorist activities against Iranian refugees, and that they had crossed the border under the cover of the Red Crescent Society's relief aid programs.⁴¹

Iran's Proxy Forces

Since the days of the Shah, Iran has frequently made alliances with Iraqi Kurdish parties to gain influence in the region and to suppress its own Kurds. In 1967, Mulla Mustafa Barzani agreed to restrain KDPI's political activities in Iran in return for the Shah of Iran's aid against Baghdad. Barzani suspended all KDPI activities hostile to Iran. Later Barzani expelled Iranian Kurds who were still in Iraq. In the summer of 1968, Barzani men captured and executed Sulayman Muini and hand-

ed his body over to the Iranians. The body was displayed in Mahabad as one of over 40 Iranian Kurds killed or turned over to the Shah's men by Mulla Mustafa.⁴²

After the Shah's downfall, the remnants of Mulla Mustafa Barzani's group in Iran, Qiyada-ye Movaqqat, became an ally of the Islamic government and commanded armed groups who had established bases in Kurdistan. In fact, one of the first major demands of the Kurds in Iran in 1979 was the expulsion of the Qiyada-ye Movaqqat leadership from Iran.⁴³ Iraqi KDP forces engaged in several clashes with the KDPI in 1980 and 1981 after the Iranian revolution. In 1982, the Iraqi KDP, supported by the Iranian army and Revolutionary Guards, succeeded in driving KDPI peshmerges [militias] from strategic positions in Iranian Kurdistan near the Turkish border. The KDP also took active part in a major Iranian offensive in the summer of 1983, which ended the KDPI's control of vast areas of Kurdistan.⁴⁴ During the Iran-Iraq war, the KDP depended even more on the Islamic Republic than Barzani ever depended on the Shah.⁴⁵

Members of KDPI who were in northern-Iraq in 1994 and 1995 accuse KDP forces of repeatedly attacking their camps in alliance with the Revolutionary Hizbollah and the Ramadan camp, killing and wounding several unarmed party militants and non-combatant women and children. In one instance, in 1995, as many as 200 armed militia members, on order from a member of KDP's Political Bureau and Barzani's nephew, Nuchehid, are said to have attacked KDPI bases in Basermeh (in the vicinity of Harir).

However, it has been the inter-Kurdish fighting between the PUK and KDP in the past four years that has given Iran its great opportunity in Northern Iraq. The conflict has divided Iraqi Kurdistan into two separate regions, with the KDP controlling the north and the Iraqi-Turkish border, and the PUK controlling the south and the Iranian border. Both parties have been weakened politically and militarily by their quarrel and have sought assistance from the regional states, a policy which has only exposed them to further exploitation by Iraq, Iran and Turkey.

As this fighting escalated, Iran abandoned its traditional pro-KDP posture and aligned itself with the PUK, which in turn found Iran's assistance vital in its ascendancy over the KDP. The alliance with Iran allowed the PUK to maintain its only link between areas under its control and the outside world. The PUK's main source of income is also through trade with Iran. As revealed in a PUK communique, more than \$2.2 million each month are generated in their trade outlet with Iran.⁴⁶ Additionally as the KDP has relied more on Baghdad

for military assistance, the PUK has relied more on Iran for logistical and military assistance against its rival.

Since the creation of the Kurdish entity, Iran has pressured Iraqi Kurdish groups to stop sheltering Iranian rebels, making any assistance conditional on their cooperation on this issue.⁴⁸ Iran has reportedly demanded that both the PUK and KDP "hand over members of the dissident groups"⁴⁹ and "curb the activities of Iranian Kurdish rebels in their enclave, much as they did with the Turkish PKK [Kurdistan Workers' Party],"⁵⁰ meaning, of course, that the Iranian Kurdish parties must be uprooted. According to Kurdish sources, Iran has also wanted "the guerrillas either disarmed or expelled to government-controlled parts of the Northern Iraq, where they would be more exposed and less effective."⁵¹

In order to gain Iran's trust and receive its support, the PUK has gradually and increasingly bowed to Iran's demands. First, in the spring of 1995, the PUK closed down the KDPI's radio, which broadcasts to Iranian Kurdistan.⁵² Then, the PUK was complicit and cooperative as Iran began to expand its military and intelligence presence, providing Iranian forces a free-fire zone against Iranian Kurds. Throughout 1995 and 1996, Iranian forces attacked hundreds of Iranian Kurds in Northern Iraq with mine explosions, car bombs, assassination attempts by terrorists sent or hired locally, and long and close range artillery. Iranian Kurdish sources report that between 1991 and 1996, at least 218 Iranian Kurds were killed or injured in these attacks.⁵³ (Also see box on pages 7 & 12).

The intensity of personal rivalry between the PUK and the KDP leadership and their rival patronage system have also provided a fertile ground for Iran's terrorist activities. Both leaders are known to have their respective party apparatus and fighters much the way paramount chiefs had retinues 150 years ago. Under the umbrella of each party stands a number of chiefs with their own retinues who bargain their loyalty in return for favors or rank within the party system.⁵⁴ Iran has long tried and succeeded in influencing Iraqi Kurdish tribal chiefs to cooperate against its dissidents. Additionally, by exploiting the dire economic conditions of the region, Iran is also reported to be able to easily hire local Kurds for murdering dissidents. The assassins enjoy impunity through primordial loyalties, including allegiances to families, clans and tribes under the umbrella of one of the parties. Therefore, even if an assassin is identified and handed over to security forces of these parties it is unlikely that they will be punished because it may cause defection of a family, a clan or a tribe from that party in favor of the other party or cause more clashes between the two parties.

EXAMPLES OF IRAN'S TERRORIST ACTIVITIES AGAINST IRANIAN KURDS IN NORTHERN IRAQ

Abduction, torture and murder:

■ Kaveh Hakimzadeh, a 16 year old refugee, was abducted by agents of the Islamic Republic on 31 July 1996. A PUK member, who asked for anonymity, later informed his family that Kaveh was seen at a PUK base in Raniya that evening. Kaveh's body was discovered the next day near Raniya. He was brutally tortured and forced to swallow acid. Haji Hadi, an Iranian agent in Raniya who is known to be a commander from the Ramadan camp and the head of Sardasht's Information and Security Department, is held responsible for Kaveh's murder. He is also known to have killed and tortured Rasul Amini and Ghader Alkun, Kurdish Democratic Party of Iran, Revolutionary Leadership (KDPI-RL) members, with the same method in Raniya. (Sources:



Kaveh Hakimzadeh, 16 years old, was tortured and forced to swallow acid.

KDPI press release August 1, 1996, and Kaveh's friends) ■ On January 19, 1997 Abdullah Piroutzadeh, a former cadre of the KDPI, who was at the time a shepherd in the vicinity of Diyana, which is controlled by the KDP, was assassinated by the agents of Iran. (Sources: KDPI, "Kurdistan," February 1997, and Abdullah's friends) ■ Another refugee, Mulla Hossein Hamzehpour, who was previously a cadre of the KDPI disappeared on February 14, 1997. His body was found the next day on the road connecting Qala Diza and Raniya. (Source: KDPI, "Kurdistan", March 1997) ■ Salim Karimnejad, another refugee and a former cadre of KDPI who was an anchor man in Radio Kurdistan, was shot to death on March 10, 1997, in front of his home in "Kani Qerzale".

■ In February 1997 a KDPI member named Ataollah Feizi, who was in Sulaymaniyeh to seek medical treatment, disappeared on his way back to his camp. Three days later Abass Badri, another KDPI member who went to search for him, also disappeared. Both their bodies were found near Sulaymaniyeh about a week later. A friend of Ata's reported that his eyes were gouged, his legs were broken and his head was ruptured with a spike. Local residents said that both Ata and Abbas were seen in a PUK base. Although the KDPI invited the witnesses to testify, they refused due to fear of reprisal. (Sources: KDPI press release February 14, 1997, and friends of Ata and Abbas) ■ On December 7, 1996, several PUK forces under the command of Mahmoud Sangavati accompanied a number of Iran's security forces in attacking a camp belonging to the Union of Revolutionaries of Kurdistan (URK). At the time the camp was sheltering families of the Union's members and was protected by some of the Union's armed militants. Six militants along with several of the women and children were captured and taken to PUK's Al-Salam base (5 km from Sulaymaniyeh). The men were tortured, their necks and backs were broken, and then they were executed. To cover up the crime, their bodies were taken to Dasht PIRAMAGROUN, 40 km from Sulaymani, where they were buried in mass graves. The women and children remained captive for three days, until the KDPI mediated their release with PUK. (Source: Member of the URK) ■ On November 30, 1996, a vehicle rented by the KDPI to transport some of its members and their families was attacked by killers in the pay of Tehran. The attack claimed five victims, including a four year-old child and two visiting relatives of Party members, and wounded several others, among them a native driver of the car. (Source: KDPI Press Release, December 3, 1996)

Regular barrage of refugee camps:

■ According to refugees who lived in a KDPI-Revolutionary Command camp in the Raniya region in 1995 and 1996, their living quarters were attacked on a nightly basis by mortar, RPG, Katyusha and remote control rockets from nearby heights. Iranian agents were also said to have planted bomb traps and dynamite in refugees'

living quarters. ■ According to refugees residing in a Komala camp 20 km from Sulaymaniyeh, their residence was also attacked by heavy weapons, Katyusha missiles and RPG. In one occasion, on June 25, 1995, Komala reported that the attackers left their heavy weapons behind and were able to return to Marivan in Kurdistan of Iran with the help of Iran's Red Crescent Society office in Sulaymaniyeh. (Source: Secretary of Komala central Committee, A list of Islamic Republic terrorist action in 1995 against Komala in Kurdistan of Iraq) ■ On April 7, 1997, refugees in the Bazian camp operated by the KDPI in the Sulaymaniyeh province were severely poisoned with the highly toxic metal, Thallium, the second such incident in two months. Sixty refugees fell seriously ill immediately. They were rushed to Baghdad Hospitals, due to the severe shortage of medicine in Northern Iraq. A week later Iraq's Health Ministry Undersecretary said the number of poisoned people admitted to Iraqi hospitals - Saddam Medical City and Karamah Hospital - had so far reached 80. He said many were in critical condition and Baghdad was trying to arrange their transfer to Europe since their hospitals lacked the medical supplies necessary to treat those in critical condition. According to Iranian Kurdish sources the number of the hospitalized rose to 130 persons, 16 of whom were eventually transferred to Austria for medical treatment. (Sources: KDPI Press Release, April 7, 1997, and Reuters, April 13, 1997).■

On July 26 and 27, 1996, 200 Iranian vehicles with more than 2,000 Iranian soldiers loaded with heavy and light weapons⁵⁵ crossed the Iraq-Iran border at Panjwin District in Iraqi Kurdistan and took position in Koy Sinjaq District in the Erbil region within the areas under the control of the PUK. On the morning of July 28, they launched a large-scale attack on the Iranian refugee camps of the KDPI and the party's offices and centers in the Koy Sinjaq area, using all kinds of weapons including heavy artillery, missile launchers and armor.⁵⁶ During the course of this onslaught the KDPI reported that the Azadi Hospital [re-located after Iran's 1993 bombardments of border villages] and the houses of Iranian Kurdish refugees were completely destroyed and set ablaze. Not a single residential unit remained unscathed by the shells from mortars, cannons and Katyushas.⁵⁷ Two refugees, an elderly woman and a man, died during the offensive, two children were injured and 2,500 refugees fled as a result of the invasion.⁵⁸

Confirming the damage inflicted on the refugees and the ongoing danger, UNHCR representative Abdullah Saied told Reuters that, "The incursion and bombardment in Kurdish areas has resulted in the displacement of many refugees and many of them have fled, seeking refuge and assistance." He called on "the Iranian government to exercise constraint and not harm the refugees or their property."⁵⁹ As the Iranian army was retreating towards Iran, an official of the UNHCR in Arbil said that his office was dealing with an "urgent situation" and "coping with around 2,500 refugees, mostly women and children who fled Koi Sanjaq after Iranian troops shelled their camp."⁶⁰ Many of the refugees stayed at a school in Erbil while the UNHCR tried to arrange the reconstruction of their homes.⁶¹

This large incursion not only showed that Iran has

the capability, when it wishes, to strike at the heart of the Iranian Kurdish community in Northern Iraq, but also proved beyond doubt that the Iraqi Kurdish security forces, and in particular the PUK's forces are not only unable to protect Iranian refugees but are accomplices in the attacks against them. Accounts by independent international observers and the local population who witnessed the incursion attest to this fact. A German administrator of European Community aid in Northern Iraq was quoted as saying, "Iran's forces entered a part of Northern Iraq . . . to bomb an Iranian refugee camp, evidently with permission from [PUK leader Jalal] Talabani, whose people controlled that area."⁶²

Other eyewitnesses said that three hours before the Iranian attack, the PUK authorities shut off electricity, imposing a blackout from 10 p.m. until 8 a.m. in an area extending from Koi Sanjaq to Arbil. The six PUK check points in and around that region were removed. One hundred fifty PUK senior cadres had been taken hostage by the Iranians and moved to Marivan, inside Iran, in order to ensure PUK collaboration with them.⁶³

Another source wrote in anonymity, "The terrible fact is that 1) the troops' commander was Jafar Sahraroudi, the terrorist who assassinated [KDPI leader] Abdul Rahman Ghassemlou; 2) his friend of a long time, [PUK leader] Jalal Talebani, had him seen over the frontier, from Marivan to Sulaymaniyeh. There, in a mosque, he prepared for him a friendly welcome. And the night after guided him to the environs of Koy Sanjaq, to 'his Kurdish brothers' place, so that Sahraroudi would do the dirty job for him. I know well how unscrupulous Jalal is-but this was beastly. As I know how readily - happily he meets the KDPI leaders, and how innocent he presents himself to them ..."⁶⁴

Although Iran declared the retreat of its forces, the KDP and KDPI said that Iran kept some troops in

Northern Iraq and warned of more attacks.⁶⁵ In the following weeks as the conflict between the KDP and PUK escalated, Iran was reported to build up an even greater military and intelligence presence in Northern Iraq. Thousands of Revolutionary Guards and the Badr Forces were reported to have joined the PUK in regaining Sulaymaniyeh from the KDP in October 1996.⁶⁶ Iran's Revolutionary Guards from the Ramadan, Zefar and Nasser command centers were also said to have set up a joint command center with the PUK in the city of Sulaymaniyeh.⁶⁷

While it seems that by moving to areas under the control of the KDP, Iranian refugees may be better protected, this is neither practical nor effective. Due to extreme resource constraints most refugees live with paltry assistance from international organizations or Party hand-outs. As seen in the aftermath of Iran's July large scale attack on refugee camps in Koy Sinjaq, neither the UNHCR nor the KDPI were capable of relocating the camps.

Moreover, as Iran's traditional ally, the KDP's history of involvement in repressing Iranian Kurds in exchange for assistance from the Iranian government has long been a source of distrust between Iranian Kurds and the KDP. Despite tensions resulting from Iran's backing of the PUK, the KDP has not stopped seeking "friendly and strong relations" with Iran. In order to expand its connections with Iran, the KDP has even been willing to dismiss its accusations as "misunderstandings." In turn, the Iranian government is still issuing invitations to KDP members and hosting them in Iran.⁶⁸

The KDP's "tactical" alliance with Baghdad in August 1996, despite the "disappearance" of thousands of the KDP members in 1983 and the killings of tens of thousands of Kurds in the Anfal campaign in 1988 by the Baghdad regime, reveals that should the necessity arise, KDP would not hesitate to appease Iran's government at the expense of the Iranian Kurds. Finally, several reports indicate that a number of attacks against Iranian dissidents have taken place in areas under the control of the KDP. (see box pages 7 & 12)

III. Illusory Asylum

Under international law refugees have a fundamental right to safe asylum. At the heart of which lies the right to physical security in the country where they are granted asylum. Refugees also have the right of *non-refoulement*. This means that they should not be forced back from their country of asylum to a place where they may be persecuted. Refugees also deserve to have their other

basic human rights adequately respected.

The protection of refugees is the responsibility of the authority that exercises sovereign jurisdiction in a given territory. Most governments have obligated themselves to protect refugees by becoming parties to the 1951 UN Convention relating to the Status of Refugees ("Convention") and the 1961 Protocol ("Protocol").

However, Iraq is not a party to the Convention or the Protocol and has no international treaty obligations to refugees. Consequently, conditions for Iranian refugees in Iraq have always been precarious.

Because Iraq is not a signatory to the Convention, the Office of the UNHCR plays an active role in protecting refugees in Iraq.⁶⁹ UNHCR's assistance to Iranian Kurds seeking refuge in Iraq is mainly directed toward two groups. One group is the estimated 4,000 Iranian Kurdish refugees scattered throughout the Erbil and Sulaymanieh governorates in Northern Iraq. The other group consists of 21,000 Iranian Kurds in the Al-tash refugee camp, west of Baghdad.⁷⁰ Assistance to these groups has consisted of only the most basic care and maintenance, efforts toward the voluntary repatriation of these groups, and for those who are unable or unwilling to repatriate, efforts, generally unsuccessful, to resettle them.⁷¹

Implementation of UNHCR programs in Iraq has been complicated and difficult. The vast numbers of refugees,⁷² the ongoing UN embargo against Iraq, inflation, general economic disarray, and internal and external political turmoil have all hampered UNHCR's efforts. While these problems have had a devastating impact throughout Iraq, they have hit the refugee population harder than the general population. As one UNHCR staffer noted, Northern-Iraq is "one of the most difficult places in which UNHCR is currently operating".⁷³ The significance of such a statement can only be fully appreciated when one considers the fact that UNHCR operates in some of the harshest, poorest and most conflict-ridden regions of the world.

An overview of UNHCR's assistance to Iranian Kurdish refugees in Iraq reveals that the levels of assistance are woefully inadequate. Refugees in government controlled areas have been languishing under deteriorating living conditions for over a decade. Their prospects for improvement or resettlement in a third country are slim to non-existent. In Northern Iraq similarly dismal conditions are compounded by a lack of security for refugees which leaves them living in constant fear.

Care and Maintenance

There are no independent reports on living conditions and levels of assistance for refugees in Northern-Iraq. However, reports from Iranian refugees suggest

THE CONDITIONS OF REFUGEE CAMPS IN N. IRAQ

Life in refugee camps in northern Iraq is even less hospitable and more insecure than in urban areas.

According to reports received from refugees who resided in two camps in Northern Iraq for several months in 1997. The camps, Balguz (families) and Zawita (singles), are run by the the Kurdish Democratic Party forces and the UNHCR. Refugees in these camps suffer from insufficient food, water, heat, sanitation, medicine and doctors. Most camp residents are members of the Iraqi Shi'a Supreme Council of the Islamic Revolution, which is a group in Iraq controlled by Iran. As a result, Iranian refugees who live in these camps constantly fear that they will be killed, poisoned or abducted with the help of the members of the SCIR. At night Iranians have to stand guard in turns to watch the activities of SCIR members. The camp in Zawita is reported to have accommodated crime fugitives from the government controlled areas, suspected by the refugees to also be potential collaborators of the Iranian government in exchange for money. Turkish troops have regularly launched military attacks in that areas, injuring and killing many civilians. In fact, it is reported that in spring 1997, Turkish troops set up a base in a yard adjacent to the camp site in Zawita, further exposing the refugees of being caught in the middle of the conflict between the Turkish military and the Kurdish rebels from Turkey.

Source: Three refugees who were deported from Turkey to Northern Iraq in March 1997 and resided in these camps for 6 to 12 months until they were resettled in western countries by

the UNHCR Office in Turkey.

In summer 1997, a group of human rights activists from various European countries visited two other refugee camps, Ninova and Sumail, in the KDP territory which accommodated Kurdish refugees from Turkey. Their report describes Ninova to be a prison Camp, administered by the UNHCR where according to the camp committee, more than 40 children had died as a result of infectious diseases. The report adds that Malaria, typhus, and dysentery were spreading among the refugees while the camp lacked doctors and medicine and refugees were prohibited from attending the hospitals in neighboring Dohuk. Three quarters of the inhabitants of the camp were undernourished due to the insufficient monthly food rations provided by the UNHCR and the drinking water was contaminated. The KDP had stolen the little that the refugees have had and those who have tried to leave the camp have been shot at by armed KDP men or have disappeared without a trace. In another camp, the report says, typhus epidemic was raging and nearly all the children were malnourished. There was no doctor to treat the sick and the hospital refused to treat the refugees. Anyone who left the camp and ran into a KDP checkpoint risked prison and torture.

Source: Refugees In The Ninova Camp, Kurdish Red Crescent, 1997, Germany.■

that only a portion of them receive food rations through the UNHCR. The ration itself--9 kg flour, 900 gr. cooking oil, 300 gr. sugar, 500 gr. lentils, per month per person-- does not even provide half caloric needs of a person. All other items must be purchased on the open market where prices are several thousand times what they were in early 1990.⁷⁴ Employment remains severely restricted even for the local population⁷⁵ and the nutrition situation has remained critical.⁷⁶ The uncertainties of the future continue to take their toll on Iranian refugees too.

Few Iranian Kurds live in refugee camps run by Iraqi

Kurdish authorities (Kurdistan Democratic Party) and the UNHCR. However, the appalling conditions reported from inside some of these camps indicate that these refugees have no alternatives that would allow them to live a better life in Northern Iraq. [see box]

Reports from the Al-tash camp, which is located outside Iraqi Kurdistan and controlled by the Baghdad government, further indicate the general gravity of living conditions for refugees anywhere in Iraq. Independent reporters who visited the Al-tash camp in 1996 found the refugees living in squalor in a slum-like conditions.⁷⁷ In the summer of 1995 UNHCR's representative in Iraq,

Abdallah Saied, told Reuters: "With U.N.'s food stocks in Iraq running out UNHCR could no longer provide them [Al-tash refugees] with a full food basket." World Food Programme representative in Iraq, Lucielo Ramirez, added that "The situation of the refugees is getting bad. Because of our supply shortages, they are not getting enough."⁷⁸ In Al-tash, refugees are not permitted to work, and their movement is also severely restricted.⁷⁹

The outlook for these refugees is so grim that in June 1996 some 150 Al-Tash refugees, mostly women and children, who "could not stand it any more", fled to Kurdish-held Northern Iraq because "there was hardly any water, food or health care." Some of them were offered dilapidated houses by Iraqi Kurdish villagers, but many sought shelter in abandoned poultry shacks and sought help from relief organizations.⁸⁰

Repatriation

No repatriation efforts have been reported for refugees in Northern Iraq. However, according to refugees who have approached the UNHCR offices in Northern-Iraq to seek resettlement in a third country, UNHCR officers encourage refugees to return to Iran voluntarily.

It is estimated that 10,000 of the Al-tash refugees have registered their names for voluntary repatriation since 1995.⁸¹ To date, no progress has been made in repatriating them due to bilateral problems.⁸² Regardless of the levels of success, the refugees austere living conditions for more than a decade without any prospects for resettlement call into serious question the true voluntariness of their requests for repatriation.

Resettlement

Resettlement has been the bedrock of protection for Iranian Kurd refugees in Iraq due to the unacceptable conditions of asylum in this country. For refugees in

Northern Iraq resettlement has also been the only means of protection against immediate and long-term security threats.

As noted by the UNHCR, in theory, any refugee in Al-tash or Northern Iraq who is "unable or unwilling to repatriate" is eligible for resettlement in a third country. However, lack of resettlement opportunities, undervaluing of resettlement by the UNHCR itself, as well as problems in the processing of cases has made this only durable solution impossible for most of the approximately 25,000 eligible refugees in Iraq.

A very limited number of countries provide annual resettlement quotas for refugees. Within these annual government quotas, limited places are available for UNHCR requirements given the percentage of places reserved for special interest groups admitted by governments independent of UNHCR. Additionally, of the places available to UNHCR, many countries prefer to admit persons with potential for rapid integration. In the past several years, while UNHCR's annual resettlement needs have consisted of only 1%-2% of the world's refugee population, only between 30%-40% of the targeted caseload was actually resettled.

Another is that there are elements within UNHCR that undervalue resettlement as a legitimate solution to the refugee crisis. In 1995, a consultant to UNHCR commented that "there are strong forces in Geneva, and in several European capitals, that would like to see resettlement collect dust in the bins of history."⁸³

Among the problems that particularly hinder UNHCR's ability to resettle refugees from Iraq are the following: none of the principal resettlement countries has an embassy in Iraq; the Baghdad International Airport is closed; and there are many obstacles to obtaining permission to exit Iraq. In addition, until 1996, government missions from potential resettlement countries were not even able to travel to Iraq. Thus, UNHCR officers had to hand carry case files to Amman, Jordan, where some governments had agreed to examine cases

Resettlement Of Iranian Kurds From Iraq

	Total number of Iranian Kurds in Iraq (N. Iraq)	volunteered to repatriate	UNHCR r e s e t t l e m e n t assessment	actual
1993	28,500 (6,000)	-	-	-
1994	26,500 (4,000)	-	2,000	280
1995	27,000 (4,000)	10,000	1,460	255
1996	23,762 (3,682)	10,000	2,400	514
1997	24,487 (3,700)	10,000	N/A	1,616

sources: UNHCR and the US Committee for Refugees.

TIMELY RESETTLEMENT: A MATTER OF LIFE AND DEATH

The following refugees were determined by the UNHCR offices in Northern Iraq not to have "priority" for resettlement to a third country or, as it is also termed, "not to be security cases". The fates of these refugees challenge UNHCR's conclusions about their security.

■ Ebrahim Gageli's body was discovered on August 13, 1997, near Panjwin after his disappearance for several days. [KDPI-Iran, Kurdistan, No. 248, August 1997, p.11]

■ Mansur Mohammadpour's body was discovered between Dukan and Sulaymaniyeh on October 4, 1997. He was kidnapped on his way from his home in Koy Sanjagh to Sulaymaniyeh by agents of Iran. There were two bullet holes in his body and his legs, arms and neck were broken [Kurdistan, No. 250, October 1997, p.11].

■ Hossein Zinati was shot to death on November 12, 1997 in Sulaymanieh. [KDPI-Iran, Kurdistan, No. 251, November 1997, p.15]

■ Khalid Abbasi, another refugee, was shot to death on 6 June 1997 in "Huze Vashke", a Bazaar in Sulaymaniyeh in front of the eyes of hundreds of residents of Sulaymaniyeh. [KDPI-Iran, Kurdistan, No. 246, July 1997, p.7]

■ Ahmad Sharifi, an Iranian refugee in Northern Iraq "disappeared" in 1997 after he was arrested in his home in Sulaymaniyeh, reportedly by members of the Patriotic Union of Kurdistan security forces. Sharifi was a former member of the Iranian opposition Organization of Iranian People's Fedaii Guerrillas (Minority). According to Amnesty International, his fate remained unknown at the end of the year. [AI Report 1998]. However, the Kurdistan Democratic Party of Iran reported that Sharifi was handed over to Iranian authorities on January 23, 1997 after he was arrested in Sulaymaniyeh. [KDPI-Iran, Kurdistan, No. 242, February 1997, p.13]

■ Salim Karimzadeh, a former member of KDPI-

Iran, sought the assistance of UNHCR's Erbil Office for resettlement in 1996. In March 1997, while his request was still under consideration by the UNHCR, he was shot in front of his residence in a village near Erbil. His colleagues who fled to Turkey earlier say that even as a former member of the KDPI-Iran in Northern-Iraq, Mr. Karimzadeh was threatened by agents of Iran. He was an anchor man in the KDPI-Iran radio until 1996.

■ When Mohammad Hakimzadeh and his family were finally resettled in late 1996, his 16-year-old son, Kaveh, did not accompany them. He was brutalized and then killed in August 1996 reportedly by agents of the Iranian government who were assisted by local Patriotic Union of Kurdistan security forces. As reported by Kaveh's friends, Mr. Hakimzadeh, a former member of the KDPI-Iran, registered with the UNHCR in 1991. Before Kaveh's assassination, however, repeated pleas by him for resettlement, were turned down by the UNHCR.

■ Rahman Shabani and Haji Abdullah Mohammadi, two other refugees who were assassinated in Sulaymaniyeh in January 1996, were also reported to have been found ineligible for resettlement by the UNHCR for several years prior to their murder. Survivors of Rahman Shabani's family were eventually resettled in 1997. Survivors of Mohammadi's family are still in Northern Iraq awaiting resettlement.

This is not an exhaustive list. More than 200 disappearances, refoulements and killings of Iranian dissidents in Northern Iraq have been reported in the past several years. A number of them have been active members of the political parties who did not register with the UNHCR and thus were not formally recognized as refugees. However, a significant number have been refugees who registered with the UNHCR and requested resettlement in a third country.■

there.⁸⁴

Resettlement of refugees from Northern Iraq is even more complicated. Refugees who were recently resettled had to first be moved to the government controlled area. Then, from Baghdad, special permits were required for travel to Jordan. After that arrangements were made for them to transfer from Jordan to the country of resettlement. In addition, intra-Kurdish

fighting continues to threaten peace and stability.

As shown in the Table, until 1996, the overall resettlement of Iranians from Iraq has been infinitesimal. In 1996, for the first time missions from Norway, Sweden, Finland and Denmark traveled to Iraq to interview refugees. As a result, the number of resettled cases doubled to a little more than 500 persons, the majority of whom were Kurds in the Al-Tash Camp. This, however,

was still only a fifth of UNHCR's minimal need assessment for that year (2,400), which in turn was less than one-tenth of the actual number of refugees in need of resettlement.⁸⁵

In 1997, UNHCR made further progress in resettling Iranian Kurd refugees from Iraq. However, only 6% of the actual resettlement need were resettled. Also, a considerable number of refugees in the backlog from previous years still remained without resettlement opportunities.

According to the UNHCR an estimated 2,000 refugees will be processed for resettlement from Iraq in 1998 (it is not stated how many of this estimate will be from Northern Iraq).⁸⁶ However, as in previous years, successful processing of even this finite caseload remains precarious due to the aforementioned problems.

It is further important to note that for those refugees in Northern Iraq who are selected for resettlement, whether or not they can actually take advantage of the opportunity depends on their ability to protect themselves from aggression during the period necessary for processing of their applications.

Finally, what remains a matter of compelling concern is that the overwhelming majority of the refugees will remain in precarious conditions due to lack of resettlement opportunities. The prioritization system that the UNHCR has been resorting to should not be seen as an indication of a lack of a compelling need for resettlement for the remaining group, but rather as a mandatory response to a limited resettlement quota.

In fact, 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 criteria used for this prioritization is highly prone to erroneous decisions. A significant number of refugees have already paid the price with their lives because of the prioritization system. [see box on page 12]

Although the UNHCR continues to express that the agency remains "preoccupied by the security situation in Northern Iraq"⁸⁷ and that resettlement remains "the principal instrument of protection" in this region, the reality is that, due to insurmountable constraints, UNHCR will continue to be unable to respond to the protection needs of the great majority of refugees. Thus, asylum and protection continue to be denied to thousands of Iranian refugees in Northern Iraq. They will continue to be left on their own devices to figure out how to avoid aggression and to protect their lives.

For those refugees who find the means to seek the only available solution, which is to flee to the neighboring country of Turkey in order to seek the assistance of the UNHCR office in Turkey, there is yet another gaunt-

let to run. Upon crossing the southern borders of Turkey, Iranian refugees have continuously found themselves in a hostile and precarious situation. During the past several years, Turkish authorities have been subjecting many ex-Northern-Iraq Iranian refugees to summary deportation at the borders. Those who have managed to approach the UNHCR Branch Office in Turkey have been refused assistance for resettlement and instructed to return to Northern-Iraq and request assistance from the UNHCR offices in that region.

IV. Turkey: The Gauntlet to Safety Continues

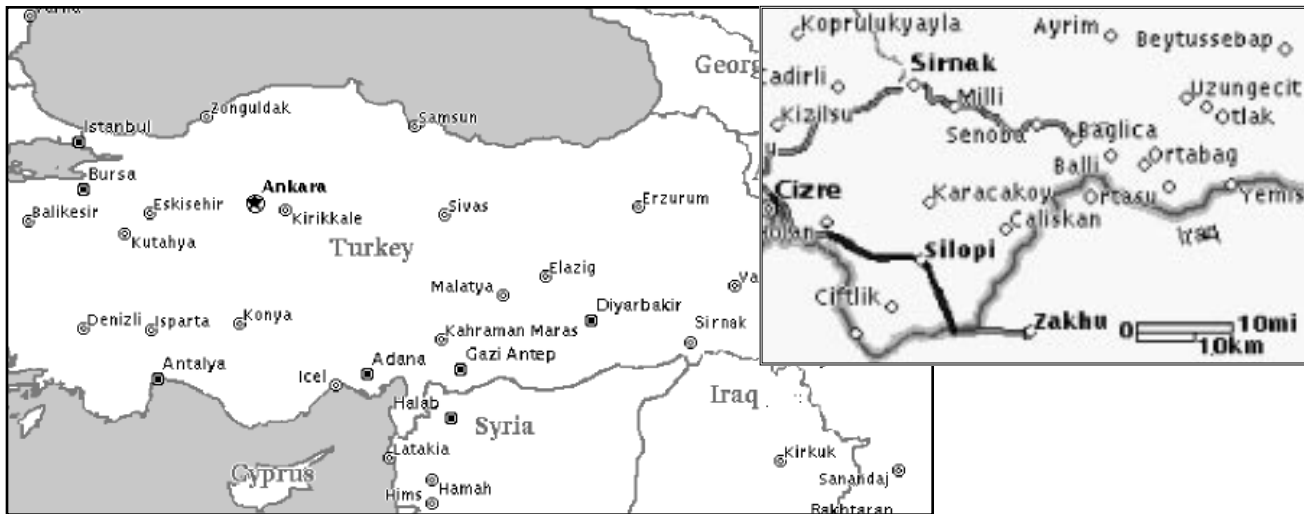
Since the creation of the so-called "safe haven" in Northern-Iraq, thousands of Iranian refugees residing in this region have fled what is in reality a very unsafe haven and crossed into Turkey. The flow has continued in spite of the dangers of the journey across the border between Turkey and Iraq, which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

Turkey's hostile response to the flow of refugees from Iraqi Kurdistan predates the creation of "safe haven".⁸⁸ Shortly after the creation of the Kurdish enclave in 1991, Turkish authorities expressed the view that Northern Iraq was now safe and no one there had any good reason to seek asylum abroad.⁸⁹ Since then, the authorities have sought all possible means to deter refugees from entering Turkey from Northern Iraq. Those asylum seekers who are not summarily deported at the border are often subjected to ill-treatment and encounter a battery of new procedural obstacles which also frequently conclude in deportation.

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

1994 Asylum Regulations

Turkey is one of the last remaining countries explicitly to discriminate between refugees on the basis of their national origin. Iranians are barred from consideration as refugees because Turkey maintains a geographical limitation on the 1951 UN Refugee Convention. Non-European refugees in Turkey are only granted "temporary asylum" on the condition that they will be resettled in a third country. On November 30, 1994, the Turkish government announced a new directive Regulation on the Procedures and the Principles related to Mass Influx and the Foreigners Arriving in Turkey either as



Individuals or in Groups Wishing to seek Asylum from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum From a Third Country [hereafter the 1994 Asylum Regulation].⁹⁰

The new regulations require that non-European asylum seekers in Turkey present themselves within five days of arrival to the police. Those who arrive without travel documents must approach the police station closest to where they entered the country. The 1994 Asylum Regulation instructs police near the borders to conduct interviews to determine if the new arrivals should be officially recognized as “asylum seekers”. “Asylum seekers” who pass this hurdle receive a temporary residence. Article 1 of the 1994 Regulation defines an “asylum seeker” as a foreigner who has been found by the Turkish authorities to have a well-founded fear of being persecuted according to the usual criteria laid down in the UN Refugee Convention and Protocol.⁹¹ In spite of this, any recognized “asylum seeker” who fails to get resettled in a third country in “reasonable time” will be deported.⁹²

The implementation of the 1994 Asylum Regulation has created daunting obstacles for all Iranians seeking asylum in Turkey, regardless of the border by which they enter. Many have been summarily deported because of failure to register their claims within five days of their entry into Turkey, for lacking identification documents or using false documents. UNHCR has confirmed that nearly half of the 133 Iranians known to be forcibly returned to Iran in 1995/1996 had already been recognized as refugees by the UNHCR, and all the others were still cases under consideration. It is believed that a much larger number are rejected at the borders, or arrested and deported before they reach the UNHCR office, and therefore leave no record of their attempt to seek asylum in Turkey.⁹³

In addition to the rigid application of the five-day

rule and the geographic restriction for filing claims at the borders, the 1994 Asylum Regulation has been criticized by a wide range of critics including reputable refugee and human rights organizations and Turkish scholars on technical and substantial grounds. Police officers, for example, clearly do not have the expertise or training necessary for receiving and/or evaluating asylum seekers. Decisions are made and reviewed not by an independent and specialized body but by anonymous officials at the Interior Ministry who appear equally unqualified for the task. Internal appeal mechanisms are partial, being simply referred back to the same department that made the original decision. Asylum seekers have no realistic chance of obtaining legal assistance or representation to assist them in the process.⁹⁴

Arbitrary Implementation of The Regulations by The Police at The Border

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

Şırnak is one of the ten provinces in the southeast Turkey that are under state of emergency legislation due to a bloody 13-year struggle between security forces and the armed members of the banned Kurdistan Workers’ Party. The state of emergency gives wide-ranging powers to the security forces and local governors, who legit-

imize human rights violations under the pretext of “security threats”. Amnesty International reports that Turkish citizens can still be swept off the streets and into police station, where they may be held for up to a month. There they will be unprotected by even the most basic safeguards against torture, still a standard method of interrogation. The organization also reports that prosecution of police for human rights violations are almost unknown in southeast Turkey.⁹⁵ Independent investigation of human rights violations is also difficult since movement is strictly controlled in the region. Local authorities have the power to expel visitors, and investigators and critics of the security policy in southeastern Turkey are regarded as potential enemies of the state.⁹⁶

Iranian asylum seekers must reside in the virtually depopulated village of Silopi next to the Iraqi border in the south of Şırnak province where life is already harsh and insecure. In January 1997, a representative of the Iranian Refugees’ Alliance traveled to Silopi. The living conditions of asylum seekers were dire. They lived in one-room clay houses without bathrooms or running water - often without electricity. In some houses, people and animals lived under the same roof. Food and other basic needs were scarce or unaffordable. There was no specialized medical care for people in Silopi. UNHCR offered little or no financial support to asylum seekers in Silopi, where jobs are scarce even for the local people. When asylum seekers found temporary work they were grossly underpaid. For example one person reported that he had been paid only 100,000 TL (\$1 US) for unloading ten Tons of cargo from a truck and another said that he was given 1 million TL (\$10 US) for eight days’ construction work.

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

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



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

While the police interview is supposed to be for the purposes of recording the reasons for seeking asylum, many asylum seekers said that most of the questions asked were aimed at identifying cross border routes. One asylum seeker said that he was threatened with having his children held in the bathroom of the police station because the police commissioner was dissatisfied with his account. Others said they were threatened with deportation to Iran. Competent interpreters were not provided during interviews, and asylum seekers reported that as a consequence they had difficulty in presenting their case properly. In Şırnak, Iranians resorted to using a canteen worker at the police station who happened to speak Kurdish to assist with translation. But since he spoke a different dialect of Kurdish, communication was still difficult.

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

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



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

Standard police practice in Şırnak clearly constituted a breach of the principle of *non-refoulement*. The 1951 UN Refugee Convention prohibits states from sending anyone against their will to a country where they may be at risk of human rights violations (the fundamental principle of *non-refoulement*.) At its 28th session, the Executive Committee of the UNHCR (ExCom), of which Turkey is a member, reiterated that no reservations are permitted to this fundamental principle. It was clearly stated that this principle applies not only with respect to the country of origin but to any country where a person has reason to fear persecution. In addition, in circumstances where access to asylum procedures constitutes the only means of avoiding refoulement, denial of access constitutes a breach of the principle of *non-refoulement*.

In view of these hazards, Iranians entering Turkey from Northern Iraq before the summer of 1996 did their best to evade the police in Silopi/Şırnak in order to reach the UNHCR office in Ankara, where they hoped to get an opportunity for resettlement in a third country. Because they were breaking the law, such asylum seekers still faced instant deportation as “illegals” if caught. Nevertheless, the fact that UNHCR would agree to process their claims and proceed with their resettlement in third countries gave them some chance of reaching eventual safety, whereas by staying in Silopi/Şırnak they would almost certainly have faced summary deportation.

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

issue them exit permits, saying that as unregistered aliens they were “illegals” and should be deported. The statistics available to Amnesty International indicate that during the period of 1 January to 30 April 1997, at least 106 Iranians who had been recognized by UNHCR, and in some cases accepted by resettlement countries were arrested and forcibly returned to Iraq.

This punitive operation was in clear violation of the 1951 UN Refugee Convention. The forcible returns were in breach of the principle of *non-refoulement*, since refugees were returned to a place where they lacked protection [see sections II & III]. Furthermore, the Convention prohibits the imposition of penalties on refugees due to their illegal presence and requires an unconditional examination of each and every refugee’s claim. In addition, Conclusion 15 of the Executive Committee of the UNHCR (Excom) states that “while asylum-seekers may be required to submit their asylum request within a certain time limit, failure to do so, or the non-fulfillment of other formal requirements, should not lead to an asylum request being excluded from consideration.” In other words, if a government is to retain a time limit on the submission of claims, international standards require that the time limit should not be applied in a strict fashion, so as to exclude asylum applications from consideration solely on the grounds that applicants have failed to apply within the time limit.

UNHCR's Response: Soft With The Government, Tough With The Refugees

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

Although the Turkish government was determined to end the presence of “illegals”, it was not willing to rectify the abusive conditions in Şirnak which were the main cause of asylum seekers’ refusal to follow the regulations and register asylum applications in Şirnak. Facing a dilemma, UNHCR decided to give in to governmental pressure without seeking any reciprocal guarantees from the authorities that asylum seekers would not be forcibly returned by the border police. On 15 June 1996, the UNHCR office in Ankara announced that it would no longer interview ex-Northern Iraq asylum seekers in Ankara. Any assistance to them was made contingent upon their return to Silopi/Şirnak and registering with the police there. Some asylum seekers resisted the instructions and persisted to be interviewed in Ankara. But in the face of UNHCR’s tough posture, most realized that they had no choice but to return to the border. Predictably scores were summarily deported when they returned to Şirnak and approached the police. Official statistics are not available for the number of summary deportations to Northern Iraq but in the winter of 1997 when Iranian Refugees’ Alliance representatives were visiting Turkey there was a report that 23 refugees were forcibly returned to Northern Iraq in a single day. Several refugees interviewed by the Alliance in January 1997 in Silopi had already been summarily deported once in summer or fall 1996. Asylum seekers also gave the organization a list of 78 persons who were deported in December 1996.

The UNHCR office in Silopi began interviewing refugees in summer 1996. Arriving asylum seekers approached the UNHCR hoping that the office would assist them and prevent their summary deportation. They met a stark welcome. Every asylum seeker who met with the Iranian Refugees’ Alliance complained about the UNHCR local officer who tried to “strip them of the little dignity they had been left after mistreatment



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

by the police”. For example, some asylum seekers said that on their first encounter the local officer admonished them for coming to Turkey and out of hand branded them as economic migrants. Some were told that they “do not even look like political refugees”. When they protested, the UNHCR officer, like the police, threatened asylum seekers with deportation. UNHCR officer subjected asylum seekers to body searches during their interviews. Some were forced even to take off their shoes so that they could be searched for any hidden valuables which might excuse the UNHCR from providing financial assistance. Apparently the discovery of a pack of US brand cigarettes could lead to assistance being withheld. Financial assistance was only granted to refugees after their cases had been assessed and approved by the UNHCR. This process took on average six months. In the meantime, some families received from the UNHCR two or three blankets and a gas heater. For most of them, the blankets were insufficient, and the heaters too costly to run. Problems in UNHCR’s processing caused further delays in granting financial assistance, and in asylum seekers’ eventual transfer to central areas of Turkey. Many said that they had to be re-interviewed because their first interview was conducted without the assistance of a competent interpreter or by the local officer who seemed to lack expertise in asylum matters.

Far worse was the UNHCR’s indifference to the local police mistreating and unlawfully deporting refugees. On January 19, 1997, Iranian Refugees’ Alliance met with five asylum seekers in Silopi who had been hiding in nearby mountains for approximately 20 days in fear of summary deportation. On the day they entered Turkey, the police took their identity documents and UNHCR registration letters but arbitrarily refused to register them. After a week, they learned that the police had begun a search to arrest them for deportation. They

PLAYING PINBALL WITH REFUGEES

Karim and Ghader's Story

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

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

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

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

Karim's interview with the UNHCR was brief and he was thus able to make it to the police in Şirnak on the first day of his entry. He asked the police to register

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

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

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

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

Before they met up they both had separately approached the UNHCR offices in Dohuk and Erbil. UNHCR told them that because their UNHCR files were in Turkey, they should return to Turkey. Fearing that their lives were in danger in Iraq from Iranian gov-

ernment agents operating there, and denied UNHCR's protection, Karim and Ghader called on friends and family for money to flee to Turkey again. In the meantime they sought refuge in the house of a former political colleague whose house was near the offices of the United Nations in Erbil. On one of the few occasions that they left their hide-out, they found that they were being followed by an unmarked vehicle carrying four armed passengers, which they eventually managed to elude.

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

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

Ghader and Karim then went into hiding hoping that this time UNHCR would be able to help. Three months later, Ghader received a letter from the UNHCR informing him that UNHCR was "unable to assist you in Turkey. The only assistance we can give you is for your return to the country where you have lived since leaving your country of origin." Some months later Karim received a similar letter.

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

Ahmad and Aziz's Story

Since 1994, Ahmad, together with his wife and four children had shared a house in the town of



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

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

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

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

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

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

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

Ahmad and his family crossed the border to Turkey illegally on February 5, 1997. Fearing summary deportation by the border police, they too avoided the

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

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

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

contacted a UNHCR officer from Ankara who was in Silopi temporarily and asked her to approach the police on their behalf. However, when the police told her that "they have no record of such people attempting to register with the police," she told the asylum seekers that "they will have to find a solution for themselves." Two of the asylum seekers eventually managed to travel clandestinely to Ankara but the others were caught and deported by the police.

Publicly, UNHCR remained similarly silent. These systematic abuses were neither reported nor condemned. When Iranian Refugees' Alliance asked one senior UNHCR legal officer in Ankara who had happened to express frustration at "what was happening in Silopi", why Turkey was not criticized at the recent UNHCR Executive Committee meeting in October 1996, she said that "the failure had disappointed her too."

In spite of the uneasiness expressed by this staff member, UNHCR not only persisted in holding back from its

duty to condemn the serious violations of the 1951 UN Refugee Convention committed by Turkey, a member of its Executive Committee, but also refused to publicize the statistics on deportations to Northern Iraq. In response to the Iranian Refugees' Alliance's request for statistics, the office claimed that the "information is unknown" to them "as many were deported prior to the registration/interview with UNHCR Turkey".⁹⁷ However, it is common knowledge that most asylum seekers endeavor to register with the UNHCR prior to requesting asylum-seeker status from the police. "No one dares to approach the police without a UNHCR police letter for fear of instant deportation," Iranian Refugees' Alliance was told repeatedly by asylum seekers. In any event, the agency should disclose even incomplete figures, as an acknowledgement of the practice and to give some guide to the scale of the problem.

UNHCR strayed even farther from its principles when responding to the Turkish authorities' campaign to

deport the “illegals” to Northern Iraq. Facing criticism from many circles for its insouciant attitude, the Ankara Branch Office in Turkey resorted to an interpretation of *non-refoulement* - the most basic principle of refugee protection - that was straightforwardly perverse. This principle, which properly proscribes the forcible return of a refugee to any country where a person has reason to fear persecution, was disingenuously reinterpreted by the UNHCR Branch Office in Turkey to the effect that the prohibition is limited to the return of a refugee to “a refugee’s country of origin and not to a country of first asylum”.⁹⁸

In short, despite an initial period of sensitivity to refugees, UNHCR’s decision in summer 1996 to coerce the asylum seekers to go back to the borders was the beginning of a slippery slope at the bottom of which this international agency ended up concealing the government’s systematic abuse of the right to seek asylum and rationalizing egregious violations of international refugee law.

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

UNHCR’S Irregular Mover Policy

On February 13, 1997, at the peak of Turkey’s campaign against ex-Northern Iraq Iranian asylum seekers, UNHCR announced that from then on, it, too, would refuse any assistance, including resettlement, to this group of Iranians. Although UNHCR determined these Iranians to have refugee status, i.e. to have a well-founded fear of persecution, it decided to consider them as “irregular movers” who have already found protection in Northern Iraq.⁹⁹

The July 1997 revised UNHCR Resettlement Handbook states that UNHCR applies the following working definition:¹⁰⁰

An irregular mover is a refugee/asylum seeker who leaves a country where he/she has found or could have found and enjoyed basic protection, to

seek asylum in another country, unless doing so for compelling reasons. Such compelling reasons include a threat to physical security of self or accompanying close family members, or family reunion with immediate family members who are not themselves irregular movers in the current country.

This definition is based on a new UNHCR “Policy on Urban Refugees”.¹⁰¹ It is claimed that due regard has also been paid to the 1989 ExCom Conclusion (No. 58 (XL)) on Irregular Movers when adopting the definition. However, as many critics of the new Policy on Urban Refugees have pointed out, the ExCom Conclusion defines Irregular Movers as persons “who *have found protection* in a particular country” but nevertheless “move in an irregular manner” to other countries to “seek asylum or permanent resettlement.”¹⁰² [emphasis added]. It says nothing whatsoever to indicate that a country ought to be considered safe simply because a refugee “could have found” protection there. As James Hathaway, professor of refugee law at York University in Toronto, has pointed out, Conclusion 58 “only restrains the freedom of international movement of refugees who have, in fact, already been granted the rights guaranteed to them under international law.”¹⁰³

In response to sharp criticism of the Urban Refugee Policy by many, including non-governmental organizations, scholars, and even UNHCR’s own officials, UNHCR changed the wording of the definition of Irregular Mover in December 1997, to conform with the Excom Conclusion 58. The “key consideration is ... whether or not the refugee had found protection [in another country]”, the revised policy states.¹⁰⁴ However, the case of ex-Northern Iraq Iranian asylum seekers in Turkey demonstrates that the problem is not definitional. Ex-Northern Iraq Iranian asylum seekers are not Irregular Movers even by the looser termed definition because even if they had stayed in Northern Iraq, the local authorities or the UNHCR could not ensure their protection. These refugees are determined as such by the UNHCR on the basis of a novel notion of “protection”, and not whether or not they have or could have found it. In its Irregular Mover determinations, UNHCR uses a definition of protection that is endlessly shrunk to fit whatever was available to refugees before movement, regardless of its adequacy and effectiveness. As a result, the unchanged part of the “working definition”, which addresses the “compelling reasons” for movement, is conveniently disregarded when these determinations are made. The remainder of this section will discuss the Irregular Mover policy implemented in Turkey and will demonstrate that the flaws of this policy are so fundamental that it contradicts the principles of refugee pro-

tection that UNHCR is obliged to uphold.

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

When criticized by refugee and human rights groups, staff members of the UNHCR Branch Office in Turkey have justified the policy by overstating the UNHCR's

resettlement activities in Northern Iraq, and grossly understating the security risks there. The Ankara Branch Office has painted a picture of security conditions in Northern Iraq that has no grounding in reality. For example, it has been said that the terrorist activities of the Iranian government in Northern Iraq have only targeted "armed fighters" of political groups and not "refugees". It also has been said that Iranian refugees in Northern Iraq are safe in the areas controlled by the Iraqi KDP, one of the rival ruling parties in Northern Iraq. As discussed in sections II & III of this report, many refugees as well as armed fighters have been attacked, individually or in groups by Iran's agents. Members of both groups have been killed, injured, or poisoned. These incidents have not been limited to areas under the rule of the Patriotic Union Of Kurdistan (PUK), the other ruling party which is closer to the

WORDS WHICH CONTRADICT DEEDS

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

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

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

Nonetheless, it took the UNHCR office in Ankara

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



Iranian government, but have also taken place in the rival KDP-controlled areas. It is the widespread and indiscriminate character of these attacks that has made Northern Iraq an unsafe country of first asylum for all “refugees”.

The Resettlement Handbook states that protection is fundamental to the definition of Irregular Mover. Staff in UNHCR Turkey agree but operate their own unique definition of “protection.” In response to Iranian Refugees’ Alliance’s concerns, one senior staff member of UNHCR Ankara offered the following view:¹⁰⁵

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

As noted in section III of this report, the only form of assistance other than resettlement provided by UNHCR to selected Iranian refugees in Northern Iraq is a meager food ration. Therefore, this “adequate protection” actually consists of a dole of food and a low expectation (20% by 1997 statistics) of future resettlement. Although the officer in question acknowledges that “cases with security problems” exist in Northern Iraq, she conveniently ignores the fact that these “security problems” are what prompts asylum seekers to cross into Turkey. To say that refugees have security problems and then conclude that they have no protection problem is inherently contradictory. It is not only incompatible with the Excom Conclusion 58 but contradicts UNHCR’s own criteria for use by its staff. For example, the criteria is defined in the Urban Refugee Policy in the following general terms:¹⁰⁶

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

When Iranian Refugees’ Alliance asked how would UNHCR regard an asylum seeker who has resided in Northern Iraq only on transit to Turkey, the Branch office said that even such a refugee “may very well be considered as an irregular mover not qualifying for assistance in Turkey”. She went on to shed some light on the more specific criteria used in these determinations:¹⁰⁷

When these kind of decisions [on irregular mover cases] are taken we consider all relevant circumstances in the case, i.e. the time spent in Northern Iraq, where they stayed, how they earned their living, what they did during their stay in

Northern Iraq, family or other links in Northern Iraq etc. Basically, the decision will reflect whether it would have been reasonable for the asylum seeker to both have approached UNHCR in Northern Iraq and to have remained in that area considering all the circumstances in the case.

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

Evidently, the only factor noted by the Resettlement Handbook that seems to have attracted the attention of UNHCR staff in these determinations is the so-called “pull factors” for irregular movement. The Resettlement Handbook goes on to say that:¹⁰⁸

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

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

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

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

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

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

On the other hand, correspondence received from the UNHCR Headquarters in Geneva by the Iranian Refugees' Alliance recognizes the precarious situation in Northern Iraq. However, the UNHCR Geneva also relies

on the relative increase in resettlement efforts from Northern Iraq in 1997 and much wishful thinking about the future to justify returning refugees. Noting that a total of 774 Iranians had been resettled in 1997 (while over 3,000 still remain) the Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East (CASWANAME) promises that "UNHCR will endeavor to meet any protection needs beyond that number, *if the resettlement countries continue their policy and conditions allow.*"¹⁰⁹ [emphasis added]

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

In April 1998, the Iranian Refugees' Alliance intervened in the case of three ex-Northern Iraq asylum seekers, urging UNHCR Geneva to reverse the Irregular Mover determinations on humanitarian grounds. These asylum seekers entered Turkey in December 1996 (before the February 13, 1997 cut-off date for Irregular Movers). However, due to no fault on their part, they were summarily deported to Northern Iraq by the Şirnak police shortly after arrival. They re-entered Turkey after the cut-off date unaware that such a policy had been put in place. Iranian Refugees' Alliance argued it was morally unacceptable for UNHCR, as a bystander to the original summary deportation, to now apply the Irregular Mover policy cut-off date to these asylum seekers.

In response, the UNHCR Geneva recalled that the Irregular Mover policy also had the aim of "dissuading the refugees from embarking on a perilous trip to Turkey in search of resettlement opportunities" and that "any attempt to reverse it may negatively reflect on the life and the security of the refugees who, in case irregular movers policy is canceled, may be tempted to transit by that very dangerous zone".¹¹⁰ There is no doubt that the journey through the Turkish southeast border is perilous. However, should these refugees be penalized because they felt obliged to run that risk twice over? Should their testimony that the threats against their lives and security in Northern Iraq outweighed the dangers of the journey to Turkey be simply ignored? Should they be left to their own devices adrift in Turkey, leading precarious lives including security risks by the Iranian government's agents operating in Turkey and risk of *refoulement* to Iran by the Turkish police, in order to show to others that UNHCR means business? UNHCR Geneva's answer is apparently "yes" on all counts. The expressed concern to save refugees from dangerous cross-border journeys is not convincing when contrasted with UNHCR's indifference to the very real dangers in Northern Iraq which are driving asylum seekers across

the border.

UNHCR Geneva is, however, right about one thing: the Irregular Mover policy has deterred the movement of refugees to a great extent. In January 1997, when Iranian Refugees' Alliance visited Silopi there were close

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

The Irregular Mover policy is designed to protect

OTHER PROTECTION PROBLEMS INSIDE TURKEY

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

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

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

In the past years, several Iranian opposition mem-

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

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

UNHCR and its resources from refugees. As host countries become more reluctant to allocate quotas for resettlement, UNHCR Ankara faces increasing difficulties in resettling its caseload.¹¹¹ Quota shortages impose serious financial burdens for UNHCR Ankara because refugees who cannot be resettled must be maintained for extended periods of time. Quota shortages also make the relationship between the UNHCR and the Turkish government more complex and tense. As noted before, Turkey only allows non-European asylum seekers a limited time to stay in Turkey in order to have their refugee applications assessed by UNHCR and be resettled in a third country. Turkey has explicitly stated that it will not tolerate UNHCR recognized refugees who are not able to resettle. Speedy resettlement, in other words, is virtually a refugee's only safeguard against forcible return by the Turkish government. Inability to resettle refugees presses UNHCR to adopt a confrontational attitude toward the Turkish government, insisting that the government allow refugees to stay in Turkey for extended periods of time. This is a role that the UNHCR has consistently avoided in Turkey for the past two decades.

By excluding ex-Northern Iraq refugees from UNHCR's case-load in Turkey, UNHCR considerably reduces the demand for resettlement and consequent expenditures in Turkey and helps to stabilize its historically marginal role in the country. Containing the surplus of refugees in Northern Iraq assists UNHCR in controlling its relationship with refugees too. In recent years, UNHCR has faced serious confrontations with refugees when the agency has denied them assistance and, in particular, resettlement. Refugees who are recognized by the UNHCR but whose resettlement is delayed are more likely to protest in Turkey, where they can find organizational support, than refugees living dangerously and hand to mouth in Northern Iraq.

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

UNHCR's Irregular Mover policy puts the whole frag-

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

A particularly disturbing example of this is how UNHCR's intransigence blocked a 1997 initiative on behalf of Iranian refugees in Northern Iraq by InterAction, a membership association of 160 US private and voluntary organizations. InterAction had proposed that the United States contribute a block of refugee admissions for the 3,000 Iranian refugees in Northern Iraq considered at risk from agents of the Iranian government. Because the United States requires a face-to-face interview with the refugees and does not send any personnel to Iraq, InterAction suggested that the refugees who had received positive file reviews from both the US and one other Nordic country (which accepts refugees with only file reviews) participate in this program.¹¹² InterAction requested that UNHCR negotiate with Turkey to bring the selected Iranians to Ankara for processing with the guarantee that whoever is not taken for resettlement by the US would be taken by the Nordic country which had positively reviewed the person's file. Unfortunately, InterAction's ingenious and creative proposal fell on deaf ears. UNHCR was obviously opposed to the initiative as a matter of principle. The Irregular Mover Policy dictates that cooperation between UNHCR and the governments should exclusively be in the context of "discouraging future irregular movers".¹¹³

V. Conclusion & Recommendations

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

True asylum is denied to Iranian refugees in Northern Iraq where they are not protected against security threats or against *refoulement*. Third country resettlement by UNHCR, the only durable protection solution for Iranian refugees who find themselves in Northern Iraq, has been a painstakingly slow and unpredictable

process. Many thousands of refugees in need of immediate resettlement have not been resettled so far and are unlikely to be settled in the future either. The consequent induced movement of Iranian asylum seekers from Northern Iraq in search of immediate and long-term protection must, therefore, be recognized as legitimate and responded to appropriately.

While every effort should be made to increase resettlement opportunities from Northern Iraq and to expedite the process, it is an obligation of the international community to ensure that all governments also refrain from rejecting and returning Iranian refugees who flee Northern Iraq.

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

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

The 1994 Asylum Regulations should be amended to meet the minimum standards for fair and satisfactory refugee determination. To date, several internationally recognized organizations, such as Amnesty International and the US Committee for Refugees,¹¹⁴ have made sound and practical recommendations to the Turkish government to bring its asylum system in line with internationally recognized minimum standards. The Turkish government should take steps to implement these recommendations.

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

1) the geographical restriction to apply for asylum and to remain in southeastern border towns which subjects asylum seekers to highly insecure, austere and inhuman conditions,

2) the five day limit to apply for asylum, failure of which leaves asylum-seekers liable to immediate deportation, and

3) the requirement to submit Identity documents, failure of which also leaves asylum seekers liable to immediate deportation.

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

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

Endnotes

1. Joost R. Hiltermann, *The Demise of Operation Provide Comfort*, Middle East Report, Spring 1997.
2. Half a million children under the age of five have died as a result of the UN sanctions - ten times more than were killed during the Gulf War. The World Health Organization has said sanctions should be banned as a political weapon, while the United Nations Food Programme has called it a 'brutal' instrument. (Guardian, May 18, 1996)
3. New York Times, September 12, 1996.
4. Ronald Oferinger and Ralf Backer, *A Republic of Stateless: Three years of Humanitarian Assistance in Iraqi Kurdistan*, Middle East Report Mar.-June 1994.
5. Amnesty International, *IRAQ: Human Rights abuses in Iraqi Kurdistan since 1991*, 28 February, 1995.
6. International Journal of Kurdish Studies.
7. Federation International des Ligues des Droit de l'Homme (FIDH), *Fact-finding Mission on the Human Rights Situation: Kurdistan*, Brussels, Jan 1995.
8. Ibid.
9. Ibid.
10. *Iraqi Kurdistan, Fact-Finding Mission on the Human Rights Situation mandated by the and the Fondation France Libertes*, October 1993.
11. EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME, UPDATE ON REGIONAL DEVELOPMENTS, EC/47/SC/CRP.6, 6 January 1997.
12. The Kurdish Democratic Party of Iran reunited in January 1997 with a dissident faction, known since March 1988 as the KDPI-Revolutionary Leadership [KDPI/KDPI-RL joint statement 1/9/97]
13. The URK was formed in 1991 and was formerly known as "Cherikhay Fadayi Khalg Iran - Hoviat".
14. The Kurdish Democratic Party of Iraq (KDP) has been historically associated with the Kurmanji, or Bahdinan-speaking areas. Sorani and Kurmanji are difficult dialects of Kurdish which are mutually incomprehensible.
15. When the regional administration was established, the region was already devastated by intermittent civil war since 1961, by the Iran-Iraq war of 1980-88, by an Iraqi onslaught in the Anfal campaigns of the late 1980s, and then by the 1991 Gulf War and its aftermath, including the defeat of a Kurdish uprising which resulted in the exodus of 1.5-2 million refugees. Up to 4,000 Kurdish villages were destroyed, 800,000 were forced out of their homes (USCommittee for Refugees) and 50,000 to 100,000 Kurds were killed (Human Rights Watch) during the Anfal campaign.
16. The Guardian, September 9, 1993.
17. FIDH-France Libertes - October 1993 and FIDH- Jan 1995.
18. List handed over to the investigating mission by the Iraqi Kurdish security services.
19. see above note 7.
20. Reuters, April .21 1993.
21. Agence France Presse, August 27, 1993.
22. Washington Post, 6.5.93
23. The Guardian, September 9, 1993.
24. see above note 5.
25. *Islamic leader sees goal as Islamic Kurdistan*, London, Kanal-6 television, as quoted in FBIS-NES, 14 January, 1994, p33.
26. see above note 7.
27. Agence France Presse, January 18, 1994.
28. see above note 5.
29. Reuters, November 3, 1995.
30. see above note 5.
31. Reuters, February 18, 1995.
32. Press Release, KDPI, Bureau of International Relations, Paris, March 14, 1996.
33. Press Release, KDPI, Bureau of International Relations, Paris, Oct. 31, 1996.
34. Reuters, November 3, 1995.
35. The Guardian, November 1, 1995.
36. The Guardian, July 30, 1996.
37. Amman AL-HADATH in Arabic, *Iran's Secret War' Reportedly Launched against Iraq*, 29 Jul 96p 8, as quoted in FBIS-NES, 7 August, 1996, p 64.
38. Ibid.
39. Ramadan is one of the Iranian regime's camps in Kurdistan-Iran which is set up to combat Kurdish opposition abroad. It is connected to the Hamzeh Seid-Al-Shohada camp which is based in Urumieh and combats Kurdish opposition inside Iran by military and political means.
40. Jahan Emrouz (in Farsi), April 1996.
41. KDPI, Iranian Kurdistan (English), 1996.
42. David, McDowall, *A Modern History of the Kurds*, 1996.
43. Sharzad Mojab & Amir Hassanpour, *The Politics of Nationality and Ethnic Diversity, in Iran after the revolution*, Edited by Rahnema & Behdad, 1995.
44. Martin van Bruinessen, *The Kurds Between Iran and Iraq*, Middle East Report, July-August 1986.
45. Ibid.
46. Isam al-Khafaji, *The Destruction of Iraqi Kurdistan*, Middle East Report, Oct-Dec 1996.
47. The KDP levies "customs" dues worth between \$100,000 and \$250,000 a day (Financial Times, September 10, 1996).
48. Reuters, September 4, 1996.
49. The Guardian, September 9, 1993.
50. Ibid.

51. Middle East International, August 6 1993, *Iran and the Kurds, Results of "containment"* (NEXIS).
52. Agence France Presse, May 11, 1995.
53. Jahan Emrouz (in Farsi), August 1997.
54. David McDowall, *The Kurds*, 1996, Minority Rights Group. On the question of primordial loyalties among the Kurds, also see Martin van Bruinessen, *Aga, Shaikh and State: The Social and Political Structures of Kurdistan* (London: Zed Books Ltd., 1992).
55. Agence France Presse, July 28, 1996.
56. BBC Summary of World Broadcasts, July 31, 1996, *Speaker of Iraqi Kurdistan parliament denounces Iranian attack* (NEXIS).
57. BBC Summary of World Broadcasts, July 31, 1996, *Kurdish radio says no lives lost in Iranian offensive* (NEXIS).
58. Agence France Presse, July 31, 1996.
59. Reuters, July 29, 1996.
60. Agence France Presse, July 30, 1996.
61. Agence France Presse, July 31, 1996.
62. New York Times, September 3, 1996.
63. see above note 46.
64. quoted in Vera Beaudin Saeedpour, *The Mystery of Parallel Plots*, Kurdish Life, No. 20, Fall 1996, letter to the author dated 8.2.96.
65. Agence France Presse, August 25, 1996.
66. BBC, October 24, 1996, *KDP accuses Iran of "invasion", appeals for help*, Source: Voice of Iraqi Kurdistan, Salah al-Din, in Arabic 0906 gmt 23 Oct 96 (NEXIS).
67. Agence France Presse, October 15, 1996.
68. Agence France Presse, February 28, 1997.
69. The mandate for international protection of refugees has been given to the Office of the UNHCR by the international community through the General Assembly of the United Nations. The Office has been charged with the duty to seek durable solutions for the problems of refugees, to supervise the application of international conventions for the protection of refugees by governments, and to promote the implementation of "any measures calculated to improve the situation of refugees." (STATUTE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, adopted by United Nations General Assembly, 14 Dec. 1950).
70. The refugees in Al-tash were transferred in 1982 by the Baghdad government from Northern Iraq.
71. EXECUTIVE COMMITTEE OF THE HIGH COMMISSIONER'S PROGRAMME, FORTY-SIXTH SESSION, UNHCR ACTIVITIES FINANCED BY VOLUNTARY FUNDS: REPORT FOR 1994-1995 AND PROPOSED PROGRAMMES AND BUDGET FOR 1996.
72. Iraq is situated in a volatile region and as a result has accommodated tens of thousands of refugees, including Iranians of all ethnic groups, Kurds from Turkey, Palestinians, refugees from various African countries and also thousands stateless persons who were expelled from Kuwait in the aftermath of the 1991 Gulf war. In addition to these groups, UNHCR has been in charge of assisting thousands of Iraqi nationals, namely Kurds and Shi'a Iraqis, who have been returning from Iran and Turkey after the establishment of the "safe haven", or who have been expelled from regions under Iraqi government control, and those who have been displaced in the North as a result of the intra-Kurdish fighting. EC/47/SC/CRP.6, 6 January 1997.
73. *More Turmoil in Northern Iraq*, Rupert Colville, Refugees, IV - 1996, p12.
74. An Iraqi 100 dinar note which was worth \$320 in 1989, was worth less than five cents in 1996.
75. For example, high levels of unemployment have led to deadly attempts to make a living. Farmers have been reported to engage in defusing and dismantling live mines to sell the aluminum, because "there is no other way to make a living". The Independent, October 20, 1996, Sunday, *HEADLINE: The most dangerous harvest in the world; Patrick Cockburn in Penjwin, Northern Iraq on the farmers who defuse live mines so their families can eat.*
76. In 1994, the Agence France reported that Kurdish children have not been drinking any milk for a whole year, because there is no fresh milk available and a can of milk powder costs 4 times the monthly salary of for example some one who is lucky to have a job at the Arbil water department. Agence France Presse, March 17, 1994, *Angry Kurds turn against international aid groups.*
77. Reuters World Service, July 13, 1995, *UNHCR urges Iran to take back its Iraq refugees.*
78. *ibid.*
79. US Committee for Refugees, World Refugee Survey 1997.
80. Agence France Presse, June 13, 1996, *Iranian Kurd refugees flee to Northern Iraq.*
81. US Committee for Refugees, World Refugee Survey 1996. ,14. A year later, several thousand of Al-tash refugees submitted a petition to the Iranian embassy in Baghdad to allow them to return home. But the Iranian embassy in Baghdad said the refugees lacked right documents to prove they were Iranian. Reuters, July 25, 1996, Thursday, *HEADLINE: Iran refugees in Iraq ask to go home- diplomat.*
82. see *Revitalizing Resettlement as a Durable Solution*, John Fredriksson, Washington representative of Lutheran Immigration and Refugee Service, in World Refugee Survey 1997. As a dramatic illustration of how unimportant resettlement has become for UNHCR, the author points out the personnel and budget resource

allocations:

According to the publicly released 'Evaluation Summary' of an internal 1994 report, Resettlement in the 1990s: A Review of Policy and Practice, UNHCR allocated only \$7.2 million to its resettlement program budget, out of a total agency budget of \$1.4 billion. This represents a minuscule one half of one percent of the UNHCR budget. That same evaluation summary noted that out of about 1,700 staff positions worldwide, the resettlement program included a meager 25 designated staff positions. Only five of these were professional, international civil service staff, and four of these five were based in Geneva.

Another recent example is the comments made by Nicholas Morris, director of UNHCR's Division of Operational Support, arguing against the use of resettlement for most urban refugee caseloads. See *UNHCR and Refugees*, US Committee For Refugees, Refugee Reports, November 30, 1997.

84. Assessment of Global Resettlement needs for Refugees in 1995, p. 22.

85. UNHCR RESETTLEMENT SECTION, UNHCR REPORT ON 1997 RESETTLEMENT ACTIVITIES, RESETTLEMENT AND SPECIAL CASES SECTION, DIVISION OF INTERNATIONAL PROTECTION, January 1998.

86. *ibid.*

87. *ibid.*

88. In 1992, conditions in the three camps holding more than 19,000 Iraqi Kurdish refugees still in Turkey from the 1988 exodus were reported to be appalling. For the three years before the 1991 Gulf war, the camps were surrounded by barbed wire and troops. Camps were overcrowded, with intermittent electricity, and unclean water. Kurds claimed that children died from exposure, malnutrition and disease. International visitors were denied access and movement in and out the camps was strictly limited. Even UNHCR did not receive access to refugees until the middle of 1991. There have been persistent reports since 1988 of Turkish authorities forcibly returning the refugees to Iraq. In 1990, Amnesty International reported on numerous cases of Iraqis who were refouled and expressed concern that many more might have been coerced to return. Turkish authorities received plenty of criticism from Western countries for their treatment of Iraqi Kurdish refugees. Then, in the aftermath of the Gulf War, when a mass exodus of Iraqi Kurds arrived on Turkey's borders at the end of March 1991, Turkey closed its borders. Anyone who ventured more than a hundred yards or so into Turkey were pushed back by Turkish soldiers, firing warning shots in the air. A staff report issued by the U.S. Senate Subcommittee said, "If the refugees had

been permitted to cross the border--even by half a mile--to enter more hospitable Turkish valleys and facilities, some of the tragic loss of life could have been minimized..." The Turkish Foreign Ministry estimated that in the first week of April, 1,500 children died on the journey. Additional scores reportedly died after reaching the border, succumbing to diarrhea, hunger, and exposure. The Western coalition, supported Turkey in keeping the Kurds out by creating the "safe haven" zone. See Amnesty International, *TURKEY: Discriminatory treatment of non-European Refugees and Asylum Seekers*, March 1994, EUR 44/16/94; Bill, Frelick, *The False Promise of Operation Provide Comfort--Protecting Refugees or Protecting State Power?*, Middle East Report, May-June 1992; US Committee for Refugees, *World Refugee Survey- Turkey, 1990-1997*; Lawyers Committee for Human Rights, *Asylum Under Attack, A Report on the Protection of Iraqi Refugees and Displaced Persons One Year After the Humanitarian Emergency in Iraq*, April 1992.

89. In 1993, Officials of Interior Ministry told Amnesty International delegates that, as far as the Turkish authorities were concerned, there were no genuine refugees coming from Iraq. Amnesty also reported that the government refused to grant permission to Iraqi refugees recognized by UNHCR and accepted by resettlement countries to leave Turkey. Amnesty international, *TURKEY: Discriminatory treatment of non-European Refugees and Asylum Seekers*, March 1994, EUR 44/16/94. It is also said that the reason Iraqi asylum seekers were subject to summary treatment by the border police in Şirnak could be due to the Turkish authorities' presumption that Northern Iraq is safe for Iraqi Kurds and that they can be returned there without fear of persecution, despite the internecine turmoil among the Kurdish political factions there. US Committee for Refugees, *Barriers to Protection; Turkey's Asylum Regulations*, 1996.

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

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

Refugee

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

Asylum Seeker

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

92. Article 28 of the 1994 Regulation states:

The permits given to foreigners who request residence with the intention of seeking asylum from a third country may not be extended if after given reasonable time the foreigners are still not able to go to a third country. The foreigners in such situations shall be invited to leave the country.

93. See US Committee for Refugees, World Refugee Survey, *Turkey*, 1995-1997.

94. For critiques of the 1994 Asylum Regulation See US Committee For Refugees, *Barriers to Protection; Turkey's Asylum Regulations*, July 1996, and World Refugee Survey- *Turkey*, 1996-1997; Amnesty International, *Turkey: Refoulement of non-European refugees - a protection crisis*, September 1997, AI Index: EUR 44/31/97; Kemal Kirişçi, *Is Turkey Lifting the 'Geographical Limitation'? — The November 1994 Regulation on Asylum in Turkey*, IJRL 8:3, 1996; Danish Refugee Council, *Safe Third Country Policies in European Countries*, Jan. 1998); and Iranian Refugees' Alliance, *Preliminary Assessment of the new Turkish Government and UNHCR Refugee Processing System for non-Europeans*, May 1995.

95. Amnesty International, *TURKEY, No Security Without Human Rights*, October 1996, AI Index: EUR/44/84/96.

96. Amnesty International, *Turkey: "Birds or Earthworms" - the Guclukonak Massacre, Its Alleged Cover-Up and the Prosecution of Independent Investigators*, June 1998, EUR 44/24/98.

97. Letter from UNHCR Ankara eligibility officer to Iranian Refugees' Alliance, dated 24 April 1997.

98. Letter from UNHCR Ankara representative to Iranian Refugees' Alliance, dated 3 March 1997.

99. UNHCR Turkey first began considering Iranians coming from Iraq as Irregular Movers in 1992. At that time, UNHCR considered all of Iraq safe for Iranians. As a result, in addition to Iranians who previously resided in Northern Iraq, those who resided in other parts of Iraq also were considered as Irregular Movers. These included former members of the People's Mujahedin Organization of Iran [PMOI] despite the fact that they

were justifiably at risk in all areas of Iraq. Former PMOI members were not safe in Northern Iraq not only because of the security risks posed against Iranian opposition members by Iran's agents freely operating in that region but also due to PMOI's serious political conflicts with both of the ruling Iraqi Kurdish parties. Since they were PMOI deserters, they were not protected by the Baghdad government, who supported the PMOI. Despite criticism from refugee and human rights organizations, including Amnesty International, UNHCR continued rejecting Iranians coming from Iraq until the end of 1994, when the policy was cancelled without any explanation.

100. UNHCR Resettlement Handbook, Division of International Protection, United Nations High Commissioner for Refugees, Geneva, July 1997.

101. The UNHCR Comprehensive Policy on Urban Refugees was drafted in March 1997 and was distributed under cover of UNHCR/IOM/25/97 Corr.1-FOM 30/97/Corr.1 dated May 27 1997. Urban refugees refer to those who reside in cities. They make up about 2 percent of UNHCR's total case load but serving their needs has typically consumed 10 to 15 percent of UNHCR's total budget. UNHCR reports that the nationalities that have tended to dominate urban refugee caseloads include Afghans, Angolans, Eritreans, Ethiopians, Ghanians, Iranians, Iraqis, Liberians, Nigerians, Somalis, Sri Lankans, Sudanese, Congolese (Zairians), Burundians, and Rwandans. The caseload is divided into three categories: irregular movers, prima facie refugees (individuals determined to be refugees on the basis of a group determination), and the legitimate urban caseload (persons of urban background or if of rural background for whom a rural resettlement does not exist). The main objectives of the policy, as described by the UNHCR are to ensure protection and to maximize access to solutions, both for individual refugees and for groups, and to make the best use of scarce resources. But many non-governmental organizations, refugee scholars, and even some UNHCR officials disagree. The policy has been vehemently criticized, particularly in regard to the treatment of irregular movers.

102. Executive Committee Conclusion No. 58 (XL), Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection, 1989, paragraph (f).

103. For critiques of the UNHCR Urban Refugee Policy see US Committee for Refugees, *Refugee Reports*, Vol.18, No. 11, November 30, 1997, and Vol 19, No. 1, January 31, 1998.

104. As noted in US Committee for Refugees, *Refugee Reports*, Vol 19, No. 1, January 31, 1998.

105. Letter from UNHCR Ankara eligibility officer to

Iranian Refugees' Alliance dated 8 October 1997.

106. Above note 17.

107. Letter from UNHCR Ankara eligibility officer to Iranian Refugees' Alliance dated 24 April 1997.

108. Above note 100.

109. Letter from Senior Legal Advisor, Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East (CASWANAME), Geneva Headquarters to Iranian Refugees' Alliance dated 16 January 1998.

110. Letter from Senior Legal Advisor, Regional Bureau for Central Asia and South West Asia, North Africa and the Middle East (CASWANAME), Geneva Headquarters to Iranian Refugees' Alliance, dated 21 April 1998.

111. Although not acknowledged publicly, the shortage in Turkey has been continuously acknowledged in UNHCR's internal consultations on resettlement. For example, a UNHCR internal document titled *Formal Consultation on Resettlement* which is circulated among some international NGOs specifically notes that the number of refugees considered in need of resettlement in Turkey exceeds the number of available places.

112. Letter from InterAction's Committee on Migration and Refugee Affairs to Phyllis E. Oakley, Assistant Secretary of State, Department of State, Bureau for Population, Refugees and Migration, dated August 18, 1997.

113. The UNHCR Resettlement Handbook (above note 100) says:

Irregular Movers should be excluded from resettlement by the UNHCR. This will require periodic comprehensive briefings on the issue to resettlement countries to elicit their cooperation.

114. See above note 94.■

