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Iraq: Forcible return of refugees and asylum-seekers is contrary to international law

Amnesty International is concerned about plans by countries such as Denmark, Germany and the United Kingdom to force Iraqi asylum-seekers and refugees to return to their country where the security situation has deteriorated considerably in recent months and where conditions to return are adverse.

"The return of Iraqis must be completely voluntary," said Amnesty International. "To physically force people back, or to deprive them of their rights in a way that leaves them with no choice but to return would be a breach of international human rights and refugee law and also go against the United Nations Security Council resolution 1483."

Security Council resolution 1483 issued in May underlines that the United Nations has a primary responsibility to ensure that the return of the displaced population is safe, orderly and voluntary.

Amnesty International remains extremely concerned about the worsening situation in Iraq. Security remains of high concern with the breakdown of law and order and the threat of persecution. Many Iraqi civilians have been killed by armed groups, Coalition forces or armed criminal gangs in different parts of the country, including the north. The departure of international staff from the vast majority of non-governmental organizations and from international agencies, and closure of a large number of projects that provided Iraqis with regular assistance and aid has only heightened the problem. Basic services and housing remain in shortage and unemployment is strife.

The United Kingdom's Home Secretary David Blunkett unveiled plans earlier this week to repatriate Iraqi asylum-seekers and argued that the northern part of Iraq was "generally overwhelmingly safe". Seemingly contradicting himself, Mr. Blunkett also said that "the American-led administration is very reluctant at the moment to declare even the northern part of Iraq available to [anyone] other than volunteer returners."

"The plans of Mr. Blunkett and his colleagues offer a very dangerous precedent to the international system of refugee protection in general," said Amnesty International. "Western European countries must live up to their commitments to universal human rights principles rather than once again shifting the fallout of the Iraqi legacy of human rights abuses onto the victims themselves."

David Blunkett's assertion that "when you are no longer threatened... there is a moral obligation to return and assist in the rebuilding of the country" fails to take into account that attacks against civilians are continuing, that the political situation in the whole of the country is unstable and that there are fears of

more widespread violence. The UK and other states where Iraqi refugees have sought protection have a legal responsibility to protect them.

"It is always dangerous to try and dismantle that responsibility by suggesting that refugees and asylum-seekers are morally obliged to return to a country they have fled in order to rebuild it. With the situation in Iraq as volatile as it currently is, it is extremely irresponsible," said Amnesty International. "It fails to take into account the specific reasons why they have left their countries and serves no other purpose than to instil fear among in Iraqi refugees and asylum-seekers in the very countries in which they thought they had found safety."

The Danish government announced earlier this week that 300 Iraqi asylum-seekers who had been rejected will be given 14 days to decide whether they will leave voluntarily; if they do not do so, they will be deprived of their benefits with the exception of food. The Danish government is also investigating the possibility to forcibly return rejected asylum-seekers

Germany last Friday announced plans to return refugees from Iraq, starting as early as next year. While it appears that Germany's plans are for Iraqi refugees to be encouraged to return voluntarily, it has also indicated that it is considering the forcible return of Iraqi refugees as a possibility.

Rather than certain states focusing their efforts on how to keep or get Iraqi refugees and asylum-seekers out of their territory, Amnesty International calls for members of the international community to concentrate on ensuring that sufficient and effective reconstruction assistance in material and financial terms is available in Iraq, that an effective degree of security is provided in the whole of the country and that national institutions of justice, policing and social reform are able to operate in a rights-respecting manner throughout. Only when such conditions are fulfilled will it be possible for the cycle of displacement to be broken, and for Iraqi refugees and asylum seekers to begin considering return to their places of origin in a manner that is truly voluntary and sustainable.

Background

Earlier this month, the United Nations Higher Commissioner for Refugees (UNHCR) urged states hosting Iraqi asylum-seekers "to continue a ban on forced returns to Iraq, including of rejected asylum seekers, until further notice." The UNHCR has also said that the evacuation of all international United Nations staff from Baghdad significantly curtailed its ability to monitor returns and undertake reintegration activities.

In June 2003, Amnesty International expressed concern that compulsory return not be imposed on Iraqi refugees and asylum seekers. While Amnesty International does not oppose the return of rejected asylum-seekers provided they have had access to a fair and satisfactory asylum procedure, the organization believes that any return should take place in safety, dignity and with full respect for human rights. The organization is concerned that a pattern may be emerging where countries hosting refugees from large source countries such as Afghanistan and Iraq push for early returns to those countries. Amnesty International believes that in situations such as this, where changed conditions in a country are as a result of the violent overthrow of a regime, assessments of safety, security and human rights conditions should be even more cautious.

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