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**The Middle East**

**Fear, flight and forcible exile**

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## **Preface**

Amnesty International's one million members around the world believe that human rights are for everyone. They lobby governments all over the world to improve their human rights records and to use their influence over other states to enhance the protection of human rights. They work with

the news media to expose abuses and mobilize public opinion. They organize locally, nationally and internationally to build the momentum for change. They collaborate with other organizations, including refugee groups, in the struggle to build a fairer and safer world.

As part of this work, Amnesty International opposes the forcible return (refoulement) of any person to a country where he or she would be at risk of falling victim to imprisonment as a prisoner of conscience\*, torture, “disappearance”, extrajudicial execution or the death penalty. This is an important element of preventive human rights work — acting to prevent abuses, not just responding after they have occurred. The standard for Amnesty International’s refugee work is based on its mandate, which is deliberately focused on specific human rights issues. This does not mean that only those at risk of these human rights abuses are refugees. The term “persecution” in international refugee law embodies a far wider range of concerns defining those who need international protection. In this report, the term refugees includes all asylum-seekers fleeing persecution and human rights violations, including those who have not been formally recognized as refugees under international law.

Amnesty International calls on governments to ensure that they provide asylum procedures that are fair and satisfactory. The organization urges that no asylum-seeker is returned without an opportunity to have his or her claim properly examined. It also calls on all states to ensure that they do not return anyone to a country which may itself forcibly return him or her to danger. Much of Amnesty International’s work on behalf of refugees is carried out by the movement’s national sections based in the countries where people seek protection. Amnesty International members provide information about human rights violations in asylum-seekers’ countries of origin to governments, to those who make decisions on asylum claims, and to lawyers and others working on behalf of asylum-seekers. Amnesty International’s sections also monitor governments’ asylum policies and practices to ensure they are adequate to identify and protect those at risk. In some cases, Amnesty International members intervene directly with the authorities to prevent a refoulement.

This report, one of five reports on refugees in different regions, is part of a worldwide Amnesty International campaign for refugees’ human rights. The campaign, launched in March 1997, focuses on three cornerstone issues, which are increasingly threatened, undermined or ignored by governments around the world:

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\* Amnesty International considers people to be prisoners of conscience if they are detained for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status — and if they have not used or advocated violence.

- \* Human rights protection in countries of origin — action to prevent human rights violations, so that people are not forced to leave their countries in search of safety;
- \* Human rights protection in countries of asylum — action to ensure that those who flee human rights violations are allowed to reach a place of safety, that they are given effective protection against refoulement, and that their human rights are respected in their host country;
- \* Human rights protection at the international level — action to ensure that human rights considerations are paramount in decisions about refugee protection issues, such as the need for protection of people internally displaced within their own countries, developments in international refugee law and practice, and programs for refugees to return home.

Human rights activists involved with refugees face a dual challenge at the international level. They must defend the protection provided by international refugee law in the face of growing government efforts to avoid and circumvent their obligations. They must also strive to ensure that as new human rights challenges arise, the system of international protection is extended to meet those challenges.

Amnesty International urges all people concerned with human rights to join this campaign to remind the world's governments that every refugee is a human being with rights that must be respected.

## **Introduction**

“Leave your villages to save your lives”, announced the radio. Soon after, planes swooped down. Bombs began exploding in the sides of houses, in the streets, on cars. Within a few days, hundreds of thousands of Lebanese civilians had packed a few belongings and fled northwards to escape Israel's 1996 “Grapes of Wrath” military intervention in south Lebanon.<sup>1</sup>

Refugees do not leave their homes on a whim. Some have fled an immediate and terrible threat. Others have taken the painful decision to leave their country after a long and agonizing period of uncertainty, when all other options have failed. All are forced to abandon their homes, friends and livelihoods. All have had their lives turned upside-down by forces beyond their control. Each would be at risk if returned home. Each is entitled to seek international protection.

The Middle East<sup>2</sup> provides shelter to an estimated 5.6 million refugees, including Palestinians.<sup>3</sup> Most of the refugees have fled countries within the region to escape human rights violations. Governments driven by political expediency and self-interest order or condone violations of human rights. They allow police and prison guards to torture prisoners. They encourage their forces to kill political opponents or people identified as “undesirable”. They order or do nothing to stop campaigns of violence, discrimination and intimidation against ethnic groups they consider a threat to their rule. Armed opposition groups too commit human rights abuses, including deliberate and arbitrary killings. As a result, individuals, families and whole communities are forced to seek refuge abroad, both within the Middle East and further afield.

The region's conflicts, always associated with human rights abuses, have also resulted in mass upheavals of men, women and children. The refugee crisis associated with the Gulf War in the early 1990s, for example, was described by the United Nations (UN) High Commissioner for Refugees in May 1991 as “a human tragedy ... unfolding right in front of my eyes”. From August 1990, when Iraq invaded Kuwait, until the end of the year, hundreds of thousands of Kuwaitis, Iraqis and other nationals fled from Kuwait and Iraq. Around two million Iraqi Kurds and Arabs fled after the war when Iraqi Government forces brutally crushed uprisings in the north and south of the country.

Such crises are not new to the Middle East. In 1948 and 1949 around three-quarters of a million Palestinians fled their homes as the new state of Israel was formed. In 1956 more than 200,000 Algerians fled to Morocco and Tunisia. The Iran-Iraq war in the 1980s drove thousands of people to cross nearby borders. Vast numbers of refugees have also fled to the Middle East as a result of the continuing Afghan civil war. In the years up to 1989 around two million ended up in Iran, the country with the largest concentration of refugees in the world. Today, there are around 1.4 million Afghan refugees in Iran, as well as nearly 600,000 Iraqi refugees.

Rarely does a year go past without another mass flow of refugees in the region. At the end of August 1996 Iraqi Government forces and the Kurdistan Democratic Party (KDP) launched a joint attack on the Kurdish city of Arbil, which had been held by the Patriotic Union of Kurdistan (PUK). At least 70,000 Kurdish refugees fled to Iran when fighting between the KDP and the PUK spread to Sulaimaniya.<sup>4</sup> There has also been a steady stream of refugees from the region

who have individually sought asylum from serious human rights abuses, especially from countries such as Iran, Iraq and Syria.

The large numbers of refugees should not obscure the individual tragedies. Every refugee has a unique story to tell — a story of fear and flight. If governments and armed opposition groups respected human rights, whatever the circumstances, then no more men, women and children would have to gamble on an uncertain future in a foreign land, and those in exile could return home in safety.

This report explains the international system of refugee law, its application in the Middle East and why it has failed many of those in the region who have been forced to abandon their homes. It also highlights why people have been forced to seek sanctuary outside their own country. The report covers asylum-seekers, people who are recognized as refugees under international law, as well as people who have been forcibly exiled from their countries of origin or have fled generalized violence during conflicts.

Chapter 1 outlines the rights of refugees and shows that the international system that is supposed to protect refugees is failing, both in the Middle East and elsewhere in the world. Chapter 2 describes the situation in Iraq and Iran to highlight the reasons why refugees flee — the fear of human rights violations — and to show what happens to them when they do. Chapter 3 deals with the specific problem of the right to return, which has particular relevance in the region because of the millions of Palestinian refugees and the forcible exile of hundreds of people from Bahrain. The report ends with a series of recommendations addressed to governments in the Middle East and to the international community. Amnesty International believes such measures are urgently needed to ensure that people who have already suffered enough are offered the international protection they desperately need and deserve.

## **1 Obligations and reality**

### **International law**

Refugees are people who have been forced into exile by circumstances beyond their control. They are victims of human rights violations or are at risk of becoming victims. They are in danger of suffering abuses that the entire international community has agreed should not be suffered by any human being. Their country of origin either will not, or cannot, protect them from that danger. Sometimes they are targeted as individuals. At other times they are part of whole communities selected for persecution. Whatever the circumstances, they need, and are entitled to, protection by the international community.

The basis of that protection is spelled out in the 1951 UN Convention relating to the Status of Refugees (UN Refugee Convention), a legally binding treaty, and its 1967 Protocol, which extended protection to refugees from all over the world and omitted the Convention's limitation to "events occurring before 1 January 1951".<sup>5</sup> The international body with statutory responsibility for refugees is the Office of the UN High Commissioner for Refugees (UNHCR). Its mandate is primarily to protect and assist refugees and "people of concern" to UNHCR, and to seek permanent solutions to their problems.

Refugee protection is founded on a simple principle, which is so widely accepted that it is regarded as binding on all states, whether or not they have signed the refugee treaties. That fundamental principle is non-refoulement, which obliges states not to send anyone against their will to a country where they would be at risk of serious human rights violations.

Refugees from the Middle East have paid dearly when governments have violated the principle of non-refoulement. Bouasria Ben Othman, an Algerian asylum-seeker and alleged supporter of the Front Islamique du salut (FIS), Islamic Salvation Front, paid the ultimate price. On 15 July 1996 the Belgian authorities returned him to Algeria after refusing his asylum application, despite the clear risks he would face in his country. He immediately "disappeared". Four months later and after repeated inquiries, the Belgian authorities informed Amnesty International that he had been

arrested on arrival in Algeria, then released, then rearrested in mid-November when trying to cross the border into Libya. On 26 November Bouasria appeared on Algerian television saying he was well and that people should stop asking about him. A week later Algerian police told his family that he had thrown himself out of a window while in detention and that he had died. He was 31 years old. There are allegations that he died as a result of torture. No independent investigation is known to have been carried out.

Many other asylum-seekers from the Middle East have had their rights violated when they have sought sanctuary within the region. Most states in the region do not formally adhere to international refugee law. Of the 18 countries, only seven have ratified both the UN Refugee Convention and its 1967 Protocol: Algeria, Egypt, Iran, Israel, Morocco, Tunisia and Yemen. The other 11 — Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria and the United Arab Emirates (UAE) — have not.

A welcome attempt by the Arab League to strengthen the protection of refugees has won little support. In 1994 the League adopted the Arab Convention for Regulating the Status of Refugees in Arab States. To date, only Egypt has ratified it and little has been done to promote it.

This chapter shows that the rights of refugees are violated across the region, including by states that have promised to uphold international refugee law. It highlights the human consequences when governments, both in the Middle East and elsewhere, fail to live up to their obligations towards asylum-seekers from the Middle East.

### **Violation of fair asylum procedures**

The Gulf War was over. Kuwaitis were celebrating. The world was almost unanimous in condemning the daily human rights violations in Iraq. And Kuwait was summarily expelling hundreds of frightened people to Iraq.

Most of those expelled were Iraqis and Palestinians, who were denied their right to legal representation, to seek asylum or to appeal against rejection of asylum claims. Thousands of other people, members of the bidun (stateless) community, were caught on the Iraqi side of the border with Kuwait after the cease-fire and were not allowed to return to Kuwait.

After the initial wave of expulsions in the two months following the cease-fire, the Kuwaiti authorities came to an agreement with the International Committee of the Red Cross (ICRC) that Iraqis could only be repatriated if their return was not under duress. The agreement was largely respected, although in 1995 there were reports that between 150 and 200 Iraqi nationals were arrested and summarily deported, possibly to Iran. There was apparently no examination of their claims and representatives of UNHCR were denied access to the group. Amnesty International sought clarification from the Kuwaiti authorities about these reports but received no response. Across the region, internationally agreed procedures to protect asylum-seekers are frequently violated. On occasion, even people recognized as refugees by UNHCR have been subject to refoulement. Such was the case in Yemen in 1995, when hundreds of Somali refugees were expelled from the country.

A more common practice in the Middle East is for governments to forcibly return people who have been denied access to refugee determination procedures or who have been subjected to unfair procedures. In 1995, for example, an estimated 100,000 Afghans were forced to leave Iran and about 1,000 Egyptian and other nationals were sent home from Libya.<sup>6</sup> In such cases it is often difficult to ascertain whether the people expelled were bona fide refugees, but all were expelled or returned to their home countries under questionable procedures.

People from the Middle East who have sought asylum in Turkey have faced many problems and dangers. In 1994 the Turkish authorities introduced new regulations requiring all asylum-seekers to submit their application within five days of their arrival. Anyone not doing so could be immediately deported without their claim being scrutinized. Many suffered this fate. Failure to comply with such procedural requirements, however, does not justify the forcible return of anyone

who may be at risk of serious human rights violations in the country to which she or he is returned. UNHCR rules state:

*“While asylum-seekers may be required to submit their request within a certain time limit, failure to do so, or the non-fulfilment of other formal requirements, should not lead to an asylum request being excluded from consideration.”*

The Turkish Interior Ministry has also introduced an administrative requirement that asylum-seekers without proper documentation should present valid identification when submitting their application. A number of asylum-seekers who could not comply with this requirement have been victims of refoulement. UNHCR has objected to this policy, saying it is unreasonable to expect all asylum-seekers to carry valid documents because of the circumstances of their escape and their inability to approach their own authorities to obtain documentation.

Although Turkey has acceded to the UN Refugee Convention, it has attached a geographic reservation excluding non-European asylum-seekers. As a result, the government does not formally recognize as refugees individuals from the two largest refugee groups in the country — Iraqis and Iranians.

One reason that many refugees in Turkey were deported was that they first registered with UNHCR rather than immediately identifying themselves to the Turkish authorities, either because they were unaware of the five-day rule or because they feared the Turkish authorities. UNHCR is under great strain in Turkey and has sometimes been unable to prevent even those it had recognized as refugees from being returned to countries where they would risk serious human rights violations. By July 1996 UNHCR had opened offices at the main entry points at the border to conduct interviews with asylum-seekers without documentation and advise them of the consequences of disregarding Turkish law, in an attempt to reduce the numbers who fail to comply with the five-day rule.

In recent years many refugees in the Middle East have participated in voluntary repatriation programs administered by UNHCR or have spontaneously returned to their countries. Among them in 1995 were more than 195,000 Afghans and 8,000 Iraqis who returned home from Iran, and around 500 Iraqis who returned to Iraq from Saudi Arabia.<sup>7</sup> In some cases, however, refugees have been put under intense pressure to repatriate, bringing into question whether their journey was in fact voluntary.

Many countries outside the Middle East have turned their backs on refugees from the region. Some have obstructed access. Some have refused to recognize the genuine fear of persecution, as they are obliged to under the UN Refugee Convention, as grounds for granting refugee status. Assam Edalatjow, a nurse who was politically active in Iran, realized her life was in great danger after she was summoned for interrogation in 1987. She fled to Sweden and described the climate of fear that she had escaped:

*“There were very many arrests and they did not distinguish between different levels of activity, so that one could be arrested just because of having sold a book. They also arrested and executed teenagers, only 14 or 15 years old. The situation was particularly critical for women. This was because they were not considered to have ‘much of a brain’ and it was therefore inappropriate to undertake political activity.”*

The Swedish authorities ruled that she had not actually been individually persecuted, so sent her back to Turkey, the country she had escaped through, even though she was at risk of refoulement from there to Iran. Assam managed to return to Sweden, but her asylum application was again rejected. She was about to be deported when a letter arrived from a court prosecutor in Iran saying that she had been charged and would be tried. She was then granted asylum. “It was horrible having to wait so long for a decision,” she says. “It was like torture; every day seemed to be as long as a year.”

One of the main reasons why so many refugees fleeing the Middle East are not given international protection, particularly in Western Europe, is political and economic expediency. In recent years

European governments have been applying increasingly restrictive interpretations of the UN Refugee Convention's definition of a refugee. As a result, the proportion of rejected asylum applications has grown. Politicians have then used the high rejection rates to argue that most asylum-seekers are not genuine refugees, but economic migrants seeking to bypass immigration controls in search of a higher standard of living. These policies have meant that many people have been sent back home to face torture and execution.

This is particularly the case with Algerians fleeing the political violence that erupted in their country in 1992. After the killing of more than a hundred foreign nationals in Algeria, European governments have urged their nationals to leave Algeria or not to visit the country because it is too dangerous and because the Algerian authorities are not in a position to protect them. The same governments, however, refuse to acknowledge that Algerian asylum-seekers would also be in danger if returned home, even though more than 50,000 people have been killed there by security forces and armed opposition groups in the past five years. Amnesty International has seen many copies of decisions refusing asylum that argue that Algerian refugees can obtain protection from the Algerian authorities.

Several Western European embassies in Algeria, such as the British and French, no longer issue visas to Algerians. Many others require guarantees that applicants will be returning to Algeria. Those who do manage to leave are increasingly being refused refugee status. Algerians fleeing persecution by armed groups have been told by receiving states that "there is no evidence that the persecution, if confirmed, is encouraged or tolerated by the authorities" and that therefore their cases fall outside the scope of the UN Refugee Convention. However, there is ample evidence that the Algerian authorities have been unable, and in some cases unwilling, to protect these people. Asylum-seekers fleeing persecution by the security forces have also had their asylum claims rejected.

Some Algerians, particularly members of the judiciary, fall into both categories. If they do their job they risk being killed by armed groups. If they refuse to work, they risk punishment by the authorities. Just one example was the case of Ali\*, a magistrate. In the course of his work he had to judge cases of individuals accused of "terrorism". After he had the courage to order medical examinations of detainees who he said had been tortured so badly they could not speak, the authorities transferred him to a Special Court in a region known as a stronghold of armed groups defining themselves as "Islamic". He knew his life was in danger, particularly as his wife came from the area and the family was known by such armed groups. His fears intensified after another magistrate was killed and several were threatened with death. Finally he decided the risks were too great and fled to France.

Instead of welcoming him, the French Office for the Protection of Refugees and the appeal court dismissed his claim for asylum. He was then told he had to go back to Algeria within a month. After much lobbying by human rights groups, the French authorities in May 1996 gave him one year's leave to stay under "asile territorial" (a temporary permission to stay), rather than granting him refugee status. This means his wife and child will find it virtually impossible in practice to join him in France.<sup>8</sup> Under French procedures, his leave to stay should be renewed until it is safe for him to return to Algeria. Ali has no guarantees, however. He still lives with uncertainty and fear, a victim of an untenable interpretation of the UN Refugee Convention that has blighted the lives of thousands of Algerian and other nationals fleeing to France in search of safety.

Asylum-seekers from several other countries in the Middle East face similar or even worse problems when reaching European borders, despite overwhelming evidence of widespread human rights violations in the countries from which they are fleeing. Ahmad\*, a Syrian refugee, was bundled onto a plane in Romania in 1996 and sent back home. He had fled Syria in 1995 soon after being released from prison. In 1987, at the age of 25, he had been arrested as a suspected member of the Party of Communist Action and detained for seven years as a prisoner of conscience. On arrival in Bucharest he applied for asylum and UNHCR began processing his

application. However, on the night of 5 March 1996 he was returned to Syria: the Romanian authorities said it was a “voluntary departure”, but witnesses said he was forced to board the plane. A few weeks after his apparent refoulement from Romania, his wife spoke to him from a European country where she has been granted asylum. He had been arrested on his return and was released after a month in custody. He is not allowed to leave the country again to join his family. When terrified people reach borders seeking asylum, they are not asking for charity. They are simply asking for their basic human rights to be respected. When governments refuse to respect these rights, they are not just violating international refugee and human rights law. They are, in many cases, condemning people to torture and even death.

### **Bilateral and multilateral agreements**

Lotfi Amami should have been safe. He had escaped Tunisia and reached Turkey, where he applied for asylum and was recognized as a refugee by UNHCR. In 1993, however, the Turkish authorities deported him back to Tunisia even though it was clear he would be at risk of grave human rights violations there. A Tunisian court had tried him in absentia in 1991 and, after grossly unfair proceedings, sentenced him to 12 years in prison on charges including membership of an unauthorized association, al-Nahda. Sure enough, Lotfi was arrested on arrival in Tunisia and is said to have been tortured in secret detention. He is still in prison today.

Lotfi Amami is one of many victims of bilateral and multilateral security or “anti-terrorism” agreements that have been reached between governments in the Middle East that allow for the refoulement of political activists. In his case, he was sacrificed for the sake of a security agreement signed in April 1993 between Tunisia and Turkey, which allows for the “exchange” of political opponents — despite the knowledge that they will risk grave human rights violations in both countries. When the agreement was made, there were dozens of Tunisian asylum-seekers in Turkey, including people who had been sentenced to life imprisonment in Tunisia for non-violent political activities. Scores of such people have felt they had no choice but to leave Turkey to avoid deportation to Tunisia.

Other intergovernmental agreements in the Middle East have had similar consequences. In March 1994, 14 Turkish Kurds were handed over to Turkish officials by Iran amid much publicity to demonstrate that a bilateral security agreement signed a few months earlier would be enforced. The Iranian Interior Minister said that the agreement was part of a joint initiative to stamp out separatist movements. Reports indicate that this agreement has been renewed. In September 1996, for instance, a leading Iranian Interior Ministry official said that 35 Turks, all alleged members of the PKK (the Turkey-based Kurdistan Workers’ Party), had been handed over to the Turkish authorities.<sup>9</sup>

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\* A pseudonym

A particularly far-reaching agreement, which has negative implications for refugees, is the Union du Maghreb Arabe (UMA), signed in 1989 by Algeria, Libya, Mauritania, Morocco and Tunisia. Under the treaty, citizens of one UMA country may reside in any other UMA country. The authorities have interpreted this to mean that people fleeing persecution in a UMA country who arrive in another UMA country cannot be recognized as refugees, and therefore will not be offered protection.<sup>10</sup> They can also be expelled at any time. As the UMA countries neighbour each other, and as most refugees flee to the nearest border, the consequences of the treaty are extremely serious, particularly as gross human rights abuses by government and opposition forces are widespread in some of the Maghreb states.

Indeed, the treaty has had tragic human consequences. At least 20 Tunisian asylum-seekers in Algeria, the majority of them supporters of al-Nahda, have been deported to Tunisia in recent



years. Most of them were recognized as refugees by UNHCR, but were not granted refugee status by Algeria. They included Ameer Legraidi, who was arrested by the Algerian authorities in June 1993 despite being registered by UNHCR as a refugee. He had been sentenced in Tunisia in absentia to 11 years' imprisonment after a mass trial of Islamist activists, which observers from Amnesty International and other human rights organizations condemned as unfair. The Algerian authorities handed him over to Tunisian officials, who arrested him. When his father saw him a few months later in a Tunisian prison, Ameer was so badly injured that he could barely stand. He had bruises and open wounds on his face and body.

Several Tunisian asylum-seekers have also been expelled from Libya to Tunisia. Among them were Jamal Rizki and Habib Khmila, who were arrested in Libya in February 1992 and immediately deported. On their return they were held in secret detention in the Interior Ministry where they were reportedly tortured by being suspended in contorted positions and beaten. Similarly, a number of Libyan opposition activists have been forcibly returned to Libya from Egypt and Tunisia. In September 1992, for example, 18 Libyans were forcibly returned to Libya from Egypt. They were handed over to the Libyan security authorities at the border. Most are still held without charge in Abu Salim Prison in Tripoli. They include Meftah al-Dawwadi, Nouri Mukhtar Nasrat and Mohammad 'Ashour al-Warfalli.

Adnan Karam Tu'ma was another victim of such bilateral arrangements between neighbouring states. An active member of the Iraqi opposition, he faced execution if he was caught by the Iraqi security forces. Many members of his family, including his father and several brothers, had already been executed because of their political activities. Adnan fled to Indonesia to seek asylum, but on 13 March 1995 he was sent back to Jordan. On arrival in Amman, Jordanian airport authorities reportedly contacted the Iraqi embassy. Arrangements were made with the embassy to send him back to Iraq and a deportation order was issued on 20 March. UNHCR contacted the Jordanian authorities about Adnan on 25 March and were told they would be given access to him in two days' time. A few hours later he was deported to Iraq. Nothing has been heard of him since then.

Members of Egyptian illegal Islamist groups have been sent back home to face torture or possible execution as a result of secret and open agreements between Egypt and other nearby countries that allow for the forcible return of political activists sought by the Egyptian authorities. Reports suggest that the countries involved include India, Libya, Pakistan and Saudi Arabia.

Five Egyptian nationals suspected of opposition activities against the Egyptian Government — Mohammad Fadl Abu Gabal, Mohammad Salah al-Din Morsy, Mohammad 'Abd al-Rahim al-Sharqawi and Ramadhan Mohammad 'Abd al-Ghaffar — were arrested in Pakistan, imprisoned and then forcibly returned to Egypt under an extradition treaty signed by Pakistan and Egypt in July 1994. Even though Pakistan is not a signatory to the UN Refugee Convention, it is a member of the Executive Committee of UNHCR (Excom), the body that sets the standards for applying refugee law. Excom has repeatedly stressed the need for countries to observe scrupulously the principle of non-refoulement.

In October 1996 Yemen was reported to have forcibly returned home approximately 20 Saudi Arabian nationals. All were detained on arrival, apparently because of their political or religious activities, and were believed to be at risk of torture. Their forcible return is believed to have been a result of a security agreement between the two countries which was signed in March 1996.

Another security agreement which appears to flout refugee law is one signed by members of the Gulf Cooperation Council (GCC) in November 1984 to "counter regional crime and terrorism". The only member not to sign was Kuwait, which said that a clause concerning the extradition of offenders contravened its Constitution. The clause appears to allow any GCC state to deport political activists back to other GCC states on request, even if they may be at risk of grave human rights violations. However, Kuwait appears to have forgotten its concern over this clause. In 1996 it deported Jamil 'Abd al-Ghani 'Abdullah back to Bahrain for "security reasons" after the

Bahraini authorities had requested his extradition. He was detained for “political reasons” on arrival and held incommunicado for several days. After his release the Kuwaiti authorities refused to let him return to Kuwait to rejoin his wife and family.

At least nine Bahraini nationals, among them political opponents who had fled their country, were arrested in the UAE in June 1996 and forcibly returned to Bahrain. Four of them, including Ja‘far Hassan Sahwan and Ghazi Radi al-‘Abed, were held incommunicado without charge or trial for over nine months until they were brought to trial before the State Security Court in March 1997. All these agreements violate international legal standards protecting the rights of refugees. Any “exchange” or “readmission” agreement between countries must not allow a host state to return an asylum-seeker without an individual, fair and thorough examination of his or her claim to asylum.

## **2 The flight of refugees**

### **Iraq**

The bodies were hanging from pylons. Their silhouettes and stench are memories too awful to remember. A few hours earlier the victims had been running for their lives, chased by Iraqi soldiers on the rampage.

Other people were arrested, doused with petrol and burned alive. Some were tied to tanks and dragged to their deaths. Others were bound, blindfolded and shot at close range in front of their terrified families. Women were forced to walk in front of army tanks as “human shields” to protect the murderous troops.

All this happened in one place in a matter of a few days — al-Samawa town between 20 and 29 March 1991. Such scenes were repeated over and over again, throughout southern Iraq, in the weeks following a mass uprising against the government.

As the killings went on, bodies seemed to be everywhere. Witnesses said 13 bodies were dropped from an aircraft into the Jubran district of al-Hilla on 5 March. Others said that soldiers threw bodies of those they had shot into a river. Some appeared to be alive, but their hands and feet were bound so there was little chance of survival. Bodies were found on roadsides, bound with wire, bearing the signs of torture, with bullet holes in the heads. Others had been mutilated, with the tongue, ears and hands severed prior to execution. Some had faces burned by phosphorous bombs dropped onto civilian areas.

In the face of such horror, there is one overriding human instinct. Flee. Traumatized and terrified families fled — anywhere, just away from the nightmare. Property became meaningless. There was time only to protect life. And so hundreds of thousands of Iraqis in the south formed a chain of human misery, wending its way towards Iran, Kuwait or wherever they thought they might be able to escape with their lives.

In the north of Iraq, an even bigger exodus was happening at the same time. Again the people had revolted against the government and again the troops used the most brutal methods to crush the movement. By the end of that fateful March and April, at least 1.5 million Iraqi Kurds had poured into Iran and hundreds of thousands had reached the Turkish border.

The human rights violations committed by Iraqi forces were not new. What was new was the world’s attention, which suddenly focused on Iraq after the Iraqi invasion of Kuwait in August 1990. Both before and after the subsequent Gulf War, such violations in Iraq have been recorded regularly by Amnesty International and other human rights organizations — although rarely have the atrocities been on such a scale. The fear that the abuses have engendered has consistently caused Iraqi nationals to flee abroad for safety, sometimes as targeted individuals, but often as part of whole communities whose very survival had been threatened.

Idris\*, a 37-year-old Iraqi refugee now living in the Netherlands, told Amnesty International his story. As a new conscript he was sent to the front during the Iran-Iraq war. He was so shocked by what he saw that he deserted. He was arrested shortly after and tortured at the Iraqi intelligence headquarters in Basra. On 7 April 1986 a number of army deserters were taken to a soccer stadium

for execution; Idris was the only survivor. He lost consciousness and was assumed to be dead by the soldiers. He regained consciousness in a van transporting the bodies of the victims. He escaped but was later recaptured and sent back to his army unit where he deserted for a second time. He was rearrested in August 1988 and detained and tortured at various security and military installations. He was finally released in February 1991 and, two years later, fearing further violations, he fled the country.

When whole communities in Iraq have been targeted for mass human rights violations, the people have had no time to consider any option other than escape. Between 1987 and 1989, in a punitive campaign known as Operation Anfal, the authorities destroyed about 4,000 Kurdish villages, driving hundreds of thousands of people from their homes. At least 100,000 Kurds “disappeared” in four months in the first half of 1988. In one incident in March 1988 an estimated 5,000 unarmed Kurdish civilians in Halabja were killed in chemical weapons attacks over a two-day period. The memory of Halabja has left many Kurds with a profound fear of Iraqi troops. Sometimes, military manoeuvres in the area are enough to frighten people into packing up and leaving their homes.

Kurds have also fled their homes as a result of inter-factional fighting between the two largest Kurdish organizations, the KDP and the PUK, in areas in the north effectively under their control. Many of the refugees speak of human rights abuses and threats of abuse by both organizations. The total number of people who have fled their homes in Iraq is impossible to know as access to the country has been extremely limited. The Iraqi authorities have also tried to prevent people from fleeing the country. In 1994 they imposed a punitive exit fee and passed a series of restrictive laws to stop people travelling freely, mainly to stem the flow of cash and labour from the country. Those fleeing in terror rarely attempted to obtain an exit visa; rather, they chose illegal methods, risking serious human rights violations if caught.

Despite incontrovertible evidence of the Iraqi Government’s long history of flagrant abuse of human rights, the international community put virtually no pressure on the government to improve its human rights record until 1990, when Iraq invaded Kuwait. The international response to mass refugee flows must start with the causes of flight. Until the terror that causes people to abandon their homes is ended, there can be no long-term solution to the refugees’ plight.

### **International response to Iraq’s refugees**

The refugee crisis in 1991 following the Gulf War was exacerbated when Turkey closed its doors on the tide of frightened and freezing families who were running for their lives. The response of

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\* A pseudonym

the United Kingdom (UK), the United States of America (USA) and France was to establish a “safe haven” in northern Iraq, to be protected by an air-blockade run by the US-led military coalition. The intention was to offer protection to more than 1.5 million people, most of them Kurds, who had fled for their lives. The reality was somewhat different.

The intervention did bring some respite to the refugees from human rights violations and allowed some humanitarian aid to reach them. However, the international commitment did not extend to delivering dependable measures to address the root causes of the mass flight, nor to guaranteeing the refugees’ safety. In fact, the “safe haven” was on land over which only the Iraqi authorities, the very body causing the mass flight, had sovereign rights. Moreover, the absence of any recognized authority in the area caused the refugees and the population at large serious problems. In March 1995 thousands of Turkish troops moved into the border area with Iraq, including into the “safe haven”, to conduct an offensive against members of the Turkish Kurdish armed group, the PKK. In the process the troops committed human rights violations. The US and other

governments suspended their protective air flights, humanitarian activities were stopped and thousands of Iraqis were again displaced from their homes. UNHCR was forced to relocate about 14,000 Turkish refugees living in the area. A similar offensive against Iranian Kurdish armed opposition groups based in northern Iraq was launched by Iran in July 1996. Two thousand troops crossed the border after shelling the area “in a bid to halt cross-border attacks”. UNHCR said it was struggling to cope with at least 2,500 refugees, almost all of them women and children, who fled for their lives as a result of the shelling.

UNHCR, despite favouring the move towards offering people protection in their own countries, insists that such solutions are not meant as an alternative to asylum. The UN High Commissioner for Refugees commented: “faced with the obvious difficulties of in-country protection, it is essential that we safeguard the institution of asylum”.

That asylum institution has been put under extreme pressure by the large number of Iraqis seeking asylum in the Middle East and elsewhere. Some countries have done their best, despite the strain refugees have put on their economies. Others have responded by turning their backs on people who desperately need international protection.

Most Iraqis fleeing abroad over the years have ended up in refugee camps and towns in Iran, where they have, by and large, found safety and a degree of assistance. Today, according to official statistics, there are about 580,000 Iraqis who came in several waves in 1975, the 1980s and in 1991. Most were driven from their homes because of their suspected Iranian origin. The majority are scattered throughout Iran and many have been integrated into local communities. Some have been able to document their Iranian origin and have become Iranian citizens. Many, however, such as the Feyli Kurds, are stateless, with both Iran and Iraq claiming they are citizens of the other country.

Out of the 580,000 Iraqis in Iran, there are 521,000 Iraqi Kurds (28,000 in camps) and 58,400 Marsh Arabs (36,500 in camps). In the southwest provinces of Iran, particularly in Khuzestan, there are around 33,600 Iraqi Shi‘a refugees living in camps. They comprise two main groups: those who arrived in 1991 and those who arrived between 1993 and 1995 fleeing the terror in the marshlands.

Most Iraqi refugees in Iran have refugee documents. Some carry refugee booklets and others carry a green refugee card. The booklets are considered more secure, allowing holders to apply for Convention Travel Documents to travel abroad, for example. During 1995 nearly 4,000 Iraqi Kurds repatriated to Iraq with UNHCR’s assistance, and the Iranian Government reported that a further 13,485 had repatriated independently. (Refugees in Iran are discussed in more detail below.)

Iraqi Kurds fleeing to Turkey have fared much worse. In August and September 1988, about 57,000 arrived in Turkey to escape the military attacks in northern Iraq, some involving chemical weapons. Even though there were daily reports of “disappearances”, political killings and other human rights violations in northern Iraq, the Turkish authorities coerced many refugees to return to Iraq under five official amnesties announced by the Iraqi Government. The methods of coercion included ill-treatment, reduction in food and water supplies, and allowing delegations of Iraqi officials to visit the camps to induce refugees to return. However, around 30,000 Iraqi Kurds were allowed to remain in Turkey.

At least 9,000 refugees did return, partly as a result of this pressure. Among them were Kurds, Assyrians, Arabs and Turkmens. The Turkish Government refused to let UNHCR monitor the repatriations. Even those who changed their minds after UNHCR announced that they could not intervene were forced onto buses bound for Iraq by Turkish officials. The Turkish authorities said that no one had been forcibly returned, but continued to refuse UNHCR regular access to the camps.

The amnesties appear to have been used simply to lure back suspected government opponents or to bring them out of hiding. Hundreds of refugees who returned “disappeared”, were tortured or

executed. Three Kurds, Arjan Mari Hassan, Mari Mari Hassan and Khaled Khudaida, were returned to Iraq under a September 1989 amnesty. They “disappeared”. So too did 33 Assyrian Christians and their families from Duhok province who returned under the amnesties. Others were executed, including seven Kurds who returned under amnesties specifically directed at Kurds. Saber Sa’di, Qader Sa’di, ‘Abdullah Mala Muhammad, Darwish Mala Muhammad, ‘Abd al-Karim Chitto, Saber Hamad and Hatem Hamad were all executed in Dibs garrison near Kirkuk in April 1989 apparently for their past links with Kurdish armed forces (Pesh Merga).

Since then Turkey has sometimes refused Iraqi refugees entry altogether, as it did during the peak of the 1991 crisis. However, 12,000 Iraqi asylum-seekers were allowed to remain in Turkey after the Gulf War, although most were given only temporary permission to stay and UNHCR had to resettle most of them in later years. Other Iraqi Kurds have returned home voluntarily from Turkey, including 10,000 in the aftermath of the war (the return was organized by the UN and allied forces) and 18,000 in late 1992 and early 1993 (organized by UNHCR).

In late 1996 Amnesty International received reports that 28 Iraqi Kurds and Assyrians had been killed on the Turkey-Iran border in October 1996, allegedly by Turkish forces. The incident took place as 30 Iraqis, mainly from Sulaimaniya, were attempting to cross the border after fleeing fighting in northern Iraq.

Thousands of Iraqis tried to find sanctuary in Saudi Arabia at the end of March 1991 in the aftermath of the Gulf War. Initially reluctant to admit them, the Saudi Arabian authorities eventually offered temporary shelter to an estimated 32,000 refugees, who were housed in two desert camps. Many of them were subsequently put under pressure to return to Iraq: according to the US Committee for Refugees, at least 3,387 Iraqis were repatriated in 1991 without having had an interview with either UNHCR or the ICRC.<sup>11</sup> Amnesty International has documented dozens of individual cases of forcible return. At present, some 10,000 refugees remain in Rafha camp, one of the desert camps, awaiting resettlement. Saudi Arabia, which has not ratified the UN Refugee Convention, has refused to accept any Iraqi refugees permanently, leaving resettlement in a third country as their only solution.<sup>12</sup>

Iraqi refugees have fled to almost every country in the Middle East. A few thousand remain in the El Hol refugee camp in northeast Syria, while unknown numbers of others have sought refuge elsewhere in Syria. More than 1,000 registered refugees are in Lebanon. Many others have gone to Pakistan, where their temporary presence is accepted only on condition that UNHCR arrange their resettlement in a third country.<sup>13</sup> This possibility attracted many Iraqi Kurds to Pakistan from Iran, leading to an understanding in 1989 between UNHCR and Pakistan to stop resettling newly arrived Kurds who enjoyed protection in Iran, except in cases of family reunion. The Pakistan authorities also ordered all Iraqi Kurds to live in Quetta, in southwest Pakistan near the Iranian border, where they were forbidden from integrating with local inhabitants. Many were detained in local jails. Those refusing to live in Quetta were denied financial assistance.

Hundreds of thousands of Iraqis have escaped to Jordan. Relatively few have applied for asylum there, partly because Jordan is not a signatory to the UN Refugee Convention and generally offers temporary shelter rather than asylum to refugees. The majority of Iraqis in Jordan become “illegal aliens”. Generally, they are given a two-week residence permit on entry, which is renewable for up to six months. After that, they must pay a penalty for each day “overstayed”. As most are unwilling or unable to pay, many Iraqis are driven into hiding. Their illegal status then causes further problems: they risk being picked up and detained, and it becomes more difficult to gain access to the refugee determination process.

Another reason few Iraqis have applied for asylum in Jordan may be the fear that they will be sent back to Iraq, particularly if they are political activists. ‘Abd al-Rahim al-Rifa’i, an Iraqi businessman, fled with his family to Jordan in March 1995. The previous month he had been detained in Iraq, accused of having links with the Iraqi opposition abroad. For 15 days he was reportedly tortured, which included beatings, suspension by his feet, and electric shocks to his lips

and genitals. He eventually escaped by bribing a prison official. In August 1995 a criminal court in Iraq reportedly sentenced him to death in absentia.

The Jordanian authorities were reported to have ordered him in September 1996 to leave the country or face being handed to Iraqi border officials. The order was apparently issued because ‘Abd al-Rahim al-Rifa’i had written articles criticizing the Iraqi Government in Jordanian newspapers. In September 1996 he told Amnesty International: “If someone can guarantee a safe future for my wife and children, I would be ready to go back to Iraq to face the death penalty.” He has no valid travel documents and is looking for another country of asylum.

Thousands of other Iraqis have over the years sought refuge in Western Europe, where they are finding it increasingly difficult to gain asylum. Between 1990 and 1993 some 37,000 Iraqi nationals applied for asylum in the region. Around 8,000 were admitted as Convention refugees, mostly by Sweden (2,200), the Netherlands (1,600), Austria and Germany (about 1,100 each).<sup>14</sup> When a government violates the rights of its citizens, it is not simply an “internal” problem. The flow of refugees that results affects many other countries, particularly those nearby. These countries have a duty to respect the rights of every single refugee arriving at their borders, and the international community has an obligation to ensure that they are helped in fulfilling this duty.

### **Iran**

Neina\* was blindfolded and lashed with an electric cable. Her interrogators continued lashing her as they screamed their questions. She can’t remember how many times they hit her; the pain was too great. Finally she was released after signing a document stating that she would stop her political activities.

Unbowed, she continued handing out leaflets and selling newspapers for an Iranian opposition organization. The men in uniform soon came for her again. The torture was repeated. The whipping was repeated. And this time she was convicted and sentenced — to eight years in prison for entirely peaceful political activities.

She served her time and in 1991 was released, but was forced to report every month to the prison which was the site of her worst nightmares. The last time she went there, officials told her she would be imprisoned again unless she recorded a video denouncing her political organization. Many of her friends had recently been arrested. Neina was finally too scared to stay in the country she loved, so she fled to the Netherlands. She asked Amnesty International not to give any details which might identify her as she fears her relatives in Iran would face retribution if the authorities discovered she had spoken out against human rights violations in Iran.

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\* A pseudonym

Widespread human rights violations have driven thousands of other Iranians to seek refuge abroad. Torture, execution after summary procedures and imprisonment after unfair trials are reported regularly. Hundreds, if not thousands, of political prisoners are believed to be in jail, including prisoners of conscience. The hand of state terror even stretches abroad — dozens of Iranian dissidents, including recognized refugees, living in exile have been assassinated in circumstances suggesting they may have been extrajudicially executed by Iranian Government agents. Both the UN Commission on Human Rights and the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities have regularly adopted resolutions condemning human rights violations in Iran, most recently in 1996.

The Iranian authorities try to hide their appalling human rights record from outside scrutiny and repeatedly deny that any violations have occurred. The Special Representative of the UN Commission on Human Rights, who is mandated to investigate violations in Iran, has been denied

access since 1991, except in 1996, and Amnesty International has not been allowed to visit the country since 1979 for fact-finding or government talks.

The secrecy does not prevent some of the truth leaking out. Information comes, for example, from letters smuggled out of prisons. One such letter, written by ‘Abbas Amir Entezam, a political prisoner and possible prisoner of conscience, was received by Amnesty International in 1994.<sup>15</sup> *“I spent 15 months in prison before I was told why I had been incarcerated... My own trial took place in Evin Prison; I was denied counsel or a hearing before a jury... I have personally been subjected to various forms of torture... A number of times I was told that my execution was imminent and I was instructed to write my final will.”*

One of the main indications of the scale of human rights violations in Iran is the large number of terrified people who arrive year after year at border points, ports and airports around the world seeking asylum and telling horrifying tales of what they have escaped.

Areman has never fully recovered from the torture that led him to make a daring escape from Iran. In 1979 he had been an enthusiastic supporter of the new Islamic Republic. Quickly disillusioned, he joined a left-wing secular group. In 1983 he and many other members of the group were arrested. During the first five months of his imprisonment, he was tortured so badly that he suffered a heart attack. Prolonged suspension by his arms broke his collar bone and repeated beatings on his head led to a ruptured ear drum and blindness in one eye.

In 1984 he was taken to Evin Prison and held in solitary confinement. He was then sentenced by an Islamic Revolutionary Court to 15 years’ imprisonment for his activities. In the long years that followed he says he witnessed the execution of thousands of his fellow detainees.

In November 1991, shortly before a visit to Tehran by the UN Special Representative on Iran, Areman was released from Evin Prison for 15 days’ leave, his family having pledged to bring him back afterwards. His family then put him in the trunk of their car and smuggled him across the border to Turkey. Fearing that the Turkish authorities might return him to his torturers, Areman used a forged passport to travel to the UK, where he was granted asylum three months later. Many Iranians engaged in political activities believe that at any moment they may be arrested, tortured and imprisoned with little hope of achieving justice through the legal system. They know they could be sentenced to death: tens of thousands of suspected government opponents have been executed since 1979 and the death penalty continues to be widely used for offences such as espionage and undertaking “activities against the Islamic Republic of Iran”, often couched in broad terms such as “corruption on earth” or “enmity against God”. Such fears cause many to seek refuge abroad.

Other Iranians flee fearing that one day soon they may be found dead in the street. Known critics of the government have been killed in circumstances suggesting they may have been extra-judicially executed by government forces. Molavi Ahmad Sayyad, a leader of the minority Sunni community from Baluchistan, was reported to have been found dead near the city of Bandar Abbas on 2 February 1996. He had previously been detained in 1990 and held for about five years without charge. Several other government critics or religious figures also died in mysterious circumstances in 1995 and 1996, including poets Ghaffar Hosseini and Ghazaleh Alizadeh, and Ahmad Mirala’i, all of whom had signed a petition calling for an end to censorship; Mohammad Bagher Yusefi, a priest in the Assembly of God Church in Mazandaran province; Abdolaziz Kazemi-Vajd, a professor and prominent member of the Sunni community in Baluchistan; and Molla Mohammad Rabi’i. Many others identified with similar activities or views have made the hard choice to leave behind families and friends to seek safety abroad.

They may find sanctuary. They may not. Iranians fleeing abroad are finding it increasingly difficult to gain asylum, especially in Europe. The price of that international intransigence can be death.

For Hassan\*, a member of an Iranian opposition group, it is probably too late. He fled to Turkey in 1987 and sought asylum through UNHCR programs set up there. Turkish police took him to the

border region to be screened by other Turkish police and he was subsequently handed over to Iranian border guards. He was reportedly sent back to Evin Prison in Tehran and is believed to have been executed.

Mehrdad Kavoussi, a member of the People's Mojahedin Organization of Iran (PMOI), was more fortunate. After spending 10 years in prison and suffering torture, he fled to Turkey in August 1995 as he feared rearrest after his release. UNHCR recognized his claim, but in April 1996 the Turkish authorities deported him to Iran for failing to register his asylum claim within five days of arrival. On his return to Iran he was arrested and interrogated. Worldwide appeals on his behalf flooded in from Amnesty International members and other organizations. Mehrdad was eventually released after agreeing to travel to Turkey and to send letters to the UN and human rights organizations criticizing the PMOI. Once in Turkey he escaped from Iranian officials and again sought asylum. This time he was resettled in a European country.

### **As host to refugees**

Iran is home to the largest number of refugees of any country in the world. Surrounded on all sides by people who have suffered human rights violations, it has acted as a respite for those in need. Today it shelters more than two million refugees.

Traditionally, Iran was hospitable to those seeking asylum. Many refugees were fully integrated and few complaints were made by those turning to Iran for help. Following the Soviet Union's invasion of Afghanistan in 1979, for example, Iran absorbed an estimated two million Afghan refugees. During the 1991 crisis in Iraq, around 1.5 million Iraqi refugees were allowed to enter Iran in a very short space of time. At the height of the emergency, a quarter of a million Iraqi Kurds crossed the border within 48 hours. To the best of its ability, Iran offered protection and assistance to these fleeing people.

Following the 1991 refugee crisis, however, Iran's stance towards refugees shifted significantly. In mid-1991 the government began a campaign described by some as "subtle intimidation" to make Kurdish refugees move from border area camps either to camps further inside Iran or back to northern Iraq. One reason for the shift was believed to be the authorities' fear that the refugees might stir up Kurdish nationalism among Iran's own Kurdish population. Supplies were removed from the border camps to inland areas, and refugees said they were threatened with deportation to areas close to the border with the former Soviet Union if they refused to return to Iraq.<sup>16</sup> Many returned to Iraq.

Iran also became notably less tolerant of Afghan refugees. In 1995 the Iranian Government warned that it would no longer allow mass influxes of refugees across the borders. New limits

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\*A pseudonym

would be imposed, it said, because of the lack of international support for its previous hospitality. Some Afghan refugees have been in Iran for more than 15 years, only a minority of whom remain in refugee camps. In 1993 Iran initiated a program in cooperation with UNHCR under which more than half a million Afghan refugees were registered and issued with temporary residence permits. One of the program's aims was to repatriate hundreds of thousands of refugees and by the end of 1995 many had been returned home. There is doubt, however, about the "voluntary" nature of some of the repatriations.

In 1995 the Iranian Government announced that Afghan refugees would be required to leave by March 1997. It also said that all those with temporary residence permits or without permits would have to leave the country or would be moved to camps near the Afghan border. The authorities then began to refuse Afghans work permits and discontinued health subsidies, making living



conditions intolerable for many refugees. At some points in 1995 hundreds, if not thousands, of Afghans were repatriating daily. A further 100,000 left Iran spontaneously during the year, without UNHCR's assistance, according to the International Organization for Migration. There was some concern again that the unassisted returnees may have repatriated under pressure. Continued instability and mass human rights violations in Afghanistan since 1995 have caused many more Afghans to seek refuge. Iran has increasingly responded by closing its borders, although many refugees have still managed to enter the country. In August 1995 the Iranian Interior Ministry official responsible for expatriate affairs said that all foreign nationals arriving in Iran in search of asylum would be housed in special refugee townships.<sup>17</sup>

The warnings that Iran might change its attitude to refugees had been there for many years. In the early 1990s it appealed for increased international support for its efforts. It said it spent about US\$15 a day for each refugee and, despite hosting a significant proportion of the world's refugees, received only 1.3 per cent of the UN's budget for refugees (US\$13 million in 1991).<sup>18</sup> Countries such as Iran need international support to ensure that every single woman, man and child refugee is given refuge and an appropriate standard of treatment. Mass flights of refugees are an international responsibility; countries that happen to be the nearest point of safety should not be left alone to shoulder that responsibility.

### **3 Exiled from home**

#### **International law**

Nasreen Salah can see across the River Jordan. A few miles away is the village where she used to play as a child. She doesn't know if her house still stands. She is a Palestinian refugee and for 48 years she has been prevented from travelling the short distance to see her birthplace. 'Ali Nasser is 23 and Bahraini. In early 1995 his government forcibly exiled him from his country because of his political views. He now lives in the UAE.

The fundamental human rights of both Nasreen and 'Ali have been violated. Article 13(2) of the Universal Declaration of Human Rights states: "Everyone has the right to leave any country, including his own, and to return to his country."

Amnesty International campaigns against forcible exile — when a government forces individuals to leave their own country on account of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, and then prohibits their return, or, if they are already outside their own country, prevents them from returning for the same reasons. Even in cases where those outside the country may have fled (rather than being forcibly expelled), if the people concerned wish to return home and are denied the opportunity to do so, then they are still forcibly exiled. Amnesty International believes that governments should be prevented from exiling their political opponents just as much as from imprisoning them. Amnesty International opposes forcible exile of all people, including those who may have used or advocated violence. It urges that they be allowed to return and, if they are to be charged with a recognizably criminal offence, be given a fair trial.

#### **The Palestinians**

Miriam was cooking when she heard the shots and the screams. She knew what it meant. The day before villagers nearby had been killed by armed Zionist forces. She took the pot off the stove, grabbed her young child, and joined the stream of terrified people who were running from the village. They crossed the River Jordan and began waiting for the moment when it would be safe to return. Miriam now has nine grandchildren and is still waiting to return home.

There are around 5.4 million Palestinians around the world who trace their descent from the 1.4 million Arabs who lived in Palestine before 1948 and who identify themselves as Palestinians.<sup>19</sup>

More than half of them are without the right to citizenship in any country. They are, as they have been for nearly half a century, the largest refugee population in the world.

In many ways, Palestinian refugees differ from other refugees in that a new state was declared in their former homeland. The international community has recognized their right to return or compensation, but few have been granted this right, even since the 1993 peace accords between Israel and the Palestine Liberation Organization (PLO). Some have recently been admitted to the areas under Palestinian Authority control as members of the new administration, and over the years some have been allowed to return to the West Bank or Gaza Strip under a family reunification scheme. The fate of the Palestinian refugees living outside the territories controlled by Israel or the Palestinian Authority is due to be negotiated in the context of a final settlement of the conflict between the two parties.

### **The making of Palestinian refugees**

The first mass flight of Palestinian refugees coincided with the struggle between Palestinians and Zionists for control of Palestine. Fighting intensified after November 1947, when the UN General Assembly voted in favour of a plan to partition Palestine into two separate states, one Arab, one Jewish.<sup>20</sup> On 14 May 1948 Britain's mandate over Palestine ended and the State of Israel was proclaimed. A year later the UN admitted Israel as a full member; 40 years later, in 1988, the UN General Assembly acknowledged "the proclamation of the State of Palestine by the Palestine National Council".<sup>21</sup>

Arab protests against partition were followed by war between Arab and Israeli armies. The newly declared state of Israel emerged victorious, expanding its de facto frontiers well beyond those recommended by the partition plan. Between 600,000 and 780,000 Arabs fled from the territory controlled by Israel, becoming refugees in neighbouring territories. A further 120,000 Arabs who lived in border areas were later classified as refugees by the UN because they had lost their lands and sustenance, although not their homes.<sup>22</sup> In late 1948 the UN General Assembly stipulated that "the refugees wishing to return to their homes and live in peace with their neighbours should be permitted to do so at the earliest practicable date".<sup>23</sup>

Most of the refugees fled to areas within former mandate Palestine — to the West Bank of Jordan and the Gaza Strip. Others went to hastily constructed refugee camps in neighbouring Syria and Lebanon, or to other Arab countries such as Egypt. The reasons for the mass flight of so many people have been hotly disputed by Israelis and Palestinians. What is not in dispute is that the vast majority of the "1948 refugees" were forbidden by Israel from ever returning to their homes. The new Israeli state passed laws that effectively meant that with the termination of the Palestine mandate, former Palestinian citizens lost their citizenship without acquiring another. The issue was resolved by the Israeli Supreme Court in 1952 in *Hussein v. Governor of Acre Prison*, and by the 1952 Nationality Law. In the *Hussein* case, the Court ruled that Palestinian citizenship had ended and that former Palestinian citizens had not become Israeli citizens. The Nationality Law confirmed the repeal of Palestinian citizenship retroactively to the date of Israel's establishment in 1948. The Nationality Law became the exclusive law on citizenship: citizenship became available only by way of return (under the 1950 Law of Return, which applied exclusively to Jews), residence, birth and naturalization.<sup>24</sup> Strict conditions set out for former Palestinian citizens of Arab origin meant that the majority of those displaced in the 1948 conflict were effectively denied Israeli citizenship.<sup>25</sup>

Few Palestinians who fled in 1948 to Arab countries have been granted citizenship, nor have most of them sought this solution to their problem.

In the decades since the establishment of Israel, hundreds of thousands of other Palestinians have been forced to flee their homes. The 1967 war between Israel and Arab armies led to Israeli occupation of the West Bank (including East Jerusalem) and the Gaza Strip, as well as Syria's Golan Heights and the Sinai, which was later returned to Egypt. New Palestinian refugees were

created. At the end of the year, when Israel counted the population newly under its occupation, it reported 350,000 to 400,000 fewer Palestinians than before the war. Many of those “displaced” were refugees forced to flee a second time. Among them were refugees in southern Syria, who fled when Israeli forces occupied the Golan Heights, and about 150,000 registered refugees from the West Bank and 38,500 from the Gaza Strip who fled to Jordan. UN Security Council Resolution 242 declared inadmissible the “acquisition of territory by war” and called for “a just settlement of the refugee problem”.

Since 1967 further conflicts have led to the mass flight of Palestinians. The Jordanian Government’s crack-down on Palestinian armed groups in September 1970 forced many thousands of families to flee Jordan, most of them ending up in Lebanon. Many Palestinian refugees were again uprooted during and after Israel’s invasion of Lebanon in June 1982. After a prolonged siege of Beirut, thousands of Palestinian refugees left Lebanon. Under a negotiated agreement to end the siege, PLO fighters left Lebanon and went to various Arab countries. The hundreds of thousands of refugees who remained in Lebanon found themselves even more vulnerable to attack, poverty and travel restrictions. Their lack of protection was tragically revealed later that year when Lebanese Phalange forces massacred hundreds of Palestinian civilians in Sabra and Chatila refugee camps after the Israeli army allowed the Phalangists to enter the camps.

In the aftermath of the Iraqi invasion of Kuwait in 1990, an estimated 70 to 80 per cent of the 450,000 Palestinians who had been living in Kuwait were expelled and thousands more were forced to leave other Arab countries. Fawaz Hussein El-Hanafy was one such person. His parents had fled Palestine in 1948, eventually settling as refugees in Kuwait where Fawaz was born in 1966. After the Gulf War, armed civilians and military personnel roamed the streets of Kuwait hunting down non-Kuwaitis, including Palestinians, especially young men suspected of “collaboration” with Iraqi forces. Twice they came to the family home to arrest Fawaz, but twice he managed to escape. Fawaz fled Kuwait, even though he knew he would be permanently denied re-entry to the country of his birth. “It is so sad to leave family. But... I said to myself that I could meet my family somewhere sometime if I could stay alive.” He eventually obtained protection as a refugee in Japan.

By the time of the 1993 Israeli-PLO peace accords, over half of the 5.4 million Palestinians worldwide lived outside what had been Palestine in 1948. The only Palestinians in the former UN mandate territory with citizenship are Israelis.<sup>26</sup>

### **Special status under international law**

The special status of Palestinian refugees under international law is bound up with the first mass flight of Palestinians in 1948. In December that year the UN General Assembly established a Conciliation Commission for Palestine (UNCCP), charged with achieving a final settlement to the Palestine problem.<sup>27</sup> A year later the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established as a subsidiary organ of the General Assembly to assist Palestinian refugees who had fled their homes as a result of the conflict.<sup>28</sup> The assistance is mainly in the fields of relief, health and education. Shortly after, the drafters of the UN Refugee Convention decided who should be offered international protection as refugees. After much debate, the Convention finally included a clause excluding all those receiving protection or assistance from a specialized agency of the UN.<sup>29</sup> This means that Palestinians in UNRWA’s area of operation are excluded from the universal protection of the Convention. UNRWA continues to exist, the largest and oldest agency of its kind. In 1995 its mandate was extended to June 1999. The special status of Palestinians can be seen by comparing the definition of a refugee as spelled out for all peoples of the world with that applied to Palestinians. The UN Refugee Convention defines a refugee as a person who:

*“...owing to well-founded fear of being persecuted for reasons of his race, religion, nationality, membership of a particular social group or political opinions, 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...”*

By contrast, UNRWA defines a Palestinian refugee as:

*“...a person whose normal residence was in Palestine for a minimum of two years preceding the conflict in 1948 and who, as a result of this conflict, lost both his home and means of livelihood and took refuge in 1948 in one of the countries where UNRWA provides relief. Refugees within this definition and the direct descendants of such refugees are eligible for Agency assistance if they are: registered with UNRWA; living in the area of UNRWA operations; and in need.”*

The base reference for the UN Refugee Convention’s definition is the country of nationality, which is a political reference. For Palestinians, the reference is geographical; under UNRWA’s mandate the Palestinian refugee has to have resided in Palestine for two years prior to 1948. Another difference is that Convention refugees are defined in terms of the denial of rights in relationship to loss of protection of the country of nationality — the person who fled did so out of fear of persecution. Palestinian refugees are defined by needs — whether they lost their home and means of livelihood.

Unlike UNHCR, UNRWA’s primary aim is to give sustenance to refugees, rather than to protect them. The importance of this difference can be seen, for example, in the refugee’s right to work as provided for under Article 17(1) of the UN Refugee Convention:

*“The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in gainful employment.”*

Articles 18 and 19(1) lay down the same conditions for the self-employed and professionals. As regards the right to public education and public relief, states giving asylum have a duty to provide refugees with “the same treatment as is accorded to their nationals”. Such rights are not explicitly provided for by UNRWA.

Only Jordan and Syria of the Arab countries served by UNRWA offered Palestinian refugees any citizenship rights. In Jordan, Palestinians were granted full citizenship rights, although these were subsequently limited in 1988. In Syria, under the Casablanca Protocol of 1956, they were granted all rights but the right to vote. In every other Arab country, Palestinians suffer serious restrictions. In Lebanon, for example, they have no civil rights and only Palestinians can never be naturalized. They are rarely allowed to work in the public sector, including the civil service and education. Moreover, they may leave the country, but do not have the right to return.

The unique treatment of Palestinian refugees is highlighted by the consequences of the Israeli-PLO peace accord. UNRWA-registered refugees living under the jurisdiction of the newly formed Palestinian Authority (PA) retain their refugee status both because of their origin inside present-day Israel and because of the relevant UN General Assembly resolutions defining Palestinian refugees and the solutions on their behalf (Resolutions 194 and 394). These resolutions were adopted before the 1951 UN Refugee Convention.

Resolution 194, adopted in 1948, provides only two solutions for Palestinian refugees: repatriation or compensation. It declared:

*“...that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property...”*

This resolution stands and has been reaffirmed by the General Assembly year after year. The UNCCP was instructed to “facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation” and, under Resolution 394(V) of December 1950, to “continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees”. This resolution also stands. In

1973 the General Assembly once again endorsed the right of return of the Palestinian people, tracing it directly to Resolution 194.

Another issue concerns Jewish refugees. The massive influx of Jews into Israel after 1948 included not only those who fled persecution in Europe but also more than 550,000 Jews who had lived in Arab countries.<sup>30</sup> Some of these left because of persecution, including killings of Jews, or increasing restrictions on their activities. Others left because of Israeli encouragement to immigrate, including from countries such as Morocco where the state tried to protect them.<sup>31</sup> In some countries, such as Iraq and Yemen, hundreds of thousands of Jews were forced to leave behind all their possessions in the years following Israel's creation. In these countries there are still outstanding Jewish claims for compensation.

### ***Refugees and the peace process***

*"Palestinians are like footballs — everybody is kicking us around. Wherever we go we are treated like trash. All Arab leaders vent their anger at us and punish us."*<sup>32</sup>

Zahya, a Palestinian woman, shouted these words to journalists as she and around a thousand other Palestinian refugees were left stranded in a desert camp in Libya after the Libyan leader, Colonel Mu'ammarr Gaddafi, had ordered in 1995 their expulsion to Palestinian self-rule areas in the West Bank and the Gaza Strip.

In scenes reminiscent of the refugee camps in 1948, the refugees huddled together on the Egyptian border, cold and despairing, under thin woollen blankets. Around 30,000 Palestinians had been ordered out of Libya in 1995: the Libyan leader said the expulsions were to expose the "sham peace deal" between the PLO and Israel.

Around 650 of these abandoned Palestinians, half of them children, were put on an old car ferry which ended up stranded off the Cyprus coast after Syria refused to allow it to dock. After a revolt by the passengers, most were eventually allowed to enter Syria.

A few hundred of those expelled by Libya did manage to reach PA-controlled areas in Gaza and Jericho, but most who tried did not. Egypt and Jordan will let in only those with Israeli-issued permits. In October 1996 Médecins sans Frontières reported that 271 Palestinian refugees, including 74 children, who were stranded at the Egyptian-Libyan border were living in "inhuman conditions" and could not survive another winter.<sup>33</sup> In January 1997 Colonel Gaddafi stated that Palestinians could return to Libya. On 18 April 1997 the Palestinians were transported from the Salloum border point in four buses to Tobruk.

Under the peace accords the Palestinian Authority has been given control of education and culture, health, social welfare, tourism and taxation in areas under its jurisdiction. Israel retains control of external security, foreign policy, border control and Jewish settlements in the territories. With the exception of the Shu'fat camp in Jerusalem, all West Bank and Gaza Strip refugee camps are now in areas administered by the Palestinian Authority.

For many of the refugees in these areas, it is still unclear how the political changes will affect their lives. The majority of the 683,000 UNRWA-registered refugees in the Gaza Strip remain in eight refugee camps, and the strip remains one of the most densely populated and impoverished places in the world. In the West Bank a quarter of the 517,000 registered refugees are in 19 camps.<sup>34</sup> Many have been unable to work for long periods as a result of Israel closing its borders.

According to the World Bank, this costs the Palestinian economy about US\$3 million in revenues every day. Such closures also disrupt everyday life, as 'Adnan Dukhan found in July 1996. A refugee from Balata refugee camp in Nablus, he was reportedly refused a one-day permit to go to Jerusalem to fetch his fiancée, Rania Assila, for their planned wedding. So the two families and the many guests went to the Ram check-point and held the ceremony there surrounded by Israeli soldiers.

For Palestinian refugees living outside PA-controlled areas, the future is extremely uncertain. The final status talks of the peace accords, which were to discuss the fate of refugees outside the West

Bank and Gaza Strip, have been postponed. Among the refugees affected are those who fled their homes in 1948 and the “displaced” of 1967. Palestinian sources estimate the number of Palestinians displaced in 1967 and their offspring total between one and one and a half million.<sup>35</sup> Israel puts the number of displaced at between 150,000 and 200,000<sup>36</sup>, and says that “it would be both unreasonable and unfair to expect Israel to unilaterally accept an influx of hundreds of thousands of Palestinians”.

Changes in the attitude of host countries to Palestinian refugees make finding a solution for them an urgent task in the peace process. Since 1988, when Jordan cut administrative and legal ties with the West Bank, Palestinian refugees lost their full rights of citizenship in Jordan and were later issued with two-year Jordanian passports. The holders face problems obtaining visas for other countries in the Middle East, notably Syria, Lebanon, Egypt and the Gulf states.

In Lebanon, the hundreds of thousands of Palestinian refugees have faced mounting problems. UNRWA, the only authority they can turn to in practice, is increasingly focusing its efforts in the Gaza Strip and the West Bank. Denied the right to seek work, to travel freely or to gain asylum elsewhere, Lebanon’s Palestinian refugees are facing a bleak future.

Palestinians displaced from the Gaza Strip, who carry Egyptian papers, have faced restrictions since the early 1980s on their right to residency and work. This has created enormous problems for many, particularly some of the 70,000 Gazans living in Jordan. They are now refused entry into Egypt unless they have a residence and valid return visa.

Many Palestinians have been living and working in the Gulf states since 1967. However, as the labour market has contracted and they have been forced to leave, they have been confronted with a basic dilemma. They are not able to return to their homeland and in many cases are not able to return to the country of refuge or to the state which issued them their travel documents. This dilemma was highlighted during the Gulf War, when thousands of Palestinians were collectively expelled or forced to flee from Middle East countries. Palestinian sources estimate that around a quarter of a million did not reach a place of secure residency.

UN Resolution 237, adopted in June 1967, called on the Government of Israel “to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities”. UN Resolution 242, adopted in November the same year, calls for “a just settlement of the refugee problem”. Since these resolutions were adopted, Israel has committed itself on several occasions to looking for ways to solve the problem of the 1967 refugees. However, no major breakthrough has happened yet.

The Middle East peace process has yet to resolve the basic problem of the right of Palestinians to return or compensation. As a result, millions of men, women and children continue to live in uncertainty as refugees and stateless people, often in dire poverty, in all corners of the world.

### **Banned from Bahrain**

She was eight months pregnant. She was in her own country, trying to protect herself, her unborn child and her 22-month-old toddler. Her government decided that because she was married to a man who opposed their policies, they no longer wanted her in the country. So they got rid of her. Despite her vulnerability as a pregnant woman, the authorities tortured her and then forced her to board a fishing craft together with more than 20 other families and former political prisoners. All were handcuffed. After their Bahraini passports and birth certificates had been confiscated, they were given documents falsely stating that they had been born in Iran. They were then pushed out to sea. Shortly after the four-day crossing to Iran, the woman gave birth. She told Amnesty International her story:

*“I was given an intravenous injection... to stop my delivery... At 10am they came and hammered on the door... I was in such a bad state that [my brother] didn’t recognize me. They carried me on a blanket and put me in a jeep, bleeding... I was shoved on to the boat and landed on my stomach. There was blood in my mouth.”*

Hundreds of Bahraini nationals have been forcibly exiled from Bahrain since the early 1980s, when this incident happened. Like refugees, they have effectively lost the protection of their own state, and must therefore seek protection elsewhere.

The forcible exile of Bahraini nationals began in the early 1980s when, in the wake of an alleged coup attempt, members of the majority Shi'a Muslim community suspected of having links with Iran were expelled to Iran. Many former political detainees, sometimes with their entire families, were rounded up, stripped of their Bahraini passports or identity papers, and forced to board small boats bound for Iran. Most had no knowledge of Iran, no relatives there, and no understanding of its language. One young Bahraini recounted what this meant in practice:

*"There were 10 to 15 of us in a small boat. It was supposed to take two days to reach Iran but it took five instead. The weather was bad. In no time the boat was waterlogged and we thought we were going to die... They had of course taken all our passports. In Iran we were put in camps with no water or sanitary facilities."*

Another victim was Ahmed Hussein Akbar 'Abbas. In 1982 he was stripped of his Bahraini papers and forcibly expelled to Iran. He tried to return to his homeland in September 1993, but was held, interrogated and reportedly beaten before being forcibly expelled to Lebanon. Lebanon sent him back to Bahrain. When he was once again returned to Lebanon, he was given temporary residence. A further attempt by Ahmed 'Abbas to return home in 1994 resulted in him being detained for 12 days at Bahrain's airport before being expelled to Lebanon. He was reportedly warned that if he tried to come back again he would be put on a boat bound for Iran.

The modern international airport in al-Manama continues to be the setting for violations of Bahrainis' fundamental rights. In the late 1980s and early 1990s some of those who had left Bahrain in earlier years attempted to return after long periods of voluntary exile. They included the wives and families of several political prisoners; those who had fled fearing political imprisonment and torture; and students who had become politically active while studying abroad. Many were held for days at the airport before being forcibly expelled. Some were beaten during interrogation. By the early 1990s hundreds of Bahraini nationals had been expelled from the country, the overwhelming majority of them Shi'a Muslims.

In December 1994 widespread protests in Bahrain called on the government to restore democratic rights by reconvening the National Assembly that had been dissolved in 1975 and respecting the country's Constitution. The government responded by clamping down heavily on all opposition, and in the months that followed protests escalated, some involving violence. Several thousand women, men and children were arrested and held without charge or trial. Torture and ill-treatment of detainees became widespread and systematic.

Since the protests began, the authorities have continued to forcibly exile Bahraini nationals from the country, targeting those they believe might sympathize with the protests. Among them are religious scholars accused of planning acts of sabotage and of inciting others to commit acts of violence. Shaikh 'Ali Salman, a prominent religious scholar, was forcibly exiled to the UAE on 15 January 1995 after he had been held for more than a month in a Bahraini prison, most of the time in solitary confinement. At least 11 Bahraini nationals who tried to return to the country in 1995 were held at the airport and then forcibly exiled for the first time.

In 1996 at least 25 Bahraini nationals, including whole families, who attempted to return to Bahrain were denied entry and forcibly exiled. Among the victims were Yasser Mirza Ahmad and his wife, both Bahraini citizens. They were kept for four days at Bahrain airport in February 1996 before being returned to the UAE. They were given no bedding and were interrogated throughout their detention and denied any contact with family, friends or lawyers.

Bahrainis denied the right to return to their country are not told why. They are given no opportunity to challenge the decision to expel them, or even to know the legal grounds for the measure being taken. They are denied any opportunity to appeal or to challenge the legality of such actions through the courts. Such treatment not only violates international law. It is also

expressly prohibited under Article 17(c) of Bahrain's Constitution, which states that: "No citizen shall be deported from Bahrain, nor shall he be denied re-entry".

Some of those who return to Bahrain after long periods abroad are issued with new Bahraini passports, valid only for short periods and for a small selection of countries, such as Syria, the UAE or Saudi Arabia. These passports appear to be issued solely for the purpose of facilitating their expulsion from Bahrain and their entry to another country. A number of victims testified that they were given no prior notice of the country to which they were being expelled: they learned their destination only after they had boarded the flight. In a handful of known cases, those expelled were not issued with passports but with a laissez-passer issued by the Interior Ministry and intended for use solely for that journey.

Amnesty International has over the years repeatedly raised its concerns with the Bahraini authorities about the practice of forcible exile. In some cases, the authorities have stated that the people in question did not have valid travel documents and were therefore denied entry "in accordance with normal international practice". This fails to take into account the obligation of states to re-admit their own nationals. The fact that the Bahraini authorities routinely issue new passports, albeit with limitations and restrictions, to those returning with expired or invalid passports demonstrates clearly that the nationality of the individuals concerned is not in question. The authorities' response also fails to take into account that many Bahraini nationals were afraid to renew their passport while abroad either because they were required to return to Bahrain at a time when they felt they would be at risk of human rights violations, or because the embassies refused to return or renew it.

Forcible exile of Bahrainis and other associated human rights violations should stop immediately. No one should be denied entry into their own country. If people are suspected of a recognizably criminal offence, they should be given a fair trial, not sent into permanent exile against their wishes.

#### **4 Recommendations**

Amnesty International urges the governments in the Middle East to take the following steps to ensure that refugees receive the international protection to which they are entitled:<sup>37</sup>

- \* Build awareness and public support for the rights of refugees.
- \* Live up to their obligations under international law to respect and protect the fundamental human rights of their own citizens, so that people are not forced to flee their own countries in search of protection abroad.
- \* All states that have not done so should immediately ratify and implement international human rights treaties such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.
- \* All Arab states that have not done so should immediately ratify and implement the Arab Convention Regulating the Status of Refugees in Arab States.
- \* Allow access to all those fleeing the threat of human rights violations. Measures to obstruct access, such as visa controls, closing borders or restrictive procedures, should be amended to ensure that refugees can enter to seek asylum.
- \* Respect the fundamental principle of non-refoulement. No one should be sent back to a country where they would be at risk of serious human rights violations, such as torture, extrajudicial execution or "disappearance". Protection should be offered until it has been conclusively and independently determined that such risks no longer exist.
- \* Ensure that individual asylum-seekers are referred to an independent and specialized body responsible for deciding asylum claims. All such claims should be considered in a



fair and satisfactory asylum procedure and every asylum-seeker must have the right to appeal. Applicants should be allowed to stay in the host country during the entire asylum procedure, including appeals.

- \* Take effective action to ensure that those who have fled their country have the right to return and are able to return safely.
- \* Stop forcibly exiling people from their countries so that they are left with no choice but to search for protection abroad.
- \* Ensure that the right to return or compensation for Palestinian refugees is respected: these rights should be given a high priority in the Middle East peace process.
- \* Accord all refugees, including Palestinian refugees, their full rights as provided for by international law.
- \* Ensure that the rights of refugees are protected in situations of mass exodus. In particular, every refugee should be given an opportunity to identify themselves as having individual grounds for continuing to fear persecution if returned home, including during voluntary repatriation programs.
- \* All bilateral and multilateral arrangements between states that allow asylum-seekers to be returned to a country where they would be at risk of refoulement or serious human rights violations should be ended immediately.

Amnesty International also urges the international community to:

- \* Put pressure on governments in the Middle East to respect human rights.
- \* Respect the rights of refugees from the Middle East who are seeking asylum outside the region.<sup>38</sup>
- \* Share fully the international responsibility for protecting and sheltering refugees. International organizations responsible for providing refugee protection and assistance, including UNHCR, should be allowed to operate without political interference and with secure funding.

#### ENDNOTES

1 Almost all the people who fled returned home within a few weeks after the end of Israel's military operation.

2 In this report, the Middle East is understood to include the Maghreb countries of northern Africa.

3 World Refugee Survey 1996 (US Committee for Refugees).

4 Most of these Kurdish refugees have subsequently returned to the areas from which they fled.

5 See below, Chapter 3, Special status under international law, for UN Refugee Convention refugee definition.

6 World Refugee Survey 1996

7 World Refugee Survey 1996

8 In most countries, family reunification is usually possible only if refugee status has been granted under the UN Refugee Convention.

9 Anatolia News Agency, 20 September 1996

10 The only exception is the refugee population from Western Sahara living in the Polisario refugee camps in southern Algeria.

11 World Refugee Survey 1992 and 1993

12 "Background paper on Iraqi refugees and asylum-seekers", UNHCR, 1994

13 "Background paper on Iraqi refugees and asylum-seekers", op. cit.

14 "Background paper on Iraqi refugees and asylum-seekers", op. cit.

- 15 ‘Abbas Amir Entezam was subsequently released from prison but remains restricted in a government residence.
- 16 “Asylum under attack”, Lawyers Committee for Human Rights, April 1992
- 17 IRNA news agency, 13 August 1995.
- 18 “Asylum under attack”, op. cit.
- 19 “The displacement of the Palestinians”, Janet Lippman Abu-Lughod, *The Cambridge Survey of World Migration*, ed. Robin Cohen, 1995
- 20 UN General Assembly Resolution 181 (II) A, 29 November 1947
- 21 UN General Assembly Resolution 43/177
- 22 “The displacement of the Palestinians”, Abu-Lughod, op. cit.
- 23 “The Protection of Palestine Refugees in the Territories occupied by Israel”, *International Journal of Refugee Law*, July 1991
- 24 “International Protection”, Guy S. Goodwin-Gill, *The Refugee in International Law*, Oxford, 1996
- 25 The conditions were: they must have been registered under the Register of Inhabitants Ordinance on 1 March 1952; have been inhabitants of Israel on 14 July 1952; and have been in Israel, or an area which became Israel, from the day of establishment of the State of Israel to the day of entry into force of the law, or have entered legally during that period. There were some authorized returns of Arab Palestinians for the purposes of family reunion.
- 26 “The Palestinian Diaspora”, Howard Adelman, *The Cambridge Survey of World Migration*, ed, Robin Cohen, 1995
- 27 UN General Assembly Resolution 194 (III), 11 December 1948
- 28 UNRWA was set up by UN General Assembly Resolution 302 (IV) of 8 December 1949. It succeeded the Special Fund for Relief of Palestine Refugees, set up by the UN General Assembly under Resolution 212 (III), 19 November 1948.
- 29 Many other people were also excluded, as the 1951 UN Refugee Convention only applied to refugees resulting from events prior to 1951 and contained geographical limitations.
- 30 According to official Israeli figures.
- 31 Only in Lebanon did the Jewish population increase after 1948. Some then left during the 1967 war and after armed conflict broke out in 1975. Today, few Jews live in Lebanon.
- 32 Reuters, 27 October 1995
- 33 Reuters, 16 October 1996
- 34 World Refugee Survey 1996
- 35 Shamal Newsletter, March 1996
- 36 Reuters, 12 September 1995
- 37 Similar recommendations are being addressed to governments in other regions.
- 38 See the comprehensive set of recommendations included in Amnesty International’s 1997 report, *Refugees: Human rights have no borders* (AI Index: ACT 34/03/97).

## Captions

Kurdish refugees walking into the Piranshahr region of Iran. © Nickelsberg/Time/Katz Pictures

Assam Edalatjow

A bomb explosion in a residential area east of Algiers on 29 October 1995. The explosion killed at least six civilians and injured 83 others. © AP

A group of refugee Marsh Arabs from southern Iraq, photographed near the Iraqi town of al-Qurna, close to the Iranian border. © Frank Spooner/Chip Hires

Idris © Angus Bremner

Neina © Angus Bremner

Mehrdad Kavoussi and his wife, Laya Gohari, after they found sanctuary in Europe.

Palestinians in Jabalia refugee camp near Gaza, 1993 © Howard J. Davies

Fawaz Hussein El-Hanafy

Shaikh 'Ali Salman, Shaikh Hamza al-Dairi and Sayyid Haidar al-Sitri arriving in the United Kingdom: all three have been forcibly exiled from Bahrain.

Front cover photograph: An Iraqi Kurdish mother and child waiting to cross from Iraq into Iran, near the border town of Piranshahr, 1991 © David Stewart-Smith