

# Iraq

## Refugees and displaced persons - protection first

The most common cause of large-scale refugee movements is armed conflict. Human rights abuses are both a cause and a consequence of such movements, and the conflict in Iraq is no exception. With some 400,000 Iraqi refugees already living outside Iraq, and up to 1 million people already internally displaced, many thousands are expected to leave their homes in search of safety. With further large scale movements expected, the majority of the displaced will likely be women and children.

Amnesty International has previously expressed fears that neighbouring states may close their borders to those attempting to flee Iraq and has therefore advocated that borders should remain open. Recent reports received by Amnesty International delegations in the region have substantiated these concerns. On Thursday, 20 March, the Turkish Parliament passed a motion which included authorisation to deploy troops into Northern Iraq which Amnesty International fears may be used to stem the flow of refugees triggered by the US-led attack on Iraq. Iran has already indicated that it will be selective in who it allows to cross its border to seek protection, allowing only those whose lives are considered to be in danger to enter its territory. Reports indicate that both the Kuwaiti and Saudi Arabian borders will be closed to Iraqi refugees. Syria's border has been re-opened after intervention by the Office of the UN High Commissioner for Refugees (UNHCR) and preparations are underway to build refugee camps. A number of third country nationals have already begun arriving in Jordan, in search of protection. Inside Northern Iraq, reports suggest that there have been large numbers of people on the move to mountainous areas seeking protection, many of them fearing attacks - including with the use of chemical weapons - by Iraqi forces.

UNHCR has launched an initial appeal for US\$60 million for an estimated 600,000 refugees, but has so far only received US\$22 million. Although there have been some recent pledges, Amnesty International remains concerned that donor countries may fail to provide sufficient guarantees of assistance to UNHCR and to states neighbouring Iraq, undermining their ability to cope with large influxes of refugees. The organization is also concerned that UNHCR may be denied access to refugees or prevented or restricted from assisting and protecting them in accordance with its mandate. There are similar concerns in relation to access by other relief agencies.

There are reports that security procedures will be put in place at or near borders with Iraq where officials of neighbouring states, or US allied forces, may screen out certain categories of persons trying to flee the country. Amnesty International is concerned that such measures might obstruct the right to seek asylum in other countries, or that these security procedures might operate in a discriminatory or arbitrary fashion. While there is a need to ensure that those implicated in serious abuses of human rights in Iraq are not able to evade justice, in no circumstances should any person be returned to Iraq if they are at risk of abuses such as torture, arbitrary execution or "disappearance".

Amnesty International therefore calls on all governments, and in particular parties to the conflict and neighbouring states, to give urgent attention to ensuring respect for the rights of Iraqi refugees and internally displaced persons, and others fleeing Iraq. They must be given protection and assistance in accordance with international humanitarian, refugee and human rights standards.

Amnesty International demands in particular respect for the fundamental principle of *non-refoulement*. This principle prohibits the forcible return of persons to a situation where they are at risk of grave human rights abuses, and is the cornerstone of international refugee protection. The principle of *non-refoulement* must be observed scrupulously and applies equally in situations of large-scale influx of refugees. It includes the obligation on states not to reject refugees and asylum seekers at the frontier, which would be a direct violation of international law.

Amnesty International therefore urges states to ensure that:

**Borders remain open**

Amnesty International recalls that the right to seek and enjoy asylum is a central element of the international refugee protection regime. Furthermore, although international law requires that all necessary measures are taken to ensure the safety and security of internally displaced persons, their protection must be without prejudice to the right to seek and enjoy asylum in other countries. The organization also emphasises that procedures for identifying individuals who are security risks or armed elements among those fleeing must not obstruct the right to seek asylum or operate in an otherwise discriminatory or arbitrary fashion. With this in mind, borders should remain open:

- to all Iraqi refugees and asylum seekers without discrimination, including on the basis of gender and age, in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol as well as customary international law which prohibits all states from forcibly returning persons to a situation where they are at risk of grave human rights abuses;
- to third country nationals and stateless persons fleeing human rights abuses in Iraq;

**The protection of refugees and displaced persons are given priority**

Amnesty International emphasises that effective protection of refugees requires the delivery of legal, physical and social protection, including adequate assistance. In practice this means that:

- camps (whether for Iraqi refugees or third country nationals) should be situated at a safe distance from the border, and established and administered in a manner which takes account of the rights and vulnerabilities of the population, in particular women and children;
- the civilian and humanitarian character of camps must be maintained in terms both of the refugee population itself and in the establishment, management and administration of camps;

- timely, safe and secure access to humanitarian assistance (adequate food, potable water, clothing, shelter, healthcare and sanitation) should be assured and human rights standards should guide the reception and treatment of refugees, including respect for the principle of non-discrimination, in particular on the basis of gender and age;
- refugees and asylum seekers, who may include third country nationals or stateless persons, should be given access to effective protection, including access to fair, satisfactory, gender- and age-sensitive registration and, where applicable, individual status determination procedures;
- UNHCR should be given unrestricted access to border areas and to all refugees and asylum seekers;
- UNHCR should enjoy the cooperation of all relevant actors so that it is in a position to deliver protection and assistance in accordance with its mandate;
- independent human rights monitors should be afforded access to camps and border areas.

**The international community shares the responsibility to protect refugees**

Amnesty International emphasises that in situations of mass influx, wealthier states have a responsibility to commit financial and other support to those neighbouring states receiving refugees. The protection of refugees' human rights is an international obligation, and cannot be left solely to states neighbouring Iraq, some of which already host hundreds of thousands of refugees. Responsibility-sharing arrangements for forcibly displaced Iraqis should therefore:

- be driven by the imperative to protect refugees, asylum seekers and the displaced, and must be grounded in human rights;
- ensure the central role of UNHCR in protecting and assisting refugees;
- include provision of adequate and timely financial support to enable UNHCR to deliver on its mandate responsibilities;
- give due regard to the continuing need for UNHCR and the wider international community to provide protection and assistance in other refugee situations;
- ensure that Iraqis who are in or who arrive at the borders of non-neighbouring states are accorded effective protection in the territory of those states, including access to fair and satisfactory procedures and freedom from arbitrary detention, in particular on the basis of nationality;
- include guarantees that money promised is provided promptly and that it is administered by organisations and entities who will provide assistance in an effective, transparent and accountable manner.