



Statement of Human Rights First

Commission on Security and Cooperation in Europe:

“No Way Home, No Way to Escape: The Plight of Iraqi Refugees and Our Iraqi Allies”

July 22nd, 2010

Human Rights First applauds the Commission on Security and Cooperation in Europe for holding a hearing on Iraqi refugees and allies and for drawing attention to the serious protection difficulties that Iraqi refugees and U.S.-affiliated Iraqis continue to face throughout the Middle East, including in Iraq itself. In particular, we commend the leadership of Chairman Benjamin L. Cardin (D-MD) and Co-Chairman Alcee Hastings (D-23rd FL) for their commitment to ensuring that the United States helps to lead the international community in finding sustainable durable solutions for displaced Iraqis. Iraqi refugees in Syria, Jordan, Lebanon, Egypt, Turkey and other parts of the region face a myriad of protection problems. Many have no access to formal legal status or employment authorization, leaving them unable to support their families and at risk of arrest, detention and possible deportation. In addition, a significant number of Iraqis have lived in exile for over five years which has exhausted their savings, and only increased their vulnerability. As violence and insecurity persist in Iraq, prospects for significant returns are unlikely, especially as Iraqis continue to seek safety in neighboring countries. As of May 2010, new registrations of Iraqi refugees in the region averaged at 2,938 per month.¹ During recent interviews with Iraqi refugees in Jordan, Lebanon and Egypt, Human Rights First researchers met with many Iraqi refugees who stated that they did not believe it was safe to return to Iraq given the continuing risk of persecution and lack of protection.

Since 2007, Human Rights First has worked to secure a comprehensive response to address the protection and assistance needs of Iraqi refugees and displaced persons. The United States has a moral obligation – as well as a strategic interest – to lead the international community in responding to the protection concerns of Iraqi displaced persons. Human Rights First has urged the United States to bring some of the most vulnerable Iraqi refugees – including Iraqi refugees who are at risk because of their work for the United States – to safety through resettlement and to lead the international community in providing assistance for refugees and those displaced within Iraq. The United States should maintain its commitment to resettling Iraqi refugees at current levels. Additionally, Congress and the Administration should repair a number of systemic problems in the U.S. Refugee Admissions Program (USRAP or “the Program”) that have impacted Iraqi refugees as well as refugees in need of resettlement worldwide. Human Rights First’s primary recommendations include:

- The Department of State, working with the Department of Homeland Security and intelligence agencies, should improve the staffing, coordination, and timeliness of the security clearance process, as well provide information about the timing of the process to applicants whose departure to the U.S. is delayed due to security clearances;
- The Department of State, with other relevant agencies, should enhance capacity to expedite the resettlement of refugees who face imminent harm by developing a transparent and formal expedited procedure for refugees who face an imminent risk of harm; and

¹ UNOCHA, Regional Response Plan for Iraqi Refugees, 2010 Mid-Year Review, Pg. 5.

- The Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS), should implement reforms to improve the fairness and effectiveness of the resettlement process, including by ensuring that notice of ineligibility decision is written in a language the refugee understands and that refugees are provided with essential information relating to the denial of their resettlement application.

Introduction

Since the start of the war in Iraq in March 2003, and particularly since the outbreak of sectarian violence in February 2006 following the Samarra Mosque bombing, millions of Iraqis have been forcibly displaced. Approximately 1.5 million people remain internally displaced within Iraq following the violence in 2006.² As of May 2010, 225,000 Iraqi refugees are registered with the UN Refugee Agency, UNHCR, in Egypt, Iran, Jordan, Lebanon, Syria and Turkey, with the majority located in Jordan and Syria.³ It is likely that other Iraqi refugees have not registered with UNHCR. While a small portion of Iraqi refugees have returned to Iraq, the significant majority have not. As their displacement grows increasingly protracted, the vulnerability and needs of the current refugee population continue to rise.

Iraq remains unsafe for most Iraqi refugees to return, and with limited opportunities for integration in the region, resettlement remains an urgent priority for addressing the protection needs of Iraqi refugees. Since 2006 the U.S. has significantly increased its capacity to resettle Iraqi refugees. In Fiscal Year 2009, the U.S. resettled over 18,000 Iraqi refugees, in part through the procedures mandated by the Refugee Crisis in Iraq Act, which created programs to provide routes of escape to the United States for U.S.-affiliated Iraqis facing danger inside Iraq, including Special Immigrant Visas and direct access (P2 priority access) to the U.S. refugee program. Despite the substantial improvement in U.S. resettlement of Iraqi refugees, extended processing delays continue to leave many refugees Iraqi – and other – refugees in difficult and dangerous circumstances. For its part, UNHCR recently announced that it has referred 100,000 Iraqi refugees for resettlement from the Middle East to resettlement countries since 2007, the majority of which have been referred to the United States.⁴ Yet due to lengthy delays in the security check process and cumbersome processing procedures, only fifty-percent of refugees referred for resettlement by UNHCR have actually departed. While in Syria to mark World Refugee Day in June, the UN High Commissioner for Refugees, António Guterres, stated, “I call on [resettlement] countries to facilitate the speedy departure of refugees they have accepted for resettlement.”⁵

1. Delayed clearance procedures and the impact on refugee protection

The USRAP requires a number of clearance checks before a refugee can be approved for departure to the U.S. The conduct of security checks is an essential step in the screening of refugees and other immigrants arriving in the U.S. The current security clearance process is a complex multi-agency process that requires the participation of the Departments of Homeland Security, State, and Justice, and may also involve the participation of intelligence agencies including the Central Intelligence Agency. Due to inadequate resources and coordination, security clearance procedures can delay resettlement for months

² International Organization of Migration, Emergency Needs Assessment: Four Years of Post-Samarra Displacement in Iraq, February 2010, Pg 6.

³ UNOCHA, Regional Response Plan for Iraqi Refugees, 2010 Mid-Year Review, Pg. 5.

⁴ UNHCR, UN chief announces 100,000 landmark in resettlement of Iraqi refugees, 18 June 2010.

⁵ *Supra*.

or more – particularly for Iraqi refugee applicants who have common or multiple names. For the majority of Iraqi refugees, security clearances include Security Advisory Opinions (SAO), which involve extensive analysis of names within intelligence and other government databases. In certain circumstances, one individual may require multiple SAOs, the production of which are coordinated by the Department of State and generated by different intelligence agencies. Human Rights First interviews in Washington and elsewhere confirm that the majority of delays in the resettlement of Iraqi refugees are caused by the conduct of the security clearance procedures, and in particular the Security Advisory Opinion (SAO) process.

U.S.-affiliated Iraqis have not avoided the long delays in completion of security clearance processes – delays that plague the refugee and immigration system as a whole. The Refugee Crisis in Iraq Act provided two new routes of escape to the U.S. for Iraqis who face danger due to their employment with the U.S. government, military, or contractors, or U.S.-based NGOs or media organizations – a Special Immigrant Visa program and a program that permits direct access (P2 priority access) to the U.S. refugee program within Iraq and in Jordan and Egypt. These programs were intended to facilitate processing of U.S.-affiliated Iraqis to ensure they are able to find safety as quickly as possible. Yet interviews conducted by Human Rights First with Iraqi refugees and their pro bono attorneys confirm that it can take a year or more for applications to be processed through these programs. The most significant holdups in the application process are caused by the delays in the security clearance process. The List Project to Resettle Iraqi Allies also confirmed that “a significant portion of bottlenecks and delays happen at the security processing stage.”⁶ For all Iraqi refugees, these delays can leave families stranded, often in difficult or dangerous circumstances in their countries of first asylum or within Iraq.

In real terms, when a refugee case is delayed due to security, or for other reasons, a letter is sent to the applicant saying their case has been “deferred.” The letter, issued by USCIS, is only written in English, and provides minimal information about the nature of the deferral. It does not include any information on the timeframe for a decision. While some refugees depart within a matter of days or weeks after receiving such a letter, many do not. The fact that some refugees leave relatively quickly upon receipt of deferral letters leads other refugees to assume that they too will soon depart. Yet this is not the case for many refugee applicants. Human Rights First interviewed refugees in Jordan who had been waiting up to two years after receiving deferral letters.

These delays, and a lack of effective and transparent communication with the applicants regarding the timeframe for decision-making or their potential departure, undermines the ability of the refugees to plan their lives and care for their families. Some refugees prematurely withdraw their children from school and sell their belongings in preparation for resettlement, only to have their departure deferred. Delays can also make it necessary for refugees to undergo repeated medical examinations and can increase their housing rental costs. SAOs themselves expire and may need to be repeated. One Iraqi refugee who had been waiting over eight months to depart after receiving a deferral letter told Human Rights First (HRF) that “they should tell Iraqis when we can expect to leave, so we know when we can sell our

⁶ The List Project to Resettle Iraqi Allies, *Tragedy on the Horizon, A History of Just and Unjust Withdrawal*, May 2010, Pg 29.

belongings.”⁷ Another refugee father stated to Human Rights First researcher: “I keep my children out of school because I think we will leave.”⁸

In addition, some Iraqi refugees have serious medical problems and require treatment abroad. The lengthy wait time can exacerbate medical conditions if treatment is unavailable or unaffordable. Frustration is also increased as the various participants in the resettlement process including UNHCR and the State Department’s processing contractors (known as the Overseas Processing Entities or “OPEs”) cannot provide additional or updated information on wait times to refugees if their applications have been deferred due to security clearances. One OPE representative told HRF “the lack of transparency undermines the credibility of the entire process. It is only in the interest of the U.S. Resettlement Program to provide more information.”⁹ To remedy this situation, HRF specifically recommends:

- Revision of the USCIS deferral letter to include information about the time frame for decision-making and potential departure – even if it is approximate. The letter should also be translated into local languages;
- Review of USCIS and State Department standard operating procedures (SOPs) to ensure they provide Overseas Processing Entities and Refugee Corps Officers with standard information as to how to counsel refugees who are deferred;
- Improved staffing, timeliness, and coordination of security clearances for refugees awaiting a resettlement decision to the United States, allowing refugees who are slated for U.S. resettlement to move through the process without unnecessary delays.

II. Protection and Resettlement for Refugees at Imminent Risk of Harm

Currently the USRAP lacks a formal and transparent program or set of procedures to expedite the resettlement of refugees who are at risk of imminent harm in the countries to which they have fled. For example, some refugees can face an imminent risk of harm due to serious threats to their physical security, a serious threat of deportation back to persecution, attacks stemming from bias-motivated violence, or medical problems that require immediate life-saving treatment which is not available in their current locations. While the Departments of State and Homeland Security do currently expedite urgent or emergency cases on an *ad hoc* basis, currently there is no transparent or formal system which institutionalizes a procedure or sets processing time within a certain period. In addition, in certain instances the Security Advisory Opinion process is difficult or impossible to expedite due to complex intelligence analysis that may be required. Hence if an SAO is “expedited,” it may still be delayed for months, which does not assist individuals who face imminent harm. As a result, a number of refugee applicants in the most urgent need of resettlement are left stranded in dangerous and life threatening situations.

Human Rights First interviews with Iraqi refugees illustrate the need for a formal expedited procedure. For example, Human Rights First researchers met an Iraqi refugee family in Jordan which included a three year old daughter who has severe kidney disease. We met the family at their home in an Amman suburb. The little girl’s parents administered medicine to her through intravenous (IV) therapy. Doctors

⁷ Human Rights First interview with Iraqi refugee family, Amman, Jordan, 16 April 2010.

⁸ Human Rights First interview with Iraqi refugee family, Amman, Jordan, 17 April 2010.

⁹ Human Rights First interview with OPE representative, New York, 28 May 2010.

had told the parents that their daughter required medical treatment in a developed country, and it was only this treatment that would save her life. While the family had registered with UNHCR and been interviewed for resettlement, when Human Rights First met them they had been waiting over six weeks for a resettlement referral. UNHCR informed our researchers that they were aware of the case and wanted to submit the family for resettlement, however, at the time there was a shortage of resettlement places for urgent medical cases. These cases are not referred to the United States due to the unpredictability and delays in U.S. processing times. While other resettlement countries maintain urgent or emergency resettlement programs – which can provide an assurance of processing within a certain period – the U.S. currently lacks such a program.

Human Rights First researchers have also learned of a number of similar refugee cases warranting urgent or emergency resettlement. The cases involve human rights advocates or political activists who are at risk of harm from persecutors who continue to threaten them in the country to which they have fled, including refugees who face a risk of imminent harm in their country of first asylum because of their sexual orientation or gender identity. For example, Human Rights First documented the case of a gay Iraqi man who fled Iraq due to his sexual orientation but faced serious threats in his country of refuge. “Amer” and his family were severely beaten in Iraq by militia groups.¹⁰ The beatings left Amer’s mother paralyzed and soon after she passed away. The family eventually fled to a neighboring country, where they registered with UNHCR. Soon after his arrival in that country, Amer began receiving threats. One evening a stranger visited Amer’s home, threatened him with a gun, and warned “I know you are gay. I heard about you and you have a high voice. I am going to fill out a report.”¹¹ After this incident, Amer received additional direct threats, including that he would be killed.

Amer believes that the threats are associated with intelligence agencies who may act on them and harm him or return him to the group that was persecuting him in Iraq. These incidents began in June 2010, and since then Amer has been afraid to return home as he fears the stranger will return as additional threats via telephone have continued. To avoid harm Amer has been hiding in apartments of friends and sleeping on park benches. At the time of writing this testimony, HRF was informed that Amer will soon be interviewed by the Overseas Processing Entity of the USRAP upon a referral from UNHCR. However, there is no way to know how long it will take to process his case for resettlement given the lack of an expedited process. It should also be noted that for Amer, resettlement to the U.S. is the only realistic option as he is fluent in English and has close ties in the U.S. The lack of a formal U.S. expedited program generated immense confusion as to how to officially request an expedited process within the USRAP for Amer. It also remains unclear how much time it will take to process Amer’s case, which is of critical concern as he still lacks safe housing and is receiving ongoing threats to his personal security.

The lack of a U.S. expedited program or process for emergency refugee cases is a clear protection gap. Globally, approximately 700 places per year are available for emergency resettlement.¹² These places are all provided by resettlement countries other than the United States. This number is highly limited given the need, which goes beyond 700 places. Without a U.S. program to address this need, urgent and

¹⁰ Names have been changed to protect confidentiality.

¹¹ Information provided by legal advocate to Human Rights First.

¹² UNHCR, Information Note and Recommendations from UNHCR: Emergency Resettlement and the Use of Temporary Evacuation Transit Facilities, July 2010, Pg 1.

emergency cases will continue to languish while refugees are left stranded in life-threatening situations. The United States itself cannot rely on the limited emergency resettlement places provided by other countries and should establish its own formalized emergency resettlement program not only because of the need but also for additional reasons including:

- **U.S. ties** – the United States has an interest in resettling refugees who have family, employment, community or other U.S ties, as these refugees will only be able to be successfully resettled to and integrated in the U.S.;
- **A global model** – the U.S. is the largest resettlement country in the world and serves as a model for global resettlement policy and practice. Given this role, the U.S. should set a positive example through the establishment of an emergency program, especially as other countries look to the U.S. as they establish or refine their own programs;
- **Saving lives** – one of the most important functions of resettlement is to preserve the right to life. The U.S. has acknowledged this by stating that “our first priority is ensuring the safety of refugees in urgent need of protection. Such refugees face serious threats to their physical security or have other urgent needs that cannot be met in countries of first asylum.”¹³ Without an emergency program which guarantees expedited processing at every stage, the USRAP lacks the infrastructure to ensure it is working towards its “first priority.”

Human Rights First specifically recommends:

- The Department of State, working with other relevant agencies, should enhance capacity to expedite the resettlement of refugees who face imminent harm by developing a transparent and formal expedited procedure. Such a system would provide guidance as to how to request an expedite request, and identify *all* stages, including security checks, that should be expedited within a certain time period.

This recommendation follows similar recommendations put forward by other stakeholders, including the Citizenship and Immigration Services Ombudsman of the Department of Homeland Security and UNHCR.¹⁴ In addition, a group of sixteen civil society groups, including Human Rights First and other refugee protection organizations, recommended in a letter to the Secretary of State that a “ formal and transparent fast-track process should be put in place to ensure the safety and protection...[of refugees] who face imminent harm or danger in their countries of first asylum.”¹⁵ Refugee Council USA has also formally suggested that additional funds in FY2011 be appropriated to “strengthen capacity for expedited processing beyond the current mechanisms in place for refugees who face imminent harm or serious threats to their physical security in countries of first asylum other than the U.S.”¹⁶

¹³ U.S. Department of State, Foreign Affairs Manual, Volume 9, Appendix 0/100, Refugee Resettlement Policy, Pg. 2.

¹⁴ See U.S. Citizenship and Immigration Services Ombudsman, Recommendation Regarding the Adjudication of Applications for Refugee Status, 14 April 2010; UNHCR, Information Note and Recommendations from UNHCR: Emergency Resettlement and the Use of Temporary Evacuation Transit Facilities, July 2010

¹⁵ Civil society letter to Secretary Clinton on steps to address the urgent protection needs of LGBTI refugees, 31 March 2010, on file with Human Rights First.

¹⁶ Refugee Council USA, proposed Report Language for the Fiscal Year 2011 State and Foreign Operations Appropriations Bill, March 2010, on file with Human Rights First.

III. Lack of Transparency and Fairness in Resettlement System

Globally, refugees who are found to be ineligible for resettlement to the U.S. do not receive adequate information from USCIS concerning the reasons for their denial. As a result, they lack the information required to submit meaningful requests for review of those decisions. These requests are known as requests for reconsideration (RFRs). HRF met several refugees in Jordan and Lebanon who did not understand the reasons why their cases had been denied. Given that these individuals had been officially recognized as refugees by UNHCR, the U.S. denials are sometimes seen as arbitrary by refugee applicants, especially as reasons for denial are provided only in general terms. Most of the Iraqi refugees HRF met who had been denied resettlement had not submitted RFRs. Some explained that they could not do so since they did not have enough information about the reasons as to why their cases had been denied. For example, Human Rights First researchers interviewed a young Iraqi refugee in Amman who had a long history of working with U.S. organizations in Iraq. According to the letter sent to him by the U.S. government, his application for resettlement to the U.S. had been rejected for “other reasons,” without any specific reasons being listed.¹⁷ In addition, without sufficient explanation, it is difficult for refugees who have been mistakenly denied due to “credibility” questions to effectively request reconsideration as they don’t know what miscommunications they need to clarify or what additional information they should provide to address a possible mis-understanding. For example as one Iraqi refugee told us, after she was denied based lack of credibility, she felt that she was not in a position to appeal the decision without knowing why her story was not believed.¹⁸ The woman had been shot in the face and received six surgeries in a hospital on a U.S. military base in Iraq.

While recently the DHS has undertaken efforts to improve some aspects of overseas processing, gaps still remain. In addition to the lack of information concerning the reasons for denials, U.S. resettlement decisions and other key documents are not translated into local languages, and little guidance is provided on the submissions of RFRs.

Human Rights First recommends:

- USCIS should revise its current Notice of Ineligibility for Resettlement to include additional information on reasons for denial. Such information would provide specific reasons for denial which enables an applicant to submit a meaningful request for reconsideration. The Notice of Ineligibility should also be translated into local languages.
- USCIS should issue guidance on how to file a Request for Reconsideration. Guidance should include an explanation of the process as well as identify the types of supporting documents that may be appropriate to submit as part of an RFR.

Conclusion

HRF again praises the Commission on Security and Cooperation in Europe for holding its timely hearing on the plight of Iraqi Refugees and U.S. affiliated Iraqis. We hope that the hearing will be used as an opportunity to address fundamental gaps experienced by Iraqi and other refugees as outlined above. Through implementing the reforms suggest here, the U.S. will reaffirm its leadership as a model for global resettlement and its commitment to protecting refugee rights.

¹⁷ Human Rights First interview with Iraqi refugee, Amman, Jordan, 17 April 2010.

¹⁸ Human Rights First interview with Iraqi refugee, Amman, Jordan, 17 April 2010.