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سنتق الله العظيم

LEBANON

Rot Here or Die There

Bleak Choices for Iraqi Refugees in Lebanon

HUMAN
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Rot Here or Die There Bleak Choices for Iraqi Refugees in Lebanon

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I. Executive Summary

As of the last quarter of 2007, the Iraqi displacement crisis shows no signs of abating. Faced with insecurity at unprecedented levels, tens of thousands of Iraqis continue to leave their homes each month. The United Nations High Commissioner for Refugees (UNHCR) estimates that more than 2 million people are now displaced inside Iraq, while another 2.2 million Iraqi nationals have sought safety in countries in the region. The vast majority of those Iraqis who have fled abroad have gone to Syria, which hosts an estimated 1.4 million Iraqi refugees, and to Jordan, which is estimated to host up to 750,000 Iraqi refugees.

Compared to Syria and Jordan, Lebanon hosts a relatively small number of Iraqi refugees, estimated at around 50,000. But Lebanon, with a population of only four million people, already shoulders a significant burden by hosting 250,000 to 300,000 Palestinian refugees. Political instability and crisis also make many Lebanese wary of hosting another refugee population whose prospects of returning to their home country in the short term are remote. The situation is further complicated because many Lebanese perceive that the sectarian tensions that plague Iraqi society might feed into, and amplify, the sectarian tensions that are ever present in Lebanon itself.

Iraqi refugees in Lebanon currently enjoy only very limited protection. Since January 2007, UNHCR grants refugee status on a prima facie basis to all Iraqi nationals from central and southern Iraq who have sought asylum in Jordan, Syria, Egypt, Turkey, and Lebanon. However, Lebanon, like some of its neighbors, does not give legal effect to UNHCR's recognition of Iraqi refugees. Lebanon is not a party to the 1951 United Nations Convention Relating to the Status of Refugees (Refugee Convention) or to the 1967 Protocol Relating to the Status of Refugees. It has no domestic refugee law. Instead, people who enter Lebanon illegally for the purpose of seeking refuge from persecution, or who enter legally but then overstay their visas for the same purpose, are treated as illegal immigrants and are subject to arrest, imprisonment, fines, and deportation.

The Lebanese authorities have in many ways shown a remarkable tolerance for the Iraqi presence in Lebanon. The police and the Internal Security Forces (ISF) do not systematically arrest Iraqi refugees who do not have valid visas or residence permits, but sufficiently large numbers of Iraqis are arrested and detained to ensure that the risk of arrest is constantly on their minds. The number of Iraqi refugees arrested increases in direct proportion to the number of checkpoints in Lebanon. While in March 2007 there were fewer than 100 Iraqi refugees in detention in Lebanon, by August 2007 this number had increased dramatically to 480 as a direct result of the proliferation of checkpoints due to the worsening security situation. As this paper goes to press, in November 2007, about 580 Iraqi refugees are in detention in Lebanon. This means that most Iraqis do not leave their homes unless absolutely necessary, and often do not approach UNHCR or the authorities for fear of exposing themselves to arrest. Their lack of legal status in Lebanon also means that they are vulnerable to abuse and exploitation by employers and others who know that the Iraqis have no recourse to the Lebanese authorities.

Under article 32 of Lebanon's 1962 Law of Entry and Exit, foreigners who enter Lebanon illegally are liable to a prison sentence of between one month and three years, a fine, and deportation. Iraqi refugees who are arrested and subsequently convicted of illegal entry are usually sentenced to the minimum prison sentence of one month, plus a fine and deportation.

Once Iraqis have served their prison sentence for being in the country illegally, the Directorate General of General Security (General Security) under the authority of the Ministry of Interior assumes responsibility for them. In theory, General Security does not enforce deportation orders against any Iraqis, in accordance with Lebanon's obligations under international law not to subject them to *refoulement*, the forcible return to a territory where their life or freedom would be threatened. In practice, however, the situation is considerably less clear-cut. General Security generally refuses to release Iraqi refugees who have served their prison sentence for illegal entry, and keeps them in indefinite detention.

These Iraqis have very limited options to get out of detention. UNHCR is able to win the release of a small number; another relatively small group manages to legalize

their presence in Lebanon by obtaining work permits; the majority, however, can only secure their release from prison by agreeing to return to Iraq.

Iraqi refugees in detention are thus presented with a repugnant choice: either they continue to suffer indefinite detention or they agree to go back to the country from which they fled. For most, it is a choice that does not deserve the name. The notion of remaining in detention indefinitely is so abhorrent, and the conditions in prison so unbearable, that what is presented as a choice is not truly a voluntary decision but rather the only way of escaping an intolerable situation.

In May 2007, Human Rights Watch interviewed an Iraqi detainee at Roumieh prison within moments of his “choosing” to return to Iraq. Until then, he had opted to remain in indefinite detention after completing his sentence for illegal entry. A few minutes before Human Rights Watch talked with him, an Iraqi embassy delegation had interviewed and processed him for return. He was so agitated and angry that he could hardly speak. He held up his thumb, still covered in blue ink, which he had used to produce a fingerprint, and said, “You see this? I’m going back! This prison is making me go mad. I will probably get killed in Iraq [he ran his finger across his throat], but I’m going back, I can’t stay in this prison any longer.”

Thus, while Lebanon formally does not return any Iraqi refugees to Iraq against their will, it coerces many Iraqi refugees to “choose” to return to Iraq. By detaining Iraqis who enter the country illegally for the purpose of seeking asylum, and then giving them a “choice” between returning to Iraq or remaining in indefinite detention, Lebanon in practice commits *refoulement*.

For the majority of the Iraqi refugees, both in Lebanon and elsewhere in the region, the only truly durable solution will be voluntary repatriation to a safe and stable Iraq. But in the absence of significant political progress in Iraq, this will remain a long-term objective. Meanwhile, the international community needs to acknowledge the concerns of Lebanon and other refugee-hosting countries about the long-term nature of the Iraqi refugee crisis and address these concerns by providing meaningful assistance to governments, local and international nongovernmental organizations (NGOs) and to international relief efforts, including through the United Nations.

Countries outside the region must also offer to resettle significant numbers of the most vulnerable Iraqi refugees to relieve the burden on refugee-hosting countries in the Middle East and to help persuade them to continue to offer protection to the Iraqi refugees in their territories and at their borders.

A September 2003 Memorandum of Understanding (MOU) between Lebanon's General Security and UNHCR is built on the assumption that Lebanon is not a country of permanent refuge and that UNHCR must find resettlement places elsewhere for the refugees that it recognizes. The MOU provides for General Security to issue "circulation permits" to asylum seekers and refugees for a maximum period of 12 months, during which time UNHCR undertakes to resettle to third countries the people it recognizes as refugees. Asylum seekers and refugees who hold circulation permits are exempt from arrest and detention for being in the country illegally.

However, UNHCR cannot guarantee resettlement for all of the estimated 50,000 Iraqi refugees within 12 months of their registration, as it would be required to do if it registered them under the MOU. Therefore, while UNHCR recognizes all Iraqi nationals from central and southern Iraq on a prima facie basis, it does not, as a rule, register them under the MOU. As a consequence, UNHCR does not apply to General Security for circulation permits for Iraqi refugees.

Instead, UNHCR issues Iraqi nationals from central and southern Iraq with refugee certificates. These certificates do not have the same status under Lebanese law as the circulation permits that the General Security issues to refugees. In particular, the Lebanese authorities do not recognize the certificates as exempting the holders from penalties for their illegal entry or presence in the country.

Lebanon needs to adopt a different approach and offer Iraqi refugees the protection they need. The Lebanese government and its people cannot now simply wish them away. Denying them their rights does nothing to resolve the Iraqi refugee crisis, while doing harm to people who fled the country in fear for their lives. As one refugee who now finds himself in detention said, "It is not as if we are happy leaving Iraq. We cannot stay in Iraq because of the situation, the terrorism."

Lebanon should accede to the Refugee Convention and Protocol and adopt a domestic refugee law. At a minimum, Lebanon should delink its willingness to provide temporary asylum from the requirement that UNHCR guarantee to resettle refugees in a third country. The authorities should issue circulation permits to all individuals whom UNHCR registers as refugees, including Iraqis. Consistent with the international refugee law principle not to penalize refugees for their illegal entry or presence, Lebanon should not prosecute and punish Iraqi refugees for their illegal entry or presence by imposing fines and prison sentences.

In addition, Lebanon should cease subjecting Iraqi refugees to indefinite detention after they have served their prison sentences for entering the country illegally. Indefinite detention of asylum seekers can constitute arbitrary detention, and the indefinite detention of Iraqi refugees in Lebanon is such an instance. Hence, Lebanon's arbitrary detention of Iraqi refugees constitutes a violation of Lebanon's obligations as a party to the International Covenant on Civil and Political Rights (ICCPR), and may also be a violation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture).

Until recently, Iraqi detainees who opted to return to Iraq did so in one of two ways. Either they made their own travel arrangements at their own expense or the International Organization for Migration (IOM) repatriated them. IOM, a Geneva-based intergovernmental organization comprising 120 member states, is governed by a constitution that bars facilitating deportations and requires that any returns facilitated by the organization be voluntary, a standard IOM defines as a choice free from pressure or coercion. For Iraqi refugees, their only alternative to returning to Iraq— indefinite detention—does not satisfy these requirements. As this report was going to press, IOM suspended its involvement in the repatriation of Iraqis in detention in Lebanon, but told the Iraqi embassy in Beirut that it would resume its assistance “in the near future after the UNHCR, according to their agreement with the Lebanese government, assesses the care for the expected returnees outside the arresting agencies.”

This report will show that Iraqi detainees, far from having had the freedom to choose in the absence of any form of pressure, have been coerced by the prospect of

indefinite detention to accept return to Iraq. This has rendered the distinction between voluntary repatriation and forced return meaningless. Human Rights Watch welcomes IOM's temporary suspension of its involvement in repatriating detained Iraqis, and urges it to make permanent the reversal of a policy that had facilitated what were de facto deportations and that risked complicity in committing *refoulement*.

UNHCR's current advisory states, "No Iraqi from Southern or Central Iraq should be forcibly returned to Iraq until such time as there is substantial improvement in the security and human rights situation in the country." IOM should not resume its involvement in the repatriation of detained Iraqi refugees from Lebanon, for these have been forcible returns in all but name.

Lebanon's refusal to legalize the stay of Iraqi refugees affects not just the relatively small number of Iraqi refugees who are arrested and detained, but all Iraqi refugees in its territory. Without legal status in Lebanon, Iraqi refugees are vulnerable to exploitation and abuse by employers and landlords who act in the knowledge that Iraqis have no recourse to the Lebanese authorities when their rights are violated. Moreover, the constant fear of being arrested and detained forces Iraqi refugees to adopt coping mechanisms that have further undesirable consequences. For example, since children are less likely to be detained than their fathers, some Iraqi refugee families opt to send their children out to work to provide for the family instead of sending them to school.

Even if Lebanon is not inclined to offer Iraqi refugees the possibility of local integration as a durable solution to their plight, it should respect refugees' basic human rights for the duration of their stay in Lebanon. In particular, it should offer Iraqi refugees at least a temporary legal status, and should give Iraqi refugees renewable work permits until they can go back to Iraq. Legal residency status could be made conditional on the security situation in Iraq, allowing Lebanon to withdraw permission to reside once Iraqi nationals can return to Iraq in safety and dignity. Until then, Lebanon needs to allow Iraqi refugees to live safely and with dignity in its territory.

At the same time, Lebanon should not be expected to shoulder the burden of hosting a significant number of Iraqi refugees by itself. As is the case for other countries in the Middle East, particularly Syria and Jordan, Lebanon finds itself in the position of a refugee-hosting country for no other reason than the accidental circumstance of its geographical location. Lebanon played no role in creating the Iraqi refugee crisis, and has no more responsibility than any other country to solve it. In recognition of this fact, the international community needs to provide meaningful assistance to Lebanon and other refugee-hosting countries in the region with the ultimate aim of alleviating the plight of the more than 2 million Iraqi people who have been forced to flee their country.

II. Recommendations

To the Government of Lebanon

- Issue renewable circulation permits to all refugees registered with UNHCR regardless of UNHCR's capacity to resettle such refugees.
- Grant Iraqi refugees a temporary legal status in Lebanon that provides, at a minimum, renewable residence and work permits.
- Ensure all Iraqi children have access to free and compulsory primary education on the same basis as Lebanese children.
- Issue clear instructions to police and security services not to arrest Iraqi refugees solely on account of their illegal presence.
- Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and adopt implementing asylum laws and regulations.
- In the interim, amend the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country so as to exempt asylum seekers and refugees from penalties for being in the country illegally.

To Lebanon's Judiciary

- Interpret the 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country consistently with international standards for the treatment of asylum seekers and refugees.
- Provide judicial oversight in all cases of prolonged detention.

To the International Organization for Migration

- Do not resume activities relating to the return to Iraq of Iraqi refugees who are in indefinite detention in Lebanon. Provide voluntary return assistance only to Iraqis in Lebanon who are not in detention and who approach IOM for assistance.

To Members of IOM's Governing Council

- Direct IOM not to renew return operations from Lebanon to Iraq that involve detained Iraqis, for at least as long as UNHCR's guidance remains in effect that no Iraqi should be forcibly returned to southern or central Iraq.

- Do not fund IOM return programs that involve the repatriation of Iraqi refugees in indefinite detention in Lebanon.

To the United Nations High Commissioner for Refugees

- Counsel all Iraqi refugees in detention on their right not to be subjected to *refoulement*.
- Seek to renegotiate a memorandum of understanding with the Lebanese government based on the new reality of a mass influx of Iraqi refugees who cannot all be resettled to third countries. Such an MOU should extend protection to all UNHCR-recognized refugees, including those who enter Lebanon legally, and should provide at least for temporary asylum that is not tied specifically to a UNHCR guarantee of third country resettlement.
- Until a new MOU is negotiated, work with General Security to ensure that all Iraqi detainees in indefinite detention are released under the terms of the 2003 MOU, with the understanding that UNHCR will, as a matter of priority, seek third country resettlement on their behalf. Request that the Lebanese authorities provide reasons in those cases where UNHCR's request for the release of Iraqi detainees is not granted.
- Press resettlement countries, particularly those engaged in the war in Iraq such as the United States and the United Kingdom, to offer more resettlement places for Iraqi refugees, and give priority for resettlement referrals to Iraqis in detention for whom resettlement may provide the only alternative to *refoulement*.
- Amend UNHCR's 11 priority profiles for Iraqi resettlement by including Iraqi refugees in indefinite detention at risk of forced or coerced return as a priority category group for resettlement.

To Donor Governments and Resettlement Countries, particularly of States participating in the Iraq war coalition

- Respond quickly and generously to UNHCR referrals of Iraqi refugees for resettlement, particularly for Iraqi refugees in detention for whom resettlement might be the only way to protect against *refoulement*.
- Contribute generously to appeals by UNHCR and other UN agencies to fund their operations in refugee-hosting countries in the Middle East.

- Provide bilateral financial and technical assistance to Lebanon and the other refugee-hosting countries in the Middle East to preserve asylum and enable Iraqi refugees to live a dignified life in the countries where they have sought refuge until such time as a durable solution has been found.

III. Background

The Iraqi Displacement Crisis

As of late 2007, the Iraqi displacement crisis shows no signs of abating. Faced with unprecedented levels of insecurity, tens of thousands of Iraqis continue to leave their homes each month. UNHCR estimates that more than 2 million people are now displaced inside Iraq and another 2.2 million Iraqi nationals have sought safety in countries in the region.¹ The vast majority of the Iraqis who have fled abroad have gone to Syria, which hosts an estimated 1.4 million Iraqi refugees, and to Jordan, which is estimated to host up to 750,000 Iraqi refugees.²

Not all of the millions of Iraqis who are currently displaced left their homes due to the present security situation in Iraq. Hundreds of thousands of Iraqis left the country prior to the fall of the regime in April 2003 to escape from human rights abuses and persecution, the Iran-Iraq war, the 1991 Gulf war, or the impact of the economic sanctions against Iraq.³

At the time of the US-led invasion, UNHCR warned of the possibility of a massive outflow of refugees. While some Iraqis did flee the country at that time, no large-scale refugee crisis occurred. But what did not happen in 2003 did happen three years later: the bombing of the Shi`a al-`Askariyya shrine in Samarra' in February 2006 led to increased sectarian violence and a further surge in the number of Iraqis fleeing their homes. There are no signs of this exodus coming to a halt. On the contrary, the dismal security situation in Iraq is displacing ever more people. In 2006, Iraq was the main country of origin for asylum seekers in 36 industrialized

¹ UNHCR Spokesperson Jennifer Pagonis, "Iraq: Situation Continues to Worsen, Local Governorates Overwhelmed," UNHCR Briefing Notes, June 5, 2007, www.unhcr.org/news/NEWS/46653e804.html (accessed June 21, 2007). Iraq has a total population of about 27.5 million people, which means that more than one in seven Iraqis is currently displaced. UNHCR, "Iraq Situation Response – Update on Revised Activities under the January 2007 Supplementary Appeal," July 2007, www.unhcr.org/partners/PARTNERS/469632e32.pdf (accessed June 21, 2007), p. 1.

² UNHCR Spokesperson Jennifer Pagonis, "Iraq: Situation Continues to Worsen, Local Governorates Overwhelmed," UNHCR Briefing Notes, June 5, 2007, www.unhcr.org/news/NEWS/46653e804.html (accessed June 21, 2007).

³ In 2002, the Iraqi expatriate community worldwide was estimated to number some 4 million people, with more than half a million residing in neighboring states. UNHCR, "Humanitarian Needs of Persons Displaced within Iraq and across the Country's Borders: An International Response," HCR/ICI/2007/2, March 30, 2007, www.unhcr.org/events/EVENTS/4627757e2.pdf (accessed June 21, 2007), para. 6.

countries in Europe, North America, Australia, New Zealand, and Japan, for the first time since 2002.⁴ UNHCR estimated in January 2007 that since February 2006 — i.e., over the previous 11 months — 822,000 Iraqis have become internally displaced,⁵ and that 40,000 to 50,000 new people are forced into internal displacement every month.⁶

Iraqi Refugees in Lebanon

Measured against the enormity of the Iraqi displacement crisis, Lebanon hosts a relatively small number of Iraqi refugees, estimated at around 50,000, of whom about 10,000 were in Lebanon prior to 2003.⁷ But looked at from a different perspective, Lebanon carries a disproportionate share of the Iraqi refugee burden. Although Lebanon does not border Iraq, it faces a steady inflow of Iraqi refugees, most of whom enter the country from Syria.

Germany, the country with the largest Iraqi refugee population outside the Middle East, hosts a similar number of Iraqi refugees as Lebanon: 52,900 as of April 2007.⁸

⁴ The number of asylum claims lodged by Iraqi asylum seekers in 36 industrialized countries went up from 12,521 in 2005 to 22,150 in 2006, an increase of 77 percent. UNHCR notes that: "The increase was particularly significant in the last quarter of the year when 8,100 Iraqis applied for asylum in the 36 industrialized countries, reflecting the continuously deteriorating situation in the country." UNHCR, "Asylum Levels and Trends in Industrialized Countries, 2006," March 23, 2007, www.unhcr.org/statistics/STATISTICS/460150272.pdf (accessed June 22, 2007), p. 7. Compared to the third quarter of 2006, the number of Iraqi asylum seekers increased by 44 percent in the fourth quarter of 2006. *Ibid.*, p. 9.

⁵ UNHCR, "Iraq Situation Response – Update on Revised Activities under the January 2007 Supplementary Appeal," July 2007, www.unhcr.org/partners/PARTNERS/469632e32.pdf (accessed June 21, 2007), p. 1.

⁶ UNHCR, "Supplementary Appeal Iraq Situation Response," January 2007, www.unhcr.org/partners/PARTNERS/45a296f24.pdf (accessed June 21, 2007), p. 3.

⁷ Email from UNHCR-Beirut to Human Rights Watch, November 15, 2007. Because most Iraqi refugees in Lebanon are in the country illegally, there are no precise statistics for the total number of Iraqi refugees in Lebanon. UNHCR's "Iraq Situation Response" of July 2007 estimated the number of Iraqi refugees in Lebanon to be between 20,000-40,000. UNHCR, "Iraq Situation Response – Update on Revised Activities under the January 2007 Supplementary Appeal," July 2007, www.unhcr.org/partners/PARTNERS/469632e32.pdf (accessed June 21, 2007), p. 4. In a letter to Human Rights Watch, General Security estimated that there are 100,000 Iraqi nationals in Lebanon in total, legal and illegal. According to statistics provided by General Security, Lebanon issued 60,410 visas to Iraqi nationals in 2006, while on May 27, 2007, the number for 2007 stood at 21,998. General Security estimates that no more than 20 percent of those Iraqis who enter Lebanon leave the country again. Letter from Brigadier-General Siham Harake, Head of the Nationality, Passports, and Foreigners Bureau, on behalf of General Wafiq Jazini, General Director of Public Security, to Human Rights Watch, June 30, 2007.

⁸ UNHCR, "Statistics on Displaced Iraqis around the World," April 2007, www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=SUBSITES&id=461f7cb92 (accessed June 22, 2007).

But Germany's population is about 21 times the size of Lebanon's, and its GDP per capita is almost six times higher.⁹

The United States and the United Kingdom have a particular responsibility to address the needs of Iraqis forcibly displaced by violence precipitated in large part by their joint war effort, or who fled Saddam Hussein's regime but have been unable to return because of the insecurity in Iraq. Yet the United States has resettled fewer than 1,000 Iraqi refugees since the beginning of the war and the United Kingdom has resettled fewer than 100.¹⁰

Lebanon not only hosts a substantial, and growing, number of Iraqi refugees, but also a large Palestinian refugee population. Palestinian refugees registered with the United Nations Relief and Works Agency number 394,532, or about 10 percent of Lebanon's population.¹¹ While this number probably includes several tens of thousands of Palestinians who have since left Lebanon, the actual number is nevertheless estimated at between 250,000 and 300,000.¹² The Palestinian presence in Lebanon has contributed to the crises that have beset the country in recent decades. Ongoing political crisis and instability mean many Lebanese are wary of hosting another refugee population whose prospects of returning home in the short term are remote. The situation is further complicated by the perception of many Lebanese that the sectarian tensions that plague Iraqi society might feed into, and amplify, the sectarian tensions that are never far below the surface in Lebanon itself.

The vast majority of all Iraqi refugees in Lebanon live in Greater Beirut, with much smaller numbers in the Beka` valley and in towns and villages in southern and

⁹ Central Intelligence Agency, *The World Factbook 2007*, updated June 19, 2007, <https://www.cia.gov/library/publications/the-world-factbook/> (accessed June 22, 2007).

¹⁰ U.S. State Department admissions from October 2002 through July 2007 total 888; www.wrapsnet.org/LinkClick.aspx?fileticket=|LFY1Puzuho%3d&tabid=211&mid=630; and email from UNHCR-UK to Human Rights Watch, August 17, 2007. These figures do not include Iraqis who arrive in either country spontaneously and seek asylum upon arrival.

¹¹ United Nations Relief and Works Agency (UNRWA), www.un.org/unrwa/refugees/lebanon.html (accessed June 22, 2007).

¹² U.S. State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2006: Lebanon," March 6, 2007, www.state.gov/g/drl/rls/hrrpt/2006/78857.htm (accessed June 22, 2007).

northern Lebanon. The majority of the Iraqis in Lebanon are Shi`a.¹³ Some portion of the Iraqi Shi`a in Lebanon fled Iraq prior to the American-led invasion in 2003. The Shi`a Iraqis in Lebanon mostly live in Beirut's southern suburbs, which are overwhelmingly Shi`a. Sunnis and Christians each make up about half of the remaining Iraqi refugees in Lebanon.

In interviews with Human Rights Watch, Iraqi refugees gave a variety of reasons for choosing to seek refuge in Lebanon, as opposed to Syria, whose borders until October 1, 2007,¹⁴ remained open to Iraqis and through which territory almost all Iraqi refugees in Lebanon have come.¹⁵ Many referred to difficult economic conditions in Syria as their main reason for having come to Lebanon. As one Iraqi man said, "There are no work opportunities in Syria, and even if you work, you get paid less than US\$150, [per month], but you need more than \$300 to live on. In Syria, how would I live with my wife and children?"¹⁶

Refugees pointed to the impossible choice they saw themselves facing: stay in Syria, where Iraqis need not fear arrest, but where there are very limited work opportunities, wages are low, and prices high; or go to Lebanon, where they risk arrest for being in the country illegally, but where it is easier to earn enough money to survive. "In Lebanon, you can earn enough to live. In Syria there are no work opportunities. But the security situation in Lebanon is very critical. The refugee certificate is not recognized."¹⁷

¹³ No accurate statistics are available, but UNHCR estimates that 50-60 percent of all Iraqis in Lebanon are Shi`a. Human Rights Watch interview with Stephane Jaquemet, UNHCR Representative in Lebanon, Beirut, March 23, 2007.

¹⁴ On October 1, 2007, Syrian officials began a strict visa regime, limiting entry to Iraqis with visas for commercial, transport, scientific, and education purposes. UNHCR Briefing Notes, October 5, 2007, <http://www.unhcr.org/news/NEWS/470607922.html> (accessed October 5, 2007).

¹⁵ Apart from the small number of Iraqis who manage to obtain a visa for Lebanon, most Iraqi refugees are smuggled into Lebanon by people smugglers. In interviews with Human Rights Watch, refugees said that in recent months these smugglers have adopted new methods to extort more money from refugees wishing to go to Lebanon. In essence, once the smugglers have escorted refugees to the remote and mountainous border area between Syria and Lebanon, they take the refugees hostage. The smugglers then only agree to release the refugees in return for large sums of money, as much as \$6,000 per Iraqi family. If the refugees do not have enough money to pay off the smugglers, the smugglers release the adult men with instructions to raise money from the Iraqi refugee community in Lebanon in order to secure the release of their wives and children. Human Rights Watch interview with Iraqi man (No. 23), Greater Beirut (Dahieh), April 17, 2007; Human Rights Watch interview with Iraqi man (No. 26), Greater Beirut (Dahieh), April 17, 2007; and Human Rights Watch interview with Iraqi man (No. 36), Greater Beirut (Dahieh), April 20, 2007.

¹⁶ Human Rights Watch interview with Iraqi man (No. 65), Greater Beirut (Za`taria), April 28, 2007.

¹⁷ Human Rights Watch interview with Iraqi man (No. 23), Greater Beirut (Dahieh), April 17, 2007.

Other refugees said that they did not feel safe in Syria: “I chose Lebanon because it is more safe. I didn’t want to stay in Syria, because those who threatened us in Iraq could also threaten us in Syria.”¹⁸ Others said that they had chosen to come to Lebanon because they had heard that the UNHCR office in Beirut had shorter waiting times for registration than the UNHCR office in Damascus. One Iraqi man, who was arrested six days after arriving illegally in Lebanon and who had been in detention for seven months, said, “I came to Lebanon because I heard that the UN office works better here than in Syria.”¹⁹ Finally, Iraqi Christians, who make up less than 3 percent of the population in Iraq²⁰ but around 20 percent of all Iraqi refugees in Lebanon, often cited the relatively secure position of the Christian community in Lebanon as one of their reasons for coming there.

While some of the problems highlighted in this report are unique to Lebanon, others exist in the same or similar forms in other countries in the region that host large numbers of Iraqi refugees. Earlier Human Rights Watch reports have highlighted the plight of Iraqi refugees in Jordan and Egypt, and the situation of Iraqi Palestinians in Iraq, Jordan, and Syria.²¹ This report similarly seeks to raise the profile of the Iraqi refugees in Lebanon. Addressing the problems highlighted in this report is the shared responsibility of Lebanon, other countries in the region, and the international community at large.

¹⁸ Human Rights Watch interview with Iraqi woman (No. 13), Greater Beirut (Za`taria), March 31, 2007.

¹⁹ Human Rights Watch interview with Iraqi man (No. 41), Roumieh Prison, Greater Beirut, April 23, 2007.

²⁰ Central Intelligence Agency, *The World Factbook 2007*, updated June 19, 2007, <https://www.cia.gov/library/publications/the-world-factbook/> (accessed August 12, 2007).

²¹ See for example Human Rights Watch, *Iraq – From a Flood to a Trickle: Neighboring States Stop Iraqis Fleeing War and Persecution*, April 2007, hrw.org/backgrounder/refugees/iraq0407/ (accessed June 22, 2007); *The Silent Treatment: Fleeing Iraq, Surviving in Jordan*, Volume 18, No. 10(E), November 2006, www.hrw.org/reports/2006/jordan1106/ (accessed June 22, 2007); *Nowhere to Flee: The Perilous Situation of Palestinians in Iraq*, Volume 18, No. 4(E), September 2006, hrw.org/reports/2006/iraq0706/ (accessed June 22, 2007). For more Human Rights Watch publications on the Iraqi refugee crisis, see generally www.hrw.org/doc?t=mideast&c=iraq.

IV. Legal Status of Iraqi Refugees in Lebanon

The Asylum System in Lebanon

Lebanon is not a party to the 1951 United Nations Convention Relating to the Status of Refugees (Refugee Convention), or the 1967 Protocol Relating to the Status of Refugees.²² Lebanon's 1962 Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country provides that foreigners "whose life or freedom is in danger for political reasons" may request political asylum in Lebanon.²³ The 1962 law further provides that those who have been granted political asylum cannot be expelled to the territory of a state where their life or freedom would be threatened.²⁴ However, these provisions in Lebanese domestic law have never been implemented through the creation of regulations and a governmental infrastructure for examining refugee claims and granting asylum.²⁵

Instead, Lebanon treats people who enter illegally to seek asylum, or who enter legally but then overstay their visas for the same purpose, as illegal immigrants who are subject to imprisonment, fines, and deportation.²⁶ The situation improved significantly with the September 2003 Memorandum of Understanding (MOU) between Lebanon's General Security and UNHCR.²⁷ While the MOU declares that "Lebanon does not consider itself as an asylum country" and that "the only viable

²² Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954; and Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267, entered into force October 4, 1967.

²³ Loi réglementant l'entrée et le séjour des étrangers au Liban ainsi que leur sortie de ce pays (Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country (Law of Entry and Exit)), Bulletin de Législation Libanaise (Journal Officiel), No. 28-1962, entered into force July 10, 1962, art. 26. The authority to grant asylum rests with a committee consisting of the Minister of Interior, the Directors of the Ministries of Justice and of Foreign Affairs, and the Director of General Security. *Ibid.*, art. 27.

²⁴ *Ibid.*, art. 31.

²⁵ Frontiers Association (Beirut), "Legality vs Legitimacy: Detention of Refugees and Asylum Seekers in Lebanon," May 2006, www.frontiersassociation.org/pubs/ArbitraryDetentionFINALMAY2006.pdf (accessed June 27, 2007), p. 12.

²⁶ Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, arts. 32- 36.

²⁷ Memorandum of Understanding between the Directorate General of General Security and the Regional Office of the United Nations High Commissioner for Refugees Concerning the Processing of Cases of Asylum Seekers Applying for Refugee Status with the UNHCR Office, September 9, 2003 (on file with Human Rights Watch). The Directorate-General of General Security is part of the Ministry of Interior and is responsible, *inter alia*, for the enforcement of all laws pertaining to foreigners in Lebanon. General Security website, "History – Functions of the General Security," www.general-security.gov.lb/English/History/GSFunction/ (accessed August 13, 2007).

durable solution for refugees recognized under the mandate of UNHCR is resettlement in a third country,” the MOU seeks to provide “temporary humanitarian solutions for the problems of people entering clandestinely, residing unlawfully in Lebanon and submitting asylum applications at UNHCR.”²⁸

In pursuit of this “temporary humanitarian solution,” the MOU legalizes the presence of asylum seekers and refugees in Lebanon for a maximum period of one year. Under the MOU, UNHCR undertakes to complete the process of determining refugee status within three months of registering an asylum seeker.²⁹ General Security screens all asylum seekers before deciding whether to grant a “circulation permit” for those three months, allowing the holder to move freely in Lebanon.³⁰ If UNHCR recognizes an asylum seeker as a refugee, it applies to General Security to renew the circulation permit for six months. During this time, UNHCR undertakes to find a resettlement country for the refugee. If necessary, the circulation permit can be extended for a final three months.³¹

The one-year limit on circulation permits reflects Lebanon’s insistence that it is not an asylum country, and constitutes one of the MOU’s most serious drawbacks. In practice, it is only in rare cases that UNHCR is able to complete the entire process of registration, refugee status determination, and resettlement within a 12-month period. Refugees who have not been accepted for resettlement within one year after their registration with UNHCR are no longer covered by the MOU, and Lebanon considers their continued stay in the country to be illegal. Moreover, under the MOU, circulation permits can be issued only to asylum seekers who enter Lebanon illegally, and who apply to UNHCR for refugee status within two months of their arrival in the country.³² “These severe restrictions have led to the arrest and detention of many

²⁸ MOU, preamble.

²⁹ *Ibid.*, para. 8.

³⁰ *Ibid.*, para. 4 and 5.

³¹ *Ibid.*, para. 9.

³² MOU, para. 1.

persons who fall under UNHCR’s mandate” according to UNHCR’s 2007 Country Operations Plan for Lebanon.³³

Legal Status of Iraqi Refugees in Lebanon

While non-Iraqi refugees in Lebanon benefit from the protection, however limited, afforded them by the MOU, the situation of Iraqi refugees in Lebanon is more precarious still. In April 2003, five months before Lebanon and UNHCR signed the MOU, UNHCR declared a temporary protection regime (TPR) on behalf of Iraqi refugees in Jordan, Syria, and Lebanon, in anticipation of a refugee exodus from Iraq following the US-led invasion.³⁴ Until the end of 2006, UNHCR said that all Iraqi nationals in Jordan, Syria, and Lebanon should be granted a temporary form of protection and should not be forcibly returned to Iraq. Under the TPR, UNHCR maintained that Iraqi nationals in Jordan, Syria, and Lebanon should not be individually interviewed for refugee status determination, with the exception of extremely vulnerable individuals or people with special protection problems.³⁵

As a result, UNHCR conducted individual refugee status determinations for only a small proportion of all Iraqi asylum seekers in Lebanon. The rest were merely given asylum seeker certificates. While the Danish Refugee Council estimated the Iraqi refugee population in Lebanon in July 2005 to be around 20,000, by the end of 2006 UNHCR had recognized only 561 of them as refugees, while 2,356 Iraqis had asylum seeker certificates.³⁶ While UNHCR considered all those Iraqi refugees who had not been recognized under the MOU to be under the TPR, the Lebanese authorities refused to recognize the TPR, and considered Iraqi nationals not registered as

³³ While neither UNHCR nor the Lebanese authorities could provide exact figures for the numbers of asylum seekers and refugees under UNHCR’s mandate actually detained, as of 28 August 2007, there were 1,519 registered refugees who had been in Lebanon for more than five years, the vast majority of whom – 1,370 – are Iraqis. Despite being in need of international protection and falling under the mandate of UNHCR, they have no legal status in Lebanon, and they all risk being arrested and detained. Email from UNHCR-Beirut to Human Rights Watch, August 31, 2007, and UNHCR, “Country Operations Plan 2007 – Lebanon,” September 1, 2006, www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDCOI&id=45221e482 (accessed June 30, 2007), pp. 3-4.

³⁴ Email from UNHCR to Human Rights Watch, July 30, 2006.

³⁵ UNHCR, “Country Operations Plan 2007 – Lebanon,” September 1, 2006, www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDCOI&id=45221e482 (accessed June 30, 2007), p. 3.

³⁶ Danish Refugee Council (Beirut), “Iraqi Population in Lebanon: Survey Report,” July 2005, www.lebanon-support.org/resources/Survey%20report%20on%20iraqi%20population.pdf (accessed July 1, 2007), p. 14; and email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

refugees under the MOU to be illegal immigrants, liable to arrest and detention.³⁷

Lebanon was not the only country that refused to give effect to the TPR declared by UNHCR. Jordan, too, insisted that it never agreed to the TPR and refused to recognize it.³⁸ By January 2007, the continuously deteriorating security situation in Iraq impelled UNHCR to replace the TPR, which had largely failed to provide effective protection for Iraqi refugees in host countries in the Middle East, with a new policy. Henceforth, UNHCR decided to recognize all Iraqi nationals from central and southern Iraq as refugees on a *prima facie* basis.³⁹

In Lebanon, UNHCR implemented its new policy by instituting new procedures exclusively for Iraqi refugees. While it now recognizes all Iraqi nationals from central and southern Iraq as refugees on a *prima facie* basis, it does not, as a rule, register them under the MOU as it would with refugees from other countries. The main reason is that, with an estimated 50,000 Iraqi refugees in Lebanon at present, and with limited numbers of resettlement places, UNHCR cannot guarantee resettlement for all Iraqi refugees within 12 months of their registration, as it would be required to do if it registered these refugees under the MOU.⁴⁰ Accordingly, UNHCR does not apply to General Security for circulation permits for Iraqi refugees.

Instead, under the new policy of *prima facie* recognition, UNHCR issues refugee certificates to all Iraqi nationals from central and southern Iraq who approach its

³⁷ UNHCR, "Country Operations Plan 2007 – Lebanon," September 1, 2006, www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDCOI&id=45221e482 (accessed June 30, 2007), p. 9. Even for the relatively small number of Iraqi nationals who were recognized refugees, their status only rarely led to a durable solution. Nearly two-thirds of the Iraqi refugees submitted for resettlement by UNHCR in 2004-2005 were rejected by at least one resettlement country. *Ibid.*, p. 3.

³⁸ See Human Rights Watch, *The Silent Treatment: Fleeing Iraq, Surviving in Jordan*, Volume 18, No. 10(E), November 2006, www.hrw.org/reports/2006/jordan1106/ (accessed June 22, 2007), p. 43.

³⁹ "In view of the objective situation of armed conflict and generalized violence in Iraq, Iraqis who are outside their country and are unwilling or unable to return due to the existing circumstances may be presumed to have international protection needs, and are therefore persons of concern to UNHCR. In light of the large numbers involved, individual refugee status determination is not feasible, thus UNHCR considers these persons as refugees on a *prima facie* basis." Revised Strategy for the Iraq Situation, January 1, 2007. The only exception is where there is reason to believe that the person in question might be excluded from refugee status under article 1(f) of the 1951 Refugee Convention. Examples of exclusion include war crimes and serious non-political crimes committed outside the country of refuge. In those cases UNHCR conducts individual refugee status determination. Human Rights Watch interview with Stephane Jaquemet, UNHCR Representative in Lebanon, Beirut, March 23, 2007.

⁴⁰ UNHCR-Beirut has referred more than 1,000 Iraqi refugees in Lebanon for resettlement. It is not yet clear how many of these referrals will be accepted by the resettlement countries. Email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

office.⁴¹ These certificates do not have the same status as the circulation permits that General Security issues. In particular, the Lebanese authorities do not recognize UNHCR's refugee certificates as exempting the holders from penalties for their illegal entry or presence in the country.

By the end of August 2007, UNHCR had registered 7,766 Iraqi refugees in Lebanon, and approximately another 1,600 Iraqi refugees had appointments with UNHCR for registration which would push the numbers to well over 9,000 registered refugees.⁴²

Visas and residence permits

It is very difficult for Iraqi nationals to enter Lebanon legally. Lebanon requires Iraqi nationals to have a visa to enter the country. Tourist visas can be obtained at the Lebanese embassy in Iraq, or at Beirut airport upon arrival. Iraqi nationals are not eligible to apply for a tourist visa at Lebanon's land border crossings with Syria. To obtain a 15-day tourist visa on arrival at the international airport, Iraqis must show that they have US\$2,000 in cash, a non-refundable return ticket, and a hotel reservation.⁴³ Most Iraqis who are compelled to flee Iraq cannot afford air tickets and the necessary cash guarantee.⁴⁴ As one refugee said:

I have two sisters in Baghdad. They want to leave. They say there is random violence in the roads in Baghdad, it affects everyone. But it is

⁴¹ UNHCR issues the refugee certificates on the basis of prima facie refugee recognition instead of the asylum seeker certificates that it had issued between April 2003 and January 2007 as part of the temporary protection regime. Starting in January 2007, UNHCR issues appointment slips for registration issues to Iraqis who approach its office. The office provides most Iraqis with refugee certificates at the time of the registration interview, except for those who might have grounds to be excluded from refugee status under article 1 (f) of the Refugee Convention, who are given individual refugee status determination interviews.

⁴² Email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

⁴³ General Security, "Visas – Entry of the Citizens of Arab but Non-Gulf Countries Coming for Tourism," www.general-security.gov.lb/English/Visas/Arab+countries/ (accessed July 20, 2007). Traders who can provide evidence of their membership of one of the Iraqi Chambers of Commerce are eligible to apply for a visa at the land border crossings as well as at the international airport, as are doctors and engineers who can provide evidence of their membership of a professional association. Ibid. Iraqi nationals in possession of a doctor's report certifying that they are in need of medical treatment in Lebanon are also eligible to apply for a visa at Lebanon's land border crossings. General Security, "Entrance of Investors, Business, Bankers, Managers, Employers, Traders, Patients and their Families, and Everyone who Has Lebanese Roots, and Touristic Delegations," www.general-security.gov.lb/English/Visas/visa7/ (accessed July 20, 2007).

⁴⁴ Alternatively, Iraqi nationals can apply for a tourist visa at the Lebanese embassy in Baghdad. They must demonstrate that the purpose of their trip is tourism, and they must provide evidence that they have the equivalent of \$10,000 in an Iraqi bank account. Visas granted by the embassy need to be approved by General Security. Human Rights Watch interview with General Security Official, Beirut, May 12, 2007.

difficult for them to come here because they have to come by air, and you need a hotel reservation: it would cost them \$1,200 per person.⁴⁵

Because Iraqi nationals cannot apply for tourist visas at Lebanon's land border crossings with Syria, most refugees enter Lebanon illegally, with the help of smugglers who take them across the border.

Even Iraqis who enter on a visa often find themselves illegal after their initial visa expires. About 60,000 Iraqis entered Lebanon legally in 2006, and 22,000 in the first five months of 2007.⁴⁶ General Security estimates that no more than 20 percent of the Iraqis who entered the country have left.⁴⁷

In both 2006 and 2007 General Security offered to regularize the status of certain foreign nationals (including Iraqis) who entered Lebanon illegally or who entered Lebanon on a work visa and subsequently breached the conditions of their stay.⁴⁸ However, the conditions the authorities laid down were so onerous as to make this an option for only a very small number of people. First, applicants have to register with General Security and pay a fine of 950,000 Lebanese pounds (about \$635) for being in the country illegally (The authorities often waive the fine for Iraqis in detention who "choose" to go back to Iraq). Then they need to obtain a work permit and a residence permit. For the work permit, they have to apply to the Ministry of Labor. To this end, they need to have a work contract with a Lebanese employer for a minimum period of six months. The work contract has to be certified by a notary public. To obtain a residence permit valid for one year, applicants have to return to General Security and present their passport,⁴⁹ their work permit, a certificate showing

⁴⁵ Human Rights Watch interview with Iraqi refugee (No. 81), Saida, May 8, 2007.

⁴⁶ Letter from Brigadier-General Siham Harake, Head of the Nationality, Passports, and Foreigners Bureau, on behalf of General Wafiq Jazini, General Director of Public Security, to Human Rights Watch, June 30, 2007.

⁴⁷ Ibid.

⁴⁸ In 2007, foreign nationals were given the opportunity to regularize their status between March 1 and May 31. This period was extended until June 30, 2007. Letter from Brigadier-General Siham Harake, Head of the Nationality, Passports, and Foreigners Bureau, on behalf of General Wafiq Jazini, General Director of Public Security, to Human Rights Watch, June 30, 2007.

⁴⁹ Lebanon is not yet demanding that Iraqi nationals possess a new "G-series" passport. However, many Iraqi refugees have no passport at all, or their passports have expired, so they need to obtain or renew their passport before they can apply for a residence permit in Lebanon, which is yet another expense that most can ill afford. The Iraqi embassy in Beirut issues

that their employer has deposited 1,500,000 Lebanese pounds (\$1,000) with the Housing Bank, an insurance policy, and medical laboratory test results to show that they do not have HIV/AIDS. Finally, people who have regularized their status in this way must pay an annual fee for their residence permit, the value of which depends on the type of work permit: 1,800,000 Lebanese pounds (\$1,200) for category one (professionals); 1,200,000 Lebanese pounds (\$800) for category two (skilled labor); and 400,000 Lebanese pounds (\$267) for category three (unskilled labor).⁵⁰

Due to Lebanon's difficult economic situation and the availability of other foreign workers, few Iraqis are able to find a Lebanese employer who is willing to sponsor their application to regularize their status in Lebanon, and even fewer can satisfy all the necessary requirements and pay the fees: between March 1 and June 25, 2007, only 167 Iraqi nationals applied to regularize their status.⁵¹ As one Iraqi refugee explained:

I cannot find a sponsor to apply for residency. I asked [my employer], but they said that they can only sponsor a given number of foreigners and they had reached the limit. Employers are reluctant to sponsor Iraqis. They say, "Today you are here, but tomorrow you might be gone." Also, if you are sponsored by someone, he has you in his stranglehold; you must work for him, for whatever he wants to pay you, and you cannot object, because he is your sponsor.⁵²

passports to Iraqi nationals in Lebanon. Human Rights Watch interview with Alhamhal H. Alsafi, consul, and Khaled M. Al-Mashhadani, first secretary, Iraqi embassy in Lebanon, Greater Beirut (Hazmiye), April 19, 2007.

⁵⁰ General Security website, "Residence in Lebanon – Yearly Stay," www.general-security.gov.lb/English/Residence+In+Lebanon/Yearly+Stay/ (accessed July 20, 2007); and Human Rights Watch interview with Isabelle Saadé Feghali, Coordinator, Migrant Center, Caritas-Lebanon, Beirut, April 24, 2007. Iraqi nationals are exempted from paying fees for their work permits.

⁵¹ In 2007, foreign nationals could apply to regularize their status between March 1 and June 30. The previous period for regularization ran from November 29, 2005, to May 5, 2006. A total of 704 Iraqi nationals applied to regularize their status during this period. Letter from Brigadier-General Siham Harake, Head of the Nationality, Passports, and Foreigners Bureau, on behalf of General Wafiq Jazini, General Director of Public Security, to Human Rights Watch, June 30, 2007. The sharp drop in applications might in part be because in 2005-2006 General Security turned down a significant number of applications for regularization of status by Iraqi nationals, including applications by Iraqis who had entered Lebanon on a tourist visa. Human Rights Watch interview with Isabelle Saadé Feghali, Coordinator, Migrants Center, Caritas-Lebanon, Beirut, April 24, 2007; and Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007. The high failure rate likely convinced many Iraqis whose applications were denied that they had wasted large sums of money on fees and legal and medical documents, and is likely to have deterred other Iraqi nationals from applying in 2007.

⁵² Human Rights Watch interview with Iraqi refugee (No. 65), Greater Beirut (Za`taria), April 28, 2007.

Most of those Iraqis who manage to regularize their status in Lebanon do so on the basis of a category three work permit (unskilled labor), since the fees for residence permits are much lower for those holding a category three work permit compared to work permits in categories one and two. However, a category three work permit does not entitle the holder to obtain residence permits for his or her family members, unlike holders of work permits in categories one and two.⁵³ As few refugee families can afford to pay for the regularization of more than one family member, and since adult men are at the greatest risk of being arrested and detained for illegal entry, most families opt to regularize the status of the husband or an adult son.⁵⁴ As a young Iraqi refugee woman said:

Both my older brothers have managed to obtain residence permits. Both of them work for employers who do not want to violate the law. The employers sponsored them, but my brothers paid for everything, excluding the \$1,000 in the bank: this was put in the bank by their sponsors, but the sponsors kept my brothers' passports. My father and mother stay at home, but my 15-year-old brother and I do not have residence permits and we both work. We are afraid of being arrested.⁵⁵

Another refugee woman said that her husband and four sons had all regularized their status. Asked why she and her two daughters had not applied to regularize their status, she explained: "We were afraid for the men, and now we do not have money any more."⁵⁶

Iraqi refugees have few other options to stay in Lebanon legally. Iraqis who enter Lebanon on a valid tourist visa find that it is exceedingly difficult to maintain their legal status in the country. Tourist visas can be renewed only once, for a maximum

⁵³ General Security website, "Residence in Lebanon – Yearly Stay," www.general-security.gov.lb/English/Residence+In+Lebanon/Yearly+Stay/ (accessed July 20, 2007).

⁵⁴ Caritas is able to help a limited number of Iraqis each year with financial assistance for the purpose of regularizing their status. Assessments are made on a case-by-case basis to determine what proportion of the costs will be covered by Caritas. Human Rights Watch interview with Isabelle Saadé Feghali, Coordinator, Migrants Center, Caritas-Lebanon, Beirut, April 24, 2007.

⁵⁵ Human Rights Watch interview with Iraqi refugee woman (No. 60), Greater Beirut (Za`taria), April 28, 2007.

⁵⁶ Human Rights Watch interview with Iraqi refugee woman (No. 63), Greater Beirut (Za`taria), April 28, 2007.

period of three months. Foreign nationals who enter Lebanon on a tourist visa and who then overstay their visa are excluded from the possibility of regularizing their status.⁵⁷ Ironically, therefore, Iraqi refugees who abide by Lebanon's entry requirements and enter Lebanon legally then find that there are no avenues open for them to legalize their status once their tourist visas expire, while refugees who enter illegally do have the option to regularize their status. Moreover, Iraqi refugees who enter on a tourist visa find that General Security pressures them individually to leave the country, unlike Iraqis who enter Lebanon illegally. Foreigners who enter Lebanon on a visa have to provide their address in Lebanon to General Security, and General Security officials conduct home visits to Iraqi refugees whose visas have expired.⁵⁸

Finally, while statistics relating to marriages between Iraqis and Lebanese are not available, it is not uncommon for Iraqis who have been in Lebanon for a number of years to marry Lebanese nationals. This number is likely to increase with the passage of time. Marriage provides a way out of illegality for Iraqi women married to Lebanese husbands; foreign women married to Lebanese men are entitled to free "courtesy residence permits," on condition that that they do not work in Lebanon.⁵⁹ Moreover, foreign women married to Lebanese men are eligible to apply for Lebanese citizenship after having been married for one year (and once they have Lebanese nationality they are allowed to work).⁶⁰ Children of a Lebanese father and a foreign mother are automatically entitled to Lebanese citizenship.⁶¹

On the other hand, foreign men married to Lebanese women are not eligible to apply for Lebanese citizenship, nor are their children entitled to Lebanese citizenship.⁶²

⁵⁷ Letter from Brigadier-General Siham Harake, Head of the Nationality, Passports, and Foreigners Bureau, on behalf of General Wafiq Jazini, General Director of Public Security, to Human Rights Watch, June 30, 2007.

⁵⁸ Human Rights Watch interview with Iraqi refugee family (No. 65), Greater Beirut (Za`taria), April 28, 2007. Most Iraqi refugees in this situation try to avoid arrest by moving.

⁵⁹ General Security website, "Residence in Lebanon – Courtesy Residence Permit (Gratis)," www.general-security.gov.lb/English/Residence+In+Lebanon/Courtesy+Residence/ (accessed July 20, 2007).

⁶⁰ Article 5 of Decree No. 15 on Lebanese Nationality, January 19, 1925, as amended by Regulation No. 160, dated July 16, 1934; Regulation No. 122 L . R ., dated June 19, 1939; and Law of January 11, 1960, www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDLEGAL&id=44a24c6c4 (accessed July 27, 2007).

⁶¹ Article 1 of Decree No. 15 on Lebanese Nationality, January 19, 1925.

⁶² The only exception to the rule that women cannot confer their Lebanese nationality on their children is in the case of women who have acquired Lebanese nationality and who are subsequently widowed. Article 4 of Decree No. 15 on Lebanese Nationality, January 19, 1925. See also Government of Lebanon, Third Periodic Report to the Committee on the Elimination of

They are however entitled to three-year renewable residence permits, provided that they do not work in Lebanon and can show that they have sufficient means to support themselves for the duration of their stay in Lebanon.⁶³

Discrimination against Women, CEDAW/C/LBN/3, July 7, 2006, www.un.org/womenwatch/daw/cedaw/reports.htm (accessed July 23, 2007), para. 163.

⁶³ General Security website, "Residence in Lebanon – Permanent Stay," www.general-security.gov.lb/English/Residence+In+Lebanon/Permanent+Stay/ (accessed July 20, 2007), and email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

V. Detention and *Refoulement*

Penalties for illegal entry or presence in the country

Although Lebanon is not a party to the 1951 Refugee Convention or its 1967 Protocol, it is a member of UNHCR's Executive Committee (ExCom).⁶⁴ In standardizing state practice in conformity with Article 31 of the Refugee Convention, which directs states not to impose penalties on refugees on account of their illegal entry or presence, the ExCom has repeatedly endorsed the principle that refugees who flee from circumstances where their life or freedom is threatened should not be penalized for entering or residing in another country illegally for the purpose of seeking asylum. In its Conclusion 44, the ExCom "noted with deep concern that large numbers of refugees and asylum-seekers in different areas of the world are currently the subject of detention or similar restrictive measures by reason of their illegal entry or presence in search of asylum," and "stressed the importance for national legislation and/or administrative practice to make the necessary distinction between the situation of refugees and asylum-seekers, and that of other aliens."⁶⁵

Lebanon does not make this fundamental distinction with respect to Iraqi refugees; all Iraqi nationals who enter the country illegally or overstay their visas are considered to be illegal immigrants regardless of the fact that a great number of them are fleeing because their lives are threatened and despite UNHCR's prima facie recognition of Iraqi nationals from central and southern Iraq as refugees.

In practice, the Lebanese authorities have shown a remarkable tolerance of the Iraqi presence in Lebanon. The police and the Internal Security Forces (ISF) do not systematically arrest Iraqis who do not have valid visas or residence permits.

⁶⁴ The Executive Committee (ExCom) is UNHCR's governing body. ExCom membership does not require accession to the Refugee Convention or Protocol, but requires rather a "demonstrated interest and devotion to the solution of refugee problems" and membership in the United Nations or its specialized agencies. UNHCR, "How to Apply for ExCom Membership," www.unhcr.org/excom/418b5ecc4.html (accessed July 5, 2007). Lebanon joined the ExCom in 1963. Since 1975 the ExCom has adopted a series of "Conclusions" at its annual meetings, which are intended to guide states in their treatment of refugees and asylum seekers and in their interpretation of existing international refugee law. ExCom Conclusions are not legally binding on states, but they are widely recognized as representing the view of the international community and carry persuasive authority as they are adopted by consensus by ExCom member states (currently numbering 70 states).

⁶⁵ UNHCR ExCom Conclusion 44 (XXXVII), "Conclusion on International Protection," October 9, 1986, www.unhcr.org/excom/EXCOM/3ae68c43co.html (accessed July 19, 2007), paras. (a) and (d).

However, the authorities have not recognized the right of Iraqis in need of international protection to be present and have not issued unequivocal instructions to law-enforcement officials *not* to arrest Iraqi refugees on the basis of their illegal entry or presence in the country. Accordingly, the Iraqis — especially Iraqi men — live in great uncertainty. At times Iraqi refugees at checkpoints are allowed to proceed when they show their refugee certificates, although the certificates have no official status. At other checkpoints these same refugees face arrest for being in the country illegally. There is no pattern or method to these arrests; whether an Iraqi refugee is arrested or not appears to depend entirely on the whim of the law-enforcement officers at the checkpoints. In recognition of this reality, UNHCR warns Iraqi refugees about the possibility of arrest. It issues Iraqi refugees with a leaflet headed “Important Information,” which states: “Under the current circumstances, the refugee certificate does not provide any definite guarantees against arrest. The refugee certificate allows UNHCR to intervene on your behalf with the Lebanese authorities, but it does not give you additional rights beyond those provided by the Lebanese authorities in terms of work and movement.”⁶⁶

For Iraqi refugees, the risk of being arrested and detained increases directly with the number of checkpoints: while in March 2007 there were fewer than 100 Iraqi refugees in detention in Lebanon, by August 2007 this number had increased dramatically to 480 as a direct result of the proliferation of checkpoints due to the worsening security situation.⁶⁷ As this paper goes to press, in November 2007, about 580 Iraqi refugees are in detention in Lebanon.⁶⁸

The authorities take those Iraqi refugees they arrest to a local police station and then transfer them to one of Lebanon’s prisons to await a court hearing.⁶⁹ Usually, court hearings are scheduled for a number of Iraqi refugees at the same time. These

⁶⁶ UNHCR information leaflet for Iraqi refugees in Lebanon, undated, on file with Human Rights Watch.

⁶⁷ Human Rights Watch interviews with Stephane Jaquemet, UNHCR Representative in Lebanon, Beirut, March 23 and June 8, 2007, and email from UNHCR-Beirut to Human Rights Watch, August 31, 2007. See also Lysandra Ohrstrom, “Beirut Grows Less Tolerant of Displaced Iraqis,” Daily Star (Beirut), June 23, 2007.

⁶⁸ Associated Press, “US Group: Lebanon Jailing Iraqi Refugees,” November 12, 2007, <http://www.msnbc.msn.com/id/21762135/> (accessed November 14, 2007).

⁶⁹ By far the largest number of Iraqi refugees are detained in Roumieh prison in Greater Beirut. Iraqi refugees who are arrested while attempting to enter Lebanon illegally, usually with the help of people smugglers who operate in the remote and mountainous terrain that straddles the Lebanon-Syria border in the far north of Lebanon, are usually taken to a local prison, at least initially; many are then transferred to Roumieh prison at a later stage.

hearings are entirely standardized; the judges only ask the refugees to confirm their names and nationality, and to confirm their illegal entry. The judges usually deny them an opportunity to explain the reasons for their illegal entry or presence in the country.⁷⁰ One refugee said, “I was brought before the judge. He asked my name and whether I had entered illegally. I said, ‘Yes.’ I was sentenced to one month imprisonment and a fine of 50,000 Lebanese pounds [US\$33].”⁷¹

Under article 32 of the 1962 Law of Entry and Exit, foreigners who enter Lebanon illegally are liable to a prison sentence of between one month and three years, a fine, and deportation; judges have exercised little discretion in imposing all three penalties provided in the law.⁷² Iraqi refugees who are convicted of illegal entry are usually sentenced to the minimum prison sentence of one month, plus a fine and deportation.⁷³ Instead of paying the fine most Iraqi refugees opt for the alternative of serving extra prison time, at a rate of one day for each 10,000 Lebanese pounds.

Conditions in Roumieh Prison

The vast majority of Iraqi refugees sentenced to prison for illegal entry serve their sentences in Roumieh prison, in Greater Beirut. Human Rights Watch researchers visiting the prison observed that Iraqi refugees share cells with common criminals. The UNHCR ExCom voiced its disapproval of this practice in its Conclusion 85, which “note[d] with concern that asylum-seekers detained only because of their illegal entry or presence are often held together with persons detained as common criminals, and reiterates that this is undesirable and must be avoided whenever possible.”⁷⁴

Roumieh prison has four different types of cells: cells intended for one person that usually hold four; cells intended for three people that actually hold four to six; cells

⁷⁰ Human Rights Watch interview with Samira Trad, Director, Frontiers Association, Beirut, March 26, 2007.

⁷¹ Human Rights Watch interview with Iraqi refugee (No. 68), Roumieh Prison, Building B, Greater Beirut, May 3, 2007.

⁷² Law Regulating the Entry and Stay of Foreigners in Lebanon and their Exit from the Country, art. 32.

⁷³ The value of the fine varies from one person to the next, without any discernable reason: Human Rights Watch encountered Iraqi refugees who had all been sentenced to one month in prison for illegal entry, but who were ordered to pay fines of 50,000LL, 100,000LL, 150,000LL, 200,000LL, 250,000LL and 300,000LL respectively.

⁷⁴ UNHCR ExCom Conclusion 85 (XLIX), “General Conclusion on International Protection,” October 13, 1998, www.unhcr.org/excom/EXCOM/3ae68c6e30.html (accessed July 19, 2007), para. (ee).

intended for seven that usually hold eight or nine; and a few very large cells that were never intended to house detainees that now hold 100 to 120 people. Detainees in the large cells are allowed to go outside their cells into a corridor or a courtyard for one hour per week. Detainees in the smaller cells are, in theory, allowed to leave their cells three times a week for two hours, but in practice are often let out less often.⁷⁵

Although prison conditions are equally bad for Lebanese prisoners at Roumieh, they usually have the benefit of relatives bringing them food, water, and supplies, such as hygienic items, whereas Iraqis and other foreigners cannot usually rely on such outside support networks. The few relatives and friends of Iraqi detainees who go to the prison to deliver food find the experience daunting. “I must take food and clothes to my brother and my nephew in prison,” said an Iraqi woman. “It is very hard to visit the prison. I am very afraid to meet the authorities because I am illegal here. I go every week, I have to, my brother and his son don’t have anyone else here. In Roumieh they get food, but the food isn’t good, and it isn’t enough.”⁷⁶

Iraqi detainees in Roumieh prison told Human Rights Watch that they were not subject to ill treatment by the prison guards. But detainees complained that the cells were very crowded. An Iraqi detainee who was kept in one of the smaller cells said, “There are a lot of people inside, but the way we are treated by the guards is okay. Our cell is 2.5 x 2.5 meters. When there are six people in the cell, it is impossible to sleep.”⁷⁷ An Iraqi detainee in one of the large cells said the situation was no better there: “You must sleep like sardines, head to toe.”⁷⁸ The cells do not have beds, and very few mattresses. Another Iraqi detainee said: “There is just enough space for everyone to sleep. There is one mattress in the cell. We use it as a pillow for everyone.”⁷⁹

⁷⁵ Human Rights Watch interview with staff members of Médecins du Monde au Liban and Association Justice et Miséricorde, Greater Beirut (Roumieh), April 23, 2007.

⁷⁶ Human Rights Watch interview with Iraqi woman (No. 13), Greater Beirut (Za`taria), March 31, 2007.

⁷⁷ Human Rights Watch interview with Iraqi man (No. 68), Roumieh prison, May 3, 2007.

⁷⁸ Human Rights Watch interview with Iraqi man (No. 41), Roumieh prison, April 23, 2007.

⁷⁹ Human Rights Watch interview with Iraqi man (No. 44), Roumieh prison, April 23, 2007.

In these circumstances, detainees have no privacy at all. An Iraqi detainee explained: “The bathroom is in a corner of the cell. We use a piece of cloth to separate the toilet from the rest of the cell. We wash inside the cell. We have a bucket; friends bring soap to us in the prison.”⁸⁰

Iraqis in detention also complained about the temperatures in the prison. With no air-conditioning, few fans, and overcrowding, the cells get very hot in summer. In winter, on the other hand, the cells become quite cold.

Another major complaint concerned the prison food. “We get two meals a day, but the food has no color or taste, it is not edible,” said one Iraqi detainee. “We rely on friends to bring us food, tea, sugar, cigarettes. Most people here rely on food that is brought to them from outside.”⁸¹ Another Iraqi detainee said, “Before I came here, I weighed 74 kilograms, and look at me now. [He looked underweight.] At one point I was down to 56 kilograms. The food is not very good. The drinking water is not very good; it harms me. Some people here have money; they buy drinking water.”⁸²

An Impossible Choice: Indefinite Detention or Returning to Iraq

Article 18 of the 1962 Law on Entry and Exit provides that anyone who is subject to a deportation order may be kept in detention under the authority of General Security until the deportation procedures are completed. Thus once Iraqis have served their prison sentence for being in the country illegally, General Security assumes responsibility for them. In principle, Iraqi detainees are transferred to the General Security prison at this point. In practice, lack of space in the General Security prison often means that Iraqi refugees remain in the prison where they served their sentence.

In theory, General Security does not enforce deportation orders against any Iraqis, in accordance with Lebanon’s obligations under international law not to subject them to *refoulement*, the forcible return to a territory where their life or freedom would be

⁸⁰ Human Rights Watch interview with Iraqi man (No. 41), Roumieh prison, April 23, 2007.

⁸¹ Human Rights Watch interview with Iraqi man (No. 43), Roumieh prison, April 23, 2007.

⁸² Human Rights Watch interview with Iraqi man (No. 40), Roumieh prison, April 23, 2007.

threatened. In practice, the situation is considerably less clear-cut. While General Security does not deport Iraqi nationals who have served their sentence, it also does not release them from detention. Instead, it keeps them in detention, presumably until such time as they can be deported to Iraq without such deportation amounting to *refoulement*. The only ways Iraqi refugees can secure their release from detention once they have served their sentence is by agreeing to return to Iraq (the most common option), by having UNHCR apply to General Security for their release, or by getting an employer to sponsor them and thus regularize their status.⁸³

In practice, UNHCR has had limited success in obtaining the release of Iraqi detainees. While some Iraqi refugees are released without further delay once UNHCR has requested their release, others remain in detention. General Security does not generally provide UNHCR with the reasons it declines to release certain refugees. However, it would seem that significantly increased offers of third country resettlement—with priority for Iraqi refugees in detention—would enhance UNHCR’s ability to convince the Lebanese authorities to release Iraqis from detention and to protect them from *refoulement*.

Iraqi refugees find it very hard to regularize their status from inside the prison. They often do not have a way to communicate directly with their former employers in Lebanon who could try to regularize their status. In any case, with a cheap and constantly replenishing supply of Iraqi laborers, their employers are rarely willing to go through the expense and effort of regularizing the status of their former employees.

Accordingly, Iraqi refugees in detention are presented with a repugnant choice: either they continue to suffer the cruelty and hardship of being detained, with no release date in sight, or they agree to go back to the country from which they fled for their lives. For most refugees in detention, it is a choice that does not deserve the name. The notion of remaining in prison indefinitely is so abhorrent and the conditions in prison so unbearable that they see little option but to “choose” return to Iraq. The imposition of indefinite detention in harsh conditions, when the

⁸³ Since regularizing one’s status in Lebanon on the basis of a work permit is costly, only very small numbers of Iraqi refugees can use this option to secure their release from detention. (See also section IV.)

detainees have served their sentences and are not facing other charges, may itself constitute inhuman and degrading treatment and as such would be a violation of Lebanon's obligations under the International Covenant on Civil and Political Rights (ICCPR)⁸⁴ and the UN Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Convention Against Torture).⁸⁵

Detained Iraqi refugees have no wish to return to or stay in Iraq; they want only freedom from indefinite detention. Agreeing to go back is their only means of realizing that objective.

Many detained Iraqis interviewed by Human Rights Watch in Roumieh prison initially chose to stay in prison rather than go back to Iraq, where they feared for their safety.⁸⁶ Human Rights Watch interviewed an Iraqi detainee at Roumieh prison within moments of making his "choice" to return to Iraq. Until then, he had refused to be sent back to Iraq and had remained in indefinite detention after completing his sentence for illegal entry. A few minutes before Human Rights Watch talked with him, an Iraqi embassy delegation had completed interviewing and processing him for return. He was so agitated and angry that he could hardly speak. He held up his thumb, still covered in blue ink, which he had used to produce a fingerprint, and said, "You see this? I'm going back! This prison is making me go mad. I will probably

⁸⁴ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Lebanon acceded to the ICCPR on November 3, 1972. Article 7 prohibits torture or cruel, inhuman or degrading treatment or punishment. Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment (CAT), adopted December 10, 1984, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987. Lebanon acceded to CAT on October 5, 2000.

⁸⁵ In *C. v. Australia*, UN Doc. A/58/40, UN Doc CCPR/C/76/D/900/1999 (2002), para. 8.4., the immigrant detainee kept in indefinite immigration custody suffered psychological trauma because of the prolonged detention. The Human Rights Committee determined that Article 7 of the ICCPR had been violated. In 2004 the Committee Against Torture expressed its concern that in relation to non-UK nationals whom they considered a security risk, that the United Kingdom government was resorting "to potentially indefinite detention" (CAT/C/CR/33/3, 10 December 2004) and then in 2006 the Committee told the United States, that "detaining persons indefinitely without charge constitutes per se a violation of the Convention", U.N. Doc CAT/C/USA/CO/2, (July 25, 2006). See also, Alfred de Zayas, *Human rights and indefinite detention*, International Review of the Red Cross, Volume 87 Number 857 March 2005, p.20: "... indefinite detention may raise issues under the peremptory international law rule against torture. Because of the psychological effects that indefinite detention may have on individuals, it may also entail violations of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment."

⁸⁶ This does not mean that a majority of all detained Iraqis chose to remain in prison: by definition, the people interviewed by Human Rights Watch in Roumieh prison were people who had not returned to Iraq.

get killed in Iraq [he ran his finger across his throat], but I'm going back, I can't stay in this prison any longer."⁸⁷

Before the International Organization for Migration (IOM) temporarily suspended its involvement in return of detained Iraqis in September 2007, Iraqi detainees could return to Iraq in one of two ways. Either they made their own travel arrangements or IOM returned them. Iraqis who made their own travel arrangements could leave at any time, provided they had served their prison sentence.⁸⁸ The IOM returns procedure worked as follows:

General Security on a regular basis provided details to the Iraqi embassy of all Iraqis who had served their sentences. The embassy then sent a delegation to Roumieh prison to interview the Iraqis in question and to ascertain whether they wanted to go back to Iraq. The embassy sent a list to UNHCR and IOM with the names of people who wished to return to Iraq.⁸⁹

UNHCR staff members interviewed all Iraqis on these lists. They counseled all those who had not yet registered with UNHCR on the prima facie refugee recognition policy, and offered them the opportunity to register with UNHCR. They confirmed with the detainees whether they stood by their decision to go back to Iraq. Few changed their mind at this stage, since UNHCR could not guarantee that they would be released from prison, even if they were registered as refugees with UNHCR. UNHCR communicated with IOM to ensure that IOM did not make travel arrangements for Iraqis on the embassy list who subsequently told UNHCR that they did not in fact wish to return to Iraq. General Security requires all Iraqi detainees who wish to return to Iraq to sign a statement to the effect that they voluntarily agree to repatriate.

⁸⁷ Human Rights Watch interview with Iraqi man (No. 44), Roumieh Prison, Greater Beirut, May 11, 2007.

⁸⁸ The Iraqi embassy in Beirut issues a letter to Iraqis in detention who make their own travel arrangements to return to Iraq. With this letter, Iraqis wishing to return to Iraq from Lebanon can obtain a 50 percent discount on the one-way fare from Beirut to Baghdad from Iraqis Airlines, the Iraqi national airline. If they prefer to use an airport other than Baghdad, they need to pay for a ticket with a different airline, for which no discounts are available.

⁸⁹ Human Rights Watch interview with Alhamhal H. Alsafi, consul, and Khaled M. Al-Mashhadani, first secretary, Iraqi embassy in Lebanon, Greater Beirut (Hazmiye), April 19, 2007. Prior to each such visit to Roumieh, the Iraqi embassy asks General Security for all Iraqi detainees who have served their sentence and who are held in different prisons in Lebanon to be sent to Roumieh prison.

Prior to the September 2007 temporary suspension of its involvement in the return of detained Iraqis, IOM informed Human Rights Watch: “All individuals assisted by IOM in their voluntary return are subject to voluntariness assessment and return counseling.”⁹⁰ Prior to September 2007, IOM arranged for flights, and assumed the transportation costs, to one of the four international airports in Iraq (Baghdad, Basra, Erbil, Sulaimaniya). Depending on the arrival airport, IOM either arranged for onward transportation to the returnees’ final destination, or paid for public transportation.⁹¹ Between May and September 2007, IOM provided Iraqi returnees with a reintegration package worth \$2,000, including a \$500 cash component, with the remainder disbursed as in-kind assistance.⁹² Between January 1 and May 17, 2007, IOM returned 67 Iraqis from Lebanon to Iraq, including 62 Iraqis who had been in detention for illegal entry, and one family of five people.⁹³

Coerced Choices

The Iraqi consul in Beirut told Human Rights Watch that Iraqi embassy personnel “do not encourage anyone to go back to Iraq,” but that it was nevertheless part of his consular duties to facilitate the return to Iraq of Iraqi detainees who asked for his assistance.⁹⁴ Embassy officials are acutely aware of the fact that Iraqi detainees only agree to go back to Iraq because they do not have a real alternative. The Iraqi consul in Lebanon said, “You put them [Iraqi detainees] in a corner: either you stay in prison, or you go back to Iraq. They have no choice. If you gave them another option, and if they *then* wanted to go back, *that* would be voluntary.”⁹⁵

⁹⁰ Email from IOM-Lebanon to Human Rights Watch, June 7, 2007.

⁹¹ Email from IOM-Lebanon to Human Rights Watch, June 7, 2007.

⁹² Emails from IOM-Lebanon to Human Rights Watch, June 7, 2007, and June 19, 2007.

⁹³ Email from IOM-Lebanon to Human Rights Watch, May 17, 2007, and June 7, 2007. IOM was not able to say whether any of the 62 detained returnees left family members behind in Lebanon. Although they left individually, IOM said, “This does not mean all are unmarried.” IOM said that the Iraqi embassy and UNHCR “usually also alert us to situations in which they are aware of spouses or other family members in Lebanon,” and that IOM seeks to clarify the possible consequences for families in its counseling “and to discourage the provision of assistance, as appropriate.” Email from IOM-Lebanon to Human Rights Watch, July 18, 2007.

⁹⁴ Human Rights Watch interview with Alhamhal H. Alsafi, consul, and Khaled M. Al-Mashhadani, first secretary, Iraqi embassy in Lebanon, Greater Beirut (Hazmiye), April 19, 2007.

⁹⁵ Human Rights Watch interview with Alhamhal H. Alsafi, consul, and Khaled M. Al-Mashhadani, first secretary, Iraqi embassy in Lebanon, Greater Beirut (Hazmiye), April 19, 2007.

UNHCR finds itself in a similar predicament. By interviewing Iraqis in detention who have indicated to their embassy that they wish to return, UNHCR tries to ensure that they do not go back against their will. At the same time, UNHCR recognizes that Iraqis in detention have few alternatives, and that it is therefore difficult to maintain that decisions by detained Iraqis to go back to Iraq are truly voluntary. The UNHCR representative in Lebanon said, “We don’t ask them whether they are *voluntarily* going back to Iraq, because we think there is something strange about asking that when someone is in detention.”⁹⁶

It seems unlikely that Iraqi detainees would choose to go back to Iraq if they were indeed given an alternative other than indefinite detention. Certainly, Iraqi refugees who are not in detention, and who therefore do have an alternative, unequivocally reject the idea that they might want to go back to Iraq at this time. However difficult life is for Iraqi refugees in Lebanon (see section VI), they nevertheless choose to stay. Asked whether he hoped to be able to go home in the foreseeable future, one refugee answered succinctly, “No. You die over there.”⁹⁷ Asked the same question, an Iraqi woman said, “No. I am very afraid, afraid of violence. I am looking for security and safety, this is my goal. I want to live without nightmares and without fear.”⁹⁸ Another woman said, “No one does not like their own country, but if the situation remains like this, why would I want to go back?”⁹⁹ Refugees are also warned against returning home by their relatives who have stayed behind in Iraq. As one refugee said, “Every time we call our family in Iraq they tell us, ‘Don’t even think about coming back to Iraq.’”¹⁰⁰

Since UNHCR’s decision in January 2007 to recognize Iraqi nationals as refugees on a prima facie basis, Iraqi detainees interviewed by UNHCR have increasingly indicated that they do not want to return to Iraq, even though they understand that UNHCR cannot guarantee their release from detention. However, the majority of Iraqi detainees still chose to go back to Iraq. In interviews with Human Rights Watch,

⁹⁶ Human Rights Watch interview with Stephane Jaquemet, UNHCR representative in Lebanon, Beirut, March 23, 2007.

⁹⁷ Human Rights Watch interview with Iraqi couple (No. 57), Greater Beirut (Dahieh), April 25, 2007.

⁹⁸ Human Rights Watch interview with Iraqi woman (No. 59), Beirut, April 26, 2007.

⁹⁹ Human Rights Watch interview with Iraqi woman (No. 58), Beirut, April 26, 2007.

¹⁰⁰ Human Rights Watch interview with Iraqi man (No. 56), Greater Beirut (Dahieh), April 25, 2007.

Iraqis in detention explained their reasons. Many pointed out that refugees who refused to go back had already spent many months in prison, despite UNHCR's efforts to intervene on their behalf with General Security. As one Iraqi detainee said, "I'd rather go back to Iraq than stay here [in Roumieh prison]. There are people here who have been here for eight months. UNHCR is not managing anything for them. Why would I stay here? I might be killed in Iraq, but I'd rather leave."¹⁰¹

The option of release through employment sponsorship and legalized status is also remote. An Iraqi detainee told Human Rights Watch of his failed efforts to have his employer sponsor his application to regularize his status. He said:

No one tells me how long it is going to be in prison. I see people who have been here for eight months. If I can't regularize my status, I will go back to Iraq. If I go back to Iraq, I will be killed. I don't want to go back, but it is better for me to go back than to spend one more day being locked up with criminals. I don't want to stay in prison. I have never been to prison in my life. This is the first time that I am in a room with criminals. I suffer so much in prison, I prefer to die.¹⁰²

A number of the Iraqi detainees interviewed by Human Rights Watch said they were finding it very difficult to cope with their prolonged detention. One said:

I have been here for seven months. I am really tired. I am about to lose it. My nerves are fraying. I only want to know when I am going to be released from jail. When? I haven't done anything. I haven't committed a terrorist act. I am very tense, I am often shaking. Sometimes I am in my cell and I just want to rip off my shirt. [He grabbed his shirt with two hands, and made a movement as if he was going to rip his shirt apart.] We are treated like animals. We haven't seen any human rights, we only hear of them.¹⁰³

¹⁰¹ Human Rights Watch interview with Iraqi man (No. 89), Roumieh Prison, Greater Beirut, May 11, 2007.

¹⁰² Human Rights Watch interview with Iraqi man (No. 42), Roumieh Prison, Greater Beirut, April 23, 2007.

¹⁰³ Human Rights Watch interview with Iraqi man (No. 41), Roumieh Prison, Greater Beirut, April 23, 2007.

Another Iraqi detainee said, “You are here, with thieves, criminals. You spend your nights crying because you don’t know what is happening. I’ve stopped asking for things, because nothing ever happens. When you complain too much, they say, ‘Go back to Iraq.’”¹⁰⁴

Yet another Iraqi detainee said:

The situation is so difficult for us, we are just waiting. I have no news from my family. The months just go by, I feel like I am collapsing. I am very tired, psychologically I am exhausted. People are losing it in jail, they start talking to themselves. It is such a difficult situation. This psychological tiredness, with time it becomes more severe. My hands start shaking, I really am collapsing.¹⁰⁵

It is evident from these accounts that agreeing to repatriate is the only means for Iraqi detainees to be released from detention. They have no wish to be in Iraq; what they want is release from detention. Human Rights Watch interviews with four Iraqi refugees who had previously been in detention, had been returned to Iraq, and then crossed back into Lebanon again confirm that most Iraqi detainees have no desire to be back in Iraq. One said, “After 20 days in Iraq, I found a smuggler and I went straight back to Lebanon.” Asked why he had agreed to leave Lebanon in the first place, he simply said, “The situation in prison was very bad, so I had to leave.”¹⁰⁶ The Iraqi embassy is familiar with this scenario. The Iraq consul told Human Rights Watch, “I assure you, the person who is returned, 10 days later, you see him back again. Some persons, we return them three times.”¹⁰⁷ A pattern of multiple returns of the same persons is among the strongest indications that the returns are involuntary.

Sometimes, detained Iraqi refugees in Lebanon who agree to return to Iraq are then served a cruel reminder of the dangers that had caused them to flee Iraq in the first

¹⁰⁴ Human Rights Watch interview with Iraqi man (No. 69), Roumieh Prison, Greater Beirut, May 3, 2007.

¹⁰⁵ Human Rights Watch interview with Iraqi man (No. 95), General Security Prison, Beirut, June 1, 2007.

¹⁰⁶ Human Rights Watch interview with Iraqi man (No. 23), Greater Beirut (Dahieh), April 17, 2007.

¹⁰⁷ Human Rights Watch interview with Alhamhal H. Alsafi, consul, and Khaled M. Al-Mashhadani, first secretary, Iraqi embassy in Lebanon, Greater Beirut (Hazmiye), April 19, 2007.

place. An Iraqi father recounted what happened when he and his son were arrested and detained for illegal entry in 2005. After several months in Roumieh prison, they agreed to return to Iraq in order to be released from detention. Once back in Iraq, the son was kidnapped. The father managed to secure his son's release by paying a ransom. Together they then returned to Lebanon. The father said, "I don't want to go back to Iraq. I want to stay in Lebanon, even if they break every bone in my body, even if we don't feel safe here, because we are illegal."¹⁰⁸

In addition to targeted violations, such as kidnapping, returnees run the risk of falling victim to generalized violence. For example, after `Abbas Hamid Gawda served a 45-day sentence in a Lebanese prison after being caught attempting to cross the border illegally, his family raised \$400 so that he could leave prison and return to Iraq. He went back to Iraq in October 2006, leaving his wife and two children in Lebanon. He was killed in an explosion in Sadr City two weeks later. Human Rights Watch saw the death certificate, dated October 23, 2006, which gives "accident-explosion in New Baghdad" as the cause of death.

Lebanon's *Nonrefoulement* Obligations

Lebanon is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and is bound under Article 3 of that instrument not to return or expel any persons to states where they would be in danger of being tortured.¹⁰⁹ As noted above, Lebanon is not a party to the 1951 Refugee Convention or its 1967 Protocol, but is nevertheless bound by customary international law not to return refugees to a place where their lives or freedom would be threatened. The UNHCR ExCom's Conclusion 25 of 1982 declared that "the principle of *nonrefoulement*... was progressively acquiring the character of a peremptory rule of international law."¹¹⁰

¹⁰⁸ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

¹⁰⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, art. 3.

¹¹⁰ UNHCR Conclusion 25 (XXXIII), "General Conclusion on International Protection," October 20, 1982, www.unhcr.org/excom/EXCOM/3ae68c434c.html (accessed August 3, 2007), para. (b). More recent ExCom conclusions have reaffirmed this principle, including Conclusion 79 (XLVII), "General Conclusion on International Protection," October 11, 1996, www.unhcr.org/excom/EXCOM/3ae68c430.html (accessed August 3, 2007), para. (j) and Conclusion 81 (XLVIII), "General Conclusion on International Protection," October 17, 1997,

The UN General Assembly reinforced the international consensus that the *nonrefoulement* obligation adheres to all states, not just signatories to the Refugee Convention, when it adopted Resolution 51/75 on August 12, 1997, which:

[c]alls upon all States to uphold asylum as an indispensable instrument for international protection of refugees and to respect scrupulously the fundamental principle of *nonrefoulement*, which is not subject to derogation.¹¹¹

On the occasion of the 50th anniversary of the Refugee Convention in 2001, the Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees acknowledged “the continuing relevance and resilience of this international regime of rights and principles, including at its core the principle of *nonrefoulement*, whose applicability is embedded in customary international law.”¹¹² Later that year, the UN General Assembly welcomed the Declaration.¹¹³

In theory, Lebanon does not return any Iraqi refugees to Iraq against their will. However, the practices of the Lebanese authorities coerce Iraqi refugees to “choose” to return to Iraq. By first arresting and detaining Iraqis who enter the country illegally for the purpose of seeking asylum, and then giving those in detention a “choice” between returning to Iraq or indefinite detention, Lebanon in practice commits *refoulement*.

Lebanon needs to adopt a different approach to the presence of Iraqi refugees on its territory. It must offer Iraqi refugees the protection they need. Lebanon should accede to the Refugee Convention and Protocol and adopt a domestic refugee law. At a minimum, Lebanon should issue circulation permits to all Iraqis whom UNHCR registers as refugees. Consistent with the international refugee law principle not to penalize refugees for their illegal entry or presence, Lebanon should not prosecute

www.unhcr.org/excom/EXCOM/3ae68c690.html (accessed August 3, 2007), para. (i).

¹¹¹ UN General Assembly Resolution 51/75, UN Doc. A/RES/51/75, February 12, 1997, para. 3.

¹¹² Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, Ministerial Meeting of States Parties, Geneva, December 12-13, 2001, UN doc. HCR/MMSP/2001/09, January 16, 2002, para. 4.

¹¹³ UN General Assembly Resolution 57/187, UN Doc. A/RES/57/187, December 18, 2001, para. 4.

and punish Iraqi refugees for their illegal entry or presence by imposing fines and prison sentences.

In addition, Lebanon should cease subjecting Iraqi refugees to indefinite detention after they have served their prison sentence for entering the country illegally. Lebanon is a party to the International Covenant on Civil and Political Rights (ICCPR).¹¹⁴ Article 9(1) of the ICCPR provides: “No one shall be subjected to arbitrary arrest or detention.” The UN Human Rights Committee, which oversees implementation of the Covenant, has examined the practice of indefinite detention of asylum seekers in Australia.¹¹⁵ The Committee emphasized that the concept of arbitrariness should not be equated with “against the law” but must also include such elements as “inappropriateness and injustice.” It noted that to avoid being arbitrary, detention should not continue beyond the period for which a State can provide appropriate justification. It also pointed out that detention could be considered arbitrary if “it is not necessary in all the circumstances,” for example to prevent flight, and that “the element of proportionality becomes relevant in this context.”

In the current circumstances, where Iraqis cannot be deported to Iraq because to do so would violate Lebanon’s *nonrefoulement* obligations, keeping Iraqi refugees in indefinite detention under the authority of General Security for the purpose of arranging deportations that cannot legally be carried out would not be considered proportionate or appropriately justified. As such it amounts to arbitrary detention and hence violates Lebanon’s obligations under the ICCPR.¹¹⁶

¹¹⁴ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Lebanon acceded to the ICCPR on November 3, 1972.

¹¹⁵ Decisions of the Human Rights Committee, *A v Australia* No 560/1993, U.N. Doc. CCPR/C/59/D/560/1993 (1997); *C v Australia* No 900/1999, *op.cit.*; *Baban v Australia* No 1014/2001, U.N. Doc. CCPR/C/78/D/1014/2001 (2003), *Bakhtiyari v Australia*, U.N. Doc CCPR/C/79/D/1069/2002 (2003).

¹¹⁶ For a detailed analysis of Lebanon’s obligations under international and Lebanese law regarding the detention of refugees and asylum seekers, see Frontiers (Ruwad) Association (Beirut), “Legality vs. Legitimacy: Detention of Refugees and Asylum Seekers in Lebanon,” May 2006, www.frontiersassociation.org/pubs/ArbitraryDetentionFINALMAY2006.pdf (accessed August 3, 2007). See also the criteria established by the U.N. Working Group on Arbitrary Detention to determine when deprivation of liberty is arbitrary. Office of the United Nations High Commissioner for Human Rights, “Fact Sheet No. 26, The Working Group on Arbitrary Detention,” www.ohchr.org/english/about/publications/docs/fs26.htm (accessed August 3, 2007). The European Court of Human Rights has likewise held that while detention pending deportation is lawful, proceedings to deport must be in progress and to be prosecuted with due diligence. In *Quinn v. France* (judgment of March 22, 1995, Series A no. 311) the Court found France to have subjected the applicant to arbitrary detention because the detention lacked proportionality and the state

The Role of Lebanon's Judiciary

Lebanon's judiciary could play an important role in protecting the rights of refugees in Lebanon. However, attempts to engage with the legal system to prevent Iraqi refugees from being detained have mostly proven unsuccessful, as have attempts to secure the release of detained Iraqi refugees through the courts.

Lawyers have tried several different ways to intervene on behalf of Iraqi refugees.¹¹⁷ First, lawyers have tried to persuade state prosecutors not to file charges of illegal entry in the case of Iraqis who were arrested when they attempted to cross the Lebanon-Syria border without permission. Second, they have argued that Iraqis charged with illegal entry should not be sentenced to imprisonment and deportation. Third, they have attempted to bring test cases to establish precedents for the release of Iraqi refugees who have served their sentence for illegal entry.

Even where these efforts have had some success, the outcome has turned on the details of the individual cases, and no precedent has been set. Thus, for example, in the case of a group of Iraqi refugees arrested for attempting to enter Lebanon illegally, the prosecutor was persuaded not to file charges against some members of the group, but he did file charges against others, despite their having been arrested at the same time and in the same circumstances.¹¹⁸

Attempts to obtain through litigation a categorical judicial pronouncement on the wrongfulness of prosecuting Iraqi refugees for illegal entry have thus far failed. Lawyers acting on behalf of a group of Iraqis who were charged with illegal entry argued that these refugees should not be prosecuted on the grounds that the Universal Declaration of Human Rights (UDHR) has been incorporated into the

had not conducted the relevant proceedings with due diligence. See also *Chahal v United Kingdom*, judgment of November 15, 1996, *Reports of Judgments and Decisions* 1996-V.

¹¹⁷ UNHCR has started a legal aid project, with the aim of providing legal representation for asylum seekers and refugees, including those who are in detention. The project is financed by UNHCR and is implemented together with Caritas, in coordination with the Bar Association's Legal Aid Commission. Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007.

¹¹⁸ The group consisted of 13 individuals, including a married couple with one child, and another married couple with two children. No charges were brought against the two families, but the remaining six members of the group, including a 70-year-old woman, were all charged with illegal entry. Moreover, while no charges were brought against any members of the two families, the two husbands were kept in detention under the authority of General Security. They were subsequently released from detention. Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007.

Lebanese constitution and that prosecuting refugees for illegal entry under articles 32 and 33 of the 1962 Law of Entry and Exit is in conflict with the right to seek asylum under article 14 of the UDHR.¹¹⁹ Without addressing the legal arguments, the judge postponed the hearing and ordered the release from detention of the Iraqi refugees in question, on condition that UNHCR undertake to find a permanent solution for them.¹²⁰ However, as soon as the judge ordered their release, General Security assumed responsibility for them and kept them in detention.¹²¹

Finally, two test cases have been brought in an effort to secure the release of Iraqi refugees who have served their sentence for illegal entry. Legal submissions made on behalf of the refugees argued that while General Security, under the authority of the Ministry of Interior, is authorized under article 18 of the 1962 Law of Entry and Exit to detain foreigners for the purpose of making the necessary arrangements for their deportation, for such detention to remain lawful it must be possible to effect the deportation within a reasonable time. Since the current security situation in Iraq precludes the deportation of Iraqi nationals, as this would violate Lebanon's *nonrefoulement* obligations, the continued detention of Iraqi refugees is arbitrary, and hence violates Lebanon's obligations under article 9 of the ICCPR, which provides that no one shall be subjected to arbitrary detention. In both test cases, the judges declined to address the legal arguments and instead referred the cases to General Security.¹²²

Lebanese courts have in several past cases upheld the rights of refugees. In 2001, the Beirut Court of Appeals overturned a deportation order in the case of an Iraqi

¹¹⁹ Lebanon constitution, May 23, 1926, as amended August 21, 1990 (amendments came into force on September 21, 1990), www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDLEGAL&id=44a24a674 (accessed August 15, 2007), preamble, para. (b). The legal submissions that were made on behalf of these Iraqi refugees argued that, in the alternative, any sentence should be suspended under article 227 of the Criminal Code, which provides for the suspension of sentences for criminal acts committed under duress, or, alternatively, under article 229 of the Criminal Code, which provides for the suspension of sentences of necessity, where a criminal act was committed in order to avoid a grave and imminent danger, provided that the act was proportional to the danger to be avoided.

¹²⁰ Lawyers have since attempted to obtain a pronouncement from the Cassation General Prosecutor on the unlawfulness of detaining Iraqi refugees. Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007. As of August 31, 2007, the case was still pending. Email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

¹²¹ UNHCR has since secured the release of most of the Iraqi refugees in question. Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007.

¹²² Human Rights Watch interview with Dominique Tohme, UNHCR Senior Protection Assistant, Beirut, April 30, 2007; and Human Rights Watch interview with Samira Trad, Director, Frontiers Association, Beirut, March 26, 2007.

refugee who had entered Lebanon illegally, on the grounds that deporting the refugee in question would violate Lebanon's obligations under article 3 of the Convention against Torture, which binds Lebanon not to return or expel any persons to states where they would be in danger of being tortured.¹²³ However, the judiciary has not yet treated this and similar cases as precedents establishing that Lebanon's obligations under international law outweigh prison sentences mandated by the 1962 Law of Entry and Exit of people convicted of illegal entry.

Lebanon's judiciary urgently needs to take responsibility for protecting the rights of Iraqi refugees under domestic and international law. In interpreting the requirements of the 1962 Law of Entry and Exit, Lebanon's judiciary should pay heed to Lebanon's obligations under international law not to subject anyone under its jurisdiction to arbitrary detention, and not to *refoule* anyone to a state where his or her life or freedom would be in danger. Iraqi nationals who enter Lebanon illegally for the purposes of seeking asylum should not be prosecuted under the 1962 Law of Entry and Exit, and should in any case not be sentenced to deportation. Where the state cannot execute sentences of deportation because of its obligations under international law, it should not subject refugees to indefinite detention but instead should release them.

IOM's Role and Obligations

The International Organization for Migration (IOM), a Geneva-based intergovernmental organization with 120 member states, is governed by a constitution which requires that any returns it facilitates be voluntary. Article 1(1)(d) of the IOM constitution provides that the purposes of the organization include "services as requested by States, or in co-operation with other interested international organizations, for voluntary return migration, including voluntary

¹²³ Decision of the court of appeal in Beirut (chamber 9) in the case of Sajid Ilia, President Taniou al-Khoury, No. 2001/580, June 20, 2001, as referred to in Frontiers (Ruwad) Association (Beirut), "Legality vs. Legitimacy: Detention of Refugees and Asylum Seekers in Lebanon," May 2006, www.frontiersassociation.org/pubs/ArbitraryDetentionFINALMAY2006.pdf (accessed August 3, 2007), p. 26. However, the court of appeal upheld the sentence of imprisonment for illegal entry. The court authorized Mr. Ilia's stay in Lebanon until such time as Mr. Ilia could be resettled to a third country with the assistance of UNHCR. Ibid. A similar outcome was obtained in the case of a Sudanese refugee, Makir am din Nutout. Decision of the court of first instance in Beirut, No. 2003/1119, as referred to in Frontiers (Ruwad) Association (Beirut), "Legality vs. Legitimacy: Detention of Refugees and Asylum Seekers in Lebanon," May 2006, www.frontiersassociation.org/pubs/ArbitraryDetentionFINALMAY2006.pdf (accessed August 3, 2007), p. 26.

repatriation.”¹²⁴ The requirement of voluntariness means that any person whose return IOM facilitates must be able to choose freely and not be pressured or coerced to return, and bars the IOM from facilitating deportations.¹²⁵

The website of IOM-Iraq’s Regional Operations Centre states:

A voluntary decision to return entails a two-pronged element:

1. The freedom of choice in the absence of any physical, psychological or material pressure.
2. An informed decision based on available, updated objective and accurate information on which this voluntary return decision is based upon.

A voluntary return request is always the trigger for IOM assistance and is based on the premise that the migrant is not under any pressure or coercion to return and is duly informed on the conditions of return.¹²⁶

For Iraqi refugees whose only alternative to returning to Iraq is indefinite detention, these requirements are not satisfied. Far from having the freedom to choose in the absence of any form of pressure, Iraqi detainees are coerced by the prospect of indefinite detention to accept that they have no other option but to return to Iraq.

In preparing this report, Human Rights Watch suggested to IOM that these circumstances render the distinction between voluntary repatriation and forced return meaningless. IOM responded:

Stating that such circumstances — individuals being placed in detention for undetermined periods of time as a sole result of their being irregular migrants — render “the distinction between voluntary

¹²⁴ IOM, *Constitution*, October 19, 1953, as amended by amendments adopted on May 20, 1987, and entered into force on November 14, 1989, www.iom-iraq.net/iomConstitution.html (accessed August 3, 2007).

¹²⁵ See also IOM, “IOM Return Policy and Programmes: A Contribution to Combating Irregular Migration,” MC/INF/236, November 5, 1997, para. 6, footnote 3, which states: “IOM considers that voluntariness exists when the migrant’s free will is expressed at least through the absence of refusal to return, e.g. by not resisting to board transportation or not otherwise manifesting disagreement. From the moment it is clear that physical force will have to be used to effect movement, national law enforcement authorities would handle such situations.”

¹²⁶ IOM-Iraq, Regional Operations Centre (ROC), www.iom-iraq.net/roc.html (accessed August 3, 2007).

and forced returns meaningless" defeats the purpose of the many steps we, in coordination with all relevant stakeholders, have taken over the past years, to precisely establish and maintain that distinction, as well as the belief that individuals, properly counseled and informed of their status and alternative options, should be able to decide for themselves, *in fine*, whether or not they wish to seek return assistance to their home country.¹²⁷

Clearly, counseling detainees and providing information about the situation in Iraq is vital, but cannot alter the fact that to many indefinite detention is so unacceptable and may cause such trauma that almost any alternative presents itself as the better option, no matter how dangerous or harmful that alternative is.

It is true that some detained Iraqi refugees refuse to go back to Iraq. An Iraqi refugee who had been in Roumieh prison for nearly seven months, and who had already been interviewed by delegations from the Iraqi embassy several times, said, "I refuse to go back, the situation in Iraq is so bad, I'd rather stay in jail for 10 years than to go back."¹²⁸ Such cases hardly show that those detained Iraqi refugees who decide to go back to Iraq do so voluntarily. Rather, these cases underscore the dangers that await those who return to Iraq.

On September 24, 2007, IOM sent a letter to the Iraqi embassy in Beirut informing it that IOM had decided to temporarily suspend its "voluntary return assistance" for detained Iraqis in Lebanon. It based this decision, it said, on discussions with UNHCR and in recognition that "general conditions in Iraq have greatly deteriorated." Despite the temporary suspension, IOM said that it "will resume work in the near future after the UNHCR, according to their agreement with the Lebanese government, assesses the care for the expected returnees outside of arresting agencies."¹²⁹

¹²⁷ Email from IOM-Iraq in Amman to Human Rights Watch, July 18, 2007.

¹²⁸ Human Rights Watch interview with Iraqi man (No. 43), Roumieh Prison, Greater Beirut, April 23, 2007.

¹²⁹ Letter from Rafiq Tshannan, head of mission for IOM in Iraq, to the Iraqi Embassy in Beirut, September 24, 2007, translated from the Arabic by Human Rights Watch and on file with Human Rights Watch.

IOM has emphasized that “the rights of individual migrants *and refugees* should be respected.”¹³⁰ Of course, the most basic right of refugees is the right not to be returned to a place where their lives or freedom would be threatened, that is, the right not to be subjected to *refoulement*. Lebanon, by detaining Iraqis who enter the country illegally for the purpose of seeking asylum, and then giving them a “choice” between returning to Iraq or indefinite detention coerces them to “choose” to return to Iraq, a form of *refoulement*. IOM should not resume its participation in the return of Iraqi refugees thus coerced. Doing so would facilitate what are in practice deportations and exposes IOM to the risk of being complicit in committing *refoulement*.

As noted above, UNHCR advises states that “No Iraqi from Southern or Central Iraq should be forcibly returned to Iraq until such time as there is substantial improvement in the security and human rights situation in the country.”¹³¹ IOM should not resume its involvement in the return to Iraq of detained Iraqi refugees, for these are forcible returns in all but name.

¹³⁰ IOM, “IOM Return Policy and Programmes: A Contribution to Combating Irregular Migration,” MC/INF/236, November 5, 1997, para. 2(f). (Emphasis added).

¹³¹ UNHCR, “Return Advisory and Position on International Needs of Iraqis Outside Iraq,” April 30, 2007 (revised version; original version December 18, 2006), www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=SUBSITES&id=45a252d92 (accessed July 1, 2007), p. 4.

VI. Surviving in Lebanon

Obstacles to Self-Reliance

The ultimate goal of international protection is to achieve durable solutions for refugees.¹³² In general terms, there are three such durable solutions: voluntary repatriation, local integration, and third-country resettlement. The current security situation in Iraq rules out voluntary repatriation as a durable solution for Iraqi refugees for the foreseeable future. Moreover, only a small proportion of all Iraqi refugees can hope to be resettled to third countries.¹³³ The vast majority of Iraqi refugees in Lebanon have no other option but to remain in Lebanon until such time as they can return to Iraq in safety.

The UNHCR ExCom has recognized that “local integration is a sovereign decision and an option to be exercised by States guided by their treaty obligations and human rights principles.”¹³⁴ However, even where a refugee-hosting country declines to offer refugees the durable solution of permanent integration, it needs to respect their basic human rights. In particular, refugee-hosting states must respect such fundamental rights as the right to adequate food and housing, and the right to work.¹³⁵ In Lebanon, very limited assistance is available to refugees (see below). In the absence of large-scale assistance programs, refugees must be given the means to provide for their own essential needs.

¹³² This principle had been affirmed on numerous occasions by the ExCom. See for example ExCom Conclusion 104 (LVI), “Conclusion on Local Integration,” October 9, 1986, www.unhcr.org/excom/EXCOM/4357a91b2.html (accessed July 19, 2007), preamble.

¹³³ UNHCR hopes to resettle 1,000 Iraqi refugees from Lebanon in 2007. Human Rights Watch interview with Stephane Jaquemet, UNHCR Representative in Lebanon, Beirut, March 23, 2007, and email from UNHCR-Beirut to Human Rights Watch, August 31, 2007.

¹³⁴ ExCom Conclusion 104 (LVI), “Conclusion on Local Integration,” October 9, 1986, www.unhcr.org/excom/EXCOM/4357a91b2.html (accessed July 19, 2007), preamble.

¹³⁵ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, arts 11 and 6 respectively. Lebanon acceded to the ICESCR on November 3, 1972.

The Standing Committee, a subsidiary body of the ExCom, has stated:

Measures enabling refugees to gain the economic and social ability to meet essential needs on a sustainable and dignified basis, that is, to achieve self-reliance, should be a key feature of any comprehensive solutions-oriented strategy. While not a durable solution in itself, self-reliance can be a precursor to any of the three durable solutions. Self-reliance programmes seek to prepare refugees for whatever durable solution may be realized. They equip them for reintegration in countries of origin upon repatriation, as well as for integration in countries of resettlement or of asylum where local integration is made possible.¹³⁶

The ExCom has emphasized that essential to the achievement of self-reliance by refugees is “the protection, in all States, of basic civil, economic and social rights, including freedom of movement and the right to engage in income-generating activities” and has encouraged:

[a]ll States hosting refugees to consider ways in which refugee employment and active participation in the economic life of the host country can be facilitated, inter alia, through education and skills development, and to examine their laws and practices, with a view to identifying and to removing, to the extent possible, existing obstacles to refugee employment.¹³⁷

Iraqi refugees in Lebanon experience many obstacles to achieving self-reliance. Denied legal status and constantly at risk of arrest, they are vulnerable to exploitation and abuse. In their efforts to overcome these challenges, refugees resort to coping strategies that further undermine their dignity.

¹³⁶ UNHCR ExCom Standing Committee (33rd meeting), “Local Integration and Self Reliance,” UN Doc. EC/55/SC/CRP.15, June 2, 2005, www.unhcr.org/excom/EXCOM/42a0054f2.pdf (accessed July 31, 2007), para. 8.

¹³⁷ ExCom Conclusion 104 (LVI), “Conclusion on Local Integration,” October 9, 1986, www.unhcr.org/excom/EXCOM/4357a91b2.html (accessed July 19, 2007), paras (m)(i)-(ii).

Fear of arrest

Although Lebanese authorities do not actively track down Iraqi refugees who are in the country illegally, Iraqis are arrested and detained in sufficiently large numbers to ensure that the risk of arrest is constantly on their minds. Refugees try to organize their lives in such a way as to minimize the risk of being arrested, which mostly means that they do not leave their homes unless absolutely necessary. But they have to go out to earn a living. As one Iraqi woman said, “I am afraid of everything. It is very difficult to go places, I am afraid to be caught, but what can we do? We have to work. During the daytime, we go, but we don’t know whether we will come back.”¹³⁸

“We fear a lot for our son, because he is working,” said an Iraqi mother. “Moving around is dangerous. He just goes to work and comes back home to sleep. He doesn’t go out. If you ask anyone around here about him, they won’t know him, because he just works and sleeps.”¹³⁹

An Iraqi father said:

When we go out, we don’t know whether we will return. When I see a police man or a member of the authorities, I am very afraid, despite the fact that I am old and sick. Any time there is a checkpoint, we can get caught. Our three sons only go to work and back: they cannot go out at night, they don’t have a social life, they have to stay at home all the time if they are not at work.¹⁴⁰

An Iraqi man who had been imprisoned for illegal entry said that his 16-year-old brother had to work in order to contribute to the family income. He explained how anxious the entire family was that the boy might be arrested, but that they did not feel they had a choice, as they needed the income. He said, “If my brother got caught,

¹³⁸ Human Rights Watch interview with Iraqi woman (No. 13), Greater Beirut (Za`taria), March 31, 2007.

¹³⁹ Human Rights Watch interview with Iraqi family (No. 61), Greater Beirut (Za`taria), April 28, 2007.

¹⁴⁰ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

he would get between the other prisoners, it would be very bad. He is young, it would be very bad. But we have to continue working in order to survive.”¹⁴¹

Iraqi refugees who live in Beirut’s southern suburbs feel relatively safe there, since the Lebanese authorities generally do not venture into the area, as it is mostly controlled by Hezbollah. In order to avoid arrest, refugees try to avoid leaving the area. As one Iraqi man said, “I cannot leave this area [Beirut’s southern suburbs], because I don’t have any documents. Most Iraqis here don’t have residence [permits].”¹⁴² Another Iraqi man said, “I have been in Lebanon for 11 years and I rarely go out of the suburb. It has been a month or so when I last left the Shi`a suburb. You think we are free, but really we are in prison.”¹⁴³

Iraqi refugees have learned from experience that women and children generally are at a much lower risk of being stopped at checkpoints. As an Iraqi woman said, “I feel safe, because they don’t take the women. But I am afraid for my husband and sons.”¹⁴⁴

Because the risk of being arrested is much lower for women and children, some families opt to keep the adult men at home and to send the women and teenage children out to work instead. As one woman said, “Men are more likely to be arrested. That is why we prefer for the women to work. In Iraq only our men worked, but here, because of the situation, the women work.”¹⁴⁵

UNHCR suspects that fear of arrest at checkpoints also deters Iraqi refugees from traveling to the UNHCR office. Following a deterioration of the security situation in Beirut after bomb explosions in the city in May 2006, and the subsequent increase in the number of checkpoints, a significant number of Iraqi refugees failed to show up

¹⁴¹ Human Rights Watch interview with Iraqi family (No. 64), Greater Beirut (Za`taria), April 28, 2007.

¹⁴² Human Rights Watch interview with Iraqi man (No. 22), Greater Beirut (Dahieh), April 17, 2007.

¹⁴³ Human Rights Watch interview with Iraqi man (No. 23), Greater Beirut (Dahieh), April 17, 2007.

¹⁴⁴ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

¹⁴⁵ Human Rights Watch interview with Iraqi woman (No. 17), Greater Beirut (Za`taria), March 31, 2007.

for their appointments for registration. Fear of arrest likely also stops Iraqi refugees from traveling to the office to apply for registration in the first place.¹⁴⁶

Fear of arrest also deters Iraqi refugees from approaching the Lebanese authorities for assistance. One Iraqi father explained that he went to the Iraqi embassy in Beirut to ensure that his baby son would have Iraqi nationality. But, he said, “The embassy asks for the birth certificate to be certified by the Lebanese Ministry of Foreign Affairs, but if I went there, they would ask for my residence papers [which he does not have] and I would be arrested.”¹⁴⁷

An Iraqi mother recounted how in 2006 her 13-year-old daughter had been raped. She said, “I went to UNHCR to ask for help. At UNHCR they asked if I had gone to the police to report the rape. But how could I do that? I don’t have legal documents [residence papers]. I would go to prison if I went to the police.”¹⁴⁸

An Iraqi teenager said:

I used to work as a delivery boy for a restaurant. I had a traffic accident; a Lebanese woman hit me with her car. If I had been Lebanese, the woman would have been taken to the police for questioning. But because I am illegal, I was obliged to let her go. She didn’t pay me anything. I got fired because I broke my leg in the accident.¹⁴⁹

Ironically, fear of arrest also deters some Iraqi refugees from going to General Security to apply to regularize their status. An Iraqi woman said, “I have all the

¹⁴⁶ Human Rights Watch interviews with Stephane Jaquemet, UNHCR Representative in Lebanon, Beirut, March 23 and June 8, 2007; and Human Rights Watch interview with Ayaki Ito, UNHCR Senior Protection Officer, Beirut, March 30, 2007. In part to address these concerns, UNHCR opened a community center in Dahieh, the southern suburb of Beirut, which has the largest concentration of Iraqi refugees. However, while a number of services are provided at the community center, refugee registration has not as yet been decentralized. “UNHCR Opens Community Centre for Iraqi Refugees in Beirut Suburb,” UNHCR News Stories, July 13, 2007, www.unhcr.org/cgi-bin/texis/vtx/iraq?page=news&id=469795b4 (accessed July 31, 2007).

¹⁴⁷ Human Rights Watch interview with Iraqi man (No. 26), Greater Beirut (Dahieh), April 17, 2007.

¹⁴⁸ Human Rights Watch interview with Iraqi woman (No. 29), Greater Beirut (Dahieh), April 18, 2007.

¹⁴⁹ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

papers [to apply for regularization]. Caritas said that we should go to General Security, but I don't dare to go because we might instead be arrested."¹⁵⁰

This is by no means an imaginary fear. One Iraqi refugee explained what happened when he went to General Security in 2006 to apply to regularize his status:

I was working at the Almaza beer company. I went to General Security to apply for residency. General Security went to the factory to verify that I was working there. But the factory is in one place, and the storage facility is in another place. I worked at the storage facility. General Security summoned me. They told me that I was a liar, they said I didn't work at Almaza. They said that I had given false statements, that I was mocking them. I was handcuffed, and General Security decided that I should be sent back to Iraq. There was no court hearing, General Security decided it. I was sent to the General Security prison.¹⁵¹

Exploitation by employers, sponsors, and landlords

Apart from the small number of Iraqi refugees who have managed to regularize their status on the basis of a work permit, refugees are not allowed to work in Lebanon. However, most Iraqis find the cost of living higher in Lebanon than in Iraq, and whatever savings they managed to bring with them quickly run out. They are thus forced to try to earn a living in Lebanon, despite the prohibition on engaging in income-generating activities in Lebanon.

Some Lebanese employers take advantage of the Iraqis' lack of legal status and their lack of recourse to the Lebanese authorities when their rights are violated. Iraqi refugees frequently have to accept jobs for lower wages than their Lebanese colleagues. Sometimes employers refuse to pay refugees their wages altogether. As one refugee said, "The first thing they say at work is that you don't have residency

¹⁵⁰ Human Rights Watch interview with Iraqi woman (No. 59), Beirut, April 26, 2007.

¹⁵¹ Human Rights Watch interview with Iraqi family (No. 64), Greater Beirut (Za`taria), April 28, 2007. After nearly two months in the General Security prison, he was released through the intervention of UNHCR.

papers. You are getting exploited.”¹⁵² Another refugee said, “I worked for a Lebanese. When they discovered that I was illegal, they would not pay me what they owed me.”¹⁵³

The minimum wage in Lebanon is 300,000 Lebanese pounds (US\$200) per month.¹⁵⁴ Many refugees work for less than the minimum wage. As one refugee said, “I work in a flower shop owned by a Lebanese. I earn 250,000 Lebanese pounds per month. The minimum wage for Lebanese is 300,000 Lebanese pounds per month. I work from 9am to 9pm, six days a week. The Lebanese employee in the flower shop next to mine earns 450,000 Lebanese pounds [\$300].”¹⁵⁵

An Iraqi refugee, an agricultural engineer who had not been able to find work in Lebanon, said, “Now I stay at home. My wife is working in a clothes shop, she works from 9am to 8:30pm, six days a week. She gets paid \$200. The Lebanese don’t work for less than \$300 for the same job.”¹⁵⁶

The director of the Hakim House Organization, which provides assistance to Iraqi refugees, said, “The Iraqi refugees are here illegally, therefore their rights might be violated. We receive many complaints from people who don’t get paid for two or three months, and are then sent away by their employers.”¹⁵⁷

A young Iraqi man said:

I work as a carpenter. I get paid less than the Lebanese. I get paid \$200 per month; the Lebanese get paid as much as \$500 per month. And if anything happens to me, my employer says, “I am not

¹⁵² Human Rights Watch interview with Iraqi family (No. 60), Greater Beirut (Za`taria), April 28, 2007.

¹⁵³ Human Rights Watch interview with Iraqi man (No. 73), Baalbek, May 5, 2007.

¹⁵⁴ US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2006: Lebanon,” March 6, 2007, www.state.gov/g/drl/rls/hrrpt/2006/78857.htm (accessed July 31, 2007), section 6, “Worker Rights.” The State Department report notes: “The minimum wage did not provide a decent standard of living for a worker and family.”

¹⁵⁵ Human Rights Watch interview with Iraqi man (No. 38), Greater Beirut (Dahieh), April 20, 2007.

¹⁵⁶ Human Rights Watch interview with Iraqi man (No. 56), Greater Beirut (Dahieh), April 25, 2007.

¹⁵⁷ Human Rights Watch interview with Sayyid Haidar al-Hakim, director, Hakim House Organization, Greater Beirut (Dahieh), March 28, 2007.

responsible.” If I am sick, I get a salary cut, or I get fired. For the Lebanese, if they have a doctor’s report, they can stay at home when they are sick.¹⁵⁸

An Iraqi woman whose husband and son both had lost their jobs and had not been paid their wages said, “My son and husband used to be exploited when they worked. At the end of the month, they would not be paid. They owe my son more than \$1,000, but we cannot go anywhere to complain.”¹⁵⁹

A young man who lives and works at a gas station along the highway said:

I work from 6am to 10 or 11pm, seven days a week. Sometimes I don’t have time to get food. I live at the gas station; I never leave it. Every three weeks my employer sends someone to work here for half a day so that I can take half a day off. I don’t get paid the same as the Lebanese; a Lebanese wouldn’t work like this, and they would get paid more. I work here for 400,000 Lebanese pounds [\$267].¹⁶⁰

Some employers, knowing how desperate Iraqi refugees are to regularize their status, demand a “fee” for sponsoring a refugee’s application for regularization. Moreover, they frequently ask their employee to provide the \$1,000 that must be paid into the Housing Bank, despite it being the employer’s legal obligation to provide this financial guarantee. As one refugee explained:

My sponsor was a woman, I worked for her, fixing curtains, carrying things. I put \$1,000 in the Housing Bank, in an account in the woman’s name. I paid \$300 as a “reward” to my sponsor. My application was denied. I had paid the \$1,000, but my sponsor is refusing to give the money back to me.¹⁶¹

¹⁵⁸ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

¹⁵⁹ Human Rights Watch interview with Iraqi woman (No. 59), Beirut, April 26, 2007.

¹⁶⁰ Human Rights Watch interview with Iraqi man (No. 80), coastal highway near Rmeileh, May 8, 2007.

¹⁶¹ Human Rights Watch interview with Iraqi man (No. 57), Greater Beirut (Dahieh), April 25, 2007.

Employers are not the only people to exploit Iraqi refugees. Some landlords, too, take advantage of the vulnerability of Iraqis arising from their lack of legal status. A member of the Chaldean Welfare Committee, which provides financial assistance to Iraqi refugees, including rent money, said, “Iraqi refugees are being taken advantage of by Lebanese landlords, who know these people are desperate.”¹⁶² An Iraqi woman said, “When we arrived, the rent we paid was \$150. But now the owner is asking for \$200. The owner threatened us that if we don’t pay the rent, she would contact General Security, because we are illegal.”¹⁶³

Access to education and health services

Although refugee children in Lebanon are entitled to enroll in public schools, provided the school in question has spaces available,¹⁶⁴ in practice, very few Iraqi refugee children manage to enroll in public schools. The vast majority of Iraqi children who do go to school in Lebanon enroll in private schools.¹⁶⁵

A number of organizations in Lebanon provide financial assistance to refugee families to pay tuition fees charged by private schools, including UNHCR’s implementing partners in Lebanon, Caritas and the Middle East Council of Churches (MECC), and a number of private, faith-based organizations.¹⁶⁶ Even with this assistance, many refugee children still cannot afford to send their children to school, due to the high additional cost of transportation, books, and stationary.¹⁶⁷

¹⁶² Human Rights Watch interview with Samir `Abd al-Nur, member, Chaldean Welfare Committee, Beirut, March 31, 2007.

¹⁶³ Human Rights Watch interview with Iraqi woman (No. 60), Greater Beirut (Za`taria), April 28, 2007.

¹⁶⁴ Letter from Director of Elementary Education to Raiq Saidi, UNHCR Representative in Lebanon, April 20, 1999 (on file with Human Rights Watch).

¹⁶⁵ Norwegian Refugee Council (Beirut), “Educational Needs Assessment of Iraqi Refugees in Lebanon,” April 4, 2007 (on file with Human Rights Watch), pp. 10-11.

¹⁶⁶ In 2006-2007, Caritas received 422 requests from refugee families for the payment school fees, compared to 220 such requests in 2006-2006. Human Rights Watch interview with Isabelle Saadé Feghali, Coordinator, Migrant Center, Caritas-Lebanon, Beirut, April 24, 2007.

¹⁶⁷ On July 27, 2007, UNHCR and UNICEF launched an appeal to support host governments in providing schooling for an additional 155,000 Iraqi refugee children during the 2007-08 school year. Out of these 155,000, the target figure for Lebanon is 1,500 children. “UNHCR-UNICEF in \$129 million appeal to get Iraqi children back to school,” UNHCR News Stories, July 27, 2007, www.unhcr.org/cgi-bin/tehis/vtx/iraq?page=news&id=46a9e9b74 (accessed July 31, 2007).

Because many Iraqi refugees are forced to accept low wages, some families are unable to send their children to school because they need them to work to contribute to the family income. As one Iraqi woman explained:

My brother is 15 years old. He works in a printing factory. He has not been to school since we arrived in Lebanon [in November 2004]. When we arrived, we decided that my brother could not go to school; we needed money, and to send him to school would have cost money instead. Caritas only pays \$300 a year, and education is costly.¹⁶⁸

Refugee children face a number of other obstacles to receiving education in Lebanon. For instance, the language of instruction for subjects like mathematics and sciences is not Arabic but English or French, and most Iraqi refugee children do not have sufficient proficiency to comprehend these lessons.¹⁶⁹

Moreover, many Iraqi refugee children have missed several years of education because of war and conflict when they were still in Iraq.¹⁷⁰ As a result, they lag behind their peers and are placed in classes with children much younger than themselves. This leaves them feeling excluded and out of place, and more prone to dropping out of school.

Finally, while refugee children do not generally need to produce school certificates from Iraq to enroll in primary school, they do need such school certificates if they wish to enroll in secondary school. Many refugee children do not have these certificates. As one Iraqi father explained:

When we fled Baghdad, we couldn't get the school certificates for our three children. We would have had to take the certificates from the

¹⁶⁸ Human Rights Watch interview with Iraqi refugee woman (No. 60), Greater Beirut (Za`taria), April 28, 2007.

¹⁶⁹ A number of organizations in Beirut offer remedial teaching programs in English and French in order to address this problem. However, the number of refugee children who benefit from these programs is still relatively small.

¹⁷⁰ UNHCR estimates that half of all school-age children in Iraq are not attending school. UNHCR, "Humanitarian Needs of Persons Displaced Within Iraq and Across the Country's Borders: An International Response," UN Doc. HCR/ICI/2007/2, March 30, 2007, www.unhcr.org/events/EVENTS/4627757e2.pdf (accessed July 31, 2007), para. 19.

school to the Department of Education to have the certificates attested. But the Department of Education has been moved to a Shi`a area. The Shi`a militia go there, and it is too dangerous for us [Sunni Iraqis] to go there.¹⁷¹

To register for the state exam for the baccalaureate, children have to have residence in Lebanon, which excludes almost all Iraqi refugee children.¹⁷²

Iraqi refugees do not face discrimination when seeking access to health services in Lebanon. Most medical services in Lebanon are private, and refugees are treated on the same basis as Lebanese: they do not need to be in the possession of residence papers, but they do need to show that they are able to pay for their treatment.¹⁷³ Because Iraqi refugee families are already struggling to provide for their basic needs, many refugees find that they are unable to pay for the cost of even minor treatment or medication. There are a number of organizations who cover at least part of the cost of medical treatment for Iraqi refugees who would not otherwise be able to access health care.¹⁷⁴ However, both Caritas and the MECC require a certificate from a designated doctor paid for by the refugees themselves. The cost of a doctor's appointment is an obstacle for many refugees. As one refugee explained:

Caritas sends you to a specific doctor to get a certificate that you are sick. This costs 35,000 Lebanese pounds [\$23]. Once you have this certificate, Caritas pays for the medication. The clinic here charges 10,000 Lebanese pounds [\$7] to Iraqis, but Caritas doesn't accept the prescription from the clinic here.¹⁷⁵

¹⁷¹ Human Rights Watch interview with Iraqi man (No. 65), Greater Beirut (Za`taria), April 28, 2007.

¹⁷² Human Rights Watch interview with Seta Hadesian, director, Unit on Life and Service, MECC, Beirut, March 27, 2007.

¹⁷³ Human Rights Watch interview with Nanor Sinabian, social counselor, Service to Refugees, Displaced, and Migrants, MECC, Beirut, April 2, 2007.

¹⁷⁴ For example, MECC pays for 85 percent of the medication for chronic illnesses, and depending on a family's needs also contributes to the cost of operations. Human Rights Watch interview with Nanor Sinabian, social counselor, Service to Refugees, Displaced, and Migrants, MECC, Beirut, April 2, 2007.

¹⁷⁵ Human Rights Watch interview with Iraqi couple (No. 57), Greater Beirut (Dahieh), April 25, 2007.

Looking to the Future: Legal Status and the Right to Work

Many Iraqi refugees told Human Rights Watch that they have good relations with Lebanese neighbors. One Iraqi man said, “The Lebanese are respecting us, they are friendly and helpful.”¹⁷⁶ An Iraqi woman said, “People in Lebanon are very friendly, we have many friends here.”¹⁷⁷ Another woman said, “The Lebanese neighbors are good with me.”¹⁷⁸

However, while Iraqi refugees are grateful to the Lebanese for receiving them and for the safety they have found in Lebanon, they also expressed their anguish about their condition and about their lack of hope for the future. Unable to go back to Iraq, and not allowed to build a new life in Lebanon, they are despondent that their lives have been reduced to a struggle to survive from one day to the next. An Iraqi woman said, “There is no stability. Our sons cannot be married because they do not have legal status here. There is no future for us here.”¹⁷⁹ Another Iraqi woman felt dejected because she and her husband had been forced into a life on the margins of Lebanese society, and expressed her despair about the future. “I am getting so desperate,” she said, “sometimes I tell my husband, ‘Let’s go back to Iraq and face our destiny.’”¹⁸⁰

For some families, the pressure of being in the country illegally and the difficulties this entails proves too much. One Iraqi woman explained:

Since 2003 there have been a lot of problems in my family. I am a teacher, my husband is a lawyer, but the children were not going to school. This was a big problem. My husband was being exploited at work. When my oldest son was only 15 years old, I had to make him work. He did not go to school for five years. All this affected the family.

¹⁷⁶ Human Rights Watch interview with Iraqi man (No. 22), Greater Beirut (Dahieh), April 17, 2007.

¹⁷⁷ Human Rights Watch interview with Iraqi man (No. 19), Greater Beirut (Dahieh), April 17, 2007.

¹⁷⁸ Human Rights Watch interview with Iraqi woman (No. 29), Greater Beirut (Dahieh), April 18, 2007.

¹⁷⁹ Human Rights Watch interview with Iraqi family (No. 15), Greater Beirut (Za`taria), March 31, 2007.

¹⁸⁰ Human Rights Watch interview with Iraqi man (No. 19), Greater Beirut (Dahieh), April 17, 2007.

My husband became violent, he beat me and my children. Recently we got divorced.

She went on to say:

I have a degree, I have 16 years of work experience in Iraq, why am I not allowed to work here? Why are the Iraqis treated so badly, especially when we are fleeing war in our own country? Many Iraqis feel that they are insulted, they are losing their dignity, the way they work here. Iraqis want to live in dignity, they want their rights like any normal citizen.¹⁸¹

As noted above, Lebanon has formally agreed that Iraqi refugees cannot be forcibly returned to Iraq until such time as the security situation in Iraq significantly improves. It is Lebanon's sovereign decision whether it wants to allow Iraqi refugees to integrate permanently into Lebanese society. But even if it is not inclined to offer Iraqi refugees permanent integration, it must respect their basic human rights for the duration of their stay in Lebanon. In particular, it should offer Iraqi refugees at least a temporary legal status, and give them the right to work for as long as they cannot go back to Iraq. Any such legal status could be made conditional on the security situation in Iraq, with permission to reside in Lebanon withdrawn once Iraqi nationals could return there in safety and dignity. But for as long as they are unable to return to Iraq, Lebanon should allow Iraqi refugees to live a decent life in its territory. As one refugee who had been detained for illegal entry pleaded, "I have never caused any problems to anyone in Lebanon. I didn't come here to cause problems. I have only come here to survive."¹⁸²

Whatever reasons Iraqis had for seeking safety in Lebanon, the Lebanese government and its people cannot now simply wish them away. Denying them their rights does nothing to resolve the Iraqi refugee crisis, while doing harm to people who fled their country in fear for their lives. As the refugee who now finds himself in

¹⁸¹ Human Rights Watch interview with Iraqi woman (No. 59), Beirut, April 26, 2007.

¹⁸² Human Rights Watch interview with Iraqi man (No. 86), Roumieh Prison, Greater Beirut, May 11, 2007.

detention said, “It is not as if we were happy leaving Iraq. We cannot stay in Iraq because of the situation, the terrorism.”¹⁸³ Lebanon is entitled to expect much greater assistance from the international community in hosting an Iraqi refugee population and providing for their needs (see next section). But Lebanon, for its part, must take responsibility for respecting the fundamental human rights of the Iraqi refugees in its territory.

¹⁸³ Human Rights Watch interview with Iraqi man (No. 41), Roumieh Prison, Greater Beirut, April 23, 2007.

VII. Obligations of the International Community

As is the case for other countries in the Middle East, particularly Syria and Jordan, Lebanon finds itself in the position of a refugee-hosting country for no other reason than the circumstance of its geographical location. Lebanon should not be expected to shoulder the burden of hosting a significant number of Iraqi refugees by itself. Lebanon played no role in creating the Iraqi refugee crisis, and has no more responsibility than any other country to solve it. In recognition of this fact, the international community needs to provide meaningful assistance to Lebanon and other refugee-hosting countries in the region, to help alleviate the plight of the more than 2 million Iraqi people who have been forced to flee their country.

Assistance from the international community should take two forms. First, countries outside the region should provide financial assistance to refugee-hosting countries in the region. Second, they should as a matter of priority offer to resettle significant numbers of especially vulnerable refugees, giving urgent priority to indefinitely detained refugees at risk of coerced return to Iraq. Other steps the international community should take to persuade Lebanon to stop the practice of coerced repatriation of Iraqis include putting pressure on the International Organization of Migration not to resume the facilitation of coerced returns.

Financial Assistance

As noted in section VI of this report, the UNHCR ExCom's Standing Committee has emphasized the need for states to give refugees the means to gain the economic and social ability to meet their essential needs on a sustainable and dignified basis.¹⁸⁴ To this end, the Standing Committee has urged refugee-hosting states to make every effort to assure refugees their basic civil and socio-economic rights, including freedom of movement, the right to access the labor market, and the right to education, health care, and other social services.¹⁸⁵

¹⁸⁴ UNHCR Standing Committee, "Local Integration and Self Reliance" (33rd meeting, 2005), UN Doc. EC/55/SC/CRP.15, www.unhcr.org/excom/EXCOM/42a0054f2.pdf (accessed July 29, 2007), para. 8.

¹⁸⁵ *Ibid.*, para. 11.

But the responsibility for enabling refugees to become self-reliant is not limited to refugee-hosting countries. In the words of the Standing Committee:

While the host State should provide the legal basis for refugees to exercise their rights, the extent to which these can actually be realized depends not least on socio-economic conditions in the host State, including in particular the capacity of the area where refugees reside. In this context, an international burden and responsibility-sharing framework to increase the capacities of the host State to help refugees achieve self-reliance is very important.¹⁸⁶

In this respect, the ExCom, in its Conclusion 100 of 2004, recommended that the international response to large-scale refugee crises include:

The provision of financial and in-kind assistance in support of refugee populations and host communities to promote refugee self-reliance, as appropriate, thus enhancing the sustainability of any future durable solution and relieving the burden on countries of first asylum;

The provision of financial and other forms of support, as appropriate, linked to broader economic developments and other concerns countries of first asylum may have in relation to providing protection to large numbers of asylum-seekers and refugees.¹⁸⁷

The international community should contribute generously to appeals by UNHCR and other UN agencies to fund their operations in the region,¹⁸⁸ and should provide direct

¹⁸⁶ UNHCR Standing Committee, "Local Integration and Self Reliance" (33rd meeting, 2005), UN Doc. EC/55/SC/CRP.15, www.unhcr.org/excom/EXCOM/42a0054f2.pdf (accessed July 29, 2007), para. 12.

¹⁸⁷ UNHCR ExCom Conclusion 100 (LV), "Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations," October 8, 2004, www.unhcr.org/excom/EXCOM/41751fd82.html (accessed July 31, 2007), paras. (l)(v)-(vi).

¹⁸⁸ See for example UNHCR, "Iraq Situation Response – Update on Revised Activities under the January 2007 Supplementary Appeal," July 2007, www.unhcr.org/partners/PARTNERS/469632e32.pdf (accessed June 21, 2007); and UNHCR and UNICEF, "Providing Education Opportunities to Iraqi Children in Host Countries: A Regional Perspective," July 2007, www.unicef.org/media/files/JOINT_APPEAL_final.doc (accessed July 31, 2007). In respect of the joint UNHCR-UNICEF appeal for funding for the education of Iraqi refugee children, of particular relevance is ExCom Conclusion 100, para (l)(viii), which recommends that the international response to mass influx situations should include "the exploration by States, inter- and

assistance to the governments of the refugee-hosting countries in the Middle East with a view to enabling Iraqi refugees to live a dignified life in the countries where they have sought refuge.

Resettlement

Countries outside the region, led by the United States and the United Kingdom, the leaders of the coalition that invaded Iraq and directly or indirectly precipitated the massive displacement of Iraqi civilians, should respond quickly and generously to UNHCR referrals of Iraqi refugees for resettlement. Resettlement countries should indicate particular receptivity for Iraqi refugees in detention for whom resettlement might be the only way to protect against *refoulement*.

The ExCom, in its Conclusion 100 of 2004, recommended that in the case of mass refugee influxes, the international community make use of “the more effective and strategic use of resettlement as a tool of burden and responsibility sharing.”¹⁸⁹ Thus offers of resettlement should be made not just for the benefit of those refugees who are to be resettled, but as a tool to ensure enhanced protection for as many refugees as possible. In this respect, the narrow focus in the United States on resettling refugees who have worked for the U.S. government or its armed services, while laudable, is, by itself, insufficient. Countries outside the region should offer to resettle significant numbers of the most vulnerable refugees, so as to persuade refugee-hosting countries in the region to keep their borders open for new refugees, and to maintain and enhance existing levels of refugee protection in the region.

The ExCom, in its Conclusion 100 of 2004, also emphasized that international solidarity involving all members of the international community strengthens respect by states for their protection responsibilities towards refugees, and that committed international cooperation in a spirit of solidarity and responsibility and burden

non-governmental organizations, as well as other actors of ways to improve primary education for refugees, achieve gender parity in education, and secure funding, including through the private sector, to expand secondary, vocational and tertiary education opportunities for refugees, especially adolescents.”

¹⁸⁹ UNHCR ExCom Conclusion 100 (LV), “Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations,” October 8, 2004, www.unhcr.org/excom/EXCOM/41751fd82.html (accessed July 31, 2007), para. (m)(iii).

sharing among all states enhances the refugee protection regime.¹⁹⁰ Given the enormity of the Iraqi refugee crisis, nothing can be more important than ensuring that Iraqi refugees receive the protection they deserve. The international community should mobilize without any further delay to offer all necessary assistance. Lebanon and other refugee-hosting countries in the region are entitled to much greater support from the international community than they have received thus far.

IOM's Governing Council

The 120 member states of the International Organization for Migration determine its policies and provide oversight on its operations through its Governing Council. The IOM constitution, which expressly prohibits IOM's participation in involuntary returns, is the primary instrument used to ensure accountability. Noting that IOM temporarily suspended its involvement in returns of detained Iraqis from Lebanon in September 2007, but informed the Iraqi embassy in Beirut that it would "resume work in the near future," the 94th Session of the Governing Council meeting from November 27-30, 2007, has a responsibility as the authoritative decision-making body of IOM to ensure that IOM does not resume its engagement in Iraqi returns from Lebanon if doing so would violate its constitutional prohibition against facilitating coerced returns. HRW further urges the Governing Council and its member states not to fund IOM return operations from Lebanon to Iraq that would involve detained Iraqis for at least as long as UNHCR's guidance that no Iraqi should be forcibly returned to southern or central Iraq remains in effect.

¹⁹⁰ UNHCR ExCom Conclusion 100 (LV), "Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations," October 8, 2004, www.unhcr.org/excom/EXCOM/41751fd82.html (accessed July 31, 2007), preamble.

Methodology

This report is based on research conducted in Lebanon between March 23 and June 14, 2007.

Human Rights Watch conducted 72 in-depth interviews with Iraqi refugees. Human Rights Watch sought to interview Iraqi Christians, Shi`a, and Sunnis in roughly the same proportion as their overall numbers in Lebanon. Most interviews (43) were conducted in greater Beirut because that is where the vast majority of Iraqi refugees live. Most interviews with Shi`a Iraqis took place in the southern suburbs of Beirut, and most interviews with Iraqi Christians occurred in east Beirut. It was harder to find Iraqi Sunnis because they seemed to have less organized community structures. Human Rights Watch also conducted six interviews in Baalbek, three in Rmeileh, two in Saida, and one in Tyre. A total of 17 interviews were conducted with Iraqi refugees in prison: 12 in Roumieh prison in Greater Beirut, and five in the General Security prison.

Human Rights Watch conducted a further 27 interviews with government officials, staff members of UNHCR, IOM, local and international NGOs, and faith-based organizations.

Human Rights Watch did not publish in this report the names of Iraqi refugees who were interviewed because their presence in Lebanon is illegal and the disclosure of their identity might expose them to adverse consequences.

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Rot Here or Die There

Bleak Choices for Iraqi Refugees in Lebanon

Since the outbreak of the war in Iraq in 2003, there are now an estimated 50,000 Iraqi refugees in Lebanon, a relatively small portion of the 4.4 million Iraqis who are either refugees in neighboring countries or displaced inside Iraq. A country of only four million people, including 250,000 to 300,000 Palestinian refugees, Lebanon is a reluctant host to this new refugee influx. Lebanese authorities treat many Iraqis as illegal immigrants regardless of their intent to seek asylum.

After Iraqis serve prison sentences for being in the country illegally, the Lebanese authorities generally refuse to release them. The majority can secure their release only by agreeing to return to Iraq. Iraqi refugees are thus presented with a repugnant choice: either continue to suffer indefinite detention or agree to go back to the violence from which they fled.

Lebanon's refusal to legalize the stay of Iraqi refugees affects not just the relatively small number of Iraqi refugees whom it detains, but all Iraqi refugees in its territory. Without legal status in Lebanon, Iraqi refugees are vulnerable to exploitation and abuse by employers and landlords.

Human Rights Watch urges the government of Lebanon to grant Iraqi refugees a temporary legal status that provides, at a minimum, renewable residence and work permits.

Human Rights Watch recognizes that Lebanon is not the cause of the refugee problem and that the burden of caring for the refugees and providing durable solutions on their behalf needs to be shared. The organization urges donor governments and resettlement countries, particularly those participating in the Iraq war coalition, to respond quickly and generously both to the UN refugee agency's financial appeals and to its requests to resettle Iraqi refugees, particularly those in detention for whom resettlement might be the only way to protect against *refoulement*.

An Iraqi refugee in Lebanon holds a death threat his family received in Iraq. After a relative was killed, the family fled Iraq and are now in Lebanon without legal status. Because of safety concerns, the family member's name has been blacked out.

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