



“The Silent Treatment” Fleeing Iraq, Surviving in Jordan

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I. Map



Jordan and Iraq. © 2006 John Emerson

II. Executive Summary

Since the start of the 2003 war in Iraq, hundreds of thousands of Iraqis have fled their country, seeking refuge in bordering countries. About one million are split evenly between Jordan and Syria, while Saudi Arabia and Kuwait have barred all Iraqis from entering and few are known to have sought refuge in Iran or Turkey. Countries within the region, as well as the larger international community, have largely ignored the presence and the needs of Iraqi refugees. This report focuses on the status and experience of Iraqis in Jordan not because Jordan has had a unique record in mistreating them; on the contrary, it and Syria have been the most generous in allowing Iraqis to enter and remain. Rather, Jordan serves as a case study to highlight—and to seek to remedy—the plight of Iraqi refugees, a shared responsibility of Jordan, neighboring countries, and the international community.

Although it has historically been among the most welcoming countries in the world toward refugees, the Hashemite Kingdom of Jordan today ignores the existence of hundreds of thousands of Iraqi refugees, does not address their needs for protection, and has not asked for international assistance on their behalf. It is a policy that can best be characterized as “the silent treatment.”

Human Rights Watch regards the vast majority of Iraqi nationals in Jordan as “de facto refugees”—people who have fled conditions of generalized violence and persecution, who are in need of international protection and who face objective conditions of danger in their country, even if they have not registered asylum claims or had those claims adjudicated and been officially recognized as refugees by either the Government of Jordan or the United Nations High Commissioner for Refugees (UNHCR). De facto refugees in Jordan come from all walks of life and diverse religious and ethnic backgrounds. Both Sunnis and Shi`a have sought refuge in Jordan, as have non-Muslim minorities. De facto refugees include people who fled during the Saddam Hussein era and who still fear return, as well as people who newly arrive at the border. Some are threatened as collaborators with the Americans, while others are threatened for their alleged associations with the Ba`thist Party that ruled Iraq

under Saddam Hussein. They represent people who flee both generalized violence as well as targeted persecution, including ethnic cleansing.

Yet Jordan treats Iraqis fleeing violence inside Iraq as temporary visitors, not refugees. Because Jordan has made renewal of their visas so difficult that most Iraqis quickly lose their legal status, most Iraqis are left to fend for themselves, living in the shadows, fearful, and subject to exploitation. Although UNHCR declared a “temporary protection regime” (TPR), the Jordanian government accurately insists that it never agreed to it. Of greatest concern, Jordan has increasingly subjected Iraqis to deportation or refusal at the border. Given the present level of violence and human rights abuses in Iraq, such returns and rejections appear in many cases to constitute *refoulement*, the forced return of refugees, a violation of international customary law.

A Jordanian official encapsulated the government’s nonexistent Iraqi refugee policy when he told Human Rights Watch that Jordan was not facing a refugee problem, but rather one of “illegal immigration, no different from what the United States faces with Mexicans.” This statement consciously ignores the carnage and abuse raging next door that compels Iraqis to seek refuge in Jordan. Most Iraqis are not coming to Jordan to seek economic opportunity, but rather to escape brutality and save their lives.

Palestinian refugees and Iranian Kurdish refugees who fled from Iraq face uniquely difficult situations in Jordan. Both groups lived for decades in Iraq without having integrated into Iraqi society, and found themselves especially vulnerable after the fall of Saddam Hussein. Although UNHCR recognizes the Palestinians and Iranian Kurds as refugees, they are restricted to a remote and desolate place where their lives are, at best, in limbo. A group of Iranian Kurds stranded at the border crossing are on the edge of a war zone, and in actual danger. By contrast, while UNHCR does not formally recognize the de facto Iraqi refugees in Jordan, the government does not restrict their movement or confine them to camps.

In late 2002 and early 2003, as the United States and its allies prepared to invade Iraq, Jordan initially vowed to close its borders to refugees fleeing Iraq. In practice,

though, as Iraqis began to seek refuge from the escalating conflict, Jordan allowed them to enter the kingdom on 30-day visas issued at the border—as it had for about a quarter million Iraqis who left Iraq during the Saddam Hussein era to escape repression and the effects of economic sanctions. As it did before the war, Jordanian authorities looked the other way after April 2003 when Iraqis overstayed their visas, demonstrating considerable leniency in enforcing immigration laws.

Jordanian hospitality and tolerance toward Iraqis changed, however, after November 2005, when three Iraqi nationals killed 60 people by setting off bombs in three large hotels in Amman. Since the hotel bombings, Jordanian officials have stepped up immigration enforcement: turning away large numbers of Iraqis seeking entry at the border, making it harder for Iraqis inside Jordan to renew their visas and remain in legal status, and arresting Iraqis for working or residing illegally once they lose their legal right to remain in the country. As a result, Iraqis who manage to enter Jordan quickly lose their legal status and begin accruing fines of 1.5 Jordanian dinars (JD, equal to US\$2) for each day that they remain in Jordan after their visas expire. For refugees with nowhere to go and limited sources of income, this quickly adds up to enormous sums that they are unable to pay. If the Jordanian police apprehend Iraqis who cannot pay the accumulated fines for overstaying their visas, the police deport them and deny them re-entry to Jordan for five years.

While Human Rights Watch appreciates Ministry of Interior (MOI) officials' assurances that they act according to humanitarian principles and do not return people to persecution, their approach seems to be based on personal exceptions rather than policy, and in practice has led to abuses, including *refoulement*, the forced return of refugees. Human Rights Watch research documented cases of *refoulement* both of Iraqi asylum seekers holding UNHCR cards and of de facto refugees who were not registered with UNHCR but who expressed to the authorities their fear of return. In addition, frequent travelers, such as taxi drivers, report to Human Rights Watch that more Iraqis are turned away at the Jordan-Iraq border since the Amman bombings.

Living illegally in Jordan creates a pervasive climate of anxiety among the Iraqi population. Without work authorization and with depleted savings, many Iraqis

become dependent on relatives outside the region to send them money. Others sell their belongings or seek low-paying, under-the-table work. Those who work illegally are prone to accepting exploitative or marginal employment. They are often over-qualified for these menial jobs, but earn less than Jordanians for the same work.

Iraqi children living in Jordan also face substantial barriers to education. Although the government has not clearly and categorically barred foreign children who do not possess residency permits from attending school, its actions and pronouncements have resulted in the denial of primary education for many Iraqi children. The timing and ambiguity of announcements of changes in education policy have sown confusion and uncertainty among Iraqis without residency permits and could be taken as a deliberate attempt to deter them from enrolling their children in school.

Jordan 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. It has never developed a domestic refugee law or a procedure for adjudicating asylum claims, and UNHCR hardly fills the gap. In 2003, the UN refugee agency initiated the temporary protection regime in Jordan and the surrounding region. Its purpose was to prevent all Iraqis who registered with the refugee agency from being deported to Iraq, based on temporary conditions of generalized violence in their home country. According to the TPR, UNHCR does not actually process registrants' asylum claims, but rather provides them with "asylum seeker" cards, which are intended to ensure access to territory and temporary protection from deportation, but not to establish a refugee status per se or any rights to permanent residency in Jordan.

Yet UNHCR's temporary protection regime has failed to provide protection to the majority of Iraqis living in Jordan. The agency has registered only 17,000 Iraqis in Jordan under its TPR, and provided them with "asylum seeker" cards. They represent a tiny fraction of the potential refugees in the country who have fled persecution, war, and generalized violence in Iraq. Moreover, even those who have registered receive little protection because Jordan does not accept the temporary protection regime and Jordanian officials refuse to recognize UNHCR-issued asylum-seeker cards (other

than to notify UNHCR when card holders have been detained and to provide the agency access to conduct refugee status determinations (RSDs) for such detainees).

In refusing to accept the temporary protection regime, the government of Jordan insists that UNHCR continue to operate according to a 1998 Memorandum of Understanding (MOU) under which the refugee agency is required to adjudicate refugee claims and seek third-country resettlement for recognized refugees. However, UNHCR has suspended processing of almost all newly registered Iraqi asylum seekers both because it lacks the resources to adjudicate the enormous potential number of Iraqi claims in Jordan and because it does not want to engage in a procedure that could result in Iraqis being screened out and returned to Iraq for failure to qualify as refugees according to the narrow persecution standard in the Refugee Convention. Consequently, the refugee agency has only recognized a miniscule number of refugees—22 in 2005. The vast majority of Iraqis have neither registered as asylum seekers nor been recognized as refugees, though many appear to be refugees in need of international protection.

Historically, Jordan has been remarkably open to people from the region fleeing persecution, first Palestinians, now Iraqis. Although Jordan's historical generosity is now undergoing a severe challenge and its attitude appears to be hardening, it still fares well relative to most of its neighbors as one of the more tolerant countries in the region toward refugees. Most governments in the region are intent on preventing the entry of Iraqis and make no effort to regularize the status of Iraqis residing in their countries. UNHCR's efforts to declare a region-wide temporary protection regime for Iraqis fleeing war and persecution have largely fallen on deaf ears. Kuwait and Saudi Arabia bar the entry of most Iraqis and have negligible numbers of Iraqi refugees in their territories. Although Iran and Turkey are somewhat insulated from the problem by the predominant ethnicities and religious persuasions of Iraqi asylum seekers, as well as other buffers that result in fewer arrivals, neither state has made any provision for considering refugee claims that Iraqis might make on their territories.

Syria bears the greatest similarity to Jordan and shares with Jordan the bulk of the burden—hosting an estimated 450,000 Iraqis. Although Syria has generally been

tolerant toward Iraqis, its tolerance, like Jordan's, appears to be ebbing, and Syria, like Jordan, has been less than forthright in identifying refugees and asking for help on their behalf. Lebanon, which hosts an estimated 20,000 Iraqis, makes no allowance for refugees, provides no basis to allow them to regularize their status, and regularly detains Iraqis who may well have persecution claims in order to coerce them to "voluntarily" go home. Other countries that host significant numbers of Iraqis, such as Yemen and Egypt, have taken steps to restrict their entry. Generally, Iraqis throughout the Middle East remain unregistered, uncounted, unassisted, and unprotected.

Governments outside the region are also all too willing to look the other way to avoid recognizing the presence of Iraqi refugees in Jordan—and, by implication, acknowledging this dimension of the human costs of the war in Iraq. The United States and the United Kingdom, the two states most heavily committed militarily in Iraq, have paid relatively little attention to the regional human fallout precipitated largely by their military intervention in Iraq. Both states have close ties with Jordan. It should be in their interest to address the Iraqi refugee problem generated by the Iraq war before the massive refugee burden has a destabilizing effect on the region. Since the start of the war in 2003 until the beginning of 2006, the United States took only 12 UNHCR-referred Iraqi refugees from Jordan and the United Kingdom took none.

Jordan has insisted that resettlement to third countries is the only option for refugees on its territory whom UNHCR has recognized. It is also overwhelmingly the preference voiced by Iraqi (as well as Palestinian and Iranian Kurdish) refugees interviewed by Human Rights Watch. Given the very large number of people in need of protection in Jordan, however, resettlement is not a viable option for more than a relatively small number of the refugees in need of protection. Therefore another approach is needed, and the Jordanian government and the international community need to be convinced to subscribe to a more realistic, fair, and effective protection regime.

Although unlikely under present circumstances, Jordan should accede to the Refugee Convention and Protocol, establish domestic refugee law and infrastructure, and

take responsibility for protecting refugees on its territory and at its borders. At a minimum, the government must meet its international customary law obligations not to return Iraqis to persecution or torture. This principle—*nonrefoulement*—applies to asylum seekers, who, de facto, may be refugees, but who have not had the opportunity to be officially recognized as such. The principle of *nonrefoulement* also applies to people seeking asylum at the border whose rejection would likely subject them to persecution or other serious harm.

Whether or not it accedes to the Refugee Convention and incorporates the provisions of the Convention into domestic law, the Jordanian government should institute its own temporary protection regime in response to the ongoing armed conflict and generalized violence in Iraq and the danger of return. Jordan's Law on Residence and Foreigners' Affairs gives the minister of interior the discretion to waive normal immigration requirements "on account of special considerations connected with international or humanitarian courtesy or of the right to political asylum." The law's recognition of the right to seek asylum and its allowance for international and humanitarian considerations provides wide latitude for the minister of interior to exercise discretion to protect Iraqis and other foreigners fleeing war and persecution. This statutory provision provides clear authority in domestic law to embark on a temporary protection regime, even in the absence of a refugee law.

Such an ad hoc TPR should include both a bar to deporting Iraqis who register with the government for at least six-month intervals and work authorization for those who have registered for temporary protection. The government should announce an exemption from fines for overstaying visas for Iraqis who register for the TPR. Government-issued temporary protection cards should provide both renewable, time-limited residence permission and work authorization. Iraqi temporary-protection beneficiaries should have equal access to health care and education as Jordanian nationals. With the assistance of UNHCR and the international community, the government should also provide temporary accommodation to Iraqis seeking asylum at the border.

The purpose of this paper is not so much to highlight the failures of the Jordanian government or to suggest that Jordan is uniquely responsible for a refugee problem

that it faces largely as a result of geographical and historical happenstance. Jordan needs to institute a more responsible refugee policy, but it should not be expected to institute such a policy or bear the burden of such a policy alone. Its regional neighbors should join in providing temporary refuge, and the wider international community should provide prompt and generous support to enable Jordan to keep its doors open and to provide first asylum.

This level of international support is unlikely to be forthcoming, however, if Jordan does not recognize the refugee problem and ask for international help to address it. Yet the government studiously ignores both the scale of the problem (somewhere between a half million and a million people) and its character (as predominantly a refugee flow, not mere economic migration) to avoid acknowledging its responsibility to assist and protect.

One thing is certain: “the silent treatment” is not working and cannot continue. The government cannot go on pretending that huge numbers of Iraqi refugees are not living in Jordan, and assume that UNHCR can handle the problem. The scale of the refugee problem in Jordan is well beyond the resources of the UNHCR office in Amman, as currently constituted. The refugee reality in Jordan dictates a government response that cannot be shirked off onto UNHCR’s narrow shoulders.

If Jordan does not follow Human Rights Watch’s recommendation to institute its own temporary protection regime, the government must at least allow UNHCR broad authority to recognize refugees without guarantees that it will be able to find resettlement places for them. Donor governments, led by the United States, the United Kingdom, and the Gulf States, must provide the resources to give UNHCR the capacity to fulfill this role.

Minimally, Jordan should admit asylum seekers and tolerate the presence of refugees broadly recognized by UNHCR even if it is not able to provide them with a durable solution. It should refrain from rejecting them at the border or deporting them. It should allow them to work and provide them the basic necessities of life required by international human rights standards, including nondiscriminatory access to education and health care. Finally, Jordan needs to speak up and call upon

the international community for help to share the enormous refugee burden it tries to ignore by remaining silent. Pretending that the burden does not exist will neither make the problem go away nor absolve Jordan of its responsibilities to protect and assist.

Refugee Terminology

Human Rights Watch regards the vast majority of Iraqi nationals, who have fled to Jordan to seek protection, as “de facto refugees.” Human Rights Watch chooses this term because hundreds of thousands of Iraqis in Jordan have fled conditions of generalized violence and persecution, and face objective conditions of danger in their country of origin, even if they have not registered asylum claims or had those claims adjudicated and been officially recognized by UNHCR as de jure refugees.

The absence of a legal framework for refugee-status recognition—or lack of access to procedures—does not obviate the reality of being a refugee. As UNHCR’s *Handbook on Procedures and Criteria for Determining Refugee Status* notes:

A person is a refugee within the meaning of the 1951 Convention as soon as he fulfills the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee.¹

The term “asylum seeker” refers to a person who claims to be a refugee but whose claim has not been determined. UNHCR-Amman stretches the meaning of the term asylum seeker when it uses this term to designate Iraqis who the office has registered for temporary protection because UNHCR, with a few exceptions, is not actually adjudicating their refugee claims while its temporary protection regime is in

¹ United Nations High Commissioner for Refugees (UNHCR), *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, reedited January 1992, para. 28.

place.² The asylum-seeker card issued by UNHCR carries few actual benefits; the government does not recognize the card as conferring permission to reside or work in Jordan, but has formally agreed to inform UNHCR when it apprehends asylum-seeker card holders pending their deportation to give UNHCR the opportunity to examine their refugee claims.

The 1951 Refugee Convention refugee definition is based on a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”³ The 1998 Memorandum of Understanding (MOU) under which UNHCR operates in Jordan defines refugees according to the Refugee Convention and assigns UNHCR the function of adjudicating refugee claims. In the MOU, the Jordanian government agrees to abide by the principle of *nonrefoulement* and UNHCR agrees to endeavor to find a durable solution—voluntary repatriation or third-country resettlement—within six months of recognizing the individual as a refugee.

UNHCR-Amman’s caseload of recognized refugees in 2006 includes about 700 Iraqis, most of whom it recognized before 2003 when Saddam Hussein was still in power.⁴ Since 2003, UNHCR-Amman has suspended refugee status determinations for all but a few cases as part of its temporary protection regime. Therefore, either because the vast majority of Iraqis in Jordan are unaware of UNHCR or of the concept of refugee rights, or because they see little benefit to registering asylum claims with the refugee agency, relatively few have registered as asylum seekers and far fewer have been recognized as refugees. Many Iraqis in Jordan appear, however—*prima facie*—to be refugees in need of international protection, based on dangerous or threatening conditions in Iraq.

Although the Refugee Convention refugee definition is based on a narrow “well-founded fear of being persecuted” standard, the international community is also progressively recognizing the need for international protection for people fleeing war

² One consequence of issuing “asylum seeker” cards—rather than “temporary protection” cards—is that previously rejected asylum seekers are not eligible for new “asylum seeker” cards despite their need for temporary protection.

³ Convention Relating to the Status of Refugees (Refugee Convention), 189 U.N.T.S. 150, entered into force April 22, 1954, Art 1.A.2.

⁴ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

and serious civil disturbances, who may not qualify under the Convention, but who nevertheless would face the risk of serious harm if returned.⁵ Human Rights Watch chooses the term “de facto refugees,” therefore, to capture both persons who would qualify under the 1951 Refugee Convention if they had access to procedures to recognize them as refugees under that instrument, as well as persons who fear serious threats to their lives and freedom because of indiscriminate violence and ongoing armed conflict. In choosing this term, we also recognize that there are Iraqi nationals in Jordan who do not fear return, or who would otherwise be excluded from refugee status,⁶ and who therefore should not be considered as refugees.

Recommendations

To the Jordanian Government

- Institute a temporary protection regime (TPR) based on the situation of ongoing armed conflict and generalized violence in Iraq, possibly by invoking the discretion given to the minister of interior in the Law on Residence and Foreigners’ Affairs to waive normal immigration requirements “on account of special considerations connected with international or humanitarian courtesy or of the right to political asylum.”
- At a minimum, recognize the TPR initiated by the United Nations High Commissioner for Refugees. A TPR should have the following components:

⁵ For example, Article 15 of the European Union’s Council Directive 2004/83/EC provides subsidiary protection based, *inter alia*, on a “serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.” “Council Directive of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons who Otherwise Need International Protection and the Content of the Protection Granted,” 2004/83/EC, Official Journal L 304/12, April 29, 2004, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/L_304/L_30420040930en00120023.pdf (accessed October 17, 2006). Of more direct relevance to Jordan, UNHCR’s Executive Committee—of which Jordan is a member—issued a Conclusion on the Provision of International Protection including through Complementary Forms of Protection in October 2005 that encouraged “the use of complementary forms of protection for individuals in need of international protection who do not meet the refugee definition under the 1951 Convention or the 1967 Protocol” and that states granting complementary protection should ensure “the human rights and fundamental freedoms of such persons without discrimination.” UNHCR Conclusion No. 103 (LVI), October 7, 2005, <http://www.unhcr.org/excom/EXCOM/43576e292.html> (accessed October 17, 2006).

⁶ Exclusion grounds under the Refugee Convention apply to persons for whom there are serious grounds for considering that they committed a crime against peace, a war crime, or a crime against humanity; a serious non-political crime outside the country of refuge; or who have been guilty of acts contrary to the purposes and principles of the United Nations. Refugee Convention, art. 1.F.

- Temporarily suspend all deportations of Iraqis who register with the government and renew their TPR registrations for at least six-month intervals.
 - Admit at least temporarily Iraqi and Palestinian asylum seekers who present claims at the border pending a determination of their claims.
 - Provide work authorization for TPR registrants.
 - Exempt from fines Iraqis who have overstayed their visas when they register for the TPR.
- Ensure the right of all children residing in Jordan, regardless of residency status, to free and compulsory primary education, consistent with Jordan's obligations under the United Nations Convention on the Rights of the Child. To that end, immediately and unambiguously announce that all children will be welcome in public schools regardless of immigration status, and take steps to recognize and accredit otherwise qualifying private schools that cater to Iraqi students.
 - Accede to the 1951 Refugee Convention and its 1967 Protocol.
 - In consultation with UNHCR, establish a domestic refugee law to enable Jordanian authorities to determine refugee claims and provide protection to refugees seeking asylum in Jordan—at its most basic level, protection from *refoulement*.
 - Survey the population of Iraqis in Jordan to identify their numbers and the scope of their needs.
 - Ask for financial and technical assistance from the international community to help meet the challenge to Jordan of providing temporary asylum to Iraqi refugees, including for other countries to help Jordan by resettling Iraqi refugees in need of durable solutions.

To the United Nations High Commissioner for Refugees

- Conduct a survey of Iraqi nationals in Jordan comparable to the survey conducted by the Danish Refugee Council on Iraqis in Lebanon⁷ or the joint UNHCR, United Nations Children’s Fund (UNICEF), and World Food Program (WFP) assessment of Iraqi refugees in Syria.⁸
- Intervene—at least to assess the refugee claim—when any detained Iraqi (or other foreigner) at risk of deportation makes a refugee claim. Do not limit interventions on behalf of asylum-seeking detainees to those who have previously registered with UNHCR.
- If the current arrangement of issuing asylum-seeker cards for purposes of temporary protection is maintained, then provide such cards to previously rejected asylum seekers whose cases were closed, who may no longer be candidates for refugee recognition, but who may nevertheless need temporary protection based on generalized conditions of violence in Iraq.
- When conducting refugee status determinations, ensure that UNHCR Executive Committee (ExCom) Conclusion 103 on the Provision of International Protection including through Complementary Forms of Protection is being followed so that protection is extended to war refugees and not only refugees who fall within the 1951 Refugee Convention definition.⁹
- Establish a UNHCR border-monitoring presence and have at least one protection officer dedicated to monitoring border protection.
- Explore more creative solutions to resolve the situation of the Iranian Kurds in the no-man’s land (NML) at the Iraq-Jordan border. Confidence-building measures could include taking camp leaders and residents for “go and see visits” to the Kawa camp in the Qoshtapa area of northern Iraq to see

⁷ Danish Refugee Council (DRC) and UNHCR, *Iraqi Population Survey Report*, Beirut, July 2005.

⁸ UNHCR, UNICEF, and WFP, *Assessment on the Situation of Iraqi Refugees in Syria*, Damascus, March 2006.

⁹ UNHCR’s Executive Committee adopted Conclusion 103 on the Provision of International Protection including through Complementary Forms of Protection at its 56th Session in October 2005. Jordan is a member of UNHCR’s Executive Committee.

firsthand the place UNHCR says they would be safe, and where other Iranian Kurdish refugees are currently living. Or, explore the possibility of establishing a program of eligibility for NML Iranian Kurds with family links or ongoing protection problems in northern Iraq to seek resettlement opportunities to Sweden, New Zealand, and Ireland (the countries that have resettled the most Iranian Kurds from al-Ruwaishid) after their return to northern Iraq.

To the United States

- Work through UNHCR and nongovernmental organizations (NGOs) to provide quick and meaningful technical and financial support to protect and assist Iraqi and Palestinian refugees from Iraq in Jordan and elsewhere in the region.
- Institute a significant refugee resettlement program for Iraqi refugees of special humanitarian concern to the United States, at least including persecuted religious minorities and people persecuted or threatened with persecution on account of their imputed or actual association with the U.S. government or private American organizations. Create a Priority Two refugee-processing category to expedite the resettlement of some or all of these groups, and expand eligibility for family members in the United States to petition for Iraqi refugee relatives to reunite with them.¹⁰ Respond positively and quickly to UNHCR referrals to resettle Iraqi refugees who do not fall into the category groups specified above.
- Resettle to the United States on a humanitarian basis based on past persecution, Iraqi refugees recognized by UNHCR during the Saddam Hussein era and referred to the United States for resettlement, who were not resettled to the United States as a result of the U.S. moratorium on resettlement of

¹⁰ The U.S. State Department establishes priorities for deciding which few of the world's refugees are of greatest "special humanitarian concern" to the United States. The priorities establish the preference order for interviewing refugees for U.S. resettlement. Priority One involves urgent cases, and usually requires a UNHCR referral. Priority Two is comprised of identifiable nationality and sub-nationality groups who can be processed without a UNHCR referral. Other processing categories relate to the closeness of eligible relatives in the United States who can petition for family reunification, categories that are currently limited to specified nationalities. David Martin, *The United States Admissions Program: Reforms for a New Era of Refugee Resettlement* (Migration Policy Institute, 2005), pp. 37-40; see also U.S. Departments of State, Homeland Security, and Health and Human Services, "Proposed Refugee Admissions for Fiscal Year 2007: Report to Congress," pp. 8-10.

Iraqis after September 11, 2001, and who have been living in limbo since that time. Doing so will not only serve an immediate humanitarian need, but will also help to expedite the processing of “new caseload” Iraqi refugees for U.S. resettlement.

- Provide leadership to other donor governments and at UNHCR’s Executive Committee regarding the need for significantly greater emergency funding for refugee needs in Jordan and elsewhere in the region arising from the humanitarian crisis in Iraq.

To the United Kingdom

- In light of the United Kingdom’s intricate historical and present involvement with Jordan and as the United States’ major coalition partner in Iraq, institute a significant refugee resettlement program for Iraqi refugees, particularly those with links to the United Kingdom.
- Provide generous financial assistance to Iraqi refugees in the region through UNHCR and NGOs.

To Ireland, New Zealand, and Sweden

- In light of having resettled the bulk of the Iranian Kurds from al-Ruwaishid, offer to consider for resettlement those of the 192 Iranian Kurds still in the no-man’s land who first voluntarily move to northern Iraq, and who after moving there can show ongoing protection needs, demonstrate meaningful barriers to local integration, or establish family links to Sweden, New Zealand, or Ireland.

To Egypt, Iran, Kuwait, Lebanon, Saudi Arabia, Syria, Turkey, and Yemen

- Institute a temporary protection regime based on the situation of ongoing armed conflict and generalized violence in Iraq, or, at the least, recognize the TPR initiated by the United Nations High Commissioner for Refugees. Depending on the resources of the particular country and on the refugee burden it bears, join with Jordan in seeking financial and technical assistance,

as needed, from the international community to meet the challenge of providing temporary asylum to Iraqi refugees, including through resettling Iraqi refugees in need of durable solutions to third countries.

- Kuwait, Lebanon, Saudi Arabia, and Syria should accede to the 1951 Refugee Convention and its 1967 Protocol, and Turkey should drop its geographical limitation to the Convention and Protocol. In consultation with UNHCR, all countries in the region should establish domestic refugee laws and build infrastructures to enable government authorities to determine refugee claims and provide protection to refugees.
- Syria should admit the 200 Palestinian refugees stranded at the Syria-Iraq border and reopen the Syrian border to Palestinian refugees from Iraq, consistent with Syria's admission on May 9, 2006, of the Palestinian refugees stranded at the Jordan-Iraq border.
- Lebanon should discontinue its practice of detaining Iraqis indefinitely for illegal entry or stay as a means of coercing them to opt for "voluntary" return to Iraq.

To the European Union (and European Union member states), the Arab League (and its member states, including in particular Kuwait and Saudi Arabia), Iran, Turkey, Israel and Other Donor Governments

- Contribute quickly and generously both bilaterally and through UNHCR to meet the humanitarian and protection needs of Iraqi and Palestinian refugees from Iraq in Jordan and elsewhere in the region.
- In a spirit of international humanitarian solidarity, governments inside and outside the region should share the human burden by providing both temporary and permanent asylum, as appropriate, to Iraqi and Palestinian refugees fleeing war and persecution in Iraq in order to prevent *refoulement* and maintain at least temporary asylum in Jordan, Syria, Lebanon, and other countries in the region that may struggle to cope with the influx of refugees from Iraq.

To the UNHCR Executive Committee

- Recognize that the refugee emergency in Jordan and elsewhere in the region is of a major scale and that the numbers of Iraqi refugees and their needs are substantially greater than has heretofore been acknowledged.
- Re-designate the Iraq situation as a continuing humanitarian emergency that requires supplementary budget funding.
- Base funding of UNHCR operations in Jordan and Syria on a real needs-based assessment rather than on anticipated resources.

III. Background

Today, Jordan has the highest ratio of refugees to total population of any country in the world.¹¹ Palestinian refugees registered by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) comprise about 30 percent of Jordan's population of 5.8 million people.¹² In addition to this long-standing refugee population who fled or were expelled from Israel/Occupied Palestinian Territories from the west, one of the largest new influxes of "de facto refugees" in recent years—now numbering at least 500,000 and possibly as many as one million—has fled from Jordan's neighbor to the east, Iraq.¹³

Iraq and Jordan share historical ties. Iraq's monarch, before the country became a republic in 1958, was a brother of Jordan's king, both of them descendents of the Hashemite family of Saudi Arabia.¹⁴ Iraq was also Jordan's most important trading

¹¹ The U.S. Committee for Refugees and Immigrants' *World Refugee Survey* annually compiles a chart on the Ratio of Refugees to Selected Host Country Populations. From 1993 until 2003 it listed Jordan as the country with the world's highest refugee to total population ratio. Jordan lost this distinction in the 2004 and 2005 *Surveys* when the editors changed their method of counting refugees (no longer accepting UNRWA's refugee figures). In 2006, when the *World Refugee Survey* counted 450,000 Iraqi refugees, in addition to 158,200 Palestinians, and 1,300 others, Jordan, once again, topped the list of countries with the highest ratio of refugees to total population. U.S. Committee for Refugees and Immigrants, "Table 13: Ratios of Refugees to Host Country Populations," *World Refugee Survey 2006*, p. 14 (note that the Occupied Palestinian Territories has a higher ratio, but is not a country). Table available at: http://www.refugees.org/data/wrs/06/docs/ratios_of_refugees_to_host_country_populations.pdf (accessed June 22, 2006).

¹² The Population Reference Bureau gives Jordan's population in mid-2005 as 5,795,000. http://www.prb.org/TemplateTop.cfm?Section=PRB_Country_Profiles&template=/customsource/countryprofile/countryprofiledisplay.cfm&Country=272 (accessed June 22, 2006). UNRWA has registered 1,780,701 Palestinian refugees in Jordan, as of March 31, 2005. UNRWA statistics at: http://www.un.org/unrwa/publications/pdf/rr_countryandarea.pdf (accessed June 22, 2006).

¹³ Ministry of Interior officials told Human Rights Watch that the number was about 500,000, but could fluctuate by 100,000 in either direction. UNHCR officials estimated about 750,000. A recent *New York Times* article said, "Iraqi officials and international organizations put the number of Iraqis in Jordan at close to a million." Sabrina Tavernise, "As Death Stalks Iraq, Middle-Class Exodus Begins," *New York Times*, May 19, 2006.

¹⁴ In 1916, Sharif Husayn, the ruler of Mecca and head of the Hashemite family, revolted against Ottoman rule, joining forces with the British against the Ottoman Empire. Husayn's revolt followed extensive correspondence with British officials, in which the British encouraged Arab hopes of independence. Following the defeat of the Ottoman Empire, the British installed 'Abdullah, son of Husayn, to be Amir of what was then called Transjordan (1923-46). He then became King of Jordan from 1946 until his assassination in 1951. The British also installed his brother, Faysal, to be king of Iraq (1921-1933). Husayn himself ruled over the Hijaz (1916-1924), briefly followed by his son 'Ali (1924-5) until the Hijaz was incorporated into present-day Saudi Arabia under the rule of 'Abd al-Aziz (1926-53). See Albert Hourani, *A History of the Arab Peoples* (Cambridge, Mass.: Harvard University Press, 2002) at 315-322, 507.

partner,¹⁵ and, as a comparatively stable country, has long offered safety and relative freedom to Iraqis fleeing political upheaval and repression.¹⁶

The numbers of Iraqis fleeing to Jordan began to rise from a few thousand to a few hundred thousand in the 1990s, when Saddam Hussein brutally repressed Shi`a Iraqis, Kurds (though few Iraqi Kurds fled to Jordan), and any others who dissented from his rule. Another cause for flight was the accelerating economic decline and dire humanitarian situation in Iraq, caused in part by a comprehensive sanctions regime placed on Iraq by the UN Security Council. By the start of the war in April 2003, Jordan was estimated to host between 250,000 and 300,000 refugees.¹⁷ The 2003 war and its continuing aftermath brought new waves of Iraqis to Jordan, at least doubling their number by 2006. Amman's population is estimated to have grown by as much as one-third since the war began.¹⁸

Until November 2005 the Jordanian government and Jordanian law enforcement officials had demonstrated considerable leniency in enforcing immigration laws, usually deporting Iraqis only if they violated other laws. Jordanian hospitality and tolerance toward Iraqis came under particular stress, however, when three Iraqis killed 60 people by setting off bombs in three large hotels in Amman in November 2005.

Although Iraqi nationals in Jordan interviewed by Human Rights Watch rarely alleged being personally harassed or abused in the aftermath of those bombings, resentment is rising and the government is cracking down on young Iraqis staying and working illegally.¹⁹ Attitudes among Jordanians also appear to be hardening, and

¹⁵ "Iraq and U.S. Top List of Jordan's Trade Partners," *Jordan Times*, January 22, 2003. Available at: <http://www.jordanembassyus.org/o1222003003.htm> (accessed July 31, 2006).

¹⁶ UNHCR, Country Operations Plan, Jordan, Planning Year: 2006, Revision September 2005, part 1 (on file with Human Rights Watch).

¹⁷ Human Rights Watch, *Iraqi Refugees, Asylum Seekers, and Displaced Persons: Current Conditions and Concerns in the Event of War*, February 2003, at 15, note 91. Available at: <http://www.hrw.org/backgrounder/mena/iraq021203/index.htm> (accessed July 6, 2006).

¹⁸ Jay Solomon, "Bombings in Jordan Stress War's Impact—Influx of Iraqis and Wealth Bring Growth and Tension," *The Wall Street Journal Asia*, November 11, 2005.

¹⁹ Because most Iraqi nationals in Jordan came with valid passports and were inspected, provided visas, and admitted, Human Rights Watch does not refer to them generally as "undocumented." However, those who have overstayed their visas (many of whom still carry valid passports) and/or those without work authorization will be referred to as residing or working illegally.

Iraqis appear increasingly at risk of being scapegoated for a wide variety of social problems. An observer wrote:

When I ask Jordanians about Iraqis in their midst, they voice sentiments like these: “The Iraqis make it harder for us because prices are going up...”; “Youth who want to get married say they can’t find apartments because the prices are too high...”; “Iraqis are taking all of the jobs...”; “Employers favor them because they can have them for less pay...”; “We had a safe, secure Jordan, but crime is rising. Now there is prostitution, robbery, and theft.”²⁰

UNHCR’s tally of detained asylum seekers jumped from a monthly average of 16 cases to 40 cases in November 2005, the month of the hotel bombings.²¹ After the bombings, Jordan appears to have increasingly begun deporting visa “overstayers” back to Iraq and now denies entry to increasing numbers of Iraqis at the border, according to unofficial accounts.²² Taxi drivers on the Baghdad-Amman route and Iraqis who had made the journey to Amman told Human Rights Watch that Jordanian officials are now turning back the majority of Iraqis seeking entry at the land border at al-Karama, the only land crossing between Iraq and Jordan.²³

²⁰ Ingrid McDonald, “The War Next Door,” *American Scholar*, Vol. 75, No. 2, April 1, 2006.

²¹ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

²² See *Rejection at the Border* and *Arrests and Deportations of Iraqi Nationals*, below.

²³ See *Rejection at the Border*, below.

IV. *Refoulement*—Rejections at the Border and Deportations

Jordan's *Nonrefoulement* Obligations

Jordan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) on November 13, 1991, 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.²⁴ Jordan 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. UNHCR's Executive Committee—of which Jordan is a member²⁵—adopted Conclusion 25 in 1982, which declared that “the principle of *nonrefoulement*...was progressively acquiring the character of a peremptory rule of international law.”²⁶

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.²⁷

²⁴ 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. For a complete listing of states party to the Convention Against Torture, see <http://www.ohchr.org/english/countries/ratification/9.htm> (accessed June 28, 2006).

²⁵ ExCom membership does not require accession to the Refugee Convention or Protocol, but requires only 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,” <http://www.unhcr.org/excom/418b5ecc4.html> (accessed October 17, 2006). Jordan joined the ExCom in 2006.

²⁶ UNHCR Conclusion 25 (XXXIII), “General Conclusion on International Protection,” October 20, 1982, <http://www.unhcr.org/excom/EXCOM/3ae68c434c.html> (accessed October 17, 2006), para. (b). More recent ExCom conclusions have reaffirmed this principle, including Conclusion 79 (XLVII), “General Conclusion on International Protection,” October 11, 1996, <http://www.unhcr.org/excom/EXCOM/3ae68c430.html> (accessed October 17, 2006), para. (j) and Conclusion 81 (XLVIII), “General Conclusion on International Protection,” October 17, 1997, <http://www.unhcr.org/excom/EXCOM/3ae68c690.html> (accessed October 17, 2006), para. (i).

²⁷ UN General Assembly Resolution 51/75, A/RES/51/75, 12 February 1997, para. 3.

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.”²⁸ Later that year, the UN General Assembly welcomed the Declaration.²⁹

Jordan has explicitly pledged to uphold its *nonrefoulement* obligations on several formal occasions. In the Memorandum of Understanding Jordan signed with UNHCR in April 1998 it agreed:

In order to safeguard the asylum institution in Jordan and to enable UNHCR to act within its mandate...it was agreed...that the principle of *non-refoulement* should be respected that no refugee seeking asylum in Jordan will be returned to a country where his life or freedom could be threatened because of his race, religion, nationality, membership of a particular social group, or political opinion.³⁰

When Jordan presented its candidacy to the UN Human Rights Council on April 20, 2006, it formally provided the United Nations with its pledges and commitments for the promotion and protection of human rights. It said:

Over the last decades, the country has given shelter and protection to many waves of refugees; Jordan, as a long-standing host country, reiterates its commitment to fulfilling its obligations in accordance with the principles of international refugee law including those which are peremptory as well as international human rights law.³¹

²⁸ 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, 16 Jan. 2002, para. 4.

²⁹ UN General Assembly Resolution 57/187, A/RES/57/187, December 18, 2001, para. 4.

³⁰ Memorandum of Understanding between the Government of Jordan and UNHCR, April 1998, art 2 (on file with Human Rights Watch).

³¹ “Jordan’s Pledges and Commitments Pursuant to Resolution A/RES/60/251,” Reference No. SH/1/A/660/06, New York, April 20, 2006.

Jordan's statements formally recognize that refugee protection is an obligation, and that it is committed to fulfilling this obligation, which includes abiding by peremptory norms (that is, customary law)—the most fundamental of which for refugees is the principle of *nonrefoulement*. Nonetheless, Jordan violated this principle when it returned three UNHCR refugee-card holders to Iraq in 2005, as well as in many other cases (see below).³²

Nonrefoulement obligation adheres to de facto refugees and at the border

Because refugee status is declaratory,³³ the fundamental principles of refugee protection apply equally to de facto refugees who have not been formally recognized as de jure refugees. UNHCR's Executive Committee reiterated that the *nonrefoulement* obligation equally protects de facto refugees in 1996 with Conclusion 79, which reaffirmed the principle of *nonrefoulement* as prohibiting the expulsion and return of refugees "whether or not they have formally been granted refugee status."³⁴

The principle of *nonrefoulement* as a customary norm of international law applies not only to de jure and de facto refugees within the territory of a state, but also to rejection of de jure and de facto refugees at the frontiers. In its October 2004 meeting, UNHCR's ExCom issued Conclusion 99, which calls on States to ensure "full respect for the fundamental principle of *nonrefoulement*, **including non-rejection at frontiers** without access to fair and effective procedures for determining status and protection needs."³⁵ (Emphasis added.) This Conclusion not only explicitly notes that the *nonrefoulement* obligation applies to rejection at borders, but also calls for fair and effective procedures for determining status and protection needs, which are also lacking for arrivals at Jordan's borders and ports of entry.

³² Email from UNHCR-Amman to Human Rights Watch, July 27, 2006.

³³ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, reedited January 1992, Geneva, para. 28. See text at footnote 1.

³⁴ UNHCR Conclusion 79 (XLVII), "General Conclusion on International Protection," October 11, 1996, <http://www.unhcr.org/excom/EXCOM/3ae68c430.html> (accessed October 17, 2006), para. (j).

³⁵ UNHCR Conclusion 99 (LV), "General Conclusion on International Protection," October 8, 2004, <http://www.unhcr.org/excom/EXCOM/41750ef74.html> (accessed October 17, 2006), para. (l).

Conclusion 99 was the last in a long series of ExCom conclusions, starting with ExCom Conclusion 6 in 1977, which “[r]eaffirms the fundamental importance of the observance of the principle of *nonrefoulement*—both **at the border** and within the territory of a State...”³⁶ (Emphasis added.) ExCom Conclusion 22 of 1981 on the Protection of Asylum Seekers in Situations of Large-scale Influx—such as that from Iraq—says:

In situations of large-scale influx, asylum seekers should be admitted to the State in which they first seek refuge and if that State is unable to admit them on a durable basis, it should always admit them at least on a temporary basis...They should be admitted without any discrimination as to race, religion, political opinion, nationality, country of origin or physical incapacity. In all cases the fundamental principle of *nonrefoulement*—**including non-rejection at the frontier**—must be scrupulously observed.³⁷ (Emphasis added.)

The practical consequence of the application of the principle of *nonrefoulement* at the border requires that Jordan allow asylum seekers fleeing widespread human rights abuses and generalized violence (even where the influx is significant) to enter the country, at least temporarily, to be screened for refugee status, so as not to return them to persecution.

³⁶ UNHCR Conclusion 6 (XXVIII), “Non-Refoulement,” October 12, 1977, <http://www.unhcr.org/excom/EXCOM/3ae68c43ac.html> (accessed October 17, 2006), para. (c).

³⁷ UNHCR Conclusion 22 (XXXII), “Protection of Asylum-Seekers in Situations of Large-Scale Influx,” October 21, 1981, <http://www.unhcr.org/excom/EXCOM/3ae68c6e10.html>, para. II.A. 2. Several international declarations and conventions reiterate that the principle of *nonrefoulement* applies at borders. Article III of the Declaration on Territorial Asylum, passed unanimously by the UN General Assembly in 1967 declares that no refugee “shall be subjected to measures such as **rejection at the frontier**...” United Nations Declaration on Territorial Asylum, December 14, 1967, G.A. res. 2312 (XXII), 22 U.N. GAOR Supp. (No. 16) at 81, U.N. Doc. A/6716 (1967), art. 3, para. 1. Although the Middle East has no regional refugee instrument, other world regions have bound themselves to this principle. In Africa, the 1969 Organization of African Unity (OAU) Refugee Convention, Article II (3) provides: “No person shall be subjected by a Member State to measures such as **rejection at the frontier**, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened...” Convention Governing the Specific Aspects of Refugee Problems in Africa, 1001 U.N.T.S. 45, entered into force June 20, 1974, art. II, para.3. In the Cartagena Declaration in 1984, ten Latin American states declared their commitment to “the principle of *nonrefoulement* (**including the prohibition of rejection at the frontier**) as a corner-stone of the international protection of refugees...[that] should be acknowledged and observed as a rule of *jus cogens*.” Cartagena Declaration on Refugees, November 22, 1984, OAS Doc. OEA/Serv.L/V/II.66/doc.10, rev.1 (1984-85), at section III, para. 5. (Emphasis added throughout.)

³⁷ UNHCR Conclusion 22, para. II.A.1.

Accounts gathered by Human Rights Watch strongly suggest that many Iraqis—perhaps most—are being turned away at the border without giving them any opportunity to make refugee claims, possibly returning them to persecution. By rejecting asylum seekers at the border, Jordan breaches this international obligation.

International refugee law does not formally provide an asylum seeker (a person claiming to be a refugee) the right to enter. The *refoulement* prohibition, however, provides little latitude when asylum seekers appear at a land border. The conundrum of a lack of a formal right to enter combined with the prohibition against returning asylum seekers (who may, in fact, be refugees) to persecution has bedeviled many governments—Jordan is not alone in confronting the contradiction between its sovereign prerogative of who may enter and its obligation not to return refugees to persecution.

An April 15, 2003, Letter of Understanding between UNHCR and the Jordanian government sought to solve precisely this dilemma. The two parties agreed “to provide for safe facilities for the temporary protection of beneficiaries,” while also agreeing that “the provision of temporary protection, pending a longer-term solution, does not include the possibility of local integration, assimilation or permanent residency in the territory of the Hashemite Kingdom of Jordan.”³⁸ As a result of this agreement, the Jordanian government agreed to erect the Ruwaishid refugee camp close to the border but within Jordanian territory in April 2003.³⁹

International refugee law frowns upon any restrictions placed on the movements of refugees within countries of asylum. However, governments can justify some exceptions to the right of free movement for refugees on strictly necessary national security and other grounds.⁴⁰ The continuing use or expansion of al-Ruwaishid camp with restrictions to refugees’ rights of movement would be one option, if Jordan could show how their movement would endanger its national security. While

³⁸ Letter of Understanding between the Government of the Hashemite Kingdom of Jordan and the Office of UNHCR, art. 2, paras. 2 and 3, April 15, 2003 (on file with Human Rights Watch).

³⁹ See *UNHCR and Temporary Protection and Palestinians at al-Ruwaishid Camp and Iranian Kurds*, below.

⁴⁰ Refugee Convention, art. 31.2.

restricting refugees to camps is far from a desirable solution, it is preferable to pushing Iraqi asylum seekers back at the border.

Rejection at the Border

The road from Baghdad to Amman is highly dangerous. From Ramadi, about 100 kilometers west of Baghdad, there is only one road to the border, making those traveling through the desert toward Jordan an easy target for highway robbers and militants. Baghdad-Amman taxi drivers showed Human Rights Watch bullet holes in the heavy, oversized sport utility vehicles that are their preferred taxis. A driver described the route:

There are a lot of armed groups who steal, and kill people. There is a big division between Shi`a and Sunni now. If the armed group is Shi`a, they kill Sunnis, and vice versa. Two weeks ago, some people in a BMW, with weapons, stopped my car. They took us out of the car and walked us five kilometers into the desert. They stole all of the money of the passengers. They also took me into the desert. They only took our money and then went away, so we walked back to the car. There are thieves, but then there is the *mujahideen* [as the Iraqi insurgents are called]. The *mujahideen*, if they know any of your passengers are foreigners, they will take them and they will never be seen again.⁴¹

Another driver told Human Rights Watch a similar story of being robbed, and how one of his passengers was kidnapped and held for ransom. He also compared the different tactics highway robbers and insurgents use:

The *mujahideen* stop us on the road and ask us if we have any foreigners, police, or National Guards. They especially want Americans. The danger of the *mujahideen* is less than from the thieves. But if they

⁴¹ Human Rights Watch interview (P-NR-2), Amman, May 2, 2006. (The coding of interviews in this paper identifies the Human Rights Watch researcher and the interview subject. The notation "NR" indicates that the person interviewed was not a refugee.)

discover police or National Guard in my car, and I didn't inform them, they will kill us both.⁴²

After surviving the perilous journey from Baghdad, Iraqis face the even harder, though less dangerous, task of gaining entry to Jordan. Since the November 2005 hotel bombings, Jordan appears to be denying entry to increasing numbers of Iraqis. In interviews, taxi drivers and recent arrivals said that Jordanian border authorities are now turning back the majority of Iraqis they had witnessed seeking entry to Jordan. A taxi driver who has been plying the Baghdad-Amman route for the past six years observed, "Under Saddam, the Jordanians let all Iraqis pass, even those with fake passports. No one was turned back. Now, it is worse and worse from day to day, especially after the explosions in Amman."⁴³

Another taxi driver said:

We have problems at the Karama border, on the Jordanian part of the border. They don't give us any specific reason why they turn people back; it just depends on their mood.... I transport about 25 people from Baghdad to Amman a month, but on average only five people will be allowed to enter. The others will get a stamp in their passport saying that they were returned, and then are sent back to Baghdad.⁴⁴

Other taxi drivers confirmed that some Iraqis' passports are stamped with a red stamp when they are refused entry at the border. The same taxi driver said that people who try to return to the border who have had their passports stamped are treated badly. "Sometimes they even hit them, especially the *mukhabarat* [intelligence] people."⁴⁵

A *Washington Post* report noted that Jordanian officials reject Iraqis not only at the Karama crossing, the main entry point overland from Iraq, but at every port of entry:

⁴² Human Rights Watch interview (P-NR-3), Amman, May 2, 2006.

⁴³ Human Rights Watch interview (C-NR-1), Amman, April 24, 2006.

⁴⁴ Human Rights Watch interview (P-NR-2), Amman, May 2, 2006.

⁴⁵ Ibid.

Jordanian border police are turning away hundreds of Iraqi vehicles daily at the Karama border crossing, often without explanation, creating a huge parking lot of frustrated travelers in the Iraqi desert. At Queen Alia International Airport, just south of Jordan's capital, Amman, Iraqi passengers are ushered into a room and interrogated before being allowed to enter the country. And some Iraqis who used to be able to get 30-day visas to Jordan are now being allowed just to stay a few days at a time.⁴⁶

The *Washington Post* went on to cite the Jordanian government's spokesman, Nasir Judah, as confirming that Jordan "had imposed new border restrictions on January 2, 2006 that prohibit vehicles with Iraqi license plates from entering the country."⁴⁷ Enhanced security concerns likely account for some of the rejections and contribute to the long delays of 10 hours or more at the border crossing. A businessman from Falluja who travels frequently to Amman told Human Rights Watch, "The last time, the Jordanians searched my car and tested my hands for explosive powder. They brought a dog to search us."⁴⁸

The taxi drivers and other travelers interviewed by Human Rights Watch said that border guards' decisions regarding whom to admit or reject appear to be arbitrary, but that they turn away young men and poor people more often than others. They said the guards are more likely to admit people in need of medical care with proven appointments in Amman. Taxi drivers said that border officials are sometimes rough and rude with Iraqis but that it is impossible to get in by a bribe. One said, "At the Jordanian border, it is completely random whether they let you through. It depends on the face of the person who wants to come in and the mood of the officer."⁴⁹

Ministry of Interior officials in Amman denied that there was anything arbitrary in border rejections. Officials told Human Rights Watch that border guards turn away

⁴⁶ Jackie Spinner, "Iraqis Find Travel to Jordan Increasingly Frustrating," *Washington Post*, January 17, 2006, at A14.

⁴⁷ Ibid.

⁴⁸ Human Rights Watch interview (P-NR-1), Amman, April 22, 2006.

⁴⁹ Human Rights Watch interview (C-NR-1), Amman, April 24, 2006.

people if they have false passports or appear to be part of smuggling operations. The MOI secretary general said that most Iraqis trying to enter have forged passports.⁵⁰

Although Human Rights Watch collected anecdotal accounts indicating that some Iraqis continue to use false passports, there are also large numbers of Iraqis traveling with valid passports. During a ten-month period between July 2005 and April 2006, the present Iraqi government issued passports to 1.85 million Iraqis.⁵¹ Although Iraqi refugees report endemic corruption in the Iraqi government's passport-issuing authority, so that even a government-issued passport does not necessarily serve as a legitimate identification document, people fleeing persecution today have less need to use fraudulent documents than in the Ba`thist era, when the government more strictly controlled passport issuance. In any case, asylum seekers have a right to seek asylum even if they do not have proper travel documents, and should not be rejected at the border.⁵²

Arrests and Deportations of Iraqi Nationals

In Jordan, special police affiliated with the Ministry of Labor enforce immigration laws in the workplace while the Department of Residence and Borders in the Ministry of Interior enforces immigration laws elsewhere.⁵³ Arrest, however, is often a matter of chance. An Iraqi Shi`a woman, who works for one of the international NGOs that provide services for Iraqis, said:

⁵⁰ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

⁵¹ Sabrina Tavernise, "As Death Stalks Iraq, Middle Class Exodus Begins," *New York Times*, May 19, 2006.

⁵² Article 14 (1) of the Universal Declaration of Human Rights 1948 says that "Everyone has the right to seek and enjoy in other countries asylum from persecution." Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948). The United Nations ExCOM Conclusion No 82 "reaffirms that the institution of asylum ...derives directly from the right to seek and enjoy asylum set out in Article 14(1)." UNHCR Conclusion 82 (XLVIII), "Safeguarding Asylum," October 17, 1997, <http://www.unhcr.org/excom/EXCOM/3ae68c958.html> (accessed October 17, 2006), para. (b). Also, Article 29(h) of Jordan's Law No. 24 of 1973 on Residence and Foreigners' Affairs, as amended by Law No. 23 of 1987 ("Residence and Foreigners' Affairs Law"), recognizes "the right to political asylum" See <http://www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.html?tbl=RSDLEGAL&id=3ae6b4ed4c> (accessed July 5, 2006). Article 31 (1) of the Refugee Convention bars contracting states from imposing penalties on refugees "on account of their illegal entry of presence" who come directly from a territory where their life or freedom is threatened.

⁵³ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

In Amman, the *Wafidin* [migrants' police] roam the streets and carry out arrests. They wear civilian clothes. They make 'mercy' exceptions; if someone in the police or other ministry knows or likes you, you can avoid arrest or get out once arrested. The police know who to arrest by their faces and rarely go after well-dressed people.⁵⁴

Although those slated for deportation have a right under Jordanian law to appeal an administrative order of deportation within 60 days, in practice deportation orders are rarely appealed.⁵⁵ MOI officials say that they allow any Iraqi facing deportation to go to Syria or Yemen, which do not require visas from Iraqis, and that most Iraqis in that situation exercise this option rather than go back to Iraq.⁵⁶

Deportation procedures for Iraqis are swift. Iraqis interviewed by Human Rights Watch said that the police authorities wait until they have enough Iraqi overstayers to fill a bus. They said that a bus of deportees travels from Amman to the land border nearly every day since the hotel bombings,⁵⁷ an observation confirmed by a diplomatic source and a legal service provider.⁵⁸

Jordanian authorities hold illegal Iraqi overstayers from a few days up to a week in deportation centers, such as Gwesmah in Jabal Habib, or in Markaz al-`Asima, after apprehending them. Gwesmah holds only about a dozen people at a time, according to an employee of the government-appointed National Center for Human Rights, who said that the place was clean and that the kind and amount of food there appeared sufficient: "There were no problems there, except that they were being deported."⁵⁹

⁵⁴ Human Rights Watch interview (C-35), Amman, April 23, 2006.

⁵⁵ Email from UNHCR to Human Rights Watch, July 27, 2006.

⁵⁶ Ibid. It appears, however, that Yemen does require visas for Iraqis to enter the country (see Visa Requirements, at http://www.yemenembassy.org.uk/Visas/YemenEmbassyLondon_Visas.htm, accessed July 14, 2006). See also, *The Response of Yemen and Egypt*, below.

⁵⁷ Human Rights Watch telephone interview (C-25) with deportee in Baghdad, November 30, 2005, in which the deportee cites an officer in charge of the Residence and Borders Office at the Nadhala Prison as giving this information. Other testimonies, including Human Rights Watch interviews (P-12), (C-13), (C-17), and (B-31), confirm these accounts.

⁵⁸ This was confirmed in "off the record" interviews with a nongovernmental service provider, Amman, May 4, 2005, and a diplomatic official, Amman, May 3, 2006.

⁵⁹ Human Rights Watch interview with National Center for Human Rights representative, Amman, May 3, 2006.

Iraqis confirmed to Human Rights Watch that police usually escort detainees to their apartments to gather their possessions before deportation.

Jordanian officials exercise a high degree of discretion when deporting Iraqis; this results in highly inconsistent practices. For example, Jordanian officials put different color stamps in deportees' passports, each meant to indicate a different time limit on re-entry, with no explanation and no discernable connection between the color of the stamp and the duration of the bar on re-entry. Those who receive a red, triangular stamp in their passport are barred from re-entry.⁶⁰ Some Iraqis said border guards told them this stamp means a lifetime exclusion, but others say it signifies a bar for five years. Authorities allow some deportees to pay the accrued fines equivalent to US\$2 per day and avoid deportation. They allow others to pay the fines and avoid the red exclusion stamps when they are deported, theoretically allowing them the opportunity to re-enter the country.

Iraqi de jure and de facto refugees in Jordan fall into four categories:

1. UNHCR-recognized refugees;
2. Asylum seeker card holders under UNHCR's temporary protection regime;
3. Persons UNHCR rejected as refugees prior to 2003, but whose need for at least temporary protection may have changed because of the war; and
4. Persons who have not approached UNHCR, but who fled persecution or generalized violence.

Although circumstances among these categories vary, as outlined below, they all lack a secure legal status in Jordan, live on the margins, and fear being forcibly returned to Iraq.

UNHCR-recognized refugees

UNHCR-recognized refugees do not have any particular status under Jordanian law and in particular do not acquire rights, even temporarily, of residency or the right to work. Instead they are supposed to await resettlement in a third country. However,

⁶⁰ Residence and Foreigners' Affairs Law, art. 37.

Jordan does not automatically deport UNHCR-recognized refugees if they are apprehended for working or residing in Jordan illegally, but instead gives them four options:

1. They can depart voluntarily (which is not a realistic option for UNHCR-recognized refugees);
2. They can stay in jail until UNHCR finds a durable solution on their behalf (the usual practice for those who have committed a serious crime or those whom the authorities consider to be a danger to the security of Jordan);
3. They can be released without conditions (the usual practice for those who were not caught working illegally, but who only overstayed their residency visas); or
4. They can be required to find a Jordanian sponsor who will guarantee their departure from Jordan as a condition for release (the usual practice for those caught working illegally or committing a minor crime).⁶¹

In all four cases the authorities formally issue a deportation decision and require the detainee to agree formally to leave the country as a condition for release from detention, though the authorities, in practice, do not necessarily require return to the home country. In practice, if UNHCR issues a letter on the refugee's behalf the authorities do not execute the deportation order, but use it as a means of keeping pressure on UNHCR to find a country willing to resettle the refugee.⁶² Under the fourth option, Jordanian sponsors relinquish their identity documents to the arresting authority as a condition for the Iraqi's release. They are permitted to retrieve their IDs when they can verify the departure of the Iraqi refugee or find another sponsor to assume responsibility for the refugee.⁶³ Jordanian sponsors have been able to retrieve their identity documents by establishing that the Iraqi refugee had paid the accrued fines (which implicitly suggests that the refugee left the country since many pay their fines when exiting).⁶⁴ In some cases, however, the

⁶¹ Email from UNHCR-Amman to Human Rights Watch, August 28, 2006

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Email from Iraqi refugee (C-27) to Human Rights Watch, May 22, 2006.

Jordanian sponsorship, in effect, serves as a mechanism for posting (and jumping) bail.

Human Rights Watch collected the names of 29 UNHCR refugee-card holders who had been paroled from detention after Jordanian sponsors provided guarantees on their behalf, often in return for money. In response to written questions by Human Rights Watch, eight of those former detainees described their arrest and release.⁶⁵ Jordanian police arrested them between February 2005 and April 2006 and detained them from two days to 24 days before releasing them, after Jordanian sponsors came forward on their behalf. The other 21 only gave their names and refugee-card numbers but did not fill out the questionnaire, fearing repercussions. “There are tens of refugees who were afraid to fill out, feeling afraid that some unknown thing would happen to them,” said the refugee who collected the information for Human Rights Watch. “There are also a lot of the refugees who are still in prison and some who had been taken out of Jordan.”⁶⁶

Despite UNHCR’s objections the Jordanian authorities deported three UNHCR-recognized refugees to Iraq in 2005; one had a criminal conviction and the other two were alleged to have committed crimes but had not been convicted.⁶⁷ Such returns constitute *refoulement*, a breach of Jordan’s international obligations.

Asylum-seeker card holders under UNHCR’s temporary protection regime

The UNHCR card for asylum seekers, issued as part of its temporary protection regime, offers little protection against deportation and no other benefits. Jordanian policy is to notify UNHCR when its law-enforcement officials detain asylum-seeker card holders on immigration violations and to allow UNHCR staff to visit them in the detention centers to conduct refugee status determinations. In fact, UNHCR conducted almost all of its RSDs in 2005 with people in detention.⁶⁸ The refugee agency intervened on behalf of 191 detained asylum-seeker card-holders in 2005.

⁶⁵ On file with Human Rights Watch.

⁶⁶ Email from Iraqi refugee (C-27) to Human Rights Watch, May 22, 2006.

⁶⁷ Email from UNHCR-Amman to Human Rights Watch, July 27, 2006.

⁶⁸ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

During that year Jordan deported 121 Iraqis who had held asylum-seeker cards but whom UNHCR rejected as refugees according to the 1951 Refugee Convention refugee definition.⁶⁹ UNHCR recognized 22 Iraqis as refugees in 2005.⁷⁰

This raises immediate questions about the thoroughness of the RSDs and the refugee-definition standards on which they are based, the right to appeal negative UNHCR decisions, other due process rights that might be compromised in a detention setting, and, most obviously, the meaning and value of a supposed temporary protection regime that fails to protect everyone—including rejected asylum seekers—from deportation based on conditions of generalized violence. Rejected asylum seekers are subject to deportation, though UNHCR informs anyone whose application has been rejected that they may appeal the refugee agency’s rejection of their refugee claims. In most cases detained asylum seekers do appeal UNHCR’s first-instance rejection of their claims, according to UNHCR, and their deportations are suspended while the appeals are pending (though they remain in detention).⁷¹

Under normal circumstances rejected asylum seekers are no longer of concern to UNHCR, and their deportation would not raise protection concerns. Under a temporary protection regime, however, all nationals of the country experiencing warfare or generalized violence should fall under UNHCR’s protection, even those who do not meet the 1951 Refugee Convention refugee definition. After UNHCR rejects a detained Iraqi asylum seeker, it sends the following letter to the Jordanian authorities:

UNHCR’s position on the return of rejected Iraqis from Jordan is guided by the international legal principles governing its protection mandate, taking into consideration the situation of the concerned individuals as well as the cooperation of the Jordanian and Iraqi authorities. Within this context, UNHCR seeks the cooperation of the Jordanian authorities, as it has requested the cooperation of other States, in continuing to

⁶⁹ Email from UNHCR-Amman to Human Rights Watch, July 30, 2006.

⁷⁰ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

⁷¹ Email from UNHCR-Amman to Human Rights Watch, July 27 and July 30, 2006.

extend flexibility in allowing even rejected asylum seekers to remain in Jordan until such time as the security situation in Iraq has improved and the concerned individuals can be returned to Iraq at no security risk.⁷²

That Jordan nevertheless deported 121 rejected asylum seekers in 2005 shows that it was not inclined to heed UNHCR's request to show flexibility. Despite the temporary protection regime, UNHCR does not regard these forced returns as *refoulement* and did not consider them as "people of concern" (a wider formulation that UNHCR sometimes uses) at the time they were deported.⁷³ UNHCR's position is inconsistent; it has called for a TPR "for all Iraqis" without distinction,⁷⁴ yet reveals a critical blind spot with respect to Iraqis who actually sought refugee-status protection but whom UNHCR found not to meet the 1951 Refugee Convention definition. Human Rights Watch regards the forced return of such Iraqis as *refoulement* because they sought protection in Jordan and because of the high level of risk of serious harm they face upon being forcibly returned to Iraq.

In practice even the asylum-seeker card's supposed limited protection of a guaranteed UNHCR refugee-status interview had broken down by the time of Human Rights Watch's visit. In one case a Shi'a woman from Najaf told Human Rights Watch that in March 2005, Jordanian authorities deported her husband, who had overstayed his visa and was working illegally, despite his UNHCR card:

He was arrested in Aqaba while he was working on a job site. They directly deported him. They told him, "You are a guest and you know the law. The law prevents you from working." He couldn't afford to pay the [residency fines]. He showed them the UN card, and they said it means nothing. When he was deported, they stamped his passport so he can't come back for five years. Even after five years, they won't

⁷² Email from UNHCR-Amman to Human Rights Watch, July 30, 2006.

⁷³ Ibid.

⁷⁴ UNHCR, Country Operations Plan, Jordan, Planning Year: 2006, Revision September 2005, part 1.

allow him to go back to Jordan—when they see the stamp, they exclude you.⁷⁵

While this man had committed a violation of Jordanian law by working without a permit, international law—the principle of *nonrefoulement*—nevertheless protects him from being returned to Iraq should he face there the likelihood of persecution, torture, or other serious harm. Since returning to Iraq, the wife said that her husband has been injured in a terrorist attack and suffered a heart attack. The authorities failed to respect the fact that he was carrying a UNHCR card, and thus clearly committed *refoulement* when they forcibly returned him to Iraq.

Persons UNHCR rejected as refugees prior to 2003, but whose need for at least temporary protection may have changed because of the war

Jordan regards asylum seekers who sought recognition as refugees with UNHCR during the Saddam Hussein era but who at the time were rejected as illegal aliens as subject to deportation, even though the circumstances in Iraq have changed and they may now be seriously harmed if returned. Despite proclaiming a blanket temporary protection regime UNHCR has refused to issue asylum-seeker cards intended to provide temporary protection to previously rejected asylum seekers, even though they now have the same needs for temporary protection as other de facto refugees living in Jordan.⁷⁶

Formerly rejected refugee claimants have lived in Jordan for many years, and many have experienced various forms of hardship. A Shi`a man from Missan Governorate told Human Rights Watch about his separation from his wife and children. He said that he fled Iraq in 1998 after the government executed five of his relatives. He said that UNHCR rejected his refugee claim and that his family had been accruing large overstayer fines ever since his visa expired. Because UNHCR had rejected his refugee claim and closed his case, he was not eligible for an asylum-seeker card when UNHCR instituted its temporary protection regime in 2003. Faced with the possibility that the Jordanian authorities might arrest, detain, and deport his wife and five

⁷⁵ Human Rights Watch interview (P-14), Amman, April 27, 2006.

⁷⁶ See *UNHCR and Temporary Protection*, below, to see the benefit of possessing an “asylum seeker” card.

children, he decided to send them back to Iraq but felt that it would be too risky for him to return with them. The Jordanian border officials stamped their passports with red exclusion stamps. He does not know when he will see them again. “We are like prisoners of war,” he told Human Rights Watch. “If I go to the border, I can’t come back.” Similarly, because of their exclusion stamps, his wife and children cannot come and visit him in Jordan.⁷⁷

A 58-year-old Shi`a man, who told Human Rights Watch Iraqi officials had arrested him three times in the 1980s for his communist activities, said that UNHCR rejected his refugee claim in 2001 and closed his case. He said that the UNHCR office has repeatedly turned him away since the war began, and seven months ago (well within the time frame of the temporary protection regime) took away his old asylum-seeker card, leaving him with nothing to show the police if he is arrested for overstaying his visa.⁷⁸

An Assyrian⁷⁹ Christian woman who has lived in Jordan since 1995 told Human Rights Watch of her increasingly desperate attempts to find temporary protection for her family after UNHCR rejected her husband’s refugee claim in 1998. She said that her husband had been a member of an Assyrian political party, whom Ba`th Party officials had arrested and tortured, leaving him permanently handicapped. Despite his disability Iraq conscripted him into its military forces, from which he deserted—a capital offense. They arrived in Jordan in 1995 after Turkish and Syrian border guards had refused them entry at their respective borders. Jordanian police arrested her son in 1999 while walking on the street and jailed him for 13 days in the Zuhar police department for juveniles. “We went to UNHCR to ask for help to take him out of jail, but they said that the file was closed.”⁸⁰ The police used her detained son as bait to apprehend the rest of the family, and they were all deported to Syria later that year. The family found that they could not earn enough to live in Syria; the mother and children returned to Jordan shortly after being deported, but her husband remained

⁷⁷ Human Rights Watch interview (P-5), Karak, April 23, 2006.

⁷⁸ Human Rights Watch interview (B-1), Amman, April 25, 2006.

⁷⁹ Assyrians are Christians who define themselves as a distinct Semitic people who claim 1.5 million members in Iraq. See <http://www.aina.org/faq.html>, (accessed July 29, 2006).

⁸⁰ Human Rights Watch interview (B-6), Amman, April 27, 2006.

in Syria for more than a year before rejoining them in Jordan. Jordanian police apprehended her again in late 1999. She paid the fine for overstaying her visa and went to Lebanon as part of a tourist group for three days to renew her Jordanian visa for another six months.

After the war began and UNHCR started the temporary protection regime, this woman was able to get a UNHCR asylum-seeker card in her name that includes her children but excludes her husband. He therefore is denied whatever protection UNHCR might be able to provide under the TPR to asylum-card holders. The family lives in constant fear of deportation. “For eleven years my children did not go to school. My daughter worked in a picture studio, but one of her co-workers grew jealous of her and said she would call the police and report her for working illegally if she didn’t quit. We are now too afraid to work.” She added, “I would never ever consider going back to Iraq.”⁸¹

Persons who have not approached UNHCR, but who fled persecution or generalized violence

Most deportees carry neither UNHCR refugee nor asylum-seeker cards, but may well have justified claims to refugee status based on their experiences in Iraq. Human Rights Watch interviewed an Assyrian Christian woman from Mosul whose husband was deported from Jordan on September 25, 2005. Jordanian police arrested him at a restaurant after a policeman apparently randomly asked him for his ID and found him to be without documents. His wife had his passport at home. She took the passport to UNHCR and told them her story of having fled Iraq (she had worked in a beauty salon, said something negative about the government one day during the Ba`thist era, and a customer reported her to the security forces, who falsely accused her of being a spy). She asked UNHCR to intervene on behalf of her husband. After the Jordanian police had detained her husband, she said that they requested his passport as part of the deportation process. She asked UNHCR to take the passport to the police station at al-Ashrafiya and to visit her husband there. She not only wanted UNHCR’s intervention on behalf of her husband, but was afraid to take the passport to the police herself since she was also a visa overstayer: “I was afraid I

⁸¹ Ibid.

would be deported too.” She met with UNHCR. “I told them our story,” she said. “He was still in the police department. I was crying.” She said that UNHCR would not visit her husband while he was detained pending deportation because he had not previously registered with them. “They told me to calm down. They wouldn’t take his passport. They were not interested to help.”⁸²

Four days after her husband’s deportation, UNHCR gave the woman an asylum-seeker card. “I need to go to the market to do the things my husband used to do. People make comments. They insinuate things.” She has spoken to her husband by phone. “He said that someone wrote on the church door ‘Death to Christians.’ My husband told me he is afraid to leave the house. He doesn’t work. He told me not to come back.”

Human Rights Watch contacted two Iraqis recently deported from Jordan to Iraq. Neither person had registered a refugee claim with UNHCR in Jordan, but one of the two, a young woman working as a translator in Baghdad’s Green Zone, said she fled to Jordan because she had received death threats.⁸³ She fled Iraq in September 2005 after an Iraqi National Guardsman at a checkpoint close to the Green Zone told her, “We know you are a translator for the Americans. We know who all the translators are.” She told Human Rights Watch that she asked for protection after Jordanian intelligence arrested her and began proceedings to deport her.

The intelligence officers arrested her at the airport in Amman on November 18, 2005 (within two weeks of the hotel bombings), when she went to pick up an American friend. She had just extended her visa the day before and was legally in Jordan. Intelligence officers interrogated her and five other Iraqis who had come to pick up people at the airport that day. They accused her of carrying a false passport and said she was also involved in “carrying out the explosions.” She was transferred to the women’s section of the Nadhala Prison in Juwaida. At the prison, guards denied her permission to make a phone call. She asked for a lawyer, but they denied her request. She then tried to make a refugee claim, telling her jailers that she had worked for U.S. companies and the U.S. military in Baghdad and had been

⁸² Human Rights Watch interview (B-31), Amman, May 3, 2006.

⁸³ Human Rights Watch telephone interview (C-25), Baghdad, November 30, 2005

threatened. “That is not our problem,” she was told. She was deported on November 27. Human Rights Watch spoke to her by telephone in Baghdad. She left soon thereafter for Egypt.⁸⁴

The second deportee, a young man, also gave good reasons for fleeing Iraq but said that Jordanian police did not provide him any opportunity to explain his circumstances or to seek protection.⁸⁵ Unknown assailants killed two of his nieces in Iraq for their alleged collaboration with the Americans.⁸⁶ He is engaged to an American citizen and had an appointment pending with the U.S. consular section in Amman at the time the police arrested him, on April 16, 2006. The young man said he had gone to the airport to drop off his uncle, who was flying to the United States, but police stopped and detained him at the checkpoint on the airport road. He spent three days in detention, during which time he made desperate calls to his family members asking for *wasta* (intervention by people with connections in government). At the time of his arrest he had overstayed his visa by about three months. He had been in Jordan for one year, renewing his visas by exiting and re-entering Jordan. The last time he went to renew his visa, however, the Jordanians at the Syrian border only gave him a three-day visa. He quickly became an overstayer.

In a telephone interview with Human Rights Watch from Mosul, Iraq, the young deportee said he begged the intelligence officers to let him pay the JD130 fine, but they refused. He recalled, “There was no questioning. They only said, ‘You will be deported.’ They did not ask me if I was afraid to return to Iraq.” He said that he had not known that there was such a thing as a UNHCR asylum-seeker card. Military guards took him by bus to the border with about 40 other persons. They let them off at the Karama-Trebil crossing, in the middle of nowhere. He had to find a taxi to Baghdad and from there make his way back to his home in Mosul. He said that he has no job and no money, and that he has lost his visa appointment with the U.S. consular section in Amman and does not know if he can submit a U.S. visa application in Baghdad.⁸⁷

⁸⁴ Ibid.

⁸⁵ Human Rights Watch interview (C-7), Amman, April 24, 2006.

⁸⁶ Human Rights Watch interview (C-3), Amman, April 24, 2006, said this as background regarding C-7.

⁸⁷ Human Rights Watch telephone interview (C-17), Mosul, May 16, 2006.

V. UNHCR and Temporary Protection

The Hashemite Kingdom of Jordan signed a Memorandum of Understanding with UNHCR in 1998 that allows the UN refugee agency to exercise its mandate to recognize refugees with the proviso that it must find places outside Jordan to resettle them within six months of recognizing them.⁸⁸ In practice, Jordan has tolerated the stay of many UNHCR-recognized refugees well beyond the six-month resettlement deadline.⁸⁹

In response to an anticipated refugee exodus from Iraq following the U.S.-led war, UNHCR in April 2003 declared a temporary protection regime on behalf of Iraqi refugees in Jordan, Syria, and Lebanon.⁹⁰ UNHCR concluded a Letter of Understanding with the Jordanian government that it cites as the legal basis for the TPR, but which the Jordanian government interprets differently.⁹¹ UNHCR's 2006 Country Operations Plan for Jordan states, "UNHCR continues to promote the TPR for all Iraqis, which were [sic] formally agreed upon with the Government of Jordan (GoJ) in a Letter of Understanding signed on April 15, 2003."⁹² Jordan, however, only recognizes the TPR as applying to al-Ruwaishid camp, a closed facility near the Iraqi border that currently holds fewer than 500 refugees, mostly Palestinians and Iranian Kurds.⁹³ Mukhaimar F. Abu Jamous, the secretary-general of the Ministry of Interior, told Human Rights Watch that UNHCR's April 2003 statement announcing the TPR was "a unilateral declaration that we did not recognize."⁹⁴ He said that the Letter of Understanding with UNHCR concerned temporary protection for refugees in the

⁸⁸ Memorandum of Understanding between the Government of Jordan and UNHCR, April 1998, Article 5 (on file with Human Rights Watch).

⁸⁹ Human Rights Watch interview with Eva Abu Halawah, executive director of MIZAN, Law Group for Human Rights, Amman, May 4, 2006. She said that some recognized refugees remain for seven to nine years without being resettled. See also UNHCR, Country Operations Plan, Jordan, Planning Year: 2006, Revision September 2005, part 2.

⁹⁰ Email from UNHCR to Human Rights Watch, July 30, 2006.

⁹¹ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

⁹² UNHCR, Country Operations Plan, Jordan, Planning Year: 2006, Revision September 2005, part 1.

⁹³ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

⁹⁴ *Ibid.*

border area camp, not a broader temporary protection regime.⁹⁵ Human Rights Watch has obtained a copy of the letter, which supports the Jordanian reading.

In addition to insisting that it never agreed to the TPR, Jordan has also communicated to UNHCR that whatever need may have existed for temporary protection has long since ended. As early as April 2005 the Jordanian government told UNHCR that it should not apply the TPR “long after the war in Iraq was over.”⁹⁶

UNHCR nevertheless continues to issue the asylum-seeker cards⁹⁷ and renew them every six months as though the TPR exists, although Jordanian officials do not recognize these documents for residency status purposes and the cards provide no benefits, such as work authorization or eligibility for public assistance. Their sole utility is in the event of arrest to enable the detained card bearer to ask for a visit from a UNHCR official to conduct a refugee status determination. Although the term asylum seeker indicates a pending refugee claim, UNHCR in practice suspended RSDs once it declared the TPR (except for card holders in detention).

UNHCR took no further action on Iraqi asylum claims after 2003, leaving the people who had been issued asylum-seeker cards in limbo over their future. It reasoned that refugee screenings would invariably result in some denials, and it did not want to act in a way that could result in Jordan deporting denied asylum seekers to an ever more violent Iraq. Suspending refugee screening meant, however, that Iraqis would not be recognized as refugees and thus UNHCR would be unable to refer them for third-country resettlement.

UNHCR also had a practical reason for suspending RSDs: its resources did not remotely match the requirements of an influx of hundreds of thousands of Iraqis into Jordan,⁹⁸ and there was no possibility of a durable solution for large numbers of

⁹⁵ The April 15, 2003 Letter of Understanding establishes “a Centre in the border area...[for] Iraqi and other nationals in need of temporary protection” (art. 2, paras. 2 and 3, letter on file with Human Rights Watch).

⁹⁶ Cited as an April 2005 communication from the Ministry of Interior to UNHCR in an internal UNHCR memorandum entitled “Iraqis in Jordan,” sent to Human Rights Watch in an email communication on February 7, 2006 (on file with Human Rights Watch).

⁹⁷ Except to Iraqis whose refugee claims UNHCR rejected prior to April 2003.

⁹⁸ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

recognized refugees. Two such solutions would have been resettlement outside the region, which is at the discretion of third-country governments, or local integration, which Jordan had categorically ruled out.⁹⁹ The United States, the largest refugee resettlement country at the time, had declared a moratorium on the resettlement of any Iraqi refugees following the September 11, 2001, attacks (which remained in effect until being officially lifted in April 2005).¹⁰⁰ In 2005, the United States admitted 12 Iraqi refugees referred by UNHCR-Amman and admitted another six persons on family reunification grounds without UNHCR involvement.¹⁰¹

In 2005 UNHCR facilitated the resettlement of 436 people out of Jordan, of which 158 were Iraqis and Palestinians from Iraq and 191 were Iranian Kurds. Only 212 of the refugees resettled in 2005 were from the urban caseload; the rest were from the Ruwaishid camp. Although a slightly larger number of refugees was resettled from Jordan in 2004 (591 individuals), the number of Iraqis was much smaller (68). The overwhelming bulk of refugees resettled from Jordan that year, 410, were Iranian Kurds.¹⁰² Australia, Canada, and New Zealand were the principal countries of resettlement in 2004 and 2005.¹⁰³ UNHCR has referred no Iraqi refugees for resettlement to the United Kingdom since the war began.¹⁰⁴ Virtually all the urban Iraqis referred for resettlement have been “old caseload” refugees from the Saddam Hussein era.

While the temporary protection regime has been in effect, UNHCR-Amman has conducted refugee status determinations only in the most exceptional cases, usually for detained registered asylum seekers who face deportation. Its recognition of Iraqi refugees fell from 2,429 persons in 2000 to 1,904 in 2001. From 632 refugee recognitions in 2002, the number dropped to 246 in 2003, the year UNHCR instituted

⁹⁹ Email from UNHCR-Amman to Human Rights Watch, February 6, 2006.

¹⁰⁰ Terry Rusch (director, Office of Admissions, Bureau of Population, Refugees, and Migration, U.S. Department of State), Program Announcement 2005-7: “USG Policy on Resettlement of Iraqi Refugees,” April 13, 2005 (on file with Human Rights Watch).

¹⁰¹ Email from UNHCR-Amman to Human Rights Watch, May 29, 2006.

¹⁰² Email from UNHCR-Amman to Human Rights Watch, July 27, 2006.

¹⁰³ Email from UNHCR-Amman to Human Rights Watch, May 29, 2006.

¹⁰⁴ *Ibid.* UNHCR said that one case (a family of six persons) left for the United Kingdom on family reunification grounds without the assistance of UNHCR. UNHCR also indicated that it would submit cases for resettlement to the United Kingdom later in 2006.

the TPR. UNHCR-Amman recognized 41 Iraqi refugees in 2004 and 22 in 2005.¹⁰⁵ The overwhelming majority of Iraqi refugees in Jordan remain unrecognized.

Registration for temporary protection—Asylum cards

Only a small fraction of Iraqis in Jordan—17,000—have registered with UNHCR as asylum seekers, and a miniscule number (712) are recognized refugees, most of which are cases from the Saddam Hussein era.¹⁰⁶ Although UNHCR-Amman is conducting some refugee status determinations on a selective basis, it only has four officers authorized to do so.¹⁰⁷ The office appears, therefore, to be operating as though this is a normal flow refugee situation and not a mass influx. However, even a doubling or tripling of officers authorized to conduct RSDs would not keep pace with the number of registered asylum seekers, let alone the hundreds of thousands in need of temporary protection. Also, the presupposition of the 1998 Memorandum of Understanding—that UNHCR would promptly find resettlement places for all recognized refugees outside Jordan—is not realistic because the number of refugees seeking resettlement (if resettlement were to be a viable option) would far outstrip the available places offered by countries outside the region.

UNHCR-Amman officials said that they have not detected a dramatic increase in recent registrations at their office. They also caution that some of the Iraqis newly registering with UNHCR are not new arrivals, but in some cases have been long-term residents of Jordan.¹⁰⁸ Applications to UNHCR for asylum are not necessarily an indicator of the size of the refugee flow. For example, more Iraqis now seem to be rejected at the border before entering Jordan. The UNHCR office in Amman is also not easily accessible or well known among Iraqis, and is located in a relatively remote residential area of Amman rather than in one of the busy centers of the city—even with detailed directions, Human Rights Watch had difficulty locating the office.¹⁰⁹ A number of Iraqis expressed distrust of UNHCR to Human Rights Watch, and

¹⁰⁵ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

¹⁰⁶ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

¹⁰⁷ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, May 4, 2006.

¹⁰⁸ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

¹⁰⁹ The author's wife observes that this proves nothing about the difficulty refugees would have in locating the office.

particularly expressed fear that UNHCR would not protect the confidentiality of matters discussed in RSD interviews. Social services case workers confirmed that many of their Iraqi clients feel this way.¹¹⁰ UNHCR-Amman told Human Rights Watch that its staff counsels refugees and asylum seekers on confidentiality matters and pays particular attention to ensuring confidentiality throughout the registration and RSD process.¹¹¹

Iraqis in Jordan also have little understanding (with good reason) of what rights or benefits a UNHCR asylum-seeker card confers. Human Rights Watch interviewed Iraqis who did not renew their asylum-seeker cards because they found they did not regard the cards as holding any sway with Jordanian authorities. A Shi`a barber from Sadr City, Baghdad, who said he fled Iraq in January 2004 when extremists threatened to kill him for shaving his customers' beards (which the extremists opposed on religious grounds), said:

After I overstayed my visa, I went to UNHCR and got the [asylum-seeker] paper from them. But when the police came to raid this area [Raghadan, Amman], they said to me that the UNHCR paper doesn't mean anything to them, that it is useless... [UNHCR] told me to come back in six months to renew [the asylum-seeker card]. But I didn't go back, as the document is useless.¹¹²

Despite the fact that asylum-seeker registration carries no social benefits and appears, at best, to provide barely minimal protection, the number of Iraqi asylum seekers UNHCR registered nevertheless rose from a total of 13,000 in September 2005 to 17,000 by April 2006.¹¹³ The office projects that it will register 20,000 by the end of 2006.¹¹⁴

¹¹⁰ Human Rights Watch interviews with International Catholic Migration Commission (ICMC) staff, Amman, April 26, 2006, and staff of Alliance Church, Amman, April 26, 2006.

¹¹¹ Email from UNHCR-Amman to Human Rights Watch, July 27, 2006.

¹¹² Human Rights Watch interview (P-12), Amman, April 25, 2006.

¹¹³ UNHCR, Country Operations Plan, Jordan, Planning Year: 2006, Revision September 2005, part 6.

¹¹⁴ Ibid.

Complementary Protection: Another Approach in the Absence of a TPR

In the relatively few cases UNHCR-Amman assesses Iraqi refugee claims, it exclusively applies the 1951 Refugee Convention's "well-founded fear of being persecuted" standard, which does not recognize refugees fleeing conditions of generalized violence. If Jordan detains more asylum-seeker card holders and UNHCR conducts more refugee status determinations, then UNHCR's exclusive use of the Refugee Convention standard raises the likelihood that it will reject more asylum seekers, and Jordan will deport them to Iraq. Restricting itself to a narrow Refugee Convention refugee definition limits the tools at UNHCR's disposal if the Jordanian government continues to decline to treat rejected asylum seekers with "flexibility."¹¹⁵

However, the UNHCR Executive Committee foresees that the Refugee Convention refugee definition should not be the sole basis for UNHCR operations where there are de facto refugees in need of protection. In particular, in October 2005 UNHCR's Ex Com issued a Conclusion (ExCom Conclusion 103) that encouraged "the use of complementary forms of protection for individuals in need of international protection who do not meet the refugee definition under the 1951 Convention or the 1967 Protocol," and that states granting complementary protection should ensure "the human rights and fundamental freedoms of such persons without discrimination."¹¹⁶

The UNHCR office in Amman told Human Rights Watch that it complies with ExCom Conclusion 103 when conducting RSDs because it recognizes as refugees persons who "fulfill the criteria for refugee status under the 1951 Convention...rather than being accorded a complementary form of protection."¹¹⁷ While ExCom Conclusion 103 does encourage an inclusive interpretation of the refugee definition in the Refugee Convention, the Conclusion also explicitly encourages the extension of protection to those needing it who do not fit the Convention definition.¹¹⁸ In this regard, UNHCR-Amman says that it is "encouraging the Government of Jordan to use and

¹¹⁵ This is a reference to the letter UNHCR sends to the Jordanian authorities, cited above (footnote 71), on behalf of rejected asylum seekers, in which it seeks "the cooperation of the Jordanian authorities...in continuing to extend flexibility in allowing even rejected asylum seekers to remain in Jordan." See "Asylum seeker" card holders under UNHCR's temporary protection regime, above.

¹¹⁶ Conclusion on the Provision of International Protection including through Complementary Forms of Protection, UNHCR Conclusion No. 103 (LVI), October 7, 2005.

¹¹⁷ *Ibid.* para. (b).

¹¹⁸ *Ibid.* para. (i).

apply...‘complementary forms of protection for individuals in need of international protection who do not meet the refugee definition under the 1951 Convention or the 1967 Protocol.’”¹¹⁹ This begs the question whether in those instances where UNHCR-Amman still conducts RSDs—and where the consequence of its rejection is that Jordan deports rejected asylum seekers to Iraq—it is willing to extend a complementary protection to Iraqis who do not meet the strict Refugee Convention definition but who have legitimate fears of generalized violence if returned.

ExCom Conclusion 103 also cautions that “temporary protection, without formally according refugee status, as a specific provisional response to situations of mass influx providing emergency protection from *refoulement*, should be clearly distinguished from other forms of international protection.”¹²⁰ This provision has relevance to Jordan’s situation. “Temporary protection” is internationally recognized as an expedient in response to mass influxes that overwhelm individual asylum systems. A temporary protection regime does not provide refugee or other status per se, but rather provides a mechanism for guaranteeing access to territory, protection, and assistance until such status can be determined. Complementary protection, on the other hand, like Refugee Convention refugee status itself, offers a formal, legal recognition of protection need to those fleeing violence and persecution but who would not be strict Refugee Convention refugees.

In this case the Jordanian government does not have an asylum procedure, so a bureaucracy does not exist to be overwhelmed by a mass influx. However, the terms of the 1998 Memorandum of Understanding authorized UNHCR to provide international protection to persons falling within its mandate in Jordan. The UNHCR office in Amman unquestionably has been overwhelmed by the mass influx and lacks the capacity to provide individualized status determinations. UNHCR clearly has a reasonable basis, therefore, to justify its operation of a temporary protection regime, and all efforts must be directed to enlist the support of the Jordanian government to recognize the TPR and to provide its own protection and assistance to Iraqis escaping the war.

¹¹⁹ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006. The internal citation is to paragraph (i) of UNHCR Conclusion No. 103 (LVI).

¹²⁰ UNHCR Conclusion 103, para. (l).

But if the Jordanian government continues to reject a temporary protection regime, UNHCR-Amman, under the terms of ExCom Conclusion 103,¹²¹ should not only be applying an inclusive definition of refugee, but should be ensuring that de facto refugees are provided with status so that they can be afforded complementary protection. UNHCR-Amman's reservations about conducting refugee status determinations out of concern that it might reject large numbers of asylum seekers who will then be subject to deportation could be addressed if it applied an inclusive Convention definition and extended refugee status to others in need of international protection so they could benefit from protection against deportation and potential resettlement.

Ideally, Jordan should accede to the Refugee Convention, establish its own asylum system, and provide protection to refugees based on both the Refugee Convention definition and to those fleeing war and generalized violence. That being unlikely for the foreseeable future, the Jordanian government could still take responsibility for Iraqi refugees based on its own, ad hoc temporary protection regime. The legal basis for doing so would be the Law on Residence and Foreigners' Affairs, which includes a provision that gives the minister of interior the discretion to waive normal immigration requirements "on account of special considerations connected with international or humanitarian courtesy or of the right to political asylum."¹²²

The law's recognition of the right to seek asylum and its allowance for international and humanitarian considerations provides wide latitude for the minister of interior to exercise discretion to protect Iraqis and other foreigners fleeing war and persecution. This statutory provision provides clear authority in domestic law to embark on a temporary protection regime, even in the absence of a refugee law.

¹²¹ Ibid.

¹²² Residence and Foreigners' Affairs Law, art. 29(h).

VI. Surviving in Jordan

Because of Jordan's "silent treatment," most Iraqis in Jordan live a life at the margin of society, without proper legal status, unable to work legally, and unable to access subsidized social services such as education, health care, and housing. Jordan argues it does not have the resources or the obligation to provide subsidized social services and work opportunities to Iraqi refugees. However, the Jordanian authorities' refusal to formally recognize the extent of the Iraqi refugee flow into Jordan and to ask the international community for assistance with the burden also ensures that international resources are not made available to Jordan.

Visas and Residence Permits

Iraqis only need a valid passport to enter Jordan.¹²³ Immigration officials at ports of entry have discretion to decide the duration of stay based on the purpose of the visit.¹²⁴ They have normally issued one-month visas to Iraqis at the border (although, as shown in this report, currently they frequently deny Iraqis such visas and turn them back at the border). Inside Jordan, the Department of Residency in the Ministry of Interior may extend visas for three months, upon request.¹²⁵ Iraqis can also renew their one- or three-month visas by briefly leaving and re-entering Jordan—most commonly across the Syrian border, but also to Iraq. Saudi Arabia and Israel, Jordan's other neighboring countries, require Iraqis to obtain pre-approved visas at their consulates or embassies, and rarely issue them.

After the hotel bombings, visa practices changed, and Jordanian border officials began issuing Iraqis only two- or three-day visas at the Syrian border, and rejecting more Iraqis at the Iraqi border.¹²⁶ The visa-renewal route of crossing into Syria and back, while not entirely closed, made most Iraqis almost immediate overstayers shortly after re-entering Jordan. An Iraqi woman with a UNHCR asylum-seeker card

¹²³ Website of the Jordanian Ministry of Foreign Affairs. Available at: http://www.mfa.gov.jo/pages.php?menu_id=85 (accessed July 31, 2006).

¹²⁴ Email from IOM-Amman to Human Rights Watch, July 15, 2006.

¹²⁵ Email from UNHCR-Amman to Human Rights Watch, February 6, 2006.

¹²⁶ Jackie Spinner, "Iraqis Find Travel to Jordan Increasingly Frustrating," *Washington Post*, January 17, 2006.

explained why she is now residing illegally in Jordan: “I used to go every three months to the Syrian border to renew my visa. It cost 20 JD to go. In October 2005, I stopped going after they only gave me a 48-hour visa. I asked why, but they refused to explain.”¹²⁷

Less frequently, the Jordanian Ministry of Interior issues one-year residence permits upon the recommendation of the Director of Public Security, which it may, then, renew annually.¹²⁸ There are various ways to qualify for residence permits. One way is to establish proof of a secure and legal source of income. An Iraqi from Baghdad told Human Rights Watch that an applicant must deposit the equivalent of US\$75,000 in a Jordanian bank account, which remains frozen, and a further US\$75,000 in a current account.¹²⁹ Another way to obtain residence permits is through work permits based on an employment contract certified by the Ministry of Labor (as not being in competition with the Jordanian labor market). Jobs open to non-Jordanians officially include scientific or vocational skills for which Jordan has no equivalent, but which, in practice, also include unskilled jobs that no Jordanians are willing to take. One-year residence permits are also available for students admitted to educational institutions or disabled persons or minor children whose only provider legally resides in Jordan.¹³⁰

Despite this new policy of shortening the validity of visas for Iraqis that forces them almost immediately into illegality, Jordan has not enforced immigration laws against overstayers in a consistent manner. Yet, none of the Iraqis Human Rights Watch interviewed complained of police irregularities, and many Iraqis even praised the police as treating them humanely and without discrimination even though they are working and residing illegally.

Nonetheless, living illegally is taking a heavy toll on Iraqis living in Jordan. Many de facto refugees interviewed by Human Rights Watch are traumatized by their

¹²⁷ Human Rights Watch interview (P-13) Amman, April 26, 2006.

¹²⁸ Email from IOM-Amman to Human Rights Watch, July 15, 2006. Foreigners living legally in Jordan for ten years may receive five-year renewable residency permits.

¹²⁹ Human Rights Watch interview (C-35), Amman, April 23, 2006.

¹³⁰ Residence and Foreigners' Affairs Law, art. 26.

experiences, sometimes weeping as they retold their ordeals. Their suffering in Iraq often formed only one part of their traumatic experience. Many de facto refugees told of the added burden of being forced to live illegally and in poverty in Jordan. A disabled, elderly woman said:

I live illegally. I owe 750 JD to the government [in fines for overstaying my visa]. It makes me sick inside myself. Thank God for Jordan. They opened their door for Iraqis. But this is not my country. I miss Baghdad. I love Iraq. I'm in a big jail. We all want to live legally. We want temporary residency. We will go back to Iraq. We were middle class people, but now we are poor. There are thousands poor like me. We can't pay the thousands to renew our residency.¹³¹

Employment/Unemployment

Amongst the Iraqi population are those who have the financial means to leave Iraq and escape the life-threatening insecurity. Indeed, many Jordanians view Iraqis in Jordan as rich people who drive expensive cars and live in luxurious West Amman apartments, driving up housing prices for everyone else. Economic analysts have attributed a boom in the Jordanian economy to the influx of Iraqi capital since the beginning of the war. Iraqi investments have helped spur economic growth in Jordan for the first half of 2006 to nearly 8 percent, double the growth rate prior to the war.¹³² *The Jordan Times* reported estimates in March 2005 that the arrival of 50,000 Iraqi families had pumped \$2 billion into the Jordanian economy, which “clearly contributed to accelerating the cycle of the economy.”¹³³ While there are certainly conspicuously wealthy Iraqis who have invested heavily in the Jordanian economy, most Iraqis live in the margins eking out a living, but with neither employment authorization nor savings.¹³⁴

¹³¹ Human Rights Watch interview (B-3), Amman, April 27, 2006.

¹³² Jay Solomon, “Bombings in Jordan Stress War’s Impact—Influx of Iraqis and Wealth Bring Growth and Tension,” *The Wall Street Journal Asia*, November 11, 2005.

¹³³ “Iraqis Pump \$2 Billion into the Jordanian Banks,” *Jordan Times*, March 14, 2005.

¹³⁴ Ingrid McDonald, “The War Next Door,” *American Scholar*, April 1, 2006. Also, Human Rights Watch interview (C-3), Amman, April 24, 2006.

An NGO social service provider with the International Catholic Migration Commission (ICMC), an agency funded specifically to identify and serve “extremely vulnerable individuals” among Iraqis living in Jordan, observed, “In the first year of our program, 2003, Iraqis came here with far greater resources. Many only approached us if they were in need of expensive medical operations. Last year, however, we started seeing people arriving from the border with almost nothing.”¹³⁵ A handful of nongovernmental charitable organizations and churches assist the most needy and vulnerable among the Iraqis living in the country. The Jordanian government does not provide assistance to refugees and asylum seekers, and they are not eligible for the social services available to Jordanian citizens.¹³⁶

Jordan’s official unemployment rate is 15.5 percent, according to the Jordanian Ministry of Labor’s 2005 annual report, a 2 percent increase over 2004.¹³⁷ Although Iraqis are popularly perceived as taking jobs away from Jordanians, the Ministry of Labor’s report on unemployment for 2005, summarized in the *Jordan Times*, “criticize[d] Jordanians for refusing to take up jobs performed by foreign workers.”¹³⁸ The Ministry cited the refusal of Jordanians to take menial jobs because of “low pay and a culture of shame, which is widespread among citizens.”¹³⁹ Those are the jobs over-qualified Iraqis are now often filling.

Foreigners must lodge an application with the Ministry of Labor to apply for work authorization. This procedure is separate from applying for residency permits. The Ministry maintains a list of jobs open to foreigners. If a foreigner finds an employer and presents a contract, the Ministry will issue him or her a work permit. The Ministry of Labor issued 26,000 work permits to foreign workers in 2005.¹⁴⁰ Most, 31.4 percent, were employed in the service sector, 27.2 percent in agriculture, 25.5 percent in industry, and 15.9 percent in construction.¹⁴¹ There are also tens of

¹³⁵ Human Rights Watch interview with Susan Paklar, ICMC, Amman, April 26, 2006.

¹³⁶ Email from UNHCR to Human Rights Watch, February 7, 2006.

¹³⁷ “Jobless Total Rises to 15.5 Percent,” *Jordan Times*, May 19-20, 2006.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

thousands of Syrians and Egyptians working in Jordan’s agricultural and construction sectors. The Ministry of Interior told Human Rights Watch that, once a foreigner has an offer for a qualifying job, it will issue him or her a one-year, renewable, residence permit. “It is not a big deal,” an MOI official told Human Rights Watch.¹⁴²

It was, however, among the “biggest deals” for Iraqis in Jordan whom Human Rights Watch interviewed. Not having a work permit leaves all those who need to work vulnerable to exploitation by unscrupulous employers. Some Iraqis without residence or work permits were unwilling or too afraid to work illegally, instead depending on their dwindling savings and money relatives living abroad sent to support them. Although some interviewees said that employers did not exploit them for working illegally, others said they were being forced to work at positions for which they were over-qualified or underpaid. Some single women, particularly members of religious minorities, said that they encounter difficulties in the work place, including underpayment and sexual harassment. An unmarried Christian woman from Basra said:

Most of the places I work, because I am Iraqi and don’t have work permission, they wait until the end of the month, and then they fire me without pay. This happened to me four times.... Now I started working for a doctor for 70 JD a month, a very small salary.... I have to cover my head and he said I should convert to Islam, because he is religious. He insults me, saying I am ugly. I work from 9 AM to 9 PM, sometimes more. Another Jordanian girl works there also. She only works short hours and gets 200 JD. I asked the doctor why he pays me less, and he said he likes her more and she is Jordanian.¹⁴³

Some Iraqi men also face discrimination. A Shi`a woman from Najaf said:

My husband has a college degree in agriculture, but he worked in construction illegally. He did day labor. It was very difficult because

¹⁴² Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

¹⁴³ Human Rights Watch interview (P-13), Amman, April 26, 2006.

the income was irregular. Oftentimes, after the work was finished, they just told him to go and [did] not pay him, since he can't go to the police.¹⁴⁴

Jordanian authorities have since deported him after detaining him for working without a permit.

An Iraqi neurologist from Tal `Afar, who escaped to Jordan in July 2005 after his name was put on a death list, initially received only a three-day visa. He found various clinic jobs and managed to upgrade his visa to one month, then two months, and finally obtained a one-year residence permit. He now works at the Karak public hospital where he works as a specialist, but at the salary of a junior doctor. "Jordan is a quiet country, and things are easy for us," he told Human Rights Watch, "but they exploit us. If I could, I would return back to Iraq because I have 14 years seniority there as a doctor. But every day, my colleagues call me to say it is not safe to return to Tal `Afar."¹⁴⁵ Two young Iraqi doctors told Human Rights Watch that newly qualified Iraqi doctors have even greater obstacles to employment in Jordan; they said that Jordanian hospitals require them to pay for internships, during which time they receive no salary.¹⁴⁶

A Shi`a artist and interior designer from Baghdad's al-Yarmuk neighborhood, who has refugee status with UNHCR but no residency permit in Jordan, and who has been waiting for years to be resettled abroad, said:

I work individually, not for a firm. I get exploited because if I were a Jordanian I could charge much more for my work. As a refugee, I often do not get paid or just receive a token amount. I don't care so much about the money. I just want to be resettled elsewhere because my situation here is bad. I am not in charge of my own life.¹⁴⁷

¹⁴⁴ Human Rights Watch interview (P-14), Amman, April 27, 2006.

¹⁴⁵ Human Rights Watch interview (P-6), Karak, April 23, 2006.

¹⁴⁶ Human Rights Watch interviews (P-33), Amman, April 22, 2006.

¹⁴⁷ Human Rights Watch interview (P-15), Amman, April 27, 2006.

While many complain of being underpaid, others, especially those without permission to work, have difficulty finding jobs at all or are too afraid to work illegally. A Mandaean artisan from Baghdad who had been severely persecuted before fleeing the country told Human Rights Watch, “I’m not working here in Jordan. I am not doing anything. We have some offers for work, but I am afraid of the police. The work is illegal; I am afraid they will catch me, and then I will be forced to return to Iraq.”¹⁴⁸ A mechanical engineer who fled Iraq after being accused of collaborating with the Americans said:

I don’t have a job in Jordan. I have tried to find a job, but it is always, “Iraqi? No Job!” Of course, I need a work permit to work legally in Jordan, but they don’t give work permits, especially in my field of mechanical engineering. There are Iraqis who work illegally, but in simple jobs, such as painting and construction. I know one Iraqi who worked here for 14 years in illegal jobs. If the police catch you, they deport you. I know people this has happened to. They get a permanent rejection in their passport. I know people whom this happened to, even if they had a UNHCR card.¹⁴⁹

Those who work illegally live in constant fear of discovery and deportation. The barber from Sadr City, Baghdad, cited above, said, “Our greatest problem is that we are not allowed to work. How can I live without work? I work [illegally] in this barber shop. The police raids make me afraid, because the UNHCR paper doesn’t protect me.”¹⁵⁰

While Jordan as a sovereign state has a right to regulate employment laws and access to employment, for example by a system of work visas, Jordan’s human rights obligations require that no one arbitrarily be excluded from the right to earn a living and in particular that long-term residents of Jordan enjoy the right to earn a living.

¹⁴⁸ Human Rights Watch interview (P-16), Amman, April 27, 2006.

¹⁴⁹ Human Rights Watch interview (P-3), Amman, April 22, 2006.

¹⁵⁰ Human Rights Watch interview (P-12), Amman, April 25, 2006.

Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Jordan has ratified without reservations, recognizes the right to work, “which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”¹⁵¹ Article 7 guarantees equal pay for equal work– “fair wages and equal remuneration for work of equal value without distinction of any kind.”¹⁵² These rights are guaranteed to “everyone” without regard to citizenship or residence status.

Article 2.2 of the ICESCR states that parties to the Covenant must guarantee that rights holders can exercise their rights “without discrimination of any kind as to race, color, sex, language, religion, policy or other opinion, national or social origin, property, birth or other status.”¹⁵³

Jordan is also a party to the Convention on Elimination of All Forms of Racial Discrimination (CERD).¹⁵⁴ In 2004, the CERD Committee, responsible for overseeing states’ implementation of their treaty obligations to eliminate all forms of racial discrimination, issued a recommendation relating to discrimination against non-citizens. The Committee acknowledged states’ scope to differentiate between citizens and non-citizens, for example in the right to participate in and stand for elections, but said that human rights are, in principle, to be enjoyed by all persons. States parties are obliged to guarantee equality between citizens and non-citizens in the enjoyment of civil, political, economic, and social rights to the extent recognized under international law.¹⁵⁵ States were specifically called on to remove obstacles that prevent the enjoyment of economic, social, and cultural rights by non-citizens, notably in the areas of education, housing, employment, and health¹⁵⁶ and to take

¹⁵¹ 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, ratified by Jordan on May 28, 1975, art. 6.

¹⁵² *Ibid.* art. 7.

¹⁵³ *Ibid.* art. 2.2.

¹⁵⁴ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, acceded to by Jordan on May 30, 1974.

¹⁵⁵ Committee on the Elimination of Racial Discrimination (CERD), General Recommendation No. 30, Discrimination Against Non-Citizens, October 1, 2004, para.3. Available at www.ohchr.org/english/bodies/cerd/comments.htm (accessed October 17, 2006).

¹⁵⁶ *Ibid.* para. 29.

measures to eliminate discrimination against non-citizens in relation to working conditions and requirements.¹⁵⁷

Education

Although the Jordanian government does not bar Iraqi children without residency permits from going to school outright, its deliberate policy of misstatements and mixed signals has left Iraqis without residency permits confused and apprehensive about their children's rights. This has deterred them from enrolling their children in school.

In interviews with Human Rights Watch, Iraqi nationals in Jordan consistently identified lack of access to education as a major problem facing their children. One woman described the low level of school attendance among Iraqi children in her apartment building as follows: "The building where I live is full of Iraqi people and all their children are staying home. Nobody goes to school."¹⁵⁸

The Assyrian woman who testified, above, about the arrest of her son and the family's deportation to Syria, said that in 11 years in Jordan her older children had never gone to school. "The government school would not accept them because we did not have residency permits," she said. "The youngest one went to the 'service' in the informal school [see below]. The older girls cannot write or read; they didn't go to school at all. My son went to primary school in Iraq, but never went to school here."¹⁵⁹

The Ministry of Interior announced in August 2005 that it would prohibit Iraqi children without permanent residence permits from enrolling in public or private school for the 2005-06 school year.¹⁶⁰ The announcement caused widespread anxiety among the Iraqi community illegally residing in Jordan. That announcement applied to Arabs without permanent residence, but then carved out exceptions for

¹⁵⁷ Ibid. para. 33.

¹⁵⁸ Human Rights Watch interview (C-38), Amman, April 20, 2006.

¹⁵⁹ Human Rights Watch interview (B-6), Amman, April 27, 2006.

¹⁶⁰ Letter from UNICEF, UNHCR and UNESCO representatives in Jordan to the Minister of Interior, June 19, 2005 (on file with Human Rights Watch).

Gazans, Syrians, Egyptians, and Yemenis. In effect, that decision seemed intended to keep only Iraqis out of Jordanian schools. Under pressure from national and international children's rights groups, the government rescinded its decision shortly after announcing it.¹⁶¹ By that time, however, the damage had been done and many Iraqi parents kept their children out of school. One observer commented, "The laws governing the right of nonresidents to attend public schools have been swinging back and forth like a pendulum."¹⁶²

Prior to the 2006-07 school year, the Jordanian government again sent mixed messages regarding the right of Iraqi children to attend public or private schools. Initially, the Ministry of Education announced that it would not allow foreign children to attend public schools and that it would allow only those who possess residence permits to attend private schools, with flexibility for exceptional cases.¹⁶³ On April 20, 2006, however, the Ministry said that it would soon reverse its decision and allow Arab children with residence permits to attend public school.¹⁶⁴ Subsequently, UNICEF-Amman informed Human Rights Watch:

The Jordanian government has issued guidelines not to allow any foreigner who doesn't have a residency permit to enroll in public schools. Furthermore, starting next scholastic year, foreigners who have valid residency permits will be charged fees for enrolling in public schools.¹⁶⁵

In a meeting with Human Rights Watch, Ministry of Interior officials were unable or unwilling to specify the government's policy for the 2006-07 school year.¹⁶⁶ The officials intimated that the government would be flexible in handling applications by

¹⁶¹ Ibid. See also Human Rights Watch interview with Eva Abu Halawah, executive director of MIZAN, Law Group for Human Rights, Amman, May 4, 2006, and email from UNICEF-Amman to Human Rights Watch, July 17, 2006.

¹⁶² Ingrid McDonald, "The War Next Door," *American Scholar*, Vol. 72, No. 2, April 1, 2006.

¹⁶³ Mohammad Ghazal, "New Regulations Restrict Access to Public Schools," *Jordan Times*, March 22, 2006.

¹⁶⁴ Mohammad Ghazal, "Ministry to Revoke Ban of Foreign Student Enrolment," *Jordan Times*, April 20, 2006.

¹⁶⁵ Email from UNICEF-Amman to Human Rights Watch, July 17, 2006. UNICEF-Amman said that some school principals unofficially allow Iraqi children to attend their public schools.

¹⁶⁶ Various sources interviewed in Amman informed Human Rights Watch that the Ministry of Interior rather than the Ministry of Education sets the policy regarding foreign children in Jordanian schools.

families without residency permits for permission to attend school in exceptional cases, explaining that individual Iraqi families could approach the MOI for an exemption if schools excluded their children. At the same time, the officials said that the 60,000 Iraqi students who attended public schools last year were a cause for severe overcrowding—50 students in a classroom—and an unacceptable strain on resources.¹⁶⁷ The number of Iraqi students cited by the Ministry of Interior probably refers predominantly to Iraqis who do have residency permits. There are no available estimates for the number of Iraqi children without residency permits who may not be attending school at all.

At the time of the Human Rights Watch visit, parents, school administrators, government, NGO, and UN officials gave conflicting views about what they thought the government’s education policy would be for the 2006-07 academic year. Even the views of experts regarding the government’s policy on foreign children in school appeared to reflect what they had read or heard in local media reports. Many speculated that the Jordanian government would not allow Iraqi children without permanent residence permits to attend government schools and that they would also put private schools under increased scrutiny. One Iraqi woman, a mother of three children, told Human Rights Watch that she received a notice from the Ministry of Education saying that she will not be able to enroll her children in private school during the 2006-07 school year, and she also received a phone call from the director of her children’s school, confirming that it will not enroll her children.¹⁶⁸

A few days before the 2006-07 school year began, the Jordanian press reported on a conversation between Jordan’s prime minister, Marouf Bakhit, and a visiting Iraqi dignitary, in which the prime minister said that Jordan was taking measures to facilitate residency permit procedures for Iraqis.¹⁶⁹ This, he suggested, would enable their children to attend school. But the prime minister’s remarks were too late, too vague, and too poorly publicized to inform Iraqi parents about the steps they might take to allow their children to go to school.

¹⁶⁷ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

¹⁶⁸ Human Rights Watch interview (C-35), Amman, April 23, 2006.

¹⁶⁹ “Gov’t Takes Measures to Facilitate Entrance of Iraqi Children into Schools—Bakhit,” *Jordan Times*, August 18-19, 2006.

The ambiguity of the government's position with regard to education for Iraqi children has created great uncertainty and anxiety among Iraqi nationals living in Jordan. School administrators and teachers of a private school for Iraqis—which calls itself a “service” and not a “school” because the government does not recognize it as such—struggled to explain the government's policy. “Six or eight months ago, the government said that Iraqis would not be allowed to go to public school without a resident permit,” said the school administrator. “Then they said Iraqis could stay in school just this year, but that next year no foreigners would be allowed in any schools, public or private. Then, they switched the policy a week before the school year started. The parents were angry. Then last month, they made a big announcement that no one without permanent residency will be able to attend public or private school.” He commented, “Sometimes they change their mind. I think they want to make life harder here.”¹⁷⁰ The small school, which functions in a converted storefront, teaches 350 children who study in two different shifts. The school's teachers are mostly volunteer Iraqi parents. It is not authorized to offer its graduates a certificate or a diploma recognized in Jordan, despite following the Jordanian curriculum.

The school administrator explained why Iraqi children would go to his badly under-resourced school that cannot provide a degree despite still having the option of attending public schools. He said that the Iraqi children feel safe in his school, particularly Christian and Mandaean children. He said that Iraqis prefer to send their children to private schools, but those who cannot afford to pay tuition come to his school, which is free. He also suggested that many Iraqis do not know that they can send their children to public school because of confusing government policy.¹⁷¹

The Shi`a parent of a child in a private school told Human Rights Watch, “One day, the principal threw the Iraqi children out of the public school. My daughter refused to go back because she felt too humiliated, so we were forced to pay for a private school. Caritas pays half the fee. School is a psychological benefit for the children. It is the only place they can breathe fresh air. Psychologically, they can't wait for the next day to go to school. On vacation days, I see them getting more anxious.” He

¹⁷⁰ Human Rights Watch interview (B-2), Amman, April 26, 2006.

¹⁷¹ Ibid.

said that the government’s announcement that children would not be allowed to go to school next year has had a devastating impact on his daughter. “She wanted to be a scientist, a doctor, but now they have cut her wings.”¹⁷² Another Shi`a parent explained that Jordanian schoolmates regularly teased her children. “My children also suffer because other children say they are Shi`a, hence unbelievers (*kafiri*), and that ‘You cooperate with America, so you deserve what you are facing.’”¹⁷³

Article 22 of the Convention on the Rights of the Child (CRC), which Jordan ratified on May 24, 1991, provides that states parties “take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee...shall...receive appropriate protection and humanitarian assistance in the enjoyment of the applicable rights set forth in the present Convention.”¹⁷⁴ Among the rights enumerated in the CRC is the right of a child to education, including compulsory primary education “available free to all.”¹⁷⁵ As a party to CERD, Jordan must also “ensure that public educational institutions are open to non-citizens and children of undocumented immigrants” in Jordan.¹⁷⁶ Jordan is obliged by its international commitments to ensure all Iraqi children have access to free primary education in Jordan, regardless of their status.

Health Care

Many Jordanian citizens, including government employees and military veterans, are enrolled in a national health insurance program not open to foreigners, who must

¹⁷² Human Rights Watch interview (B-7), Amman, April 27, 2006.

¹⁷³ Human Rights Watch interview (P-14), Amman, April 27, 2006.

¹⁷⁴ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 22.

¹⁷⁵ Ibid. art. 28 (See also, Committee on Economic, Social and Cultural Rights, General Comment on Education, No. 13: The Right to Education, U.N. Doc. E/C.12/1999/10, December 8, 1999. Para. 34 states “The Committee takes note of article 2 of the Convention on the Rights of the Child and article 3 (e) of the UNESCO Convention against Discrimination in Education and confirms that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.” Para. 6 lays out accessibility, availability, and acceptability as the three “interrelated and essential features” of all forms and levels of education, and in defining the characteristics of availability states that “education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds.”).

¹⁷⁶ CERD, General Recommendation No. 30, para. 30.

rely on private insurance to cover healthcare costs.¹⁷⁷ Such insurance is expensive and frequently excludes costly treatments and surgical procedures. Royal decrees often help Jordanian citizens faced with catastrophic health problems requiring expensive care, but such decrees are rarely available for foreigners.¹⁷⁸

The high cost of health insurance means that Iraqis operate on a pay-as-you-go basis for most health care. “If I get sick, I have to go to the private clinic,” said an Iraqi Shi`a man in Karak. “I have had to go many times. If I go to the public clinic, I also have to pay, because I don’t have any insurance.”¹⁷⁹

Jordan’s public healthcare system is state-subsidized, including government hospitals and clinics and regulated health-related fees and prices, which benefits everyone without insurance—citizen or foreigner—equally. But the subsidized governmental healthcare system is overburdened and provides only basic care. Because they lack insurance, many Iraqis are not able to cover even the state-regulated fees. An Iraqi woman told Human Rights Watch, “I can’t afford the expenses of medical care, so I just let nature take its course. Several times, I had low blood pressure problems. My neighbors sent me to the hospital because I was very sick, but I couldn’t pay for hospitalization, so I checked myself out.”¹⁸⁰ A few private, church-based health clinics cater to Iraqi nationals. The pastor running one such clinic told Human Rights Watch, “We get very little financial support from the local community, and the government does nothing at all.”¹⁸¹ His clinic is primarily funded by donations from abroad. An International Catholic Migration Committee (ICMC) service provider said, “Medical costs are the biggest problem we face. Health care is extremely expensive here.”¹⁸²

¹⁷⁷ Human Rights Watch interview with Lina Quora, executive director of Sisterhood is Global Institute/Jordan (SIGI), Amman, April 24, 2006.

¹⁷⁸ Ibid.

¹⁷⁹ Human Rights Watch interview (P-5), Karak, April 23, 2006.

¹⁸⁰ Human Rights Watch interview (P-13), Amman, April 25, 2006.

¹⁸¹ Human Rights Watch interview with Rev. Yousef Hashweh, Christian & Missionary Alliance, Amman, April 26, 2006.

¹⁸² Human Rights Watch interview with Susan Paklar, ICMC, Amman, April 26, 2006.

A former contractor for U.S. forces in Iraq who had to flee with his family after insurgent groups threatened him explained to Human Rights Watch that the health costs his family faces in Jordan are his biggest expense. When his wife had to give birth, they had to provide the hospital with a US\$500 deposit before it admitted her, and ultimately had to pay US\$1,000 for the birth. “They asked us for our insurance card, and we said we didn’t have one, and they said we had to pay cash.” Two months later, an urgent operation on the newborn cost another US\$1,000. With no insurance, no job, and hence no income in Jordan, such costs quickly became unaffordable.¹⁸³

Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) calls on all states parties to achieve the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.¹⁸⁴ The UN general comments on the implementation of Article 12 say that access to health facilities and the payment for health goods and services must be “based on the principle of equity” and available “without discrimination on any of the prohibited grounds,” noting that this applies “especially to the most vulnerable or marginalized sections of the population, in law and in fact.”¹⁸⁵ Parties to CERD must also respect the right of non-citizens to an adequate standard of physical and mental health.¹⁸⁶ Jordan is a party to both ICESCR and CERD.

Article 24 of the Convention on the Rights of the Child (CRC), to which Jordan is also a party, recognizes the right of all children to access health care services. Article 39 calls for appropriate measures to promote physical and psychological recovery and social integration for child victims of armed conflicts and torture and other forms of cruel, inhuman or degrading treatment or punishment.¹⁸⁷

¹⁸³ Human Rights Watch interview (P-3), Amman, April 22, 2006.

¹⁸⁴ ICESCR, art. 12.

¹⁸⁵ Committee on Economic, Social, and Cultural Rights, “General Comment No. 14: The Right to the Highest Attainable Standard of Health,” E/C.12/2000/4, August 11, 2000, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358boe2c1256915005090be?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358boe2c1256915005090be?Opendocument) (accessed October 18, 2006), para. 12.

¹⁸⁶ CERD, General Recommendation No. 30, para. 36.

¹⁸⁷ CRC, art. 24.

Human Rights Watch does not suggest that Jordan is not in compliance with ICESCR, CERD or the CRC with respect to health care for Iraqi nationals living in Jordan, but notes that these instruments refer to progressive realization of health needs. We encourage the Jordanian authorities to support and facilitate the activities of private charities that provide supplementary health care for Iraqis in Jordan and to use royal decrees to help Iraqi nationals faced with severe health problems.

Housing

There is no evidence of homelessness among Iraqis in Jordan despite their large-scale and concentrated influx and the fact that many are struggling to make ends meet because they are not allowed to work. Iraqis in Jordan are urban refugees and do not live in collective centers or refugee camps.

Iraq's middle class—people engaged in commerce, professionals, and others who had sufficient resources to leave the country—form the bulk of Iraqis in Jordan.¹⁸⁸ An NGO service provider working with a client population of extremely vulnerable individuals said, “Iraqis are moving to worse and worse housing. They will move from house to house, but they would not live in a collective center or become homeless. There is tremendous solidarity, even among Jordanian neighbors, and everyone finds something.”¹⁸⁹

Better-off Iraqis find apartments to rent or buy.¹⁹⁰ Jordanians complain that housing prices in Amman have skyrocketed because of the influx of Iraqis, some of whom are able to pay the higher housing prices.¹⁹¹ But many Iraqis are struggling to meet the high rent payments. A nearly blind Iraqi woman living on her own in Amman who has overstayed her residence permit and does not have the right to work said, “They make the rent prices higher and higher for Iraqis. They use us to make the prices higher than they deserve.”¹⁹² A watchmaker from the Adamiya neighborhood of

¹⁸⁸ Sabrina Tavernise, “As Death Stalks Iraq, Middle Class Exodus Begins,” *New York Times*, May 19, 2006.

¹⁸⁹ Human Rights Watch interview with Susan Paklar, ICMC, Amman, April 26, 2006.

¹⁹⁰ Human Rights Watch interview with Lina Quora, SIGI, Amman, April 25, 2006.

¹⁹¹ Human Rights interview with a European diplomat, Amman, May 3, 2006, confirmed inflation in housing prices and rent.

¹⁹² Human Rights Watch interview (B-3), Amman, April 27, 2006.

Baghdad, now living in Amman, said, “I’m living in an apartment that costs 140 JD per month. It is more than a Jordanian would pay, of course. My Jordanian friends say the price should be 70 JD per month.”¹⁹³

The government’s *laissez-faire* attitude with regard to housing, education, health, and even employment is particularly difficult for the disabled and other vulnerable groups. But some Iraqis living illegally in Jordan manage pretty well under these circumstances, and credit Jordanian officials for looking the other way. The Shi`a man from Missan Governorate (quoted above) whose wife and children are in Iraq and cannot join him, and who has been living illegally in Jordan since 1998 and could be deported at any time, praised both the police and the Jordanians he deals with on a daily basis:

I work for some shop. The owner pays me the same salary as a Jordanian. I have a private apartment, and I pay the same rent as a Jordanian. The police know who I am, but probably the higher authorities tell them not to interfere. Sometimes they regard us as guests and deal with us in a humanitarian way.¹⁹⁴

¹⁹³ Human Rights Watch interview (P-3), Amman, April 22, 2006.

¹⁹⁴ Human Rights Watch interview (P-5), Karak, April 23, 2006.

VII. Vulnerable Groups

Jordan's "silent treatment" of Iraqi refugees is based, in part, on a denial that Iraqis residing in Jordan are, in fact, refugees. A Jordanian official encapsulated the government's stance when he told Human Rights Watch that Jordan was not facing a refugee problem at all, but rather one of "illegal immigration, no different from what the United States faces with Mexicans."¹⁹⁵ The government's communication to UNHCR in April 2005 that UNHCR should apply its temporary protection regime to Iraqis "long after the war in Iraq was over," further reveals the government's conscious attempt to ignore the causes of refugee flight as a way of avoiding responsibility to provide protection or assistance to the victims of war and persecution. The fact that UNHCR accords its recognition to only 712 out of at least 500,000 Iraqis living in Jordan provides little counterweight to the government's assertions that the large population of Iraqis on its soil are not refugees.¹⁹⁶

The purpose of this paper—at the most basic level—is to show that many, if not the overwhelming majority, of the more than a half million Iraqis living in Jordan, are refugees, despite the fact neither the government nor UNHCR has formally recognized them as such, and that they need to be protected.

De facto refugees flee Iraq for a variety of reasons, first and foremost, to escape generalized violence and insecurity. But many groups are targeted for particular reasons, including ethnic cleansing. De facto Iraqi refugees in Jordan come from all walks of life and diverse religious and ethnic backgrounds. In this respect, they represent and reflect patterns of persecution and violence within Iraq.¹⁹⁷ They include people who fled during the Saddam Hussein era and who still fear return, as well as people who newly arrive at the border.

¹⁹⁵ Human Rights Watch interview with Mukhaimar F. Abu Jamous, Secretary-General, Ministry of Interior, and staff, Amman, May 4, 2006.

¹⁹⁶ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

¹⁹⁷ See Human Rights Watch, *A Face and a Name: Civilian Victims of Insurgent Groups in Iraq*, vol. 17, no. 9(E), October 2005. See also UNHCR, *Guidelines Relating to the Eligibility of Iraqi Asylum-Seekers*, October 2005 (on file with Human Rights Watch).

Most of the Iraqi refugees registered with UNHCR prior to 2003 were Shi`a.¹⁹⁸ Since April 2003, there has been a steady increase of religious minorities, principally Christians and Mandaeans (a religion whose adherents follow the teachings of John the Baptist).¹⁹⁹ Lately, as sectarian violence has escalated in Iraq, the office has seen an increase in Sunnis fleeing Iraq.²⁰⁰

Categories at presumptive risk of persecution in Iraq at the present time include Sunnis and Shi`a who reside in locations clearly dominated by the other group, such as Samarra', Ba'quba, Abu Ghraib, Baghdad, and Basra, as well as families in Sunni/Shi`a mixed marriages. But even these categories do not adequately define the at-risk populations in Iraq. Almost all areas of the country are dangerous; particular hotspots include Baghdad, Mahmudiya and the towns 30 kilometers south on the highway to Hilla, as well as Ramadi, Falluja, Haditha, Tal `Afar, and Mosul. An objective assessment of the risks would suggest that persons fleeing such areas—if not the country as a whole—should be protected at least on a temporary basis.

People fleeing sectarian Sunni-Shi`a violence are represented among the newest arrivals, particularly since the escalation of violence and ethnic- and religious-based forced displacement in the aftermath of the February 22, 2006, bombing of the Askariya shrine in Samarra', Iraq, a site revered by the Shi`a.²⁰¹ In the first two months following that bombing, an estimated 81,000 people were forcibly displaced from their homes, though most remained displaced within Iraq.²⁰² This displacement, so far, has largely remained internal because the major movements have been of Iraqis living in mixed towns and neighborhoods moving into areas where their religious group predominates.²⁰³

¹⁹⁸ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

¹⁹⁹ The Mandaean Human Rights Group/The Mandaean Society of America, "The Sabian Mandeans Face a Critical Moment in Their History," March 2005 (on file with Human Rights Watch).

²⁰⁰ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

²⁰¹ Edward Wong and Kirk Semple, "Civilians in Iraq Flee Mixed Areas as Attacks Shift," *New York Times*, April 2, 2006.

²⁰² Internal Displacement Monitoring Centre (IDMC), "Iraq: Sectarian Violence, Military Operations Spark New Displacement, as Humanitarian Access Deteriorates," May 23, 2006, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/5FF5134F8672E698C125717700492CAC/\\$file/Iraq%20Overview%2023%20May%202006.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/5FF5134F8672E698C125717700492CAC/$file/Iraq%20Overview%2023%20May%202006.pdf).

²⁰³ International Crisis Group, "The Next Sectarian War? Sectarianism and Civil Conflict," Middle East Report No. 52, February 27, 2006, <http://www.crisisgroup.org/home/index.cfm?id=3980&l=1> (accessed October 17, 2006), p. 5.

Perpetrators of attacks leading to displacement involve both Sunni-on-Shi`a attacks by insurgent groups, such as the Al-Qaeda Organization in Mesopotamia and the Partisans of the Sunna Army, and Shi`a-on-Sunni attacks by government-backed militias, such as the Mahdi Army and the Badr Organization. The International Crisis Group observes, “Sectarian passions are inflamed on both sides with each gruesome attack or discovery of mutilated bodies, an almost daily occurrence.”²⁰⁴

Human Rights Watch encountered de facto refugees in Jordan who fled threats and violence related to their real or imputed association with the U.S. military or government forces or other foreign forces in Iraq, including private, nongovernmental entities. Insurgent groups in Iraq threaten as collaborators both Iraqis who work for foreigners as well as those holding Iraqi government or political posts.²⁰⁵ English interpreters have been particularly vulnerable, including those who work for international humanitarian agencies and members of the media.²⁰⁶

Most de facto Iraqi refugees in Jordan have middle class, urban origins.²⁰⁷ This background has not only made them more likely than their poorer compatriots to be targeted in Iraq for persecution and for common crime, such as robbery and kidnapping for ransom, but has also provided them the resources to travel the long road to Jordan, cross the border, and sustain themselves in exile. Women of middle class origin, particularly members of religious minorities, have not only been subject to attack in Iraq because of their mode of dress, for their employment, or for exhibiting “immoral” or “un-Islamic” behavior, but have also encountered difficulties in surviving in Jordan, particularly those who are single or who are members of non-Islamic minority groups.²⁰⁸ Intellectuals and professionals have increasingly become targets, as well, for kidnapping and killing. While the motives of their attackers may be mixed, including common criminality in a highly lawless environment, some perpetrators have indicated a desire to rid Iraq of its professional and intellectual class.

²⁰⁴ Ibid. pp. 1-2.

²⁰⁵ Human Rights Watch, *A Face and a Name*, pp. 52-73.

²⁰⁶ Ibid. pp. 73-90.

²⁰⁷ Sharon Behn, “Iraq’s Best, Brightest Flee from Violence,” *The Washington Times*, June 26, 2006.

²⁰⁸ Human Rights Watch, *A Face and a Name*, pp. 93-98.

Non-Iraqi refugee groups living in Iraq have been particularly vulnerable, and those who have managed to flee to Jordan have been isolated in camps in the remotest reaches of Jordan, on or near the border with Iraq.²⁰⁹ The two main refugee groups in Iraq who found themselves in the incongruous position of being both recognized refugees in Iraq and asylum seekers in Jordan are Palestinians and Iranian Kurds. Both groups lived for decades in Iraq without having integrated into Iraqi society, and found themselves especially vulnerable after the fall of Saddam Hussein. At the time of the Human Rights Watch visit, neither group had found another welcoming place of refuge. Some Palestinians and Iranian Kurds who arrived at the beginning of the war in April 2003 managed to enter the country, only to be kept in closed camps in a remote, desert area, where hundreds remain three years later. Later arrivals were not permitted to enter Jordan and found themselves stranded at even more inhospitable locations in the no man's land between Iraq and Jordan or on the Iraqi side of the border.²¹⁰

Human Rights Watch does not intend the following listing of particularly vulnerable groups of de facto refugees encountered in Jordan to be exhaustive. A more comprehensive accounting of groups facing persecution in Iraq can be found in an October 2005 Human Rights Watch report, *A Face and a Name: Civilian Victims of Insurgent Groups in Iraq*.²¹¹ But even that 140-page report was limited to victims of insurgent groups, defined as armed opposition groups to the U.S.-led military coalition, the Multi-National Force in Iraq (MNFI), and to the current Iraqi government. The report, therefore, did not include victims of Shi`a militia, such as the al-Mahdi Army and the Badr Organization, who have perpetrated violence against Sunnis, persons associated with the Ba`th Party or the former government, Palestinians, and other minorities. It also did not include victims of the MNFI, which has carried out

²⁰⁹ See Human Rights Watch, *Flight from Iraq: Attacks on Refugees and Other Foreigners and their Treatment in Jordan*, vol. 15, no. 4 (E), May 2003. Available at: <http://HumanRightsWatch.org/reports/2003/iraqjordan/> (accessed June 27, 2006).

²¹⁰ Ibid.

²¹¹ Other relevant Human Rights Watch reports on Iraq are: *Nowhere to Flee? The Perilous Situation of Palestinians in Iraq*, July 2006; *Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division*, September 2005; *Getting Away with Torture: Command Responsibility for the U.S. Abuse of Detainees*, April 2005; *The New Iraq: Torture and Ill-treatment of Detainees in Iraqi Custody*, January 2005; *Claims in Conflict: Reversing Ethnic Cleansing in Northern Iraq*, August 2004; *The Road To Abu Ghraib*, June 2004; *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, December 2003; *Hearts and Minds: Post-war Civilian Casualties in Baghdad by U.S. Forces*, October 2003; *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*, July 2003; *Violent Response: the U.S. Army in al-Falluja*, June 2003; *Basra: Crime and Insecurity Under British Occupation*, June 2003; *Flight from Iraq: Attacks on Refugees and Other Foreigners and Their Treatment in Jordan*, May 2003. Available at <http://www.hrw.org>.

tens of thousands of violent raids and full-scale attacks on at least four cities—Falluja (twice), Ramadi, Tal `Afar, and Najaf—since toppling the Ba`th regime. In fact, de facto refugees in Jordan have been the victims of a wide array of groups with quite varied motivations. Although specific categories of vulnerable groups are listed, in fact, there is considerable overlap, so that the same individual might be a member of multiple vulnerable groups—such as a Christian intellectual accused of collaborating with foreign elements because she speaks English.

Alleged Collaborators

Among the most vulnerable individuals in Iraq are people who insurgents believe are working on behalf of the MNFI, the Iraqi government, foreign governments, and even nongovernmental organizations and the media. An Iraqi Christian told Human Rights Watch, “If you work in the government, they say you are an agent of the Americans. If you work with the Americans, they say you are a traitor.”²¹² A former Iraqi general, who joined the insurgency, said, “Every Iraqi or foreigner who works with the coalition is a target. Ministries, mercenaries, translators, businessmen, cooks or maids; it doesn’t matter the degree of collaboration. To sign a contract with the occupier is to sign your death warrant.”²¹³

In June 2006, Ambassador Zalmay Khalilzad sent a cable to Secretary of State Condoleezza Rice that painted a dismal picture of life for Iraqi employees of the U.S. embassy in Baghdad.²¹⁴ It told both of a general deterioration of safety and quality of life, as well as an increase in sectarian violence and threat. The Iraqi embassy workers’ greatest fear, however, was that they would become known as employees of the U.S. embassy. The cable said that one employee requested press credentials after guards at the Green Zone checkpoint held up her embassy badge and loudly said, “Embassy.” Ambassador Khalilzad said, “Such information is a death sentence if heard by the wrong people.”²¹⁵

²¹² Human Rights Watch interview (C-11), Amman, April 25, 2006.

²¹³ Alix de la Grange, “The Liberation of Baghdad is not Far Away,” *Asia Times Online*, June 25, 2004. Available at http://www.atimes.com/atimes/Middle_East/FF25Ako7.html (accessed June 27, 2006).

²¹⁴ American Embassy, Baghdad, “Snapshots from the Office: Public Affairs Staff Show Strains of Social Discord,” cable R 1214302 Jun 06, June 2006. Available at: http://www.washingtonpost.com/wp-srv/opinions/graphics/iraqdocs_o61606.pdf (accessed June 27, 2006).

²¹⁵ *Ibid.* para. 11.

An Orthodox Christian who worked as an interpreter and as a handyman for the U.S. military at the Falcon base near the Dura neighborhood in south Baghdad told Human Rights Watch that he kept his employment secret until September 10, 2004, when a car followed him as he left the base. The car pulled alongside him, and its driver and another passenger started shooting at him. 20 rounds hit his car, and he was hit in both legs and his abdomen, as well as a grazing wound on his back. He said that he was too afraid even to stay in the hospital longer than two days, so he went home to recover. After about half a year, he fled to Jordan in June 2005. “After the shooting, everyone knew I was working for the Americans,” he said. “I had a six-year-old son, and it became difficult to take him to school. I had to hide in different homes, like my uncle’s or my father-in-law’s. So I decided to come to Jordan to find a better life for my family.”²¹⁶

A Palestinian civil engineer who Human Rights Watch interviewed in the Trebil camp on the Iraqi side of the Jordanian border had worked for an American company when he was living in Baghdad. He said that he received threatening phone calls accusing him of being an American spy. On his way to work one morning, he was chased by men in a car that had been waiting for him outside his apartment. It was still dark, and Baghdad was having one of its power failures, so he was able to hide in the dark, but he was afraid to return to his home. He stayed in the offices of a company affiliated with his employer for about a month, and asked whether he might be able to relocate with his family to live at the Baghdad International Airport. His employer said that was not possible, and he felt compelled to resign.

He moved his family to a building inhabited entirely by Palestinians. After the Samarra’ bombing, there was a pitched battle at the building as heavily armed police from the *Maghaweer* “Raiders” sought to arrest young men in the building. The engineer commented, “After the Samarra’ events, both sides hate me. One terrorist group threatens me for working for the Americans. Then the Iraqi National Guard threatens me for being a terrorist [Palestinian].” The civil engineer left Baghdad on April 1. Sitting in a cramped tent, he closed the interview saying, “I can never go back to Iraq. I am hated by both sides.”²¹⁷

²¹⁶ Human Rights Watch interview (P-1), Amman, April 21, 2006.

²¹⁷ Human Rights Watch interview (B-24), Trebil camp, Iraq, April 30, 2006.

Former Ba`thists and Their Families

At the other end of the spectrum from alleged collaborators are people who are persecuted for their alleged connections with the former regime. While some such Ba`thists were engaged in serious human rights violations for which they should be held accountable, vigilante attacks only perpetuate the cycle of abuse, and many with actual or imputed Ba`thist associations, including the children of Ba`th Party members, have a well-founded fear of persecution in Iraq.

Human Rights Watch interviewed a former high Ba`thist official, a retired police official, who may have persecuted others and who might, therefore, not qualify as a refugee himself. He fled first to Syria, where he was arrested and deported twice, and from there to Jordan. He said that his son was kidnapped and killed by the Badr Organization in November 2005. They came dressed as police officers and told him to go with them to the police station. "I think he was killed in revenge for me," the elderly man said. "All the Ba`th Party families have the same problem."²¹⁸

A UNHCR-recognized refugee in Amman, a Shi`a who had been severely persecuted at the hands of the Ba`thist regime,²¹⁹ told Human Rights Watch that he now fears return to Iraq because of his family's alleged associations with the same government that persecuted him. "My brother told me this," he said. "My father's body was found, half decomposed, after he was missing for 17 days. His hands were bound, and there was a paper in his pocket saying he was killed for being an agent of the Saddam regime." Men also came asking for his brother in Hilla, and stole his car. "My brother got away, but they would have killed him. I have good reason not to go back."²²⁰

²¹⁸ Human Rights Watch interview (P-11), Amman, April 25, 2006.

²¹⁹ He had been a driver for a female cousin of Saddam Hussein who was murdered. He was arrested as a suspect in the plot to assassinate her, and was severely tortured and imprisoned in horrible conditions. He claimed to Human Rights Watch that he was innocent of any involvement in the plot. "The headline of my story is huge," he said, "but my role with Saddam was very small. I was only the driver of a taxi that belonged to his relative." Human Rights Watch interview (B-7), Amman, April 27, 2006.

²²⁰ Human Rights Watch interview (B-7), Amman, April 27, 2006.

Persecution of Ba`thists does not appear to be limited to high-level party members and their families. A tailor who is unemployed and struggling to survive in Amman, told Human Rights Watch:

My father was an ordinary school teacher who was in the Ba`th Party. He was murdered three months after April 2003. I have five older brothers and one younger sister. Our family was wiped out... I have asked for the death certificates of my family who were killed... I am very depressed. I am so depressed that I cannot work... I don't have money to renew my residency... I have no future.²²¹

Professionals and Intellectuals

Iraqi intellectuals and professionals represent a distinct segment of de facto refugees in Jordan. An estimated 40 percent of Iraq's professional class have left the country since April 2003, an average of 40 to 60 professionals per day.²²² In March 2006, the Association of University Lecturers in Iraq reported that 182 university professors had been killed since 2003, and that 331 school teachers were killed in the first four months of 2006 alone.²²³ UNHCR calls the intimidation and murder of Iraqi intellectuals, professors, lecturers, and teachers "systematic."²²⁴

The conflict has arguably been even more devastating for Iraq's medical professionals. According to the Iraqi Medical Association, at least 2,000 Iraqi physicians have been murdered and 250 kidnapped since the 2003 invasion, and an

²²¹ Human Rights Watch interview (C-8), Amman, April 24, 2006.

²²² Integrated Regional Information Networks (IRIN), UN Office for the Coordination of Humanitarian Affairs (UNOCHA), "Iraq: Higher Education Ministry Tempts Professionals with Security, Higher Salaries," January 31, 2006. Available at http://www.irinnews.org/report.asp?ReportID=51435&SelectRegion=Middle_East&SelectCountry=IRAQ (accessed October 16, 2006).

²²³ Oliver Poole, "Killings Lead to Brain Drain from Iraq," *The Daily Telegraph*, April 17, 2006. The statistics on killings of university professors are not entirely consistent. The Iraqi Ministry of Higher Education reported in August 2006 that 180 professors had been killed since February and that at least 3,250 had fled the country. See "Iraq: Threatened Teachers Fleeing Country," IRIN News, August 24, 2006. Available at: <http://www.irinnews.org/report.asp?ReportID=55261> (accessed August 29, 2006).

²²⁴ UNHCR *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, para. 41.

estimated 12,000 (35 percent) of the 34,000 doctors registered in Iraq before 2003 have left the country during the past three years.²²⁵

A dermatologist who owned a private beauty center in Baghdad (quoted above) fled Iraq in November 2005 “because so many doctors had been killed.” In October 2004, his 16-year-old son was kidnapped and held for three weeks. “They knew I was a doctor with money,” he said. After paying the equivalent of a US\$10,000 ransom, his son was released. Another son, a three-year-old, was killed during the 2003 U.S.-coalition bombing.²²⁶ “I was unable to work in the clinic, so I decided to close my clinic and come here,” he said. “I just closed up and came here.”²²⁷

The neurologist from Tal `Afar (also quoted above) is a Sunni. In March 2005, the Badr Organization put his name on a death list. He told Human Rights Watch:

Six other doctors and I were on the list. It said we were terrorists and should be killed. On the list were also lawyers, army officers, university professors, important tribesmen—about 700 names total from Tal `Afar. They put the list up on the walls of the city. Some of my friends saw the names. Policemen and militia people started to ask about us.²²⁸

The neurologist said that there used to be 34 doctors in his hospital in Tal `Afar. Now there are only five or six.

Iraqi Christians and Mandaeans

Although Christians and Mandaeans represent small religious minorities in Iraq, they appear to represent a disproportionately high fraction of the refugee population in Jordan.²²⁹ This could be because as a group they are subject to higher levels of

²²⁵ James Palmer, “Frequent Targets of Violence: Iraqi Physicians Flee in Doves,” *The Seattle Times*, April 4, 2006.

²²⁶ See also Human Rights Watch, *Off Target: The Conduct of the War and Civilian Casualties in Iraq*, December 2003, <http://www.hrw.org/reports/2003/usa1203/>.

²²⁷ Human Rights Watch interview (P-7), Karak, April 23, 2006.

²²⁸ Human Rights Watch interview (P-6), Karak, April 23, 2006.

²²⁹ The Iraq Sustainable Democracy Project estimates that upwards of 120,000 of the Iraqi refugees in Syria, Jordan, and Turkey are ChaldoAssyrians. See <http://aas.net/isdp>. Christians represent a disproportionate percentage of the registered

targeted persecution than Muslims, but also because they turn to UNHCR in Jordan more frequently than their Muslim compatriots and thus are more visible as refugees.

At the start of the war, Christians comprised about 3 percent of Iraq's population, numbering about 800,000 people. They have varied ethnic and denominational backgrounds, including Chaldean Catholics, Assyrians, Roman and Syriac Catholics, Greek, Syriac, and Armenian Orthodox, and Anglicans. Most are of the professional class and are considered to be wealthier than the average Iraqi.²³⁰

Christians are linked to American and British forces in popular perception.²³¹ Christians also were dominant in the liquor business during the government of Saddam Hussein. Following the fall of the Saddam Hussein government, militant Islamic groups firebombed and attacked many liquor stores and shot the shopkeepers.²³² A declaration claiming responsibility for coordinated car bombings at five churches in Baghdad and Mosul on Sunday, August 1, 2004, said, "The American forces and their intelligence systems have found a safe haven and refuge among their brethren the grandchildren of monkeys and swine in Iraq. The graceful God has enabled us...to aim several blows at their dens, the dens of wickedness, corruption and Christianizing."²³³

A Chaldean Christian who had lived his entire life in the Jadida quarter of Baghdad told Human Rights Watch:

I don't feel comfortable to say what's on my mind. We are Christians and a little different from the Shi`a. Our women dress differently. We left because our women couldn't wear normal, Christian clothes any longer. Sorry, I can't mention this in public, but there are instances

refugee population in Syria—36 percent. See UNHCR, "Background Information on the Situation of Non-Muslim Religious Minorities in Iraq," October 2005, note 11 (on file with Human Rights Watch).

²³⁰ Human Rights Watch, *A Face and a Name*, p. 46. See also, Lawrence F. Kaplan, "Who Will Save Iraq's Christians?" *The New Republic*, March 28, 2006.

²³¹ "Iraq's Persecuted Christians," *Time Magazine*, September 20, 2004.

²³² Annia Ciezadlo, "Iraq's Christians Consider Fleeing as Attacks on Them Rise," *Christian Science Monitor*, July 13, 2004.

²³³ The declaration was signed by the Committee of Planning and Follow-up in Iraq. The translation is from the website www.assyrianchristians.com (accessed February 22, 2005). The declaration is also quoted in Human Rights Watch, *A Face and a Name*, pp. 49-50.

where they are trying to pressure us to change our religion to Islam. I was saved from death twice. They harass us. I was afraid of everybody; I didn't trust my neighbors. Knives are everywhere. Three times our house was attacked, and I had to replace the windows each time. They put an IED [improvised explosive device] near our house, and the entire neighborhood was affected. We also had stones thrown at our house bearing the message: "Change your religion." They come and abduct people. People sell their homes in secret and leave before the militias know about it. Otherwise, they come at night and steal the money and kill you if they know you have the money from selling your house.²³⁴

There were about 30,000 Mandaean in Iraq in the Saddam Hussein era, followers of a religion that regards John the Baptist as its principal prophet, but there may be as few as 13,000 remaining inside Iraq at the present time.²³⁵ Some Muslims do not regard Mandaean as People of the Book (*Ahl al-Kitab*, which includes Jews, Muslims and Christians), whom Islam protects, and some reports indicate that Mandaean have been targeted for forced conversion.²³⁶ Mandaean have traditionally worked as jewelers and goldsmiths, making them a particularly inviting target; because of their lack of traditional tribal or religious protective shields,²³⁷ and because their religion espouses a strict pacifism, they can be kidnapped or robbed with minimal resistance and, because of endemic lawlessness, impunity.²³⁸

A 50-year-old Mandaean goldsmith interviewed by Human Rights Watch in Amman was just such a target.²³⁹ In May 2005, unknown assailants attacked him next to his gold shop in Baghdad, shot him in the chest, and kidnapped his brother. "After this,

²³⁴ Human Rights Watch interview (C-23), Amman, April 20, 2006.

²³⁵ Kate Clark, "Iraq Chaos Threatens Ancient Faith," BBC News, Damascus, September 20, 2005. See also, UNHCR, "Background Information on the Situation of Non-Muslim Religious Minorities in Iraq."

²³⁶ John Bolender, "Worse Off Now Than under Saddam: The Plight of Iraq's Mandaean," Weekend Edition, January 8/9, 2005, at <http://counterpunch.org/bolender01082005.html>. See also, UNHCR, "Background Information on the Situation of Non-Muslim Religious Minorities in Iraq," pp. 4-5.

²³⁷ UNHCR *Guidelines Relating to the Eligibility of Iraqi Asylum Seekers*, p. 11, paras. 34-35.

²³⁸ See Mandaean Human Rights Group, "The Sabian Mandaean Face a Critical Moment in Their History."

²³⁹ Human Rights Watch interview (P-16), Amman, April 27, 2006.

we had strange phone calls from Islamic groups,” he recalled. “They said things like, ‘change your religion or you will be killed.’... We sold all our properties and gold in Baghdad. I was told the insecurity would affect our work, but I never believed they would kidnap us.” The family paid a ransom of US\$80,000 to get his brother released. “The situation was very bad for us,” he said. “We had lots of kidnappings and rapes.” He recalled ten Mandaeans he knew who were killed in 2005. He and his brother left for Jordan in July 2005. Although they entered with only a three-month visa, he is too afraid to return to the border to renew his visa, and is now living illegally in Jordan. Although both brothers are highly skilled goldsmiths, they are unable to work in Jordan, as they do not want to work without permits and risk deportation.

Palestinians

Jordan has historically been among the most receptive countries toward Palestinian refugees, having granted automatic citizenship to Palestinian refugees on its territory at the time it claimed sovereignty over the West Bank (except for about 100,000 who originated from the Gaza Strip).²⁴⁰ New influxes from Iraq, however, have put Jordan’s historical tolerance toward refugees—and toward Palestinian refugees, in particular—under severe strain. Jordanian officials insist that Jordan’s treatment of 1.8 million Palestinian refugees fulfills for all time its international obligations toward Palestinian refugees, and they stressed to Human Rights Watch they would not admit a single Palestinian refugee from Iraq.²⁴¹

This attitude is most pronounced with regard to Palestinians attempting to enter Jordan from Iraq. After the fall of Saddam Hussein’s regime removed Palestinians’ primary source of protection in Iraq and made them vulnerable to groups that resented their presence, small groups of Palestinians began trying to enter Jordan.

²⁴⁰ According to the Jordanian nationality law of the year 1954, “Any person with previous Palestinian nationality except the Jews before the date of May 14, 1948 residing in the Kingdom during the period from December 20, 1949 and February 16, 1954 is a Jordanian citizen.” (From Jordan’s Department of Palestinian Affairs, available at: <http://www.dpa.gov.jo/menupalestinian.html>). “All Palestine refugees in Jordan have full Jordanian citizenship with the exception of about 100,000 refugees originally from the Gaza Strip who in the 1967 war. Up to 1967 Gaza was administered by Egypt. They are eligible for temporary Jordanian passports, which do not entitle them to full citizenship rights such as the right to vote and employment with the government.” Ayman Halasa, “Refugee protection in Jordan,” *Local Focus, RSDWatch*, April 20, 2005, available at: http://www.rsdwatch.org/index_files/Page917.htm (accessed October 17, 2006).

²⁴¹ The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has registered 1,780,701 Palestinian refugees in Jordan, as of March 31, 2005. UNRWA statistics at: http://www.un.org/unrwa/publications/pdf/rr_countryandarea.pdf (accessed June 22, 2006).

Except for the earliest arrivals in April 2003, Palestinians have been met with sealed borders and official refusal to contemplate their entry.

Human Rights Watch visited a group of 234 Palestinian refugees stranded on the Iraqi side of the Iraq-Jordan border, the bulk of whom had fled Iraq following reprisal violence directed against Palestinians in the aftermath of the February bombing of the Shi`a shrine in Samarra’.

The Palestinians talked with Human Rights Watch about their reasons for leaving Iraq.²⁴² Refugees from Baladiyat, a Palestinian housing complex in eastern Baghdad, said that it had been targeted four times by mortar fire. Other refugees said that they had received threatening notes telling them to leave. For example, a group calling itself the Brigades of Judgment Day left a message warning all Palestinians living in the Duwar al-Shu’un complex in Baghdad to leave within ten days or “we will eliminate you all.”²⁴³

Refugees also told of friends, relatives, and neighbors who had been attacked on the street, simply for being Palestinian. One, Samir Khalid Al-Jayab, was killed the evening of the day of the Samarra’ shrine bombing, according to several of the refugees. He was a handicapped man with a prosthetic leg. Although most Palestinians from the Baladiyat neighborhood were too afraid to leave their homes, Khalid Al-Jayab went out to pick up his son from school. He had not arrived at the school yet when he was accosted by men who slashed him across the face with a sword or a knife. Then they shot 20 bullets into his body, according to the refugee account.²⁴⁴

Shortly after the completion of the Human Rights Watch mission, on May 9, Syria resolved the situation of the Palestinian refugees at the Jordanian border by admitting them into Syria. The following day, the Syrian authorities also admitted a group of 35 Palestinians who had fled directly from Baghdad to the Syrian border.

²⁴² These interviews are the foundation of a separate Human Rights Watch report, *Nowhere to Flee? The Perilous Situation of Palestinians in Iraq*, vol. 18, no. 4(E), September 2006, <http://hrw.org/reports/2006/iraq0706/>.

²⁴³ Copy of flyer on file with Human Rights Watch, unofficial translation.

²⁴⁴ Human Rights Watch interview (B-16), Trebil camp, April 30, 2006.

Since then, however, Syria has also closed its border to Palestinians from Iraq, and as of the time of this report about 200 Palestinians are stranded in the no-man's land at the Iraq-Syria border.²⁴⁵

In the meantime, more than 30,000 Palestinians remain under extreme threat in Baghdad with no clear avenue of escape, nor any country opening its doors to them. Human Rights Watch attempted to conduct phone interviews with Palestinians in Baghdad, but many were too fearful to talk. One man who had been arrested and taken to the Iraqi Ministry of Interior told Human Rights Watch on May 12, 2006, "Things are bad, very bad. I want to leave to any country where there is some kind of stability. I am looking for a quick solution. I cannot wait one or two months. Saudi Arabia is fine. Any place is fine." When Human Rights Watch asked him to provide details of his arrest, he said, "Please, I am afraid to go outside, I cannot answer these questions." He then switched to English and said, "I am very afraid. Do you understand me? Anyone could come to me to wipe me out, anything could happen to me," before ending the interview.²⁴⁶

Palestinians at Al-Ruwaishid Camp

Another group of 148 Palestinian refugees from Iraq lives in the Ruwaishid camp inside Jordan, some 85 kilometers from the Iraqi border. These refugees fled Iraq at the beginning of the war, in April 2003, and have been living in tents in a remote, harsh desert environment for three years.²⁴⁷ If a refugee camp were to be plopped down on the surface of the moon, it would look like al-Ruwaishid. It is a closed camp in a remote, desert location surrounded on all sides as far as one can see by a surface of rocks. There is virtually no rainfall in the area, which contributes to the camp's desolate, bleak appearance. Water has to be trucked in, and camp residents complain that the drinking water is bad.

Al-Ruwaishid is guarded by the *Badiya*, Jordan's border police, who control entry and exit. When residents need to leave the camp for a hospital stay in Amman, *Badiya*

²⁴⁵ Email from UNHCR-Damascus to Human Rights Watch, July 7, 2006. See also IRIN, "Syria: More Palestinian Refugees from Iraq Arrive at Border," May 18, 2006.

²⁴⁶ Human Rights Watch telephone interview (C-24), Baghdad, May 12, 2006.

²⁴⁷ See Human Rights Watch, *Flight from Iraq and Nowhere to Flee?*

guards accompany them the entire time, and are posted in their hospital rooms. The local NGO that manages the camp, the Jordanian Hashemite Charity Organization (JHCO), organizes a daily shuttle bus to take camp residents to the Ruwaishid town market. Camp residents said they have had no problem with local Jordanians. Relations between the camp residents and the *Badiya* guards, however, remain tense.

The refugees told Human Rights Watch that they felt safe, but complained about the lack of animal protein, the poor quality of the water (which is trucked in), poor health care, especially for serious, chronic diseases, the lack of job opportunities, the lack of higher educational opportunities, and that they often felt like prisoners. The desert environment is the backdrop to many of their complaints: people unable to sleep because the tents are so hot, no gardens or other vegetation, and a general malaise and sense that three years of their lives have been wasted in the desert. The refugees also said that the United Nations Children's Fund (UNICEF) had left the camp after putting up a school tent and providing a few school supplies, and that their children were not receiving an adequate education.

UNICEF-Amman informed Human Rights Watch that it initially set up the school to teach primary-school children basic literacy and arithmetic skills with teachers from the Ministry of Education, and that UNICEF provided tents, textbooks and other educational materials, teacher training, and incentives for the teachers. Subsequently, UNICEF said, teaching and administrative responsibilities were handed over to the refugees. UNICEF-Amman told Human Rights Watch, "UNICEF will continue to support the educational programme with CARE and UNHCR as the on-the-ground supervisors of the school."²⁴⁸

At the height of the Ruwaishid refugee population in 2003, there were about 1,500 Palestinians living there. A royal decree allowed men with Jordanian wives to go to Amman (but did not authorize them to work).²⁴⁹ Many others returned voluntarily to

²⁴⁸ Email from UNICEF-Amman to Human Rights Watch, July 17, 2006.

²⁴⁹ Human Rights Watch interview (P-20), Trebil camp, Iraq, April 30, 2006 and Human Rights Watch interview (P-26), al-Ruwaishid camp, May 1, 2006.

Iraq, spurred by one-time UNHCR assistance of \$800, which decreased by \$100 for every month they stayed on in the camp.²⁵⁰

From 2003 until the time of the Human Rights Watch mission, only five Palestinian families had been resettled (to New Zealand). A major obstacle to the resettlement of Palestinians has been the objection of the Palestine Liberation Organization (PLO) to any durable solution that does not involve return to Palestine. Human Rights Watch learned as this paper was being written, however, that Canada had accepted 46 of the 148 Palestinians remaining at al-Ruwaishid.²⁵¹ At the time of the Human Rights Watch visit, UNHCR had said that it planned to close al-Ruwaishid by September 2006, though the refugee agency also said that it did not expect all the remaining residents to be resettled, leaving undecided what will happen to the residual camp population. On August 25, 2006, UNHCR announced that it would delay the closure of al-Ruwaishid camp until the end of the year, as they were still seeking resettlement locations for 337 refugees remaining in the camp, including the remaining Palestinians.²⁵²

Iranian Kurds

The Iranian Kurdish refugees who have fled toward Jordan are in two distinct groups. A group of 313 resides at al-Ruwaishid camp inside Jordan, after the authorities in 2005 closed al-Karama camp in the no man's land (NML), the strip between the Jordanian and Iraqi checkpoints that one must pass in order to cross the border, and relocated them to al-Ruwaishid. Another group of 192 is living just inside the NML, very close to the Iraqi checkpoint.²⁵³ Although their origins are the same, their future is likely to be quite different.

²⁵⁰ UNHCR says that the voluntary repatriation encashment program in 2004 was not meant as an incentive, but rather as a \$100 per month per family rent subsidy, good for the year 2004, which decreased every month it was not used. The following year, UNHCR changed to a lump sum of \$400 per family, regardless of the month of departure.

²⁵¹ "Jordan: Canada to Resettle 46 Palestinian Refugees," IRIN News, October 10, 2006. Available at <http://www.irinnews.org/report.asp?ReportID=55883> (accessed October 15, 2006).

²⁵² "Jordan: Closure of Ruweishid Camp Delayed," IRIN News, August 23, 2006. Available at <http://www.irinnews.org/report.asp?ReportID=55235> (accessed August 29, 2006).

²⁵³ Both the number of Iranian Kurds at al-Ruwaishid camp and at the NML listed here are at the time of the Human Rights Watch visit in late April/early May 2006.

Both groups originally fled from Iran to Iraq at the beginning of the Iran-Iraq War in the early 1980s and were among the 13,000 refugees living in the Tash camp on the outskirts of al-Ramadi in Iraq's Anbar Governorate for more than 20 years. After the fall of Saddam Hussein, armed gangs threatened them and many fled for Jordan, while others went to northern Iraq.²⁵⁴

The Iranian Kurds in al-Ruwaishid live in the same conditions as the Palestinian refugees living there. Although the two groups have self segregated, there did not appear to be any particular tension between them. A Swedish government mission in April 2006 visited the Iranian Kurds at al-Ruwaishid to conduct resettlement interviews.²⁵⁵

The situation is much different for the Iranian Kurds at the no man's land. Unlike the Iranian Kurds in al-Ruwaishid who arrived at the beginning of the war, the group at the NML came later, around January 2005, by which time Jordan had closed its border to them.²⁵⁶ UNHCR does not consider them for third-country resettlement because it believes they have an alternative durable solution in northern Iraq and do not need to be resettled outside the region. Where they are living in the NML (on the Iraqi side) is largely inaccessible to UNHCR-Amman. Because both Iraq and Jordan consider the NML outside of their territory, the NML is neither safe nor accessible for humanitarian aid. UNHCR has told the Iranian Kurdish refugees in the NML that their only "choice" is to go to northern Iraq where the Kurdistan Regional Government (KRG) has offered to provide camps for them to live in and ultimately to integrate them into Kurdistan. UNHCR believes that this is a reasonable durable solution on their behalf.²⁵⁷

The leaders of the Iranian Kurds in the NML are adamantly opposed to this solution.²⁵⁸ They argue that agents of the Iranian Islamic Republic are active in

²⁵⁴ See Human Rights Watch, *Flight from Iraq*. A small number of Iranian Kurds remain at al-Tash.

²⁵⁵ Human Rights Watch researchers saw a Swedish official in al-Ruwaishid on April 30, 2006 and spoke briefly with him.

²⁵⁶ Mara Schiavocampo, "Iraq War Refugees Trapped in Limbo Between Countries," ABC News, Amman, May 11, 2006.

²⁵⁷ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

²⁵⁸ Human Rights Watch interview with camp leaders, NML camp, April 29, 2006. Also, Fax message, "To Amnesty International and Human Rights Watch," from "the committee of the Iranian Kurdish refugees between the border of Jordan and Iraq (NML camp)," April 13, 2006 (On file with Human Rights Watch).

northern Iraq and that they would not be safe there. Also, some of the NML residents did not come directly to Jordan from al-Tash. They first went to northern Iraq but left because they found living conditions there, including their personal safety, unacceptable.

The refugees were vague about recent specific threats or acts by Iranian agents in northern Iraq and appeared somewhat reluctant to criticize the Kurdish authorities in northern Iraq outright. However, those who went from al-Tash to northern Iraq before coming to the NML had bitter memories of their time there. One of the Iranian Kurds who had lived for a year in a camp called Mujamma' Sherwan near Diyala in northern Iraq said:

In northern Iraq it is so cold, but it was too much for the Kurdish authorities to give us water to drink or oil to keep us warm. The neighboring villagers did not help us. You might think that because we are Kurds they would welcome us, but I swear to God in the whole time we were in Kurdistan not one person said, "Welcome to Kurdistan." They had nothing to do with us. These residential units were built on private lands, so the owner of these residential units would come to us and say... "You must leave." ... We talked with the officers responsible for Diyala, and their response was clear and frank. They said we must join the PUK [Patriotic Union of Kurdistan—one of the two major Kurdish political parties in northern Iraq]... How could we leave the Democratic Party to join the PUK in exchange for water and electricity?²⁵⁹

UNHCR responds that thousands of Iranian Kurds from al-Tash have already gone to northern Iraq and have not reported significant problems there.²⁶⁰ The Iranian Kurds see that UNHCR is promoting the resettlement of their compatriots in al-Ruwaishid camp, who they knew from years together in al-Tash camp in Iraq, and that it, in fact, previously organized the resettlement of 387 Iranian Kurds from the NML; they

²⁵⁹ Human Rights Watch interview (C-15) NML, April 23, 2006.

²⁶⁰ Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, May 4, 2006.

wonder why they are not treated the same way.²⁶¹ UNHCR says that the situation has changed because the KRG has agreed to take the Iranian Kurds and to grant them citizenship.²⁶² The KRG's authority to grant Iraqi citizenship is questionable, however.

On April 21, 2006, Human Rights Watch visited the Kawa camp in the Qoshtapa area of northern Iraq, the site where the Iranian Kurds from the NML would be accommodated if they agree to go to northern Iraq. At the time of the Human Rights Watch visit, 205 families (1,261 individuals) were living in the camp. The Kawa camp is administered by UNHCR, which provides tents, a clinic, and a school. Although the camp is guarded by Kurdish police from the Ministry of Interior, the Iranian Kurdish refugees are free to come and go. The KRG has agreed to provide every family with a 200 square meter plot of land in the Qoshtapa area in which to build a house. Contingent on UNHCR funding, the authorities are also planning to build a permanent school, hospital, and other amenities. While camp residents had their share of complaints, particularly the lack of means for gaining livelihoods, and expressed their preference to be resettled outside the region, they acknowledged that they were "100 percent more safe" than at the Tash camp, outside Ramadi, where they had been living previously.²⁶³

While, on its face, there is no reason to question the goodwill of the KRG to provide what appears to be a durable solution for the Iranian Kurdish refugees, it is very hard for anyone from the outside to understand fully the dynamics, the relationships, and the possible lurking dangers that could compromise the ability of this group of Iranian Kurds to integrate locally in northern Iraq. Therefore, a more creative approach might be in order.

The model for such an approach could be the Resettlement Opportunities for Vietnamese Returnees (ROVR) program that established eligibility for U.S. resettlement for Vietnamese who agreed to repatriate voluntarily from camps in

²⁶¹ "Iraq: no man's land refugees," UNHCR Briefing Note, December 10, 2004. Available at: <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=41b997074> (accessed July 14, 2006).

²⁶² Human Rights Watch interview with Robert Breen and staff, UNHCR, Amman, April 25, 2006.

²⁶³ Human Rights Watch interview with camp leaders at al-Kawa camp, northern Iraq, April 21, 2006.

southeast Asia where they had been rejected for refugee status.²⁶⁴ UNHCR could broker a similar arrangement whereby Sweden, New Zealand, and Ireland (the three countries that have resettled the bulk of the Iranian Kurdish refugees from al-Ruwaishid) would agree that they would consider for resettlement any of the 192 Iranian Kurds who voluntarily move to northern Iraq (not their country of origin) if they can show ongoing protection needs after moving to northern Iraq, demonstrate meaningful barriers to local integration, or establish family links to Sweden, New Zealand, or Ireland. Such a program would require the cooperation of the KRG, and, if necessary for transit purposes, Jordan, Syria, or Turkey.

²⁶⁴ Thomas Alexander Aleinikoff, David A. Martin, and Hiroshi Motomura, *Immigration and Citizenship: Process and Policy, Fourth Edition* (St. Paul: West Group, 1998), pp. 1014-15.

VIII. The Response of Other Countries to Iraqis Fleeing War and Persecution

Unlike other countries in the region, Jordan has few natural resources. It has no oil and scarce water. Despite this, Jordan has been remarkably open to people from the region fleeing persecution, first Palestinians, now Iraqis. Although Jordan's historical generosity is now undergoing a severe challenge and its attitude appears to be hardening, it still fares well relative to most of its neighbors as one of the more tolerant countries in the region toward refugees. "The silent treatment" toward de facto Iraqi refugees extends throughout the region and beyond.

The Response of Syria

Jordan is not the only one of Iraq's neighbors to face the challenge of Iraqis seeking refuge from war and persecution. Syria, in particular, has confronted a comparable number of Iraqis whose circumstances to a large degree correspond to those of Iraqis in Jordan.

In March 2006, UNHCR published a joint study with UNICEF and the World Food Program assessing the situation of Iraqi refugees in Syria. It estimated the number of Iraqi nationals in Syria at 450,000, and said that the large number reflected Syria's "tolerance and generosity."²⁶⁵ The report said that Syria was the only country in the region that implemented the temporary protection regime (TPR) without restriction; it now appears, however, that Syria no longer recognizes the TPR. It noted that in 2003 and 2004, Iraqi children in Syria had free access to public hospitals and schools. The report observed, however, a hardening in Syrian attitudes and policies in 2005. In his forward to the report, the UNHCR Representative in Syria wrote:

[T]he past year has witnessed a change in Syria's policy towards Iraqis. Hence, the TP regime has been replaced by the implementation of increasingly restrictive national immigration rules. Access to public

²⁶⁵ Abdelhamid El Ouali, UNHCR Representative, Damascus, in the Forward to UNHCR, UNICEF, and WFP, "Assessment on the Situation of Iraqi Refugees in Syria," March 2006, p. 4. UNHCR-Damascus made the same 450,000 estimate in an email to Human Rights Watch, July 7, 2006.

hospitals has also become more restrictive. This has created difficulties for an increasing number of Iraqis, some of whom have started to leave the region seeking asylum elsewhere.²⁶⁶

As in Jordan, UNHCR has registered only a small fraction of the Iraqis living in Syria. UNHCR-Damascus has registered 30,832 Iraqi asylum seekers, as of July 10, 2006, and has recognized only 1,336 as refugees.²⁶⁷

The joint UN report on Iraqis in Syria noted many of the same problems that face Iraqis in Jordan. It found, for example, that Iraqis generally do not have work permits in Syria, and that the majority are unemployed. The report said that “at least 1,500 families are facing very difficult conditions created by a combination of factors, including poverty, expired legal documents and trauma situations. Higher levels of malnutrition, low enrolment levels, child labour and child prostitution are more likely to be higher among these families.”²⁶⁸

The report, based on household surveys, focus group discussions, and other interviews, found that as many as 30 percent of Iraqi children between the ages of six and 11 are not enrolled in school.²⁶⁹

The UN assessment of Iraqi refugees in Syria noted that most Iraqis in Syria have exceeded their visa stays, but that the Syrian authorities have generally tolerated Iraqi overstayers, although some random inspections were noted. The report observed, “Most Iraqi refugees believe that the TP Regime is useless since cases of bribery and coercive deportation were reported despite the submission of the TP letter.”²⁷⁰

The lack of protection afforded by a UNHCR temporary protection letter in Syria parallels the ineffectiveness of UNHCR protection in Jordan:

²⁶⁶ *Ibid.* at 4.

²⁶⁷ Email from UNHCR-Damascus to Human Rights Watch, July 10, 2006.

²⁶⁸ UNHCR, UNICEF, and WFP, “Assessment on the Situation of Iraqi Refugees in Syria,” p. 9.

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.* p. 17.

In reality, the PL [Protection Letter] did not offer the refugees needed protection.... As for issues related to residence permits in Syria, the PL is no longer acknowledged by the Syrian authorities since it is only a Temporary Protection letter and does not guarantee permanent protection.... In fact, the PL stipulates that the holder should abide by the laws and regulations of the country. As soon as the residence permit is expired, the holder is considered in violation of these laws and regulations.²⁷¹

Human Rights Watch interviewed a former Ba`thist official in Amman who had been deported twice from Syria to Iraq (also quoted above in *Former Ba`thists and Their Families*). He confirmed that Syrian officials did not honor the UNHCR temporary protection letter. He said:

It was September 12, 2004 when the *Mukhabarat* [Intelligence] came for me... It was less than one month after I had gone to UNHCR... They investigated me and discovered I was illegally in Syria. I showed them my temporary protection paper from UNHCR. I was detained for 23 days in the *Mukhabarat's* Palestine Branch basement. I was kept in a room of 1.8 meters by 2.5 meters. We were kept with 24 prisoners, Iraqis, Syrians, Kurds, and Saudis. We had to sleep head to toe, on our sides, because the room was so small. There was no health care. The food they brought was dirty, no plate or spoon... When they released us, they put us at the border, handcuffed. Then they put us back inside Iraq. They kept me because I had overstayed my residence permit, not because I had a fake passport or was a member of the Ba`th—they did not know this. The 23 days were my sentence, but I didn't go to any court.²⁷²

²⁷¹ Ibid. p. 20.

²⁷² Human Rights Watch interview (P-11), Amman, April 25, 2006.

The Response of Lebanon

An estimated 20,000 Iraqis are living in Lebanon, according to a Danish Refugee Council (DRC) survey of Iraqis in Lebanon, published in July 2005.²⁷³ The survey found that the numbers of Iraqis are increasing in Lebanon, particularly among the Christian minority.

The survey, conducted on behalf of UNHCR, found that Iraqis in Lebanon ranked their “lack of documentation, and the subsequent fear of moving around, of being arrested and deported” as their biggest problem.²⁷⁴ It found 100 percent of the 590 Iraqi households surveyed were living in Lebanon illegally.²⁷⁵ Lebanon makes no allowance for refugees, nor does it provide any other basis for regularizing status.²⁷⁶

Like Jordan, Lebanon is not a party to the Refugee Convention and has no refugee law. Also like Jordan, it hosts a large population of Palestinian refugees, and declines to consider granting asylum to other refugees.²⁷⁷ As in Jordan, UNHCR operates on the margins. The government does not grant residence permits or work authorization to refugees recognized by UNHCR. Lebanon requires advance visas for all Iraqis arriving overland, but will issue a tourist visa for Iraqis arriving with valid passports at the Rafic Hariri International Airport if they are holding \$2,000 cash, a hotel booking, and a return ticket.²⁷⁸

Since April 2003, UNHCR has tried to maintain the temporary protection regime in Lebanon, as in Jordan and Syria. Because Lebanon does not recognize the TPR, there is little indication that the TPR has enhanced protection for refugees in Lebanon in any way. At the same time, UNHCR cites the TPR as its reason for not recognizing or processing more refugees for resettlement. Opportunities for third country

²⁷³ Danish Refugee Council, *Iraqi Population in Lebanon: Survey Report*, Beirut, July 2005.

²⁷⁴ *Ibid.* p. 6.

²⁷⁵ *Ibid.* p. 30.

²⁷⁶ *Ibid.* p. 52.

²⁷⁷ *Ibid.* p. 7.

²⁷⁸ Embassy of Lebanon document accessed through http://www.learn4good.com/travel/lebanon_visa.htm (accessed July 20, 2006).

resettlement have diminished considerably under the TPR.²⁷⁹ Also, UNHCR's recognition rate for refugees dropped from 35.5 percent for refugees who arrived before 2001 to 18 percent for those who arrived in 2001. In both 2002 and 2003, the recognition rate fell to close to zero.²⁸⁰ UNHCR-Beirut did not recognize a single case in 2004 or 2005.²⁸¹ As of July 2006, there were 2,173 persons registered as asylum seekers and 568 recognized as refugees in Lebanon.²⁸²

The survey showed pervasive fear among the Iraqis in Lebanon, a fear that ironically seemed to increase for those recognized as refugees. "A majority of Iraqis do not feel safe in their country of asylum," said the report, "whilst those who are recognized as refugees feel even more unsafe than the rest of the population, and are not protected against *refoulement*."²⁸³ Some 60 percent of Iraqi respondents (and 76 percent of recognized refugees) rated security in Lebanon as bad or very bad.²⁸⁴ Many Iraqis surveyed in the report said that Lebanese police had arrested and detained them.²⁸⁵ Others cited discrimination in the work place as a problem.²⁸⁶

The DRC found a host of other social, economic, and health problems. Among the most troubling findings is that more than half of the Iraqi households surveyed do not send any of their children to school.²⁸⁷

According to UNHCR-Beirut, "the vast majority" of Iraqis who are detained in Lebanon for illegal entry or stay opt for "voluntary repatriation" as an alternative to

²⁷⁹ UNHCR resettled 330 Iraqis from Lebanon in 2003, 256 in 2004, and 307 in 2005. Australia took 60 percent of the refugees during that three-year period. The United States resettled 21 percent. During the three-year period, the United Kingdom admitted three Iraqi refugees referred by UNHCR in Lebanon. Email from UNHCR-Beirut to Human Rights Watch, June 30, 2006.

²⁸⁰ DRC and UNHCR, *Iraqi Population Survey Report*, p. 32. UNHCR-Beirut recognized one case in 2002 and in 2003.

²⁸¹ *Ibid.*

²⁸² Email from UNHCR-Beirut to Human Rights Watch, June 30, 2006. UNHCR said that the number of recognized refugees would likely drop in a few days by about 100 because of resettlement departures.

²⁸³ DRC and UNHCR, *Iraqi Population Survey Report*, p. 6.

²⁸⁴ *Ibid.* p. 36.

²⁸⁵ *Ibid.* p. 35.

²⁸⁶ *Ibid.*

²⁸⁷ *Ibid.* p. 40.

prolonged detention, since “no valid options [are] presented to the detainees.”²⁸⁸ UNHCR declines to facilitate such returns. International Organization for Migration officials responsible for Iraq told Human Rights Watch that it has facilitated about 1,000 such “voluntary returns” from Lebanon to Iraq.²⁸⁹ UNHCR said that, to its knowledge, Lebanese authorities returned 517 Iraqi detainees to Iraq in 2005, and 265 in the first six months of 2006.²⁹⁰

The Response of Kuwait and Saudi Arabia

Relatively few Iraqis seek asylum in Kuwait and Saudi Arabia. Neither country is a party to the Refugee Convention, neither has a refugee law, and both maintain strict immigration policies.²⁹¹ Kuwait has its own unique history with Iraq, having been invaded and occupied by Iraqi forces for seven months in 1990-1991, and having been threatened with Iraqi invasion in 1961 and several times thereafter. After the U.S.-led coalition expelled the Iraqi troops from Kuwait in 1991, Kuwait also expelled large numbers of Iraqi residents, *bidun* (stateless Arabs) and Palestinians to Iraq, accusing them of having been traitors during the Iraqi occupation.²⁹²

In the immediate aftermath of the 1991 Gulf War, about 90,000 Iraqis arrived in Saudi Arabia with coalition forces. Within a short time, their numbers decreased to 33,000. Saudi Arabia held them in two closed camps, al-Artiwiya and Rafha under very harsh conditions where the refugees were sometimes severely mistreated.²⁹³ The Saudi authorities closed al-Artiwiya in 1992 and consolidated the remaining

²⁸⁸ Email from UNHCR-Beirut to Human Rights Watch, June 30, 2006.

²⁸⁹ Human Rights Watch interview with Rafiq A. Tschannen, chief of mission-Iraq, and staff, International Organization for Migration, Amman, April 25, 2006.

²⁹⁰ Email from UNHCR-Beirut to Human Rights Watch, June 30, 2006.

²⁹¹ See Human Rights Watch, *Iraqi Refugees, Asylum Seekers, and Displaced Persons Current Conditions and Concerns in the Event of War*, February 2003, <http://www.hrw.org/background/mena/iraq021203/index.htm>. See also Human Rights Watch, *Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia*, July 2004; *Promises Betrayed: Denial of Rights of Bidun, Women, and Freedom of Expression*, October 2000; *The Bedoons of Kuwait: “Citizens without Citizenship,”* August 1995; and *A Victory Turned Sour: Human Rights in Kuwait since Liberation,* September 1991.

²⁹² Following the 1991 Gulf War, Kuwait revoked all temporary residence permits for non-citizens, and government and vigilante groups commenced rounding up and expelling large numbers. By the end of 1992, Kuwait reduced the *bidun* population from about 250,000 to about 100,000, and the Palestinian population from 320,000 to about 20,000. U.S. Committee for Refugees and Immigrants, *World Refugee Survey 1993*, pp. 105-106.

²⁹³ Amnesty International, *Saudi Arabia: Unwelcome “Guests”: The Plight of Iraqi Refugees*, MDE 23/001/1994, May 10, 1994. Available at: <http://web.amnesty.org/library/Index/ENGMDE230011994?open&of=ENG-IRQ> (accessed July 6, 2006).

refugees into one camp, Rafha.²⁹⁴ Over the years, the refugees were either resettled outside the region or repatriated. By the end of 1997, when a resettlement program that had begun in 1992 ended, 24,264 refugees were resettled from Rafha.²⁹⁵ Between 1992 and 1997, another 3,000 Iraqi refugees voluntarily repatriated from Rafha.²⁹⁶ At the start of the 2003 war, there were about 5,200 Iraqi refugees in Rafha.²⁹⁷ A year later, only 483 remained; the rest had voluntarily repatriated.²⁹⁸ As of June 2006, only 137 Iraqi refugees remained in the Rafha camp, after more than 100 Iraqi refugees left the camp to become urban refugees in Saudi Arabia.²⁹⁹ UNHCR has registered no other Iraqi refugees or asylum seekers in Saudi Arabia.³⁰⁰

While no official figures exist for the number of Iraqis currently living in Kuwait and Saudi Arabia, estimates in Kuwait range from 10,000 to 13,000, and neither official figures nor credible estimates exist for the number of Iraqis in Saudi Arabia. UNHCR-Kuwait has registered 427 Iraqis as asylum seekers and has recognized 18 Iraqis as refugees. There was no refugee resettlement from Kuwait in 2003, 2004 or 2005, and with the exception of a single refugee resettled from Saudi Arabia in 2003, it did not facilitate the resettlement of any other Iraqi refugees from Saudi Arabia for the same three-year period of the war and its ongoing violent aftermath.³⁰¹

At the beginning of the war, Kuwait announced that it would not permit Iraqis to enter, but would instead hold them in a 15-kilometer-wide demilitarized strip on the Iraqi side of the border, where it would provide humanitarian assistance.³⁰² Upon the opening of a humanitarian operation center (HOC) in March 2003, former Kuwaiti

²⁹⁴ U.S. Committee for Refugees and Immigrants, *World Refugee Survey 2002*, pp. 182-183.

²⁹⁵ Bill Frelick, "U.S. Resettlement Program for Iraqi Refugees in Saudi Arabia Closes Down," *Refugee Reports*, vol. 19, no. 1, January 31, 1998, p. 2. The United States admitted 12,209, Iran 2,645, Sweden 2,208, and Australia, Canada, the Netherlands, Finland, and Denmark also resettled significant numbers.

²⁹⁶ *Ibid.* p. 4.

²⁹⁷ UNHCR, "Iraqis Prepare to Leave Remote Desert Camp," July 28, 2003. Available at: <http://www.reliefweb.int/rw/RWB.NSF/db900SID/ACOS-64CJ69?OpenDocument> (accessed July 31, 2006).

²⁹⁸ UNHCR, "Impoverished Southern Iraq Wrestles with Significant Refugee Returns," March 9, 2004. Available at: <http://www.health-now.org/site/article.php?menuId=14&articleId=86> (accessed July 31, 2006).

²⁹⁹ Email from UNHCR-Riyadh to Human Rights Watch, July 2, 2006.

³⁰⁰ *Ibid.*

³⁰¹ *Ibid.* and email from UNHCR-Kuwait to Human Rights Watch, July 2, 2006.

³⁰² Diana Elias, "Kuwait Says It will Help Iraqi Refugees, but on Iraqi Soil," Associated Press, March 10, 2003.

Chief of Staff Lt. General Ali al-Moman, the nominal chairman of the HOC, advised Iraqis to “stay where they are.”³⁰³ At the time, Saudi Arabia deployed 3,000 troops to Kuwait, and the head of Saudi Arabia’s border guard announced that Saudi security forces were using state-of-the art technology to detect people crossing the border.³⁰⁴ In August 2006, Saudi authorities announced their intention to build a sophisticated border fence on its border with Iraq at a cost of up to \$7 billion.³⁰⁵

The Response of Iran

Although the government of the Islamic Republic of Iran says that 54,000 Iraqi refugees reside in the country, the only Iraqi refugees who it permitted to re-register in 2001 and 2002 to maintain their refugee status in the country (at which point, it closed further registration) were refugees who had previously registered. This means that the count of officially recognized Iraqi refugees includes none who may have sought asylum in Iran anytime since 2001, which, of course, includes any who might have fled the April 2003 war or its aftermath. UNHCR says that “there are no reliable figures on the number of Iraqis remaining in the country.”³⁰⁶

The Iranian government does not honor UNHCR’s recognition of refugees under its mandate. Although Iran is a party to the Refugee Convention and has established a ministerial-level eligibility committee to determine refugee claims, no information about the Iranian RSD procedure is publicly known.

Before the war, Ahmad Hosseini, Iran’s advisor to the minister and director general of the Bureau for Aliens and Foreign Immigrants’ Affairs, announced, “In the event of an American attack against Iraq, we will not authorize any Iraqi refugee to enter Iranian territory.”³⁰⁷ Iran did pre-position relief supplies to accommodate potential

³⁰³ Ibid.

³⁰⁴ “Saudi Takes Precautions to Prevent Influx of Iraqi Refugees in Case of War,” Associated Press, March 5, 2003.

³⁰⁵ “The Great Wall of Arabia,” *Time Magazine*, August 28, 2006. Available at: <http://www.time.com/time/magazine/printout/0,8816,1376210,00.html> (accessed September 18, 2006).

³⁰⁶ UNHCR, *Global Appeal 2006*, p. 250. Available at: <http://www.unhcr.org/cgi-bin/texis/vtx/template?page=publ&src=static/ga2006/ga2006toc.htm> (accessed October 17, 2006).

³⁰⁷ “Iraqi Refugees Not Welcome on Iranian Soil: Interior Ministry,” Agence France-Presse, September 10, 2002.

Iraqi displaced peoples congregating on its western and southwestern borders.³⁰⁸ As the war grew closer, Iran sent out mixed signals indicating that it might open its borders to Iraqis whose “lives...are really in danger.”³⁰⁹ On the eve of the war, the government announced its policy was still a “closed door” for Iraqi refugees, but that it would make exceptions for people whose “lives are on the line.”³¹⁰ As it turned out, the anticipated flow did not occur, and not a single Iraqi refugee was recorded as having sought asylum in Iran.³¹¹ To the contrary, from 2003 through 2005, more than 100,000 Iraqi refugees returned to Iraq from Iran.³¹²

The Response of Turkey

Although Turkey is a party to the Refugee Convention and Protocol, it maintains a geographical limitation that only recognizes refugees of European origin. It has, therefore, never recognized Iraqi refugees on its territory. Nevertheless, Turkey has been a reluctant host to mass influxes of Iraqi refugees. Most notably in spring 1991, in the immediate aftermath of the Gulf War, 450,000 Iraqis, mostly Kurds, fled to its border, at which time Turkey tried to prevent them from entering.³¹³ That episode resulted in the creation of a “safe area” in northern Iraq and the return of those refugees to what became the Kurdish autonomous zone from 1991 to 2003, which today comprises the area controlled by the Kurdistan Regional Government (KRG).

As war approached in 2003, UNHCR-Ankara prepared for a large influx of refugees in Turkey and spoke about Turkish plans to set up five camps inside Turkey and 13 camps in northern Iraq to accommodate more than 250,000 anticipated refugees.³¹⁴ However, press reports of the time quoted Turkish officials about the measures they

³⁰⁸ At the outbreak of the war, Iran had prepared three camps inside its territory, but did not publicize their existence. It said it would move those camps into Iraq or the no man’s land between border checkpoints, but UNHCR and others persuaded it not to do so.

³⁰⁹ “Iran Prepares for 200,000 Refugees from Iraq in 10 Camps,” Agence France-Presse, January 26, 2003.

³¹⁰ “Iran Ready to Assist Refugees of Probably U.S. War, Says UN Official,” *BBC*, March 7, 2003.

³¹¹ UNHCR, *Global Report 2003*, p. 326.

³¹² “Over Half of Iraqi Refugees in Iran Have Gone Home, Says UNHCR,” UNHCR News Stories, December 16, 2004.

³¹³ Bill Frelick, “The False Promise of Operation Provide Comfort: Protecting Refugees or Protecting State Power?” *Middle East Report*, May-June 1992. Hard copy available through <http://www.merip.org/mer/backissues.html>.

³¹⁴ See, Gil Loescher and Arthur Helton, “Turkey Prepares for a Refugee Influx from Iraq,” OpenDemocracy.com, March 11, 2003. Available at: http://www.cfr.org/publication/5714/turkey_prepares_for_a_refugee_influx_from_iraq.html (accessed July 5, 2006).

were taking to prevent a refugee influx. Turkish Prime Minister Recep Tayyip Erdogan announced on a national television broadcast on the eve of the war that he had made military arrangements with the United States for “a limited belt along the border aimed at stopping a possible influx of refugees...and prevent threats to our security.”³¹⁵

The expected mass influx did not occur, largely because the Iraqi Kurds in 2003 were no longer in flight. As war and generalized violence continued for the next several years, as well as continuing conflict with Turkish Kurds in the frontier region, Turkey kept a tight grip on its border with Iraq. A UNHCR planning document written in 2003 for the 2004 year noted that “tension and war in Iraq has led to particularly stringent control measures in the immediate border area.”³¹⁶ Iraqis are not allowed to enter Turkey overland without a visa obtained in advance from a Turkish embassy or consulate abroad, although those arriving by air may obtain a visa at the airport.³¹⁷

As of June 30, 2006, UNHCR-Ankara had registered 2,404 Iraqis as “asylum seekers” in Turkey, although it was doing no further processing of their cases.³¹⁸ As with other UNHCR offices in the region, UNHCR-Ankara has placed a freeze on Iraqi refugee status determinations as part of the refugee agency’s regional temporary protection regime. Turkish law does not incorporate the TPR, but the Turkish government has also agreed not to deport Iraqis for the present time.

Human Rights Watch interviewed a European diplomat in Amman who had just returned from Turkey and said that the presence of Iraqi nationals in Turkey is “very limited.” The diplomat said that about 80 percent of UNHCR’s Iraqi caseload in Turkey is made up of Christians. He suggested that there are larger numbers of Iraqi Turkmen (a Turkic ethnic group most prominently found in the area of Kirkuk) who “don’t have any problems and have integrated into Turkey.”³¹⁹

³¹⁵ Jean-Claude Chapon, “UN Refugee Agency Steps Up Preparations on Border with Iraq,” Agence France Presse, March 24, 2003. Available at: <http://global.factiva.com/aa/default.aspx?pp=Print> (accessed July 5, 2006).

³¹⁶ UNHCR, Country Operations Plan, Turkey, Planning Year 2004, p. 1 (on file with Human Rights Watch).

³¹⁷ Email from UNHCR-Ankara to Human Rights Watch, July 20, 2006.

³¹⁸ Email from UNHCR-Ankara to Human Rights Watch, July 20, 2006.

³¹⁹ Human Rights Watch interview with diplomat, Amman, May 3, 2006.

Another 108 UNHCR-recognized Iraqi refugees reside in Turkey, most of whom were recognized as refugees before April 2003, and have not found a third country willing to resettle them. More than 1,000 Iranian refugees who crossed into Turkey from northern Iraq are also living in the country.³²⁰ The Turkish government requires UNHCR-registered asylum seekers and refugees to reside in “satellite cities” in central Anatolia. This is quite isolating, particularly for Christians and other religious minorities, who often move to Istanbul. By circumventing the government’s residency requirements, these Iraqis put themselves in an irregular situation with the authorities. Very few of the refugees and asylum seekers meet the government’s strict language and skills requirements to receive work permits, and UNHCR’s ability to provide humanitarian assistance for them is limited. UNHCR’s operational plan for 2006 said, “With no possibility for safe return to Iraq, little prospect for resettlement and only temporary asylum in Turkey, the Iraqi refugees and asylum-seekers and Iranian refugees ex-Iraq are effectively stranded. They are growing increasingly frustrated and ever more dependent on UNHCR.”³²¹

The Response of Yemen and Egypt

Although neither Yemen nor Egypt share a border with Iraq, both have been host to large numbers of Iraqi nationals who appear to have left Iraq for the same reasons as Iraqis in Jordan and other bordering countries. As with Iraq’s other neighbors, Yemen and Egypt, at best, ignore the presence of Iraqis. In fact, reliable estimates of their numbers are particularly hard to find.

UNHCR estimated that 100,000 Iraqis were living in Yemen in 2004,³²² but declined to estimate the numbers in 2006, saying that because there has been active movement of Iraqis in and out of Yemen, “it is extremely difficult to estimate their current numbers.”³²³ As elsewhere in the region, the number approaching UNHCR for registration is relatively small. UNHCR has registered 1,126 Iraqis, but treats them

³²⁰ UNHCR, Country Operations Plan, Turkey, Planning Year 2006.

³²¹ Ibid.

³²² UNHCR, Country Operations Plan, Yemen, Planning Year 2004, p. 2 (on file with Human Rights Watch).

³²³ Email from UNHCR-Sana’a to Human Rights Watch, July 16, 2006.

according to the temporary protection scheme, and is not screening Iraqis for refugee status or processing them for resettlement.³²⁴

Although Yemen did admit Iraqis without an advance visa in 2003, Yemen changed this policy in 2004 and imposed a visa requirement on Iraqi nationals, purportedly as an anti-trafficking-in-women measure.³²⁵

Human Rights Watch was not able to find reliable estimates of the number of Iraqi nationals living in Egypt, but their numbers appear to be rising. Sources in Egypt who did not want to be identified told Human Rights Watch that the likely range was 30,000 to 40,000. In July 2006, the chief of mission for IOM in Iraq said, “We don’t have exact figures, but we see in Jordan, Syria, and now even in Egypt and neighboring countries, where the numbers of Iraqis again slowly and steadily keep increasing.”³²⁶ The number of Iraqis registered with UNHCR-Cairo rose from 57 at the end of 2002 to 955 after the first six months of 2006. As of July 8, 2006, UNHCR had registered 1,012 Iraqis for temporary protection in Egypt. Another 77 Iraqis were recognized refugees, overwhelmingly persons whose cases were decided before April 2003.³²⁷ Iraqis who UNHCR-Cairo registers for temporary protection are issued three-month, renewable residency permits.³²⁸

The Response of the United States, United Kingdom and Other Resettlement and Donor Countries outside the Region

Donor and resettlement governments outside the region largely ignore the Iraqi refugee problem in Jordan (and Syria and Lebanon). The United States and the United Kingdom have taken little note of the presence of Iraqi refugees in Jordan and

³²⁴ Of the 1,126 total, UNHCR has recognized 277 as refugees, but they were all recognized prior to April 2003. No Iraqi refugees were resettled from Yemen in 2003, 2004, or 2005. Three Iraqis were resettled to the Netherlands in 2004. Email from UNHCR-Yemen to Human Rights Watch, July 16, 2006.

³²⁵ Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, *Yemen, Country Report on Human Rights Practices*, March 8, 2006, sec. 5, p. 17. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2005/61703.htm> (accessed July 14, 2006).

³²⁶ Rafiq Tschannen, IOM chief of mission, Iraq, cited by Reuters, “Iraqi Exodus Accelerates with Rising Violence,” July 6, 2006.

³²⁷ Email from UNHCR-Cairo to Human Rights Watch, July 20, 2006. See also, “Thousands of Iraqis Fleeing the Country,” Associated Press, April 21, 2006. Available at: <http://www.newsvine.com/news/2006/04/21/173145-thousands-of-iraqis-fleeing-the-country> (accessed July 17, 2006).

³²⁸ Email from UNHCR-Cairo to Human Rights Watch, July 20, 2006.

minimal action to promote temporary asylum in Jordan. Yet, those two states are the most heavily committed militarily in Iraq and bear a responsibility to acknowledge—and to respond to—the human consequences in neighboring states of Iraq’s current upheaval.

Since the start of the war in 2003, Australia, New Zealand, Ireland, Sweden and Canada have modestly helped to relieve Jordan of some of its burden by resettling what still are small numbers of refugees from Jordan.³²⁹ The United States suspended admission of Iraqi refugees from the time of the September 11, 2001, attacks until April 13, 2005, when it announced that it would normalize processing of Iraqi resettlement cases.³³⁰ Despite the formal resumption of Iraqi refugee processing, only two Iraqi cases (12 persons) referred by UNHCR departed for the United States in 2005.³³¹ The United States admitted another six Iraqis on family reunification grounds without a UNHCR referral in 2005.³³² In 2006, the U.S. State Department admitted 43 Iraqis refugees from Jordan.³³³ From the beginning of the war in April 2003 through May 2006, UNHCR referred no Iraqi refugee cases for resettlement in the United Kingdom. Six Iraqi family reunification cases departed from Jordan to the United Kingdom without a UNHCR referral.³³⁴

Although the United States is a major donor to Jordan, a relatively small portion of its Jordan foreign aid package is devoted to refugees. The United Kingdom and other European donors appear to have paid less attention to refugee needs in Jordan.

³²⁹ UNHCR facilitated the resettlement of 436 refugees in 2005, which included 158 “Iraqis,” although the Iraqi subtotal also included Palestinians who fled from Iraq, and 191 Iranians (mostly Kurds). UNHCR did not provide a breakdown by nationality or country of destination, other than to say that Australia, Canada, New Zealand, and the United States were the principal resettlement countries. It reported the following countries resettling Iranian Kurds and Palestinians from al-Ruwaishid (no Iraqis) in 2005: Ireland: 46 Iranian Kurds; United Kingdom: 25 Iranian Kurds; New Zealand: 119 Iranian Kurds and 25 Palestinians. In 2004, UNHCR facilitated the resettlement of 409 Iranian Kurds from al-Ruwaishid, including 387 to Sweden and 22 to Ireland. At the time of the Human Right Watch mission to Jordan, Canada, Sweden, and Ireland were in the process of choosing al-Ruwaishid refugees for resettlement. “Iraqis in Jordan,” email attachment from UNHCR-Amman to Human Rights Watch, February 2, 2006, and email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

³³⁰ Terry Rusch (director, Office of Admissions, Bureau of Population, Refugees, and Migration, U.S. Department of State), Program Announcement 2005-7: “USG Policy on Resettlement of Iraqi Refugees,” April 13, 2005. On file with Human Rights Watch. See also, *Refugee Reports*, vol. 23, no. 9, December 31, 2002, pp. 4-5.

³³¹ Email from UNHCR-Amman to Human Rights Watch, May 29, 2006.

³³² *Ibid.*

³³³ Email from U.S. State Department to Human Rights Watch, October 24, 2006.

³³⁴ *Ibid.*

Although the U.S. government's bilateral foreign aid to Jordan has averaged US\$736 million per year since fiscal year 2003,³³⁵ it only earmarked US\$447,845 in 2005 for Iraqi refugees in Jordan in its multilateral donation to UNHCR.³³⁶ In 2006, the United States did contribute US\$1.4 million for ICMC's humanitarian assistance projects in Jordan, including outreach to refugees.³³⁷ Neither the United Kingdom nor the European Commission earmarked any funding for Iraqi refugees in Jordan in their 2005 contributions to UNHCR.³³⁸ But donor governments rarely give money without being asked. As long as Jordan chooses not to ask, the international community is not likely to answer.

Similarly, many member states of the European Union have not admitted any (or only a token number of) Iraqi refugees from the region. If only in their own self interest in providing meaningful assistance and protection in the region so that Iraqis do not migrate irregularly to Europe in order to seek asylum there, ECHO and European donor countries should also provide Jordan and other countries that provide temporary protection to Iraqi refugees, such as Syria, with generous assistance. The observation of the UNHCR Representative in Syria about Iraqis moving irregularly from Syria to Europe would apply equally to the situation of Iraqis in Jordan:

[H]undreds of thousands of Iraqis are no longer interested in an eventual return to Iraq. Consequently, a huge secondary movement of Iraqis may take place from Syria towards Western countries and particularly Europe, being the closest and traditional region to which Iraqis have fled since the 1991 war. This is a tremendous challenge

³³⁵ Jeremy M. Sharp, "U.S. Foreign Assistance to the Middle East: Historical Background, Recent Trends, and the FY 2007 Request," CRS Report to Congress, Congressional Research Service, updated March 24, 2006, at CRS-14. Available at <http://italy.usembassy.gov/pdf/other/RL32260.pdf> (accessed October 19, 2006).

³³⁶ UNHCR, Global Report 2005, p. 52. The United States provides funding support to the International Catholic Migration Commission (ICMC) program for extremely vulnerable individuals in Jordan, which provides a safety net for many who otherwise would not be able to afford health care.

³³⁷ Telephone calls from Jay Zimmerman, U.S. State Department, Bureau of Population, Refugees, and Migration, to Human Rights Watch, July 19, 2006 and July 24, 2006. In 2006, the United States also contributed \$1.1 million for ICMC's humanitarian work in Syria and \$772, 399 for its work in Lebanon. It has contributed about the same amount to ICMC for its work in Jordan in each of the past five years.

³³⁸ UNHCR, Global Report 2005, p. 51. The European Community Humanitarian Office (ECHO), the humanitarian arm of the European Community, provides funding for CARE's work with refugees in Jordan.

which needs urgent attention, proper planning and action from the international community in order to avoid a new exodus.³³⁹

The number of Iraqi asylum applications lodged in Europe rose by 26 percent from 2004 to 2005.³⁴⁰ In 2005, Iraqis represented the third largest group of asylum seekers in Europe, trailing only asylum seekers from Serbia and Montenegro and Russia.³⁴¹ The European countries with the largest number of newly filed Iraqi asylum claims in 2005 were Sweden (2,330), Germany (1,895), the Netherlands (1,620), the United Kingdom (1,605), Greece (971), and Belgium (903).³⁴²

The United States and the United Kingdom have a particular responsibility to support Jordan. Not only do both countries have historical ties to Jordan and a foreign policy interest in ensuring that Jordan is not destabilized by the large number of Iraqi nationals living in the country unsupported and without legal status, but they also have a moral imperative to support civilians who have fled dangerous conditions precipitated in large part by the U.S.-led war effort or who fled Saddam Hussein's regime in the 1990s but have been unable to return because of dangerous conditions. The United States and the United Kingdom should provide quick and meaningful support to Jordan, both financial and technical, but they should also share the responsibility for providing protection and durable solutions for Iraqi refugees.

Both the United States and the United Kingdom should institute significant refugee resettlement programs for Iraqi refugees in need of resettlement, including persecuted religious minorities, members of ethnically mixed families, and people persecuted or threatened with persecution on account of their association with the

³³⁹ El Ouali in UNHCR, UNICEF, and WFP, "Assessment on the Situation of Iraqi Refugees in Syria," March 2006, p. 5.

³⁴⁰ This represents 31 European countries that provided data to UNHCR, including 24 countries of the European Union (France did not report complete statistics). UNHCR, *Asylum Levels and Trends in Industrialized Countries 2005*, March 17, 2006.

³⁴¹ Although the numbers from Serbia/Montenegro and Russia were larger, both countries showed a decrease in asylum applications lodged in Europe from 2004 to 2005 (in Russia's case, a 31 percent decrease), while Iraqis were increasing by 26 percent during the same period. Iraq's ranking rose from eighth to third largest number of new applications in Europe from 2004 to 2005. *Ibid.*

³⁴² *Ibid.* An NGO service provider in Amman pointed out another impact in Jordan of the increase in Iraqi asylum seekers in Europe: more single women headed households among de facto refugees in Jordan, because the male breadwinners are more likely to travel alone to Europe in the hopes of finding work in order to send remittances back to their wives and children in Jordan. Human Rights Watch interview with NGO service provider, Amman, April 26, 2006.

United States or the United Kingdom or with private American and British organizations. The United States, on a humanitarian basis (based on past-persecution claims), should admit Iraqi refugees recognized by UNHCR in Jordan during the Saddam Hussein era who were not resettled as a result of the U.S. moratorium on resettlement of Iraqi refugees after September 11, 2001, and who have been living in limbo since that time.³⁴³ Aside from humanitarian reasons for resettling this relatively small group, the stuck “old caseload” has blocked the refugee-processing pipeline, and has been one of the reasons the United States has been slow to begin processing “new caseload” refugees.

In addition to helping to relieve Jordan, Syria, Lebanon and potentially other countries in the region of the refugee burden through resettlement, financial support is critical to maintain health and education standards for the refugees, as well as needs for particularly vulnerable Iraqis, such as female-headed households, the elderly, torture survivors, the disabled, and unaccompanied minors. While some governments have contributed bilaterally and through particular NGOs, such as the U.S. contribution to ICMC and ECHO’s contribution to CARE, most funding is channeled through UNHCR’s Global Appeal, based on standing formulas whereby certain governments agree to contribute particular percentages of the appeal.³⁴⁴

UNHCR in practice bases its operating budget less on the actual needs on the ground, rather than on anticipated contributions. UNHCR’s operations in Jordan have been funded during the past three years through its supplementary budget, a budget mechanism that allows UNHCR to devote additional resources to emergency situations. However, UNHCR’s Executive Committee has set a three-year limit on supplementary budget funding before an office’s operations must revert to the

³⁴³ U.S. refugee processing of Iraqi refugees was frozen on September 11, 2001, and remained frozen until April 13, 2005, when the State Department announced that normal processing would resume. However, Iraqi refugee processing to the United States in the ten years prior to the 9/11/01 attacks averaged 2,800 per year. *Refugee Reports*, vol. 25, no. 9, December 31, 2004, pp. 10-11. Since the resumption of Iraqi refugee processing, however, the United States admitted only 198 Iraqi refugees (from all countries) in Fiscal Year 2005. *Refugee Reports*, vol. 27, no. 1, February 2006, pp. 16-17. The recommendation that the United States resettle Iraqi refugees who suffered past persecution “on a humanitarian basis” derives from 1) the inclusion of “persecution” in the U.S. refugee definition, in addition to the international refugee definition of a “well-founded fear of being persecuted,” 2) a U.S. federal regulation establishing “humanitarian asylum” based on past persecution claims, 8 C.F.R. § 208.13(b)(1)(ii), and 3) the specification in U.S. law that overseas refugee resettlement is based on refugees of “special humanitarian concern” to the United States.

³⁴⁴ For example, the United States contributes 25 to 35 percent of the total appeal for the Middle East. Phone conversation between State Department official and Human Rights Watch, July 24, 2006.

general budget process. This means that the Iraq and Jordan operations at risk of reverting to pre-2003 funding levels. UNHCR has put a no-growth cap on its general budget, which would mean that UNHCR's budget for Jordan could, in effect, be cut by one-third. At its 2006 Executive Committee meeting at which the High Commissioner announced a nine percent decrease in its general budget for 2007, UNHCR's 2007 budget proposal said that it continued to anticipate supplementary funding for its Iraq Operation, but did not give a funding figure. It reported that supplementary funding for the Iraq Operation decreased from 32 million in 2005 to 28 million in 2006.³⁴⁵

The budgets of UNHCR's NGO implementing partners, such as CARE and MIZAN,³⁴⁶ who provide essential services to Iraqi refugees, could take deep cuts. Also, since most of the locally hired UNHCR staff in Jordan and the entire UNHCR staff for al-Ruwaishid camp are funded through the supplementary budget,³⁴⁷ a reversion to the general budget process would result in deep cuts in critical aspects of UNHCR's core operations in Jordan. What funding is available appears destined for programs inside Iraq, based, in part, on a faulty assumption that refugee repatriation to Iraq will be a viable option.

It is essential that donor governments working through UNHCR's Executive Committee recognize the nature of the refugee emergency in Jordan and elsewhere in the region. Whether or not Jordan maintains its "silent treatment," these governments need to recognize that there is an ever-changing, and growing, emergency in the region involving refugees who have fled Iraq and that the numbers and the needs are substantially greater than has heretofore been acknowledged. Recognizing the nature and scope of the problem is the first and essential step in addressing and resolving it.

³⁴⁵ UNHCR, "UNHCR's Annual Programme Budget 2007," UN Doc. A/AC.96/1026, September 1, 2006 (on file with Human Rights Watch).

³⁴⁶ MIZAN, the Law Group for Human Rights, provides legal counseling. CARE provides material assistance.

³⁴⁷ Email from UNHCR-Amman to Human Rights Watch, May 24, 2006.

Methodology

Human Rights Watch visited Jordan from April 14 to May 6, 2006, to research this report. Human Rights Watch spent four days in the border area, visiting a temporary camp of Palestinian refugees stranded on the Iraqi side of the border; a camp of Iranian Kurds in the no man's land between the checkpoints that mark the entry and exit lines of the two countries; and al-Ruwaishid camp inside Jordan, but in the border region, where UNHCR-recognized Palestinian and Iranian Kurdish refugees have lived since the war. Another team of Human Rights Watch researchers simultaneously assessed conditions in northern Iraq, including the Kawa camp in Qoshtapa, and contributed to the section of this report relating to Iranian Kurds.

Human Rights Watch conducted 85 in-depth interviews with refugees, asylum seekers, and others in refugee-like circumstances who expressed some level of fear of return to Iraq. These included 43 Iraqi nationals, 27 Palestinian habitual residents of Iraq, 14 Iranian Kurds, and one Lebanese national. Interviews were conducted in Amman (36), Karak (six), the no man's land (nine), the Ruwaishid camp (17) some 85 kilometers inside Jordan, and the camp for Palestinians across the Iraqi border (16).

Of the 43 Iraqi nationals interviewed, 15 were female and 28 were male. The ethnic/religious breakdown of the Iraqi nationals was: 15 various Christian denominations, nine Shi`a, five Sunni, four unspecified Muslim, and one Mandaean. A further nine were not asked their religious affiliation as it had no bearing on their reasons for fleeing Iraq or their situation in Jordan. Iraqi Shi`a and Sunnis are often reticent about identifying themselves in sectarian terms. Twenty-two of the 40 Iraqi nationals were from Baghdad, as were 23 of 27 Palestinians. The plurality of Iraqi nationals interviewed, 14, arrived in Jordan before 2003. Eleven arrived in 2003 or 2004, 10 in 2005, and three in the first four months of 2006.

Human Rights Watch also conducted six phone interviews with Iraqis inside Iraq as part of this study. Another eight Iraqi refugees in Jordan responded to a questionnaire concerning their arrests and administrative detention.

While these statistics may not be representative of the make up of the Iraqi population in Jordan, they do show that a wide spectrum of Iraqi society is fleeing to Jordan and that Christians constitute a higher proportion in exile than inside Iraq.

Human Rights Watch also interviewed Iraqi nationals in Jordan who are neither seeking asylum nor in need of protection, including taxi drivers, traders, and others who cross frequently between the two countries. In addition, Human Rights Watch interviewed local and international nongovernmental organizations, intergovernmental agencies, and diplomats.

Because of their precarious legal status in Jordan and potential for persecution if returned to Iraq, the names of Iraqi nationals, Palestinians, and Iranian Kurds interviewed in Jordan are not used in this report.

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