

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	314
Land:	Irak
Kilde:	UNHCR
Titel:	"Aide-Memoire. Protecting palestinians in Iraq and seeking humanitarian solutions for those who fled the country"
Udgivet:	December 2006
Optaget på baggrundsmaterialet:	2007

Aide-Mémoire

Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country

I. Background

1. Palestinian refugees came to Iraq in successive waves. The first group originating from the northern part of today's Israel reached Iraq in 1948. They were followed by another group who fled the Occupied Territories, mainly in 1967, as a result of the third Arab-Israeli war and later by a third group who moved from the Gulf countries in the aftermath of the 1991 Gulf war. Following the 2003 war in Iraq, 23,000 Palestinians have been registered by UNHCR before the evacuation of the UN staff from Iraq and the interruption of the registration campaign in August 2003. It is believed that at present less than 15,000 Palestinians continue to live in Iraq.

2. The Palestinian refugees in Iraq were never recognized formally as refugees by the Iraqi government. However, they were protected by the Iraqi authorities based on pertinent resolutions of the League of Arab States and, in particular, the 1965 Protocol for the Treatment of Palestinians in Arab States, the Casablanca Protocol. They enjoyed a relatively high standard of treatment and were granted residence permits, benefited from the right to work, access to social services and were provided with government-owned housing or fixed, subsidized rent in privately-owned dwellings. Iraq could thus be considered as the habitual place of residence of these Palestinians.

3. Since the fall of the former regime in Baghdad in April 2003, members of the Palestinian community in Baghdad have raised concerns that their status and their security in Iraq are at risk. They have expressed concerns regarding the renewal of their residency permits and the confiscation of their documents.

4. Palestinian refugees in Iraq, being outside UNRWA's area of operations fall within UNHCR's competence by virtue of paragraph 2 of Art.1D of the 1951 Convention relating to the Status of Refugees.¹ UNHCR has assisted hundreds of Palestinian families who have been evicted from their homes in Baghdad and received many reports suggesting that Palestinians have become subject to discriminatory and violent acts, forcing some of them to leave the country in search of safety abroad.

¹ See paragraph 7 of "Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian refugees"; UNHCR, October 2002.

II. The Protection Situation inside Iraq

The Deteriorating Conditions of Palestinians inside Iraq

5. Palestinians in Iraq have become a target of arbitrary arrest, detention, false accusations in the media, abduction, kidnapping, torture and even extra-judicial killings. UNHCR received credible reports that many have been harassed by segments of the Iraqi population and armed militias who resent their perceived close affiliation with the former regime and accuse them of acts of terrorism. Palestinians complained about the increasingly difficult and sometimes humiliating process of renewing their residence documents on a two months basis.

6. Hundreds of Palestinian families were evicted from their homes by landlords resentful that they had been forced to house subsidized Palestinian tenants. Some of the reported acts of violence against Palestinians have been allegedly carried out with the connivance and, possibly the participation of some elements associated with the Iraqi security forces or that the security forces have shown little effort to stop these acts. This climate of hostility against Palestinians has continued unabated until the present, and many Palestinians, given their insecurity, have limited their movements and have stopped sending their children to schools.

7. In early October 2006, the Al Hurriya district in Baghdad was the scene for an incursion by the members of an Iraqi militia who threatened the Palestinian inhabitants of the area and evicted at least one Palestinian family from their home. UNHCR received reports that the incident forced around 300 families to leave the Al Hurriya district and to head for other areas. On 19 October 2006, a mortar attack in Baghdad's Palestinian neighbourhood of Al Baladiya left four Palestinians dead, a dozen wounded and many people displaced. Ambulances trying to reach the area right after the attack were reportedly turned away by armed militia. There had been previous warnings by militia groups that Palestinians should leave the neighbourhood. The Al Baladiya area used to house some 8,000 Palestinians. Reports by Palestinian sources now say that there are only about 4,000 remaining there.

III. Ensuring the Protection of Palestinian Refugees inside Iraq

8. While it is difficult to assess the exact number of Palestinians who have been evicted from their homes, abusively detained, abducted, tortured or killed in Iraq, it is clear that the Palestinian community in Iraq has become the target of various abuses based on a combination of political and religious grounds.

9. The primary responsibility for protecting Palestinian refugees inside Iraq falls under the responsibility of the government of Iraq. The Multinational Forces (MNF), in the areas where they are active, are also responsible for ensuring security and order. The Iraqi government should recognize the seriousness of the problem and seek ways and means to prevent public offices and officers from taking part in or condoning hostility

against Palestinians. UNHCR and UNAMI have undertaken several demarches towards this end and it is hoped that the government will actively follow up on these démarches. The religious ruling (Fatwa) issued in April 2006 by the Grand Ayatollah Ali Al-Sistani forbidding attacks against Palestinians is a welcome and encouraging move.

UNHCR therefore recommends that concrete steps be taken by the Iraqi authorities aimed at:

- clarifying the legal status of Palestinian refugees in Iraq and issuing/renewing residency and travel documents for them so as to facilitate their movements which should include possibility to return to Iraq for those who choose to leave;
- making strong and clear statements that all Palestinian refugees in Iraq are lawful habitual residents of Iraq and should enjoy rights guaranteed by domestic and international law;
- taking concrete security measures to end violent acts as well as discriminatory and abusive practices against Palestinians, investigate and punish such acts, monitor the conditions in the areas inhabited by Palestinians, improve their physical security, guarantee them effective legal and physical protection, bring law and order to their areas, reassure Palestinians living in these areas and prevent further displacement;
- ensuring that Palestinian refugees are entitled to leave Iraq and be readmitted to their habitual place of residence when conditions allow for their safe and voluntary return;

IV. The Compelling Situation of Palestinian Refugees who fled Iraq

Many Palestinians forced to flee Iraq

10. As a result of the deteriorating security situation, some groups of Palestinians have sought protection in neighbouring countries. According to various sources, including representatives of the Palestinian community in Baghdad, almost all Palestinians in Iraq would like to leave the country. Many have turned to people smugglers to achieve this option. However, Palestinians are experiencing difficulties to relocate, since countries are unwilling to accept their travel documents or issue them with visas.

11. Currently, there are three groups of Palestinian refugees who are in a precarious situation in neighbouring countries and in need of a humanitarian solution as follows:

- i) **Palestinians in Ruwaished camp in Jordan:** A few weeks after the fall of the regime in Baghdad, Palestinians fled Iraq and were stranded in the desert no-man's-land border area between Iraq and Jordan. They were allowed later to enter Jordan where they were accommodated in the Ruwaished refugee camp, 70

km west of the Iraqi border. In August 2003, Jordan has kindly admitted 386 persons among them based on marriages with Jordanians while another group returned to Baghdad. Today, three years after they fled Iraq, 148 Palestinians still remain in the Ruwaished camp in very harsh weather conditions, with no prospects for the future. UNHCR continues to provide them with assistance.

ii) **Palestinians in El Hol refugee camp, north-east Syria:** Around 300 Palestinians who fled Iraq are presently accommodated in the El Hol refugee camp, near the city of Hasake in northeastern Syria. They left Iraq in small groups and many of them reported that their family members had been murdered and others claimed to be former detainees or victims of torture. They were stranded for several months in the border area with Jordan and, in late April 2006, the Syrian government allowed them entry into Syria where they were accommodated in El Hol camp in cooperation with UNRWA and UNHCR. This initial move has been welcomed by UNHCR. While this group enjoys safety and receives basic assistance in El Hol camp, their freedom of movement is limited, they depend on humanitarian aid and it is not yet clear what legal status they will be granted in Syria. Some of them have close relatives lawfully residing in Syria and will hopefully be authorized to join them.

iii) **Palestinians stranded in the Tanf border area between Iraq and Syria:** The situation of this group is the most compelling. They number 320 persons, including children and pregnant women. They arrived to the Syrian border in small groups following the admission of the group above in El Hol camp and seem to be determined to stay until they are authorized to enter Syria. Similar to other Palestinians who fled Iraq, members of this group claimed to have been subject to repeated acts of harassment, threat, violence, abduction and eviction from home. The Tanf site is unsuitable for the provision of adequate humanitarian assistance and lacks basic infrastructure, which makes the living conditions of the group miserable, despite efforts made by UNHCR and UNRWA to provide them with basic services. While the admission of the group into Syria has been denied by the Syrian authorities, the latter have been very cooperative in allowing UNHCR's access to the group and temporary access into nearby Syrian medical facilities for emergency cases. With the onset of winter, the living conditions of this group are expected to further deteriorate, a more prolonged stay in the area is extremely difficult to sustain and a solution to the plight of the concerned persons has become urgent.

12. Syria and Jordan are countries which fall within UNRWA's area of operations and Palestinians registered by UNRWA would fall outside UNHCR's competence by virtue of paragraph 1 of Art. 1D of the 1951 Convention relating to the Status of Refugees. However, Palestinians in these three camps, as outlined, are not registered nor assisted by UNRWA and, therefore, fall within UNHCR's competence,² in particular, given that the individuals concerned have been within UNHCR's competence while inside Iraq. The

² See UNHCR's Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees, *ibid*.

Syrian and Jordanian authorities have respectively welcomed UNHCR's assistance to these persons.

V. Seeking solutions for Palestinian refugees fleeing Iraq

13. Given the lack of the required collective commitment from the international community, all UNHCR, UNAMI and UNRWA's attempts to improve the protection of Palestinians in Iraq and to secure solutions in the region and further afield for those who fled Iraq have, so far, yielded no significant results. UNHCR reiterates its appeal to all concerned parties to address the situation of Palestinian refugees fleeing Iraq in a comprehensive manner and in a spirit of burden sharing.

14. None of the refugees in Ruwaished, El Hol or Tanf has expressed a desire to return to Iraq for the time being. UNHCR does not consider the conditions in Iraq to be conducive, especially for Palestinians, for a safe and dignified return. This is due to the prevailing insecurity, as well as to the lack of a solid legal status and the general resentment from a portion of the Iraqi population towards Palestinians. Such returns would not meet minimal UNHCR benchmarks in terms of physical, legal and material safety. Therefore, return to Iraq is not a reasonable or a feasible option under the present circumstances.

15. In regard to the availability for Palestinians of a relocation alternative in the three northern governorates of Iraq, such alternative is not feasible on an individual basis due to the lack of family links and community support., which would lead to inability to access basic services essential for livelihood. However, this option would only become feasible if fully endorsed by the local authorities in the three northern governorates (KRG) and their firm commitment to grant effective protection to Palestinians and to ensure their access to basic social services and work permits.

UNHCR therefore recommends that solutions focus on the following options:

a) Voluntary movement to the occupied Palestinian territories (OPT):

Movement to the West Bank and the Gaza Strip of individual cases who so wish should be considered as part of a comprehensive solution for the plight of Palestinian refugees who fled Iraq. This option should be examined and implemented on humanitarian grounds and be de-linked from the political considerations connected to the broader Palestinian refugee issue. Representatives of the Palestinian authorities have stated their willingness to assist in the integration of those refugees who opt for this solution. However, given that the overall situation in Gaza is extremely precarious, any movement to Gaza Strip must be strictly voluntary. UNHCR appeals to the State of Israel to allow Palestinian refugees with direct ties to Gaza and the West Bank, and who wish to do so, to move to these areas, and stands ready to further discuss this option with all concerned parties.

b) Temporary stay in neighbouring States and other Arab countries:

Palestinian refugees who fled Iraq represent a particularly vulnerable group. Their prolonged stay in refugee camps or in border areas and their continuous dependency on humanitarian aid is not a viable option. The States neighbouring Iraq are called upon to keep their borders open to Palestinians fleeing Iraq, to treat them in accordance with international standards and to ensure that no Palestinian is subjected to refoulement or forced return to Iraq. Other Arab countries are urged to play their part in ending the suffering of Palestinians fleeing Iraq and to consider sharing the burden in a gesture of solidarity by offering some Palestinians, be it on temporary basis, residence, basic social services and work permits until their return to Iraq, or a more durable solution becomes feasible. UNHCR also appeals to Arab States to re-admit ex-Iraqi Palestinians to whom they have previously issued travel documents, as outlined in the 1965 Casablanca Protocol and relevant League of Arab States' Resolutions. UNHCR, within the limits of its resources, is willing to deploy all efforts to provide the necessary material assistance required for the relocation of the concerned refugees, facilitate their temporary stay in the countries willing to receive them, and work on making their return to Iraq possible as soon as circumstances allow.

c) Resettlement in third countries

Resettlement outside the region should be seen as an exceptional humanitarian response and an option of last resort to addressing the plight of Palestinians displaced into the neighbouring countries as described above. Resettlement countries may consider resettlement as part of their humanitarian efforts to find ways of alleviating the hardship faced by those Palestinians who flee Iraq and are unable or unwilling to return there, who are unable to move to the occupied Palestinian territories, who are unable to relocate to other Arab States, and who cannot safely remain in countries neighbouring Iraq. Resettlement should be seen as a temporary solution for Palestinians, without jeopardizing their right to return when conditions allow.

VI. Conclusion

Palestinians inside Iraq as well as those who have fled into the neighbouring States are facing a dire protection situation, lacking basic protection as refugees. The situation of Palestinian refugees inside Iraq has become untenable, while those who have fled into Jordan and Syria³ as described above, are living in conditions which are degrading and

³ Jordan and Syria fall within UNRWA's area of operations, and while Palestinians in these countries registered by UNRWA would fall outside UNHCR's mandate (see paragraph 6 of UNHCR's Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees, October 2002), Palestinian refugees in the camps as outlined in this paper are not assisted or registered by UNRWA nor is it clear that they are eligible to be registered by UNRWA, and thus may be considered as falling within UNHCR's mandate.

precarious. Inside Iraq, Palestinians suffer the same insecurity affecting the entire Iraqi population, and are also specifically targeted for serious discriminatory treatment and acts of violence. Being a large foreign minority and a high profile group, and having benefited from a large number of privileges under the former regime, Palestinian refugees are particularly vulnerable to human rights violations, which could well reach the threshold of persecution. There is no adequate protection from tribal or other social affiliations, or from the state authorities. All relevant stakeholders and the international community as a whole must act to address the protection needs of Palestinians inside Iraq as well as those who have fled into the neighbouring States as outlined in this paper.

In this context, it is important to de-link the immediate protection and humanitarian needs of the Palestinian refugees in Iraq or outside Iraq in neighbouring States, from the wider political question of Palestinian refugees in the Middle East. It is equally important for the international community to prevent yet another complication of the Palestinian refugee problem that a substantial outflow of Palestinians from Iraq would generate.

UNHCR Geneva
December 2006