

Note on Iraqi Asylum-seekers regarding
the Applicability of Internal Relocation Alternative and the Question of Return of Rejected Cases

1. Internal Relocation Alternative

1. A significant proportion of the persons leaving Iraq are refugees. Therefore, UNHCR's overriding concern is that Iraqi asylum-seekers must have access to international protection. A limited internal relocation alternative may be considered possible for some Iraqi asylum-seekers.

2. The seminal issue in respect to the notion of internal relocation alternative (also known as "internal flight alternative") is whether the fear of persecution that an individual experiences in one part of his or her country of origin can be avoided by moving to another part of the country. If it can, this would tend to suggest that the fear may not, or may no longer, be well-founded.

3. UNHCR's general position is that the question of whether an asylum-seeker fearing persecution in one part of the country has the possibility of an internal relocation alternative is one which must be decided on a case-by-case basis, taking into account all the circumstances of each individual case and the situation in the country of origin, including, in particular, the stability of the proposed relocation area.

4. The deciding analysis is whether, in all the circumstances of the case, it would have been (and would now be) possible and reasonable to expect the asylum-seeker to seek and obtain safety within his or her own country, rather than seeking asylum abroad. Factors which need to be considered in judging the reasonableness of the relocation include, among others, the asylum-seeker's age, sex, health, educational or professional background, the presence of family members, the existence of ethnic and religious communities to which the asylum-seeker belongs, and political and other links to the area.

5. UNHCR has been, and remains, reluctant to pronounce itself on the "safety" of a particular part of a country providing a relocation possibility for a particular group of individuals, precisely because the analysis must be made on a case-by-case basis. With regard to Iraq, however, the situation is somewhat anomalous due to the existence of the enclave in the north which is not under the control of the Government. Although the situation within that enclave remains volatile and susceptible to change, UNHCR has recognised that there may be certain cases for which the possibility to remain in, or return to, northern Iraq safely cannot be ruled out. However, it is essential that each claim be assessed in light not only of its particular circumstances, but also in light of the situation in the enclave at the time the determination is made.

1.1. Asylum-seekers from Government-controlled territory

6. For those persons originating from the territory controlled by the Government of Iraq and who have fled through northern Iraq, the circumstances surrounding the individual case might indicate that the claimant could reasonably have sought protection in the Kurdish-controlled area, rather than in another country. For such persons, the notion of internal relocation alternative may therefore be applied on a case-by-case basis.

7. The basic factors to be considered in determining the possibility of internal relocation in northern Iraq are firstly, whether the person might risk persecution in that area and secondly, whether (s)he has family, community and/or political links there that would make it reasonable for him or her to seek safety within the boundaries of his or her own country, rather than abroad. If a person had resided for a considerable length of time in the north without any protection problems, (s)he may well be considered not to risk persecution there and to be reasonably settled in the local community. This case-by-case analysis of the possibility of internal relocation alternative might apply to Turkomans, Christians and Kurds from Government-controlled territory, and to a lesser extent to the Arabs from the Marshlands as they would often lack adequate links in northern Iraq.

8. However, persons with a high political or military profile, even with relatives or community links in northern Iraq, should not be considered to have an internal relocation alternative because of the risks they may be exposed to of persecution or ill-treatment by the factions or Iraqi Government agents operating in the area.

9. It must be underlined that the quality of protection available to an individual within northern Iraq is impacted by the person's ethnic group and his or her region of origin. If the person is a Kurd originating from northern Iraq, and has roots in the society there usually through a direct and close link with a tribe, large family, or neighbourhood, (s)he is more likely to receive basic protection and assistance than a Kurd from Iraqi Government-controlled area.

10. Persons originating from outside northern Iraq are easily identifiable by the local authorities in northern Iraq, who may be reluctant to extend any protection to them. For Arabs originating from Iraqi Government-controlled area, the situation is even more sensitive than it is for the other groups mentioned above. Given that they have a weaker connection with a predominantly Kurdish society, and the mutual general hostility between the Arab and Kurdish communities in Iraq, Arabs may not benefit from the possible protection that Kurds might receive. Whereas Kurds from Government-controlled area share a common language and ethnicity with the residents of northern Iraq, Arabs lack knowledge of the language, and this exacerbates their situation in case of avoiding risks.

11. Taking the above into consideration, it may be stated that internal relocation alternative is more applicable to Kurds who originate from northern Iraq than it is for other asylum-seekers, particularly Arab asylum-seekers outside the region, without an assertion that the former will never experience any events leading to persecution.

1.2. Asylum-seekers from northern Iraq

12. In northern Iraq, KDP and PUK members or sympathisers might be considered to have access to protection in the area controlled by their party, but could be at risk while residing in the area controlled by the other party. For example, active PUK military personnel, security forces (Asayish) and other who have held positions or decision-making posts within the PUK administration or police could be targeted if identified by the KDP. Conversely, similar categories of KDP people could find themselves in the same situation when residing or crossing the PUK-controlled area.

13. On the other hand, persons originating from the part of northern Iraq under the control of the Iraqi Government (Mossool and Kirkuk provinces) who have sought asylum abroad and are found to have a valid fear of persecution vis-à-vis the central government in Baghdad, but have adequate links in northern Iraq and have nothing to fear from the Kurdish authorities there, may be considered to have an internal relocation alternative in northern Iraq and, therefore, will not normally be in need of international protection. This approach is generally applicable to Kurds, Christians and Turkomans. Nevertheless, each and every case should be analysed on an individual basis.

14. Opponents of the Iraqi Government who have a valid fear of persecution vis-à-vis the Government as well as the Kurdish authorities in the north, cannot be considered to have an internal relocation alternative in northern Iraq. With respect to members of the Iraqi National Congress (INC), some of them continue to stay in northern Iraq since August 1996 with little, if any, threat to them, as the INC seems to be no longer active. The possibility or not to apply internal relocation alternative to an INC member should, like the other above situations, be subjected to an individual thorough determination of the availability of adequate local protection, community links and length of period of stay in northern Iraq.

15. The situation in northern Iraq continues to be volatile and may change at any time, and UNHCR will continue to monitor it carefully. Any serious deterioration will be an important factor in the assessment of cases and may lead the Office to reconsider its position on the possibility of internal relocation alternative.

2. Return of Rejected Asylum-seekers to Iraq

2.1. Return to Government-controlled areas

16. UNHCR's general position is that asylum-seekers who are properly rejected through fair and efficient procedures which employ the refugee definition criteria appropriately can, in principle, be returned to their country of origin. In practice, this may become difficult where the country of origin raises obstacles. More important are concerns which would accompany any return which are carried out in such a manner as to provoke a particular negative focus on the affected individuals by the national authorities.

2.2. Return to northern Iraq

17. UNHCR considers that the gradual improvements in the situation in northern Iraq have acquired a sufficiently stable character to mitigate the Office's strong concerns over the return of rejected cases. The Office has continued to express until recently its objection to this, in the interests of caution, and while it was still in the process of undertaking a thorough assessment of the situation. However, UNHCR would not object to the return to their places of origin in northern Iraq of asylum-seekers originating therefrom, who have been found through fair and efficient procedures not to be in need of international protection.

18. UNHCR would also not object to the return to northern Iraq of asylum-seekers originating from Iraqi Government-controlled areas, who have been found through acceptable and reliable procedures not to be in need of international protection, and who have sufficient family, community/or political links in the North that would normally provide the possibility for a smooth integration.

19. The Office will continue to monitor and evaluate the situation and may reconsider this position, should developments so dictate.

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