

# **The implications of the Iraqi Refugee Crisis For the Persistence of Sovereign Borders In a Globalized World**

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*„I was a stranger and you took me into your homes ... In truth I tell you: every time that you did this for the least of my brothers, you did it for me” (Matthew 25 vv 35-40)*

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Globalized World



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## **Abstract**

One of humankind's greatest dilemma of the 21<sup>st</sup> century is whether sovereignty, which has been gradually transforming due to the increasing effects of globalization keeps sovereign state borders persistent. To find an answer to this question, I examine the implications of the Iraqi refugee crisis for the persistence of sovereign borders in our globalized world. A comparative analysis of eight countries' foreign policies toward the Iraqi refugees is conducted, which serves as a case study in order to answer the broader theoretical question whether or not sovereign borders remain persistent. The target countries constitute two main groups. The first group contains countries that have triggered the current Iraqi situation: the US and the UK; while the other group contains the immediate neighbors of Iraq, which had no choice in their involvement in the Iraqi refugee crisis. I search for reasons of the inability of the target countries' acceptance and prolonged rejection and of the factors of negative asylum tendencies in a troubled world of the Iraqis. I find that 'persistence of sovereign borders' in our globalized world is entitled for the designation since despite of globalization's greatest changes states have managed to keep the status quo regarding their sovereignty to decide on who they accept or reject.

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## Introduction



In 2003, the US war in Iraq finally toppled Saddam Hussein's dictatorial regime and freed the Iraqi people from the bondage of tyranny. Yet currently, the violence in Iraq is showing no sign of slowing down and the majority of the Iraqi people continue to suffer tremendously<sup>1</sup>. According to recent UN estimations, 4.7 million Iraqis have fled since 2003 and the procedure seems inexorable. These numbers suggest that 50-100,000 Iraqis have left their homes every month since the US captured Baghdad. Approximately two million people have fled to nearby countries and about 2.7 million of the civilian populace have sought refuge in safer areas within Iraq. The international responses and reactions of different governments toward the Iraqi refugee crisis vary,<sup>2</sup> each showing a different face by putting various obstacles in the route of the Iraqi refugees. There is consistency in negative responses and a tendency of Iraqi refugees and asylum seekers to be treated as a threat and a burden to the societies of receiving countries. However, the Iraqi chaos has only been growing, necessitating a lot more international attention, which seems either to arrive with a serious delay or not at all.

The goal of this paper is to discuss and examine the implications of the Iraqi refugee crisis for the persistence of sovereign borders in a globalized world. The examination will be presented through a course of study pertaining to 8 countries' foreign policy toward the Iraqi refugees. I first identify the extent and magnitude of the mass evacuation of the Iraqi refugees,

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<sup>1</sup>Kristele Younes, "The Iraqi Refugee Crisis", Foreign Policy in Focus, Institute of Foreign Policy, Washington DC 2006 [<http://www.fpiif.org/fpiftxt/4059>]

<sup>2</sup><http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=48187b74c&skip=&coi=SYR>

then, examine the availability of foreign policies that concern Iraqi refugees, which I reflect on the question of persistence of sovereign borders.

The *Objective of the present Study* is also to address the issue of host-country refugee adoption and to answer the *Research Question* of What does a Comparative Analysis of Foreign Policies towards Iraqi refugees tell us about the Persistence of Sovereign Borders in a Globalized World? In other words, why are Iraqi refugees being hosted less problematically in certain countries and why are they being rejected in others?<sup>3</sup> Thus, what is the obstacle, the ‘WALL’ that hardens the acceptance process of the Iraqis on their route to exile? The *Hypothesis* of the thesis reveals inconsistency among the different theories on globalization and the sovereignty of borders. According to the majority of social scientists, globalization has changed sovereignty yet I argue that the greatest obstacles (either virtual or physical walls the Iraqi refugees face) do not change the persistence of sovereign borders in our globalized world since sovereign states still have total authority in deciding who can enter their borders and who are denied.

The *Significance of the Topic* is to demonstrate the options the examined countries have provided since 2003 to the Iraqi refugees and asylum seekers regarding their acceptance and employ them to a theoretical understanding, which indicates the limitations of globalization.

The *Methodology* of the thesis combines some political concepts with an in-depth comparative analysis of different asylum policies toward the Iraqi refugees. The comparison of the different asylum policies of the eight countries: the US, the UK, Turkey, Iran, Kuwait, Saudi Arabia, Jordan and Syria that are strategically and politically are the most involved in the life of Iraq and the Iraqi refugees are the basis of the methodology of this paper. Each country is treated as an individual project, since they all have a story to tell when it comes to

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<sup>3</sup> Examined period for research is after the fall of Baghdad on March 20, 2003.

their neighborhood, past wars, current agreements and several other ties that connect each country to Iraq. I search for an answer behind the tendency of rejections and acceptance of the Iraqi refugees in the time interval between 2003 and today.

The *Structure of Thesis* is the following. The paper constitutes of an introduction, a literature review, an empirical chapter, and a chapter of an in-depth analysis of the asylum policies of the above-mentioned countries toward the Iraqi refugees and a conclusion, where I conclude one of the main dilemma of man of the 21st century.



## Literature Review

The research question of the thesis: “What does a comparative analysis of different foreign policies toward the Iraqi refugees tell us about the persistence of sovereign borders in a globalized world?” has not been addressed yet in the past, not to my knowledge at least. There has been however, an endless amount of literature on questions such as the implications of globalization on sovereignty, sovereign borders or forced migration. The terms globalization and sovereignty have been deeply analyzed in the last two decades but what seems to be under-researched is a more thorough examination of sovereignty’s territorial aspects regarding states sovereign borders. Therefore, due to its incompleteness, I tested my research question with the Iraqi refugee crisis, the fastest growing humanitarian crisis of our times to learn whether states had really lost all of their sovereignty, in other words I examine how states practice their rights in deciding who they accept or reject to enter.

The meaning of Globalization is rather complex although it strongly suggests that we are gradually entering a world of ‘oneness’. Despite of its meaningful message, different thinkers had opposing views about globalization. Some deny globalization completely, claiming that whatever implications it had on economy or politics, the sovereignty of states do not really differ from how the world was before, and the world keeps being the same as it used to be for several millenniums.<sup>4</sup> These are the skeptics of globalization, as Giddens calls them, who believe that the worldwide networks of interdependence do not imply universality. At the same time, the majority of social scientists however have completely different views, which Giddens refers to as radicals. They argue that the phenomenon of globalization is not only real, but its consequences are felt everywhere. In particular, they claim that nations are

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<sup>4</sup> Anthony Giddens, Runaway world,

lacking a large part of sovereignty they once had, and politicians are not capable of influencing events anymore like they used to.<sup>5</sup>

Similarly, to Giddens, Guillén also organizes globalization into key debates. The first debate questions the existence of globalization and that if it really undermines the authority of nation-states. The other camp is opposing this view by saying that the growth of world markets diminishes the role of states.<sup>6</sup> James H. Mittleman, in his "Globalization Syndrome" also categorizes views over globalization, dividing them into two significant debates.<sup>7</sup> One category says that "the world is becoming a single place, where globalization refers to a process of reducing barriers between countries and encouraging closer economic, political and social interaction,"<sup>8</sup> emphasizing on key features of globalization such as cross border flows, identities or social relations<sup>9</sup>. The other category underlines the compression of time and space.

According to Joseph S. Nye Jr., globalization that is as old as history is based on a worldwide network of interdependence, which networks have gradually changed and became more complex and now they involve more people on more layers of politics, economy and sociology.<sup>10</sup> Samantha Power also believes that "globalization has made radical changes for instance in the question of national boundaries."<sup>11</sup> She argues that **borders became more porous but not irrelevant**.<sup>12</sup> In the interpretation of Krauthammer, "*social globalization is the spread of peoples, cultures, images and ideas, where migration is a concrete example.*"<sup>13</sup> Political globalization as part of the social one, has spread constitutional arrangements,

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<sup>5</sup> Anthony Giddens, Runaway world,

<sup>6</sup> Mauro Guillen, Is globalization Civilizing destructive or feeble?

<sup>7</sup> James H. Mittleman, The Globalization Syndrome, Transformation and Resistance

<sup>8</sup> Tabb 1999

<sup>9</sup> James H. Mittleman, The Globalization Syndrome, Transformation and Resistance

<sup>10</sup> Joseph S. Nye Jr., The Paradox of American Power, Why the world's only superpower can't go it alone, Oxford, University press, 2002, Chapter 3

<sup>11</sup> Samantha Power, 'A problem from Hell': America's Failure to prevent genocide, (New York: Basic Books, 2002, Chapter

<sup>12</sup> Samantha Power, 'A problem from Hell': America's Failure to prevent genocide, (New York: Basic Books, 2002,

<sup>13</sup> Charles Krauthammer, "The New Unilateralism", Washington Post, 2001, A29

increasing the number of countries and had an impact on the development of international rules and institutions.

According to Giddens, “globalization is a result of both technological progress and government policies that have barriers to international exchange. **It is a mixed blessing** and creates new challenges for foreign policies of different societies.”<sup>14</sup> As Thomas Friedmann sees globalization, it goes ‘farther, faster, cheaper, deeper’.”<sup>15</sup> He argues however, that globalization is accompanied by increased uncertainty, on one hand, and efforts by governments to manipulate to their benefit on the other.<sup>16</sup> But affirms that its quickness adds to uncertainty and difficulties to shape policy responses.<sup>17</sup>

Waltz on the other hand argues that, “*people view globalization at interdependence*”<sup>18</sup> *where people, firms, markets matter more and states do less, since it is always the economy that drives states to make decisions.*”<sup>19</sup> As the world becomes interdependent on one another, decisions are made as a collective whole in the economic field, not the independent political state.<sup>20</sup> Waltz opposes the claims of theorists whom he considers globalizers, and believes that politics as usual prevails over economics. Waltz fails to acknowledge theorist like Giddens, Harvey, Robertson opposing their points of view, and different schools of globalization studies.

In comparison to Waltz, Keohane and Nye agree on allowing more changes including transnational issues in their framework. However, like Waltz, Keohane and Nye declare that the system of state sovereignty is flexible and remains the world’s dominant structure. They unanimously agree however, the best approach to globalization is the state-centered paradigm,

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<sup>14</sup> Anthony Giddens, Runaway world, 2000

<sup>15</sup> Thomas Friedman on globalization

<sup>16</sup> Thomas Friedman on globalization

<sup>17</sup> Governance in a Globalizing World by Robert O. Keohane and Joseph S. Nye., Jr.

<sup>18</sup> Waltz, Kenneth. Globalization and Governance. PS: Political Science and Politics, 1999) 693.

<sup>19</sup> ibid, 694

<sup>20</sup> ibid, 695.

which is adjustable if it is used in an additively, meaning, if other perspectives can be added to its analysis process.<sup>21</sup>

Between the two opposing camps of globalization I share the views of the radicals, who claim that globalization is felt everywhere. However, in terms of implications of globalization on sovereign borders, it is a complex issue, since sovereignty has several layers. I also acknowledge the observations of Giddens, who argues that both groups those who are skeptical and those who are radical, see globalization in economic terms, which according to Giddens would be a mistake, since globalization is just as political, technological, cultural as well as economic issue.<sup>22</sup> However, Waltz argues that there is no single, unified form of globalization because researchers have not really clarified yet all different forms of globalization.<sup>23</sup>

In the following, I describe what globalization theories have to say about sovereignty of states. My thesis looks at sovereignty from a territorial perspective, namely borders as a test of whether or not those scholars claiming vanishing borders are due to eroding of sovereignty are correct. The reason for using territorial aspects of sovereignty is that it has been under-theorized.

The evolution of the term sovereignty has had two broad movements in history that were realized in practical institutions and political thoughts. In the first movement, a gradually developing sovereign state-system had culminated in the ‘Westphalian’ Peace Agreement in 1648. Later, sovereignty gained significance in political thought especially in the writings of Machiavelli, Hobbes, Luther, and Bodin. The second movement was the changes of state-borders after World War II.<sup>24</sup> According to Alan James, sovereignty is either present or absent

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<sup>21</sup> Governance in a Globalizing World by Robert O. Keohane and Joseph S. Nye., Jr.

<sup>22</sup> Anthony Giddens, Runaway World, 2000

<sup>23</sup> Waltz, Kenneth. *Globalization and Governance*. *PS: Political Science and Politics*, Vol. 32, 1999), 693-700.

<sup>24</sup> Stanford Encyclopedia of Philosophy, 2003

but cannot be both,<sup>25</sup> while Bodin and Hobbes envisioned sovereignty to be absolute, extending to all matters within the territory, unconditionally.<sup>26</sup> The meaning of sovereignty has varied across history although it has its core meaning, which is *supreme authority within a territory*.<sup>27</sup> To understand the historical variants, there are three perspectives to be considered. One is the holder of sovereignty, the second is the absoluteness of sovereignty, and third is the internal and external dimensions of sovereignty. From my thesis point of view, only the first perspective has relevance as it deals with the territorial aspect, which also describes political authority in our modern times. The people are defined by the principle of territoriality, which is capable of characterizing a membership without corresponding it strictly with identity. In other words, sovereign state borders may not circumscribe a 'people' or a 'nation' and may encompass several of these identities. However, territoriality today is taken for granted. It is a feature of authority all across the globe. Territoriality specifies how citizens are subject to authority through their geographic location within a set of boundaries.<sup>28</sup>

Sovereign authority is exercised within borders, but also, by definition, with respect to outsiders, who may not interfere with the sovereign's governance. As it has been previously mentioned, the state has been the chief holder of external sovereignty since the Peace of Westphalia in 1648. The concept of sovereignty in international law most often connotes external sovereignty. According to Alan James, external sovereignty means constitutional independence suggesting the freedom of the state from external influence upon its basic prerogatives.<sup>29</sup> Consequently, external sovereignty depends on recognition by outsiders.

Overall, Sovereignty is a complex term that can be interpreted into a number of meanings. Generally, it can be defined as the authority possessed by legitimate power in the

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<sup>25</sup> Alan James, "The Practice of Sovereign Statehood in Contemporary International Society," *Political Studies* 47, no. 3 (1999): 462-4.

<sup>26</sup> Alan James, "The Practice of Sovereign Statehood in Contemporary International Society," *Political Studies* 47, no. 3 (1999): 462-4.

<sup>27</sup> According to the Encyclopedia of Philosophy

<sup>28</sup> Encyclopedia of Philosophy

<sup>29</sup> Ibid., 460-2

state to rule a territory within its geographical limits, within the boundaries of the state according to well-defined rules and regulations that are not dictated by an outsider.

Competing interpretations of sovereignty also appear in international law. Since 1945, UN charters coexisted with human rights provisions that were also meant to protect the sovereignty of states.<sup>30</sup> The real issue, therefore, is not whether sovereign states can remain sovereign but whether its centrality and functions can change for the better. *“The reach of the state has increased in some areas but contracted in others. Rulers have recognized that their effective control can be enhanced by walking away from issues they cannot solve.”*<sup>31</sup>

Countries face increasing problems that are difficult to control within sovereign boundaries, including refugee issues. Governments and sovereign states, however, adapt to changes and in the process of adaptation, they change the meaning of sovereign jurisdiction.<sup>32</sup> Legal borders do not change, but they blur in practice.<sup>33</sup> States are still sovereign but their powers are not what they once were. Political leaders lose their credibility and their influence in foreign policy issues and although geographically based sovereign states are still dominating politics, world politics itself has been undergoing profound changes.”<sup>34</sup> Globalization therefore, challenges states by changing their nature, sovereignty and control<sup>35</sup>

At the same time, treaty law and constitutions have also established state sovereignty. According to the 1951 Refugee Convention, the right to leave a country has always been universal, but the Convention makes no provisions on the right to entry. Refugee status and the binding obligation of non-refoulement are also laid down in international law, but there is no corresponding right of asylum because that is at the discretion of the receiving state. There

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<sup>30</sup> Joseph S. Nye Jr., The paradox of American power, The information revolution, A New world politics,

<sup>31</sup> Ikenberry „Getting Hegemony Right”, 21-22

<sup>32</sup> Globalization and Governance, Aseem Prakash and Jeffrey A. Hart Stephen J Kobrin,  
The ambiguity of authority

<sup>33</sup> Globalization and Governance, Aseem Prakash and Jeffrey A. Hart Stephen J Kobrin,  
The ambiguity of authority

<sup>34</sup> Globalization and Governance, Aseem Prakash and Jeffrey A. Hart Stephen J Kobrin,  
The ambiguity of authority

<sup>35</sup> Maria de Angeles Torres, Transnational Political and Cultural Identities: Crossing Theoretical Borders

are various human rights declarations and conventions urging states to grant asylum on humanitarian grounds, but they all recognize the absolute discretion of states in this matter.<sup>36</sup>

There have been two different logics in terms of immigration. One of these logics is an exclusive responsibility to individual's immigration processes, since there are tendencies to reduce the process to individual's actions in developed countries' immigration policies, but also there are tendencies that major receiving countries get immigrants from their zones of influence. According to the other logic, embedded in human rights agreements, the individual emerges as a site for contesting the authority (sovereignty) of the state because she is the site for human rights.<sup>37</sup> States based on international law mainly aim to constrain state authority to undermine immigration control. A de facto regime, based on international agreements and conventions could condition the role of the state in immigration control.<sup>38</sup> The extension of rights, has confronted states with several constraints internal to the state. Courts supported immigrants' rights, but also limited the ability of governments to restrict or stop asylum seekers from entering the country.<sup>39</sup> States have been agreeing on lifting border controls and furthering globalization.<sup>40</sup> The terms Sovereignty and Globalization are opposing to each other. While Sovereignty emphasizes on borders Globalization rather ignores them. Nation-states depended on the concept of sovereignty as the organizing principle but by today, sovereignty has softened and transformed.<sup>41</sup>

Modern societies are dealing with migration by issuing asylum and immigration policies, which policies want to control the borders, regulate the relationships between migrants and state.<sup>42</sup> Migration processes, according to Castle and Miller, relate to two

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<sup>36</sup> Sassen 1996

<sup>37</sup> Baubock 1994

<sup>38</sup> Hollifield 1992, Baubock 1994, Sassen 1996,

<sup>39</sup> Hollifield

<sup>40</sup> Sassen, Globalization and its Discontents, Essays on the New Mobility of People and Money

<sup>41</sup> Muqtedar Kahn, speech of Globalist speaker, August, 2008

<sup>42</sup> Christian Harzig, Immigration policies

different paradigms. The traditional one relates to the push-pull factor analysis,<sup>43</sup> which has been criticized since there are not only economical influences that affect migration processes. According to the alternative paradigm, migration is best analyzed by referring to places linked by flows and counterflows of people.<sup>44</sup>

According to Weber, we have experienced some of the illusions of modernity, for instance, the illusion of sovereignty in terms of its dualism. Weber argues that modern sovereignty has passed its peak and has started to fade. But has anything changed? New civil wars have erupted, new subjective inhabit the new terrain, modernity and its capitalist relations have completely changed the scene in the course of development. Yet something remains, which is the fact that despite of everything is different nothing seems to have changed.<sup>45</sup> Although the sovereignty of states has somewhat transformed, states are still in power to cut off migration flows when they reached their limits in acceptance, but they can do so regardless, based on other security or economy considerations. Thus, it seems that certain areas of sovereignty still matter, specifically in terms of state control regarding who are welcome and who are not.

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<sup>43</sup> Castles & Miller, 1993

<sup>44</sup> Castles & Miller, 1993

<sup>45</sup> Castles & Miller, 1993



## I. Empirical Chapter

In this chapter, I introduce the main cornerstones in the history of the asylum policies of each country under analysis, which I then narrow down to the effects the asylum policies have on Iraqi refugees and asylum seekers in particular. Then I analyze the possible explanations and the influencing factors behind those policies.

### 1. 1. THE UNITED STATES OF AMERICA

#### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



#### **PSYCHOLOGICAL WALLS** Versus **MORAL OBLIGATION**

The legislative history of the US in terms of asylum policy contains to three relevant cornerstones, which are the Refugee Act of 1980, The Immigration Act of 1990 and the 1996 Revision to Asylum Policy. According to the 1951 Refugee Convention, a refugee is someone with "a well-founded fear of being persecuted in his country of origin for reasons of race, religion, nationality, membership of a particular social group or political opinion."<sup>46</sup> The US

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<sup>46</sup> 1951 Geneva Convention on Refugees

Senate accepted this definition a decade later than the emergence of the Convention, and it was not officially part of the immigration law until the enactment of the Refugee Act of 1980.<sup>47</sup> In 1968, the United States became party to the 1967 United Nations Protocol Relating to the Status of Refugees, which does not require that a signatory accept refugees, but it does ensure that signatory nations afford certain rights and protections to aliens who meet the definition of refugee.<sup>48</sup> The Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 have also made significant changes to the asylum process like establishing accelerated removal proceedings; codifying regulatory changes; limiting filing claims and judicial review in certain circumstances. However, the act did not alter the numerical limits on asylee adjustments.<sup>49</sup>

Today in the US, case-by-case processes determine whether asylum seekers are eligible for refugee status. If an asylum officer determines that an alien does not have “credible fear” of persecution, the alien is removed immediately.<sup>50</sup> Further limitations are the ‘Safe Third Country’ concept, which provision was aimed at aliens who travel through countries that are signatories to the U.N. Refugee Protocol to request asylum in the US. “A *Safe third country is a country other than the US and the country of alleged persecution, where an individual may make a claim for refugee protection.*”<sup>51</sup> In order to return a potential applicant to a safe-third country, the US must have an existing agreement with that country.<sup>52</sup>

Today, most asylum cases are resolved within five months, and cases that are not granted are immediately referred to the immigration courts for removal proceedings.<sup>53</sup> An additional restriction on the filing of asylum applications includes a bar against those who have been denied asylum in the past, unless changed circumstances materially affect their

<sup>47</sup> David Simcox, The Refugee questions in the US 1992

<sup>48</sup> IIRIRA, P.L. 104-208

<sup>49</sup> CRS Congressional Distribution Memorandum, Policy Implications of Department of Justice Ruling on Bond Determinations for Unauthorized Aliens in Detention, by Alison Siskin, May 1, 2003.

<sup>50</sup> [<http://uscis.gov/graphics/lawsregs/DraftAgree090402.pdf>].

<sup>51</sup> G. Goodwin-Gill, ‘Safe Country? Says Who?’, *International Journal of Refugee Law*, vol. 4, no. 2 (1992)

<sup>52</sup> 34 *Federal Register*, vol. 67, no. 219, Nov. 13, 2002, pp. 68923-68926.

<sup>53</sup> [www.brookings.edu/fp/projects/idp/20061018\\_DisplacementinIraq\\_Khalidi-Tanner.pdf](http://www.brookings.edu/fp/projects/idp/20061018_DisplacementinIraq_Khalidi-Tanner.pdf)

eligibility.<sup>54</sup> Another reason for the restrictive asylum policies of the US towards the Iraqi refugees has been triggered by the 9/11 terrorist attacks, when immigration restrictionist activists and some Members of Congress have launched an aggressive campaign to undermine the US asylum system.<sup>55</sup>

As a result of the US-led invasion in Iraq started in 2003, with an enormous figure of two million fled and 1.8 million internally displaced people, Iraq became home to the world's biggest and fastest growing humanitarian and refugee crises. Based on the US' complex case-by-case asylum procedure toward the Iraqi refugees, only about 500 Iraqi refugee was granted refugee status since 2003, according to the Senate Judiciary Committee. Thus, the administration was asked by the UNHCR to show a far more generous policy in providing aid to Iraqi refugees and in offering them asylum. According to the 2007-Refugee conference held in Geneva, the US expects to receive at least 7,000 Iraqi refugee referrals from the UN. However, under US refugee law, the president, in accordance with Congress, which is responsible for the refugee funding, sets the ceiling on the number of refugees America will accept in a given fiscal year, which number could be increased in case of emergency. Yet this has not been done in the Iraqi refugee crisis. Consequently, each year, the United States accepts only a small fraction of the number of refugees and asylum seekers worldwide, which in this particular case contradicts its moral obligation, that is to provide refuge to Iraqi asylum seekers that are forced to flee their homes to escape the bloody violence the country has been facing since the 2003 Iraqi war.<sup>56</sup>

According to the official US asylum policy on the Iraq refugees, the Iraqi situation is temporary and most of those that have fled would eventually return to Iraq. The US administration, however, must realize that Iraq's crisis and instability has made it too

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<sup>54</sup> *Obtaining Asylum in the United States: Two Paths to Asylum*, at the USCIS website [<http://uscis.gov/graphics/services/asylum/paths.htm#seekers>]

<sup>55</sup> Michael Kranish, Iraqi exodus could test Bush policy, Total expected to exceed quota for refugees December 2006

<sup>56</sup> Michele R. Pistone, Policy Analysis, New Asylum Laws, Undermining an American Ideal, 1998

dangerous for refugees, especially Christians, to return any time soon.<sup>57</sup> Although the administration has originally set a quota of 500 Iraqi refugees, the president possesses the legal authority to admit 20,000 additional refugees, yet this has not happened.<sup>58</sup>

The main reason of the Bush administration's negative asylum policy is based on moral grounds. An effort by hundreds of thousands of Iraqis to resettle in the United States would put the administration in an extraordinarily awkward position. Having waged war to liberate Iraqis, the US would be admitting failure if it allowed a substantial number of Iraqis to be classified as refugees who would receive asylum there. According to assistant secretary of state for refugee affairs A. Dewey, the administration therefore discourages the resettlement of Iraqi refugees in the US for political reasons "because of the psychological message it would send, that it is a losing cause."<sup>59</sup> Thus, the US asylum system seems to be seriously flawed for lacking a humanitarian concern especially for the Iraqi asylum seekers, who were forced to flee because of US-led invasion.<sup>60</sup> Consequently, any reluctance of the US to offer safe haven would be inconsistent with international law and would send a dangerous message to countries around the world that are likely to follow their lead and further diminish refugee protection.<sup>61</sup>

Despite of the US active foreign policy, that always played a key role in admitting refugees, for most of its history, the US considered itself a safe haven for refugees but never did much about it. Based on the words of George Washington, the US always liked to be considered the land of 'the asylum for mankind'; and wanted to appear generous to other nations,<sup>62</sup> which concept has dramatically changed in recent years. However, according to the

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<sup>57</sup> Strategic Framework for Humanitarian Action in Iraq, UN and partners, April 2007  
[www.internaldisplacement.org/8025708F004CE90B/\(httpDocuments\)/ECE544FA61A7C12572C200375BF5/\\$file/pdf\\_Strategic\\_Framework\\_for\\_Humanitarian](http://www.internaldisplacement.org/8025708F004CE90B/(httpDocuments)/ECE544FA61A7C12572C200375BF5/$file/pdf_Strategic_Framework_for_Humanitarian)

<sup>58</sup> Brookings-Bern Project on Internal Displacement, Radical Groups Drive Internal Displacement in Iraq',

<sup>59</sup> Arthur E. "Gene" Dewey, President Bush's assistant secretary of state for refugee affairs

<sup>60</sup> [www.uniraq.org](http://www.uniraq.org)

<sup>61</sup> [www.internaldisplacement.org/8025708F004CE90B/\(httpDocuments\)/E41CF0D611D1C1257292005AB87F/\\$file/pdf\\_HA2015\\_Iraq\\_Briefing\\_Paper.pdf](http://www.internaldisplacement.org/8025708F004CE90B/(httpDocuments)/E41CF0D611D1C1257292005AB87F/$file/pdf_HA2015_Iraq_Briefing_Paper.pdf)

<sup>62</sup> Approved, HIAS Board of Directors, December 16, 2002; updated, HIAS Public Policy Committee, 2005

Senate Committee, the US does have a special obligation to help the Iraqis because the violence in Iraq that triggered the mass exodus comes in the aftermath of the OIF.<sup>63</sup>

With the growing refugee population of Iraq, there is an increasing concern that the US is contrary to its **moral obligations** under international law, by having created a **psychological wall** and a system that fails to provide opportunity for individuals seeking asylum in the country and delays refugees in providing for their material needs while their cases are processed.<sup>64</sup>

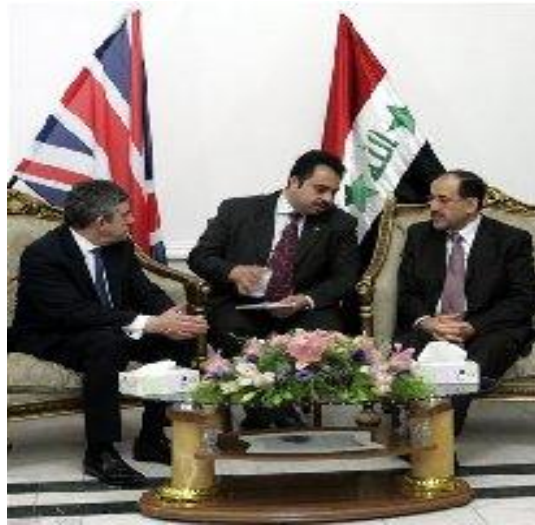
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<sup>63</sup> Briefing Paper, Feinstein International Center, Greg Hansen, January 2007

<sup>64</sup> Coming to terms with the Humanitarian Imperative in Iraq', Humanitarian Agenda 2015

## 1. 2. THE UNITED KINGDOM

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **THE NEW IRON CURTAIN** Versus **HUMANITARIAN OBLIGATION**

Asylum policy has traditionally been a very sensitive issue in Great Britain.<sup>65</sup> Great Britain currently operates with three legal systems: the international, the European and the national legal system. The UK has been signatory to the 1951 Refugee Convention and of the Protocol<sup>66</sup>. Therefore, the asylum law of the UK is considered in the context of the international system, since it is the Geneva Convention that deals with the basic international instruments in terms of asylum law.

A significant cornerstone since the 1951 Refugee Convention is the 2002 White Paper, *Secure borders, safe haven* and the Nationality, Immigration and Asylum Bill that outlined several changes to the previous systems.<sup>67</sup> Another relevant concept introduced to the UK asylum policy is the Safe Country Concept, which has been applied to countries “*which are determined either as being non-refugee producing countries or as being countries in which*

<sup>65</sup> The Economist, American Foreign policy, Britain's Asylum Policy

<sup>66</sup> Party to GC since 1954 and to the NYP since 1968

<sup>67</sup> [http://news.bbc.co.uk/2/hi/uk\\_news/3109375.stm](http://news.bbc.co.uk/2/hi/uk_news/3109375.stm)

*refugees can enjoy asylum without any danger.*<sup>68</sup> Under the Nationality, Immigration and Asylum Act<sup>69</sup>, only 24 countries were considered being safe. The Act clearly states that the applications from these countries were defined ‘clearly unfounded’ unless the Secretary of State otherwise decided. Moreover, these applications did not have any right for appeal.<sup>70</sup>

Since the Iraqi invasion in 2003, according to the Home Office Statistical Bulletin and the Asylum Statistics,<sup>71</sup> there have been key changes made in the asylum policies in the UK, which aim at reducing the applications of the refugees. As of 2003, in contradiction to the main target of the UK asylum policy, another new requirement was made effective under section 55 of the Immigration and Asylum Act, for further supporting asylum seekers. According to the new requirement, asylum seekers have to apply for NASS1 ‘as soon as reasonably applicable.’ Although there are flaws of inconsistency in the legislative framework controlling asylum policies, it is constantly under review. Due to an articulated need for the improvement of the UK asylum system expressed by UNHCR, there were two more Asylum Immigration Acts introduced in the UK, one in 2004<sup>72</sup> and one in 2005<sup>73</sup>.

These acts, however, have focused on raising more barriers that would withhold asylum seekers from being granted a refugee status in the UK. These obstructions are made for stricter asylum procedures that emphasize imposing visas, introducing the carrier’s liability and detention.<sup>74</sup> The visa application process creates a Catch 22 because there is no such thing as visa to claim asylum so in order to reach safety, asylum seekers have to travel without a visa, obtain a forged one or even carry a forged passport, which leads to further complications. The ‘carrier’s liabilities’ that refers to aliens without valid entry documents, provides people with forged documents instead of preventing them from traveling when they

<sup>68</sup> <http://www.unhcr.org/excom/EXCOM/3ae68ccec.html>

<sup>69</sup> Nationality, Immigration and Asylum Act, 2002

<sup>70</sup> <http://www.asylumsupport.info/judgement.htm>

<sup>71</sup> Home Office Statistical Bulletin and the Asylum Statistics

<sup>72</sup> AIA 2004 regulates issues of criminal offences and sanctions for failure to possess valid entry documents.

<sup>73</sup> AIA 2005 introduces ILR system, (indefinite leave to remain) that no longer granted to people given refugee status.

<sup>74</sup> <http://www.ecre.org/research/carrier.pdf>

are suspected of needing asylum.<sup>75</sup> In cases of detention, there is control over applicants while their claim is being processed. The UK government seeks to limit benefits to asylum seekers, because it is considered to be a pull factor they no longer encourage. The UK, similarly to the EU, plans on a harmonization of minimum standards in asylum to create barriers around the UK as well.<sup>76</sup>

The renewed asylum policy measures in the aftermath of 2003 employed by the Home Office to obtain significant decreases in asylum seekers in the UK included procedures and policies that were contrary to the 1951 Geneva Convention to which the UK has been a signatory since 1954. In addition, other measures not foreign to UK asylum policies were detention, and pending status determination, which have seriously breached human rights.<sup>77</sup>

Iraqis comprise the largest group of asylum-seekers since the 2003 US-led invasion and the number is still growing. The UK as part of the Coalition forces has great responsibility in the mass exodus flowing out of Iraq.<sup>78</sup> At the same time, the alleged reasons for restrictive British asylum policies towards the Iraqi refugees according to British authorities were: national security, cultural integrity of the Brit society and financial burden on the national economy.<sup>79</sup> Also, pre-electoral political interests, belligerent attitude toward the Iraqi asylum seekers within indigenous society, plain misinterpretations of the Media, miscalculations and fear of the acceptance of genuine asylum seekers were also among the factors that contributed to negative results.<sup>80</sup>

Thus, the UK asylum policy toward dispersing Iraqi asylum seekers has been inefficient, ill-considered and steered by fear rather than reason. The increasingly severe UK

<sup>75</sup> <http://www.ecre.org/research/carrier.pdf>

<sup>76</sup> Joseph Rowntree Charitable Trust, Changing Policy and Practice in the UK, Refugees and asylum-seekers changes in the law, JUSTICE leaflet

<sup>77</sup> The Economist, Hard line refugees can backfire, British Study, 2003

<sup>78</sup> Herald Tribune, Moral Panic drives asylum policy in the UK, 2005

<sup>79</sup> A Critique of UK asylum policy, [www.maryamnamazie.com/articles/bogus\\_UK\\_asylum\\_policy.html](http://www.maryamnamazie.com/articles/bogus_UK_asylum_policy.html)

<sup>80</sup> [http://news.bbc.co.uk/2/hi/uk\\_news/3189263.stm](http://news.bbc.co.uk/2/hi/uk_news/3189263.stm)



asylum policy toward the Iraqi refugees has forcibly returned more and more Iraqis,<sup>81</sup> which clearly breaches international law and is contrary to the regulations of the 1951 Refugee Convention. Thus, a new '**Iron Curtain**' established by 'cautious' British Asylum policies strongly contradict the **Humanitarian obligations** the UK should practice with the Iraqi refugees on account of their part of the Iraqi invasion triggered mass influx.<sup>82</sup>

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<sup>81</sup> Critique of UK asylum policy, [www.maryamnamazie.com/articles/bogus\\_UK\\_asylum\\_policy.html](http://www.maryamnamazie.com/articles/bogus_UK_asylum_policy.html)

<sup>82</sup> <http://www.justice.org.uk/ourwork/asylum/index.html>

### 1. 3. REPUBLIC OF TURKEY

#### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### DISCRIMINATING WALLS

Versus

### THE OBLIGATION OF PROTECTING THE OWN KIND

Turkey lies at the crossroads of Asia and Europe and acts as a natural bridge and as one of the largest asylum seeker producing countries in the world. Yet, Turkey is also a magnet for asylum seekers and migrants due to its geographical position in a region characterized by mostly political turmoil.<sup>83</sup> Turkey is party to the 1951 Refugee Conventions and its 1967 Protocol; however, it has maintained the geographical reservation, and only grants refugee status to those who become refugees as a result of events in Europe<sup>84</sup>. Despite that, over the past two decades, Turkey unwillingly has become host to an increasing numbers, of European and non-European asylum seekers. In addition to being a country of first asylum, due to its geographical location, in the middle of a devastating region, Turkey has become a major transit country for thousands of migrants heading for other European countries.<sup>85</sup> According to the 1994 Turkish asylum regulations, only European asylum-seekers

<sup>83</sup><http://www.byegm.gov.tr/yayinlariminis/AnadolununSesi/165/T8.htm>, as cited in Kemal Kirişçi's *Justice Home Affairs Issues in Turkish-EU Relations: Assessing Turkish Asylum, Immigration Policy and Practice*,

<sup>84</sup> Elizabeth Frantz, Report on the Situation of Refugees in Turkey, Forced Migration and Refugee Studies

<sup>85</sup> Report situation of Refugees in Turkey

can apply for refugee status, since non-Europeans are only eligible for a temporary asylum-seeker status.<sup>86</sup> So far Turkey has not accepted non-European asylum-seekers, and due to the temporary nature of asylum Turkey resettles those determined to be refugees of third countries, which many times include overseas destinations.<sup>87</sup> The geographical limitation in practice, for which Turkey received heavy criticism, meant that *de jure* refugee status is granted only to those seeking asylum from persecution in Eastern Europe and the Soviet Union.<sup>88</sup>

Until 1994, there was no domestic legislation governing the right to asylum, thus the Turkish Government and UNHCR had an agreement of eligibility for non-EU asylum seekers. Before that, Asylum seeker status was determined in accordance with the 1951 Refugee Convention. In 1994, the Turkish Government introduced its own asylum regulation, which is still the only national legislation in force for handling asylum claims; due to a series of refugee influxes after the first Gulf war leaving heavy burdens on the Turkish economy.<sup>89</sup> There are several other laws that are applicable to asylum seekers in addition to the 1994 asylum regulation, ie. the 1950 Passport Law, the 1950 Law on Sojourn and Movements of Aliens and the 1934 Settlement Law, but according to the current Turkish regulations, Europeans are not classified as “asylum-seekers” before their claim is accepted and non-Europeans are never classified as “refugees.”<sup>90</sup> Theoretically, the Turkish Government has different procedures for European and non-European asylum seekers, but in practice, they rely at least in part on UNHCR decisions. However, based on reports by the US Committee for

<sup>86</sup> Turkish Asylum Regulation of 1994

<sup>87</sup> file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/IV.%20IN%20DEPTH%20RESEARCH/TURKEY/PREPARE/article.php2.htm

<sup>88</sup> <http://www.deltur.cec.eu.int/english/main-e.html/> Turkey Prime Ministry State Institute Statistics

<sup>89</sup> European Union – Turkey Communication Platform (Includes the National Program of Action for the Adoption of the EU Acquis) <http://www.abgs.gov.tr>.

<sup>90</sup> International Catholic Migration Commission, Turkey <http://www.icmc.net/docs/en/programs/turkeyback>

Refugees, there are great differences in recognition rates of the government and UNHCR procedures for Iraqis.<sup>91</sup>

A European Union candidate, Turkey has been facing challenges on the implementation of a national asylum system. The new system would lift geographic limitations by no later than 2012, on condition that legal and institutional arrangements for asylum and understandings on burden sharing with the EU are in place, and it would allow non-Europeans to seek asylum in Turkey as well.<sup>92</sup> According to national plans introduced in 2005, Turkey has also proposed to establish a national asylum system and adopt EU acquis in the field of migration, in which the UNHCR is in close cooperation with Turkey.<sup>93</sup> Turkey, by being an EU candidate, also faces the task of stopping the flow of illegal immigrants spilling towards European borders. For instance, Turkey does not grant Iraqis asylum and thousands of Kurds have merely transited its territory on their way to Western Europe.<sup>94</sup> The flight of Turks, Kurds and Christians was due to increased political pressures on minorities, Arabs were forced to flee because of political pressures and members of the Iraqi National Congress, Iraqi military officers, draft evaders and deserters have seen seeking refuge to be their only choice of survival<sup>95</sup>. Turkey sealed its borders to half a million Kurds from northern Iraq that fled after the Iraqi forces crushed an insurrection in the first Gulf war, which left deep scars in Turkey's economic and social life. Consequently, the Turkish authorities have openly tried to prevent an Iraqi mass influx ever since, and the process remained a part of Turkey's asylum policy.<sup>96</sup> Turkey, from keeping Iraqi refugees from spilling across its borders had contained them in refugee camps in northern Iraq.<sup>97</sup> However, sealing off the Turkish borders,

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<sup>91</sup> UNHCR <http://www.un.org.tr/unhcr/Unhcr.htm>

<sup>92</sup> Turkish Daily News, Turkey's asylum policy to adapt to European norms, 2006

<sup>93</sup> Fulya Ozerkan, Ankara, Turkish Daily News, Turkey's asylum policy to adapt to EU norms

<sup>94</sup> <http://www.ecre.org> Representation of the European Commission to Turkey

<sup>95</sup> UNHCR Knowledge and Information Management Systems, UNHCR BO Ankara: Turkey

<sup>96</sup> Republic of Turkey Ministry of Foreign Affairs <http://www.mfa.gov.tr/>

<sup>97</sup> Kneller, Robert, Kristin Ingolfssdottir and Jean-Pierre "The Mortality Experience of Kurdish Refugees

containing refugees in camps within Iraq was highly controversial because it trapped Iraqis in a devastating situation, denying them their rights to seek asylum in a safe country.<sup>98</sup>

In early 2004, the number of Iraqis arriving in Turkey declined, compared to the period before the war, which was due to the closure of the borders between Iraq and Turkey. However, since the beginning of July 2004, the number of new comers had increased again.<sup>99</sup> Today Turkey still rejects Iraqi asylum-seekers, which is contrary to international law, claiming them to have an “internal flight alternative” in northern Iraq, which should make them stay there.<sup>100</sup> According to the UNHCR, Turkish authorities view Iraqis with a more negative attitude than other refugee groups and some officials have expressed their opinion that “Iraqi asylum seekers were all economic migrants.”<sup>101</sup>

The Turkish government allowed the establishment of seven ‘Reception Centers,’ in 2005 to provide services to Iraqi refugees who do not constitute a visible burden for the Turkish society. Although financial obligations fall on the Turkish government, the Iraqi refugees are still statistically insignificant fraction of the population.<sup>102</sup> However, the Turkish Government requires them to be dispersed among 25 satellite cities, where they are monitored and their visibility is low. The reason is that Iraqi refugees are not allowed to integrate in the Turkish society with an exception of the Iraqi-Turkmen refugees, who may stay in Turkey if they wish.<sup>103</sup> The implementation of the 1951 Refugee Convention in Turkey is far from ideal yet there are developments showing Turkey’s commitment in upholding its obligations to refugees. Increased cooperations between the UNHCR and Turkish officials show Turkey’s willingness to improve the implementation of its asylum system.<sup>104</sup>

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<sup>98</sup> [www.Refworld.org](http://www.Refworld.org), Turkey

<sup>99</sup> Anadolu News Agency <http://www.hri.org/news/turkey/anadolu/>

<sup>100</sup> UNHCR, 1998:12

<sup>101</sup> UNHCR, 1998:12

<sup>102</sup> [www.Refworld.org](http://www.Refworld.org), Turkey

<sup>103</sup> UNHCR Refworld go: Turkey

<sup>104</sup> <http://www.refugees.org/world/countryrpt/europe/2000/turkey.htm>

Asylum seekers arriving in Turkey must overcome the frightening obstacles of Turkey's own stringent asylum application procedures before registering a claim with UNHCR.<sup>105</sup> Refugees are mostly considered a “burden,” and currently most of Turkey’s refugee and asylum seeking population receives no government assistance and does not live in assisted camps. Despite of Turkey signs on lifting geographical reservations there are no guarantees for refugees to be granted more rights in Turkey than elsewhere or to receive more protection from detention and deportation.<sup>106</sup> As Turkey has been pursuing a more severe control of its borders by attempting to meet the requirements of European integration, the Iraqi refugees, especially the Kurds have become the unintended casualties of a system designed to keep illegal migrants out.<sup>107</sup> Instead of **discriminating** the Iraqi Kurds, increased efforts need to be taken to identify asylum seekers among the detained illegal immigrants, ensuring that they are not deported. The European Union could also have more burden-sharing regarding Iraqi Kurdish refugees passing through Turkey, to protect the rights of persecuted people and encouraging Turkey’s **discriminating walls** to disappear.<sup>108</sup>

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<sup>105</sup> <http://www.refugees.org/world/countryrpt/europe/2000/turkey.htm>

<sup>106</sup> <http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8358.htm>

<sup>107</sup> [http://www.refugees.org/news/press\\_releases/2005/112002.cfm](http://www.refugees.org/news/press_releases/2005/112002.cfm)

<sup>108</sup> Elizabeth Frantz, Report on the Situation of Refugees in Turkey, Forced Migration and Refugee Studies, American University of Cairo 2003



## 1.4. ISLAMIC REPUBLIC OF IRAN

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **HISTORICAL WALLS** Versus **RELIGIOUS OBLIGATION**

Iran has been isolated from the outside world since the 1978-79 Islamic Revolution, yet its borders were not closed at all and the country has produced and hosted abundant flows of emigration and forced migration, mainly triggered by key political events.<sup>109</sup> However, what makes Iran's forced migration story unique is that the ongoing flows of forced migration and volunteer repatriation were happening simultaneously. Iran has had the highest rates of brain drain and at the same time, it was the world's largest refugee haven, mainly for Iraqis.<sup>110</sup>

Iran is party to the 1951 Refugee Convention relating to the status of refugees and its 1967 Protocol and has liberally granted asylum to many Iraqis in the past. However, there were radical changes in Iran's asylum policy after 2003, which made the government adopt increasingly intolerant asylum regulations toward Iraqi refugees.<sup>111</sup>

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<sup>109</sup> www. Refworld, Iran

<sup>110</sup> Turton, David 2002. *Taking Refugees for a Ride? The Politics of Refugee Return to Iraq*

<sup>111</sup> www. Refworld, Iran



The Iranian government co-operates with the UNHCR and other humanitarian organizations in helping refugees. The asylum law of Iran contains provisions for providing refugee status in accordance with the 1951 Refugee Convention and it grants political asylum to all applicants, unless they are traitors.<sup>112</sup> Iran has been host to the largest number of refugees in the world, yet it has not carried out a detailed census and has not granted outsiders access to its refugee registration system. In addition, Iran's foreign policy is based on rejection of all forms of domination: preservation of the country's independence, respect of its territorial integrity, defence on rights of all Muslims, nonalignment with hegemon superpowers, and maintenance of mutually peaceful relations with all non-belligerent States.<sup>113</sup>

In the last two decades, three waves of refugee movements were distinguished: the first from 1980 – 1991, when Saddam expelled about 200,000 people of Iranian background who had lived in Iraq for generations; the second from 1991 – 2003 after the Shia uprisings, when about 200,000 Iraqis fled to Iran. Finally, from 2003 to the present, when about 50,000 Iraqis headed to Iran, and almost a million have come on three- month visits or have had an undetermined illegal stay.<sup>114</sup>

Decades of oppression under Saddam have produced a diverse refugee population in Iran, and half of the entire Iraqi refugee population of the world has found a home in Iran. Most Iraqi refugees were Shia Muslims of Arab descent, who fled Iraq after the first Gulf war, when Saddam wanted to extinguish the Shia rebellions. At that time, over 1.3 million Shia Iraqis fled to Iran to find protection from the Sunni tyrant.<sup>115</sup> Many of them were housed in refugee camps, but the majority of refugees lived in urban areas. Over 750,000 Iraqis have

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<sup>112</sup> Refugees in Iran Article 155. Asylum

<sup>113</sup> Article 152: Principles

<sup>114</sup> <http://www.refugees.org/newsroomsub.aspx?id=1076>

<sup>115</sup> [www.Refworld.org](http://www.Refworld.org), Iran

come to Iran on three-month pilgrim visas, since the fall of Saddam.<sup>116</sup> In the aftermath of the Iraqi invasion, Iran, to try to avoid the Iraqi mass influx again, recently announced that it would bar Iraqis from entering its territory and would set up refugee camps inside of Iraq instead.<sup>117</sup> After the regime-change, many Iraqis returned to Iraq in convoys facilitated by UNHCR.<sup>118</sup> According to the UNHCR, Iraqis' fear of persecution is legitimate and thus they are considered *prima facie* refugees, so the UNHCR has requested Iran to accept them as refugees or grant them a temporary one-year residency permit.<sup>119</sup>

Today Iraqi refugees are concentrated in areas that are bordering their homeland. Half a million Iraqi refugees in Iran are green card holders and only a few that arrived before 1980 carry an actual refugee document, the white card,<sup>120</sup> called 'panahandegan' that provides greater rights and benefits than the green card for it includes work permit, right for travel documents, and exemption from taxes. Holders of such cards are requested to report their movement and residence to authorities and to renew their status every three months. White cards, however are very hard to obtain, especially since 2003, and the Iranian government issues them today irregularly mostly to educated individuals, established and professionals only, encouraging another wave of brain drain among the troubled Iraqis.<sup>121</sup>

According to Iraqi officials, they feel trapped in the middle of a dispute between two indispensable allies of the US, which they believe is both helping and hurting Iraq. Iran on one hand still shelters up to 100,000 Iraqi refugees from the Hussein era and has close ties with Prime Minister Nouri al-Maliki. On the other hand, Iran has been accused of sheltering militant leaders and funding Shia militias who are behind the killings of Sunni Iraqis.<sup>122</sup>

<sup>116</sup> Iraq's ambassador in Tehran, Mohammed Majid al-Sheikh.

<sup>117</sup> Nikanjam 1995; Rajaei 2000; Le Roy 2001

<sup>118</sup> *IRAN-IRAN: Iraqi refugees use new border crossing*<http://www.irinnews.org/report.aspx?reportid=21601>

<sup>119</sup> 2007 Globe Newspaper Company

<sup>120</sup> [www.Refworld.org](http://www.Refworld.org), Iran

<sup>121</sup> <http://www.unhcr.org/news/NEWS/3f1d5f034.html>

<sup>122</sup> Iraqi diplomats, US military, International Crisis Group

Today Iranian officials make it clear that the welcome is over because the majority of the Iraqi refugees occupy job vacancies from Iranians, which factor the Iranian government can no longer support and regardless of its close Shia ties with the majority of Iraqi refugees, Iran no longer welcomes them like before.<sup>123</sup> Thus, Iran recently has been ambivalent towards the Iraqi refugees, generally declines to register new arrivals and either sends them to camps or deports them, if they fail to meet the criteria of refugee status in Iran.<sup>124</sup> One of the reasons Iran does not recognize newcomer Iraqis as refugees anymore is due to its fear from a further mass exodus.<sup>125</sup> In addition, despite of the pleas from the UNHCR, it refuses refugee status, claiming that it could end up like after the first Gulf war or like Jordan and Syria, which currently host to about a million Iraqis each<sup>126</sup>.

Currently the Iraqi refugee condition in Iran is still far from ideal. The government has restricted work permits, which have severely affected Iraqi green card holders. Most long-term Iraqi refugees have achieved economic self-sufficiency in Iran, yet the strict labor regulation issued by the authorities left many refugees unemployed. In addition, there was a cap imposed on wages of the Iraqis leading to more adversity among Iraqi professionals.<sup>127</sup>

There has always been a great need for troubled Iraqis to receive shelter from any of their neighbors but for the Kurd and Shia population in majority Iran was considered to be the ideal protection. Iran, however, instead of providing support to the Iraqi refugees due to certain **religious connections** with the Shia Iraqis, Iran implemented a persistent **historical wall** to keep out Iraqis even Feilli Kurds, a Shia minority among the Kurds, who were discriminated in Iraq for having Iranian origin.

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<sup>123</sup> Country report, Iran

<sup>124</sup> <http://www.refugees.org/newsroomsub.aspx?id=1076>

<sup>125</sup> Anne Barnard, Globe stuff, 2007 May

<sup>126</sup> Anne Barnard, Globe Stuff

<sup>127</sup> Committee for Refugees and Immigrants. 2006. "World Refugee Survey: Risks and Rights."

## 1.5. STATE OF KUWAIT

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **IDEOLOGICAL WALLS ‘MADE SOLID’** Versus **THE OBLIGATION OF PROVIDING REFUGE**

Kuwait is not a party to the 1951 Refugee Convention nor does it have national legislation to refugees or any procedure for adjudicating refugee claims.<sup>128</sup> The UNHCR assists refugees based on a case-by-case basis and closely cooperates with the Kuwaiti Red Crescent and Zakat House.<sup>129</sup> According to UNHCR, however, only few Iraqis are registered as asylum seekers and even less are recognized as refugees in Kuwait<sup>130</sup>. Due to poor Iraqi-Kuwaiti relations, Kuwait is presently not accepting Iraqi refugees, and their borders are guarded by Saudi troops, yet the government was among the first to send aid to the Iraqi people during OIF.<sup>131</sup>

Today the Kuwaiti-Iraqi border security is at its highest. A trench of 3 meters high sand wall and an electric fence extend along the 200-kilometer-long land border with Iraq.<sup>132</sup>

<sup>128</sup> UNHCR, Refworld, The leader in Refugee Decision Support

<sup>129</sup> an independent but government-supervised humanitarian agency that also provides assistance

<sup>130</sup> UNHCR, Kuwait-Iraq/refugees/page-serch&map.doc

<sup>131</sup> Al-Berjas, chief of the Kuwait Red Crescent Society (KRCS)

<sup>132</sup> <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/5ff7a1678ed5dbd9c1256ce50059e51e>

However, huge gaps were left in the fence system, enabling US and British forces to enter Iraq. The Kuwaiti concern unanimously was to keep Iraqi refugees out, although promises were made to look after them and support them once they reached the camps in the DMZ.<sup>133</sup>

Based on tendencies of the ongoing Iraqi violence, the number of people seeking safety outside of Iraq has been mounting accordingly. There are an estimated 2.4 million Iraqi refugees dispersed throughout the Middle East, so as every neighbor of Iraq, Kuwait also feels the rising number of asylum seekers; however, it is difficult to determine the size of the Iraqi refugee populations in Kuwait, as there are no official figures, only vague estimates.<sup>134</sup> What is certain, however, is that despite of the continuous wars with- and in Iraq, very few refugees have arrived in Kuwait because Kuwait has never been welcoming foreigners and because it is significantly more difficult for undocumented asylum seekers to enter Kuwait than that of any other countries.<sup>135</sup>

The majority of refugees in Kuwait are 'long-term residents,' who only seek protection of the UNHCR if Kuwaiti authorities refuse to renew their residence permits, because then they faced high risk of detention and deportation.<sup>136</sup> According to the Kuwaiti Government, Kuwait has not had the intentions to admit Iraqi refugees resulting from the 2003 US-led invasion. In fact, the government keeps trying to reduce foreigners also by turning Iraqi asylum seekers away.<sup>137</sup> According to Western diplomats, Kuwait could agree on Iraqi refugees to live temporarily in the Kuwaiti part of the buffer zone, had their lives been in danger in Iraq, yet the government has not been clear about it so far. The Kuwaiti government, instead of providing asylum to the Iraqis refugees, agreed on assisting them in

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<sup>133</sup> A.K.Momen, Kuwaiti official

<sup>134</sup> UNHCR, Kuwait/ Refworld, Kuwait, 2005

<sup>135</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3eddc4824&skip=&query=iraqi%20refugee%20k>

<sup>136</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3eddc4824&skip=&query=iraqi%20refugee%20k>

<sup>137</sup> Country Report on Kuwait, 2004

camps that were established inside Iraq's demilitarized<sup>138</sup> zones, which cautious asylum policy decision was dangerous for the Iraqis because their side of the border was full of hazardous materials.<sup>139</sup> This decision has hit the UN plans quite hard, since they were expecting Kuwait to take in at least 50,000 Iraqi refugees in the aftermath of the war.<sup>140</sup>

Kuwait, represented by the KRCS, the first humanitarian agency to enter Iraq during the war, still provides aid to Iraqi refugees in collaboration with the Iraqi government and Red Crescent Society.<sup>141</sup> In addition, a declaration was made in accordance with US and British officials introducing the recently opened "Humanitarian Operations Center" (HOC)<sup>142</sup> in Kuwait City, which objective according to General Al-Mu'min, Director of HOC, was to facilitate the work of humanitarian organizations and to assist Iraqi people in any conflict they face.<sup>143</sup> The Humanitarian Operation Center, supervised by the Ministry of Foreign Affairs, has established a *"single facility with resources and ministerial contacts to expedite a rapid response"* to any crisis.<sup>144</sup> The new intentions were welcomed but there is more help needed in assisting Iraqi refugees on both sides of the borders.<sup>145</sup> The Iraqi refugees, however, soon have to realize that they can only count on Kuwait in terms of external assistance and not consider it as a safe refuge and, the Iraqi asylum seekers have to seek resettlement in third countries instead of Kuwait.<sup>146</sup>

Overall, Kuwait today does not recognize refugees and the only reason foreigners are tolerated is because they are part of its expatriate labor force.<sup>147</sup> The Kuwaiti Government has

<sup>138</sup> The DMZ extends 10 kilometers (six miles) into Iraq and five kilometers (three miles) into Kuwait.

<sup>139</sup> [www.Refworld.Kuwait](http://www.Refworld.Kuwait)

<sup>140</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3eddc4824&skip=&mp;query=iraqi%20refugee%20kuwait>

<sup>141</sup> [http://www.iraqupdates.com/p\\_articles.php/article/29443](http://www.iraqupdates.com/p_articles.php/article/29443)

<sup>142</sup> HOC supports UN humanitarian agencies, NGOs and other int' organizations involved in relief assistance/ HOC receives and shares information on conditions of Iraq, provides updates in support of the humanitarian effort.

<sup>143</sup> General Ali Al-Mu'min Director of HOC and government spokesperson

<sup>144</sup> General Ali Al-Mu'min Director of HOC and government spokesperson

<sup>145</sup> Kuwait Will not admit Iraqi refugees, 2003

<sup>146</sup> <http://www.reliefweb.int/rw/RWB.NSF/db900SID/RMOI-763UTL?OpenDocument>

<sup>147</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3eddc4824&skip=&mp;query=iraqi%20refugee%20kuwait>

gradually developed **an ideological wall** that **became solid**, against Iraqi refugees, based on previous ‘war memories,’ expressing their deep concerns of another possible Iraqi exodus similar to the one after the first Gulf war. Kuwait has maintained strict regulations in the Iraqi refugee questions and although some Kuwaiti officials have expressed concern for Iraqi refugees, Kuwait has completely ignored its **obligation to provide refuge** to its neighbors, the vulnerable Iraqi refugee population, due to their fear that history would repeat itself.<sup>148</sup>

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<sup>148</sup> HOC advisor Alistair Mack

## 1. 6. KINGDOM OF SAUDI ARABIA

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **PHYSICAL WALLS** Versus **THE OBLIGATION OF RESPECT OF HUMAN RIGHTS**

Saudi Arabia, a monarchy that has no elected representative institutions or political parties, declared in 1975 the Koran to be the country's constitution, which legitimacy is based on a rigorously conservative form of Islamic governance.<sup>149</sup> The Saudi Government has forbidden the idea of religion and state to be separated, it has prohibited new political parties to be established and has considered Islamic law to be the only legitimate source of human right issues.<sup>150</sup> Thus, the Government's human rights record is extremely poor, with no rights or legal means of Saudi citizens to change their government in any way.

Saudi Arabia is not a signatory to the 1951 Refugee Convention or the 1967 Protocol, which is why asylum seekers have been always considered "guests" of the kingdom with no legal rights for protection under international law. The Kingdom does not specify clear rules

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<sup>149</sup> Country Reports on Human Rights Practices, Bureau of Democracy, Human Rights and Labour, 2001

<sup>150</sup> <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8296.htm>



for adjudicating asylum cases yet the Basic Law provides that "the state would grant political asylum if the public interest militates in favor of it."<sup>151</sup> Concern for human rights in Saudi Arabia has ranked extremely low according to US estimations, claiming Saudi Arabia to be a true wasteland when it comes to the respect of **fundamental human rights**.<sup>152</sup> Consequently, if the Saudi Government lacks respect for the basic human rights of their own people, how could it have any for foreigners, especially asylum-seekers?

On the top of that, the Saudi Department of Homeland Security (DHS) has recently announced<sup>153</sup> that it would detain asylum seekers from a group of 33 nations, including Iraq. The new policy of the DHS applies to the asylum seekers of targeted nationalities who seek asylum at US airports and borders<sup>154</sup>. The International Covenant on Civil and Political Rights (ICCPR) prohibits arbitrary detention of asylum seekers and requires detained to have rights for seeking release before a court.<sup>155</sup> According to Human Rights First, however, in many cases asylum seekers in Saudi Arabia are refused to be released from detention even when they meet the criteria.<sup>156</sup> This policy, which targets asylum seekers for detention based on their nationality, highly violates the principles of fairness and international law.

The new policy also deprives asylum seekers of an individualized determination of the need for their detention, authorizing blanket detention even for those who present no security risk, and it lacks principles prohibiting discrimination based on nationality,<sup>157</sup> which also indicates a highly underdeveloped asylum system operating in the Kingdom. Saudi Arabia's treatment of the refugees has also been characterized by double standards. The Kingdom has never had any legal or legislative provisions for the protection of refugees, or

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<sup>151</sup> Backgrounders, Human Rights in Saudi Arabia, A deafening Silence 2001

<sup>152</sup> Backgrounders, Human Rights in Saudi Arabia: Deafening Silence, 2001

<sup>153</sup> The announcement was made as part of the „Operation Liberty Shield „

<sup>154</sup> According to the 1996 immigration law, asylum seekers arriving at U.S. airports and borders are subject to a summary border procedure (called "expedited removal"), which is accompanied by "mandatory detention." Asylum seekers are also eligible for parole after they are interviewed by DHS asylum officers and are determined to have a "credible fear of persecution."

<sup>155</sup> <http://www.humanrightsfirst.org/pubs/descriptions/behindbars.htm>

<sup>156</sup> Human Rights First, „Refugees Behind Bars”

<sup>157</sup> Operation Liberty Shield, brought by the Saudi Department of Homeland Security

for granting political or humanitarian asylum to them, thus none of the Iraqis who took refuge in Saudi Arabia, were granted political asylum, while the Saudi government had practiced an open-arm policy toward the Kuwaiti refugees. Thus, the Saudi Government's treatment with Iraqi refugees has been completely the opposite to that of the Kuwaitis'.<sup>158</sup>

33,000 Iraqi civilians or former war prisoners, however, were allowed refuge in the country after the first Gulf War, but none have been granted permanent asylum and many of them have spent a decade as virtual prisoners in the Rafha military camp,<sup>159</sup> where the Saudi government kept denying them the opportunity to seek asylum.<sup>160</sup> Despite of the Koran-based severe constitution of the Saudi Kingdom, according to the UNHCR, the Government after 2003 has agreed on Iraqi refugees remaining in the Rafha camp to be given further refuge and possible employment until they could be repatriated. In addition, the Saudi Government has cooperated with the UNHCR regarding Iraqi refugees, guaranteeing to provide safe haven, and logistical, administrative support to the UNHCR and other resettlement agencies. Still, the Saudis have ignored numerous pleas by the UNHCR, like to relocate the camp away from the highly militarized zone that is against the safety of refugees. Nonetheless, the Saudi government has allowed some foreigners to remain temporarily if their safety was jeopardized.<sup>161</sup>

The Saudi Government has already been working for years on an electronic fence along the Red Sea to separate the country from Jordan and Yemen, and further intentions were indicated in 2005 to continue the project to reach complete isolation from neighboring countries. Recently, they started the building of a 550-mile long fence between the Saudi - Iraqi borders, the cost of which only on the Saudi – Iraq segment is an estimated \$1.5

<sup>158</sup>file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/IV.%20IN%20DEPTH%20RESEARCH/SAUDI%20ARABIA/PREPARATION/saud-refugee.htm

<sup>159</sup> northern desert near the Iraqi border

<sup>160</sup> <http://www.amnestyusa.org/document.php?id=E2F0751B1FE3A68780256D2400379405&lang=e>

<sup>161</sup> <http://www.state.gov/g/drl/rls/hrrpt/2002/18288.htm>

billion.<sup>162</sup> The fence construction project has been a high priority for the Saudi Government to keep out illegal immigrants and potential terrorists by sealing off the Iraqi border the best they can because the Saudis feared the failure of US efforts in Iraq resulting in an even larger regional chaos. According to Saudi officials, the “MIKSA” plan, that is part of a larger construction project of \$5 billion and includes a fence-system along the Red-Sea, is expected to be finished by the end of 2008 to early 2009.<sup>163</sup> Those intending to cross the Saudi fence system illegally would have to deal with a razor wire-girded high fence, a 50-yard stretch of no-man’s land, barbed-wire pyramids followed by another barbed-wired fence, while avoiding detection by ultraviolet sensors, night vision cameras, buried movement sensors and patrol dogs.<sup>164</sup> Asylum-seekers, therefore, must be aware of the only legitimate way through the borders, which is the 135 electronically controlled gates, giving the impression of a gated community, or a prison, depending on one’s perspective.<sup>165</sup>

According to Saudi officials, the Saudi-fence system is considered to be a part of the ‘anti-immigrant regulations’ and not that of an ‘anti-terrorism one.’<sup>166</sup> The fence is also meant to stop the infiltration of Saudi militants that join compatriots or other foreign Sunni fighters for fighting as anti-US insurgency in war-torn Iraq. Furthermore, to prevent infiltration of battle-hardened militants of suspected Al-Qaeda operatives was also among the intentions.<sup>167</sup> Despite the random details of the fence project in the media, the actual construction process is being kept so secret that Centcom officials<sup>168</sup> were told they could not inspect the site even on grounds of “national security”. According to speculations, behind the cautiously held secrecy there might be automated weapon-systems attached to the fence that could fire on suspected

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<sup>162</sup> UNHCR, Saudi Arabia, Fence between Iraq and Saudi Arabia, 2007

<sup>163</sup> Anonymous Saudi official exclusively reports Newsmax, 2007

<sup>164</sup> [http://www.newsmax.com/newsfront/saudi\\_border\\_fence/2007/12/02/53900.html](http://www.newsmax.com/newsfront/saudi_border_fence/2007/12/02/53900.html)

<sup>165</sup> London Telegraph, Nawaf Obaid, Director of Saudi National Security Assessment Project, 2007

<sup>166</sup> Anonymous Saudi Official reports Newsmax

<sup>167</sup> The Economist, The new phenomenon of the 21st century, Fence between Saudi Arabia and Iraq, 2006

<sup>168</sup> America’s central command responsible for Iraq

intruders, which according to sources is the real 'Saudi style', and for the sake of a 'state-of-the-art' equipment no expense would be spread.<sup>169</sup>

Saudi Arabia is considered to have the harshest asylum restrictions toward the Iraqi refugees among the examined countries, showing the most belligerent, attitude possible, emphasizing their anti-immigrant regulations. In addition, the Saudi government completely **neglects human rights**, international law and any opportunity to be approached by Iraqi asylum seekers, by introducing the safest **barrier system** the world has known, to reject Iraqi refugees as if they meant the greatest threat to Saudis' rigorous order.

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<sup>169</sup> Middle East Online, 2007

## 1. 7. KINGDOM OF JORDAN

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **MUTE WALLS**

Versus

### **THE OBLIGATION of A GOOD NEIGHBORHOOD POLICY**

Jordan does not have any legal definition for refugees, and they are treated as aliens, or ‘guests’ who have limited rights and status because Jordan is not a signatory to the 1951 Refugee Convention. However, its 1952 Constitution prohibits the extradition of "political refugees on account of their political beliefs or for their defence of liberty."<sup>170</sup> Based on the 1998 Memoranda of Understanding, asylum seekers are only able to stay in Jordan with a pending status but the UNHCR recognized refugees can remain six months after recognition. Despite the Memoranda of Understanding signed by the Government in 1998, refugees were still subject to refoulement, which seriously breached international law, although the Ministry of the Interior allowed asylum seekers to choose deportation to Syria or Yemen if they feared returning to their country of origin. Deportees were allowed to appeal within 60 days of the

<sup>170</sup><file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/IV.%20IN%20DEPTH%20RESEARCH/JORDAN/PREPARATION/53.htm>

order, yet only a few did. In case there were UNHCR-recognized refugees among the deportees, Jordan had delayed its deportation process till the UNHCR could find a resettlement country where the deportee could be accepted.<sup>171</sup> At times, seemed impossible yet at the beginning of the mass influx of Iraq, the Jordanian Government was generous enough not to deport the Iraqis even if there was no country to accept them.<sup>172</sup>

Jordan has adopted a semi-protectionist policy towards Iraqi forced migrants much before the 2003 Iraqi invasion. They used to let them in before and after 2003, up to 2005 but they deprived them of their status, which made the Iraqis move forward, unlike most Western countries, who adopted a reverse semi-protectionist policy. This means a strong limit on forced migrants to enter their territories, but once a refugee is granted a liberal asylum, they are usually not deported back to their country of origin.<sup>173</sup> The Iraqi asylum seekers were given a registration card by Jordanian authorities, which meant temporary protection for normal aliens with a valid residence permit but that did not include either work permits or any public aid from the government. The UNHCR provided educational or medical support to recognised refugees on a monthly basis until they were resettled.<sup>174</sup>

Jordan's domestic economy and state revenues significantly affect its foreign policy decisions, which has a direct impact on the acceptance of refugees.<sup>175</sup> Jordan is perpetually "in search of budget security", which makes the government seek revenue from its neighbours.<sup>176</sup> The country's total oil supply comes from Iraq at a low cost and thus, Jordanian and Iraqi economies have gradually become inter-dependant.<sup>177</sup>

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<sup>171</sup>file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/IV.%20IN%20DEPTH%20RESEARCH/JORDAN/countryreports.aspx.htm

<sup>172</sup> 1998 Memorandum of Understanding (MOU) with the Jordanian Government against refoulement.

<sup>173</sup> Geraldine Chatelard, *New Issues in Refugee Research*, 2002, Jordan Transit Country: semi protectionist immigration policies and their effects on Iraqi forced migrants

<sup>174</sup> UNHCR, *Resettlement of Iraqi Refugees*, 2007 March

<sup>175</sup>file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/IV.%20IN%20DEPTH%20RESEARCH/JORDAN/countryreports.aspx.htm

<sup>176</sup> Brand 1995 <http://www.aina.org/articles/chatelard.pdf>

<sup>177</sup> The Economist, Food for oil program, 2003

Since 2003 Iraqi refugees and asylum seekers started entering the borders of Jordan in continuously increasing numbers, using Jordan often as a gateway to other Arab or Western countries. There were also large groups of “suitcase traders” that were constantly back and forth between Baghdad and Amman and there were other Iraqis that only came to Jordan for a few months to work or for medical treatment and then they left, which added to the inconsistency in trying to estimate accurate figures of the Iraqi refugees.<sup>178</sup>

The Jordanian Government had always been tolerant of the Iraqis living in Jordan but after the hotel-bombings in 2005, they not only closed their doors to the Iraqis,<sup>179</sup> which they had never done before, but started to deport them if they did not have any legal status of residency. Jordan’s asylum policy today is refusing the Iraqis to enter their borders because of the previously mentioned terrorist incident, and because they became a heavy burden on Jordan’s economy and welfare system. Despite of Jordan’s long history of welcoming Iraqi refugees prior to the incident, and despite the increasingly urgent need of the safety of hundreds of thousands of Iraqis depending on Jordan’s generosity the country stopped not only responding to Iraqis asylum seekers but even listening to them upon arrival.<sup>180</sup>

Thus, currently it is difficult to estimate the scale of Iraqi immigration in Jordan, because the authorities maintain a very low profile in the refugee question and because the nature of the transit migration is unstable. According to an official assessment, approximately 20,000 Iraqis have received the long-term residency permit and only 22,000 out of the 780,000 Iraqi refugees had registered as asylum seekers by the beginning of 2007.

Although Jordan used to be among the most welcoming countries toward refugees, today it ignores the existence of hundreds of thousands of Iraqi refugees. In addition, Jordan does not deal with the Iraqis’ needs of protection anymore and has not requested any

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<sup>178</sup> Gerald Chatelard, New issues in refugee research, Jordan as a transit country: semi-protectionist immigration policies and their effect on /Iraqi forced migrants, 2002, Working Paper No. 61

<sup>179</sup> Jordan has shut its border to Iraqi men between the ages of 17 and 35.

<sup>180</sup> Bill Frelick, refugee policy director at Human Rights Watch and author of the report.

international assistance on their behalf, which policy can best be characterized as “the silent treatment.”<sup>181</sup> The reason is that diplomatically it is more appropriate to present Iraqi migrants in Jordan as economic migrants fleeing the UN imposed embargo than as refugees.<sup>182</sup>

Iraqis are currently the most vulnerable groups in Jordan.<sup>183</sup> Jordan’s relations with Iraq have always been important in shaping Jordan’s foreign policy responses to Iraqi forced migrants, which currently falls into the negative category.<sup>184</sup> Nevertheless, Jordan allowed the UNHCR to get involved and operate within the country, which indicated intentions that could have moved Jordan closer to the positive category of refugee treatment.<sup>185</sup> However, due to the 2005 terrorist attacks, the tolerant Jordanian asylum policy that was among the most humane ones in the Middles East toward the Iraqis, suddenly changed and made Iraqis bounce back from its ‘soundproof and mute walls’ by completely failing to respond to the Iraqi crisis. The UNHCR has remained one of the last resorts that could assist the Iraqi exodus, but the magnitude of the Iraqi refugee crisis is way beyond the resources of the UNHCR office in Amman,<sup>186</sup> which is why international cooperation should be considered. One thing is certain: “the silent treatment” is neither functioning nor can continue. Pretending as if the Iraqi refugees did not exist in Jordan, and ignoring the **obligation of the good neighbourhood policy**, will not help Iraqis to overcome their crisis especially with Jordan’s obstinate „deaf ears policy” and the emergence of its **mute walls** the Iraqi refugees are currently facing.

<sup>181</sup> Human Rights Watch, “The silent treatment, fleeing Iraq surviving in Jordan, 2006 November

<sup>182</sup> Human Rights Watch, “The silent treatment, fleeing Iraq surviving in Jordan, 2006 November

<sup>183</sup> Report by the US Committee for Refugees, an independent advocacy group:

<sup>184</sup> Jacobsen, 1996:659 He created the terms of positive and negative category for refugee acceptance.

<sup>185</sup> Geraldine Chatelard, New Issues in Refugee Research, 2002, Jordan Transit Country: semi protectionist immigration policies and their effects on Iraqi forced migrants

<sup>186</sup> <http://www.irinnews.org/Report.aspx?ReportId=75715>



## 1. 8. SYRIAN ARAB REPUBLIC

### *CURRENT ASYLUM POLICIES TOWARD THE IRAQI REFUGEES*



### **HARDENING WALLS** Versus **THE OBLIGATION OF TOLERANCE**

Syria has long been a place of refugees even though the country is not party to any international convention that would regulate the flows of refugees. During Saddam's rule, thousands, predominantly Shia opposing the government, had fled to Syria, while after the US-led invasion, the majority of the Iraqis that fled to Syria were Sunnis or members of the previous Baath party.<sup>187</sup> Iraqi Christians or other minorities, such as Sabeans, also fled to Syria for being particularly vulnerable during the Saddam's regime and for being caught in the middle of a sectarian conflict between the Shia and the Sunni.<sup>188</sup>

Although Syria is not party to the 1951 Refugee Convention or to the 1967 UN Protocol, which means that the country does not permit permanent asylum, the state has been generally tolerant of refugees. Syrian law has no provision for refugee protection, yet the

<sup>187</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=470ddb1f2&skip=&query=syria%20to%20take%20iraqi>

<sup>188</sup> Valentinas Mite, *Blow To Iraqis*

Government respects the UNHCR's call for temporary protection.<sup>189</sup> Syria has not signed the Memoranda of Understanding (MOU) either, and the continued lack of an ambassador level diplomat has impeded the ability of the US government to coordinate with the UN, NGOs and Syrian ministries that are responding to the needs of displaced Iraqis.<sup>190</sup> Although the US diplomatic relations with Syria remain estranged, Syria has played a positive role in hosting the largest number of Iraqi refugees. Syria has always been one of those in the Middle East that had shown true commitment to humanitarian needs of the Iraqi refugees. Syria used to be the only Arab country with open borders, until 2006 permitting refugees from Iraq to obtain legal temporary residence for up to six months.<sup>191</sup>

The high level of sectarian violence, which cost thousands of Iraqi lives especially since 2006, has not spread into Syria. Iraqis living in Syria have pulled together to help and support each other regardless of their ethnic or religious differences and to an awareness that the Syrian authorities will not tolerate acts of violence between or by Iraqis.<sup>192</sup> According to Amnesty International, Syrian officials have warned Iraqis that any violence between or by Iraqis would receive zero tolerance and the Syrian authorities would crack down hard on those responsible.<sup>193</sup> Yet Iraqis were tolerated by the Syrian governments even when they had committed criminal acts for they were not charged and tried, simply deported. In general, however, Syria has maintained an open-border policy to most Iraqis and deportations were few.<sup>194</sup>

Until the end of 2006, Iraqis entering Syria were issued a three-month visa, which could be renewed for another three months at the Syrian Immigration Office. The policy

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<sup>189</sup> World Refugee Survey 2005

<sup>190</sup> <http://www.refintl.org/content/article/detail/10297> Refugee International, Iraqi Refugees: Key Facts on Political response

<sup>191</sup> RI Bulletin, 15 November 2005

<sup>192</sup> <http://www.refintl.org/content/article/detail/10297> Refugee International, Iraqi Refugees: Key Facts on Political response

<sup>193</sup> Amnesty International 2007

<sup>194</sup> Refworld, Iraq, The situation of Iraqi refugees in Syria, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=46a9e4042&skip=&query=syria%20to%20take%20iraqi>

dramatically changed at the beginning of 2007, when the length of the original visa was reduced from three months to one month, which visa was renewable for another two months. Iraqis had to leave the country when their visas expired and were requested to obtain a new one if they wished to re-enter. Both the Iraqi and Syrian authorities were aware of the fact that it was a tiring and costly procedure, especially for the poorer Iraqis, thus; they turned a blind eye if they failed to obey Syrian policies.<sup>195</sup> Those Iraqis that choose not to extend their visas fail to do so because of security purposes, since members of armed groups from the Mahdi Army have been operating at the Iraqi borders, posing a risk to Iraqi refugees. Consequently, the majority of the Iraqis were over-staying in Syria without extended visas but the Syrian government mostly tolerated it due to the life threatening fear the Iraqis claimed to have towards the Shia Militia.<sup>196</sup>

Currently, Iraqi refugees in Syria are not eligible to work. Thus, dwindling personal resources are putting Iraqi refugees at increasing risk. Additionally, there are reports on Iraqis being strongly encouraged to return to Iraq from Syria,<sup>197</sup> since with the estimated 1.5 million of Iraqi refugees (and 3,000 more arriving daily) the country is quickly reaching its limits.<sup>198</sup> In addition, the Iraqi government made a big mistake in 2006 and for a political success in reconciliation, the government requested Syria to close its borders to Iraqi civilians that were fleeing violence. This was clearly an act of great irresponsibility.<sup>199</sup> Syria then imposed visa restrictions on Iraqis at the request of the Iraqi government, but also the amount of Iraqis who fled their homes had reached unprecedented levels, overwhelming Syria completely, which is why Syria had become so concerned about the country's stability and security.<sup>200</sup> According

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<sup>195</sup> www. Rewforld Syria

<sup>196</sup> www. Rewforld Syria

<sup>197</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=469f5c022&skip=&p;query=syria%20to%20take%20iraqi>

<sup>198</sup> UNHCR, Refworld, 2007, The situation of Iraqi refugees in Syria

<sup>199</sup> [http://www.unhcr.org/cgi-](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=46a9e4042&skip=&query=syria%20to%20take%20iraqi)

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<sup>200</sup> <http://www.unhcr.org/cgi->

to the new rules, only businesspersons, truck drivers, and Iraqi academics are allowed to enter Syria without a visa, which regulation entered into force in 2007.<sup>201</sup>

Today, the Syrian government insists that the Syrian Arab Red Crescent oversee all humanitarian responses, but the agency is overwhelmed by the needs and lacks the necessary capacity. The refugees are putting a great strain on an overburdened system, and it is clear that the existing infrastructure is insufficient to meet the needs of the Iraqis.<sup>202</sup> Based on estimations of Syrian government officials, there are about 1.5 million Iraqis living today in Syria, which is only approximation because there are no official statistics and no census has been conducted in recent times.<sup>203</sup>

According to the assessment of Amnesty International, some 3,000 Iraqis were entering Syria's borders on a daily basis up to 2006, which indicated that Syria was the largest recipient of Iraqi refugees. Yet the country has been seriously struggling to accommodate them and they cost Damascus around \$1 billion a year. Syria has been in a very difficult position. Due to their recent limitations in 2006 regarding refugee acceptance the severe restrictions in the Syrian asylum policy toward the Iraqis, had completely changed the once prevailing 'open door policy'. Syria's **walls have gradually hardened** and today the country's asylum policy completely ignores its **obligation of tolerance**, leaving Iraqi refugees totally deprived of another foreign safe haven, once considered one of the safest countries to flee to.<sup>204</sup>

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bin/texis/vtx/refworld/rwmain?page=search&docid=47a6ee9fd&skip=&query=syria%20to%20take%20iraqi

<sup>201</sup> spokeswoman for the United Nations High Commissioner For Refugees, Astrid van Genderen Stort

<sup>202</sup> UNHCR, Refworld, 2007, The situation of Iraqi refugees in Syria

<sup>203</sup> UNHCR, Refworld [http://www.unhcr.org/cgi](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=category&skip=0&coi=SYR&category=POLICY)

bin/texis/vtx/refworld/rwmain?page=category&skip=0&coi=SYR&category=POLICY

<sup>204</sup> Spokeswoman for the United Nations High Commissioner For Refugees

## II. Discussion Chapter

### Comparing Asylum Policies



Providing a comprehensive and accurate picture on the Iraqi refugee population has been a challenging task for various reasons. I have found that refugee definitions vary within countries and the use of different data sources and data availability makes the comparison process difficult as well. Although the 1951 Refugee Convention and 1967 Protocol provide clear refugee definitions, the different interpretations on refugee definitions between UNHCR, various governments and NGOs have had impacts on the findings. In addition, many refugees are not registered for various financial or security reasons or simply because they do not see it significant. Finally yet importantly, several countries do not only grant refugee status in accordance to the 1951 Refugee Convention, but also provide subsidiary forms of protection, usually international agreements with the UNHCR or other refugee organization, which is difficult to compare internationally.<sup>205</sup>

In this chapter, I analyze and compare the asylum policies of those countries that strategically and politically are most involved in the life of Iraq and consequently, the Iraqi refugees. These are the US/ the UK and the geographically surrounding countries of Iraq:

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<sup>205</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?id=478cdf712&tbl=STATISTICS>

Turkey, Iran, Kuwait, Saudi Arabia, Jordan and Syria. Each country is treated as an individual project since they all have a story to tell when it comes to neighborhood policies, past wars, current agreements and several other ties that connect each country to Iraq in a different ways. The main ground for comparison is based on the numbers of indicated ceiling for refugee recognition provided by each government, the numbers of actual recognized refugees in each country, the accepting and rejecting tendencies and whether the direction of asylum policies indicate a more positive or negative asylum policy or if they are combined. Then I analyze and compare the causes behind these restrictive or positive asylum policies. In other words, I search for the reasons behind the tendency of rejections and acceptance in the time interval between 2003 and today. What is common of these three target groups is that in one way or another they are directly involved in Iraq's life in a constructive or destructive manner. The main questions I focused on in doing the comparison analysis were the following.

1. What does the current asylum policy of each country say about refugees in general?
2. What are the asylum policies and regulations toward the Iraqi refugees and asylum seekers in particular, if any?
3. Have any of the target countries changed their asylum policies as a result of the mass influx from Iraq, during and after OIF?
4. What are the similarities and differences of the asylum policies of the target countries toward the Iraqis?
5. Can be any parallels drawn among the target countries based on their similarities in their asylum policies, motives toward refugees or political background supporting or rejecting the Iraqi influx?
6. Do the originally distinguished three categories in the target countries remain the basis of comparison or can more groups can be formulated?

7. How can the indicated countries be illustrated on a continuum starting with the most accepting to the most rejecting asylum policies?

According to UNHCR estimates, based on asylum recognition as of 2007 September 1, displaced Iraqis in the target countries are approximately as follows: Syria 1.3-1.5 million, Jordan 750,000 – 1 million, Iran 57-60,000, Turkey 10-20,000, the U.K. 22,000, in the U.S. 20,000 Gulf States 200,000.<sup>206</sup> Kuwait and Saudi Arabia were not mentioned individually among the Gulf States, but according to UNHCR estimations, they have kept their borders closed to Iraqi refugees.

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<sup>206</sup> Estimates include recognized refugees, asylum seekers and other Iraqis who may be in need of international protection. Data subject to frequent revision.

## 2.1. Discussion

### Global Comparison



### The West and the Rest

The different asylum policies of the target countries have shown inconsistencies in the treatment of the Iraqi refugees, making the results of the comparison volatile. Mostly negative political events are capable of turning the vectors of refugee flows to completely different directions and the perpetually changing numbers of the Iraqi refugees and asylum seekers are still subject to change due to the current ongoing political situation. While governments have the ability to determine whether the presence of refugees constitutes a national security threat, the threat must be balanced against refugees' freedom of movement rights.<sup>207</sup> Therefore, limitations on those rights must be proportionate to the threat, and must be enacted in law. However, the interpretations of refugee related definitions in different countries have several layers and thus the lines between total constraints, partial limitations or tolerating tendencies in the Iraqi refugee question often blur.

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<sup>207</sup>file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/V.%20DISCUSSION/FINAL%20DISCUSSION/PREPARATION/prima%20facie.htm



What remains status quo is that once an individual has entered a country and has been recognized on either prima facie or individualized basis as a refugee, their rights and duties as a refugee under international law do not change regardless of their location.<sup>208</sup>

The 3 categories I suggest prior to my research were 8 countries, which were assessed based on their involvement in the US-led war according to the US administration: DoD<sup>209</sup>s are the US citizens, CCF<sup>210</sup>s are citizens from the UK and TCN<sup>211</sup>s are people from the neighboring countries of Iraq.

The main distinguishing criteria between the target countries are whether they are party to the 1951 Refugee Convention or its 1976 Protocol. Those that are not are still obliged under international customary law and general human rights law to comply with Article 33 of the Convention, which clearly states that ignoring *non-refoulement principles of the Convention* can result in serious human rights abuse. Unfortunately, human rights abuse has been mostly practiced by countries signatory to the 1951 Refugee convention contradicting completely their humanitarian obligations disabling the Convention to serve as a serious ground in categorization.

Countries that are party to the 1951 Refugee Convention are: The US, the UK, Turkey and Iran. Turkey has kept its geographical provision meaning that it only recognizes refugees from Europe. Countries that are not party to the 1951 Refugee Convention are: Jordan, Syria, Kuwait and Saudi Arabia. Although the UN Convention should provide stable grounds for refugee protection the treatment of the Iraqi refugees in the above-mentioned countries have proven it otherwise. The US, the UK, Turkey and Iran have all violated international law according to the 1951 Geneva Convention because in numerous cases they have refused to comply with the non-refoulement obligation and have forcibly returned Iraqi asylum seekers

<sup>208</sup>file:///C:/Documents%20and%20Settings/Administrator/Desktop/RESEARCH/V.%20DISCUSSION/FINAL%20DISCUSSION/prima%20facie.htm

<sup>209</sup> Department of Defense

<sup>210</sup> Country of Coalition Forces

<sup>211</sup> Third Country Nationals

or they had rejected them upon arrival for administrative or illegitimate reasons. On the other hand, however, Jordan and Syria has shown that being party to the Refugee Convention is not necessary to provide safe haven for refugees in crisis, if humanitarian motives suffice.

Based on UNHCR statistics mentioned in the introduction of the Discussion chapter, my thesis offers the following groups of target countries, using a linear measure starting with the most accepting to the most rejecting asylum policies toward the Iraqi refugees: Syria and Jordan, Iran and Turkey, the UK and the US, Kuwait and Saudi Arabia. Each country was assessed as an individual project since they are all related to Iraq and the Iraqi refugees in a different way, but due to some specific similarities, a clear parallel could be drawn between them.

The parallels I have drawn between these countries were the following. The mainly Shia Syria and the mostly Sunni Jordan have performed a real human ‘open door policy’ toward the Iraqi refugees having provided the most asylums to troubled Iraqis. The Turkish and Iranian population, significantly differ from the majority of the Iraqi populace. The population in the former is mostly made up of Turkmen, Kurds, Assyrians while in the latter inhabitants are mostly Persian. I have found the greatest paradoxes in the asylum policies of Turkey and Iran, because despite they are both parties to the 1951 Refugee Convention and Turkey has a significant Kurdish minority, and Iran is practically Shia dominated, their rejecting attitude toward the Iraqi refugees has been the most dominant. The US and the UK again, are being similar in their interests and motives toward the Iraqi refugees and both have put the ceiling in the numbers of acceptance much higher than what they had actually fulfilled, violating seriously international law and the UN Convention, they are both parties to. Finally, Saudi Arabia and Kuwait have just simply closed their doors, ignoring human rights and international law, and international customary law by building physical walls in both countries for a more effective isolation from the Iraqi asylum seekers.

The next category, I formulated is based on 'absoluteness'. I have found that the US has the highest ceiling for accepting refugees and the biggest gap between the numbers of indicated ceiling and actual recognition. The UK has the largest Iraqi community in the Western world with estimates ranging from 250 000 – 400 000 out of which the numbers of recognized refugees however are only a small fraction of the total number. The country that is home to the most Iraqi and other refugees in general is Iran with an estimated 2.5 million people. The largest exodus flow after the 2003 Iraqi invasion was directed toward Syria since it was the last among those countries that closed their doors. The largest Iraqi refugee population per capita is in Jordan for Jordan is a small country of 5 million people and the Iraqi refugees that they accepted so far is about 1/5 of the country's total population.

As for negative absoluteness, Turkey and Iran have rejected the most refugees in numbers since the 2003 Iraqi invasion, the former based its fear on the emergence of a Kurdish population that Turkey saw as a threat to its government and Iran was afraid of another large Iraqi mass exodus just like the one after the first Gulf War. The reason I used Turkey and Iran in this category instead of Kuwait and Saudi Arabia is because the last two countries were mostly avoided by Iraqis before they could have been rejected. The currently most rejecting asylum policy refers to Saudi Arabia, which containment derives from its strict Shari 'a law based on the Koran and includes the Saudi security fence system currently under construction.

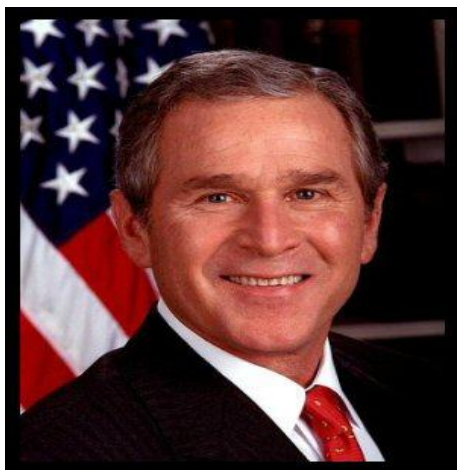
The following categories are describing the tendencies of each country's asylum policies toward the Iraqi refugees. Recognizing Iraqi refugees in the US has been a shamefully slow process. The Iraqi refugees are determined individually that is time consuming and the US allegedly lacks human resources engaged in refugee determination processes. However once an asylum seeker has received its status and is recognized as a refugee they are not returned to their countries of origin or to any third countries. The UK has been also very slow

in acceptance, it determines refugees on a case-by-case basis but in numerous cases has returned Iraqi refugees, violating international law similarly to Turkey and Iran, that both belong to the negative category in the Iraqi refugee resettlement project. Jordan and Syria have been accepting Iraqi refugees with full force up to a point, when their open door policy has turned into a closed-door one. Saudi Arabia and Kuwait have not been accepting Iraqi refugees since the 2003 US-led invasion, and Iraqi refugees were even leaving the Saudi Rafha camp in a steady but slow flow since 2003. Kuwait was consistent and Iraqi refugees have not entered nor leaved the country since the regime change in Iraq. However the two countries that still accept legitimately refugees are the US and the UK.

The countries that determine refugees on a case-by-case basis are: the US, the UK, and Turkey, those who determined them as prima facie refugees are: Jordan, Syria and Iran, and those who do not have any determination for them are: Kuwait and Saudi Arabia. However here I note that Jordan has also used a different term for them instead of refugees they labeled them as guests or illegal immigrants.

There could be more categories drawn if the research process went deeper by finding more similarities and differences in qualities and attributes of target countries asylum policies.

## 2.2. The United States and The United Kingdom



## The Unkept Promises

The US has been by far the largest of all resettlement countries in the world, and has accepted accordingly more refugees during the history than all other countries together. However, its refugee admissions have significantly dropped over the last decade. The funding for the US refugee resettlement program has been allocated by the State Department, largely through the Migration and Refugee Assistance (MRA) account. The UNHCR is a partner in the US resettlement program and identifies those refugees most in need of urgent resettlement.<sup>212</sup> One of the US resettlement programs' main achievement was the introduction of the Special Immigrant Visa programme SIV, which allows the entry for up to 500 interpreters from Iraq, and is planning to expand and include seriously threatened Iraqis that previously worked with Multi National Forces MNF, international agencies, NGOs and the US military.<sup>213</sup> According to Human Rights First, the US Congress and Senate are currently working to resolve the SIV issue and to decide when the 5000 SIVs mandated by the Kennedy-Smith law will be effective.<sup>214</sup> Other two priorities of the program are the 'Urgent need of resettlement' that refers to refugees of compelling security concerns and the P-2 and P-3 visas, which indicate certain groups of refugees or certain nationalities that are eligible for obtaining those.<sup>215</sup>

In 2007, the U.S. has announced to accept up to 7,000 Iraqis for resettlement out of which number only a small fragment had actually reached the US.<sup>216</sup> Although the US has one of the world's largest resettlement programs that includes, 70000 resettlement places a year they had been extremely slow in responding to the Iraqi situation by resettling only 753

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<sup>212</sup> Migration Information Source, US in Focus, The US Refugee Resettlement Program

<sup>213</sup> <http://www.unhcr.org/cgi/texis/vtx/refworld/rwmain?page=search&docid=46f7643d2&skip=&query=iraqi%20refugee%20in%20turkey>

<sup>214</sup> <http://www.humanrightsfirst.org/asylum/lifeline/pages.asp?country=iq&id=29&misc1=timeline>

<sup>215</sup> Migration Information Source, US in Focus, The US Refugee Resettlement Program

<sup>216</sup> Kristele Younes Advocate, Refugees International to the House Committee on Foreign Affairs

Iraqi refugees from 2003 up to the middle of 2007.<sup>217</sup> By the end of the year due to the urging voices of International refugee agencies, the US resettles 1608 Iraqi refugees, falling short of the various targets of 25000, 7000, 3500.<sup>218</sup> According to Assistant Sec. Sauerbrey, the US limit in resettlements for refugees is the 70,000 presidential determination."<sup>219</sup>

However, the US resettlement program until now has been highly ineffective and painfully slow and vulnerable Iraqis are getting more and more destitute while waiting for final approvals because the US claims to be lacking human resources to reach its resettlement targets.<sup>220</sup> Despite some positive indications on big promises, Amnesty International is concerned that the US is trying to distance itself from these commitments. While US authorities have indicated, the US to accept more Iraqi refugees through resettlement than any other countries, Amnesty International believes that proposed numbers still do not live up to the capacity of US' resettling abilities.<sup>221</sup> The double contradiction in the US resettlement program is that according to Amnesty International, the US has been underbidding its efforts to provide resettlement for Iraqi refugees; on the other hand, and the US has not kept its promises to fulfill the low numbers they proposed on the other.

According to UK policy makers and politicians, resettlement is one of the most effective humanitarian mechanisms for addressing asylum seekers traveling to the UK. However, as the UK resettlement scheme is still in its infancy, thus it is hard to figure out the impact of the Gateway Protection Programme on asylum numbers of those arriving in the UK.<sup>222</sup> Recent British resettlement studies suggest that the proposed resettlement program is unlikely to meet the needs of all those fleeing persecution and seeking to settle in the UK.<sup>223</sup> Similarly to the US, responses on Iraqi asylum requests in the UK are generally treated in

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<sup>217</sup> Refworld, US Iraqi resettlement

<sup>218</sup> Timeline: US Government response to Iraqi Refugee Crisis

<sup>219</sup> 17<sup>th</sup> UNHCR Conference on Iraqi Refugees and IDPs

<sup>220</sup> Refugee resettlement and integration in the US

<sup>221</sup> Amnesty International Online

<sup>222</sup> <http://www.icar.webbler.co.uk/?lid=1112>

<sup>223</sup> Comparing asylum seeker and refugee resettlement figures

harsh manners by cutting off assistance in accommodation and benefits and once the appeal against refusal of asylum is lost, applicants are expected to leave the UK within an unreasonably short time.<sup>224</sup> According to a statement of a UK-based NGO, Iraqi refugees that were denied asylum status upon arrival to the UK, were degraded and called “welfare scroungers” by immigration officers’.<sup>225</sup>

In recent years the UK, has agreed to participate in the Gateway Protection Programme,<sup>226</sup> Define of a quota of 500 cases but despite the quota, only 14 refugees were accepted, but not from Iraq.<sup>227</sup> Based on the Gateway Program, annual target for Iraqi refugee resettlement was planned to increase from 500 to 750.<sup>228</sup> Despite of some positive intentions of the UK, relating asylum policies many Iraqis were still rejected asylum or they were forcibly returned, yet in some cases authorities offered them to return voluntarily.<sup>229</sup> The low number in accepting Iraqi refugees in the UK has been combined with a unpleasant figure of 87 forcibly removed asylum seekers and the process has been continuous but it is hard to monitor.<sup>230</sup> Consequently, according to Amnesty International, resettlement -discussions has begun, urging the UK government to expedite the process along with an increased quota for the Iraqi resettlement.

Reality indicated that the US and UK’s “War on Terror” has been marginalizing refugees and numerous legitimate political movements were labeled terrorist, which significantly added to the negative attitudes of both perpetrators in granting asylums for warn thrown Iraqis. Refugees International has recently pointed out that the Iraqi displacement crisis is currently the fastest growing humanitarian and refugee crisis, to try to change the

<sup>224</sup> <http://hrw.org/english/docs/2007/08/08/uk16614.htm>

<sup>225</sup> *The Refugee Project*, 44 Ainger Road, London, NW3 3AT (2008). [<http://www.therefugeeproject.org/>]

<sup>226</sup> Resettlement Project

<sup>227</sup> <http://wiadomosci.gazeta.pl/Wiadomosci/1,80590,4343556.html>

<sup>228</sup> Home Office’s National Steering Group on Gateway Program and Borders and Immigration Agency

<sup>229</sup> through the IOM’s Voluntary Assisted Return and Reintegration Programme (VARRP)

<sup>230</sup> [http://www.ecre.org/files/ECRE\\_Survey\\_Iraq\\_2008.pdf](http://www.ecre.org/files/ECRE_Survey_Iraq_2008.pdf)

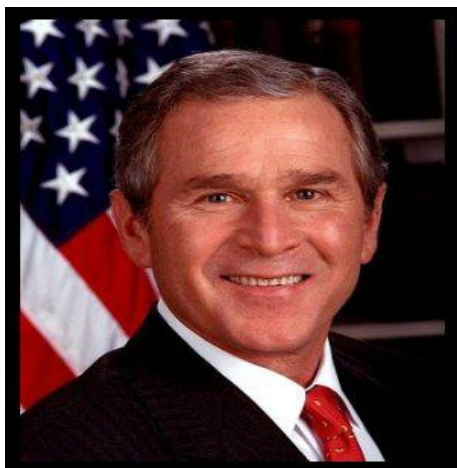
neglecting attitude of the US and UK toward the Iraqi refugees.<sup>231</sup> Both the US and UK has brought changes in their asylum policies relating to the Iraqi refugees but unfortunately, neither of them did enough to cope properly with Iraq's humanitarian crisis and **to keep their promises** they made each year since the beginning of the invasion.

## 2.2. The United States and The United Kingdom

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<sup>231</sup> UNHCR, European Commission Humanitarian Aid





### **The Unkept Promises**

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<sup>232</sup> Migration Information Source, US in Focus, The US Refugee Resettlement Program

<sup>233</sup> <http://www.unhcr.org/cgi/texis/vtx/refworld/rwmain?page=search&docid=46f7643d2&skip=&query=iraqi%20refugee%20in%20turkey>

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P-3 visas, which indicate certain groups of refugees or certain nationalities that are eligible for obtaining those.<sup>235</sup>

In 2007, the U.S. has announced to accept up to 7,000 Iraqis for resettlement out of which number only a small fragment had actually reached the US.<sup>236</sup> Although the US has one of the world's largest resettlement programs that includes, 70000 resettlement places a year they had been extremely slow in responding to the Iraqi situation by resettling only 753 Iraqi refugees from 2003 up to the middle of 2007.<sup>237</sup> By the end of the year due to the urging voices of International refugee agencies, the US resettles 1608 Iraqi refugees, falling short of the various targets of 25000, 7000, 3500.<sup>238</sup> According to Assistant Sec. Sauerbrey, the US limit in resettlements for refugees is the 70,000 presidential determination."<sup>239</sup>

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<sup>235</sup> Migration Information Source, US in Focus, The US Refugee Resettlement Program

<sup>236</sup> Kristele Younes Advocate, Refugees International to the House Committee on Foreign Affairs

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<sup>240</sup> Refugee resettlement and integration in the US

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According to UK policy makers and politicians, resettlement is one of the most effective humanitarian mechanisms for addressing asylum seekers traveling to the UK. However, as the UK resettlement scheme is still in its infancy, thus it is hard to figure out the impact of the Gateway Protection Programme on asylum numbers of those arriving in the UK.<sup>242</sup> Recent British resettlement studies suggest that the proposed resettlement program is unlikely to meet the needs of all those fleeing persecution and seeking to settle in the UK.<sup>243</sup> Similarly to the US, responses on Iraqi asylum requests in the UK are generally treated in harsh manners by cutting off assistance in accommodation and benefits and once the appeal against refusal of asylum is lost, applicants are expected to leave the UK within an unreasonably short time.<sup>244</sup> According to a statement of a UK-based NGO, Iraqi refugees that were denied asylum status upon arrival to the UK, were degraded and called “welfare scroungers” by immigration officers’.<sup>245</sup>

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<sup>242</sup> <http://www.icar.webblier.co.uk/?lid=1112>

<sup>243</sup> Comparing asylum seeker and refugee resettlement figures

<sup>244</sup> <http://hrw.org/english/docs/2007/08/08/uk16614.htm>

<sup>245</sup> *The Refugee Project*, 44 Ainger Road, London, NW3 3AT (2008). [<http://www.therefugeeproject.org/>]

<sup>246</sup> Resettlement Project

<sup>247</sup> <http://wiadomosci.gazeta.pl/Wiadomosci/1,80590,4343556.html>

<sup>248</sup> Home Office’s National Steering Group on Gateway Program and Borders and Immigration Agency

<sup>249</sup> through the IOM’s Voluntary Assisted Return and Reintegration Programme (VARRP)

<sup>250</sup> [http://www.ecre.org/files/ECRE\\_Survey\\_Iraq\\_2008.pdf](http://www.ecre.org/files/ECRE_Survey_Iraq_2008.pdf)

begun, urging the UK government to expedite the process along with an increased quota for the Iraqi resettlement.

Reality indicated that the US and UK's "War on Terror" has been marginalizing refugees and numerous legitimate political movements were labeled terrorist, which significantly added to the negative attitudes of both perpetrators in granting asylums for war-torn Iraqis. Refugees International has recently pointed out that the Iraqi displacement crisis is currently the fastest growing humanitarian and refugee crisis, to try to change the neglecting attitude of the US and UK toward the Iraqi refugees.<sup>251</sup> Both the US and UK has brought changes in their asylum policies relating to the Iraqi refugees but unfortunately, neither of them did enough to cope properly with Iraq's humanitarian crisis and **to keep their promises** they made each year since the beginning of the invasion.

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<sup>251</sup> <sup>251</sup> UNHCR, European Commission Humanitarian Aid

### 2.3. Turkey and Iran



#### The Bitter Disappointment

Turkey<sup>252</sup> and Iran are both signatories to the 1951 Refugee Convention yet Turkey's geographical provision and the strict national laws of Iran have made both countries contradicting their refugee related obligations and breach customary law. The Turkish-Iraqi relations are traditionally characterized by ideological conflicts, volatile security issues and economic cooperation. Despite of Turkey's significant economic and other ties to Iraq, the Turkish government has never had a benign attitude towards those Iraqis seeking safe haven in its territory yet there is an Iraqi population of 10000 living in the country. They however are waiting to be resettled in other countries, with no legal rights to be employed while psychologically and economically suffer from being enforced to live by strict Turkish rules, often without community support<sup>253</sup>. Turkey's persistent economic problems have made it difficult to bear the heavy financial burdens of assisting Iraqi refugees. Before the fall of Saddam, Turkey had only about 500 recognized Iraqi refugees although thousands more were

<sup>252</sup> Turkey is not signatory to the 1976 Protocol that eliminates geographical provisions.

<sup>253</sup> Turkish Daily News, Iraqi Catholic asylum seekers in Turkey suffer neglect and poverty, 2006

considered ‘persons of concern’ according to the UNHCR.<sup>254</sup> Iraqi refugees in Turkey have two significant fears, one is the well-founded fear of persecution in their homeland, and the other one is rejection in host countries, which is why statistics cannot indicate reality completely.

Turkey has kept its geographical reservation to the 1951 Refugee Convention; which means that Turkey only recognizes European asylum seekers, thus Iraqi asylum seekers have to register with the police, which has the right to decide asylum seekers’ fate on eventual resettlement to a third country; and they have to apply to the UNHCR for refugee status determination as well.<sup>255</sup> This process has been rather rigorous in detaining and deporting especially with Iraqis trying to enter Turkey after the fall of Saddam.<sup>256</sup> Unfortunately, since the US-led invasion of Iraq, the UNHCR has suspended normal processing of Iraqi asylum seekers and gaining the right to be resettled in third country is now practically impossible except in the most vulnerable cases. According to the Turkish Ministry of Interior, some 90 000 Iraqis entered Turkey illegally but only 407 applied to the UNHCR for asylum.<sup>257</sup> Turkey has breached international law by failing to oblige with the non-refoulement obligation of the 1951 Geneva Convention and in addition, has insisted on keeping its borders closed to new flows of Iraqi refugees however, the only positive act of the Turkish government to assist Iraqi refugees was to set up camps along the Turkish-Iraqi borders.<sup>258</sup> Turkey’s main goal however has always been to send back the Iraqis to their country of origin or to third countries that was clearly indicating hostility, discrimination and the violation of human rights, which was a bitter disappointment for those Iraqis hoping for a betterment in their lives by choosing Turkey as a safe haven.

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<sup>254</sup> [www.unhcr.org/Turkey](http://www.unhcr.org/Turkey)

<sup>255</sup> <http://www.turkishdailynews.com.tr/article.php?enewsid=60485>

<sup>256</sup> [www.Refworld.org](http://www.Refworld.org), Turkey

<sup>257</sup> <http://www.turkishdailynews.com.tr/article.php?enewsid=60485>

<sup>258</sup> ICG Middle East Report N°11, 2003

According to a government-run census, Iran is home to the most refugees in the world, more than two and a half million, of whom more than 200000 are Iraqis.<sup>259</sup> Consequently, the Iranian government has gradually become embittered with hosting such an enormous refugee population, with minimal international interest, financial support, or burden sharing.<sup>260</sup> Before the toppling of Saddam, the Iranian government has adapted a complex registration process with the assistance of UNHCR that allowed Iraqi refugees to receive a 'registration slip', recognizing them as refugees,<sup>261</sup> because Iran has always considered the arrival of Shiite refugees as an opportunity to extend its influence in Iraq.<sup>262</sup> However, Iran has never really closed its borders completely to the Iraqi refugees while kept sending mixed messages about welcoming a potential new Iraqi mass influx. Iranian-Iraqi relationship has always been shaped by religion, geography, and a strategic rivalry manifested by constant border disputes and a perpetual competition for regional supremacy.<sup>263</sup> Religious tensions between the two countries' Shia population have served as a ground for several military confrontations, which have persistently affected the Iranian policy toward Iraq and even have a deeper impact today on the current Shia government's foreign policy toward the Iraqi refugees.<sup>264</sup>

The majority of Iraqis in Iran lives in urban areas and is extremely vulnerable to police abuse and discriminations, a common phenomenon among Iraqi refugees in Turkey as well.<sup>265</sup> Similarly, to Turkey, Iran has also set up refugee camps on both sides of the Iranian-Iraqi border but has announced that Iraqis would not be completely protected on the Iranian side of

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<sup>259</sup> Figures exclude thousands of Iraqis, deported by Iraq to Iran in the 1980s, and refugees living in Iran without registering with UNHCR.

<sup>260</sup> Marr, "Turkey and Iraq" in H.J. Barkey (ed.), *Reluctant Neighbor*. Turkey's Role in The Middle East, United States

<sup>261</sup> [www.UNHCR.org/Iran](http://www.UNHCR.org/Iran) 2001

<sup>262</sup> ICG interviews, Mohsen Mir-Damadi, member of the Iranian *majlis* (parliament) and Chairman of the Committee

of National Security and Foreign Policy, Tehran

<sup>263</sup> [www.unhcr.Iran](http://www.unhcr.Iran)

<sup>264</sup> ICG interview, Bülent Akarcali, former cabinet minister and Chairman of the Turkish Democracy Foundation, 2003

<sup>265</sup> ICG report on Turkey's relationship with the Iraqis, 2003

the border.<sup>266</sup> The Iranian asylum policy restrictions have also introduced severe fines and imprisonment of those employers who employ undocumented Iraqi refugees. The real burden has always been on refugees themselves though who are immediately fired if caught working undocumented, losing their homes and rights to medical care. Iranian law has systematically hardened the lives of the Iraqi refugees in Iran, by denying the means to a decent living.<sup>267</sup>

Today Iran rejects to recognize new Iraqi asylum seekers as refugees, but the UNHCR considers any Iraqis<sup>268</sup> to be *prima facie* refugees, assuming them legitimately flee danger. UNHCR requested Iran in 2007 to accept Iraqi refugees with a one-year residency permit but Iran has not answered because they are afraid that a million more Iraqi could flood the country again.<sup>269</sup>

The two countries have shared important interests, including the containment of the Kurdish nationalism and the opposition to the Iranian influence in the region,<sup>270</sup> which made them to apply strict, rejecting measures toward the Iraqi asylum seekers. Consequently, Turkey has maintained its hostility and Iran has reduced its openness, the former by practicing discriminating treatment, the latter by ignoring its religious obligation to accept at least the Shia Iraqis. The **bitter disappointment** in Turkey and Iran's refugee treatment was that Iraqi refugee masses contain a large Kurdish and an even larger Shia population; both were assumed to be welcomed in Turkey for its significant Kurdish minority and in pre-dominantly Shia Iran out of **religious obligation**.

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<sup>266</sup> Ahmad Hosseini, Deputy Interior Minister

<sup>267</sup> <http://www.hrw.org/background/mena/iraq021203/4.htm>

<sup>268</sup> Except from the relatively safe Kurdish north

<sup>269</sup> UNHCR, Iraqi Refugee Aid Council, Iraqi refugees in Iran, 2007

<sup>270</sup> ICG interview, M. Faruk Demir, Vice President, Center for Advanced Strategy, 2003



## 2.4. Kuwait and Saudi Arabia



### The Total Isolation

The governments of Kuwait and Saudi Arabia are not parties to the 1951 Refugee Convention nor do they have legal provisions or domestic laws to determine refugees or to protect them.<sup>271</sup> Both countries are known to be extremely hostile toward the Iraqi refugees, constantly suspecting them to collaborate with the previously toppled regime of Saddam.<sup>272</sup>

Although Kuwait has signed and its National Assembly has ratified an agreement with UNHCR in 1996 recognizing that organization's mandate to protect refugees,<sup>273</sup> the Kuwaiti-Iraqi border is currently the only Iraqi frontier that is effectively policed to keep away refugees, considered 'intruders'. It has a combination of fencing and electronic sensors and is regularly inspected by security forces from both sides.<sup>274</sup> Thus, virtual absence of Iraqi refugees in Kuwait is no accident. Yet there is a small Iraqi refugee population that is very hard to determine, as there are no official figures. According to the UNHCR, only 427 Iraqis have been registered as asylum seekers and 18 refugees were recognized in Kuwait.<sup>275</sup> The country has managed to maintain its strict regulations with Iraqi refugees; however, it hosted

<sup>271</sup> [www.Refworld.Iran/](http://www.Refworld.Iran/) [www.Refworld.Saudi.Arabia](http://www.Refworld.Saudi.Arabia)

<sup>272</sup> [http://www.brookings.edu/articles/2006/11iraq\\_pollack.aspx](http://www.brookings.edu/articles/2006/11iraq_pollack.aspx)

<sup>273</sup> Comments by Prof. Nathan Brown of George Washington, 2007 University, Washington, D.C., based on recent visits to Kuwait, March 2007.

<sup>274</sup> Country report on Kuwait, 2004

<sup>275</sup> [Iraqis In Kuwait. hrw.org.](http://www.hrw.org)

15000 Iraqis throughout the 1990s and currently, the country shelters some 13,000 Iraqis according to the UNHCR.<sup>276</sup>

Iraqi refugees have found it very problematic in both countries to access protection by means of UNHCR status determination and resettlement, although Saudi Arabia at least provides health care, air conditioning, and primary and secondary schooling in the Rafha camp, where Iraqi refugees are concentrated. The features of the camp is more prison-like than any other refugee camps since it is located in a highly militarized zone and is guarded securely for the ‘safety and security’ of Saudi nationals.<sup>277</sup> The Iraqis live there in **total isolation**, with only occasional access to the nearby town, according to UNHCR.<sup>278</sup> Circumstances within the Rafha camp for those 5200 Iraqi refugees were always very harsh even before the 2003 US-led invasion of Baghdad but after that it has become close to unbearable.

According to the latest UNHCR assessment however, there is no refugee flow entering Saudi Arabia since the fall of Saddam, on the contrary, the first convoys of refugees returning to Iraq since 2003 contained 240 refugees in a historical moment marking the ‘beginning of the end’ for Rafha refugee camp, giving long time refugees a chance to finally return home.<sup>279</sup>

According to Saudi officials in a Newsmax report, Saudi Arabia is only second to the US as a destination for illegal aliens,<sup>280</sup> yet the Saudis often compare US security measures taken against Mexican intruders to their newly built Saudi fence system.<sup>281</sup>

*“We also are concerned that the situation in Iraq may worsen and dissolve into further exodus, which would leave us dealing with a lot more refugees, which is why we had*

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<sup>276</sup> Refugees International: Countries: Kuwait

<sup>277</sup> <http://www.state.gov/g/drl/rls/irf/2006/71425.htm>.

<sup>278</sup> ICG interview, Mir-Damadi

<sup>279</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/iraq?page=press&id=3f26b0a44>

<sup>280</sup> Approximately 4 million illegal immigrants have fled to Saudi Arabia, from Arab, Asian and African countries, due to the country’s high standard of living. What triggers immigrants also to leave their countries are insecurity and constant unrest of their home countries. Saudi Arabia absorbs up to 400,000 illegal immigrants each year.

<sup>281</sup> Anonymous Saudi Official reported to NewsMax

*to build a security system to keep away illegal intruders, just like the US had done a very similar project on the US-Mexican border. Ours is much more comprehensive however, because we are **blocking the entire border.***”<sup>282</sup>

The true fear of the Saudi and Kuwaiti governments regarding Iraqi exodus is that Iraq’s disintegration could extend Kurdish, Iranian, Iraqi Shiite and Turkish influence, all of which Riyadh and Kuwait oppose.<sup>283</sup> A pluralistic and democratic Iraq, or even a secular republic, could ideologically challenge the monarchical, Wahhabi Saudi Arabia.<sup>284</sup> Furthermore, the unrestrained Iraqi sectarian warfare threatens Kuwait’s neutral, consensus-driven regional posture, internal order; and its relatively cordial relations with Saudi Arabia.<sup>285</sup> The main question therefore is not whether Kuwait and Saudi Arabia could manage Iraq’s spillover effects but how they have managed to stay so untouched by such dramatic upheavals so close to home.<sup>286</sup>

Given Kuwait and Saudi Arabia’s great national wealth, they both could be encouraged to make greater economic and humanitarian contributions to Iraq and adapt a milder asylum policy towards the poor and needy but instead Kuwait and Saudi Arabia have both demonstrated open hostility in the Iraqi refugee question. The two governments have both been extremely unfriendly toward the Iraqi asylum seekers and both countries have built physical barriers, actual walls to keep away Iraqi ‘guests’ considered to be ‘intruders’. The security fences of both countries that were set to separate completely Saudi Arabia and Kuwait from Iraq were made as a sign of **total isolation.**<sup>287</sup>

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<sup>282</sup> according to reports, ironically, one of the firms bidding on the project is the Saudi Bin Laden Group, a company controlled by the family of Osama Bin Laden

<sup>283</sup> In Iraq: Political Challenges After The Conflict

<sup>284</sup> ICG Middle East Report N°11, 2003

<sup>285</sup> Kuwait’s National Council chief, Sheikh Ahmed al-Fahd al-Sabah, reports to leading pan- Arab paper

<sup>286</sup> David Pollock, Kuwait: Dealing with Iraq and Iran

<sup>287</sup> The Washington Institute for Near East Policy

## 2. 5. Jordan and Syria



### The Inconvenient Truth

Syria and Jordan, home to the largest Iraqi refugee population, are not signatories to the 1951 Refugee Convention or 1967 Protocol yet they would deserve international recognition for accepting the largest numbers of Iraqis. According to Amnesty International, *“the willingness of Syria and Jordan to jointly host around 2 million Iraqi refugees is commendable and stands in contrast to the approach of other countries bordering Iraq, such as Saudi Arabia.”*<sup>288</sup> Consequently, Syria and Jordan are the most affected by the Iraqi refugee crisis, with an estimated 1.4 million and 750,000 refugees respectively, which refugees are likely to cause considerable economic, social, and political problems that have the potential to destabilize the already troubled region.<sup>289</sup> Jordan has always been a refuge of those escaping conflict in the region and currently it is the world’s largest per capita host of refugees.<sup>290</sup> However, today the Jordanian government has grown rejecting claiming Iraqis cannot be resettled permanently in the country, and that there can not be new institutions

<sup>288</sup> Amnesty International on Jordan and Syria, 2007

<sup>289</sup> [www.Refworld.org](http://www.Refworld.org). Syria/Jordan 2007

<sup>290</sup> Iran has the actual highest number of refugees but because it has a much larger population Jordan has the highest refugee population per capita

created either to help them, thus aid has to go through existing government channels or existing charities.<sup>291</sup>

Iraqi refugees today face serious hardship in Jordan. Although the vast majority, are not confined in camps, most are denied legal status. The Jordanian government has even deported many Iraqis in violation of customary international law. In 2006, Jordan closed its borders to most Iraqi refugees.<sup>292</sup> Syria has also shown exceptionally generous asylum policies toward the Iraqis after the regime change of Saddam. However, Iraqi refugees could not work legally and their lives have gradually worsened up to a level of unbearable,<sup>293</sup> indicating that both countries with the most ‘open-door policies’ have reached their limits and closed their doors.

Two significant events served as cornerstone in bringing about restrictions in both countries. Jordan had to witness a series of bombings by Iraqi insurgents and Syria was requested by Iraqi officials to put restrictions on their refugee population, putting a halt on both of their ‘open door policies.’ They both considered Iraqis as *prima facie* refugees, - instead of being determined individually as refugees are normally determined, Iraqis are determined as a group due to an extreme urgency in the absence of evidence to the contrary<sup>294</sup>-but today newly introduced restrictions make the influx more selective and subject to screening. Other countries’ lack of burden sharing has also made Jordan and Syria to curb the mass influx by implementing visa restrictions on the Iraqi refugees. Jordan now even requires a residency permit from the refugees or a medical or educational purpose for asylum seekers to pass through its borders.<sup>295</sup>

The difference between the two countries’ political stand is that the Shia governed Sunni Syria has always been contra US, while the mostly Sunni Jordan remained pro-

<sup>291</sup> [http://time-blog.com/middle\\_east/2007/10/iraqi\\_refugees\\_in\\_jordan.html](http://time-blog.com/middle_east/2007/10/iraqi_refugees_in_jordan.html)

<sup>292</sup> Fact Sheet: Iraqi Refugees in Jordan and Syria

<sup>293</sup> <http://yubanet.com/world/Iraqi-refugees-in-Syria-hit-by-increased-food-and-fuel-prices.php>

<sup>294</sup> UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, (Re-edited version) Geneva 1992, paragraph 44, at p. 13.

<sup>295</sup> Refworld, Syria and Jordan Country Reports, 2006

American. What they have left in common however is Iraq. They both want to have Iraq join their camp, which is still a volatile issue since Iraq is divided 60-40% in terms of Shia and Sunni population.<sup>296</sup> Unlike Syria, Jordan has refused to define arriving Iraqis as “refugees,” thus, considers them “visitors” because according to international law the recognition of “refugees” in host countries involve heavy financial obligations.

In the aftermath of the U.S. invasion, Jordan presented itself as a potential mediator between the coalition and angry, dispossessed Sunnis, with whom the Jordanians have long-standing tribal ties.<sup>297</sup> As for Syria, it has put significant pressure on US administration by having had an open door policy toward the Iraqi refugees giving the impression that they care more of the Iraqis than the US does. In theory, there are three options for Iraqi refugees: repatriation, local integration in the region, and resettlement to third countries. Jordan and Syria were partners in them all. The **inconvenient truth** however, Iraqi refugees are facing today is that the two neighboring countries that were most of the Iraqis only hope for safe refuge no longer cooperate.

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<sup>296</sup> The question is, which camp would Iraq choose to be part of, the Iran, Syria, anti-US group or would be joining the Jordan, Egypt, Saudi Arabia pro-American camp?

<sup>297</sup> Osama Mahdi, “Al Urdun awqafa al-‘Iraqiyin wa sayamna’ tamlikhum lilaqarat” ( Jordan has stopped Iraqis and will prevent them from owning property), Elaph.com, March 21, 2007.

## Conclusion



Sovereignty has been the organizing principle of international relations for more than three centuries. However, it seems that in about three decades from now, sovereignty will no longer mean the ‘place of safety’. The perpetual developments of political events have introduced powerful new forces and dangerous threats that would congregate against sovereignty<sup>298</sup>. Nation-states may even disappear and share power with several dominant non-sovereign actors, including banks, NGOs, regional and global institutions, terrorist groups or drug cartels.<sup>299</sup> Sovereignty could fall victim to the influential and accelerating flow of people across borders, which traffic challenges one of the fundamentals of sovereignty: the ability to control what and who crosses borders.<sup>300</sup> Sovereign states can increasingly measure their vulnerability not to one another but to forces of globalization beyond their control.<sup>301</sup> Thus, states in the future may choose to strip sovereignty from their fellow states. At the same time, governments with a lack of will to satisfy citizens’ basic needs may give up their sovereignty<sup>302</sup> for reflecting moral doubts, which can destabilize refugee flows and trigger state failure.<sup>303</sup>

Iraqi refugees have looked for asylum in the US, the UK and all the neighboring countries of Iraq but none of Middle Eastern countries have provided legal tools to treat refugees as such. All of them have relied on the UNHCR instead, which resettled the refugees

<sup>298</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 01

<sup>299</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 02

<sup>300</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 03

<sup>301</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 04

<sup>302</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 05

<sup>303</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html/> 06

in a third country outside of the Middle East.<sup>304</sup> Today all neighboring countries of Iraq exercise their rights to expel Iraqi refugees back to their country of origin, whatever the situation is there. On the other hand the US and the UK are countries bound by international standards, and do not generally expel illegal aliens in case they are coming from a country with much political turbulence and human rights abuse. Regarding the Iraqi refugees the US and the UK face significant practical problems: since there is no direct flight to Iraq, they would have to return them to their first country of transit in the Middle East, which is unreasonable as these countries would exert their sovereignty by refusing to receive aliens.<sup>305</sup>

The reality is that mass eviction is not only a third world problem, but it is globalized now. While **the west** witnesses a complete ‘Third Worldization’ on account of globalization, **the rest**, the third world, sees the walls rising higher, refugee camps turning into prisons, while the standard of living has diminished to an unbearable level.<sup>306</sup> The discussion and comparison of existing asylum policies toward the Iraqi refugees that my thesis has offered has revealed serious shortcomings among the 8 countries in the handling of the Iraqi refugee crisis. To answer the research question whether sovereign borders in a globalized world have remained persistent, meaning, are sovereign states still able to decide where they put their limit in the acceptance of refugees, my answer is yes. Despite the exceptions of illegal entries, states rigorously decide in a framework of international conventions, or even without, who can cross their borders and for what purpose they can stay. I have found that despite of globalization’s powerful effects in the changing criteria of states’ asylum policies, the persistency of their sovereign borders has remained as it was. Limiting the flow of the Iraqi refugees by severely controlling the sovereign borders has been and still is the sovereign right of each state, which however contradicts human rights and the obligation of non-refoulement

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<sup>304</sup> Human Rights Watch and UNHCR sites

<sup>305</sup> Ashraf Al- Khalidi UNHCR, Refugees, Iraq Bleeds, Number 146, 2007

<sup>306</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html>



of the 1951 Refugee Convention. Thus, states should keep their borders open to the Iraqi refugees that choose fleeing to be their only means of survival.

Today we can wonder: “*what if a single security fence connected all of these border-zones together became visible from space, like some militarized architectural python preparing itself for a great global squeeze, how a geographic depiction of globalization might look then, all that "borderless" hyperbole dispelled and distilled into virtually two separate globally distorted continents?*”<sup>307</sup> Can we imagine if this universal security fence was actually armed (like the Saudi fence mystery suggests), and can we imagine if this leviathan border fence became intelligent, autonomous and would even “*erase territorial boundaries while violating national sovereignties all on its own with a single sweep of its modular and flexible architectonic tail*”?<sup>308</sup> Is it the future of architectural occupation and automated ‘Geoannexation’? Ultimately, whether the entire Third world turns into a globally disjointed detention center or a ‘self-enclosing nomadic prison’, remains one of humankind’s greatest dilemma of the 21<sup>st</sup> century.<sup>309</sup>

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<sup>307</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html>

<sup>308</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html>

<sup>309</sup> <http://subtopia.blogspot.com/2006/10/saudis-immigrant-hunting-border-fence.html>

The implications of the  
**Iraqi Refugee Crisis**

For the Persistence of  
Sovereign Borders in a  
Globalized World  
Has Been Deep yet

**Have Not Reached The End**



It Continues To Shape the World,  
Which Can only Hope That  
State-Control over Sovereign Borders  
Will Not Be the Reason to Stop Refugees  
From Seeking Survival But  
**Peace Would.**

*'We have to face the fact that either all of us are going to die together or we are going to learn to live together and if we are to live together, we have to talk' for 'everything that is done in the world is done by hope.'*

*Eleanor Roosevelt and Martin Luther King.*

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