

October 12, 2005: Asylum Seekers Fleeing Iraq Must Be Protected

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Contact:

Anne Johnson, Director of Communications, (202) 523-3240, ext. 27 WASHINGTON - The U.S. Commission on International Religious Freedom (USCIRF) is concerned that members of religious minority communities who have fled Iraq may not be receiving the protection to which they are entitled under the Refugee Convention. The Commission has written the Department of State urging that the United States protect asylum seekers who are members of vulnerable religious minorities from being returned to Iraq. View Response In December 2004, the Commission wrote President George W. Bush, and subsequently met with him, urging him to take action to protect members of vulnerable religious minorities within Iraq. Since that time, conditions have not improved, and religious minorities such as Chaldo-Assyrian Christians, Yazidis and Mandaeans have continued to be victims of targeted violence throughout the country. In light of the threats to the safety of these communities, USCIRF is concerned by recent reports that U.S. immigration judges in some locations are increasingly denying asylum claims brought by Chaldo-Assyrians from Iraq. "The Commission urges the Congress and the Administration to provide legal protection in the United States to those members of the Chaldo-Assyrian community - as well as any other minority religious communities - who were ordered removed after a U.S. immigration judge determination that they may safely return to Iraq," said USCIRF Chair Michael Cromartie. The United States and other countries should ensure that asylum and refugee adjudicators are educated about current country conditions in Iraq. The Commission urges that the Departments of Justice and Homeland Security thoroughly train immigration judges and refugee and asylum officers on conditions faced by religious minorities within Iraq. Training these adjudicators on international religious freedom conditions is required by law under the International Religious Freedom Act of 1998. The Commission further recommends that attorneys within the Departments of Justice and Homeland Security who have a role in asylum administrative and judicial proceedings should also receive such training. In addition, the Commission repeats its February 2005 recommendation -- made in its Report on Asylum Seekers in Expedited Removal -- that the Department of Justice monitor and take steps to address significant variations in asylum adjudications from judge-to-judge. The Commission also is concerned about a recent Advisory Opinion on Iraq issued by the United Nations High Commissioner for Refugees (UNHCR). Immigration judges in the United States and throughout the world often look to UNHCR for guidance and expertise. In September 2004, the UNHCR Advisory Opinion on Iraq specifically advised against returning rejected asylum seekers to Iraq and twice addressed particular problems faced by religious minorities there. In contrast, the September 2005 Advisory takes a differentiated regional approach. The 2005 Advisory concludes that -- while the security situation in most parts of Iraq has continued to deteriorate -- returns to the three Northern Governorates of Iraq may be facilitated, but only for returnees who have community or family links to the region. Others, UNHCR warned, would face serious protection and integration concerns. Unlike the 2004 Advisory, the current Advisory makes no mention whatsoever of religious minorities. The Commission is concerned that errors of omission in the UNHCR September 2005 Advisory opinion on Iraq could inadvertently lead adjudicators in the United States and elsewhere, who may rely on the Advisory Opinion, to reject asylum claims from members of religious minorities who have fled Northern Iraq. "The new UNHCR Advisory fails to address reports that religious minority communities native to Northern Iraq - particularly the Chaldo-Assyrian villages - continue to face similar 'substantial obstacles' to protection and integration which UNHCR states would confront Iraqis who are not native to the region," noted Cromartie. "The Commission has written Assistant Secretary of State Richard L. Greene to request that the State Department encourage UNHCR to re-issue an opinion which addresses the protection problems faced by religious minorities, particularly in the North." The Commission is concerned that immigration adjudicators in the United States and elsewhere may rely on the September 2005 Advisory Opinion and reject asylum claims from members of religious minorities who have fled Northern Iraq. In summary, the Commission calls upon: The Department of Justice to more effectively train and monitor immigration judges and attorneys within the Office of Immigration Litigation and the Board of Immigration Appeals, to ensure against inconsistent asylum decisions, particularly with regard to Iraqi religious minorities; The Department of Homeland Security to train its immigration trial attorneys on international religious freedom conditions in general and country conditions faced by Iraqi religious minorities in particular; The Congress and the Administration to provide legal protection in the United States for members of religious minorities who have been ordered removed to Iraq; The Department of State to urge the United Nations High Commissioner for Refugees (UNHCR) to amend urgently its September 2005 Advisory Opinion on Returns to Iraq to account for the treatment of religious minorities in the three Northern governorates as well as the rest of the country; and The United States to redouble its efforts with the Iraqi authorities and the international community to stem the flight of members of ancient religious minorities from Iraq by promoting the protection and integration of these communities within Iraq.

The text of the letter to Acting Assistant Secretary of State for Population, Refugees and Migration Richard L. Greene follows: Dear Acting Assistant Secretary Greene: I am writing on behalf of the United States Commission on International Religious Freedom to express our concern about the recent Advisory Opinion on Iraq issued by the United Nations High Commissioner for Refugees (UNHCR). The Commission is concerned that errors of omission in the UNHCR September 2005 Advisory opinion on Iraq could inadvertently lead to refoulement. The Advisory should be corrected without delay. We ask that you, as the primary interlocutor with UNHCR, intervene. Specifically, the September 2004 UNHCR Advisory Opinion on Iraq explicitly advised against returning rejected asylum seekers to Iraq and twice addressed particular problems faced by religious minorities there. In contrast, the September 2005 Advisory takes a differentiated regional approach. Thus, the 2005 Advisory concludes that -- while the security situation in most parts of Iraq has continued to

deteriorate - returns to the three Northern Governorates of Iraq may be facilitated, but only for returnees who have community or family links to the region. Others, UNHCR warned, would face serious protection and integration concerns. Unlike the 2004 Advisory, the recent Advisory makes no mention whatsoever of religious minorities. The new UNHCR Advisory fails to address reports that religious minority communities native to Northern Iraq - particularly the Chaldo-Assyrian villages - continue to face similar "substantial obstacles" to protection and integration which UNHCR states would confront Iraqis who are not native to the region. The Commission is concerned that adjudicators in the United States and elsewhere may rely on the September 2005 Advisory Opinion and reject asylum claims from members of religious minorities who have fled Northern Iraq. We respectfully request that the State Department ask UNHCR to reissue the opinion and specifically address protection and integration problems faced by religious minorities in Iraq - particularly within the three Northern Governorates. Asylum and refugee adjudicators throughout the world often look to the expertise of UNHCR when considering asylum claims. Consequently, the integrity of the information contained in UNHCR Advisory Opinions is of paramount importance, as it may mean the difference between an individual being granted asylum, or being returned to a country where he or she will face persecution. For your reference, we are attaching a copy of the 2004 and 2005 UNHCR Advisory Opinions on Iraq, as well as recent articles reporting on problems faced by religious minorities there. Thank you very much for your attention to this matter. Sincerely, Michael Cromartie

Chair

Michael Cromartie, Chair

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