



## Introduction

The protracted war against ISIS is stretching the Kurdistan Region of Iraq (KRI) to the limits of its capabilities. Backed by international coalition partners, the Peshmerga has risen to the challenge of containing ISIS and continues to confront them on the battlefield every day. War brings out the worst in people. It reveals the ugly face of humanity. The principles of International Humanitarian Law (IHL) – or the Laws of War – are intended to prevent the worst forms of violence by imposing rules on the conduct of hostilities during times of war. As many as 196 countries acknowledge the legitimacy of IHL and are signatories to the Geneva Conventions. Despite this, full compliance is never guaranteed and a growing number of conflicts involve non-state actors unable to sign up to the agreements. This does not necessarily mean however that non-state actors are less willing or committed to adhere to

the principles of IHL: “We are educated in human rights; it is the foundation of the Peshmerga. It is why we hold guns and call ourselves Peshmerga,” according to one official at a roundtable convening hosted in partnership by the Middle East Research Institute (MERI) and Geneva Call in early February. The recent seminar, organised by MERI and Geneva Call, is the first in a series of five to six roundtables aimed at engaging major stakeholders including the Ministry of Peshmerga, international coalition members and international non-governmental and/or intergovernmental organizations, such as the International Committee for the Red Cross (ICRC), in constructive dialogue surrounding the conduct of hostilities by armed forces in the region. Accordingly, this seminar focused on ascertaining preliminary steps towards identifying possible measures needed to ensure full compliance with IHL.

## Background

Recent reports published by leading international human rights advocacy organizations – Human Rights Watch and Amnesty International – accused armed forces in the KRI of conduct in violation of international humanitarian law and human rights law. Specifically, allegations around the mistreatment of ethnic and religious minorities; the absence of judicial processes; extrajudicial executions; forced displacement; confinement of communities; torture; and the arbitrary destruction of homes, private property and even entire villages were raised. The Peshmerga did not escape criticism, and were highlighted among various government security forces, government backed militias and the armed group, ISIS, for committing war crimes and human rights abuses. The MoP asserts that respect for human rights and IHL is an integral component of Peshmerga trainings and doctrine.

Representatives from the MoP reiterated that violations of human rights are not sanctioned by the State. Regardless, recognizing the complexity of war, Peshmerga officials do not deny that violations may have occurred, but claim these violations are of an individual nature, and that independent combatants deviating from the principles of the Peshmerga likely committed them. However, the Kurdistan Regional Government (KRG) representatives and Peshmerga commanders present at the meeting demonstrated their willingness to adhere to IHL principles and showed commitment to minimise future violations. Accordingly, the meeting identified the need for the development of additional mechanisms of accountability and prevention.

## Issues

The Peshmerga continues to confront and combat ISIS despite reaching the limits of its financial and operational capacities. Due to plummeting oil prices and the continuous surge of internally displaced people (IDPs) seeking refuge in the KRI, the KRG seeks to acquire additional international support to lift the heavy burden that is placed on the Kurds in the fight against ISIS.

With support from the international coalition, the Peshmerga have retaken nearly 250 villages from ISIS, allowing approximately 15,000 people to return to their homes. However, many villages remain close to or in the zone of active combat operations and are as such not deemed safe for return yet, according to Peshmerga commanders. Additionally, villages retaken from ISIS have been rigged with improvised explosive devices (IEDs). Although the Peshmerga alleged to have defused thousands of IEDs already, many remain, making the villages unsafe to enter.

Therefore, the Peshmerga has refused entry to these villages by former inhabitants, prompting human rights organisations to issue allegations of IHL violations by the Peshmerga.

These allegations illustrate that raising awareness of IHL principles among the Peshmerga will serve only to address part of the problem when it comes to alleged violations. The disparity between the international community and the Peshmerga is not found so much in an awareness on IHL principles, as much as it is found in conflicting views on how to apply those principles in the local context and the fight against ISIS. Where the international community views the barring of returnees as a potential violation of IHL, the Peshmerga command views permitting IDPs to return at this point as reckless and unsafe.

Further highlighting this point were concerns raised by the Peshmerga commanders regarding the uncertainty over who among the IDPs and



inhabitants of retaken villages is associated with ISIS and who is not. Due to the nature of the fight against ISIS and the challenging circumstances in which the Peshmerga finds itself, they are reluctant to trust villagers reputed to sympathise with ISIS. Despite the difficulties related to the application of IHL in this conflict, the Peshmerga is committed to strict guidelines relating to human rights when

making arrests. Peshmerga officials declare that all prisoners taken are immediately transferred to custody by the appropriate international agencies, including the ICRC.

## Steps Forward

The way forward is marked by a continuation and expansion of present efforts aimed at enhancing adherence to IHL in Iraq's fighting arena. At present, the Peshmerga has hosted a number of academics whose expertise on IHL and human rights has been shared widely with combatants and commanders alike. In addition, officials noted the completion of training provided by the renowned International Institute of Humanitarian Law (IIHL) in San Remo, Italy. Furthermore, since 2009, the ICRC has collaborated with the MoP to provide numerous trainings for direct action, using basic key messages for officers on the ground, and more nuanced and complex information for higher-ranking officers. To date, the ICRC has built the capacity of over 40 individuals within the Peshmerga to conduct trainings internally, establishing a code of conduct for combatants, and defining the principles of roles in conflict. There are currently seven countries training the Peshmerga as part of the coalition against ISIS. These countries all include a strong element of IHL principles in their training. As one Western military advisor explained: "We teach and test our soldiers on the principles of IHL as often as we teach and test them on firing their weapon."

To compliment trainings, the ICRC also engages in protection dialogues with the Peshmerga forces. These confidential discussions follow allegations of violations during conflict and provide support for commanders navigating a difficult conflict environment as well as legal proceedings.

Understanding that violations during wartime are inevitable, the ICRC works to support states to avoid repetition. As such, the ICRC conducts follow-up site visits to ensure that Peshmerga forces are applying IHL principles in practice, and regularly communicates with high-ranking Peshmerga officials. Finally, the MoP in partnership with the ICRC has developed and distributed a manual outlining the principles of the protection of human rights and compliance with IHL, clearly specifying their policy and expectations.

It is essential that the KRG actively demonstrates its commitment to upholding and respecting IHL by creating and reinforcing mechanisms to address violations of international law. Where such mechanisms are absent, or where their implementation has failed in practice, improvements should be made by developing and enforcing additional mechanisms of accountability. An important component of this effort is the promotion of transparency and accountability measures within the government, and the MoP specifically. The public must be made aware of IHL and human rights law and the mechanisms for addressing violations. This could help foster a culture of respect for the rule of law and of human dignity.

Communication between the KRG and the public improves society-state relations and increases trust between the two. Enhanced transparency on the part of the KRG will increase legitimacy

and improve the reputation of the KRI within the international community. It is in the best interest of the KRG to publicise its proceedings and decision-making processes in response to IHL violations. This includes but is not limited to the outcomes of investigations and judicial proceedings.

In addition to governmental responsibilities regarding IHL, civil society can play an important role in ensuring compliance. To this end, Geneva Call has launched its own much anticipated public awareness campaign throughout Iraq and the KRI, which includes a number of radio spots and 12 videos promoting IHL, as well as a smartphone application with which combatants can test their knowledge of IHL.

Geneva Call, in partnership with MERI, will continue to engage with public and civil society actors to promote a sense of ownership of IHL and its application in the context of Kurdistan Region of Iraq. By strengthening local actors through capacity building initiatives, and enhancing dialogue between relevant military and civil actors, we aim to ensure the sustainability of IHL compliance in the future.

## Recommendations

1. A Memorandum of Understanding outlining the specific expectations for collaboration and cooperation moving forward should be drafted in partnership between the MoP, Geneva Call, and MERI.
2. Comprehensive and unbiased research must be conducted in order to identify issue areas and gaps within training and conduct of the Peshmerga forces in combat. MERI will provide support as a research institute, informing the work of Geneva Call and helping to improve Peshmerga outputs. It is imperative that research be endorsed and published in partnership with the MoP.
3. The potential identification of gaps in existing policy frameworks and accountability mechanisms should lead to the development of draft legislation in collaboration between Geneva Call, MERI and local legal authorities, submitted to parliament for consideration.
4. The MoP should publish its Rules of Engagement in accordance with IHL.
5. Geneva Call, ICRC, Partners of the Coalition, and other INGOs currently implementing projects and programming aimed at improving compliance with IHL and international human rights law should aim to build collective impact by streamlining and coordinating their efforts.
6. Training and materials aimed at improving IHL compliance should target the needs of all levels of combatants and commanders. Therefore, training materials should be published in Kurdish. Additionally, Peshmerga forces must be trained using techniques that simulate real life experiences and conditions to challenge their decision-making skills.
7. Public education materials outlining the basic principles of IHL and international human rights law developed and distributed by Geneva Call and other INGOs must be published in Kurdish, as well as Arabic and English.
8. To address allegations of human rights abuses and violations of IHL, international organizations should be formally invited to visit frontlines and to engage with a diverse population to better understand the context unique to the KRI and the Peshmerga.

## About

### The Middle East Research Institute (MERI)

MERI is an independent, not-for-profit organisation, focused on policy issues relating to the people, the land and the system of governance in the Middle East in general, and Iraq and the Kurdistan Region in particular. Based in Erbil, Kurdistan Region of Iraq, our mission is to contribute to processes of democratisation and nation-building in the Middle East through evidence-based research and engagement in policy debates. Relying on our core values of rigorous, independent and objective research analysis, the institute strives to promote human rights, good governance, and social and economic development in the region. MERI is committed to open information access and makes its research available to the general public through publications, workshops and seminars. MERI's staff is diverse, local and international, with expertise accumulated from various professional backgrounds in different fields of social sciences, such as international relations, law, peacebuilding, conflict resolution, economic, public management and human development.

### GENEVA CALL

Geneva Call is a Swiss non-governmental organization that engages in dialogue with armed non-State actors (ANSAs) towards respect of international humanitarian norms, in particular those related to the protection of civilians in armed conflict. Geneva Call encourages ANSAs to comply with these norms and educate and train commanders, fighters and local communities. Geneva Call currently engages some 50 armed groups in 15 countries. In the Kurdish region of Iraq (KRI), Geneva Call aims to improve knowledge on humanitarian norms in order to enhance the protection of civilians and prevent further escalation of violence, in collaboration with MERI, the Ministry of Peshmerga (MoP), and other national and international actors. In Iraq, Geneva Call advances its mission through a variety of methods, including the training on humanitarian norms of commanders and fighters from various armed actors, organising workshops and meetings with media and civil society groups, and a public awareness campaign entitled Fighter Not Killer ([www.fighternotkiller.org](http://www.fighternotkiller.org)), which includes TV- and radio spots and a smartphone app.



This programme was developed with the support of the European Union  
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