



The Kurdistan Regional Government
High Committee *to* Evaluate and Respond to International Reports

11th May 2015

Kirkuk District

Kurdistan Regional Government Fact-Finding Investigative
Committee Visit to **Kirkuk** District

Summary

The present report contains the main findings and recommendations of the Kurdistan Regional Government (KRG) Fact-Finding Committee which led an investigative mission in **Kirkuk** District based on claims made by Amnesty International and Human Rights Watch.

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I. Introduction

On the 25th of May 2016, the Kurdistan Regional Government (KRG) Fact-Finding Committee lead an investigative mission in the Kirkuk district based on claims made by Amnesty International and Human Rights Watch. This Committee was formulated upon the decree of Kurdistan Regional Government Prime Minister Nechirvan Barzani to address the concerns of the international community in the two reports. The key members of the Fact-Finding Committee who visited the Kirkuk district were, Head of the High Committee to Evaluate and Respond to International Reports Dr. Dindar Zebari (Head of the Fact-Finding Committee), Deputy Head of the General Security Board Adil Botani, Head of Kurdistan Region Police Force Abdullah Khaylani, the Head of legal Affairs at the Ministry of Peshmerga Major General Kawa Anwar, and the Kurdistan Region Presidency's Office Head of Legal Affairs Talib Rashid. Also embedded within the Fact-Finding Committee is the Secretariat for the Kurdistan Regional Government High Committee to Evaluate and Respond to International Reports.

In this visit, the KRG Fact-Finding Committee met with many sources in the Kirkuk district to discuss a number of current realities in the region. These sources included High-ranking Peshmerga Commanders responsible for the Western and Southern Kirkuk Peshmerga frontlines, Kirkuk's Governor, the Head of the Kirkuk Police force, the Head of Checkpoint Security in Kirkuk, the Head of Asayish (security forces) in Kirkuk, and local Arab tribal leaders and heads of villages.

A number of matters were discussed in the meetings, including the allegations raised by Amnesty International and Human Rights Watch (destruction of property, restriction of movement, forceful displacement and arbitrary arrest) and other concerns raised by individuals residing in the Kirkuk district. Moreover, Asayish, Peshmerga, and Kirkuk governorate officials discussed a number of predicaments that they face in the region, including the ever-present threat of terrorist attacks. Furthermore, the KRG Fact-Finding Investigative Committee held a meeting with the heads of the Arab tribes in a number of villages mentioned in the Amnesty International and Human Rights Watch to hear their views and concerns regarding the current realities in the region.

The KRG Fact-Finding Investigative Committee gathered a large sum of integral information in its fact-finding mission to the Kirkuk district which is included in this report. Additionally, the KRG Fact Finding Investigative Committee has also visited the Makhmour and Diyala districts to derive information regarding the current situation in the aforementioned regions and will subsequently formulate reports similar to this one. Additionally, the Fact-Finding Committee has previously visited Zummar and has formulated a response report addressing the matters raised regarding this district.

II. Mandate and Methodology

The Fact-Finding Committee was issued the mandate of examining alleged violations of international human rights and humanitarian law occurring across areas in Northern Iraq and the Kurdistan Region, and to determine the extent to which these reports are accurate. The Committee examined the immediate and continuing impact of military operations of the relevant populations and their enjoyment of human rights. Subsequently, the findings of this mission are included in this response report to Human Rights Watch and Amnesty International.

The Fact-Finding Committee was fortunate enough to meet with a large number of provincial, security, and military officials stationed in Kirkuk and surrounding districts and forwarded to them questions based on the matters raised in both the Human Rights Watch Memorandum and Amnesty International Report. Additionally, the KRG Fact-Finding mission personally visited a number of villages included in the Amnesty International report and Human Rights Watch Memorandum and met with Sheikhs, elders, and village representatives to discuss relevant matters included in this report. In this meeting the tribesmen and villagers shared their experiences and relayed other relevant information.

The Fact-Finding Committee and the Secretariat of the KRG High Committee to Evaluate and Respond to International Reports conducted several meetings and interviews with individuals who are directly involved in the administrative, security, and military realities in the Kirkuk governorate and surrounding areas. Furthermore, the accounts from Arab tribesmen and tribal leaders also formed an important aspect of this fact-finding visit. Additionally, the Fact-Finding Investigative Committee utilised all the gathered data whilst considering the credibility, reliability, and potential bias of the sources. The Fact-Finding Investigative Committee asked open-ended questions to the interviewees and participants of the meetings to promote genuine understandings and attitudes of the current situation.

The following allegations are included in the Amnesty International and Human Rights Watch reports and thus form the structure of this report:

- Building Demolition
- Arbitrary Arrest and Ill Treatment
- Forced Displacement
- Movement Restrictions

III. Destruction of Homes and Properties

In the Human Rights Watch Memorandum and Amnesty International Report a number of claims were issued and communicated regarding the destruction of homes and properties in the Kirkuk governorate, by or under the auspices of the Peshmerga and Asayish forces. Such allegations were relayed to the military, security, governorate, and civilians elements present in the meetings in Kirkuk who provided invaluable information and clarifications regarding the matter.

Indeed, according to the highest ranking Peshmerga commander in South-Western Kirkuk, it cannot be said that no property has been destroyed, however, no property was intentionally destroyed and those properties which were damaged were solely due to the unfortunate consequences of war. The commander reiterated that it cannot be denied that properties have been destroyed, but that this destruction is attributable to the following causational factors: improvised explosive devices planted in homes to cause Peshmerga fatalities, coalition airstrikes on IS positions, and an exchange of fire between Peshmerga forces and IS (including artillery, rocket, and mortar strikes). Coalition airstrikes were a prime-factor in the damage inflicted on properties in the Kirkuk Governorate. Another prominent reason for the destruction of property has been the presence of non-KRG affiliated militias and hostile civilian elements which have in some cases destroyed segments of property in a village or region.

According to this Peshmerga Commander, in the village of Nahrawan, many properties and homes were destroyed as a consequence of clashes which transpired between Peshmerga forces and IS and thus the village remains evacuated due to it being currently uninhabitable. The same Peshmerga commander went on to provide specific examples of villages which became damaged in the process of combat. In the village of Bashir the predominant cause for the destruction of property was the heavy presence of coalition airstrikes which targeted IS positions. Additionally, according to the same source, the village of Maktab Khalid (as mentioned in both the Amnesty International report and Human Rights Watch memorandum) was destroyed as a result of clashes between the Peshmerga forces and IS, coalition airstrikes on IS positions, and a large presence of IEDs placed in civilian properties by IS. Specifically, the presence of IEDs in the village of Maktab Khalid was notably larger than any other village in the Kirkuk governorate, with nearly the entirety of homes in the village being rigged by IS. According to the aforementioned Peshmerga commander, a significant number of IS vehicle-borne improvised explosive devices (VBIEDs) were used to counter Peshmerga advances on the village. These VBIEDs were detonated amidst the presence of homes in Maktab Khalid and thus caused large-scale damage to surrounding properties.

With regards to the village of Nahwaran, the majority of homes destroyed were a consequence of the heavy presence of coalition airstrikes and IEDs planted by IS fighters. Moreover, the Peshmerga commander revealed that a number of residents from the surrounding areas attempted to destroy the homes of residents in Nahwaran but were restricted from doing so by Peshmerga forces present in the village.

According to information provided by the Head of Asayish in Kirkuk, a large number of properties were destroyed in the villages of Maryam Beg, Idris Khaz'al, Idris Khubbaz, and Idris Hindiya Qadima due to the significant presence of coalition airstrikes overhead and ensuing clashes between Peshmerga forces and IS in the process of liberating the villages. Moreover, the same source stated that a large number of properties in the village Kubaiba were destroyed amidst coalition airstrikes targeting IS positions. Upon visiting the village of Hindiya Qadima, a prominent number of local Sheikhs provided the Investigative Committee with some much needed information. One such Sheikh asserted that the sole reason that his village incurred a large level of destruction in his village was due to IS planted IEDs and the exchange of fire during the conflict situation between IS and the Peshmerga forces.

In the village of Idris Khazal, according to a local Arab tribal leader, of the eighty-four properties, approximately seventy-five percent were destroyed due to a number of varying factors. Coalition airstrikes which targeted this village were a large component in the onset of destroyed properties. Furthermore, upon retreating from Idris Khaz'al amidst the Peshmerga force's offensive IS planted a large number of IEDs in properties in this village. Moreover, some IEDs were unavoidably detonated in the cleaning-up mission by engineering teams. The factors which caused destruction of property in Idris Khubbaz were the same as in Idris Khaz'al due to their extremely close proximity to one-another.

In the meeting with the Peshmerga Commander responsible for the North-Western Kirkuk Peshmerga front against IS, much significant information was revealed to the Investigative Committee. Specifically, on the village of Kubaiba, the high-ranking Peshmerga Commander revealed that coalition airstrikes were the sole factor in destruction of homes and properties where IS elements were stationed. The majority of the two-hundred homes located in Kubaiba were destroyed through the use of coalition airstrikes targeting IS positions. The village of Kubaiba was also used a springboard for launching approximately sixty-five chemical weapon laden rockets which were directed at Peshmerga forces outposts. It is also worth noting that Kubaiba has previously been a hotbed for extremism as it previously contained a large Al-Qaeda presence.

According to the same Peshmerga Commander, the village of Wahda and Khalid bore the brunt of much conflict between the Peshmerga forces and IS. These two villages remain conflict zones and a large number of its residents affiliated themselves with the IS terrorist group. Indeed, the large exchange of fire created much collateral damage to the surrounding properties. In addition, the use of Katyusha rockets, large mortar rounds, and artillery were among the main causational factors in the damage incurred. Also, prior to abandoning the village amidst Peshmerga forces offensives, IS-fighters booby-trapped many homes with IEDs to cause maximum Peshmerga casualties. Additionally, as stated by the Head of Asayish security forces in Kirkuk, the village of Wahda is 1 kilometre away from the Hamilton road (which is a main transport route and is of strategic importance). Thus, when IS attempted to capture this strategic route and faced a heavy Peshmerga and coalition airstrike response both in the village of Wahda (which they used as their base) and the surrounding area which closes in on Hamilton road.

The same Peshmerga Commander revealed that in the village of Tel Ward a high number of intense consecutive conflicts have taken place between Peshmerga forces and IS and this has been a cause for the destruction which has befallen the local properties and homes. Also, in the same village, IS planted an extremely large number of IEDs in properties to slow-down the offensives of the Peshmerga forces and cause maximum fatalities.

According to the Head of the federal Iraqi police force which is responsible for the security in the villages of Idris Khubbaz, Idris Khaz'al, and Idris Hindiya Qadima, Idris Hindiya Nwe, absolutely no homes were destroyed intentionally by the Peshmerga forces. Instead, these villages became subject to intense clashes between Peshmerga forces and IS. The Peshmerga forces have facilitated and assisted with the process of repopulating these villages with their original residents.

IV. Movement Restrictions and Forced Displacement

Movement restrictions and forced displacement are two claims which are mentioned in the Human Rights Watch memorandum and Amnesty International report in matters pertaining to Kirkuk. These were points for discussion and investigation in the Fact Finding Committee's visit to Kirkuk. Some of the relevant authorities that these matters were discussed with included the Governor of Kirkuk, the Head of Asayish security forces, high-ranking Peshmerga commanders, and the head of Iraqi federal police checkpoint security in the Kirkuk Governorate.

According to the account of the highest-ranking Peshmerga Commander in South-Western Kirkuk, in the area between Taq-Taq and Daquq there exist approximately one-hundred and fifty Arab populated villages. In the entirety of these villages not a single resident has been forcibly displaced from their original places of residence. However, some of these residents evacuated their villages out of their own will and migrated to Kirkuk city.

The Governor of Kirkuk reiterated that individuals whose homes are situated on frontline positions are evacuated for their own safety and are allowed to return when safety risks are prominently lessened and the village is rendered inhabitable again. Indeed, it would be immoral to allow families to return to their villages if they are subject to constant bombardment and are located on a frontline position. In fact, according to the Governor of Kirkuk, his administration would prefer for individuals and families return to their original places of residence so that the internally displaced person burden in Kirkuk city and camps in the governorate may be lessened. This is made more challenging with the current dire economic situation in Kirkuk governorate, where the federal Iraqi government have not allocated it any funds for an extended period of time.

According to the most senior Peshmerga Commander in the North-Western Kirkuk front, no residents have been forcefully displaced from the village of Bay Hassan. Instead, the village is currently populated by its original residents and the Peshmerga forces have facilitated the resettlement of residents who were previously in displaced camps in the Kurdistan Region.

On the report of the Police Chief in Kirkuk, a large number of residents from the village of Maktab Khalid close to the frontlines have themselves chosen to evacuate their homes due to the ensuing conflict. A segment of the citizenry fled to Kirkuk city and many are in the Nazrawa IDP camp, with the rest migrating to IS-held areas in Hawijah.

Also according to the Police Chief in Kirkuk, the village of Maryam Beg was evacuated prior to being liberated and is situated right behind Peshmerga positions on the frontline and are thus subject to constant IS bombardment through mortar strikes and rockets. The residents of Maryam Beg have been invited to return to their villages but have optionally chosen not to return due to the heightened risk of IS attacks.

As stated by the head of Asayish in Kirkuk, everyday one-hundred to two-hundred displaced people arrive in Kirkuk and this creates an extremely challenging humanitarian situation which is not made easier when the United Nations office in Kirkuk closes at 3pm every day. Due to the significant humanitarian challenge and the lack of human and other resources, these displaced people are kept in Dubiz for twenty-four hours and subsequently moved to camps such as Leylan and Yahyawa. In these camps temporary identification cards are created for such internally displaced people.

According to the head of Asayish in Kirkuk, the residents of the village of Bay Hassan and Malha was previously evacuated by the Peshmerga forces due to its close proximity to the frontlines and thus the ever-present threat of an IS attack or offensive. This information was supported by the Governor of Kirkuk who stated that the security forces in the governorate work to ensure that civilians are not in the way of conflict zones and thus do not incur any threat or physical harm.

On the report of the head Sheikh of the village of Idris Hindiya Jadida, no individual from their village has been forcefully displaced or ejected and no individual has been restricted from returning to the village. Instead, security forces have helped to facilitate the return of some civilians, unless they are affiliated to IS, in which case they will be dealt with according to law and arrested according to a court order. Moreover, the same Sheikh stated that his access into Kirkuk is completely unrestricted and he can visit the city whenever he chooses to.

Also, according to the head of the village of Idris Hindiya Qadima, no individual from this village was forcefully displaced or ejected and no individual has been restricted from returning to our village. Moreover, all the civilians of this village have now returned to their homes after temporarily fleeing when IS arrived. Conversely, in the village of Idris Khaz'al and according to the chosen head of the village, half of the village's population have optionally chosen not to return to their homes yet and are currently located in Dubiz. This is despite no restrictions of return (as demonstrated by the villagers who have returned).

According to the head of the village of Idris Khaz'al near enough half of the residents of his village have returned to their homes. Those individuals who have not returned to their homes have optionally chosen to remain in the Yayji district, Dubiz, and Kirkuk.

Moreover, the following information was provided by the Head of Checkpoints in the Kirkuk Governorate Police Force. Those civilians which wish to enter Kirkuk city and have fled IS-held territories must provide the relevant identification papers.

V. Arbitrary Detention and Ill Treatment

The matters of arbitrary detention and ill treatment are two claims which are mentioned in the Human Rights Watch memorandum and Amnesty International report in matters pertaining to Kirkuk. These were points for discussion and investigation in the Fact Finding Committee's visit to Kirkuk. Some of the relevant authorities that these matters were discussed with included the Governor of Kirkuk, the Head of Asayish security forces, and high-ranking Peshmerga commanders.

As maintained by the leading Peshmerga Commander on the South-Western Kirkuk front, the Peshmerga forces do not have the capacity or mandate to arrest or detain people. In fact, this is so much the case, that Peshmerga forces do not have detention centres. However, the same Commander stated that the Peshmerga forces do provide assistance to the police forces on isolated instances, such as in locating and arresting the culprits behind the exploding of oil-fields in Idris Khubbaz. Similar to the account of the South-Western Commander, the leading Commander of the North-Western Peshmerga front reiterated that no arbitrary arrests are carried out by Asayish forces and adequate evidence and a court order are prerequisites for arrests and detention.

On the report of the Police Chief of Kirkuk regarding the arrest procedure in Kirkuk, he revealed that there is a security board in the governorate which is composed of the Governor of Kirkuk (as the head of the board), the Deputy Governor of Kirkuk, the Head of Kirkuk Police force, Asayish representatives, head of intelligence services in Kirkuk, and a representative of the Kirkuk provincial council. This security board works together to decide if an arrest warrant should be submitted to a judge on an individual who is suspicious of being linked to terrorism. The following is the mechanism implemented in order to rightfully carry out an arrest.

- Arrest procedure implementation -
 - Information is gathered from the relevant intelligence services and Asayish offices
 - Acceptance from the Kirkuk Police Chief
 - The approval of a judge
 - Arrest is carried out by Police

➤ Investigation is carried out on the individual

According to the same Police Chief of Kirkuk, in the village of Maryan Beg no non-combatant citizen were arrested, only those who actively joined IS in fighting the Peshmerga forces. Those who are detained due to their affiliation to IS are arrested according to the Article 4 (Counter-Terrorism law). The names of these individuals according to Police Chief are available and can be requested.

The tightened security situation in Kirkuk is largely attributable to the increased presence of security checkpoints at the many access points into the city. These access points were previously used by IS to infiltrate the city and increase the chances attacks and the creation of IS sleeper cells.

According to a representative of the Asayish forces in Kirkuk, no individual is arrested without the approval of the Kirkuk security board and the issuance of an arrest warrant by a court order. After the arrest of an individual, investigations are carried out and he/she can only be detained for twenty-four hours if the individual does not prove conclusive.

As stated by the head of Asayish, a number of times judges have blocked security forces from arresting an individual despite credible and substantial evidence linking them to past or present terrorist activities. In these instances, the security forces respect such a decision and do not carry out an arrest. This demonstrates the legitimate arrest procedure in Kirkuk and counteracts the belief that mass arbitrary arrest is prevalent as no arrest may take place without a judge providing a court order. Also contrary to the reports of Human Rights Watch, the head of Asayish stated that no one has been arrested from the abandoned village of Kubaiba under any circumstances. In some instances, it is actually the Iraqi Intelligence Services who carry out arrests which are subsequently blamed on the Asayish forces. The same source also noted that it is worth mentioning that since Kurdistan Region security forces assumed control of Kirkuk, the governorate has generally benefitted from a much improved security situation.

According to the head of Peshmerga forces on the Western front, two individuals were arrested in the village of Bay Hassan, with both being convicted for their role in the Dubiz provincial building explosion. These two individuals confessed to their crimes and were sentenced accordingly. Also, according to the head Shiekh in the village of Idris Khubbaz, a number of individuals from his village were arrested by security forces on charges relating to Article 4 of the Counter-Terrorism Act and with a court order but were subsequently released shortly after questioning. However, when the oil fields near Idris Khubbaz were exploded, no one from the village was arrested. Upon visiting the village of Hindiya al-Qadima, the head Sheikh of the village stated that no one was arbitrarily arrested in his village and anyone who was detained was done so by a legitimate court order.

Conclusion

To reiterate, the KRG is wholly committed to strengthening its governance practices including its observation of international human rights norms and standards. We believe that attention to reports like that of Human Rights Watch Amnesty International demonstrates our devotion to addressing human rights concerns addressed to us by the international community. We intend on continuing to pursue measures to investigate claims raised and evaluate current realities in the aforementioned regions.

Moreover, we strive to improve our relations with international counterparts, both governmental and non-governmental, to ensure that any outstanding shortcomings are remedied. The KRG puts into practice an open-armed approach with our international counterparts and welcomes any suggestions that may advance our governance standards and human rights policies and practices. Furthermore, the Investigative Committee has also prepared its own recommendations which will hopefully benefit the current situation.

In the past, present, and indeed the future, the KRG will remain compelled to facilitate visits, fact-finding missions, and permanent representations for our international counterparts. Additionally, we kindly request that the international community mirrors this approach and invites the KRG to international platforms where meaningful and in-depth discussions concerning human rights standards takes place. Through such platforms, the KRG may relay its sincere requests for support, amidst the current influx of IDPs and refugees and war on the Islamic State terrorist group.

Moreover, the KRG is working on future strategies and mechanisms which will facilitate the implementation of legislation that will improve human rights standards. We welcome international entities, like Human Rights Watch and Amnesty International, in the pursuit of such a strategy and believe that through extensive cooperation with the international community, such an objective can be quickly realised.