



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

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9<sup>th</sup> June 2015

Erbil Governorate (Makhmour and Gwer provinces)

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**Kurdistan Regional Government Fact-Finding Investigative  
Committee Visit to Makhmour and Gwer provinces**

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*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 **Makhmour** and **Gwer** District based on claims within the Amnesty International “Iraq: Banished and Dispossessed: Forced Displacement and Deliberate Destruction in Northern Iraq” and the Human Rights Watch Memorandum titled “Findings, Human Rights Watch Missions to Iraq 2015-2016”.

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## I. Introduction

On the 25<sup>th</sup> of May 2016, the Kurdistan Regional Government (KRG) Fact-Finding Committee lead an investigative mission in the provinces of Makhmour and Gwer in the Erbil Governorate based on claims made by Amnesty International and Human Rights Watch. This Committee was formulated upon the decree of His Excellency Kurdistan Regional Government Prime Minister Nechirvan Barzani to address the concerns of the two respective non-governmental organisations. The key members of the Fact-Finding Committee who visited the provinces of Makhmour and Gwer 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 (member of the Fact-Finding Committee), Head of Kurdistan Region Police Force Abdullah Khaylani (member of the Fact-Finding Committee), Head of legal Affairs at the Ministry of Peshmerga Major General Kawa Anwar (member of the Fact-Finding Committee) and the Kurdistan Region Presidency's Office Head of Legal Affairs Talib Rashid (member of the Fact-Finding Committee). Moreover, the KRG High Committee to Follow-up and Respond to International Report was responsible for the role of compiling and formulating the reports based on the findings of the Fact-Finding Committee.

In this visit, the KRG Fact-Finding Committee met with several sources in the provinces of Makhmour and Gwer to discuss a number of current realities in the region. These sources included High-ranking Peshmerga Commanders responsible for the military/security situation in Makhmour and Gwer, the Mayor of Makhmour, the Head of the Provincial Council, the Head of Asayish (security forces) in both Makhmour and Gwer, and local Arab and Kurdish tribal leaders and village representatives from the two provinces. The lists of these attendees are attached in this document.

A number of matters were discussed in the meetings, including the claims raised by Amnesty International's report and the Human Rights Watch memorandum (forced displacement, movement restriction, arbitrary arrest and ill-treatment) regarding the two respective provinces of Makhmour and Gwer. Also in these meetings, the present Peshmerga, Asayish, and Provincial Council representatives discussed with the committee their concerns and predicaments that they face in the region. Furthermore, the KRG Fact-Finding Investigative Committee held an in-depth meeting with the heads of the Arab and Kurdish tribes, including heads of tribes in the surrounding region.

The KRG Fact-Finding Investigative Committee gathered a large sum of integral information in its fact-finding mission to the Makhmour and Gwer provinces which are included in this report. Additionally, the KRG Fact Finding Investigative Committee has also visited the Diyala district to derive information regarding the current situation in the aforementioned regions and subsequently formulate reports similar to this one. Also, as has previously been relayed are the reports from the Fact-Finding Committee's visits to Zummar and Kirkuk.

## II. Mandate and Methodology

The Fact-Finding Investigative 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 whether such violations have truly been committed. The Committee examined the immediate and continuing impact of military operations on 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 Committee was fortunate enough to meet with a large number of provincial, security, and military officials stationed in Makhmour and Gwer 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 its secretariat conducted several meetings and interviews with individuals who are directly involved in the administrative, security, and military realities in Makhmour and Gwer. 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:

- Forced Displacements
- Movement Restrictions
- Arbitrary arrest and ill-treatment

### III. Forced Displacement and Movement Restriction

In the Amnesty International Report titled *“Iraq: Banished and Dispossessed: Forced Displacement and Deliberate Destruction in Northern Iraq”* and the Human Rights Watch Memorandum titled *“Findings, Human Rights Watch Missions to Iraq 2015-2016”*, many claims were made regarding the forced displacement of Arab residents in Makhmour and Gwer by the Peshmerga and Asayish security forces, with specific reference to the village of Abu Shita. Moreover, it is also claimed that the residents of such villages have been denied access back into their original places of residence.

In our meetings with the local provincial and security and military authorities in the matter of forced displacement and movement restrictions was discussed in depth in order to discern the reasons and implications for these claims. Indeed, the first meeting of the day with the Head of Makhmour’s Provincial Council provided much clarity in pursuit of a response to such claims. According to this source, the only reason present for the evacuation of residents from their villages is their close proximity to frontline positions between Peshmerga forces and IS. Indeed, this was cited as being the case for the village of Abu Shita which is located merely one river-crossing away from IS held territory and is perpetually subject to daily attacks. As maintained by this source, sniper-fire, mortar strikes, and rocket attacks regularly target Abu Shita. Thus, the evacuation of its citizens was carried out due to the heated conflict situation in the village. According to the Head of Makhmour’s Provincial Council, it cannot be said that such evacuations are implemented only against Arab citizens.

Furthermore, based on information relayed to the Fact Finding Committee by the Head of the Provincial Council of Makhmour, necessary security checks are an integral means of protocol which is implemented to ensure individuals who pose a threat are not able to infiltrate the region. These security checks are carried out by the Asayish forces and apply to all ethnic groups in Makhmour.

Contrastingly, mainly Kurdish populated villages such as Kapran and Ga’etaly which have a population of approximately 120 families each have also been evacuated by the security forces in the region due to their proximity to the war-front and thus threat of an IS attack. This source reiterated that all evacuations are temporary and subject to the current realities of conflict in the specific surrounding area. Moreover, it was also stressed that all evacuations are carried out with the best safety interests of civilians in mind.

Moreover, on the authority of the Head of the Provincial Council, the predominantly Arab populated villages of Machloba and Hawera have now been repopulated by their original residents after previously been evacuated for security reasons. Indeed, this, alongside the evacuation of Kurdish populated villages, demonstrates that there is not any discriminatory policy of evacuating residents based on their ethnicity or any other underlying factors, except for security and safety reasons. Specifically in these villages and more generally in Makhmour, some residents who are currently displaced in Erbil and are civil servants in their

original places of residence have optionally chosen not to return to their homes due to the volatile security situation. This unwillingness to return is the case for both Kurdish and Arabic residents.

According to a number of Arab Sheikhs and Heads of village from the villages of Hawera, Sharaya, Abu Jerda, Kudila, and Kozhyanka which were evacuated with the onset of an IS attack close to their residence, any evacuation carried out by security forces in the region were done purely in the interests of citizens. Indeed, a number of these villages are populated by both Kurds and Arabs, who have lived in peaceful harmony for many years, and both ethnic groups were evacuated and have subsequently returned to the villages. The account by these Arab Sheikhs are indicative of a general security policy which has been implemented in order to ensure that unnecessary security risks do not befall the citizenry in such villages and that they may return providing all such risks have been eliminated.

In the KRG Fact-Finding Committee's meeting with the highest-ranking Peshmerga Commander of the Gwer and Makhmour region similar questions were posed regarding alleged forced displacement and movement restrictions. The Commander stated the main justification for currently not permitting the return of residents to the village of Abu Shita (which was mentioned in both the report and memorandum) is due to the villages close proximity to the battle-front and thus being subject to constant clashes. Indeed, according to the same source, six chemical agent-laden rockets were fired at Abu Shita in only four months and this subsequently caused much harm to the Peshmerga forces. Aside from chemical weapon attacks, Abu Shita is subject to at least three attacks a day, with sniper fire becoming a regular occurrence. The same source cited these clashes and attacks as the reason why the villages have not been permitted to return to their village and also said that even if they were permitted to return, they would not due to the dire security situation and the subsequent threat on their lives.

According to a prominent tribal Sheikh in the centre of the Qaraj sub-district, in many cases displaced families and individuals are unable to return to their homes due to the ongoing unstable security situation. Indeed, IS has attempted to carry-out many offensives on Peshmerga positions since 2014 in Makhmour and Gwer. For this reason, citizens are not guaranteed security and stability and thus cannot return to their homes. This is especially the case in frontline villages, or those close to the conflict zone, such as the village of Abu Shita.

With regards to movement restrictions, Head of the Asayish forces in Makhmour further stressed the difficult task of distinguishing between an ordinary citizen and an IS combatant when they approach frontline positions. In any case, these individuals are permitted to enter the safe zones within the liberated areas despite the potential risk they may pose to security forces and the general stability of the region. These individuals are provided with food and water and are not kept amongst the Peshmerga forces for an extended period of time. Such individuals are subsequently transferred to camps for displaced people until the security situation deems it possible for them to return to their villages and homes. In this regard, as with all others, there is no difference in treatment of the Peshmerga forces between ethnic groups or religious sects. The same source stressed that the Peshmerga forces are not an

obstacle in the return of citizens to their respective homes and villages. Contrastingly, the Peshmerga forces have promoted the return of residents to their homes providing the security situation facilitates this return and basic services are still widely available. These two mitigating factors (security situation and lack of basic services) have been the prime reason for the non-return of civilians to their original places of residence.

Thus, as demonstrated in this section of the KRG Fact-Finding Committee's inquiry, there is no evidence or indication that the evacuation of residents from their original places of residence, or not being allowed to return is based on any unlawful or ill-intentioned strategy. Conversely, it seems to be part of an attempt to ensure and promote the general safety and well-being of citizens in the villages and region.

## IV. Arbitrary Arrest

In both the Amnesty International Report and the Human Rights Watch Memorandum, reference is made to arbitrary detention carried out in villages such as Abu Shita and Maquba, and also in the centre of Makhmour.

Thus, such concerns were relayed to the relevant authorities in Makhmour and Gwer to assess the accuracy of such claims and on what legal basis arrests were carried out. Moreover, residents, village heads, and Tribal Sheikhs were also asked to assess the validity of such claims.

According to the head of the police force in the Gwer sub-district, there is a clearly defined arrest procedure by which individuals are brought into custody. This arrest procedure is initiated through intelligence and information gathered by or relayed to the Asayish regarding an individual who poses a security threat. This information is subsequently relayed to a judge who chooses whether or not to issue an arrest warrant for that designated individual or individuals. If the court decides to issue an arrest warrant, the Asayish security forces are then permitted to carry out the arrest. Most arrests carried out of this nature are in line with the Counter-Terrorism law Act Number 4. Moreover, detainees are not kept in Makhmour for longer than a few hours before they are transferred to Asayish in Erbil.

This information is supported by the Head of Makhmour Provincial Council who asserted that no arrests are made without a court order. The same source went on to provide an example of an individual who partook in the explosion of the Gameshtapa Bridge and no arrests were made despite substantial evidence until a court order for arrest was provided by an Erbil Criminal Court Judge.

Thus, according to this information it does not seem to be the case that suspects are merely rounded up and summarily arrested in an arbitrary fashion by security forces. This information was supported in the KRG Fact-Finding Committee's meeting with various Arab Sheikhs and Heads of tribes who stated that arrest warrants were presented to individuals in their villages before arrests were carried out. Indeed, it is worth noting that such arrests were

not carried out against Arabs only, and that some major arrests were carried out against Kurds, such as in the case of an ethnically Kurdish individual who joined IS and exploded a major strategic bridge so that Peshmerga forces could not make a swift advance to liberate areas held by IS.

In contrast to claims made that the Peshmerga forces also partake in carrying out arrests, according to the highest authority Peshmerga Commander of Gwer and Makhmour, the Peshmerga forces neither have the mandate nor the capacity to make arrests. Indeed, as maintained by the Commander, the Peshmerga forces do not even have prison cells in which to keep detainees. This information counteracts any claim which states that the Peshmerga forces partaker in any form of arbitrary arrest. Moreover, according to the same commander, even when IS prisoners-of-war fall into the hands of Peshmerga forces, they are transferred to Asayish security forces in Erbil immediately. However, in some instance, we merely accompany the Asayish security forces in arrest procedures for security purposes if needed.

In summary, the information gathered by the KRG Fact-Finding Committee in many ways stands in contrast to claims made by Amnesty International and Human Rights Watch. It seems that there is a clearly defined arrest procedure which is subject to judicial jurisprudence and is thus not an arbitrary one.

## V. 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.

## List of Attendees and Interviewees

### List of local Tribal Leaders, Sheikhs, and personalities

Name	Title
1. Sultan Ali Ahmed	Representative of the Tel Reem village
2. Mohammed Ahmed Hamoud	Representative of the Hawera village
3. Younis Naseeb Ibrahim	Representative of the Hawera village
4. Adil Jameel Sultan	Representative of the Hawera village
5. Tawfiq Mahmoud Ahmed	Representative of the Al-Shara'ia village
6. Othman Ibrahim	Representative of the Abu Jarda village
7. Abdul Hassan Mohammed Shahatha	Representative of the Abu Jarda village
8. Salim Aziz Qadir	Head of Dibaga Subdistrict (head of Gardi tribe)
9. Tahir Qadir Salih	Head of Abdullah Kemelan village
10. Abdullah Hussein Mawloud	Head of Kozhyanka village
11. Mohammed Salim Aziz	Representative of Dibaga Subdistrict
12. Salim Mahmoud Hamad	Head of Kudila village
13. Sheikh Saoud Mohammed Hassan	Representative of the Abu Shita village
14. Sheikh Taha Mohammed Shahatha	Representative of the Abu Shita village (head of Luhaib tribe)
15. Nazhan Sakhar Salman	Representative of Gayara sub-district (head of Tribal militia)
16. Yasin Ibrahim Ahmed	Representative of Tel Sha'er
17. Maghdad Faris	Tribal militia Commander
18. Mohammed Mahmoud Hamed	Tribal militia
19. Sabir Mohammed Hassan	Representative of Qaraj sub-district
20. Sabir Sherif Ahmed	Representative of Qaraj sub-district
21. Sabir Salih Shamola	Representative of Gwer sub-district
22. Mohidin Abdullah Salim	Representative of Gwer sub-district
23. Musa Yahya Sleman	Makhmour religious leader (local imam)
24. Ibrahim Abid Salih	Representative of Aliyawa village

## List of Local Officials

<b>Name</b>	<b>Post</b>
<b>1.</b> Sirwan Barzani	Highest-ranking Peshmerga Commander of Makhmour and Gwer
<b>2.</b> Colonel Hani Mo'in	Head of Makhmour Police Force
<b>3.</b> Aso Aziz Qadir	Director of Qarajogh Hospital
<b>4.</b> Colonel Sa'di Younis	Peshmerga Commander in Makhmour
<b>5.</b> Bayar Hassan Najar	Head of Baqirt sub-district
<b>6.</b> Bawir Ali	Head of Gwer sub-district
<b>7.</b> Amin Ali Mohammed Amin	Head of Dibaga sub-district
<b>8.</b> Lieutenant Colonel Suryan Fazil Shahab	Head of Gwer Police force
<b>9.</b> Captain Abdullah Saad	Head of Gwer Asayish
<b>10.</b> Captain Bakhtiyar Fakhir Abd al Aziz	Head of Emergency Forces
<b>11.</b> Lieutenant Ahmed Haydar Mohammed	Police Officer from Makhmour Police forces
<b>12.</b> Major Munir Ramzi Sultan	Investigation Officer Dibaga Police forces
<b>13.</b> Lieutenant Karzan Hussein	Representative of Makhmour Polices forces
<b>14.</b> Lieutenant Colonel Najmadin Ahmed	Representative of Dibaga Police forces
<b>15.</b> Brigadier Mohsin Khithir Hassan	Head of Makhmour Asayish