

THE CIVILIAN TOLL OF CROSS-BORDER OPERATIONS IN IRAQ

FACT-FINDING MISSION REPORT

August 2009

By Kerim Yildiz, Mark Muller and Tanyel B. Taysi



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KURDISH HUMAN RIGHTS PROJECT
BAR HUMAN RIGHTS COMMITTEE OF ENGLAND AND WALES

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Kurdish Human Rights Project
KHRP
Established 1992
Kurdish Human Rights Project
11 Guilford Street
London
WC1N 1DH, UK
Tel: +44 (0) 207 405-3835
Fax: +44 (0) 207 404-9088
khrp@khrp.org
www.khrp.org

The Kurdish Human Rights Project is an independent, non-political human rights organisation founded and based in London, England. A registered charity, it is dedicated to promoting and protecting the human rights of all people in the Kurdish regions of Turkey, Iraq, Iran, Syria and elsewhere, irrespective of race, religion, sex, political persuasion or other belief or opinion. Its supporters include Kurdish and non-Kurdish people.



Bar Human Rights Committee of England and Wales
Garden Court Chambers
57-60 Lincoln's Inn Fields
London, WC2A 3LS, UK
Tel: +44 (0) 7993 7755
Fax: +44 (0) 207993 7700
bhrc@compuserve.com
www.barhumanrights.org.uk

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LIST OF ABBREVIATIONS

CDO	Civil Development Organisation
CPT	Christian Peacemaker Teams
DDM	Department of Displacement and Migration
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GOI	Government of Iraq
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
KRG	Kurdistan Regional Government
KDP	<i>Partiya Demokrata Kurdistan</i> (Kurdistan Democratic Party)
MoDM	Ministry of Displacement and Migration
PJAK	<i>Partiya Jiyana Azad a Kurdistanê</i> (Free Life Party of Kurdistan)
PKK	<i>Partiya Karkeren Kurdistan</i> (Kurdistan Workers' Party)
PUK	<i>Yekîtiya Nîştîmaniya Kurdistan</i> (Patriotic Union of Kurdistan)
UNHCR	United Nations High Commissioner for Refugees

EXECUTIVE SUMMARY

For the past 26 months Turkey and Iran have been engaging in extensive cross-border military operations in northern Iraq, ostensibly with the purpose of fighting the Kurdistan Workers' Party (PKK) and the Free Life Party of Kurdistan (PJAK), Kurdish separatist groups seen as threats to their national security. Despite persistent claims from both governments that these campaigns are only directed at the PKK and PJAK, a claim sustained by international and local media which largely portrays the air strikes and offences as being directed solely at military targets, multiple KHRP missions to northern Iraq have provided compelling evidence of the significant harm caused to the civilian population by Turkey and Iran's ongoing operations. Furthermore, mounting evidence indicates that far from being isolated cases of belligerence, these two states often work in concert with each other, harmonizing their attacks. These military incursions into northern Iraq should be understood in the broader context of both states' long-standing strategic goals in countering a strong regional Kurdish autonomy.

The ongoing and frequent shelling and bombing by Turkish and Iranian military forces cause extreme distress and suffering to the civilian populations who live in the affected areas, violating their basic human rights, and constituting a contravention of the Geneva Conventions, of which both states are signatory. These actions are also a clear-cut violation of Iraqi sovereignty, carried out with minimal regard for the rights of civilian populations.

Turkey and Iran's behaviour, and the ensuing hardship caused to the thousands of civilians¹ who have been adversely affected by their bellicose actions is made all the more concerning by the United States' tacit approval of Turkish military action and minimal condemnation by the wider international community. Further, the lack of protection and assistance from the international community, the Government of Iraq (GOI) or the Kurdistan Regional Government (KRG) for the civilians who have been displaced as a result of the actions of Turkey and Iran is troubling. The cross-border incursions have caused entire families to become internally displaced

1 There are no official figures concerning the number of families who have been displaced from their homes by the cross-border incursions carried out by Turkey and Iran. Estimates range from 380-600 families from the sub-districts of Sanga Sar, Zharawa and Esewa of the Pshdar district, Suleimaniya governorate alone. Figures from UNHCR and Christian Peacemaker Teams (CPT).

persons (IDP), having been forced to leave their bombed villages having lost their homes and livelihood. It has been more than two years since many of these civilians became IDPs, yet many remain living in crowded, unclean and unsafe temporary lodging. Whilst some IDPs languish in a temporary transit camp in these extremely poor conditions, others have been forced to put themselves in imminent danger by returning, out of economic necessity, to reside in their semi-destroyed villages which are still being targeted by the neighbouring states.²

At a macro level, these military interventions have a detrimental effect on the wider development of human rights in Kurdistan, Iraq, beyond the direct suffering of civilians. They entrench existing problems such as chronic infrastructural underdevelopment and lack of self-sufficiency, and they contribute to the regional authorities' stronger emphasis on security at the expense of human rights issues (an approach that is being supported by the international community). Furthermore, the displacement of civilians from farming communities in the border regions exacerbates strain on infrastructure within urban centres, which are already home to a large number of IDPs. The cross-border attacks are amongst a number of interconnected factors hindering the protection of human rights within Kurdistan, Iraq.

The issue of continued aggression from Turkey and Iran therefore extends beyond the responsibilities of the aggressor states: it touches upon the obligations of the international community, particularly the US and EU, to support Iraq's territorial integrity, to protect human rights and to ensure that civilians are protected.

Drawing on the statements of affected individuals, those providing humanitarian assistance to the affected and the observations of the mission members themselves, this report, building on KHRP's mission report of July 2008,³ details the ways in which these ongoing cross-border operations have detrimentally affected the lives of the inhabitants of the region. The operations have led to loss of life and debilitating injury, loss of livelihood and property, the destruction of traditional village modes of life and the traumatising of the affected communities, especially children.

2 FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July 2009, Erbil.

3 KHRP FFM Report, *A Fact-Finding Mission in Kurdistan, Iraq: Gaps in the Human Rights Infrastructure*, (KHRP, London, July 2008), pp. 75-87.

I. HISTORICAL BACKGROUND AND CONTEXT OF THE ATTACKS

The security vacuum in the border areas, precipitated by the establishment of the semi-autonomous Kurdish region in 1991 and coupled with the emergence of factions within the leadership of this area, allowed the PKK to establish de-facto control over the Qandil mountain area bordering Turkey and Iran. This provided them with a location for operating bases, a source of affordable weapons and a launch pad for attacks on Turkish soil.⁴ PJAK, commonly recognized as closely affiliated with the PKK, has been engaged in armed struggle with the Iranian regime since the mid 2000s and has also been launching attacks on Iran from bases in the Qandil area.

The autonomy exercised by the Kurds in Iraq since 1991 has increased significantly post-2003. Since the collapse of the Baath regime, the Kurdistan region has been progressing (albeit unevenly) in economic development, security and infrastructure. This increased autonomy is viewed as a threat by the neighbouring countries of Iran, Turkey and Syria, as it is believed that this may motivate the Kurds living in these countries to seek independence.

The cross-border attacks that have been occurring since 2007 are only the latest in a long series of violations of Iraq's sovereignty by neighbouring countries. Turkey, backed by the presence of a 'hot-pursuit' agreement with Iraq,⁵ conducted frequent cross-border military operations against the PKK in northern Iraq during the 1990s. In the spring and summer of 2006 the Turkish military again carried out several operations in Iraqi Kurdistan, allegedly targeting PKK bases and assets.

Turkey has, with the full knowledge of the international community, kept an estimated 5,000 strong military force in the border region, and has regularly made incursions by air into Iraqi territory.⁶ In addition, the Turkish military maintains a number of bases deep within Iraqi territory, where thousands of ground troops have been deployed for over a decade. The bases fall under the mandate of a 1997

4 International Crisis Group, 'Turkey and the Iraqi Kurds: Conflict or Cooperation?' *Middle East Report*, No 81, 13 November 2008, p. 1.

5 The 'hot pursuit' agreement was signed in 1984, and despite it remaining officially unrenewed and a 'legally grey area' since the late 1980s, is invoked by Turkey on a regular basis.

6 Kerim Yildiz, *The Kurds in Iraq, revised edition*, (Pluto, London, 2007), pp. 79-82.

mechanism aiming to monitor the ceasefire between the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK), established at the end of the 3-year-long civil war between the two Kurdish political parties.⁷ While the troops are deployed in a monitoring capacity, and thus cannot engage the PKK militarily, villagers and security officials from the KRG claim that these troops monitor the movement of the villagers, as airstrikes from Turkey invariably occur after displaced villagers are seen returning to their homes, or during planting and harvest times.⁸

The most recent security pact signed between Baghdad and Ankara in August 2007, aimed at curbing the activities of the PKK, does not grant Turkey the right to 'hot pursuit'.⁹ This, however, has not stopped Turkey from exercising what they see as their right to defend their national security by conducting cross-border missions within Iraqi territory on a regular basis.

The current Iranian aggression is also not a new experience. Villagers from the border regions note that since 1996 they have lived with seasonal shelling from across the Iranian border aimed at disrupting the activities of Komala.¹⁰ These villagers have taken to leaving their villages when the shelling begins and returning when it has finished.¹¹ Concurrent with the previously mentioned Turkish operations against the PKK in 2006, the Iranians conducted eight operations directed against the PKK and PJAK. It is believed that Turkey and Iran cooperated in at least one joint operation during these campaigns.

The increase in institutionalization of Kurdish autonomy post 2003 has united Turkey and Iran in a common goal of thwarting Kurdish independence. Despite their significant differences, the two states have drawn closer in an uneasy alliance. Ongoing consensus between the two states to wage a united struggle against Kurdish nationalist aspirations has been maintained since the 1990s, and Iran and Turkey have formalized agreements that include sharing intelligence information and coordinating anti-insurgent operations.¹²

7 Gareth Jenkins, 'Unwelcome Guests: The Turkish Military Bases in Northern Iraq', *Terrorism Monitor*, vol. 6, Issue 6, 24 March, 2008, p. 2.

8 KHRP E-mail correspondence with Craig Kite, CPT, 29 July 2009.

9 BBC News, *Turkey-Iraq agree security pact*, 28 September 2007, http://news.bbc.co.uk/1/hi/world/middle_east/7017919.stm.

10 Komala is a Kurdish separatist group from Iran that was involved in armed struggle against the Iranian State at that period of time.

11 CPT, *Human Suffering from Recent Turkish/Iranian Incursions in Iraqi Kurdistan*, June 2009, p.1.

12 'Iran and Turkey Sign Border Security Agreement', *Middle East Intelligence Bulletin*, vol. 1, no. 9, September 1999.

It is in this context that the sustained cross-border campaigns which have been ongoing since 2007 should be understood. As with earlier campaigns in northern Iraq the Turkish, and to a lesser degree Iranian government link their own domestic security concerns to Kurdish regions beyond their own borders. Statements issued by the Turkish military and government concerning the incursions, as well as first hand reports of the lack of respect for humanitarian law by these states demonstrate the overarching concerns which the Turkish and indeed Iranian government have about facing calls for Kurdish autonomy on their domestic soil.

II. CROSS-BORDER INCURSIONS

The most recent resumption of Turkish cross-border activity in October 2007 followed an incident in the Hakkari province, in south-east Turkey, in which 12 Turkish soldiers were killed. Subsequently a majority of Turkish MPs from amongst several of Turkey's major political parties supported a parliamentary bill authorising military use of force against PKK bases in northern Iraq for up to a year. Thus the resumption of operations was presented as a defensive response to PKK activity which undermined the sovereignty of the Turkish State. However, given the precedent of Turkish operations in Iraq, this explanation was lacking. In any case, the incident in Hakkari was by no means a substantial escalation in Turkey's internal conflict with the PKK.

The months prior to the parliamentary authorisation of incursions into northern Iraq were characterised by an increase in the Turkish military's physical presence along the border with Iraq. In June 2007, Turkey announced the creation of 'temporary security zones' in Hakkari, Siirt and Şırnak provinces, effectively returning these areas to a state of emergency and causing significant disruption to daily civilian life through checkpoints, detentions and military operations. Further, the relocation of an estimated 20,000 troops to the 300km long border along with the establishment of mobile military response teams and temporary observation posts,¹³ made the threat of military action very much a prevalent feature of life in Kurdistan, Iraq, contributing to the destabilisation of the region prior to the actual initiation of operations. In response, Kurdish troops were reportedly deployed at six outposts in adjacent parts of Dohuk governorate.¹⁴ During this period, local sources reported Turkish shelling campaigns in Kurdish areas in Iraq as part of an apparent effort to drive out their civilian populations ahead of the re-establishment of a buffer zone inside Iraqi territory.¹⁵

13 Andrew McGregor, 'Turkey's Evolving Anti-Terrorism Measures on the Iraqi Border', *Jamestown Terrorism Focus*, 3 July 2007.

14 *Ibid.*

15 Daily Star (Beirut), *Turkish artillery hits Kurdish rebel bases in northern Iraq*, 4 June 2007, http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=2&article_id=82726 (last accessed 9 September 2009).

Cross-border activity by the Turkish military following parliamentary authorisation began in earnest in October 2007.¹⁶ Since then, military attacks including artillery bombardments, air strikes and ground-troop operations have been occurring on a regular basis. There is currently no indication of an end to the aggression.¹⁷ The United States was involved both passively, in not condemning the violation of Iraqi sovereignty, and actively, by providing airspace clearance and intelligence.

The Turkish Government is well aware of their obligation to act proportionately and to always distinguish between PKK fighters and civilians in planning and conducting their military operations. The Prime Minister of Turkey, Recep Tayyip Erdogan, when commenting on the 17 October 2007 parliamentary endorsement, explicitly noted: 'this is a mandate for a cross-border operation solely against the PKK...it cannot cover civilians.'¹⁸ In addition, the importance of avoiding indiscriminate bombing was emphasised by the United States and the European Commission, which respectively stated: 'we urged the Turkish government to limit their operations to precise targeting of the PKK...' and 'Turkey should refrain from taking any disproportionate military action and respect human rights.'¹⁹ Despite these positive affirmations, it is clear that during the continued aggression, civilian residents of villages in the Qandil area have suffered greatly, having their lives put at risk, losing loved ones and having their homes, herds, farmlands and orchards destroyed or badly damaged due to indiscriminate bombing and artillery shelling.²⁰

Since July of 2007, Iran has also increased its aggression by shelling towns and villages in the Qandil area across the Iranian border with Iraq three to four times a week, allegedly in response to attacks carried out by PJAK.²¹ Iran initially denied the aggression but in September of 2007 the Iranian government admitted to the

16 BBC, *Turkey tightens control near Iraq*, 7 June 2007, <http://news.bbc.co.uk/1/hi/world/europe/6730215.stm> (last accessed 30 June 2008).

17 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Sulaimaniya governorate.

18 The Times (London), *Bush promises help for Turkey over rebels as he tries to avert Iraq attack*, 6 November 2007.

19 Martin Patrick, 'Turkish troops invade Northern Iraq', *Financial Times* (London), 23 February 2008.

20 For a summary of the military interventions see International Crisis Group, 'Turkey and the Iraqi Kurds: Conflict or Cooperation?' *Middle East Report* No 81, 13 November 2008, pp. 8-10.

21 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Sulaimaniya governorate; Valentine Mite, 'Iraq: Baghdad demands Iran stop shelling north' *RFE/RL*, 4 September 2007 <http://www.rferl.org/content/Article/1078505.html> (last accessed 9 September 2009).

shelling, stating that they were firing artillery shells at PJAK camps.²² Unlike the Turkish military which uses planes in its cross-border attacks, the Iranians restrict themselves to shelling.²³ Multiple eyewitness reports cite a high degree of cooperation between Turkish and Iranian forces; as Turkish planes fly over, invariably, the Iran military will begin shelling a few hours later.²⁴ These observations are backed up by a June 2008 statement issued by the Commander of the Turkish Army, General İlker Başbuğ in which he stated ‘When they (Iran) start an operation, we do, too. They carry out an operation from the Iranian side of the border, we from the Turkish side.’²⁵

Reports from the border region indicate a prevalent belief that the Iranian assaults are not negatively impacting upon the capability of Kurdish militants, but are instead having a drastic effect on the civilian population. As a villager displaced during an assault stated in an interview, ‘We know that the PKK are around here, but they live in the mountains. So these bombs just hurt us poor farmers.’²⁶ Local authorities have also consistently stated that many of the residents of the areas targeted were forced to flee from their homes out of fear of being caught in Iranian artillery shelling. Mr Bhaktiyar, Head of the Municipality of Rania, said that psychological stress due to uncertainty caused by the border conflicts is a major problem in Rania, a city of approximately 70,000 inhabitants.²⁷ Mr. Saeed Abdula, a political party official, added that there is the danger of an impending economic crisis if the conflict continues as frequent closures of border posts are affecting Rania’s significant trade ties with Iran.²⁸ For example, the 16 August 2008 Iranian artillery attacks on the Qaladiza sub-district in the Suleimaniya governorate reportedly displaced 200 families from the area. Later in the same month, further bombardments of villages in the Pshdar

22 *Today’s Zaman, Iran, for the first time , admits shelling PJAK camps in northern Iraq*, 24 September 2007, <http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=122950> (last accessed 9 September 2009).

23 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate.

24 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate; FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July Erbil.

25 Associated Press, *Report: Iran, Turkey coordinate Iraq strikes*, 5 June 2008.

26 *The Guardian, Kurds Flee Homes as Iran Shells Iraq’s Northern Frontier*, 18 August 2006.

27 FFM interview with Mr. Bakhtiyar, Head of Raniya municipality, 10 January 2008, Raniya, Suleimaniya governorate.

28 FFM interview with Mr. Saeed Abdulla, Patriotic Union of Kurdistan (PUK) official, 10 January 2008, Chwar Qurna, Suleimaniya governorate.

district displaced 157 families.²⁹ As with the Turkish incursions, fatalities have been recorded, farms have been damaged, livestock killed and villages destroyed.

Both Turkey and Iran consistently maintain that their operations have the exclusively military purpose of depriving the PKK/PJAK of their bases in northern Iraq and that they are key to safeguarding their national security. However, this offers only a partial explanation for the extent of their actions and there is compelling evidence of gross negligence in protecting the civilian populations during bombardments. This supports KHRP's view that these operations are largely designed as a show of strength to undermine Kurdish autonomy and self-sufficiency.

29 UNHRC, *UNHCR Governorate Assessment Report: Suleimaniya Governorate*, 27 September 2007, pp. 8-9, <http://www.unhcr.org/refworld/pdfid/471f4c9c27.pdf> (last accessed 9 September 2009).

III. CURRENT SITUATION

According to IDPs who live in the Zharawa transit camp, the Turkish and Iranian attacks are almost constant, with Turkish airplanes flying overhead nearly every day. This non-stop aggression has continued for four or five months, from March 2009. Although Iranian aggression temporarily ceased during the elections in July, IDPs feel that it is a temporary lull.³⁰ Some of the IDPs that have visited their villages to assess the damage have found their villages to be currently unliveable, with homes and fields completely destroyed. According to the IDPs at Zharawa, the target of Turkish and Iranian forces was intended to be their villages, suggesting that they were not 'collateral damage' resulting from attempts to roust out the PKK and PJAK.³¹ The evidence they give for this is that the village centres were targeted as well as houses and fields. In terms of PKK and PJAK activity in these villages, the villagers stated that there is no PJAK activity there. The PKK was last near the villages three years ago, staying in tents, and occasionally spending a night in the villages. Occasionally PKK members may move in and out of the village, and there is some sympathy for the PKK, but these are not what could be considered PKK strongholds.

30 FFM interview with Mr. Khidr Hamad Ali, 11 July 11 2009, Zharawa transit camp, Suleimaniya governorate.

31 *Ibid.*

IV. INTERNATIONAL LAW

As a signatory to key international human rights treaties and the Geneva Conventions which relate to the protection of civilian persons in time of war, and through customary international law, Turkey and Iran have legal obligations to ensure that civilians are adequately distinguished and protected during their military incursions. The Geneva Conventions stipulate that the conditions of necessity, distinction and proportionality must be met when a belligerent force initiates armed conflict in the name of self-defence. Thus, combat forces must only engage in operations that are necessary to ensure military gain. Also, the principle of distinction demands that every effort is expended to distinguish between military and non-military targets, as defined by Article 48 of the First Additional Protocol to the Geneva Conventions. Finally, the principle of proportionality prohibits the use of any kind of force that exceeds that which is necessary to accomplish the military goal. In all scenarios, the burden falls upon the belligerent force to ensure that these conditions are satisfied before initiating armed conflict.

A party to a non-international armed conflict (as is the conflict between Turkey and the PKK) is required under Common Article 3 of the Geneva Conventions and customary international law to respect the principle of civilian immunity from attack, and to treat humanely all those taking no active part in hostilities during combat operations. In addition, Common Article 3 expressly prohibits violence to the life or person, cruel treatment or torture and outrages on personal dignity.

Furthermore, as a candidate for accession to the EU, Turkey is obliged to embrace the values of peaceful conflict resolution. It must reject a myopic military approach to the Kurdish issue and instead engage in meaningful reform coupled with dialogue, in order to remove the root causes of conflict in its Kurdish regions. Notwithstanding these obligations, Turkey has over the years been continuously engaged in military activities in its border region that have resulted in severe civilian suffering. Much of this activity contradicts the principles set out in the European Convention on Human Rights (ECHR) to which Turkey is a signatory.

For example, one of the many documented instances of mutilations and killings committed by Turkish troops in northern Iraq was dealt with in the KHRP case of *Issa v. Turkey*, on which the European Court of Human Rights (ECtHR) gave a rul-

ing on in 2004.³² The case marked a significant milestone in international law in that it set a legal precedent affirming that Turkish troops are bound by the ECHR even when operating beyond Turkey's borders. The case has particular significance in light of the ongoing Turkish military operations, and KHRP has once again found it necessary to bring cases relating to the recent bombardments before the ECtHR. The extensive damage which is caused to civilians in these air attacks is in violation of Articles 2, 3, 8, 13, 14 and Article 1 of Protocol 1 of the ECHR. These Articles protect the rights of individuals to life, freedom from torture and inhuman and degrading treatment, to respect of their family and private life including their home, their right to an effective remedy and to property.

There is no legal recourse practically and effectively available to those who have suffered losses and been displaced during the course of this aggression. Since the aerial bombardment recommenced in October 2007, KHRP has acted for over 70 applicants in cases before the ECtHR. These have involved bombardments of villages by Turkey in the Dohuk governate and the Suleimaniya governate in October 2007, December 2007, May 2008 and September 2008.

32 KHRP case, European Court of Human Rights, Appl. No. 31821/96, *Issa and Others v. Turkey*, judgement available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=707749&portal=hbkm&source=externalbydocnumber&table=1132746FF1FE2A468ACCBBCD1763D4D8149>.

V. CIVILIAN IMPACT

In seeking to justify the recent cross-border operations into northern Iraq, both Turkey and Iran repeatedly invoke their right to defend their sovereignty and national security and claim that attacks have been limited to military targets only. Independent verification of the frequency and impact of the incursions has been lacking; the international presence in northern Iraq appears to be underestimating the severity of the situation, viewing civilian suffering and casualties as ‘collateral damage’.³³ One notable exception to this has been the NGO Christian Peacemaker Teams (CPT) who work as advocates for the civilians who have become IDPs as a result of the Turkish and Iranian incursions.

In reporting on the operations, most international media sources have drawn verbatim on the limited and ambiguous statements of the Turkish military. In almost all cases, these establish nothing beyond the alleged numbers of PKK fighters killed and the apparent achievement of military objectives. Although these reports tend to be disputed by PKK as well as Kurdish media sources that contest claims of no harm to civilians, there have allegedly been agreements between Turkey and Iraq to limit media attention on the subject.³⁴ KHRP’s efforts to gather information and evidence on the Turkish attacks has also been met with resistance by the KRG, which appears to be unwilling to jeopardize relations with Turkey. KHRP has found KRG government and political party officials (who range from genuinely sympathetic to suspicious and hostile), unwilling to assist and repeating the same reason of it being ‘not their place to get involved in an “internal” Turkish issue’. KHRP has also been informed ‘off the record’ by a number of individuals that although they personally would like very much to provide information, they have been specifically told not to get involved in anything that would upset the delicate relationship of the KRG with Turkey.

Despite the difficulties in gathering concrete evidence, KHRP fact-finding observations have nevertheless served in making an invaluable contribution to the broader discussion on the nature and impact of Turkey and Iran’s military policy in Iraq. The fact-finding missions looked at three specific areas of the cross-border military operations, and the highlights from these three missions, conducted from 2007 – 2009, are set out below.

33 FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July, Erbil.

34 KHRP e-mail correspondence with Craig Kite, CPT, 29 July, 2009.

1. Aradina and Ensheke

On 29th November 2007, mission members visited the Christian village of Enshke and the neighbouring Muslim village of Aradina in Dohuk governorate. Both villages suffered greatly during the initial shelling campaign by Turkish forces in mid-October 2007.

The mission was deeply concerned by its findings with regard to the effects of the Turkish bombardment. Both villages had suffered significant losses of farmland and property, resulting in many villagers losing their livelihood and means to adequately support themselves and their families. In Enshke, a village of some 90 families and 450 individuals, all inhabitants had been affected by shelling which began at around 10.50pm on 13th October 2007. Interviewees described in various ways their confusion and terror as the events unfolded. One villager, for example, said that he had seen multiple objects, which he took to be missiles, being projected towards the village, causing explosions and setting fire to farmland. Another resident told mission members of how he ran back to his house when the attacks began to find his wife and disabled son in a state of visible shock, with his son subsequently requiring hospital treatment.³⁵

In the aftermath of the attacks, KHRP found that one of the most acute issues left unaddressed concerned the villagers' future means to support themselves and their families without their farmland and property. The mission observed large areas of farmland which had been scorched by Turkish bombardment in an area which relies heavily on harvests. Mission members also observed that much of the surrounding countryside had been blackened indicating the possible use of chemical weapons by the Turkish forces, a tactic that has precedent within the history of Turkish military operations in Iraq. A 72 year old man described how he found that almost all his land, which consisted of hundreds of trees and different crops, had been blackened. Those parts which had not been affected were insufficient to support his family, rendering the economic self-sufficiency which he once had, unattainable in the future.

In addition to his material loss, this elderly villager said that discovering the effects of the attack on his farmland, which he had worked on for his entire life, was emotionally devastating. Another villager described how all the windows, crockery, doors and furniture in his restaurant had been destroyed by missiles that landed 200-300 metres away. Despite investing 2,000 USD in repairing the property, business had subsequently stalled due to customers no longer being able to afford to eat there and losing the desire to venture outside. This had resulted in the restaurant's closure and the loss of his family's income.

³⁵ FFM interviews, 29 November 2007, Enshke and Aradina, Dohuk governorate.

Interviewees also found that the assistance provided to them by the local authorities was inadequate. One interviewee said that no officials had come to evaluate the damage done to his property, despite the fact that both of his houses had been shattered and his family had been forced to relocate to Dohuk.³⁶

KHRP also found that the new economic, physical and psychological conditions were very difficult for many of the villagers to adapt to, making everyday life a completely new terrain. Children in particular were severely traumatised by the shelling and were reported to be suffering from recurring nightmares and fear, and no longer wanting to play outside.

The mission observed that the attacks had bred considerable doubt, uncertainty and despair in the minds of villagers as to their future livelihood, safety and ability to plan for the future. For many, village life was no longer feasible. Interviewees were confused by the occurrence of such aggressive military operations in villages where, to their knowledge, the PKK has no camps and there are no links to regional politics. In the face of the devastating effect of the attacks on civilians, many questioned Turkey's true intentions and voiced considerable doubts about Turkey's claim to be operating a counter-terrorism campaign.³⁷

Mr. Ali Mustafa, a local PUK representative, said that he was extremely concerned by the cross-border campaigns, especially when considering that the broader geopolitical situation was already extremely complex, involving the US, NATO and other international institutions. Whilst he felt that there was a real desire on the part of Turkish politicians to hunt PKK militants, he argued that Turkey does not want to see further development in Kurdistan, Iraq, as they see this as a threat to the regional balance of power.³⁸

2. Qaladze, Raniya, Sanga Sar

On 10th and 11th January 2008, KHRP spoke to villagers and local officials in multiple towns and sub-districts, including Sanga Sar and Qaladze, of the Suleimanya governorate, which had been targeted both by ongoing Iranian artillery bombardments and by a particularly devastating Turkish air raid on 16th December 2007. All of their testimonies revealed a similar story.

At around 2 am on 16th December, without any prior warning, villagers awoke to the sound of fighter jets, after which around eight warplanes launched a three-hour

36 FFM interviews, 29 November 2007, Enshke and Aradina, Dohuk governorate.

37 *Ibid.*

38 FFM interview with Mr. Ali Mustafa, PUK representative in Amedie and Dohuk, 29 November 2007, Dohuk.

assault on villages in the area. This assault involved bombardment with large missiles and cluster bombs. Many villagers described the ensuing chaos and terror, as they attempted to escape falling bombs and splintering shrapnel, in many cases by hiding in nearby ditches and caves until dawn. Schools, mosques, houses, tents, fields and herds were destroyed or damaged. One woman, Mrs. Ayse Ali Ibrahim from Asterokan lost her life when she was struck in the head by shrapnel. Many other civilians were wounded. A young woman spoke of her devastation at losing her left leg below the knee as a result of missile shrapnel, and about the ongoing challenges her and her family were likely to face as a result of the ordeal. Others commented on the inevitable economic effects of the conflict, ranging from the loss of livelihoods to the closure of border posts. In the village of Asterokan, residents lost all of their property including an entire herd of over 480 sheep which was the only source of income for 30 people.

Again, mission members observed that the impact of the attacks extended well beyond immediate physical devastation. Children in particular were reported to suffer from extensive traumatisation as a result of the attacks. Equally pervasive was a sense of uncertainty regarding the future and a reluctance to return to village life until there was a guarantee that the attacks would not recur.

Local officials also highlighted the inadequacy of local infrastructure to cope with the emergency situation. Mr. Haider, the head of Raniya Asayish (security forces), echoed the view of nearly all interviewed in stating that it was mainly civilians who were affected by the attacks, not the PKK or PJAK. Village infrastructure was ruined and houses, schools and mosques were destroyed or heavily damaged. He stated that official Asayish figures put the number of displaced families at 385 and that 34 villages were affected in their wider area of jurisdiction.³⁹

Another source estimated that some 600 families had been displaced in the wider Qandil area as a result of the attacks, placing an additional burden on resources in the already overcrowded major regional towns and cities.⁴⁰ In terms of assistance, at the time of the mission it appeared that the GOI, through the Ministry of Displacement and Migration (MoDM) had provided 1 million Iraqi Dinar (ID) (approximately 800 USD) to each family. The Red Crescent assisted with non-food items and at least one local NGO located in Suleimaniya offered some assistance as well. The KRG had assisted through the provision of kerosene. The majority of those interviewed maintained that this was paltry assistance; as displaced people they had lost their livelihoods and their homes, and their basic needs and requirements

39 FFM interview with Mr. Haider, head of Raniya Asayish, 10 January 2008, Raniya, Suleimaniya governorate.

40 FFM interview with Mr. Saeed Abdula, PUK official, 10 January 2008, Chwar Qurna, Suleimaniya governorate.

were not being met. The IDPs interviewed were angered by the limited amount of assistance provided, as well as by the lack of a cohesive program of aid from the Government, NGOs or International Organisations.

KHRP observed that the money from the central government is not sufficient to pay for rent for a family in the long term. At the time of the mission, the kerosene provided by the KRG (200 litres) was already used up. As it was deep winter, people had to buy expensive kerosene for heat and cooking. A 200-litre bottle of kerosene costs 90,000 ID and only lasts a couple of weeks. In the villages the IDPs did not rely on kerosene, they burnt wood for fuel. Purchasing kerosene is a substantial extra cost which they are incurring at a time when they have very little or no income. The Red Crescent aid consisted of sleeping mats, a blanket, 35 kilos of rice, a lantern, and three empty plastic jerry cans. Some IDPs complained about the lack of assistance from the UNHCR, which had, according to the words of one IDP 'done nothing'.⁴¹ Anger and frustration was directed towards the GOI, KRG, the International Community and International Organisations and NGOs for their lack of assistance and attention. Unsurprisingly, anger was most strongly directed against Turkey, for putting the villagers in this unfortunate situation in the first place.

When asked, those affected felt that the attacks perpetrated by Turkey were unjustifiably widespread and aggressive. Interviewees stated unanimously that those affected by the campaigns were civilians, contrary to claims by the Turkish military that only PKK bases were targeted. Moreover, many spoke of what they saw as the overwhelming futility of the operations, arguing that they resulted in little or no strategic gain in the fight against the PKK, only exacerbating the suffering of civilian populations. Some added that Turkey was simply manipulating the PKK issue to hinder the development of Kurdish autonomy in Iraq.⁴²

The villagers interviewed in the wake of the 16th December 2007 attacks form a community that takes great pride in their village way of life, their crops and orchards, their herds and particularly their hard working self-sufficiency. None of these individuals wanted to leave their villages and they maintain they were very happy there; life was not easy, but they worked hard, and produced many things. Even those who did not suffer the direct loss of livestock, fields and property were greatly affected by disruptions to business and farming, the loss of self-sufficiency and their inability to return home. For example, Mr. Mohammed Hassan, a farmer from the village of Endza, had planted his crops for next year, as it was the seasonal planting time for wheat and barley, just five days before the bombings occurred. He maintained he would lose his next year's income as well, as he was unable to return

41 FFM interview 10 January 2008, Sanga Sar, Suleimaniya governorate.

42 FFM interviews, 10-11 January 2008, Dugoman, Sanga Sar, Raniya, Suleimaniya governorate.

to the village and the crops need to be tended to daily. Thus, even though his lands weren't targeted, he, and many other farmers in the area (which is one of the richest agricultural areas in the Kurdistan region with some villages participating in land reclamation projects) similarly suffer because of the timing of the attacks during the planting season. The time to spread seeds for wheat and barley being over, they lost out on the income from next year's crops. Their self-sufficiency through farming is thus destroyed. According to Mohammed Hassan, all of the villages that were targeted were farming villages.⁴³

Based on information gathered from interviews by CPT conducted with residents of Sanga Sar nearly a year after KHRP visited the area, it is apparent that the situation for these IDPs has not changed significantly.⁴⁴ Mayor Abdullah Ibrahim of Sanga Sar Municipality confirmed that 'Bombing has never stopped since late 2007. It's from both Iran and Turkey. On 29 November 2008 Iran shelled 12 villages heavily. People were living there when rockets hit inside the villages. There were 3 schools and 2 clinics. 80 students were displaced.'⁴⁵ On 5 December 2008 Turkey bombed the area, the first of four Turkish attacks in December. A shepherd was injured in the attack and five of his cows were killed. The sister of the previously mentioned woman who lost her leg was caught in the bombardment and lost her hearing as a result.

According to the Mayor of Sanga Sar, 150 families in the Sanga Sar sub-district have been permanently displaced in the last 2 years. They remain crowded in with relatives in towns. Another 450 families return to the villages during the spring and summer out of economic necessity in order to farm, putting themselves at a very real risk of injury or death.⁴⁶

3. Zharawa IDP camp

On 11th July 2009, KHRP visited Zharawa transit camp with Mr. Bhaktiyar Ahmed from the Civil Development Organization (CDO), KHRP's partner organization in the region and Ms. Parwen Khalil Ismael, reporting officer from the Protection and Assistance Centre administered by CDO. KHRP met several residents of the camp, including the spokesperson for the camp, Mr. Khidr Hamad Ali.

Zharawa IDP transit camp, located in the Zharawa sub-district, Pshdar district of the Suleimaniya governorate, was founded in April 2009 to provide temporary shel-

43 FFM interview with Mr. Mohammed Hassan, 10 January 10 2008, Sanga Sar, Suleimaniya governorate.

44 CPT, *Human Suffering from Recent Turkish/Iranian Incursions in Iraqi Kurdistan*, June 2009.

45 *Ibid.*, p. 16.

46 *Ibid.*, p. 16.

ter for villagers fleeing aerial bombardments. Approximately 820 individuals, including 270 children, from 11 villages in the Pshdar district, had to flee their homes due to Iranian and Turkish cross-border aggression. These villagers, in contrast to the ones discussed above, say that although they have been affected by both Turkish and Iranian aggression, it was the Iranian shelling which affected them the most and ultimately caused them to become IDPs.

Previously the IDP families who had been displaced, numbering many since 2007, were living in a temporary camp in the Prde Hazwa area closer to the border with Iran, but the conditions there were extremely bad; shelling was close, cold weather was approaching, some of the tents were washed away due to floods and residents of neighbouring villages did not want the IDPs to remain there.⁴⁷ The IDPs left between October 2008 and January 2009, choosing to move temporarily into towns, either crowded in with relatives or in rented accommodation (if they could afford it) until a safer camp could be built. The influx of these IDPs and others into the surrounding towns has put a strain on these municipalities. At the most recent count, these villagers have been displaced from their villages a total of 3 times in the past two years.

In late 2008, the IDP villagers purchased land in the township and subdistrict of Zharawa and in April 2009, UNHCR and Qandil (a Swedish NGO) established the Zharawa tent camp. At first there were approximately 135 displaced families in need of shelter, but the camp was only built with 45 tents (to house 45 families) as this was originally the number assumed to need shelter. As a result, unrelated families were expected to share the tents, an unrealistic prospect, as even if the tents were spacious enough to comfortably house three large families, which they are not, the expectation that unrelated families share close living space, according to Mr. Khidr Ali 'goes against our (Kurdish) culture'.⁴⁸

Zharawa camp is very hot and dusty, there is little shade, no electricity (and no refrigeration) and limited water. When KHRP visited the camp the temperature was 50 degrees Celsius. The IDPs own the land on which the camp is built; they each bought 200 square metre parcels for 150,000 ID. They raised this money themselves and were not given assistance. Although they asked UNHCR and Qandil to build the camp so that each family would be able to make use of their full 200 metres, they claim this wish was not respected and that the shelters and tents were built on only 100 meters.

47 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate.

48 *Ibid.*

There are four water storage tanks at Zharawa, of these only three work. The water, a total of 1,500 litres, is trucked in from the town of Qaladze once a day (sometimes twice). It appears to be provided by UNHCR which will discontinue the service at the end of 2009.⁴⁹ The remaining IDPs in the camp said they will have to leave once it is Ramadan as they cannot survive without electricity during the fasting.

When KHRP visited, only 15 families lived in the camp, due to the poor living conditions and the inability to maintain their livestock or grow vegetables. The medic at the camp reports that many are ill due to the substandard living conditions.⁵⁰ Most of the IDP families have moved into neighbouring Zharawa town, in order to find work as labourers, where, like the IDPs from Sanga Sar, they live with relatives or rent a crowded room or a house if they can afford it. The IDPs that live in the town are able to keep their livestock, if they have any left. Some families come and go from the camp, staying in the town during the school year for their children, or when they can afford it, as in the town there are opportunities for employment (albeit low paid).

Anyone who has the means to leave the camp has left. Indeed, given the lack of any type of sustained program of assistance, many of the displaced villagers have opted to move back to their semi-destroyed home villages, despite imminent threat of injury or death, as they consider it better than living in the tent camp. The situation for these IDPs is so dire that one man, Ali Ahmed, who lost his one and a half year old son Mohammed when the family left Zharawa camp and returned to Razga village following a ceasefire agreement between Iran and the KRG in February 2009, has returned to the village. This, despite the fact that Mohamed was struck in the head with shrapnel and died in the village. Although bombing has resumed near Razga, KHRP was saddened to hear that Mohamed's father, feeling he had no other choice, has again returned to live in the village, rather than in Zharawa.⁵¹ Other IDPs have apparently left Zharawa to return to the location of the former temporary camp located in the Prde Hazwa area.⁵²

According to Mr. Khidr Ali, spokesperson for the camp, each family has lost up to an estimated 30,000 USD as a result of the death of animals, loss of farming land and crops, income from this land and destruction of their homes. Many were forced to sell their animals at a major loss as there is nowhere to graze them. Unfortunately

49 KHRP correspondence with Mr. Kamran Ali, Officer in Charge, UNHCR Suleimaniya, via Mr. Bakhtyar Ahmad, CDO, July 2009.

50 CPT, *Human Suffering from Recent Turkish/Iranian Incursions in Iraqi Kurdistan*, June 2009, p. 9.

51 FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July 2009, Erbil.

52 KHRP e-mail correspondence with Craig Kite, CPT, 4 August 2009.

the price of livestock has now gone up significantly and those that sold cannot afford to buy.

At least three individuals have lost their lives as a result of the Iranian aggression. Mohamed Ali Ahmed, age 1 year 6 months died in Razga on 10 March 2009. As stated above, Mohamed lost his life when his family left Zharawa camp and returned to their village following a ceasefire agreement between Iran and the KRG in February 2009. Iran violated the ceasefire agreement, and Mohamed was hit in the head with shrapnel and died. Sleman Khidr Hamad Ali (son of Mr. Khidr Hamad Ali, spokesperson for Zharawa camp), age 14, died in Razga Saru on 8 July 2008. Sleman lost his life when he and his family were fleeing their home as their village was being bombed by the Iranians. They were fleeing on a tractor and Sleman fell off the tractor in the ensuing chaos and sustained massive trauma that killed him. Salam Amin Kerim, age 13, died in the camp at Prde Hazwa in a date unknown. He dies as a result of an electric shock from the family generator.

Even if their villages were not destroyed, the IDPs who remain in the camp say they do not want to return, as they have already returned twice and have been forced to flee again as a result of the incessant bombing and shelling. These villagers have stated that they are afraid of losing their lives and their homes and farmlands have been completely destroyed. They do not have the financial means to rebuild their homes, villages or farmlands and it will take three years until the farms are able to produce.⁵³

In total, the residents of Zharawa camp claim to have received around 1,000 USD of assistance per family, regardless of the size of the family, which has come from political parties, government officials, NGOs and individual donors. As yet there appears to have been no official, concrete overarching response to their plight from any governmental entity, either GOI or KRG. Instead individuals have presented charity and some IDPs have received aid piecemeal. For example, according to Mr. Khidr Ali, an individual member of the KRG Parliament, Dr. Bazit, has come to the camp and offered personal charity in the amount of 200,000 ID (about 170.00 USD); the President of the KRG, Massoud Barzani has given each family 500.00 USD, but this was distributed by the KDP party apparatus and not the KRG; Korek Telecom (a private company with strong ties to the Barzani family) has given the IDPs 50.00 USD each and there has apparently also been some assistance from the Governor of Suleimaniya. As discussed previously, the GOI through the MoDM Department of Displacement and Migration (DDM) branch provides IDPs with a lump sum of 1 million ID. However, only some of the residents of the camp, includ-

53 FFM interview with Mr. Khidr Hamad Ali, 11 July 11 2009, Zharawa transit camp, Suleimaniya governorate.

ing the residents of Razga village, have received half of this money (450,000 ID) and the rest have received nothing.⁵⁴

Many important figures, ranging from Speaker of the KRG Parliament Adnan Mufti to President of Iraq Jalal Talabani (who visited the camp the day before KHRP), have visited the camp making promises of assistance, but as yet nothing has been done. The United States military has also recently visited the camp, and promised to build a well, but camp residents were puzzled, as the proposed well would be in a remote location (near or in a village), that would be of little immediate use to the camp residents.⁵⁵

While visiting the camp, KHRP was struck by the apparent lack of administration. It appeared that no one from any governmental entity, International Organisation or NGO was in charge. Other than the water delivery, the IDPs are left for the most part to fend for themselves. KHRP received conflicting reports concerning who was responsible for the administration of the camp with some stating it was the UNHCR (this was later dispelled by UNHCR)⁵⁶ and others that the Mayor of Zharawa and the Mayor of Pshdar and Qaladze were responsible. When residents of the camp need to contact the KRG, they speak to the mayor of Zharawa town or Qaladze through their spokesperson. They are worried about their security as even the usually omnipresent Asayish (KRG security apparatus) is not around. According to residents the UNHCR, which set up the camp and which provides the water service despite not being 'officially in charge', has been uncommunicative.

Residents state that assistance from the ICRC has helped the most as until recently they provided the IDPs of the camp with food items every two months.⁵⁷ The ICRC would supply each family (no matter what the size) with 35 kilos of rice, four litres of cooking oil, four large cans of tomato paste, one kilo of beans and hygiene kits with soap, toothpaste, etc. Sometimes they would also bring meat. Many residents desperately relied on this food aid. The last delivery from the ICRC was in May, before their focus shifted to livelihood development projects in some of the villages where the IDPs originate from.⁵⁸ KHRP contacted the ICRC on multiple occasions

54 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate; FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July 2009, Erbil.

55 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate.

56 KHRP correspondence with Mr. Kamran Ali, Officer in Charge, UNHCR Suleimaniya via Mr. Bakhtyar Ahmad, CDO, July 2009.

57 FFM interview with Mr. Khidr Hamad Ali, 11 July 2009, Zharawa transit camp, Suleimaniya governorate.

58 KHRP e-mail correspondence with Craig Kite, CPT, 4 August 2009.

for clarification on the nature of their efforts to assist the IDPs, but unfortunately no response was received.

Other than this aid, the only other help the residents claim to have received is the distribution of some toys for the children from an unknown agency. In keeping with the haze of confusion surrounding Zharawa, it is unclear to KHRP which other NGOs are assisting the IDPs.⁵⁹

⁵⁹ MercyCorps states they have some assistance programmes in place for IDPs in 9 governorates across Iraq, including those at the Zharawa camp, however KHRP has not verified the nature of these assistance programmes. KHRP e-mail correspondence with Hilary Scarsella, CPT, 12 August 2009.

CONCLUSION

Regrettably it appears that these IDPs, like so many others worldwide, have fallen through the gaps in protection that result from not having crossed an international border, and thus not qualifying for the rights and protections contained in the Convention Relating to the Status of Refugees, nor falling under the official mandate of any dedicated institution, such as the UNHCR.⁶⁰ It has become painfully clear to KHRP that the thousands of individuals who have been forced to flee their homes due to the cross-border incursions of Turkey and Iran are practically invisible, with no dedicated government agency, either KRG or Iraqi, NGO or International Organisation being tasked with providing or coordinating protection and assistance.

The thousands of civilians affected by the Turkish and Iranian cross-border aggression suffer from a deep sense of hopelessness and frustration. When Zharawa camp residents were asked what they needed the reply was 'We have nothing - we need everything'.⁶¹ These villagers, who have habitually been self-sufficient, now have no way of supporting themselves and their families. They feel ignored and forgotten by their government and the international community.

The forced displacement from homes is in itself a violation of basic human rights standards; the ongoing vacuum in which these villagers find themselves exacerbates this by depriving them of an adequate standard of living, including food and shelter, the right to work and the right to live in a safe and healthy environment. One woman, again at Zharawa camp stated to KHRP over and over that she felt 'hopeless, just hopeless'.⁶²

The IDPs, particularly those residing in the Zharawa camp, are suffering from what at best can be described as 'benign' neglect. As this camp was not designed to be a permanent solution, rather a temporary 'transit facility' until the IDPs move elsewhere, the prevailing logic is that if they are made too comfortable then they may not want to move on. One official stated 'we aren't going to build them a nice city',⁶³ alluding to the view that then the only thing standing in the way of the IDPs return-

60 Thomas Weiss, 'Whither International Efforts for Internally Displaced Persons', *Journal of Peace Research*, vol. 36, no. 3, 1999, p. 363.

61 FFM interviews, 11 July 2009, Zharawa transit camp, Suleimaniya governorate.

62 *Ibid.*

63 FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July 2009, Erbil.

ing to their villages would be the temptation to laze around in a camp that was too comfortable. The reality is that life in the camp is extremely harsh. This is evidenced by the fact that families are indeed returning to their villages, despite the obvious danger involved in doing this.

Part of the problem, as mentioned earlier, lies in the gaps in protection for IDPs in the international humanitarian system. Although the UN established the *Guiding Principles on Internal Displacement* in 1998 which states that IDPs should enjoy the same rights and freedoms as other citizens, the principles carry less weight than international treaties. There is no official dedicated UN entity for dealing with IDPs, but UNHCR has been designated the responsible UN agency for camp management and coordination and the provision of emergency shelter and protection for IDPs. Prior to 2005, IDPs were dealt with on a case by case approach via the 'collaborative approach', in which, ostensibly, a 'broad range of actors including governments, the UN and NGOs, work together to respond to the needs of IDPs on the basis of their individual mandates and expertise.'⁶⁴ Subject to severe criticism for its lack of effectiveness, the 'collaborative approach' has been replaced with a 'cluster approach' that is meant to ensure 'predictability and accountability in international responses to humanitarian emergencies, by clarifying the division of labour among organisations, and better defining their roles and responsibilities within the different sectors of the response.'⁶⁵

In general, the UN and other agencies advocate for the home government to provide the bulk of the resources, as responsibility for protection and assistance for IDPs, by definition, is the responsibility of their own governments.⁶⁶ However, it is recognized that 'the capacity and / or willingness of the authorities to fulfil their responsibilities is often insufficient or lacking. In such circumstances, the international community needs to support and supplement the efforts of the government and local authorities.'⁶⁷

64 Internal Displacement Monitoring Centre, 'The "Collaborative" Response to Situations of Internal Displacement', *Training on the protection of IDPs*, p.1. [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/9E4BCA9FEAF0A377C12571150046F255/\\$file/Actors%20module%20handout%20collaborative%20approach.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/9E4BCA9FEAF0A377C12571150046F255/$file/Actors%20module%20handout%20collaborative%20approach.pdf) (last accessed, 9 September 2009).

65 Humanitarian Reform, *What is the cluster approach?*, <http://www.humanitarianreform.org>.

66 Thomas Weiss, 'Whither International Efforts for Internally Displaced Persons' *Journal of Peace Research*, vol. 36, no. 3, 1999, pp. 364, 369.

67 Internal Displacement Monitoring Centre, 'The "Collaborative" Response to Situations of Internal Displacement', *Training on the protection of IDPs*, p.2. . [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/9E4BCA9FEAF0A377C12571150046F255/\\$file/Actors%20module%20handout%20collaborative%20approach.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/9E4BCA9FEAF0A377C12571150046F255/$file/Actors%20module%20handout%20collaborative%20approach.pdf) (last accessed, 9 September 2009).

From investigations it appears that those who have been displaced as a result of the Turkish and Iranian incursions do not fall under the mandate of the UNHCR presence in Iraq. According to a UNHCR representative in the Suleimaniya governorate, UNHCR advocates for the local authority to respond to the needs of the IDPs. Regarding Zharawa specifically, the representative told KHRP that it is not an official camp of UNHCR but that they decided to provide the residents of the camp with water distribution and garbage pick-up until the end of 2009.⁶⁸

Officially, the KRG, via an ill defined and complex web of various directorates and agencies such as the Mayor of Zharawa, the Director of the Municipality, the Directorate of Health, and several others, is responsible for the IDPs. However according to the UNHCR representative as well as other sources, there is no plan by the KRG to respond to the needs of the IDPs in the Zharawa camp, and in general they provide next to nothing, claiming a lack of funds.⁶⁹

Further complicating the situation is the question of 'which government' is responsible, the KRG or the GOI. As stated earlier, IDPs fall under the mandate of 'the government' of the State they reside in. Unsurprisingly, the constitutionally mandated unspecific degree of autonomy that the KRG wields in its semi-sovereign status is murky concerning who takes responsibility for IDPs in the KRG. This provides the excuse for ongoing arguments and debates between the KRG and GOI concerning who should be responsible, and who should foot the bill. While the GOI maintains the MoDM and the DDMs in all 18 governorates of Iraq, including the three administered by the KRG mandated to protect and assist IDPs, the KRG has yet to create a line ministry or entity at the KRG level, despite having done so for most other ministries. Further the KRG has no specific budget allocated for IDP issues, thus greatly hindering the ability of the KRG to respond in a serious manner to the needs of the IDPs in the KRG administered areas.⁷⁰

The DDM maintains a branch in Suleimaniya, but according to sources has done very little for the IDPs.⁷¹ Although the GOI through the MoDM and the DDMs is supposed to provide the aforementioned one million ID lump sum and a 150,000 ID monthly stipend to registered IDPs in Iraq, it is clear that few, if any, of the IDPs have received the full sum. Further, it appears that none of the IDPs are receiving the stipend.

68 KHRP correspondence with Mr. Kamran Ali, Officer in Charge, UNHCR Suleimaniya via Mr. Bakhtyar Ahmad, CDO, July 2009.

69 *Ibid.*

70 KHRP correspondence with Mr. Bhaktiyar Ahmad, CDO, July 2009.

71 KHRP correspondence with Mr. Bhaktiyar Ahmad, CDO, July 2009; KHRP correspondence with Mr. Kamran Ali, Officer in Charge, UNHCR Suleimaniya, via Mr. Bakhtyar Ahmad, CDO, July 2009.

The creation of a dedicated KRG level entity, with a dedicated budget in line with the MoDM, tasked with assisting the IDPs would assist in streamlining the process of the distribution of funds from the GOI, as well as in the formulation of an 'official' strategy (rather than the private charity offered by individuals such as seen at Zharawa) of protection and assistance.

Finally, there appears to be a fundamental lack of understanding concerning the nature of the attacks and their effects. Representatives of some International Organisations and international NGOs present in the KRG administered areas display a disconcerting naïveté concerning the situation on the ground. There seems to be a belief that the bombardments are not having much of an impact on civilians and that this moving back and forth from villages is normal for the semi-nomadic IDPs.

Though the IDPs are returning to their villages out of necessity and at great risk to themselves and their families of further attacks from Turkey and Iran, several of these villages are unliveable and buildings and homes are completely destroyed. A high level representative from one of these International Organizations had no idea that civilians are returning to, or still living in the affected villages out of desperation, and believed that the villages were all uninhabited.⁷² The fact that some actors seem to have limited or incorrect information concerning the dire extent of the situation of the people they have some type of mandate to protect and assist is deeply troubling.

It is evident that the current situation of 'benign' neglect that is occurring under the 'cluster approach' is a failure, suffering from the same shortfalls of the 'collaborative approach'² - effectively allowing for no one to take responsibility. Far from being a situation in which a broad range of actors with clearly defined roles and responsibilities work in partnership to meet the needs of the IDPs, instead it is a situation in which responsibility is continually shifted, in the end offering a less than adequate response to the needs of the IDPs. This failure to assist and protect in effect places civilians in a position of having to choose to put themselves in imminent danger of death.

For these IDPs, living as they do in a constant state of insecurity, the lack of clear lines of communication to a dedicated entity that can assist them even if to just provide information adds to their already significant troubles. At the very least these civilians who have nowhere to go to and have lost their livelihoods must have a direct line of communication with some kind of dedicated institutional entity that can see that their most basic needs are met, ensure that they receive the assistance that is due them (for example the lump sum provided by the GOI), and work on

72 FFM interview with Craig Kite, John Lynes and Hilary Scarsella, CPT, 18 July 2009, Erbil.

finding a sustainable resettlement solution when and if they are able to return to their villages.

KHRP is deeply concerned for the welfare of the civilian population who are bearing the brunt of the hostility shown towards northern Iraq by its neighbours. KHRP urges the KRG, GOI and the international community to provide adequate promotion and protection of the human rights of the civilians affected by the conflict. The testimony of the villagers detailed above is indisputable evidence of the ways in which the actions of Turkey and Iran have directly compromised the human rights of the inhabitants of the region. Moreover, by routinely threatening Iraq's borders, Iraq's neighbours have needlessly heightened the sense of emergency in the region, putting additional pressure on the regional authorities to conduct security operations that infringe on human rights in a number of ways. KHRP strongly condemns this aggression and advocates for a peaceful political dialogue between the parties. With the current increase in hostilities, and with limited international attention, the KRG border situation is in danger of erupting into a full-blown conflict.

RECOMMENDATIONS

The authors of this report have the following recommendations.

The authors urge the KRG and the Government of Iraq to:

- Work to respond, with the support of the UNHCR, to the needs of those persons displaced due to the cross-border operations by Turkey and Iran.
- Ensure better living conditions for those displaced and forced to reside in temporary facilities due to the destruction of their villages and livelihoods as a result of cross-border operations.
- Act to ensure conditions for IDPs living in temporary facilities, such as those at the Zharawa camp, are humane, safe and healthy.
- Create a KRG level entity, with a dedicated budget in line with the MoDM, tasked with assisting the IDPs in order to assist in streamlining the process of the distribution of funds from the GOI and ensuring that IDPs are receiving the benefits to which they are entitled.
- Utilize their good offices with the governments of Turkey and Iran to work towards a ceasing of cross-border operations, stressing the detrimental effect these campaigns have on the peace and stability of Kurdistan and the region.
- Allow both International and Iraqi media access to the border region allowing them to investigate and report an accurate picture of the effects the cross-border operations are having on the civilian population of Kurdistan.

The authors urge the governments of Turkey and Iran to:

- Cease military operations which violate Iraq's territory; respect Iraq's territorial integrity, human rights and the rule of law, and ensure that civilian casualties are avoided.
- Recognize and adhere to their obligations under international law to act with necessity, distinction and proportionality and make all efforts to avoid civilian targets and casualties.

The authors urge the governments of the US, EU as well as the larger International community to:

- Fulfil their obligations to support Iraq's territorial integrity, to protect human rights and to ensure that civilians are protected by pressuring Turkey and Iran to cease cross-border operations, especially the United Nations, the US and the EU.
- Utilize existing relations with the governments of Turkey and Iran to work towards an end to cross-border operations, stressing the detrimental effect these campaigns have on the peace and stability of Kurdistan and the region.
- Work to ensure the safety and security of civilians living in the border regions of Kurdistan and provide assistance, with the help of International NGOs and the UNHCR, to those who have suffered losses due to the cross-border operations.
- International and local organizations and NGOs should work together, engaging with government, the military, media, the local community to assess the ongoing and long term effects of the cross-border operations on civilians and the environment.

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