



## Protection Guidance on “Evacuations” in the West Mosul Context March 2017

**Background to this note:** During the military operation to retake east Mosul, a smaller number of civilians than expected escaped the city. This was partially due to the Iraqi Security Forces’ (ISF) “stay at home” policy, which encouraged civilians to seek shelter inside their homes. The ISF is now advancing into the southern neighbourhoods of west Mosul. Civilians have two broad categories of choice to protect themselves from the hostilities: remain in their homes (or neighbourhoods) or flee across the frontlines. Families’ decisions are guided to some extent by the approach of and direction provided to them by the ISF, but also by the impact the hostilities is having on families, which includes the use of civilians’ homes for military purposes by ISIL. The latter has reportedly contributed to mounting civilian casualties since the offensive began. As the fighting moves closer to densely populated areas, including the Old City, there is a possibility that the Prime Minister could instruct the ISF to encourage people to leave their homes, which would represent a significant change from the east Mosul “stay at home” policy – then thought to be the most appropriate tactic to protect civilians. It is beyond the scope of this guidance note to make a clear determination on what the best method to protect civilians is in the west Mosul context. However, should civilians be encouraged to or decide on their own to leave their homes, they will face severe protection risks given how difficult it is for the ISF to secure genuinely safe routes.<sup>1</sup>

**Purpose of this note:** Clear protection guidance and recommendations for the Government of Iraq (GOI) and the ISF should the GOI decide to “evacuate” civilians from west Mosul or the “stay at home” policy be applied inconsistently.<sup>2</sup>

**Terminology:** “Evacuation” usually refers to situations where civilians are removed from areas already under the control of the forces carrying out the evacuation or as a result of negotiations between parties to a conflict. For practical purposes, because this change of military tactics from “stay home” to “leave home” is being referred to by the GOI as “evacuation”, this document uses the term “evacuation”.

### **WEST MOSUL CONTEXT**

While the GOI and security forces’ “stay at home” policy officially continues to apply in the west Mosul offensive, tens of thousands of people have fled the city since the operation to retake west Mosul commenced on 19 February 2017. This is partially due to the fact that once the ISF retakes neighbourhoods, civilians remain at risk of indirect fire from ISIL. In other instances, the ISF has reportedly encouraged people to flee as fighting continued and opened a passage for them to do so.

At the time of writing, however, the vast majority of civilians in west Mosul have not fled. Reasons for this include:

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<sup>1</sup> During military operations in east Mosul, but also in Ramadi and Fallujah, the Iraqi Security Forces were unable to secure genuinely safe routes away from active hostilities. In west Mosul, characterised by densely populated neighbourhoods, the army is likely to face even greater challenges to provide such routes.

<sup>2</sup> This guidance already applies to the current situation whereby tens of thousands of civilians have already fled the city, some of them reportedly encouraged by ISF.

- ISIL fighters have prevented civilians from fleeing and are using them as human shields;
- Iraqi authorities have instructed people to stay at home;
- It is extremely dangerous to cross frontlines and there are no genuinely safe routes;
- Physical inability of some people to move (e.g. the elderly, people with disabilities, illnesses or injuries) and unwillingness of family members to leave them behind;
- Fear that their property and assets will be destroyed, looted or occupied by others if they leave;<sup>3</sup>
- Fear of or lack of trust in the security forces and other armed groups over possible mistreatment;
- Fear of or lack of trust in the screening process (i.e. arbitrary) and related abuses (i.e. forced disappearances, arbitrary detention, physical abuse);
- Concerns over conditions in areas of displacement (e.g. limited freedom of movement, militarisation of camps, confiscations of mobile phones or ID cards, lack of services);
- Fear of not being allowed to return given previous cases where individuals suspected of ISIL affiliation have not been able to return to their homes.

### **KEY QUESTIONS AND ISSUES**

Based on lessons learned from the east Mosul operation, the following issues require clarification from the GOI in order to ensure that protection of civilians remains at the heart of military operations and that displaced people have access to safety and assistance:

- How will the GOI and the ISF adhere to the “IDP Support for Nineveh Liberation Operation”<sup>4</sup> plan if the “stay at home” policy is no longer uniformly applied, including in relation to identification and sustained protection of “evacuation routes”, treatment of civilians by militias, and the preservation of family unity?
- What measures will the GOI and the ISF take to ensure access to assistance for people who remain in west Mosul during the military operations and under siege-like conditions?
- What measures is the GOI taking to ensure that procedures for screening of the civilian population are in accordance with applicable national and international laws and as per the processes and roles and responsibilities laid out in the “IDP Support for Nineveh Liberation Operation” plan?
- What steps is the GOI taking to ensure respect of international humanitarian law (IHL) in the conduct of hostilities, including towards people who remain in west Mosul (e.g. rules on distinction between combatants and non-combatants, proportionality, and precautions, protection against stigmatisation or discrimination against people who opted to stay, or any other acts of retaliation, revenge, and collective punishment against those perceived to be sympathetic to certain armed groups)?

### **RESPECT FOR IHL**

IHL<sup>5</sup> requires that all parties to the hostilities in west Mosul must respect the principles of distinction (between civilians and combatants), proportionality (in the means of attacks to minimise or avoid effect on civilians) and precautions whereby parties must take action to prevent unnecessary and

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<sup>3</sup> See also REACH, Humanitarian overview: East Mosul, 24 November 2016.

<sup>4</sup> Prior to the offensive to drive ISIL from Mosul, the GOI adopted a concept of operations that put the protection of civilians at its heart. That commitment was operationalised in a document drawn up by the GOI’s Joint Operations Command called the ‘IDP Support for the Nineveh Liberation Operation’ plan (NLP).

<sup>5</sup> Whilst IHL in its entirety applies, the norms of international customary law on distinction of civilians and combatants and the humane treatment of civilians and the displaced population are highly pertinent (see for example instruments such as Article 8(2)(e)(i) of the ICC Statute and Article 13(2) of Additional Protocol II of the Geneva Conventions, as supported by state practice).

excessive harm to civilians during military operations. Where, for the security of the population, it becomes necessary to remove them from the vicinity of military objectives,<sup>6</sup> their displacement must not be carried out in a manner that violates their right to life, dignity, liberty, and security.<sup>7</sup> This duty continues at the place of displacement. Thus, once displaced, the population must be protected from collective punishment, and discrimination, or any other form of abuse for perceived affiliations or sympathies.<sup>8</sup> For those so accused and those no longer involved in combat, humane treatment and application of due process of law and not extra-judicial mechanisms is mandatory.<sup>9</sup> In any case, the displaced civilians must be received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition, with care taken against family separation.<sup>10</sup>

## **PROTECTION GUIDANCE**

### **Safe "Evacuation"**

It is possible that the “stay at home” policy as implemented during the east Mosul operation will be amended, partially adhered to, or changed to a “leave your home” / “evacuation” policy. Bearing in mind ISIL’s use of civilians as human shields and its targeting of civilians attempting to flee, any “evacuation” in the west Mosul context will carry significant risks for civilians. Unless absolutely necessary due to military imperatives, civilians should neither be forced to leave their homes if unwilling to do so or barred from fleeing if they wish to do so.

The following measures should be taken to mitigate such risks should an “evacuation” be decided:

#### **Planning**

- planning for an “evacuation” should be conducted in consultation with local authorities and humanitarian partners;
- while ideally civilians in Mosul would be consulted in planning for “evacuations”, in this situation, any communication (for instance phone calls) in the planning phases is not recommended as it would jeopardise the safety of civilians and the “evacuation” itself;
- develop scenarios and contingency plans for each “evacuation” scenario by analysing the risks associated with each one;

#### **Protection**

- ensuring that “evacuation” is voluntary and non-discriminatory, for instance women and children should not be encouraged to flee while men and boys are encouraged to remain in their homes;
- designating and using civilian “evacuation” routes that are distinct from the routes used for military advances;
- using routes that do not provide ISIL fighters with a clear line of sight of civilians and their movements;

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<sup>6</sup> State practice establishes this rule as a norm of customary international law applicable in international, and arguably also in non-international, armed conflicts. This rule is an application of the principle of distinction (see Rules 1 and 7). It is also related to the prohibition on using human shields (see Rule 97), as everything feasible must be done to evacuate the civilian population from the vicinity of military objectives; in no event may civilians be used to shield military objectives.

<sup>7</sup> See Additional Protocol II, Article 4(1) of the Geneva Conventions. See also Article 10(1) of the International Covenant on Civil and Political Rights and Principle 12 of the Guiding Principles on Internal Displacement.

<sup>8</sup> On collective punishments, see Additional Protocol II, Article 4(2)(b) of the Geneva Conventions.

<sup>9</sup> See Additional Protocol II, Article 6(2) of the Geneva Conventions.

<sup>10</sup> See Additional Protocol II, Article 17(1) of the Geneva Conventions. See also Principle 18(2) of the Guiding Principles on Internal Displacement.

- explore the usage of non-lethal measures to conceal the movement of civilians on “evacuation” routes;
- build in temporary pauses in the offensive military operations to allow for safe passage;
- designate routes that have been cleared of mines and ERW; where not possible, clearly mark any explosive hazards.

#### **Actors**

- the ISF and Kurdish security forces should be the only security actors involved in the entire “evacuation” process;
- troops in the “evacuation” should receive guidance from their superiors to abide by the measures in this note, and have clear instructions on how to respond under various scenarios;
- in addition, once the “evacuation” has been completed, the civilian nature of the displacement camps and emergency sites must be respected.

#### Information and Safety

The timely provision of relevant information to civilians can greatly reduce risks, as well as promote their right to make informed decisions on whether to stay or move. However, it is recognised that the means available to the GOI to convey information safely to populations in west Mosul is limited in the current context and that this information (e.g. route and time) can also increase the risk to the population if it reaches ISIL who could then target the “evacuation” route.

The information must be provided in a manner that reaches the most vulnerable, such as those with less access to information, less decision-making power or less physical mobility. This necessitates the exploring different communication channels. Options for informing via one-way communication could include, *inter alia*, scattering of instructional/informational leaflets, loudspeakers from adjacent areas, mobile phone mass text messaging, radio broadcasting, or through existing community-based communication channels – or a combination therefore.

The information should be consistent, accurate and not likely to change, and must include:

- the reasons for the “evacuation”;
- the process for “evacuation” – including:
  - routes and areas that could be used and any limitations on timing;
  - basic mine risk education messages to reduce the risk of accidents during movement;
  - advice on the items that people should or should not bring with them, including civil documentation to prove their identity, but also baggage weight limits, prohibitions of weapons / dangerous materials etc.;
  - advice on how those civilians should distinguish themselves from combatants (e.g. white flags, raised arms, not carrying bulky luggage, etc.) and act when approaching and passing through the frontlines;
  - whether they can travel in vehicles or will have to walk;
  - the destination, including risks, conditions, and services available;
  - information on the screening process and possible detention when there is a basis for it;
- that the presence of humanitarian actors, including protection actors, in any location (trauma stabilisation points, muster points, screening sites, camps, emergency sites) is not a guarantee for the physical protection of the civilian population;
- protection and assistance they can expect if they chose not to partake in the “evacuation”;
- the potential for assisted returns after an “evacuation”;
- to mitigate risks of family separation, parents should hand their children papers to identify their parents and contact details or otherwise attaching identity tags to their children’s clothes or around their necks or wrists;

- advice on how to protect property rights, such as bringing property documents or taking photos of property and assets.

All “evacuees” should be registered at the safest possible moment (e.g. this may only be once civilians reach the mustering point behind the frontlines) to follow the fate of those detained, avoid disappearances and maintain and restore family contacts.

#### Protecting the Most Vulnerable

In case of an “evacuation”, the most vulnerable groups will include: persons with disabilities, older persons, pregnant women, and separated/unaccompanied children, due to their potentially limited physical mobility, access to information and/or decision-making power. Considerations for these vulnerable groups should inform the “evacuation” planning and implementation. Specific measures should be adopted, such as: ensuring that they are aware of the risks, prioritisation in and assistance during loading onto vehicles, arrangements for family reunification at areas of displacement, and arrangements for medical services.

#### REFERENCES:

- UNHCR Protection Brief: Humanitarian engagement at military-established/run camps
- Protection Cluster Guidance – Screening Sites and Related Facilities, Protection Cluster Iraq
- Messaging on International Humanitarian Law in conflict areas and liberated areas in Iraq, Protection Cluster Iraq
- Access to safety and criteria for provision of humanitarian support for persons at checkpoints or transit facilities, Protection Cluster Iraq