

Excellencies,

Ladies and gentlemen,

I am Hervé Delphin, Head of European Union Humanitarian aid programmes in the Middle-East.

It is my pleasure to welcome you to this session on "the protection of civilians and the application of International Humanitarian Law (IHL)", which I will chair and moderate. And it is also my pleasure to introduce the speakers of this session

1. Ms Lise Grande, UN Deputy Special Representative of the Secretary General and Iraq Humanitarian Coordinator.
- 2- Mr Pascal Bongard, Director at Geneva Call (Policy and Legal Unit)
- 3- Youssef al-Kelabi - Security Spokesperson for Hashd al-Shaabi [instead of previously foreseen Amir Alkinani, Legal Advisor to the President of Iraq]
- 4- Jabar Yawar, Secretary General of the Ministry of Peshmarga, KRG

I would like to express our gratitude to the Middle East Research Institute (MERI) and to the humanitarian organisation Geneva Call for having organised this session.

The other name of the International Humanitarian Law is the law of the war. Due to its own tormented history, Europe knows only too well that even in wars basic rules must be respected. It took two world wars, with Europe as the main battlefield, to lay the foundations of IHL embodied in the Geneva conventions. No surprise that IHL is in a way in the D.N.A. of the European Union. The European Union is committed to the promotion and compliance with IHL. We also fund humanitarian organisations such as Geneva that work towards that end.

Today's topic - sadly enough - could not be more timely. Last Saturday, UNSG, Ban Ki-moon, and ICRC President, Peter Maurer, issued an unprecedented joint warning about the impact of today's conflicts on civilians and appealed for urgent and concrete action to address human suffering and insecurity. They stressed the importance of respect for IHL. Not just as an act of humanity to serve the people in need; but also in order to prevent further instability.

International Humanitarian Law (IHL) provides the normative framework that underpins the operating environment of humanitarian action, including both assistance and protection. Contemporary (increasingly non-international) armed conflicts involve a

multiplicity of actors, many of which either are not aware of their obligations under international law, or do not see themselves as bound by them.

This is, however, incorrect<sup>1</sup>. Rules apply to all parties to a conflict. As far back as 1949, States agreed, in Article 3 common to the four Geneva Conventions, to abide by certain minimum standards in such wars. The provisions of common Article 3 bind all parties to non-international armed conflicts, including organized non-State armed groups. Common Article 3 reflects the most elementary considerations of humanity and has, since, been supplemented by customary humanitarian law and by Additional Protocol II – to which we hope Iraq will become signatory in the future.

IHL is part of our common heritage. It appeals to universal values that cut across countries, cultures, religions, and are deeply rooted in ancient traditions and beliefs. All major religious value systems embrace humanity, caring and respect, and the tradition of granting protection to those in danger<sup>2</sup>. Many studies have also highlighted the convergence of IHL with, for instance, Islamic traditions and legal texts. Both the Qu'ran and the Hadith of the Prophet contain the obligation not to attack non-combatants or destroy non-military objects, to respect certain limits of warfare, and to treat prisoners of war humanely.

Iraq suffers from the woes of a non-international armed conflict. As a consequence of years of fighting, hundreds of thousands have died, millions are homeless, livelihoods have been wrecked and the humanitarian situation continues to worsen. Civilians are sometimes caught in cross-fire and cannot find escape routes from the fighting. At the same time, humanitarian organizations and workers seeking to use their right of initiative to help all those who are suffering are faced with increasing constraints to do so. Hence the question of protection of civilians and the application of IHL is particularly relevant in the Iraqi context.

Rules exist, but they are only the first step. They cannot remain on paper: they have to be respected and implemented to ensuring protection for those who do not take part in hostilities. I refer to the protection of civilians or civilian objects, such as homes, schools, medical facilities, ambulances, community shelters, markets or places of worship; as well as the protection of those who no longer participate to the hostilities. The real challenge has always been to make the rules known to opposing sides and to ensure that they are applied.

One should have no illusions that any legal tool or policy argument can avail in those instances when the law is systematically ignored, if the political will to abide by it is lacking.

This cannot be the case in Iraq. We are here to help. And as part of the international

support, we must strive to ensure respect for IHL by all parties to the conflict in Iraq, in an attempt to prevent or end violations. Otherwise violence will worsen. And feed the cycle of revenge and further killing. We must prevent that. The deeper the wound, the harder the healing.

This Session on “Protection of Civilians and Application of International Humanitarian Law” is there to be one step in the direction of gaining better understanding and awareness regarding respect for IHL and protection of civilians.

Let me now introduce our first speaker, Lise Grande. Lise, the floor is yours.

<sup>1</sup>While non-state parties to an armed conflict cannot become States parties to international legal instruments, they can be bound by their provisions.

<sup>2</sup> For instance, the humanitarian spirit of helping those in need is embodied in the third pillar of Islam, Zakat or Zakah, which makes it mandatory for every Muslim to give alms to the needy. Zakat also represents the concept of needs-based assistance. The Holy Qu'ran prescribes eight categories of people who can receive zakat, notably the poor and the needy (fuqara and masakeen).