

## **RULES FOR THE CONDUCT OF WARFARE**

The Kurdish question preserves its position as an unresolved issue on the world's agenda. It is an important criterion showing the level of politics and law that humanity has reached. Kurds are a people whose existence has been denied. The rights and agreements adopted at international levels have not been implemented for the Kurdish people. The rights of Kurdish people have not only been denied but they have also been turned into a trap. They have been prevented from utilizing their natural cultural and individual rights including their political rights and entitlement to education in their mother tongue. That is why, from our point of view, one of the serious crimes against humanity has been perpetrated against the Kurds.

The experience of warfare in the last 20 years shows the level of destruction: the reality that more than 5 thousand people have been extra judicially killed, 4 thousand villages have been burnt, about 5 million people have been forcefully migrated and more than 15 thousand guerrilla have been martyred. This is the balance sheet of the state terror implemented in the North of Kurdistan (Turkey). In the Southwest Kurdistan (Syria), Kurds are being treated, as migrants while their citizenship and cultural rights are not being recognised. In Iran, Kurdish existence is recognised, but its political identity and rights are rejected and cultural development is hindered. In Iraq, although there is a move towards a solution, the threats to the constitutional gains of the Kurds continue. In the midst of such a suffocating and negative environment, it can be understandable why Kurds will incline to violence.

Those states, that have constituted the international law, have ignored the interests of the Kurdish people and the political fate of Kurdistan due their national and regional interests. The right to self-determination and legitimate defence that are enshrined in the international documents have not been transformed into practical steps for the Kurds.

The Kurdish side has adopted the principle of not using violence to destabilize the state, but only on the basis of a legitimate self-defence position. In order to develop a democratic and peaceful solution for the Kurdish issue, the PKK declared a unilateral cease-fire in 1998. But this request has received no positive response from Turkey. For a people whose existence and cultural rights are denied, war is not an alternative but, unfortunately, a compulsion to protect its existence, honour and life.

Nevertheless, international laws [UDHR 66/76, Wien Agreement 1993] do not consider the struggle of peoples for self-determination, on the basis of the peoples' right to that, to be an internal security question, but evaluates it in the framework of prohibition of the use of force in international relations. The UN General Assembly has confirmed this with its decision 1970/2625, taken on 24 October 1970. In addition, the Geneva Agreement dated 12th of August 1949, article 1-4 first protocol dated 1977, evaluated the people's armed conflict within the framework of the right to self-determination against colonial superiority, foreign invasion and racist regimes as an international conflict.

Warfare can only be put on the agenda within the framework of the utilization of the right to legitimate self-defence as accepted by the UN. Legitimate defence is as valid for all living organisms whose life and future are under threat as it is for nations, ethnicity, belief and cultural communities. Legitimate defence is a legal right. There is an acceleration of legal struggles in the age in which we live. The individual, nation, class, gender, belief and groups based on different cultures have had gains from a legal perspective. However limitations on the

utilization of natural democratic rights and the violent replies to such demands, constitute one of the fundamental problems of our world. Problems of application are observed including those states that have signed the international agreements. These norms are being indexed to the political plane hence they cannot play an active role in resolving the problems experienced by peoples.

This is why (whether it be in the world or in the Middle-East) many problems cannot be solved. The same reasons are effective in the unresolved status of the Kurdish question. It is inevitable that the right to legitimate defence is utilized against the regimes that rule Kurdistan. The states have ignored the people's natural rights, such as education in the mother tongue, and cultural and political rights.

The Kurdish side has prepared a comprehensive analysis of warfare and has reached strong conclusions in terms of what losses it brings to humanity and to nature. At the same time we are convinced that the sufferings experienced by civilians and non- military forces due to the actions of both sides in a conflict must be overcome. As the Kurdish freedom movement we declare our obligation to the UN Geneva agreement and the judgements of the International Court at Den Haag without the repetition of past mistakes and we call on all states related to the Kurdish question to comply with them.

#### **a) General Verdict:**

Legitimate defensive warfare is fundamentally a self- defence to protect natural democratic rights. One can only resort to war to contribute to the solution of problems when the solution is blocked and to unlock political dead-ends. The legitimate defence strategy does not hold a meaningless, fetishist understanding of violence. On the contrary legitimate defence is a compulsory struggle strategy that is legally binding and will develop a political resolution. It guards the right to life of all living beings and does not act with the aim of killing.

Within the legitimate defence strategy organized forces of the state, military organizations and counter-organizations that support them with their armed forces and those establishments that participate in war, the warmongers and those who attack civilian people shall be targeted.

This strategy holds the right to retaliation within the framework of legitimate defence. All peoples have the right to defend themselves when they are confronted with an assault on their national or cultural values and are under threat of annihilation. The right to retaliation against such assaults is legitimate, as long as it does not exceed its aim and scope and is not contrary to international agreements.

Within the legitimate defence warfare civilians and defenceless people are not targeted. They must be protected and their lives must be guaranteed. In war the lives of those affected, such as the wounded and captured, are to be protected and medical treatment supplied it is essential to give the opportunity for international humanity organizations such as Red Cross and Red Crescent to work and to inspect freely.

In warfare international legal inspection shall be accepted. The work of the media will be safeguarded.

It shall give the opportunity for the formation of a war crimes commission on the basis of laws for war which will be adhered to by both sides and will be binding.

On the basis of international law on war crimes actions will be open to investigation by civil democratic organizations. During these it will be essential to protect the lives and material possessions of civil democratic establishments.

All parties form an investigation commission for internal breaches of rights.

Within the borders of state, the state and its policies are responsible for the actions of irregular forces.

**b) With Regard to Civilians and Captives:**

The parties to the conflict shall protect the civilian population and its possessions and shall differentiate between the people and armed forces at all times. Civilians shall not be the targets of assaults.

Under no conditions can civilians be forced to migrate nor can they be prevented from going to their property or homes.

Respect will be shown to all people's rights, honour, beliefs and worship whether they have participated or not in the clashes.

Vehicles, which are necessary for the civil people to continue their lives, will not be attacked. An embargo on food will not be applied and destruction of food stocks will not be committed.

The lives, physical and mental integrity of those individuals who are out of the clashes or who have not directly participated in clashes shall be protected. Whatever their nationality, religious belief, cultural and sexual state they shall be protected at all times and without discrimination. All will be treated humanely.

The protection of children, women and elderly will be given a high priority. Children's right to education will not be restricted.

Those under the age of sixteen (16) will not take up arms and those under the age of eighteen (18) will not participate in armed clashes.

All respect will be shown to captives of war and to the lives, honour, individual rights and beliefs of civilians under the authority of the other party. These individuals shall be protected against

all kinds of violence. Their rights to see, communicate and to obtain help from their families shall be protected.

All have the right to benefit from legal guarantees. No one can be held responsible for an action that they have not perpetrated. No one can be subjected to physical and mental torment and torture. No one can be subjected to racist and discriminatory practice.

No matter under what conditions there shall be any punishment without judgment. At the same time extra judicial executions shall be investigated and shall be accounted for.

Respect shall be shown to individuals' life and physical integrity (Murder, rape, disablement, torture and torment shall not be practiced).

Hostages will not be taken.

Crimes such as torture, rape, and compulsion to prostitution shall be subjected to the full weight of the law.

### **c) With Regard to Armed Conflicts:**

Weapons and eradication tools shall not be used excessively. Means and tools of warfare that cause needless losses shall be avoided.

Those who have surrendered, or due to other reasons have not involved in the conflict, shall not be killed or harmed.

In warfare (no matter under whose control the wounded and the sick are) they shall be brought to safety and treated. The signs of Red Cross and Red Crescent shall be accepted as protective signs.

Respect shall be shown to the dead in war times. No destruction of corpses shall be undertaken nor will they be exposed to the media or in places open to the public.

Those who die in war shall be handed over to their families.

Village guards and spies shall be surrendered and neutralized.

Suicide acts will not be committed.

In conflicts the neutralization rather than the killing of forces shall be taken to be fundamental.

Forests will not be burnt or otherwise destroyed

**d) With Regard to Weaponry:**

All kinds of weapons of mass destruction, including biological, nuclear and chemical weapons (suffocating, burning, irritating etc. gases) shall not be used.

Weapons that burn, such as napalm, lava, and phosphorous, or create destruction o humans, plants, animals and the ecological balance shall not be used.

Mines and traps shall not be used apart from those on military targets and all kinds of mines, traps and explosives that threaten civilian life shall be avoided.

Cluster bombs shall not be used.

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**The General Assembly of KONGRA-GEL**