

## Team of Legal Gladiators? Iraqi Militias' Tortured Relationship with Law

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Articles & Testimony

## Iran-backed armed groups hate being exposed as criminals in the eyes of a populace that cares deeply about rule of law, so they have turned Iraq's legal sector into a battlespace.

Iraq's Iranian-backed militias, self-styled as *al-Muqawama al-Islamiyya* ("the Islamic Resistance"), are no strangers to legal violations. *Muqawama* affiliates frequently target and kill journalists and protesters, and militia-run "secret" prisons have become a [concern \(https://thearabweekly.com/iraqi-pm-orders-investigation-use-secret-prisons\)](https://thearabweekly.com/iraqi-pm-orders-investigation-use-secret-prisons) for [activists \(https://www.al-monitor.com/originals/2020/08/iraq-disappeared-protests-prisons-human-rights.html\)](https://www.al-monitor.com/originals/2020/08/iraq-disappeared-protests-prisons-human-rights.html), [human rights groups \(https://reliefweb.int/report/iraq/horrific-testimonies-secret-prisons-portend-catastrophe-iraq\)](https://reliefweb.int/report/iraq/horrific-testimonies-secret-prisons-portend-catastrophe-iraq), and the [United Nations \(https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d/PPRiCAqhKb7yhsummCOBeTea5EXIHB4IwLH3D+iq2ucswJBorWdYqfY/thlnnknBZXoEVXtqcPR9vs2aTihj65nHXdUtYTFtTuGJIfgvvg!7A6KqNF33/f0yTF\)](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d/PPRiCAqhKb7yhsummCOBeTea5EXIHB4IwLH3D+iq2ucswJBorWdYqfY/thlnnknBZXoEVXtqcPR9vs2aTihj65nHXdUtYTFtTuGJIfgvvg!7A6KqNF33/f0yTF).

The militias have also engaged in a years-long missile and rocket campaign targeting the U.S.-led coalition forces operating in Iraq at the invitation of the Iraqi government, killing and wounding both coalition soldiers and local civilians. More recently, *Muqawama* affiliates have taken to bombing civilian trucks driven by Iraqi civilians but purportedly carrying supplies and materiel to coalition bases. Not merely violent, the militias also derive income from a host of illicit sources and business activities, while their growing control of elements of Iraq's government and institutions allows them to exploit the proceeds of checkpoints, border controls, and racketeering ventures. In short, the *Muqawama* militias have little respect for Iraqi domestic law, regulations governing Iraq's armed forces and government employees, or any international law.

This criminality makes the militias' obsession with the law all the more surprising. Yet the Iran-backed militias—many of them U.S.-designated terrorist organizations—expend considerable time and effort broadcasting their interest in law and their role as its defenders. Policymakers seeking long-term solutions to problems posed by the *Muqawama* must understand quasi-legalism in order to disrupt their activities and support the Iraqi government's attempts to [meet its international obligation \(https://www.justsecurity.org/75232/iraqs-legal-responsibility-for-militia-attacks-on-u-s-forces-paths-forward/\)](https://www.justsecurity.org/75232/iraqs-legal-responsibility-for-militia-attacks-on-u-s-forces-paths-forward/) to prevent violations by actors affiliated with the state.

## Why Law Matters to the *Muqawama*

Law and legal issues are frequent talking points for Iraqi militias, their leaders, and propaganda channels. Oft-discussed topics include concepts linked to the law of armed conflict—particularly regarding the legality of targeting U.S. forces—and the legal position of the militias themselves as an official branch of Iraq's armed forces through the *Hashd al-Sha'abi* or "Popular Mobilization Forces" (PMF), an umbrella organization of Iraqi militias to which the *Muqawama* belongs. There are three reasons for this deep militia interest in law.

- **Lawfare.** Militia channels have become fascinated by the possibilities of using domestic and international legal institutions to constrain and discredit their militarily stronger opponents. Lawfare ("the [strategy \(https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5892&context=faculty\\_scholarship\)](https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=5892&context=faculty_scholarship) of using—or misusing—law as a substitute for traditional military means to achieve a warfighting objective") in the Middle East is nothing new, but its use in support of active operations in Iraq is a growing phenomenon. Some militia-linked commentators also believe the United States seeks to conduct lawfare (*al-harb al-qanuniyya*) against the *Muqawama*.
- **State Capture.** The militias ultimately seek to gain control of the Iraqi state through a combination of electoral gains and by setting up shadow governance to control Iraqi

populations and resources. This mirrors Hezbollah's efforts in Lebanon. But to achieve this goal, the militias need popular legitimacy and support—and the little [polling](https://www.washingtoninstitute.org/policy-analysis/uprising-or-election-what-kind-change-do-iraqis-want) (<https://www.washingtoninstitute.org/policy-analysis/uprising-or-election-what-kind-change-do-iraqis-want>), available seems to indicate that support is [limited](https://www.washingtoninstitute.org/policy-analysis/avoiding-iranian-trap-iraqi-shia-are-not-loyal-iran) (<https://www.washingtoninstitute.org/policy-analysis/avoiding-iranian-trap-iraqi-shia-are-not-loyal-iran>). Frequent-enough references to adherence to law provides propaganda value, despite the disconnect with reality.

- **Self-Conception.** The *Muqawama* view themselves as defenders of Iraqi sovereignty on the one hand, while also subscribing to an Iranian-centric version of a Shi'ite doctrine called *wilayat al-faqih* (Guardianship of the Islamic Jurist). The militias' central role in the ground war against ISIS also is key to the modern *Muqawama*'s self-conception. All this means militias are far more likely to wish to be seen as defenders or reformers of Iraq's law rather than rule breakers and destroyers, despite frequent gross violations.

*Muqawama* legalism extends beyond mere talking points, and is becoming a core part of the groups' strategy for achieving their goals. Legal conferences are held to raise awareness in Iraq of *Muqawama* legal positions and scholarship. Litigation is now regularly threatened against *Muqawama* opponents. And legal arguments are a growing part of militia information operations and propaganda.

## Militia Legal Conferences

The growing number of legal conferences hosted by militias and affiliates generally focus on issues relating to resisting the United States and the coalition. Popular topics relate to the illegality of the January 2020 U.S. airstrike that killed Iranian General Qasem Soleimani and Iraqi militia leader Abu Mahdi al-Muhandis. In January 2021, as part of the anniversary commemorations of that attack, the *Hashd al-Sha'abi* hosted a [number](https://t.me/Aletejahchana/9793) (<https://t.me/Aletejahchana/9793>) of legal [conferences](https://www.youtube.com/watch?v=photlBQmaqw) (<https://www.youtube.com/watch?v=photlBQmaqw>) (“*nadwat qanuniyya*”) under titles such as “[Violating Iraq's Sovereignty](https://www.youtube.com/watch?v=D5D11OmJ4gl) (<https://www.youtube.com/watch?v=D5D11OmJ4gl>)” and “[Assassination of the Commanders](https://t.me/Tura313/10513) (<https://t.me/Tura313/10513>)” attended by Iraqi professors of international law, and [supervised](https://www.facebook.com/102345751790529/posts/109487964409641/) (<https://www.facebook.com/102345751790529/posts/109487964409641/>) by the militias' legal staff.

Militia groups on social media platforms like Telegram also hold regular meetings that resemble something between a conference call and a podcast, in which a few prominent speakers discuss legal issues and strategies, lawfare, youth movements, and “soft war” techniques, while those dialed in are able to interject and participate. Conferences and discussions like these imply a growing recognition of the importance of law and lawfare in achieving militia goals. It also demonstrates a movement deeply interested in the power—and propaganda value—of Iraqi law, religious law, and international law.

In March, *Muqawama* propaganda outlet *Sabereen News* [announced](https://t.me/sabreenS1/19958) (<https://t.me/sabreenS1/19958>) the formation of the “*fariq mujalid al-qanun*” or “Team of Legal Gladiators.” The announcement stated “out of our belief and a bet on the bravery and honesty of the Iraqi judiciary, the *Sabereen News* team, in conjunction with a group of volunteer Iraqi lawyers, will launch the “Team of Legal Gladiators” to prosecute the media and politicians who accuse the blessed *Hashd al-Sha'abi* and militias of the *Muqawama*...” While the formation of a specific team is a new development, threats of litigation have become a standard ploy. And these threats sometimes extend to genuine defamation suits being filed in Iraqi courts.

## Lawfare and *Muqawama* Interpretations of the Law of Armed Conflict

When it comes to U.S. forces in Iraq, the *Muqawama* uses the law to discredit the U.S. mission in the eyes of Iraqi and international audiences, while portraying itself as legally upstanding (deflecting any facts that prove otherwise).

- **The Law of Occupation.** The *Muqawama* claims that the U.S.-led coalition is an occupation. By extension, the militias argue that the U.S. is targetable under Iraqi and international law. For example, Qais al-Khazali (a prominent militia leader, [sanctioned](https://home.treasury.gov/news/press-releases/sm847) (<https://home.treasury.gov/news/press-releases/sm847>) by the U.S. Treasury Department for “involvement in serious human rights abuse”) often makes speeches in which he [states](https://www.almayadeen.net/news/politics/1419701/%D8%A7%D9%84%D8%AE%D8%B2%D8%B9%D9%84%D9%8A--%D9%85%D8%A7-%D8%AF%D8%A7%D9%85-%D8%A7%D9%84%D8%A7%D8%AD%D8%AA%D9%84%D8%A7%D9%84-%D9%85%D9%88%D8%AC%D9%88%D8%AF-%D9%81%D8%A5%D9%86-%D8%B3%D9%84%D8%A7%D8%AD-%D8%A7%D9%84%D9%85%D9%82%D8%A7%D9%88%D9%85%D8%A9-%D8%B4%D8%B1%D8%B9%D9%8A) (<https://www.almayadeen.net/news/politics/1419701/%D8%A7%D9%84%D8%AE%D8%B2%D8%B9%D9%84%D9%8A--%D9%85%D8%A7-%D8%AF%D8%A7%D9%85-%D8%A7%D9%84%D8%A7%D8%AD%D8%AA%D9%84%D8%A7%D9%84-%D9%85%D9%88%D8%AC%D9%88%D8%AF-%D9%81%D8%A5%D9%86-%D8%B3%D9%84%D8%A7%D8%AD-%D8%A7%D9%84%D9%85%D9%82%D8%A7%D9%88%D9%85%D8%A9-%D8%B4%D8%B1%D8%B9%D9%8A>) that “both divine law and the laws of the United Nations permit any people faced with occupation to take up arms and resist the occupier.” Statements like this blend elements of the law of armed conflict, such as [levee en masse](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule106_sectionb) ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule106\\_sectionb](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule106_sectionb)), and notions of self-determination struggles and jus ad bellum. To support their position, the Iraqi militias often cite a parliamentary vote on Jan. 5, 2020, in which Shi'ite members of parliament voted to expel U.S. troops (though even before this vote the militias objected to the U.S. presence in Iraq). The vote was non-binding, since insufficient members of parliament were present, and the United States and the coalition continue to operate on Iraqi soil at the invitation of the Iraqi government. Nevertheless, the belief that the U.S. coalition is an “occupation” appears to create a semi-formal jus ad bellum justification in the eyes of the militias for targeting U.S. forces. Article 42 of The Hague Regulations of 1907 defines occupation as follows: “Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.” The U.S. is neither a hostile army (as an invitee of the sovereign authority in Iraq), nor does it exercise authority over Iraqi territory; but these facts do not stop the *Muqawama* from using international humanitarian law to justify attacks. To the militias—if their statements are taken at face value—the U.S. is a hostile foreign force occupying Iraq in violation of Iraqi sovereignty. Were this true, it might bolster the militias' belief that they have a right to target the United States under a theory of self-defense (in response to this purported U.S. use of force against Iraq's territorial integrity). But, for the avoidance of doubt, the United States is not currently an occupying force in Iraq.
- **The Principal of Distinction and the U.S. Embassy.** A major point of contention within the *Muqawama* is whether or not the U.S. embassy in Baghdad is legally targetable. Some militias—particularly *Kata'ib Hezbollah* (KH)—have publicly claimed that they do not consider the embassy to be targetable as a non-military target. Other groups take a different view: some groups, including *Asa'ib Ahl al-Haq* and its proxies, refer to the site as *qa'idat tawhid al-thalith* (Union Base Three), and have stated that the embassy is a military base, performing a military function, and so can be attacked. Militias have attacked the embassy on various occasions over the past year, though the attacks are either unclaimed or claimed by “facade” groups acting as proxies (or, indeed, just superficial, paper-thin fronts) for the major militias. Regardless of the true perpetrator, each attack has set off a flurry of criticisms from KH, followed by counter-criticisms from other militias. The technique of redefining arguably civilian targets under military names is also seen in militia treatment of attacks against Baghdad airport, usually referred to as *qa'idat fikturi* (Victory [military] Base). Rockets targeting the airport have fallen on civilian buildings and terminals. The apparent desire to define targets with civilian functions as military objects suggests awareness of the law of armed conflict's principle of distinction between civilian and military objects, as codified in Articles 48 and 52(2) of Additional Protocol I to the Geneva Conventions (to which Iraq is a signatory) and reflected in customary international law. Militias may or may not think of the precise treaty law language, but they likely know that openly violating this core principle risks loss of popular support.
- **Deflecting Responsibility for Civilian Casualties.** Militias are keen to highlight U.S. failures in exercising the principle of distinction in its military targeting, raising instances of civilian casualties resulting from military action. But over the past year, the majority of these casualties have in fact been caused by militia rockets or IEDs. In July, a rocket fell on a house in Baghdad, wounding a child. Then on Sept. 28, a militia rocket aimed at U.S. forces at Baghdad airport killed two women and five children in a nearby house. On Nov. 17, a child was killed and five civilians wounded by rockets targeting the U.S. embassy. And during the militia attack on the U.S. base at Erbil in February, all but two of the 14 rockets widely missed their target, landing on civilian areas of the city and killing a civilian. In each case—and others—propaganda channels quickly claimed the casualties to be the result of U.S. defensive measures such as counter-rocket, artillery, and mortar systems. While the militias and their propaganda networks generally boast of rocket attacks, barrages

that cause civilian casualties are sometimes left unclaimed, or disavowed as “false flags.” Taken together, this reveals a complicated tension in militia strategy: on the one hand, they feel a need to keep up pressure on the United States, but at the same time they fear popular backlash that results from killing civilians.

These are just some examples where *Muqawama* words and actions reveal a complex relationship with the law. On the one hand, militias seek to use international (and domestic) law as a tool to enable and justify attacks, and as a weapon to discredit and constrain U.S. forces. But Iraq’s legally attuned society and the *Muqawama*’s drive for popular credibility creates an interesting tension. While far from fully constrained by the law of armed conflict, the militias are not completely free to act either. Too many violations or too many civilian casualties risks losing more support (or at least tolerance), reducing the chance of achieving long-term goal of state capture.

## The Law of the PMF and the *Muqawama*’s Place in Iraqi Society

Not so many years ago, militias like *Kata’ib Hezbollah* and *Asa’ib Ahl al-Haq* were illegal under Article 9(1)(b) of Iraq’s constitution. That changed almost five years ago, when many of Iraq’s Shi’ite militias—including the Iranian-backed *Muqawama*—were **legally incorporated** (<https://nyujilp.org/wp-content/uploads/2020/01/NY1103.pdf>) into the Iraqi security forces through Law No. 40 of 2016, the Law of the *Hashd al-Sha’abi* (or PMF). The PMF is an umbrella organization of many militias, all nominally **subordinate to the Iraqi government chain of command** (<https://www.justsecurity.org/69273/its-time-iraq-accepts-legal-responsibility-for-its-iran-backed-militias/>). Membership provides the *Muqawama* militias with legal and political legitimacy, and this legitimacy has helped militias gain ever-greater political and social influence in recent years. Militias hold seats in parliament, running in 2018 elections with great success, while militia leaders and affiliates occupy senior roles in ministries. Successive prime ministers have attempted to bring the PMF under the chain of command. But to date, the militias are as powerful as they have ever been.

Iran-backed militias are especially proud of their official legal status and obsess over maintaining the PMF’s legal position. At present, the *Muqawama* appears to view its status as a legal organ of the Iraqi state in both “offensive” and “defensive” terms.

- **Using the Iraqi State as a Defensive Shield.** The *Muqawama* knows that its status as an organ of the Iraqi state complicates efforts to counter it. By claiming attacks on its militias are attacks on the Iraqi state, the *Muqawama* attempts to constrain the U.S. while building popular sympathy. In the aftermath of U.S. strikes, for example, *Muqawama* statements and propaganda highlight the targeted militia’s role within the Iraqi security service (Notably, Iran has done the same, most recently referring in its **letter** (<https://digitallibrary.un.org/record/3905330?ln=en>) to the United Nations Security Council to the U.S. strike “against Iraqi forces.”) After the U.S. airstrike on KH positions in Syria on Feb. 25 (itself a response to the militia attack on Erbil on Feb. 15), *Muqawama* propaganda channels took to referring to the dead and wounded as belonging to the 46th PMF Brigade. It is true that KH operates the 45th, 46th, and 47th PMF brigades, but the government of Iraq has not ordered or authorized the PMF to operate over the border in Syria. The PMF’s governing body, the Popular Mobilization Committee (PMC), also released a **statement** (<http://al-hashed.net/2021/03/01/%D9%87%D9%8A%D8%A6%D8%A9-%D8%A7%D9%84%D8%AD%D8%B4%D8%AF-%D8%A7%D9%84%D8%B4%D8%B9%D8%A8%D9%8A-%D8%AA%D8%B5%D8%AF%D8%B1-%D8%A8%D9%8A%D8%A7%D9%86%D8%A7-%D8%A8%D8%B4%D8%A3%D9%86-%D8%A7%D9%84%D8%A7%D8%B9/>) condemning the United States in legal terms, saying “a few days ago, our forces were subjected to a heinous assault by American forces, which resulted in the martyrdom of one of our fighters...we officially announce that our forces were within the Iraqi defensive line, and [stress] that this attack preempts dangerous future developments that must be prevented from occurring. The competent authorities and those concerned should do their duty towards the sons of the PMF who have made sacrifices and continue to do so for the sake of Iraq’s security.” (The PMC’s claim that the forces the United States attacked were “within the Iraqi defensive line” is contradicted by none other than Syria’s **letter** (<https://digitallibrary.un.org/record/3905380>) to the Security Council condemning the U.S. strike for occurring inside Syria.) The PMC is dominated by the Iran-backed *Muqawama* and is controlled by Abu Fadak, the **acting PMF chief of staff** (<https://www.justsecurity.org/68984/iraqi-militias-split-over-new-iran-backed-head-reflecting-wider-divisions/>) and former KH intelligence officer. Similar rhetoric (backed by real threats and violence) is used whenever the government of Iraq attempts to reform the PMF or arrest members of individual militias. So, while the *Muqawama*’s position that its units are state organs offers the militias freedom of action and protection, it constrains and limits the groups’ opponents.
- ***Muqawama* Legal Status as a Tool for State Capture.** Like Lebanese Hezbollah in Lebanon, the Iraqi *Muqawama*’s ultimate worldly objective is the capture of the Iraqi state. Different groups and affiliates go about this in different ways: some seek electoral gains (violating Iraqi constitutional prohibitions on members of the armed forces standing for elected office). Some have infiltrated government departments and agencies (KH, for example, was able to take control of Iraq’s civil aviation authority and **baggage handling** (<https://www.politico.com/news/magazine/2020/01/05/soleimani-killing-stronger-iraq-093976>) at Baghdad airport). Others have set up youth movements and paramilitary morality police that target businesses and persons deemed offensive. Maintaining and growing the legal and political role of the PMF is therefore a vital part of *Muqawama*. While the individual militias are unpopular (Shi’ite youth protests have even been directed against the militias), the broader PMF is respected for the role its fighters played in defeating ISIS. The legitimacy and status provided through the Law of the *Hashd al-Sha’abi* (2016) has taken the militias from little more than organized criminal outfits and allowed them to claim to be a respectable part of the state.

Unsurprisingly, militias fight hard to maintain the status provided by the 2016 law. Leaders fear attempts by government officials—particularly the current Prime Minister Mustafa al-Kadhimi—to either disband or at least reform the PMF in order to ensure its subunits can be controlled by the formal the chain of command. (Indeed, the Iraqi government actually is **obliged** (<https://www.justsecurity.org/75232/iraqs-legal-responsibility-for-militia-attacks-on-u-s-forces-paths-forward/>) to do this under the law of **State Responsibility** (<https://casebook.icrc.org/case-study/international-law-commission-articles-state-responsibility>) ). Militias threaten politicians attempting PMF reform with violence. Attempts by law enforcement to arrest members of the militias connected with rocket attacks or attacks on protesters are met with displays of force and massive pressure campaigns designed to force the government to release the suspects, or hand them over to PMF “custody.” These efforts to prevent either organizational reform or individual accountability ensures that Iraqi laws, courts, and institutions remain unable to control the militias.

## Relevance for Policymakers: Militia Accountability

Policymakers should understand *Muqawama* legal attitudes and interpretations. To the militias, the legal and the information environments are battlespaces to be dominated, in their mission to drive out perceived occupiers while capturing Iraqi institutions and establishing an Iranian-dominated regime. Iraqi leaders and their international partners cannot allow the militias to occupy the legal space unchallenged.

- **Call the militias’ bluff.** The militias claim they operate within Iraqi and international law, and in defense of Iraqi sovereignty. By almost no measure is this true. *Muqawama* legal narratives should be regularly and publicly challenged. Egregious rights violators should be designated and sanctioned by partner governments under legislation such as the U.S. Global Magnitsky Act and the U.K. Global Human Rights Sanctions Regulations. Where possible, Iraq-based lawsuits could be brought against militia leaders. If nothing else, such actions would make it harder for militias to falsely present themselves as legally upstanding, perhaps reducing their chances of electoral success in the future.
- **Publicly attribute attacks and violations.** **The militias hate evidence** (<https://www.washingtoninstitute.org/policy-analysis/why-irans-proxies-fear-evidence>) . They know public attribution of their actions hurts their goals. This is why they kill journalists and researchers who expose their abuses, and why they increasingly hide attacks on the coalition behind proxies and “facade” groups. Both the Iraqi government and its partners should fund investigative journalism focused on human rights and legal violations. Recognizing the job of a journalist covering the *Muqawama* is increasingly perilous, policymakers might consider providing at-risk journalists with hostile environment training.

- **Raise (and enforce) penalties against freedom of speech violators.** Iraq should pass laws designed to protect journalists and impose penalties violators of the right of free expression. International funding and investigative support should be devoted to helping authorities track down violators.
- **Enforce Iraqi military laws.** Iraq's laws already provide a framework for militia accountability. In particular, militias cannot be allowed to enjoy the protections that come with being Iraqi security forces, without also submitting to the laws binding those organizations. The [2007 Law of Military Punishments](https://arb.parliament.iq/archive/2007/05/09/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D9%82%D9%88%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D8%B3%D9%83%D8%B1%D9%8A-%D8%B1%D9%82%D9%8519-%D9%84%D8%B3%D9%86%D8%A9-2007/?_cf_chl_jschl_tk_=832b08145f8ac69c5a581997ed74465382fff88c-1616957682-0-AbwAwTNDAGAONOV4thvYXwveTY-qOhLcBA6bt14MoEbKjUGs1DOFjMqjDopavlsKpjKTUW8fRZ1sptPwDp_66pl7KPHOyuVFhf_mrF2Crwp7QHAbcC38ygnPE6fZaROG9Oq5LLCE07IImDrjJ-aXvLK96VqklZb98wu5IQB1RDC_COSSQxbAatBB05s4pCFZrzO18bsy2FWemHWyOkMfPzBLrP1p8WQaTxxyx6hewbFzOT-5QTXagRIKS7IHNOskTx5RBbKqBENvaJ2o9H61yZSJWwUNNIUBrAzUL400TGZMoo1pNc1LDbn6ukKi1YPW8GXmVX67SBozhj2sqOpCPrKmlaiKxYr6pOuG-nhoP5tvU-wY1_0-3IWAfXtqyUYSto8Ho_qqVRZktnIICURvUKQItFyDg5A-KNbG1hMDanRtuc02MhcZ2jXGC7Obeaq3fy-o-aH3iErsbflSSX20gVQC4ZFkfsyXul82izS_I5EENMIX83OqoCyuSyrv5R3V6ipjCC575EE_ss3e3oe70aJwMOhn6yBD7lkPrGYDESTo84zIM2tyv31Tq2ozR5w-CGSyNh-iCNKwVd4VKds) ([https://arb.parliament.iq/archive/2007/05/09/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D9%82%D9%88%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D8%B3%D9%83%D8%B1%D9%8A-%D8%B1%D9%82%D9%8519-%D9%84%D8%B3%D9%86%D8%A9-2007/?\\_cf\\_chl\\_jschl\\_tk\\_=832b08145f8ac69c5a581997ed74465382fff88c-1616957682-0-AbwAwTNDAGAONOV4thvYXwveTY-qOhLcBA6bt14MoEbKjUGs1DOFjMqjDopavlsKpjKTUW8fRZ1sptPwDp\\_66pl7KPHOyuVFhf\\_mrF2Crwp7QHAbcC38ygnPE6fZaROG9Oq5LLCE07IImDrjJ-aXvLK96VqklZb98wu5IQB1RDC\\_COSSQxbAatBB05s4pCFZrzO18bsy2FWemHWyOkMfPzBLrP1p8WQaTxxyx6hewbFzOT-5QTXagRIKS7IHNOskTx5RBbKqBENvaJ2o9H61yZSJWwUNNIUBrAzUL400TGZMoo1pNc1LDbn6ukKi1YPW8GXmVX67SBozhj2sqOpCPrKmlaiKxYr6pOuG-nhoP5tvU-wY1\\_0-3IWAfXtqyUYSto8Ho\\_qqVRZktnIICURvUKQItFyDg5A-KNbG1hMDanRtuc02MhcZ2jXGC7Obeaq3fy-o-aH3iErsbflSSX20gVQC4ZFkfsyXul82izS\\_I5EENMIX83OqoCyuSyrv5R3V6ipjCC575EE\\_ss3e3oe70aJwMOhn6yBD7lkPrGYDESTo84zIM2tyv31Tq2ozR5w-CGSyNh-iCNKwVd4VKds](https://arb.parliament.iq/archive/2007/05/09/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%B9%D9%82%D9%88%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B9%D8%B3%D9%83%D8%B1%D9%8A-%D8%B1%D9%82%D9%8519-%D9%84%D8%B3%D9%86%D8%A9-2007/?_cf_chl_jschl_tk_=832b08145f8ac69c5a581997ed74465382fff88c-1616957682-0-AbwAwTNDAGAONOV4thvYXwveTY-qOhLcBA6bt14MoEbKjUGs1DOFjMqjDopavlsKpjKTUW8fRZ1sptPwDp_66pl7KPHOyuVFhf_mrF2Crwp7QHAbcC38ygnPE6fZaROG9Oq5LLCE07IImDrjJ-aXvLK96VqklZb98wu5IQB1RDC_COSSQxbAatBB05s4pCFZrzO18bsy2FWemHWyOkMfPzBLrP1p8WQaTxxyx6hewbFzOT-5QTXagRIKS7IHNOskTx5RBbKqBENvaJ2o9H61yZSJWwUNNIUBrAzUL400TGZMoo1pNc1LDbn6ukKi1YPW8GXmVX67SBozhj2sqOpCPrKmlaiKxYr6pOuG-nhoP5tvU-wY1_0-3IWAfXtqyUYSto8Ho_qqVRZktnIICURvUKQItFyDg5A-KNbG1hMDanRtuc02MhcZ2jXGC7Obeaq3fy-o-aH3iErsbflSSX20gVQC4ZFkfsyXul82izS_I5EENMIX83OqoCyuSyrv5R3V6ipjCC575EE_ss3e3oe70aJwMOhn6yBD7lkPrGYDESTo84zIM2tyv31Tq2ozR5w-CGSyNh-iCNKwVd4VKds)) provides a comprehensive list of crimes and punishments for Iraqi service personnel. Article 28(1) provides for punishment for those who seek to usurp the government's rule or place part of Iraq under the control of a foreign government. Article 29(8) sanctions those who fail to carry out their duties, act without authority, or act to obstruct the government—categories that could apply to killing or intending to kill a member of the military, an allied military, or a civilian. Article 5 stipulates that “crimes committed against troops belonging to the Army of an allied country while carrying out joint military operations shall be considered a crime against Iraqi troops when that country has enacted a reciprocal agreement with the Republic of Iraq.” Where the law is breached, both the government of Iraq, and partner nations, should at a minimum publicize the illegality of the action and should, ideally, work to hold perpetrators accountable.
- **Arrest—and convict.** Prime Minister Kadhimi has made efforts to arrest perpetrators of attacks but too often suspects have been [released](https://www.france24.com/en/20200629-iraq-frees-pro-iran-fighters-held-over-rocket-fire) (<https://www.france24.com/en/20200629-iraq-frees-pro-iran-fighters-held-over-rocket-fire>) after militias pressured authorities. And too often the chain of attribution is not followed all the way to more senior commanders and political figures. If no accountability exists for attacks they are unlikely to cease.
- **Strengthen Iraq's judiciary.** So long as Iraq's judiciary is not fully protected and funded, holding rogue militias (which often operate similarly to organized criminal enterprises) accountable will be difficult. Lessons of success and failures, advantages and pitfalls could be identified from U.S. experiences in convicting organized criminal groups, or from U.K. experiences convicting terrorists in Northern Ireland during the troubles. Partner nations should help Iraqi law enforcement and members of the judiciary develop similar systems—customized for the Iraqi context.

Iraq's Iran-backed militias are not law-abiding. Nevertheless, the *Muqawama* hate being exposed as legal violators. They know Iraqis care about rule of law, and have adopted the law as a battlespace. But if the rule of law in Iraq is to be preserved and developed long-term, militias must actively be denied the ability to operate without accountability.

*Crispin Smith, a researcher focusing on Iraqi security and law of armed conflict issues, is a serving officer in the British Army Reserve. Any opinions expressed are his alone. Hamdi Malik is an associate fellow with The Washington Institute, specializing in Shia militias. Michael Knights is the Institute's Bernstein Fellow. This article was originally published on the Just Security website (<https://www.justsecurity.org/75723/team-of-legal-gladiators-iraqi-militias-tortured-relationship-with-law/>).* ❖

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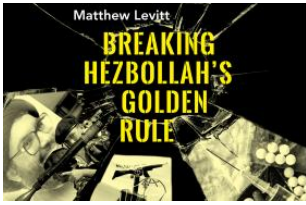
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