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## 54° SESSION OF THE PERMANENT PEOPLES TRIBUNAL

**ROJAVA vs TURKEY**

**Brussels, 5-6 February 2025**

### **JUDGMENT**

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## **List of Acronyms**

CEDAW Convention on the Rights of Elimination of All Forms of Discrimination Against Women  
CHD Progressive Lawyers Association  
DAANES Democratic Autonomous Administration of Northern and Eastern Syria  
ECHR European Convention on Human Rights  
EEC European Economic Community  
EU European Union  
FSA Free Syrian Army  
GCPEA Global Coalition for the Protection of Education from Attack  
HRW Human Rights Watch  
ICC International Criminal Court  
ICCPR, International Covenant on Civil and Political Rights  
ICJ International Court of Justice  
ICTR International Criminal Tribunal for Rwanda  
ICTY International Criminal Tribunal for the Former Yugoslavia  
IDPs Internally Displaced Persons  
IS, Islamic State  
JEP Special Jurisdiction for Peace, Colombia  
KMC Kobane Medical Centre  
MdM Médecins du Monde  
MIT Turkey's National Intelligence Organisation  
MMC Mishtenour Medical Centre  
MP Military police  
OHD Association of Lawyers for Liberty  
PKK Kurdistan Workers' Party  
RDI Rights Defence Initiative  
RIC Rojava Information Center  
SDF Syrian Democratic Forces  
SIG Syrian Interim Government  
SNA Syrian National Army  
STJ Syrians for Truth and Justice  
TPC Turkish Penal Code  
UN COI United Nations Independent International Commission of Inquiry on the Syrian Arab Republic  
UN IIM United Nations International and Independent Mechanism

UNESCO United Nations Educational, Scientific and Cultural Organisation

UNGA United Nations General Assembly

UNHCR United Nations High Commissioner for Refugees

UNMISET United Nations Mission of Support to East Timor

UNSC United Nations Security Council

WKI Washington Kurdish Institute

YPG People's Protection Units

YPJ Women's Protection Units

# 1. INTRODUCTION

## Procedures

The Permanent Peoples' Tribunal (PPT) is an international organisation established in 1979 as the expression of, and instrument to affirm and promote, the Universal Declaration of the Rights of Peoples (Algiers, 1976) through independent hearings and judgments on severe violations of human and peoples' rights which do not find visibility and identification in the established courts of national and international law.<sup>1</sup>

The request which led to the public hearings on *Rojava vs. Turkey*, held at Free University of Brussels on 5-6 February 2025 (Annex 1), was submitted by a network of associations representing the peoples of the autonomous Kurdish region of Rojava.<sup>2</sup> Following the procedures outlined in the PPT Statutes, the indictment (Annex 2) was recognised as fully in line with its competences and terms of reference.

The indictment accuses Recep Tayyip Erdoğan (President of Turkey), Hulusi Akar (former minister of defence), Hakan Fidan (former head of the national intelligence organisation MIT, current foreign minister), Yaşar Güler (General, former chief of the defence staff, current defence minister) and Ümit Dündar (General) of the following crimes, committed from 2018 to date:

- The crime of aggression (unlawful military interventions in Syria between 2018 and 2024, against the will of the Syrian authorities and the Rojava autonomous administration);
- Crimes against humanity, in particular ethnic cleansing (forced displacement of the Kurdish population and ethnic engineering by resettling Syrians from elsewhere);
- War crimes including targeted killings of civilians, indiscriminate bombing of civilians, unlawful deportation and transfer by an occupying power of its own population; appropriation of civilian property; use of banned weapons; cultural and religious erasure through destruction of cultural heritage; collective punishment; environmental destruction; targeting of women; unlawful detention; torture; destruction of civilian infrastructure.

The war crimes listed also constitute grave violations of human rights, in particular violations of the right to life, the prohibition against torture, inhuman and degrading treatment or punishment; the right to liberty; rights of freedom of expression and assembly; rights to the peaceful enjoyment of property; rights to cultural heritage; to non-discrimination, peace, equality and self-determination.

During the public hearing, impressive written and audio-visual documentation was made available to the panel of judges in support of the indictment.

The panel of judges, appointed by the PPT President and PPT General secretariat, comprised: Frances Webber, UK, chair of the panel; Giacinto Bisogni, Italy; Domenico Gallo, Italy; José Elías Esteve Molto, Spain; Czarina Golda S. Musni, The Philippines; Gabrielle Lefèvre, Belgium, and Rashida Manjoo, South Africa (Annex 3). The role of leading prosecutors was assumed by Jan Fermon (Belgium) and Şerife Ceren Uysal (Turkey), who were in charge of the presentation of the indictment and evidence. Several international experts who were part of the prosecution team (Annex 4) were responsible for collecting evidence and analysing the impact of the human rights violations denounced, relying on contacts with the Kurdish population and direct witnesses on the ground, many of whom were prevented from travelling due to the events of 8 December 2024.

The Government of Turkey was duly informed of the indictment and of its right to a defence with a certified notification transmitted to the embassies in Rome and Brussels, followed by a hand delivery. The defendants failed to respond and did not appear.

The inclusion of this request on the PPT agenda as an urgent and relevant matter also took into account the specificities of the case. While the general position of Turkey in terms of criminal responsibility towards the Kurdish population in Turkey had already been carefully documented in a previous session of the PPT, held in Paris in March 2018,<sup>3</sup> Rojava represents a uniquely challenging situation, with violent, even military, direct repression on the one hand, and the ambiguity in international law of the status of the autonomous administration of Rojava as a non-state entity on the other. The international recognition for the role of the Kurds in combatting one of the most worrying manifestations of organised terrorism, Islamic State (IS), contrasts with the lack of international interest in defending them against relentless attack not only on their persons and homes but also on the model of society they have developed, which has been widely acclaimed as an inspiring window to the future of democracy in Syria and more broadly in the countries of the region.

The complexity of the case of the Kurds of Rojava fits the nature and functions of this Tribunal, which, as is well known, is not and does not aspire to be a formal court. Its functions, as recognised in its Statute, are those of exercising the right to speak, especially in cases such as that of the Kurds of Rojava, in which it is not possible to have recourse to national or international judicial mechanisms for reasons that will be analysed in this judgment. Moreover, unlike formal courts, the need to identify crimes in accordance with international criminal law is compounded by the need to highlight the systematic nature of the violations and their impact on the life project of the Kurdish people, in accordance with the international human rights system.

### **The historical and political context of Rojava**

The reality and identity of the people under the name of Rojava have their roots in the protests against the regime of Bashar al-Assad and the turmoil of the civil war which followed with a staggering toll of half a million people dead, seven millions internally displaced, and six million forced into exile.<sup>4</sup> On the night of 18 July 2012, armed Syrian Kurds took control of the roads leading in and out of the city of Kobane in northern Syria. By 21 July, the ‘Rojava revolution’, the liberation of Kurdish towns of north and east Syria from regime forces, had reached towns in the north-eastern Syrian border region, including Afrin in the west and the Jazeera region in the east, and soon turned into a process of social and political transformation. In 2014, the three founding cantons, Kobane, Afrin, Jazeera, declared themselves democratic, autonomous administrations in a grassroots, gender-equal and ecological society committed to ethnic and religious equality and freedom.<sup>5</sup> The new governing system, which combined a bottom-up organisational approach with a top-down administrative approach, aimed and aims to remain under the umbrella of the Syrian State.

Rojava has also become synonymous with the successful fight against IS, largely led by the People's Protection Units (YPG) and the Women's Protection Units (YPJ), that emerged as a defence force for Kurdish-majority areas in northern Syria after the Syrian government withdrew its forces from these regions during the early stages of the Syrian civil war. Together with the Syrian Democratic Forces (SDF), a multi-ethnic coalition formed in 2015, and the US-led coalition, YPG and YPJ defended and liberated many areas and the form of self-government changed not only in territorial terms. On 16 July 2018, the Democratic Autonomous Administration of Northern and Eastern Syria (DAANES) was established, covering one-third of the country's territory and seven cantons, and home to almost five million people belonging to various religious and ethnic groups whose rights are recognised and guaranteed. After the final major battle against IS that took place in Baghuz in March 2019, the SDF

continued to play a key role in maintaining security in north-eastern Syria, including managing detention facilities holding thousands of IS fighters.

Multi-ethnicity is a defining characteristic of the DAANES, as is gender equality. Its founding statute is built upon the full recognition of formal equality among citizens and ethnic groups, the democratic and participatory management of government autonomy, and the application of the principle of non-discrimination both formally and substantively, including the recognition of gender equality through the full and shared participation of women in political and public offices.<sup>6</sup> The participation of women in the political life of the administration is undoubtedly one of the most significant achievements of recent years: each public office is allocated to two representatives, a man and a woman, who act as co-chairs. Women also make up between 30 and 40 percent of the members of the self-defence unit who have played a key role in protecting civilians and minorities in the region from IS attacks. The same is true of the inclusion of young people in the political system of the DAANES, which is based on the structure of the councils that aim to guarantee the participation of the population in the political, social and economic life. Health, justice, self-defence and economic sustainability are central to this process of self-government, in an area mainly based on agriculture, livestock farming and small-scale commercial activities such as textiles and olive oil production. The only industrial sector - and the backbone of self-government - is oil and gas production.

The Tribunal heard how DAANES has been deliberately and repeatedly threatened and targeted by Turkey with the aim of occupying and cleansing the territory of Kurdish cultural and political identity on the pretext of links with the Kurdistan Workers' Party (PKK). The first direct military intervention took place in 2016-2017 between Aleppo and Manbij, during Operation Euphrates Shield, that aimed to prevent Kurdish territorial consolidation and to create a so-called buffer zone. The second military campaign began on 19 January 2018 with the heaviest air strikes ever carried out by Turkey. Operation Olive Branch targeted the Kurdish-held Afrin region, leading to Turkish control and demographic changes through the resettlement of Syrian refugees. This was followed by Operation Peace Spring on 9 October 2019, the third invasion of an area between the towns of Tel Abyad and Serekaniye. Apart from these three major operations, there have been countless airstrikes on civilian neighbourhoods and infrastructure in Kurdish-controlled areas, including many by fighter jets and many more by drones, throughout the period from 2018 to date. As will be detailed in the following pages, attacks were also carried out by Syrian militias funded and commanded by Turkey, targeting the civilian population and infrastructure vital to the survival of the Kurds and other DAANES populations, such as waterworks, oil refineries and hospitals.

The fall of the Assad regime opens a new chapter in the troubled history of the Middle East: the future of the 'Rojava revolution' hangs in the balance between the unknowns of the new political and military power arrangements in Syria and in the whole region. The resolution of Turkey's continuous military intervention in the country, uninterrupted in the last two months, is uncertain, as is the role that Recep Tayyip Erdoğan's government plays in this transitional phase. The real prospects of the Damascus government, including the Kurdish autonomy project, remain to be seen, as does the possibility of the DAANES proposals contributing to the consolidation of a democratic system based on the recognition of fundamental human rights, the political participation of all minorities, and the substantive role of women.



## 2. EVIDENCE

### 2.1 THE ATTACKS ON ROJAVA

DAANES's regions or 'cantons' include: (1) the Afrin region of western Syria, approximately 1800km<sup>2</sup> whose residents were 85 percent Kurdish; (2) the 'M4 Strip' region, approximately 4000 km<sup>2</sup>, which stretches from south to north from the M4 road to the Turkish border and west to east from Tel Abyad to Serekaniye; and (3) the 'Al-Bab/Azaz/Jarablus Triangle' region north of Aleppo, approximately 2300 km<sup>2</sup>, an Arab-majority region where hundreds of thousands of internally displaced persons (IDPs) from the Syrian civil war took shelter.<sup>7</sup>

The city of Afrin in north-west Syria was 95 percent Kurdish before the January 2018 invasion, and only a quarter Kurdish since. Turkey announced on 23 March 2018 (the 103<sup>rd</sup> anniversary of the Battle of Çanakkale, in which the Ottomans defeated armies of Britain and France) that it had taken control of the Afrin region.<sup>8</sup> Evidence from local and international human rights organisations, institutions such as the United Nations and the European Union described how the Turkish bombardment, invasion and military occupation of the north and east regions of Syria, featuring attacks on civilians and civilian infrastructure (see sections below), caused massive displacement of civilians fleeing for safety from the villages and cities of Afrin, Tell Abyad and Serekaniye. These attacks, and the violations described below, were all part of the demographic engineering of a once majority-Kurdish region. Turkey has been relentless in attacking the north and east regions of Syria in military operations under the guise of a combatting terrorism, claiming that the YPG and YPJ are the Syrian arm of the Kurdistan Workers' Party (PKK), with which it has been engaged in a decades-long armed conflict,<sup>9</sup> and vowing to thwart any attempt to create a Kurdish State,<sup>10</sup> at whatever cost in human life.

#### **Turkey's responsibility for the armed factions/ SNA**

As the 2024 Human Rights Watch (HRW) report, *Everything is about the power of the weapon: abuses and impunity in Turkish-occupied Syria*, declares: 'In swathes of northern Syria, Türkiye is an occupying power. It exercises administrative and military control on the Syrian side of its southern border both directly and through a de facto proxy it helped create, the Syrian National Army (SNA), a loose coalition of armed opposition groups that is largely made up of former Free Syrian Army (FSA) fighters.' In its attacks on and occupation of north and east Syria, from 2018 on, Turkey has relied heavily on Syrian militias who had been involved in its earlier operation in Syria, Euphrates Shield, providing ammunition and paying around 30,000 fighters.<sup>11</sup> It allowed the militias to loot and pillage Afrin city for a fortnight after seizing control. By June 2019 Turkey had established at least 17 military bases in the Afrin canton, with special units in ten further locations, a military airport and an intelligence station, from which Turkish military and police take orders. The armed factions are responsible for protecting the areas of Afrin bordering Turkey, and for security measures against the Kurds in the occupied areas.<sup>12</sup> The European and American Solidarity Committee for Afrin reports in *Afrin, 6 years of illegal Turkish military occupation* that the Turkish army has built military training camps for the militias in Syrian territory.

Turkey now has over 100 military sites, including bases and observation posts, across areas in northern Syria. Turkish military and intelligence agencies oversee the factions' conduct in these areas, maintaining operations rooms in al-Bab, Jarablus, Serekaniye, and Afrin which direct the SNA factions, according to a December 2022 New Lines Institute intelligence briefing: 'The Turkish military and intelligence officers heading these centres coordinate the distribution of ongoing military responsibilities, make all decisions, and inform the Syrian commanders, who then carry out the orders'.<sup>13</sup> Turkish authorities and the SNA often arrest and illegally transfer Syrian nationals to

Turkey to face trial, an act that is prohibited under the law of occupation ‘regardless of its motive’.<sup>14</sup> In the words of the Commission of Inquiry on the Syrian Arab Republic (hereafter, UN COI), ‘such transfers provide further indication of collaboration and joint operations between Turkey and the Syrian National Army for the purpose of detention and intelligence-gathering’.<sup>15</sup> In exchange for their participation as proxy groups in Turkish military operations across northern Syria and as mercenaries in its international military forays, Turkey supplies the factions of the SNA with weapons, salaries, training, and logistical support.<sup>16</sup>

In 2018, as serious abuses at the hands of the various factions peaked following the invasion of Afrin, the Syrian Interim Government (SIG, the internationally recognised governing body of Syria representing opposition groups) and Turkish authorities established a new Military Police force (MP), supposedly to prevent and investigate crimes committed by the SNA groups. Answering directly to Turkish military and intelligence officials and comprising former members and commanders of the groups, not surprisingly it has itself been implicated in numerous abuses, some documented above.<sup>17</sup> The MP operates prisons, including in the cities of al-Bab, Afrin, and Serekaniye, and detention centres throughout Turkish-occupied territories. The reports confirm that many SNA factions also run their own unofficial detention centres in smaller towns and villages under their control, despite attempts by the SIG to stop this practice.

## 2.2 ATTACKS ON CIVILIAN AREAS

### Tel Rifaat

Prosecutor **Rengin Ergul** presented evidence of shell attacks on civilians in Al-Shahba, on 2 December 2019, as emblematic of the indiscriminate attacks on civilians by Turkey and its proxies. She told us that on 2 December 2019, between 13.30-14.00, a shell struck Al-Shahba garage neighbourhood, exploding on the roof of a building and showering shrapnel, killing 10 civilians including 8 children aged from 3 to 15, and injuring 17 including 9 children aged from 6 to 15. A second shell struck the same location two to three hours later, suggesting a deliberate attack. The area contains a school and is near a Red Crescent facility, and has no military targets, and is known to host people displaced from Afrin during Operation Olive Branch in 2018. A Kurdish Red Crescent report detailed the casualties.

Tel Rifaat is a strategic town located 20 km south of the Turkish border, at the time of the attack under Kurdish control but in a region targeted by Turkish military operations since 2017. Erdoğan had wanted to extend ‘Operation Peace Spring’ (9-22 October 2019) to Tel Rifaat, and there were reports of fighting between YPG and Turkish and Turkish-aligned armed groups from 25 November to 8 December 2019.

#### *Corroborative evidence:*

A Press TV video showed children in an unknown location being rushed to hospital, dead children lined up on the floor and a distraught mother. The lack of translation meant we could not confirm that this footage related to the attack, however there is other reliable evidence of the attack and the casualties. The attack is referred to in the 20 January 2020 report of the Commission of Inquiry on the Syrian Arab Republic (UN COI, set up in 2011 to document human rights abuses in Syria),<sup>18</sup> which says the town, under the control of the Syrian Democratic Forces (SDF), ‘experiences regular shelling’. The report confirms that the affected civilians had previously been displaced from the Afrin area, although its casualty count differs slightly from that presented to the Tribunal. A Rights Defence Initiative report dated 20 January 2020 refers to the attack, indicating that the source of shelling was

Kaljibrin, Azaz town, Aleppo, and was probably carried out by Syrian armed forces (Syrian National Army, SNA) under Turkish army command, and also that the Turkish army's 3<sup>rd</sup> Corps was stationed in the Azaz area. RDI says the shell landed on children playing after school, turning into shrapnel on exploding which hit children and passers-by in a crowded civilian neighbourhood. It adds that a Russian and a Syrian military post were in the area, and that after the injured were taken to hospital, Russian forces came to collect pieces of the shells, raising suspicion because of the unusual number of casualties and the way the shell burst into shrapnel, which was indicative of unconventional weaponry. However the probability was that the SNA under Turkish command were responsible. The report includes short testimonies from those injured and bereaved.

### **Tel Abyad and Serekaniye: use of white phosphorus**

Prosecutor **Urko Azurtza** presented evidence of attacks on civilians in Tel Abyad and Serekaniye during Operation Peace Spring in October 2019, leading to the evacuation of approximately 138,000 people from the Serekaniye area alone. During the military operation, he said, substantial evidence emerged indicating the use of white phosphorus, which is internationally banned for use against people.

#### *Corroborative evidence:*

The Tribunal was shown footage captured by a film crew of an artillery strike on Serekaniye / Ras al-Ayn on 12 October 2019 from Turkey, which from the pattern of the explosion, its shape and growth,<sup>19</sup> from medical analysis of the injuries it caused to 30–35 people,<sup>20</sup> and from laboratory analysis,<sup>21</sup> was found to be white phosphorus, an incendiary whose use is banned against people, whether military or civilians, because of the extreme suffering it causes.

### **Other attacks on civilian areas**

The UN COI regularly details attacks on civilian targets in its reports, attempting to attribute responsibility (although this is often difficult if not impossible when civilians are hit during military clashes). It attributes several such attacks to Turkey or armed factions it supports, through factors such as the direction of fire and the origin and nature of weaponry. Its January 2020 report refers to a mortar attack, launched from Turkey, on a civilian neighbourhood in Qamishlo which killed a boy and an elderly woman and severely injured two more children,<sup>22</sup> and an attack on a civilian convoy of 70-80 private cars and vans near the Great Mosque in Serekaniye/ Ras al-Ayn on 12 October 2019, which killed 11 people and injured 74.<sup>23</sup> Its August 2022 report attributed the shelling of several border villages around Ayn Al-Arab in January 2022, and a drone attack on a civilian bus in Qamishlo in February 2022, to Turkey.<sup>24</sup>

Amnesty International found damning evidence of indiscriminate attacks in residential areas during Operation Peace Spring, launched to 'neutralise terror threats' and 'liberate local communities from terrorists', in President Erdoğan's words.<sup>25</sup> Targets of intensive airstrikes by Turkey on the north Syrian cities of Serekaniye and Tel Abyad and a ground attack by SNA militias,<sup>26</sup> included a home, a bakery and a school,<sup>27</sup> and AI added that at least 218 civilians had been killed by 17 October, according to the Kurdish-led administration's health authority in northeast Syria, including 18 children. Members of the Syriac and Armenian Christian communities were injured by shelling and forced out of the area.<sup>28</sup> Victims' association Synergy documented 59 civilians killed (excluding 11 field executions) in the Serekaniye and Tel Abyad areas in the four years to October 2023, and 79 explosions, which killed at least 146 civilians and injured 300.<sup>29</sup>

The Washington Kurdish Institute (WKI) has analysed Turkish attacks on civilian targets in the DAANES from January 2020 to August 2023, by year, age and sex of victim, geographic distribution

and type of weaponry used, finding a total of 114 killed and 348 injured (excluding casualties of border police and military casualties). It found that areas with a high-density civilian population were targeted; women made up one-fifth of victims and children over one-third; the use of drone airstrikes, which are more deadly to civilians, had increased since 2021, while artillery attacks had not diminished.<sup>30</sup>

The 2024 HRW report, *Everything is by the power of the weapon*,<sup>31</sup> referred to continuing Turkish drone attacks and shelling by Turkish-backed Syrian forces on northeast Syrian cities and towns held by Syrian Kurdish forces, killing and injuring civilians, inflicting damage on densely populated areas and critical infrastructure, and prompting more displacement. And the attacks continue: investigative journalist Hoshang Hasan testified that since the Assad regime had collapsed on 8 December, over 100 strikes had been conducted by Turkish warplanes, drones and artillery, in air and ground attacks on Kurdish areas in north and east Syria, leaving at least 40 civilians dead and 150 injured.

### **Attacks on schools and schoolchildren**

Prosecutor **Rengin Ergul** presented evidence regarding the drone strikes on the Schemoka school on 18 August 2022, when schoolgirls were playing volleyball in the playground. The attack by Turkish forces killed five girls and injured several others. The girls were studying in a new model of Rojava school, run to international standards and with an international curriculum by the Autonomous Administration for displaced children under a protocol agreed with the United Nations. The Tribunal heard video evidence from teacher **Slava Şexmus Ahmed**, and from two girls who survived the attack, **Rinde Bekir** and **Novin Riyade**, who showed courage and grace as they testified about the deaths of their close friends. They described their shock and horror as they waited with dead and badly injured classmates, waiting in vain for help from the International Coalition base two kilometres away, which could have saved the lives of some of the girls. No personnel from the base intervened to help the children. A statement issued by Kongra Star, a coalition of women's organisations, saw the attack as part of the occupying Turkish forces' objective to terrorise the Kurdish population and prevent any form of emancipatory education, condemning as wholly inadequate the statement of condolence issued by the International Coalition and demanding that the Coalition close its airspace to Turkey. 'Targeting young people is a new policy introduced in the region ... Since young people are the foundation of society, they want to break the will of the youth', the statement said.<sup>32</sup>

The UN COI reports that during Operation Peace Spring, around 20 schools in Serekaniye were reported destroyed, including Khed Derei, with 1,500 students, which was struck on 11 October 2019. A total of around 150 schools were closed in Tel Abyad and Serekaniye, severely disrupting children's education in the region, with at least 60 schools in Hasakah and Qamişlo temporarily transformed into IDP shelters, resulting in classes being suspended for at least 17,000 pupils.<sup>33</sup> Other evidence before the Tribunal included a report from the Global Coalition for the Protection of Education from Attack (GCPEA), which identified at least 95 attacks on schools in Syria in 2022-23 by all parties including Syrian government and Turkish forces and non-state groups including Turkey-aligned armed groups.<sup>34</sup>

## **2.3 TARGETED ATTACKS ON CIVILIANS**

The Tribunal saw evidence of targeted attacks on civilians, in particular on women, on journalists, particularly those reporting on Turkish atrocities; and on protesters. Drone footage posted on an SNA-affiliated Telegram channel showed an attack on 18 January 2025 on a small group of protesters who were doing a traditional Kurdish dance on Tishreen dam as part of a peaceful protest against Turkish attacks. An eye-witness, Jakob Rin, who went to the dam to join the protest and film it for social media, heard and felt an explosion, and began filming – the Tribunal saw his footage of the aftermath

of the strike – when he was hit by a second explosion a few minutes later. He told the Tribunal there was a third strike some hours later, very close to the dam, and a Kurdish Red Crescent ambulance on its way to the dam was hit by another drone.

Human Rights Watch reported on the January attacks, adding that the drone footage had a caption reading ‘The armed drone sends congratulations and blessings to the SDF celebrations at Tishreen Dam’. HRW said 6 civilians had died and 16 were injured in the strikes, and referred to a total of four attacks on protesters near the site in January 2025, killing 20 and injuring over 120. The Turkish government reportedly accused the SDF and YPG of using civilians as ‘human shields’ at the dam, although the dam itself is civilian infrastructure protected under international law.<sup>35</sup> Another source, the Intercept, reported from Kobane on a series of attacks on civilian convoys carrying protesters to the dam, as well as drone strikes at the end of January 2025 which hit a produce market in Sarrin, killing eight and injuring over 20, and another killing a young couple in their home in Kobane.<sup>36</sup> The April 2024 report of Human Rights Organisation in Jazeera documents nearly 100 drone strikes from 2019 to 2024 resulting in indiscriminate killings of civilians, especially women.

## **Gender-related killings/femicide/femicide**

### *Context*

Gender-related killings of women (also referred to as femicide or femicide in the documentation received) is not a new form of violence. It is an extreme manifestation of existing forms of violence and the ultimate act of violence which is experienced in a continuum. During armed conflict, women experience all forms of physical, sexual, psychological and financial violence, perpetrated by both State and non-State actors. Such violence is often used as a weapon of war, to punish and dehumanise women and girls, and to persecute the community to which they belong. Women and girls suffer from operations randomly or strategically targeting and terrorising the civilian population, but also from summary and extrajudicial executions, imprisonment, torture, rape and sexual mutilations for fighting in resistance movements, for engaging in the search for and defence of their loved ones or for coming from communities suspected of collaboration. Political activists, particularly high-profile women, and human rights defenders generally, who challenge oppressive political policies and practices, are more at risk of suffering human rights violations, including assassinations, as they are perceived as challenging accepted sociocultural norms, traditions, perceptions and stereotypes about the role and status of women in society. The targeting of the families of women human rights defenders is a way to manipulate and exert additional pressure on them to stop their human rights work.<sup>37</sup>

Within an understanding of the abovementioned context, prosecutor **Barbara Spinelli** provided a brief overview of the importance of the gender dimensions of human rights violations experienced by women and girls that fall within the categories of war crimes and crimes against humanity. Kurdish women have acknowledged and rendered visible the gendered nature of such crimes, and the Tribunal judges were urged to adopt the same practice when reflecting on the evidence and information provided in respect of violence against women broadly, including political femicide/femicide. The role of women in leading the revolution in north and east Syria – whether through their roles in formal politics, in working in women’s movements and organisations or in advocating and mobilising for the liberation of women – is well documented. The assassination of women has impacted communities in numerous ways, including the disruption of civil life; indiscriminate killing of civilians; displacement; indirect transfer of populations; experiences of violence, fear and insecurity; and abductions, among others.

### *Evidence presented*

The presentation of three emblematic cases regarding the targeted killing of prominent women (political feminicides) was used to illustrate how the Turkish authorities and their proxy militias aim to achieve the objectives of undermining social cohesion and the suppression of movements advocating for gender equality and democratic governance in the autonomous region. Evidence was presented regarding the killings of Hevrin Khalaf, Yusra Mohammed Darwish and Zainab Muhammad Saeed Muhammad. **Hevrin Khalaf** was a prominent Kurdish Syrian politician who served as general secretary of the Future Syria party, which she co-founded. She was openly opposed to Turkish interference in Syrian affairs, criticising the use of Syrian militias against Syrian groups and the occupation of predominantly Kurdish areas like Afrin. She was portrayed in the pro-government Turkish media as an enemy of the State. On 12 October 2019, in Turkish-occupied north Syria, she was executed outside her car, with twenty shots fired at close range to her head. When she fell down, more shots were fired into her body. The execution was accompanied by gunfire and screams of jubilation. Extracts of expert video testimony were presented by Aynur Pasha, a lawyer and women's rights expert, who documented the Hevrin case investigation. Video testimony of Hevrin's mother was also presented, with other video and photo evidence, postmortem medical and forensic reports, and reference was made to numerous reports and images reflecting women's voices regarding the Turkish invasion and the occupation, including political femicides and gender-based violence as systematic practices.<sup>38</sup> The prosecutor concluded that the available evidence strongly supports the finding that the killing of Hevrin constituted a targeted gender-based killing and is reflective of political femicide.

The prosecutor also presented evidence regarding the cases of **Yusra Mohammed Darwish and Zainab Muhammad Saeed Muhammad**, who were killed in a targeted drone attack on the vehicle belonging to the Autonomous Administration. Both women were government officials, with Yusra working as the head of prisons in the Aljazeera region, while Zainab was the co-chair of the regional council. They had no affiliation with any political or military groups and were civil servants working for the local authorities. On the day of the attack, they were going to visit civil facilities of the Administration, including prisons. Both had received threats previously and the mother and sister of Zainab noted their concern, as there had been previous drone attacks on the route that was being used. An eyewitness noted that the car was hit three times by the drone attack and caught fire. It was impossible to rescue the women due to the multiple hits. The prosecutor presented expert video testimony by Hevin Gouma, co-president of human rights organisations in Aljazeera and author of the investigation report on the Yusra and Zainab cases, and by lawyer Aynur Pasha, co-author of the investigative report. Video testimonies by the mother and sister of Zainab; two direct witnesses in the Zainab case; two direct witnesses in the Yusra case; and testimony from the husband of Yusra were also presented, as well as other investigative reports, witness statements and photographs. Aspects of testimony by Hevin Gouma highlighted the valuable role of Women's Protection Units (YPJ) in the defeat of IS and how the Turkish attacks were destroying the future of young women in the region. An important aspect of her testimony related to attributing the drone attacks to Turkey,<sup>39</sup> based on their characteristics including the precision, intentionality and the accuracy of the timing and the targets. She cited the Conflict Armaments Research report of 2022 which noted that the components of the drones were made somewhere in Europe, for use in ambulances, bought by Turkey and used in the manufacturing and control of drones being launched in Syria.<sup>40</sup> She also addressed the impact and consequences of the increasing drone attacks since 2022, including targeted assassinations and displacement. The prosecutor concluded that the targeted attack and assassination of Yusra and Zainab by Turkey was explicitly directed against the civilian women working for the Autonomous authorities.<sup>41</sup>

### *Conclusion on gender-related killings/femicide/feminicide*

There have been some approaches to the UN about the violations in the region, including to the UN Independent Commission of Inquiry on Syria; Communication on 26 July 2022 to the OHCHR from 56 women's organisations, political parties and democratic organisations about the political femicides that are increasing; and also an open letter dated 9 October 2023 to various UN institutions and high-level individuals, including the Secretary-General. Some reports criticise the silence of the international community regarding numerous violations by Turkey and its allied militias and assert that this is driven by geopolitical interests rather than accountability for human rights and humanitarian law violations. Many reports assert that the targeted and public nature of the assassinations have the objective of creating fear, dissuading participation, and sending a clear message to women who are politically and socially active, and publicly critical of the occupation and the human rights violations that are taking place.<sup>42</sup>

Violence against women and girls has been affirmed in many human rights instruments and by human rights bodies as a violation of the rights and fundamental freedoms of women. The killing of women constitutes a violation of among other, the right to life and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. In addition, international humanitarian law proscribes gender-based violence and extra-judicial executions of women during armed conflict, and forbids attacks on their personal dignity, in particular humiliating and degrading treatment. The lack of investigations, prosecutions and accountability for gender-related killings of women (femicide/feminicide) has resulted in a culture of impunity.<sup>43</sup>

### **Attacks on journalists**

The Tribunal heard evidence that the Turkish military and their proxies target journalists who film the occupation and investigate their attacks on civilians, power stations, dams and cultural artefacts, in order to silence them and prevent dissemination of accurate information. **Chris den Hond**, a Belgian journalist with the French online newspaper *Orient XXI*, gave video testimony from Rojava, where he has worked on many occasions since 2017. While the Kurdish, Syriac and Arab authorities had always respected his freedom to gather information, it was difficult and dangerous reporting from the areas occupied by Turkey and its proxies in north and east Syria, with Turkish fighter jets and drones flying over the area. Reporters without Borders ranked Turkey among the 25 worst countries for journalists in 2024. In 2019 **Zozan Berkele** was shot by Turkish forces while filming a joint Turkish-Russian patrol in the Kobane countryside. She said they fired when they saw what she was doing. Also in 2019, Kurdish film-maker **Vedat Erdemci** was killed by a Turkish airstrike; and in October 2019, a Turkish air force attack on a humanitarian convoy in northern Syria killed 11 people including **Saad Ahmad**, a young correspondent for the Kurdish news agency Hawqr News, and his colleague, **Mohammad Hussein Rasho**, and injured 74 people including journalists **Dilsoz Youssef** of the North Press Agency, **Ersin Caksu** of ANF, **Emre Yunis** of Sterk TV, **Mehmet Ekinci** of ANHA, **Huner Ehmed** of Rudaw, and freelancers **Birjin Yildiz**, **Rojbin Ekin** and **Abdreshid Mihemed**. In 2022, **Issam Abdullah**, correspondent for ANHA news agency, was killed by a Turkish air strike near Derik, as he reported on the bombing of a power station; and **Mihemed Jerada** was severely injured by an air strike while reporting live for Kurdish TV channel Sterk outside a hospital in Kobane. In 2023 **Delila Agit** lost her arm in a Turkish drone attack; and in December 2024, his colleagues **Nazim Daştan** and **Cihan Bilgin** were killed by a Turkish drone strike on their car near the Tishreen Dam, south of Kobane. The witness emphasised that the attacks were not collateral damage but deliberate targeting because they were doing their job as reporters.<sup>44</sup>

His testimony was supported by other material, including media reports;<sup>45</sup> a UN COI report which

referred to a journalist being arrested by an armed group in Afrin, accused of sharing information with foreign news agencies, and severely beaten during his interrogation;<sup>46</sup> and a booklet, *Journalism about Kurds is no crime*, by the German association Fighters for Truth, which documented deaths and injuries of journalists writing about attacks on Kurds in Turkey and Syria.<sup>47</sup> In addition, Jakob Rin, whose testimony is summarised above ('Targeted attacks on civilians') was attacked as he began filming the bombing of the dam.

### **A printing house destroyed**

The prosecution team's investigator, **Florian Bohsung**, presented evidence of a Turkish drone attack on the Simav Printing House in Qamishlo on 25 December 2023, which killed seven civilians, including the owner and five print workers, and caused extensive damage. The printworks printed books, local newspapers, magazines and various forms in Kurdish. Its output was exclusively for civilian use, and it was located in a residential area, with no military targets in the vicinity. The Turkish government claimed responsibility for the attack, on what it claimed were terrorists and facilities of the PKK, but no such link exists, leading to the conclusion that the motivation was to stop or disrupt the production of local newspapers, administrative documents and those needed by local businesses, thereby damaging the economy and administration of the region.<sup>48</sup>

### *Conclusions on attacks on civilians*

There is ample evidence to support the allegations of both indiscriminate and targeted killings of civilians in north and east Syria by the Turkish military and/ or by Syrian forces acting under Turkish command. In relation to the specific allegations, it is clear that airstrikes killed and injured schoolchildren in Tel Rifaat in December 2019, and the Tribunal finds Turkey responsible, either conducting or commanding these two consecutive airstrikes; the Russian interest in the shell is recorded by RDI as merely 'suspicious', while attribution to Turkey or its proxies is highly probable in the light of previous strikes by these actors, Turkey's troop positions and the position of Tel Rifaat, and Turkey's stated intention of 'clearing' the 'terrorist corridor'. The Tel Rifaat airstrikes are part of a pattern of indiscriminate strikes on civilian areas and infrastructure including schools, print shops, hospitals etc. The Tribunal also finds as a fact that Turkey bombarded Serekaniye using white phosphorus munitions on 9 October 2019; there can be no doubt about this given the medical and laboratory evidence. It is also clear that targeted killings are carried out by the Turkish state or its proxy militia forces, and serve a political purpose of deterrence, demoralisation and disempowerment in addition to removing sources of opposition.

## **2.4 TORTURE, KIDNAPPING, ARBITRARY DETENTION**

After the Turkish occupation, the armed factions of the SNA took control of the occupied areas and divided the neighbourhoods between them, arrogating to themselves political authority over their respective districts. Prosecutors **Efstathios C Efstathiou** and **Socrates Tziatzas** presented evidence of gross human rights abuses in Afrin since Turkey's invasion and occupation in March 2018. Their presentation relied on reports by human rights bodies and on video testimony from Afrin lawyer **Ibrahim Sheiho**. He referred to killings, disappearances, raids, deaths in custody, sexual assaults and gender-related violence by the SNA. He estimated that 10,000 people had been detained in around 20 prisons (many hidden) in the region. One, Marat, is partly for civilians and part military, another is a former high school. Rai, on the Turkish border, controlled by the Sultan Suleiman brigade and another brigade supplied by Turkey, is the most notorious for torture. A former agriculture department office in Bap is the site of many killings. He said all the armed groups were linked with the SNA, there were



20 such groups in Afrin, all abducting civilians, handing them over to police in Turkey who were sending them to prison. They say people are members of the liberation forces or DAANES. Those who are not arrested are fined, if arrested they must pay a ransom to be released or to get a court hearing. Often, large bribes were extorted. Women are targeted with the same excuse, they are a target group, have no rights, are tortured and suffer multiple abuses, physical and verbal. They are raped to force husbands to come to the prison. Soldiers gang-rape girls under 16. People arrested by the Turkish security services are also so treated, to break their spirit.

He said there is one court in Afrin, connected to the SNA, police and soldiers – all are connected to the Turkish security service. The court process is only a formality. Those in detention get no food, they are starving, including children and women. Also Kurdish women in Serekaniye, they are tortured in many ways, beaten and insulted, victims are taken to court. Ten were given capital punishment, reduced to life imprisonment.

In answer to questions, he said families of those detained are unable to talk or ask about them, and did not keep in contact with him, which they feared would put them at risk of being tortured; some had even changed their phone numbers, making it impossible for him to document and follow up complaints. The lawyers wanted to bring their cases to international attention but the repeated displacements defeated them. He and the families wanted the crimes to be reported, and to return to their homes, an end to the militarisation of Afrin.

Hidden prisons were located by collecting information from former prisoners. In and around Afrin there are official prisons, but since the occupation they have turned schools, agricultural offices and a train station at Rai into detention centres – the Bab- Hamza brigades. Kurds living in Afrin are subjected to arbitrary detention, ransoms. Daughters are kidnapped or threatened with sexual abuse by Arab and Turkmen settlers; places are taken by force, people are displaced from their homes. Asked about the law applied in Afrin courts, he said there is no standard legal system, it depends on the brigade controlling the court. Most courts use Turkish laws to try commercial issues, and fines are in Turkish lire.

### **Other evidence of violations**

The statement of Malik Rashed (detailed below under ‘Prevention or deterrence of return’) described multiple kidnappings, threats and coercion to members of one family. Reports by human rights groups have described how factions of the SNA and the Military Police division have, since taking over Afrin in 2018 and Serekaniye in October 2019, arbitrarily arrested and detained, forcibly disappeared, tortured and otherwise ill-treated, illegally transferred and subjected to unfair military trials scores of people with impunity, under the supervision of Turkish military and intelligence.<sup>49</sup> In cases documented by Syrians for Truth and Justice, HRW, UN COI, Ceasefire and other human rights organisations, Kurds have overwhelmingly borne the brunt of these abuses, often on suspicion of links with the SDF, DAANES or the PKK. Merely having lived in an SDF-controlled area at some point could lead to accusations of being an accomplice or informant, and communicating with family members displaced to SDF-controlled areas could also be grounds for arrest. Some had relatives detained with them including young children.

These reports also corroborate Ibrahim Sheiho’s testimony that SNA factions and the Military Police engage in abductions and detentions whose only purpose was to extort money from people they perceived to be wealthy. They or their detained relatives paid between US\$100 and \$30,000, and in at least one case \$70,000, to secure their or their family members’ release. A 70-year-old man who refused to leave Afrin was detained 4 times, for 2 to 3 weeks, and each time had to pay between

\$2,000 and \$3,500 for release. Turkish intelligence turns a blind eye. While most abuses documented were committed by factions of the SNA and the Military Police and took place at their detention centres, former detainees reported that Turkish military and intelligence officials were sometimes present during their arrests and interrogations and in some cases were directly involved in the torture and ill-treatment to which they were subjected. People were detained in SNA's makeshift prisons or MP detention centres, incommunicado, sometimes for over 2 years, to 'confess' before being transferred to central MP prisons or brought before a military court. Conditions in the informal prisons were appalling, tiny solitary cells infested with insects, overcrowded cells with no room to lie down, underground cells in total darkness, and food was scarce and rotten.

There are many testimonies of torture in SNA/ MP detention in Afrin and Serekaniye including severe and prolonged beatings – often using cables, electric wires, and metal pipes – electrocution, teeth and nail pulling, being tied up to the ceiling or to tires with ropes, and being burned with cigarettes. During interrogations, suspects were blindfolded and handcuffed. Turkish intelligence officers often participated in interrogations and torture. In some cases people were tortured to death. The report documents four civilian deaths of civilians in the custody of Turkish forces or Turkey-aligned groups in 2022 and 2023.<sup>50</sup> Some detainees were forced to witness relatives' torture. The UN COI also documents Turkish officials' presence.

HRW also documented the illegal transfer to Turkey of at least 60 and up to 200 people in and around Serekaniye in the aftermath of its occupation of the region in 2019, with charges potentially carrying life sentences under the Turkish penal code, based on flimsy evidence of involvement with the Kurdish forces.<sup>51</sup> Photos revealed injuries caused by beatings and ill-treatment. Syrians for Truth and Justice (STJ) also interviewed former detainees and reported on illegal detentions and transfers by both the SNA and Turkish officials to Turkey, where sham trials were held.<sup>52</sup>

A July 2019 paper by Khayrallah Al-Hilu, *Afrin under Turkish control: political, economic and social transformations*, refers to 2,500 arrests of civilians within a year of the Afrin takeover, of whom 1,000 were still detained in March 2019, accused of PYD/ YPG membership, although YPG sources claimed all its forces had left the area and that only civilians were arrested, and to children under 18 being kidnapped. He pointed out that the armed factions and police had no local ties or affiliations, and no accountability. Turkish police arrested several local council members, some for criticising expropriations, some for no known reason, and handed them over to SNA militias or the Turkish intelligence MIT, where some died under torture. He described the takeover of local councils by Turkish-aligned people, and the takeover by Turkish officials of functions including health provision, education, where the Kurdish curriculum has been replaced, power supplies etc.<sup>53</sup>

In Afrin, the UN COI reports<sup>54</sup> the systematic use by the SNA since 2018, following the Turkish invasion, of war crimes of torture and cruel treatment, killings, beatings, abductions, hostage-taking, rape and sexual violence, and acts tantamount to enforced disappearances, all primarily against the Kurdish population. Its January 2020 report finds 'a consistent, discernible pattern' of such conduct previously documented in Afrin.<sup>55</sup> Facilities where such violations have been documented since 2020 include prisons and makeshift and secret facilities operated by individual SNA factions as well as facilities operated by the SNA military and civilian police. Torture to extract confessions include beatings, *shabeh*, threats with a gun, drenching in cold water, tasers and electric shocks, including to the genitals, rapes of men and women. Kurds suspected of links with the YPG are particular victims. The papers document several deaths in custody resulting from torture and/ or denial of medical care and food. In addition, the Rojava Information Center, which regularly reports on the situation in Turkish-occupied areas of north and east Syria, says 'Turkey's occupation has turned the regions into what amounts to a patchwork of fiefdoms rife with human rights abuses.'<sup>56</sup> Synergy Association for Victims reports that in the four years from October 2019 to October 2023, it has documented 592

arrests, including 73 of women and 53 of children, in the Serekaniye/ Ras al-Ayn and Tel Abyad regions, 163 forcible disappearances, 492 cases of torture, including six deaths, and 92 transfers of detainees to Turkey, of whom 55 have been sentenced to between 13 years and life imprisonment.<sup>57</sup>

### *Conclusion on torture, kidnapping and arbitrary detentions in Afrin and other Turkish-controlled areas*

The wealth of evidence from independent sources confirms the allegation of pervasive serious human rights abuses, including torture, rape, kidnapping and arbitrary detention, both by Syrian factions in the SNA, for which Turkey bears command responsibility, and by Turkish police and intelligence officials. In some cases the abuses appear to be motivated by the perception that suspects are ‘terrorists’ by virtue of links to the Kurdish defence forces or civil administration; in other cases, such as kidnapping for ransom, they are motivated by profit. Rape is clearly practiced systematically, as an assertion of power and a means of humiliation and degradation of a whole community: a weapon of war.

### **Gender-related violations: rape and sexual violence in secret prisons**

#### *Context*

Research indicates that there is a strong and undeniable link between women’s incarceration and violence against women, whether prior to, during or after incarceration. The experiences of women and girls in custodial settings include rape and other forms of sexual violence – including threats of rape; inappropriate touching; forced nudity; torture and other cruel, inhuman and degrading treatment; violation of privacy; and deprivation of amenities for a dignified life, including lack of healthcare, hygienic conditions, overcrowding, poor nutrition; sleep and toilet deprivation, among others. In many countries, women’s political activism, which can include political affiliation, being a women’s rights activist or working for an NGO, participation in demonstrations or social media activities, can give rise to arrest and detention.<sup>58</sup> The effects of incarceration on women and girls are often longer-lasting, due to the conditions and deprivations they experience, and the gendered and sexualised forms of human rights violations that are experienced.

#### *Evidence presented*

Prosecutor **Annie Pues** highlighted many violations, including arbitrary detention, torture, rape and other forms of sexual violence experienced by women and girls incarcerated in secret prisons set up by Turkey and its militia proxies. She stated that such violations, committed during an international or non-international armed conflict, can amount to war crimes and crimes against humanity, *inter alia*. She used two emblematic cases of Nadia Hassan Suleiman and Lonjin Abdo, presenting evidence including video testimonies and written statements from Nadia and Lonjin, video testimony from Nadia’s mother and Mizgeen Hassan; reports and news articles regarding women and secret prisons;<sup>59</sup> UN reports and correspondence on Nadia’s case;<sup>60</sup> and medical evidence corroborating findings of rape and torture.<sup>61</sup>

The evidence revealed that **Nadia** was abducted and arrested without charge in 2018. Told she would be visiting her husband in prison, she was instead taken to the headquarters of the Turkish intelligence agency MIT for interrogation about her links to the PKK and other political activities linked to Afrin. She was tortured and raped multiple times; detained in inhuman conditions; deprived of food and water; subjected to severe physical violence; endured psychological torture; moved to different prisons over a two-year period; subjected to forced labour; and sometimes drugged with the evening meal, waking up naked and in a different location, with no knowledge of what had transpired during

the night. Nadia tried to commit suicide while in prison; the aborted attempt was discovered, and she was severely beaten by guards. She was forced to sign blank documents, which were afterwards completed by someone else, testifying that she was well treated in prisons and experienced no torture, and thanking the Turkish State for this. As part of the dehumanisation and propaganda actions, Nadia was also videotaped and photographed while semi-nude; or dressed in hijab while being abused by a person who spoke Kurdish. The medical evidence produced in corroboration found a high degree of certainty of rape and torture. The UN Independent Commission of Inquiry<sup>62</sup> confirmed that Turkey had violated Nadia's rights. In addition, numerous NGO and media reports<sup>63</sup> featured Nadia's story as well as those of other abducted and incarcerated women, some of whom have disappeared. At the end of two years, Nadia was taken to a military court and was again forced to sign documents containing false statements about the length of her imprisonment, and the conditions of her treatment. She was released and moved in with Lonjin for a short period. Subsequently, her family paid traffickers to smuggle her out of Afrin.

The case of **Lonjin** has many similarities to Nadia's case and at some point, they were incarcerated in the same location and became friends. Lonjin's statement was taken in France in June 2023. She said she and her father were abducted and detained in 2018 by masked men who spoke Arabic. Two weeks after her arrest, her sister was arrested and coerced into making a false statement about the political activities of Lonjin and her father. This resulted in the torture of Lonjin and her father for lying when questioned initially. She was first detained in an underground prison on the Turkey-Syria border for eight months, where she resisted molestation and marriage proposals by the guards. She could hear her father and others being tortured, and she was also questioned about her links to the PKK and the bombings in Afrin. Subsequently, she was raped by a guard who provided her with bread and water; subjected to electric shocks; and tortured and raped regularly by guards from the Turkish Intelligence and also the Hamza Division.

The online testimony of Mizgeen Hassan,<sup>64</sup> who documented both Nadia and Lonjin's cases, expanded on the systematic targeting of women with abductions, incarceration and rape as a strategy and weapon of war. She noted that the objective is to force displacement, to shame families and communities by dishonouring women and girls, creating a culture of fear and insecurity and contributing to the disempowerment of women who are fighting for the liberation of women. Mizgeen highlighted a case of 351 refugee women who faced different violations, including abductions, and were only released after a ransom was paid. The description regarding the numbers, the violations, the *modus operandi* and the consequences reinforced the similarities in Nadia and Lonjin's testimonies. For example, Nadia's statement noted that in the Maarate Prison there were 25 women, and 4 children aged between 25 days to 10 years in one cell and 20 women and 11 children in another. Considering the circumstances, it is difficult to ascertain the accuracy of numbers and the specific violations, and to obtain information on the women who were abducted and have disappeared. A further aspect that was unclear was in respect of pregnancies resulting from the widespread rapes of women. Considering the forced marriage of Kurdish women to men in other ethnic groups, as part of the ethnic cleansing and demographic engineering objectives, the question of pregnancies resulting from rape is a valid issue that needs to be explored.

### *Conclusion on rape and sexual violence in secret prisons*

The International Covenant on Civil and Political Rights, article 10 (1) notes that 'all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person'. Prisoners may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty, and respect for the dignity of such persons must be guaranteed under the same conditions as that of free persons. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) was adopted in

2011. It establishes comprehensive standards that relate specifically to the treatment of women prisoners, including victimisation, mental and physical healthcare, safety and security, contact with family members, and special measures for pregnant women and mothers with children in prison.<sup>65</sup> The evidence in the cases of Nadia and Lonjin, among many others, reveals numerous gross violations of human rights and humanitarian law by Turkish officials and their proxy militias against Kurdish women in Rojava, that are not being addressed.

## 2.5 TARGETING INFRASTRUCTURE AND ENVIRONMENT

### Energy and water

Prosecutor **Ezio Menzione** presented the case on attacks on energy and water supplies. Turkish attacks in autumn 2023 to January 2024 hit Swediyeh gas station, the sole producer of cooking gas in north east Syria, and the gas-powered electric plant of the same name, which served up to 920,000 people, and was left inoperable. Half of Swediyeh gas station's output was for domestic energy consumption and half was converted into electricity to operate the oilfields and the water plant at Alouk. After three months of bombardment, Swediyeh was almost completely destroyed. One attack killed 7 and injured 13. Energy substations in Qamişlo, Amiuda, Darbasiyah were damaged and all power generation was destroyed on 15 January 2024. Oil facilities, pipes and stations were also bombarded. The attacks led to widespread outages affecting whole communities, including critical facilities such as the water plant, reliant on electricity for pumping, during an ongoing water crisis in the region. Turkey had already in 2021 reduced the flow from the Euphrates from 500 cubic metres per second (500m<sup>3</sup>/sec) to 200 m<sup>3</sup>/sec, in breach of a protocol agreed after Syria and Iraq complained at restrictions through Turkish dam-building, and the water in the Tabqa Euphrates reservoir had dropped from 14/5 billion m<sup>3</sup> to 4bn m<sup>3</sup>. The Alouk water plant had resumed limited operations in September 2023 after nearly a year of inactivity, and provided clean water to over 610,000 people, and to 30 of the 37 medical centres in the region, until it was rendered inoperable by the attacks on electricity plants. It is a purely civilian facility with no military function or strategic value, situated in an area devoid of any proximate military targets or installations. Its operation is essential for ensuring public health and sanitation. The attacks left vulnerable people without cooking fuel or clean water, including displaced persons in camps (83,000), those in informal settlements (140,000) and community centres (8,000), no longer receiving cooking fuel from NGOs. The lack of fuel meant many families resorted to burning unsafe materials such as plastic, causing health problems. Without energy or clean water, MSF said 52 percent of the camps' population were affected by diarrhoea or cholera.

The attacks on infrastructure are corroborated by independent evidence. In a situation report dated 7 October 2023, the NES NGO Forum reported that on 4 October, Turkey's foreign minister Hakan Fidan announced that infrastructure, superstructure, and energy facilities in Syria and Iraq were legitimate targets for security forces, armed forces and intelligence elements. The announcement was followed by an escalation in Turkish armed forces' aerial strikes, both manned and by drone; in the three days to 7 October 2023, 47 verified strikes had caused major damage and destruction of infrastructure critical for civilians in cities across NES, including water stations, power stations, farms, and sites close to civilian villages and Internally Displaced Persons (IDPs) camps, as well as six civilian casualties, including one death.<sup>66</sup> Although Erdoğan announced an end to hostilities on 8 October, by 16 October 11 more strikes had been counted, the number of casualties was 18, and the NES NGO Forum reported that 'the scale of damage far supersedes the capacity of the humanitarian community to sustain emergency life-saving service provision'.<sup>67</sup> In January 2024 the Forum reported that 'all fuel production and operations are suspended, no fuel is available or being distributed,

including to DAANES facilities’, ‘camps were notified on 15 January 2024 of an indefinite suspension of delivery of fuel, effective immediately, leaving camp inhabitants without fuel for cooking or heating’; over ‘1 million inhabitants in eleven major cities and towns, as well as over 2,750 villages, and 1900 schools are now fully without electricity’. Additionally, with Alouk offline and 96 boreholes closed, access to water was threatened for over 815,076 inhabitants in north and east Syria.<sup>68</sup>

The 2023-24 attacks on energy and water supplies were by no means the first: UN COI reports that during Operation Peace Spring, on 9 October 2019, the water supply to 460,000 people was cut off by an artillery strike near the Alouk water station which cut electric cables, stopping the pumping of water. Workers repairing the plant were abducted by members of an SNA faction, although later released. Water was not restored until 13 November 2019.<sup>69</sup> When the SDF defeated IS, they took control of the oilfields in eastern Syria which had earned ISIS \$1.5 million per day, and the oil and the revenues went to the SDF and to DAANES.<sup>70</sup> To the Turkish military, they were an irresistible target. Taquel Baquel oilfield, which collected oil from a number of wells, was bombed 3 times in 24 hours in November 2022, killing 12, including one trying to help casualties of the first blast, and a journalist who had gone to report on it, indicating that the attacks (by drone) were deliberate. Ruben Wagensberg Ramon, member of the Catalan parliament and regular visitor to Rojava on missions relating to displaced persons, was near Taquel Baquel in November 2022 and testified that he had spoken to witnesses including the husband of the woman killed trying to help victims of the first attack. Also in November 2022, an attack was reported near Swediyeh power plant, causing power and internet cuts in Derek town and Derek and Hasakah sub-districts.

NES NGO Forum noted that lack of clean water had led to a cholera outbreak in 2022, with 20,096 infections as of 21 November.<sup>71</sup> HRW added that targeting oil and gas facilities was exacerbating the severe fuel shortages afflicting northeast Syria, leaving civilians struggling to find cooking and heating fuel for the winter.<sup>72</sup> The BBC reported in November 2024 that Alouk water station had not been working since the attacks, and over a million people in Hasakeh province, which was suffering from drought, relied on water deliveries by tanker.<sup>73</sup> **Ruben Wagensberg Ramon** spoke of the adverse effects on health, on the community and on the economy of consuming less than the recommended minimum intake of water, which families in Hasakeh district were having to do. The lack of energy or water forced many families to move, adding to the forced displacements caused by invasion, attacks on civilians, human rights abuses, theft of homes and crops, etc.

Reported attacks on civilian infrastructure have continued since the fall of the Assad regime in December 2024, with the Turkish army pounding Tishreen Dam, Kobane, which powers pumping stations for drinking water and provides electricity to 400,000 people and has been out of service since sustaining damage on 10 December.<sup>74</sup> Additionally, 24 civilians have died and 221 wounded in the drone and air strikes on the dam.

### **Hospitals and health centres**

Apart from the attacks on energy and water stations, which severely affected the operation of hospitals and health centres, for which constant supplies of fuel and safe clean water are essential,<sup>75</sup> allegations of direct attacks on medical infrastructure were presented by prosecutor **Heike Geisweid**. While the first and last of three waves totalling over 200 airstrikes between October 2023 and January 2024 targeted NES’ energy and water supplies, in the second wave, in December 2023, F-4 and F-16 fighter jets equipped with explosive munitions caused devastating damage to 18 civilian targets, although the Turkish government claimed it was directed exclusively at military targets. On 25 December 2023

the Mishtenour medical centre in Kobane was destroyed. So was the Kobane medical centre, run by the German association ‘Armut und Gesundheit e.V.’ (Poverty and health), which included an emergency outpatient clinic, a diabetes outpatient clinic and a paediatric vaccination centre. The dialysis centre in Qamishlo, opened in 2022, was severely damaged on the same day, as was a medical oxygen plant, in operation since 2022 and producing 250-300 oxygen cylinders a day, which provided the entire medical oxygen supply in the Qamishlo region, supplying five autonomous administration hospitals as well as ten private hospitals and other health centres. The oxygen facility was behind the renal dialysis centre, next to a residential neighbourhood and opposite a school.

The Mishtenour medical centre (MMC), which provided an emergency service, outpatient treatment and specialised care for women, children and diabetes patients, was located in the centre of Kobane and was surrounded by other civilian facilities. There were no military targets in the immediate vicinity. The MMC worked closely with international organisations such as Doctors of the World, treating around 500 patients every day, over 110,000 people a year from Kobane and the surrounding villages. The Kobane Medical Centre (KMC) was located in the city centre, surrounded by civilian facilities such as pharmacies, doctors’ surgeries, supermarkets, jewellers, restaurants and mobile phone stores. The KMC’s emergency department treated between 200 and 300 people every day; 204 patients were regularly treated for diabetic foot; 3100 patients were treated in the diabetes outpatient clinic, 2500 people received ongoing examinations and medication. It had its own laboratory, and an ambulance marked with red Geneva Convention insignia, used for transporting patients within a 30 km radius.

The day after the attacks, Turkish intelligence claimed that 50 ‘terrorist’ targets had been hit. Three days after the dialysis centre was damaged, a 65-year-old patient with kidney failure died for lack of his regular dialysis. Some patients with diabetes required amputations after the hospitals’ destruction. Others left the area in search of treatment.

The attacks were corroborated by independent evidence: Doctors of the World (Médecins du Monde, MdM) reported on drone attacks on the Mishtenour facility (dating the attack to 27 December), where the organisation had been operating since 2020, treating over 110,000 people. It reported significant damage to the infrastructure. Affected areas included healthcare, mental health and psychosocial support, sexual and reproductive health, including a delivery room, pharmacy, warehouse, and waiting room. All medical equipment, medications, vaccines, consumables, hygiene materials, furniture, and tools, as well as mental health and psychosocial support equipment, including a children’s area, were destroyed. The organisation reported that another hospital specialising in dialysis and a medical oxygen factory suffered another attack.<sup>76</sup> The North Press Agency reported the strike on Mishtenour, and in another article to the attacks on the dialysis centre and the medical oxygen facility,<sup>77</sup> though not to the Kobane Medical Centre.<sup>78</sup> The Kurdish Peace Institute also reported on the attack to the oxygen plant.<sup>79</sup> A Rojava Information Center report referred to the dialysis centre and had a photograph of Mishtenour clinic in flames after an attack,<sup>80</sup> and a second report referred to the destruction of the oxygen facility.<sup>81</sup> The destruction of the Kobani Medical Centre was the subject of a Medya News article, with photographs showing the extensive damage.<sup>82</sup>

Once again, there is evidence that these were not the first Turkish attacks on medical infrastructure. During Operation Claw Sword in November 2022, according to a *Guardian* report, Turkish airstrikes on two Kobane villages heavily populated with displaced people hit a hospital along with grain silos, a power plant and a petrol station, and caused 11 civilian deaths.<sup>83</sup> UN COI reported that during Operation Peace Spring in October 2019, a Turkish airstrike on a temporary hospital, set up in a school in Salihyah (between Serekaniye/ Ras al-Ayn and Tel Tamr) at 6.50am on 12 October, caused damage to the building and the destruction of a car.<sup>84</sup> And even further back, there is evidence that Turkish airstrikes hit Afrin’s general hospital during its invasion in March 2018.<sup>85</sup>

Evidence reveals that they were not the last attacks, either. In January 2025, Turkish jets attacked a civilian convoy making its way to the Tishreen Dam near Kobane for one of a series of protests against Turkish aggression, and witnesses reportedly said they appeared to target ambulances in the convoy. Three ambulances were destroyed, and an ambulance driver in Kobane lost three of his paramedics.<sup>86</sup> On 18 January, a clearly marked Kurdish Red Crescent ambulance was hit by a drone on its way to Tishreen Dam to collect those wounded by a drone strike.<sup>87</sup>

### **Illegal logging**

Armed conflict in itself harms and degrades the natural environment. The Tribunal also heard evidence of deliberate environmental destruction, through illegal logging. This part of the prosecution case was presented by **Declan Owens**, whose evidence came from a 2023 report by Syrians for Truth and Justice (STJ) and Lêlûn Association for Victims in Afrin.<sup>88</sup> This report, compiled through interviews with local people, IDPs, SNA members, relief workers and timber merchants, matched accounts of destruction with analysis of satellite images and open source data, and documented extensive deforestation in the Afrin region, where 114 forests had suffered degradation through illegal logging since 2018, with systematic clearing affecting tens and potentially hundreds of thousands of trees. Sometimes this is done by the SNA factions: the Levant Front/ al-Jabha al-Shamiya established a monopoly over the trees on Mount Barsa, which it cut for sale to timber merchants in A'zaz, for onward sale to NGOs for use as firewood in DP camps, or for smuggling to areas controlled by the Syrian government, where prices are higher. In 'a few dozen' cases, the Turkish military cut down trees to establish military bases, both for the base itself and for a fire-line around it. 'Before' and 'after' satellite images showed the extent of the loss of tree cover in the places referred to, and in some cases such as Kafr Safra (Jindires) also showed the construction of illegal settlements in cleared areas.

Forests anchor soil, retain nutrients and act as carbon sinks. Logging causes soil erosion, reduces the fertility of the soil and causes flooding. It leads to increased sedimentation in waterways. It releases carbon into the atmosphere and reduces capacity to absorb carbon dioxide, contributing to global heating. It leads to biodiversity loss by fragmenting habitats, which can lead to local extinctions. It also increases food and fuel insecurity for communities reliant on the forest for livelihood, food, fuel, medicine and construction materials, leading to displacement to urban areas and erosion of cultural and spiritual practices and identity.

### *Conclusions on attacks on civilian infrastructure and environmental destruction*

A wealth of independent evidence supports the allegations of deliberate and wilful attacks on civilian infrastructure for the provision of the essentials of life: water, energy and health care. There is ample corroboration of these attacks, and indeed Turkish foreign minister Hakan Fidan reportedly declared that civilian infrastructure was a 'legitimate target' for destruction, a remark which demonstrates how far the country's senior ministers have gone in their defiance of international law. Environmental destruction caused by illegal logging is proved by the 2023 STJ/ Lêlûn report and satellite images.

## **2.6 FORCED DISPLACEMENT: DEMOGRAPHIC ENGINEERING**

Prosecutor **Efstathios C. Efstathiou** presented the case on forced displacements of civilians from villages in Afrin in 2018. From the evidence it is clear that the indiscriminate attacks on civilians, civilian properties and infrastructure caused a catastrophic exodus of the peoples of these regions. The January-March 2018 air strikes and military invasion, involving violent expulsions and large-



scale intimidation by Turkish forces and Syrian militias, caused a massive displacement of civilians from Afrin: the United Nations estimated that by 19 March 2018, Turkish armed forces and allied Free Syrian Army (FSA) militias had taken control of Afrin city and 90 percent of previously SDF-controlled areas of Afrin district, and 98,000 Afrin residents had fled for safety – the majority to Tall Refaat district, some reaching the Manbij district and the Al-Hasakeh governorate, with some 50,000-70,000 Kurds remaining in Afrin district.<sup>89</sup> The expert witness **Oz Karahan** estimated that to date, some 300,000 Kurds have been displaced from the region, reducing the Kurdish proportion of the population from 85 percent in 2018 to around 23 percent in 2022.

The deliberate nature of this displacement was shown by the immediate ‘Turkification’ of occupied areas in Afrin, where Kurdish signage, storefronts and street names were replaced by Turkish, and even the currency, mobile phone networks and postage stamps became Turkish.<sup>90</sup>

Many of those displaced from Afrin suffered further displacements. Evidence was presented of multiple displacements of civilian populations, for example from Afrin to Al Shahba, and then were forced, by attacks such as those on the garage neighbourhood of Tel Rifaat in December 2019, to make another arduous journey to Al-Tabqa. Continuing attacks by Turkey and its proxies in the SNA meant that by December 2024, according to a CCO/MIC report, 120,000 people displaced from Afrin to Al-Shahba had arrived in Tabqa, of whom around 40 percent were women and 40 percent children - but the shelling of villages in the Manbij countryside was hampering efforts to establish a safe corridor to evacuate a further 15,000 people fleeing Al-Shahba.<sup>91</sup>

The Tribunal heard evidence of similar attacks causing mass displacement in north-east Syria, presented by prosecution team investigator **Urko Azurtza**. The October 2019 attacks on the north-eastern Syrian regions of Serekaniye and Tel Abyad – areas populated mostly by Arabs, with a sizeable Kurdish minority and small communities of Yezidis, Armenian and Syriac Christians, among others<sup>92</sup> – led to the displacement of 85 percent of the population of Serekaniye, and 70 percent of that of Tel Abyad during the next three weeks – around 280,000 people in total. A voice recording from one victim from Serekaniye, **Robel Baho**, was shared, describing how their families and communities were attacked by the Turkish army and their Syrian militias in Operation Peace Spring, including the churches and mosques of the Christian and Armenian minorities in the area, leading to their displacement. The prosecutor cited a report from Reliefweb which documented at least 215,000 individuals out of more than 2 million residents in north and east Syria fleeing their homes as a result of the Peace Spring offensive. The report cites the UN figure of 700,000 internally displaced in northeast Syria before the offensive.<sup>93</sup> According to a Synergy/Hevdesti report, the Kurdish population in Serekaniye has dwindled from 70,000 to just 42 individuals, and there are no Kurds at all left in Tel Abyad.<sup>94</sup>

### **The human impact of displacement**

The displaced populations have suffered multiple traumas; through journeys to evacuation camps fraught with fear, pain and uncertainty: attacks on them as they fled, kidnappings, infant deaths and suicides were recorded. The Tribunal saw photos and videos of families fleeing in cars and trucks full of what property they could carry, taking refuge along the streets, and of women, children and elderly persons lining up for aid. While the displacement camps provided temporary shelter and relief from the military attacks, they were also overcrowded, unsanitary, full of danger for women through gender violations; and sites of trauma and grief. The Syrian Women’s Political Movement reported in 2023 that the vast majority of the displaced persons were hosted in the communities of Hasakah, Raqqa and Dier-ez-Zor governorates, where supplies of emergency shelters, water, food packs, hygiene kits and fuel were running low. The health sector was reportedly working under extreme strain, as hospitals faced shortages of staff and aid.<sup>95</sup> Primary and secondary education of children have been severely impacted by the massive influx of evacuees, as schools were transformed into temporary

displacement centres in Tabqa City, Mansoura and Al Jarniya districts.<sup>96</sup> International humanitarian organisations were also compromised by the conflict; international staff have been evacuated; their resupply missions have been restricted, and local staff worked under threaten of arrest by the Syrian army, since Assad's government considered international humanitarian organisations working in the north-east to be illegal.<sup>97</sup>

### **Prevention or deterrence of return**

Unabated human rights violations by SNA factions, including kidnapping, arbitrary detention, torture, physical and sexual violence, pillaging, extortion, property seizures and other forms of harassment, coupled with a lack of legal framework providing for resettlement and property restitution, serve as significant obstacles for the return of the displaced persons to their homes. Owners receiving threats of arrest or killing upon their return to their homes add to their growing fear and hesitancy to go back.

Those who remained in or returned to the occupied areas lived in constant fear of arbitrary arrest, violence including sexual violence, kidnapping for ransom, extortion and other violations. The testimony from the witness **Malik Rashed**, who described how, returning to Afrin a month after the Turkish invasion, she found her neighbourhood controlled by the Northern Brigade and the Sultan Murad faction, two of the Syrian militias funded and controlled by Turkey. The witness's 60-year-old sister, widowed, diabetic, who was living with her, was kidnapped and not released for seven months; her 25-year-old son and her sister's 28-year-old son were both kidnapped, and her sister's son is still missing; she herself was subjected to constant threats and harassment, with the factions demanding her son's wife and then her 14-year-old daughter for marriage, demanding her house and threatening to burn it; and the governor, to whom she complained, said they could do anything and take anything they liked. The witness **Robel Baho** spoke of the kidnapping of a number of Assyrian, Armenian and Christian residents of Sere Kaniye, which acted as a strong deterrent to others thinking of returning, and other violations which prevented return of the original residents.

Similar evidence was heard in the sessions on torture, arbitrary detention and kidnapping in occupied Afrin, and these continuing violations forced many to leave. (**Malik Rashed** left Afrin through smugglers, whom she paid US \$1,500.) Many others were forced to leave through destruction of their livelihood; destruction of infrastructure providing gas, water and electricity, and the steep rise in prices of basic commodities.

Syrians for Truth & Justice and PEL-Civil Waves identified a pattern of systematic, large-scale violations designed to coerce locals into fleeing, abandoning their properties and not returning. Three key patterns were confiscation and looting of homes and shops, which were often spray-painted with the name of the militia taking the property over; destruction of properties by bulldozers and their repurposing as military stations; and confiscation of agricultural land, orchards and olive groves.<sup>98</sup> The Kurdish communities were specifically targeted by the SNA factions controlling the area. '*Anything Kurdish, they will take*', said a resident from Afrin.

Some former inhabitants were able to reclaim their homes from the hands of the armed factions after paying a price ranging from \$1,000 to \$3,000 US dollars, but for many even this was not an option. Reclaiming properties also required the production of titles and other documents proving ownership, which is a problem for displaced people, most of whom have lost their papers, or whose documents were destroyed as a consequence of the bombings and conflict. PEL/Civil Waves documented cases of militias setting fire to owners' title deeds.<sup>99</sup>

While the SNA constituted a body that would receive complaints for violations of property rights and to facilitate restitution of properties, its members are drawn from the same factions that pillaged the properties, or from those loyal to such factions, compromising the just resolution of complaints. In

some cases, complainants found themselves the targets of retaliatory measures by the militias for their actions.<sup>100</sup>

### **Deprivation of livelihood**

From witness testimony (**Oz Karahan, Ibrahim Sheiho**) and reports from human rights organisations, the Tribunal heard of mass violations of property rights and economic crimes, including seizures of agricultural lands, crops and equipment. Under the Turkish occupation, orchards, olive trees and fields in the Afrin, Serekaniye and Tel Abyad regions – known for their fertile olive groves, wheat and barley fields – were seized from their owners, who were accused of membership or association with the YPG. Farmers were prohibited from cultivating their lands or their equipment confiscated unless they could pay as much as 50 percent of their yearly crop profits to the militias in ‘tax’, or an exorbitant amount to recover their tools. Other factions were reported to have cut down decades-old olive and fruit trees to be sold for firewood. Moreover, Turkey has bulldozed tracts of agricultural lands on the pretext that such lands were being used by the YPG as hideouts and weapons storage, using the cleared land for expansion of Turkish military camps.<sup>101</sup> Prosecutors also presented evidence that Turkish-backed groups dismantled textile and plastic factories in Afrin and transported machinery to Turkey.

In Afrin, the olive oil industry is the main source of livelihood for at least 75 percent of its population.<sup>102</sup> After Turkey’s occupation, Afrin’s olive oil industry faced an ‘*organised campaign of looting*’ by SNA factions who took hundreds of thousands of litres of olive oil, which were sold by Turkish companies in European markets.<sup>103</sup> From these transactions, a profit of about €70 million was earned, a quarter of which went to the armed groups in Afrin. Turkey admitted to this crime without blinking, its Ministry of Agriculture quoted as saying: ‘*We in the government want to get our hands on the resources of Afrin in one way or another, so that these resources do not fall into the hands of the Kurdistan Workers' Party*’.<sup>104</sup>

By the end of 2022, the Rojava Information Center (RIC) had recorded 715 incidents of economic crimes in Afrin, 7 incidents in the M4 strip that stretches south to north from the M4 road to the Turkish border and west to east from Tel Abyad to Serekaniye, and six in the Al-Bab/Azaz/Jarablus Triangle.<sup>105</sup> The contrasting numbers in the three areas could be attributed to the fertility of Afrin and its valuable olive crops, its high proportion of Kurdish-owned properties, and the lack of a functional reporting system in the other two regions. But as all three regions are controlled by SNA factions, RIC acknowledges the high probability that the numbers are underestimates.

### **Demographic engineering**

The Turkish government has long expressed the ambition to repatriate the Syrian refugees it currently hosts in Turkey to the Kurdish-occupied areas of north and east Syria. **Oz Karahan** said that in the wake of the Olive Branch operation, Sunni Arabs and Turkmen were brought from eastern Ghouta, Idlib, Hama and other areas to live in the homes evacuated by Kurds in Afrin. Kurdish-owned land and homes were seized and given to the settlers. The witness referred to reports by Human Rights Watch and the Afrin Activists’ Network, and described how Kurds seeking to return to their properties were subjected to movement restrictions so they could not get back, or were driven away by threats, arrest and violence, by ‘authorities’ put in place by the Turkish army or by the militias. The lawyer **Ibrahim Sheiho**, who himself was displaced from Afrin to Al-Shahba and then forced to flee to Tabqa, spoke of continuing attacks driving people out, and their replacement by hundreds of thousands of Arabs, from Damascus, Hama and elsewhere, and Turkmen from Aleppo. Evidence presented to the Tribunal indicates that Syrian refugees are being repatriated from Turkey; a Human Rights Watch report indicates that since 2017, Turkish authorities have been deporting or coercing

thousands of Syrians to cross the border into northern Syria.<sup>106</sup> The ‘refugee towns’ in the north and east territories of Syria, designed for resettlement of the Syrian refugees in Turkey who are predominantly of Sunni Arab descent, serve as a deterrent for the displaced Kurdish population, preventing them from returning to their homes. Such resettlement programmes have the effect of significantly altering the demographic landscape of Syria’s north and east region, fulfilling Turkey’s intention of eradicating the Kurdish identity.<sup>107</sup>

### *Conclusion on forced displacement and demographic engineering*

The expert witness **Oz Karahan** compared the forcible displacement of the Kurdish population of north and east Syria with the experience of Cyprus in 1974 when Turkish forces invaded the island. The evidence before the Tribunal leads to the conclusion that the pattern of invasion, military occupation, massive forced displacement, rampant human rights violations and demographic restructuring is a clear project aimed at the complete removal of the Kurdish presence from north and east Syria, a project which inflicts enormous human suffering and contributes to long-term instability in the region.

## **2.7 CULTURAL AND HISTORICAL ERASURE**

Prosecutor **Socrates Tziayas** presented evidence of the attempted destruction of Kurdish culture and heritage through desecration of cemeteries and religious shrines and destruction of archaeological treasures in Afrin region, one of the most important cultural heritage regions of the world, with a huge number of archaeological and historical sites from different eras distributed over 366 villages. The expert witness **Dr Odysseas Christou**, associate professor at the University of Nicosia in Cyprus, detailed the many breaches of international law in Turkey’s and its proxy militias’ erasure of the historical memory of the Afrin region. Reports showed ancient sites of inestimable value pulverised by Turkish bombs. The 3,000-year-old Ain Dara temple from the Syro-Hittite Iron Age, a UNESCO world heritage site, was bombed in January 2018.<sup>108</sup> The Tribunal was shown video and photographic evidence of the destruction, which shows that around 60 percent of the site is now in ruins, and the front facade has been completely destroyed. Huge basalt lions, emblematic of this temple, were stolen in December 2019 by members of the Hamza Division, part of the Turkish-backed Syrian National Army. A report by the Human Rights Organisation in Afrin pictures other ancient sites such as Abdalou Tower, Sheikh Mohammed shrine, al-Jajiya hill, Jandairis hill, Brad (a UNESCO world heritage site, the burial place of Saint Mar Maron, father of the Maronite church), Dodri hill, Zarafka hill, Shadira, Shirawa, Nabi Hori, and many more which have been attacked with heavy machinery such as bulldozers, vandalised, with fragile objects such as glass and ceramics destroyed, and looted of treasures, with ancient mosaics and historic pieces sent to Turkey and sold on the black market for antiquities.<sup>109</sup> This destruction is clearly intended to eradicate the region’s historical Kurdish heritage.<sup>110</sup> That and other reports also refer to interference with the Dederiyeh cave which contained Neanderthal skeletons and 300,000-year-old tools.<sup>111</sup> A video seen by the Tribunal showed that what remains of a historic site is being used as a military training ground and venerable ruins are being riddled with bullets, speeding up their disappearance.<sup>112</sup>

The UN Commission of Inquiry referred in its August 2018 report to the bombardment of Ain Dara, noting that ‘While the Government of Turkey denied responsibility for the attack, the Syrian Ministry of Culture blamed it for the destruction.’<sup>113</sup> In September 2019, the UN COI acknowledged receiving ‘several reports regarding the pillaging of historical and archaeological sites by armed groups, including Tel Jenderes’, which were under investigation.<sup>114</sup> The Commission noted in August 2020 that ‘Syrian National Army members also looted and destroyed religious and archaeological sites of

profound significance in the Afrin region. For example, Syrian National Army forces looted and excavated ancient artefacts, including mosaics, from the Hellenistic archaeological site of Cyrrhus as well as the Ain Dara temple, protected by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Satellite imagery showed that both sites had likely been bulldozed between 2019 and 2020.<sup>115</sup> Its January 2021 report referred to ‘the bulldozing, looting and destruction of archaeological sites and Yazidi shrines and graves by the Syrian National Army in Afrin’.<sup>116</sup>

**Dr Christou**’s report referred to the destruction and desecration of cemeteries and shrines in the occupied areas, many of which hold deep cultural and religious significance, by SNA militias.<sup>117</sup> He noted ‘numerous incidents of cemetery and shrine vandalism, such as the repeated destruction of cemeteries in the villages of Sheikh Khoraz and Abu Kaaba, the conversion of the Avesta Khabur Martyr cemetery into a livestock market, and the excavation of Kurdish and Yazidi shrines. Such acts appear motivated by retaliatory measures and ideological objectives, intending to erase cultural identities and exert control over the region’s historical narrative.’<sup>118</sup> In the Avesta Khabur Martyr cemetery, described as a ‘terrorists’ cemetery’ by its attackers, the militia members recorded their actions, and the Tribunal saw videos they had posted on social networks of cutting down and smashing the headstones of fighters. The Turkish news agency Anadolu reported that the cemetery had been razed to the ground, and the cemetery site dug up and levelled, with no trace of the graves remaining and nowhere for families of these fighters to go to honour their memory.<sup>119</sup> Another cemetery, near the town of Anqele in Afrin, was also razed and a Turkish military post built on it.<sup>120</sup> Bellingcat also refers to the destruction and desecration of Yazidi shrines in the region, as well as historic and archaeological sites referred to above.<sup>121</sup>

### **Turkification of occupied areas**

The Tribunal heard that Turkey treats the areas of Turkish occupation in Syria, the ‘Euphrates Shield’ region comprising Jarablus, Azaz and Al-Bab, where two million people live, and the ‘Olive Branch’ areas of the Afrin district and its countryside, where half a million live,<sup>122</sup> as part of Turkey, with the provincial authorities of Kilis, Gaziantep, Hatay, and Şanlıurfa directly overseeing the provision of education, health, financial and banking services, and humanitarian aid alongside local councils whose representatives Turkish authorities generally approve or appoint.

Various reports and testimonies testify to the changes in the names of places and towns from which the Turkish army and its proxies are driving out Kurdish people. They are being replaced by Arabic names, as are the shops and shops whose owners have been driven out. In the areas occupied by Turkey, particularly in Afrin where the governor is appointed by Turkey, the Turkish language is imposed in schools, along with Arabic, and Kurdish is no longer compulsory; the currency used is Turkish lire and even the stamps are Turkish. The Tribunal heard from **Ibrahim Sheiho** who said that in Afrin, a radical Sunni Islam has been imported and in the streets, Kurdish children are beaten by passers-by who accuse them of not being believers, of being ‘devils’. Their families cannot protect them and they have nowhere to lodge a complaint, since the militias run the courts. A Syrians for Truth and Justice report documents instances of destruction or Turkification of Kurdish landmarks and structures in Afrin and al-Bab.<sup>123</sup>

Prosecutor **Urko Azurtza** presented evidence of attacks by Turkey-aligned militias on other religious minorities and churches, including Syriac Christians, Assyrians and Armenians. **Robel Baho** gave evidence of attacks on churches of such minorities in villages of Sere Kaniye. The Tribunal saw photographs of damage to an Armenian church and ritual objects in an attack at Tel Abyad in November 2019.<sup>124</sup>

### 3. LEGAL ANALYSIS

This section of the judgment analyses the wrongs done to the people of Rojava through the lens of international law: the laws of war, from which crimes of aggression, war crimes and crimes against humanity derive; and additionally through the lens of human rights law. It examines issues of command responsibility, and addresses the issue of access to justice, domestically and internationally.

#### 3.1 CRIME OF AGGRESSION

The systematic human rights violations suffered by the Rojava people have their first and original cause in the crime of aggression committed by Turkey. This, the trigger for all other crimes, was condemned by the International Military Tribunal of Nuremberg in the judgment of 1 October 1946: ‘To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.’<sup>125</sup>

This ‘crime against international peace’ committed by Turkey against Syria aligns with the definition given by the United Nations General Assembly (UNGA) in Resolution 3314 (XXIX) of 1974: aggression is ‘(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof.’<sup>126</sup> The Rojava hearing established that Turkish troops and their proxies have attacked this territory and since 2018 have occupied the region of Afrin, since 2016 the ‘M4 Strip’ of northern Syria and since 2022 has *de facto* annexed the Al-Bab/Azaz/Jarablus Triangle region. The Rojava *State of the occupation* reports<sup>127</sup> include maps of the occupied territories, and note that functions of government including the control of the security forces (the Military Police and the SNA militias, financed and backed by Turkey), the imposition of taxes, the control of communications, the administration of justice in Afrin province have been taken over by the occupiers, and local councils are being formed by Turkey.<sup>128</sup>

Turkey has not stopped bombing and launching drone and heavy artillery strikes against different enclaves in the Syrian territory Rojava. This hearing has documented bombardments of civilian areas and targets, airstrikes against Serekaniye and Tel Abyad regions and a whole series of Turkish attacks on Syrian territory, in the framework of the three military campaigns by the Turkish army on Syrian soil: Euphrates shield (2016-2017), Olive Branch (2018) and Peace Spring (2019); and Syrian territorial integrity has also been violated by the systematic and increasing use of drones, often against civilian targets and used with increasing frequency to date.

All these military actions of aggression, when directed against civilian targets such as hospitals and schools, constitute at the same time war crimes. In this sense, the same UN resolution in its article 3 also qualifies as aggression ‘(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State’; (d) An attack by the armed forces of a State on the land (...) of another State’.

To this crime of direct aggression one can add the commission of indirect aggression, defined in article 3.g of UN Resolution 3314 (XXIX): ‘(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.’ The prosecutor has proved in this case that Turkish-backed Syrian National Army (SNA) and their affiliated militias operating in the Rojava region have been and are being financed and coordinated by Turkey.

The Tribunal concludes that the two elements of the crime of aggression are met in this case: the objective element (*actus reus*) is established by the evidence, that the Turkish armed forces and their proxies, as stated in Article 6(a) of the London Charter of the Nuremberg International Military Tribunal, directed by the Turkish political and military leaders have participated in the ‘planning, preparation initiation or waging of a war of aggression’. Article 8bis of the ICC is more precise and fits the perpetration of the crime by Erdogan and others, as they participated in the ‘planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression, which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations’. The subjective element (*mens rea*) is also present. Although this requirement was not contemplated in the Nuremberg and Tokyo Charters, the trials developed under the mandate of Control Council Law No. 10, pointed to the need to prove intent, ie, the defendants must be aware of these actions and their possible effects.<sup>129</sup> The Turkish leadership has not hidden its incursions into Syria, see eg the Twitter post of Recep Tayyip Erdoğan of 9 October 2019 on the launch of Operation Peace Spring in Syrian territory.<sup>130</sup>

It follows that both the State of Turkey and the senior Turkish officials named as defendants are responsible for the commission of the crimes of direct and indirect aggression against the State of Syria, which continues to this day with attacks on and territorial occupation of parts of the Syrian territory of Rojava. Turkey as a State cannot go unpunished for the crime on the ground that this definition of aggression, contained in a non-binding UNGA Resolution, is not binding. Nor can its high-ranking officials go unpunished as perpetrators of the crime of aggression on the ground that they do not recognise the jurisdiction of the International Criminal Court (ICC), as Turkey has not ratified the Rome Statute, much less the Kampala reform of June 2010, which introduces the new article 8 bis, criminalizing the crime of aggression in the same terms as resolution 3314 (XXIX). The prohibition of the crime of aggression is part of customary international law, and has been established as a peremptory norm or *ius cogens* which must be obeyed by all States (*erga omnes*), since the crime calls into question a people’s right to self-determination (even more so when followed by an occupation of territory). From the formulation of the Nuremberg Principles by UNGA resolution 95.1 in 1946 to the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (GA resolution 2625 (XXV) (1970), it is recognised that ‘a war of aggression constitutes a crime against peace, for which there is responsibility under international law’ - of the State, for violating the prohibition of the use of force, which must be settled before the International Court of Justice,<sup>131</sup> as was done in cases such as *Nicaragua v. United States* in 1986<sup>132</sup>; and individual criminal responsibility, to be pursued before national courts,<sup>133</sup> in default of the possibility to denounce before the International Criminal Court.

The Turkish justification for its military offensive is neither authorised by the United Nations Security Council, nor does it meet the requirements of self-defence, since Turkey has suffered no armed attack by the Syrian armed forces or by the Kurdish forces belonging to the DAANES. Therefore, the alleged Turkish self-defence against terrorism neither conforms to the facts, nor respects international law or the UN Charter.

## 3.2 WAR CRIMES

### Turkey’s responsibility as an occupying power

As an occupying power, Turkey is bound by the Fourth Geneva Convention of 12 August 1949, which it ratified on 10 February 1954. This Convention is the primary international legal instrument regulating the protection of civilians during war and military occupation.

According to Article 2, the Convention applies in all armed conflicts between contracting States, regardless of a formal declaration of war. It also applies in cases of occupation, even without resistance. As an occupying power, Turkey has fundamental obligations under the Fourth Geneva Convention to protect the civilian population, including:

- Ensuring that civilians are treated humanely and are not subjected to violence, torture, collective punishment, or illegal deportation (Articles 27-34);
- Prohibiting looting (Article 33);
- Prohibiting hostage-taking (Article 34);
- Prohibiting the transfer or deportation of civilians within or outside the occupied territory (Article 49);
- Prohibiting the occupying power from transferring its own population into the occupied territory (Article 49, para. 6);
- Prohibiting the destruction of private or public property unless justified by military necessity (Article 53);
- Guaranteeing medical care, food supplies, and adequate hygiene conditions for the population (Articles 55-56);
- Prohibiting the exploitation of the occupied territory's resources for the exclusive benefit of the occupying power (Article 55);
- Prohibiting the trial of civilians by the occupying power's military courts unless in strict accordance with international law (Articles 64-75).

In summary, the Fourth Geneva Convention imposes a duty on the occupying power to protect civilians, respect local laws, provide humanitarian aid, and prevent deportations and exploitation of resources.

Turkey has failed to uphold the obligation to maintain the status quo in occupied territories (*Article 43 of the Hague Convention, Article 4 Additional Protocol I Geneva Conventions, UN Security Council Resolutions 234/2016, 465-476-480/1980, 446-452/1979, 298/1971*).

Grave breaches of the Convention constitute war crimes and entail criminal liability for the perpetrators. According to Article 147, grave breaches include:

- Willful killing;
- Torture or inhuman treatment;
- Willfully causing great suffering or serious injury;
- Illegal deportation, transfer, or detention;
- Denying a protected person a fair trial;
- Taking hostages;
- Destruction or appropriation of property not justified by military necessity and carried out unlawfully and arbitrarily.

These grave breaches form the basis of international criminal law provisions, as incorporated into the Rome Statute of the ICC.



Article 8 of the ICC Statute refers to the crimes listed in the Geneva Conventions. Although the ICC's jurisdiction does not extend to Turkey, these crimes remain punishable and legally binding on Turkey, as they constitute serious violations of the Fourth Geneva Convention.

### **Displacement of population and ethnic engineering in Afrin**

The evidence set out above confirms that Turkey, either directly or through its controlled militias, has carried out ethnic cleansing in Afrin, forcing approximately 300,000 people (40% children and 40% women) to flee their homes; looting abandoned properties, erasing traces of Kurdish presence and replacing the forcibly displaced Kurdish population by Arab and Turkmen populations relocated from other conflict zones, thereby significantly altering the ethnic composition of occupied Afrin. This constitutes a massive and widespread violation of a fundamental rule of the Fourth Geneva Convention, which prohibits ethnic cleansing through forced deportation or resettlement (Article 49). This violation is a war crime, implicating the political and military leaders of Turkey who facilitated or carried out these actions.

### **Torture, kidnapping, and arbitrary detentions in Afrin**

Reports seen by the Tribunal document widespread use of torture against individuals arbitrarily arrested and denied a fair trial, and many cases of individuals being kidnapped and sometimes released upon ransom payment. These acts constitute severe violations of the Fourth Geneva Convention, particularly Articles 3, 31, 32, 33, 34 and 71. These violations amount to war crimes and impose personal criminal responsibility on those who planned, carried out, or permitted them.

### **Laws of war**

In areas of northeastern Syria not occupied by Turkey but subjected to direct attacks from Turkish armed forces or their controlled militias, the detailed rules of the Fourth Geneva Convention do not apply. However, the use of military force remains governed by the laws of war and humanitarian law, primarily outlined in the First Additional Protocol to the Geneva Conventions.

Key principles include:

#### **1. Principle of Distinction (Articles 48-52)**

- Distinction between combatants and civilians: Attacks must target only military objectives, never civilians or civilian property;
- Prohibition of indiscriminate attacks: Attacks that fail to distinguish between military and civilian targets, such as carpet bombing or weapons with uncontrollable effects, are forbidden.

#### **2. Protection of Civilian Property (Articles 52-56)**

- Civilian objects cannot be military targets unless used for combat purposes;
- Special protection for essential infrastructure, such as hospitals, dams, nuclear plants, and places of worship.

#### **3. Prohibition of Banned Means and Methods of Warfare (Articles 35-36)**

- Prohibition of weapons causing unnecessary suffering, such as chemical and biological weapons;

- Prohibition of indiscriminate weapons, such as landmines and cluster bombs.

#### 4. Prohibition of Retaliation Against Civilians (Articles 51-55)

- Retaliation against civilians, cultural property, and the environment is strictly forbidden.

Although Turkey has not ratified the First Additional Protocol, its principles have become part of customary international law and constitute *jus cogens*, binding Turkey. Violations establish individual responsibility for war crimes.

#### Episodes of serious violations of the laws of war

The Tribunal has established a series of criminal episodes committed by the Turkish armed forces and by militias supported by Turkey against the Kurdish population of Rojava. These include:

- **2 December 2019:** The Tel Rifaat airstrike which killed ten people, eight of them children;
- **9 October 2019:** The air and artillery bombardments in the regions of Serekaniye and Tel Abyad, with the simultaneous advance of Turkish military forces and Turkish-supported militias, which forced the evacuation of at least 138,000 people, and during which weapons prohibited for causing superfluous injury or unnecessary suffering (Art. 35, Protocol I, Protocol III of the Geneva Convention, 10/10/1980) were used, such as white phosphorus or other incendiary bombs;
- **18 August 2022:** The drone strike on the Schemoka school, killing 5 students.

#### The war crime of pillage

The indictment includes charges of appropriation of civilian property and looting of Syrian economic assets. The evidence showed that the occupying forces in the Afrin region have dismantled its economic and agricultural infrastructure, appropriating two of its main economic resources: textile machinery and olive oil production. The Tribunal concludes that the war crime of pillage has been proved; the occupying forces have looted and seized houses and lands in Afrin and in the villages of Tel Abyad and Serekaniye,<sup>134</sup> provoking further mass displacement of the Kurdish population and facilitating the resettlement of Sunni Arab families from Eastern Ghouta into the homes of displaced Kurds – which constitutes another grave breach of the Geneva Conventions. Likewise, the looting of archaeological treasures such as the emblematic basalt lion of the Iron Age Syro-Hittite temple of Ain Dara and the mosaics of the city of Cyrrhus ancient Roman amphitheatre, constitute the war crime of pillage,<sup>135</sup> denounced by Afrin Antiquities Directorate.<sup>136</sup>

The prohibition of pillage is an ancient rule of customary international law,<sup>137</sup> and it is considered imperative to prosecute as a grave breach of the laws and customs of war the destruction and appropriation of property not justified by military necessity and carried out on a large scale in an unlawful and arbitrary manner. The prohibition was recognised in the Lieber Code of 1863; Article 46 of the Hague Regulations of 1907 establish that private property must be respected, and its confiscation is clearly and expressly prohibited; Article 33 of the Fourth Geneva Convention and Article 47 of the Regulations on the Protection of Victims of International Armed Conflicts stipulate that ‘pillage is prohibited’. The Nuremberg International Military Tribunal condemned various Nazi leaders for the looting and destruction of all types of public and private property in the countries occupied by the Third Reich and confirmed the customary nature of the rules contained in the Hague Regulations. German businessmen were famously prosecuted in the *Flick, IG Farben* and *Krupp*

cases, among others, for the looting of industries and exploitation of natural resources in territories occupied by Nazi Germany.<sup>138</sup>

On the issue of corporate responsibility, the often-invoked *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, on the corporate responsibility to respect human rights, warns that 'some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (...) Business enterprises should treat this risk as a legal compliance issue, given the expanding web of potential corporate legal liability'.<sup>139</sup> It is worth noting that in the context of the Syrian war, French courts are being asked to condemn the Lafarge company for its involvement in international crimes.<sup>140</sup> Unfortunately in this case it has not been possible to identify the textile, agricultural or even oil companies that have taken looted goods from the Rojava region and transferred them to Turkish territory.

Looting in the context of international and internal armed conflicts is punishable as a war crime in Article 8.2.b.xvi and 8.2.e.v of the Rome Statute, and its nature as a customary international norm is recognised by international tribunals. The appropriation of houses has been sanctioned by the International Criminal Court, which condemned Germain Katanga for pillaging by devastating the property and livelihoods of the citizens of Bogoro.<sup>141</sup> The Special Court for Sierra Leone convicted Charles Taylor, president of Liberia during the conflict, of war crimes for committing acts of pillage in Sierra Leone, and prosecuted businessman Michel Desadeleer for the same crime and profiting from trafficking 'blood diamonds'.<sup>142</sup>

Beyond individual and corporate responsibility for the commission of war crimes of pillage, State responsibility may also be engaged. Thus, the International Court of Justice condemned Uganda both for the crime of aggression committed against the Congo and for the lack of due diligence in allowing Ugandan armed groups to plunder the natural resources of its eastern provinces. Consequently, in this case on *Armed Activities in the territory of the Congo (DRC v. Uganda)*, of 19 December 2005, the Hague judges expressly condemned the commission of the crime of pillage.<sup>143</sup>

### **Cultural and historical erasure as war crime and evidence of the *dolus specialis* of the crime of genocide**

The Tribunal has concluded that Turkey and its affiliated militias have conducted a systematic campaign against the Kurdish population in north and east Syria since at least 2018 aimed at wiping out their identity. The occupied areas are known for their **cultural and religious diversity**, manifested in both its tangible and intangible heritage.

The Turkish policy of erasure followed a pattern of connected illegal acts: Turkish-backed militias forcibly displaced the Kurdish population and resettled Syrian civilians from elsewhere in the territory; Turkish forces engaged in a massive unlawful appropriation of civilian property belonging to Kurdish individuals; Turkish occupying forces and affiliated militias changed the Kurdish names of villages, towns and institutions into Turkish, to erase the memory of the Kurdish presence there. This ethnic cleansing was accompanied by a widespread attack on protected cultural objects. The destruction of Yezidi and Christian religious sites was noted, the gleeful desecration of cemeteries, and the targeted eradication of Kurdish heritage, including the wilful bombing of the ancient temple of Ain Dara in January 2018, the theft by Turkish-aligned militias of its iconic Hittite-era basalt lion in 2019, the desecration, looting and vandalism of many other archeological sites.

Intentional attacks on cultural property during an armed conflict, whether international or non-international, constitute a blatant violation of international humanitarian law and a **war crime**.<sup>144</sup>

Cultural property is widely protected from damage and destruction in international law. Article 4 of the Hague Convention of 1954 provides for protection of cultural property of great importance against damage or destruction, unless there is an imperative military necessity, and prohibits any acts of theft, pillage and vandalism.<sup>145</sup> Both Additional Protocols to the Geneva Conventions protect cultural property.<sup>146</sup> According to article 85(4)(d) of the Additional Protocol I, it is a war crime to intentionally make historic monuments, works of art or places of worship the object of attack. Articles 27 and 56 of the Hague Rules of 1907,<sup>147</sup> widely recognised as customary law, impose the obligation to spare buildings dedicated to religion, art, science, and historic monuments. International customary law also criminalizes all seizure of, destruction or wilful damage to protected objects.<sup>148</sup> The Rome Statute of the ICC qualifies intentional attacks against protected buildings as a war crime in both international and non-international armed conflict.<sup>149</sup> So far as the crime envisaged in the ICC Statute refers to buildings dedicated to education, the 18 August 2022 attack against the Schemoka girls' school may also be qualified as a war crime. International jurisprudence since the Nuremberg Trials confirms all these legal considerations.<sup>150</sup>

In addition, while international customary law and jurisprudence limit the definition of genocide to those acts seeking the physical or biological destruction of a group, explicitly excluding cultural genocide,<sup>151</sup> the International Criminal Tribunal for the former Yugoslavia (ICTY) recognised that attacks on cultural and religious property and symbols of a targeted group may be considered evidence of an intent to physically destroy the group. In other words, intentional destruction of cultural heritage may serve as **evidence of the *dolus specialis* of the crime of genocide.**<sup>152</sup>

### 3.3 CRIMES AGAINST HUMANITY

The term 'crimes against humanity' dates back to 1915, when in a joint declaration France, the United Kingdom and Russia used it to refer to the massacre of the Armenian people committed by Turkey, denouncing those acts as 'crimes against humanity and civilisation for which all the members of the Turkish Government will be held responsible together with its agents implicated in the massacres.'<sup>153</sup> The legal concept was not codified however until the Charter of the International Military Tribunal at Nuremberg, which expressly incorporated crimes against humanity as part of its jurisdictional competence, connecting it to armed conflict (art. 6.c).<sup>154</sup> The statutes and jurisprudence of the ICTY and the International Criminal Tribunal for Rwanda (ICTR)<sup>155</sup> developed the crime and inspired the current codification of 'crimes against humanity' in Article 7 of the Statute of Rome of the ICC.<sup>156</sup> It includes a large number of crimes committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack: murder; deportation or forcible transfer of population; unlawful imprisonment or severe deprivation of liberty; torture; rape and other serious sexual violence; persecution on racial, ethnic, gender, religious or other protected grounds; enforced disappearance; apartheid; and other inhumane treatment causing great suffering or injury. Although neither Turkey nor Syria are state parties to the ICC, both the prohibition of crimes against humanity and their prosecution are part of customary international law. In the renowned *Tadic* case, the ICTY stated that: 'Since the Nuremberg Statute, the customary character of the prohibition of crimes against humanity and the imposition of individual criminal responsibility for their perpetration have not been seriously disputed.'<sup>157</sup>

#### Forced displacement

It is clear to the Tribunal that the **forced displacements** of the Kurdish population in the north of Syria were part of a **widespread or systematic attack directed against a civilian Kurd population in Rojava** and constitute crimes against humanity. Without doubt the attacks against Kurdish people

in Rojava are ‘systematic’, in the sense used by ICTY in the *Kunarac* case: ‘*The adjective 'systematic' signifies the organised nature of the acts of violence and the improbability of their random occurrence. Patterns of crimes - that is the non-accidental repetition of similar criminal conduct on a regular basis - are a common expression of such systematic occurrence.*’<sup>158</sup> The bombings, drone attacks on the civilian population, assassinations (specially the **arbitrary killing** of leading political and human rights defender women), torture, imprisonment and actions aimed at the destruction of the Kurdish identity, are part of a clear strategic plan conceived by the Turkish authorities that prove the constituent elements of crimes against humanity.

Forced population transfer within a state's borders or internal ‘deportation’ constitutes a crime against humanity in the international jurisprudence. In the cases *Prosecutor v. Radislav Krstic* and *Prosecutor v. Nikolic*, Trial Chamber I, 1995, the ICTY considered the unlawful transfers of civilians within Bosnia ‘as deportation and therefore crimes against humanity’. Similarly, in *Prosecutor v. Radovan Karadžić* (2016) & *Ratko Mladić* (2017), the ICTY convicted the defendants of crimes against humanity including forcible transfer and genocide in Srebrenica in 1995, concluding in this regard that ‘the forcible transfer of Bosnian Muslim civilians was part of a widespread and systematic attack on a civilian population, constituting crimes against humanity’. Milošević was indicted for ethnic cleansing campaigns in Bosnia, Croatia, and Kosovo, accused of ‘a campaign of deportations, forced displacement, and persecution ... conducted with the intent to alter the ethnic composition of territories.’<sup>159</sup> Likewise, the *Crimes Against Humanity Charges, Serious Crimes Unit of the United Nations Mission of Support to East Timor* (UNMISET) in a judgment of 25 February 2003 condemned eight Indonesian and East Timorese government and military officials for crimes against humanity for the ‘forcible transfer of civilians from districts across East Timor to West Timor’.

Human Rights Watch invoked these authorities to qualify forced displacement of Kurds from the Kirkuk region of Iraq – a parallel with the Turkish demographic engineering in Syria – as crimes against humanity: ‘*The expulsions of ethnic Kurds, Turkmen, and Assyrians from the Kirkuk region amount to an Iraqi government policy of forced transfer of populations, pursued to change the demographic nature of the Kirkuk region-a policy commonly referred to as the 'Arabization' of the Kirkuk region. Underlying this demographic change is the government's desire to reduce the political power and presence of ethnic minorities in order to retain or increase government control over this oil-rich region. The forced and arbitrary transfer of populations that is without any grounds permissible under international law, is a crime against humanity.*’<sup>160</sup>

Acts falling within **Article 7(1)(d)** of the Rome Statute, ‘Deportation or forcible transfer of population’ meaning forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law’, may also constitute persecution under **article 7(1)(h)**: ‘the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.’

When forced displacement is committed with intent to destroy a group, it qualifies as **genocide**, according to article 6.c, that refers to ‘deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part’. In fact, the ICTR in its first case, *Prosecutor v. Jean-Paul Akayesu*, recognised **rape** as genocide during **ethnic cleansing**, and ruled that forcible transfer and systematic expulsion constituted acts of genocide when aimed at the destruction of a group.<sup>161</sup> And Sudanese president Omar al-Bashir was indicted before the ICC for genocide, crimes against humanity, and war crimes in Darfur for the **displacement of civilians**, carried out in a discriminatory manner, as part of a genocidal campaign against ethnic groups in Darfur.<sup>162</sup>

National courts have also characterised forced displacement as a crime against humanity: *Colombia's Special Jurisdiction for Peace* (JEP) ruled that ‘the massive and systematic forced displacement of indigenous and Afro-Colombian communities was part of an orchestrated campaign to control territory’ and was a crime against humanity.<sup>163</sup> In this context, the *Constitutional Court of Colombia*

– *Decision T-025 (2004)* also declared that forced displacement in Colombia was a grave violation of human rights and the systematic expulsion of civilians constituted a crime against humanity when committed as part of an organised attack against a civilian population.<sup>164</sup>

### **Torture, rape, sexual violence, inhuman treatment**

The Tribunal confirms that the systematic practice of torture, including sexual violence, and other degrading and inhuman treatment that causes serious damage to the physical or mental health of a person, not only constitutes a crime of torture as provided for in the UN Convention Against Torture, but also, when committed as part of a widespread or systematic attack against civilians as in this case, crimes against humanity. We are satisfied that this is the case here; the acts described to us are not isolated incidents but occur as part of a larger policy or campaign directed against the Kurdish civilian population. The ICTY emphasized the systematic nature of sexual violence and physical abuse during the Bosnian war.<sup>165</sup>

In the case of Rojava, there has been a gender perspective to the commission of these crimes against humanity, with proven cases of rape and other forms of sexual violence to Kurdish women, kidnapped and sent to Turkish prisons; these facts constitute crimes against humanity when part of a widespread or systematic attack, as here, under Article 7(1)(g) of the Rome Statute. In *Prosecutor v. Čelebići* (1998) the ICTY convicted perpetrators for torture through sexual violence, ruling that ‘Rape may constitute a crime against humanity if it is part of a widespread or systematic attack against a civilian population.’<sup>166</sup> At the same time, in *Prosecutor v. Furundžija* (1998) ICTY concluded that rape constitutes an international crime of torture: ‘rape is a despicable act which strikes at the very core of human dignity and physical integrity. As such, it constitutes a violation of personal autonomy.’<sup>167</sup> In *Prosecutor v. Akayesu* (1998) the ICTR held that torture, including sexual violence, can constitute a crime against humanity when it forms part of a broader attack, as torture includes acts that cause severe physical or mental pain or suffering for purposes such as obtaining information, punishment, or intimidation.<sup>168</sup> In *Prosecutor v. Jean-Pierre Bemba* (2016), the ICC convicted a commander for sexual violence committed by subordinates, remarking that sexual violence was not merely an isolated incident of opportunistic crimes, but a deliberate policy to terrorise the civilian population.’ It confirmed that for torture to qualify as a crime against humanity, it must be committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack.<sup>169</sup>

From this perspective, the intentional killings of prominent Rojava Kurdish women because of their gender constitute a crime against humanity. This **femicide** falls under article 7(1)(a) Rome Statute (murder) and article 7(1)(h) (persecution against any identifiable group or collectivity defined by race, gender etc). Violence against women and gender-based killings constituting femicide was proclaimed in the renowned judgment of the *Inter-American Court of Human Rights* in the *Campo Algodonero Case* (González et al. v. Mexico, 16 November 2009). In the context of the Syrian war, the UN COI, in its 2016 report on ISIS Crimes against Yazidis, found that IS’ mass killings and enslavement of Yazidi women constituted genocide.<sup>170</sup>

### **Destruction of cultural heritage as persecution**

Finally, the systematic **destruction and suppression of the cultural heritage** of targeted minorities, particularly the Kurdish people, apart from being war crimes, may also amount to the **crime against humanity of persecution**. There is abundant jurisprudence in the ICTY *Judgments in Prosecutor v. Dario Kordić and Mario Čerkez; Prosecutor v. Tihomir Blaškić; Prosecutor v. Radovan Karadžić,*

*Trial Chamber III*) confirming that the destruction of cultural institutions and cultural properties of a group, if committed with discriminatory intent, can be punished as persecution, because it manifests an attack to the identity of a people.<sup>171</sup>

### 3.4 HUMAN RIGHTS VIOLATIONS

The situation in Rojava engages not only international humanitarian law applying in armed conflict (aggression, war crimes) and crimes against humanity, but also sectoral conventions, customary sources, and general principles of human rights law, incorporating the universality and centrality of these rights as guarantees of respect for the dignity of every person by the international community and its State and non-State actors. This alters and expands the obligations of States concerning both their internal sovereignty and in the context of international relations.<sup>172</sup> Though there is often an overlap between the norms traditionally belonging to international law and those affirming and recognising human rights applicable in the international arena, the difference in perspective and the heterogeneity of remedies in case of violations distinguish them.<sup>173</sup>

The severity and intensity of the human rights violations committed against the Kurdish people leads to an evaluation of Turkey's conduct from a perspective that goes beyond the laws of war. The conflict is exceptional for not involving belligerence between two States but rather, prolonged and violent aggression by one State against an autonomous community and its citizens living in another State, which has remained and continues to remain largely passive in the face of the aggression. Essentially, the ongoing conflict is an aggression against a people and its individuals. This highlights the importance of internationally recognised human rights, which, due to their specificity and binding nature, provide protection in cases where conventional and customary international norms governing armed conflict prove inadequate or insufficient. In this case, the peculiar and anomalous nature of the conflict results in a total impairment of judicial or quasi-judicial remedies, both at the national and supranational levels, or significantly undermines their effectiveness.

A second consideration relates to Turkey's justification of the aggression as an anti-terrorist measure within the broader framework of Turkey's longstanding conflict with the PKK, representing the Kurdish minority within its own territory. But the conduct of the aggressor State itself contradicts this, particularly the targets of its military actions, which are in blatant violation of the principle of distinction, a fundamental tenet of the laws of war. The aggression against the Kurdish people in north and eastern Syria is characterised by the systematic targeting of civilian objectives. It is impossible to ignore the coherence of this aggression with the aim of eliminating the political project undertaken by the Kurdish community in Syria, by destroying or seizing military control over the region's natural and energy resources, forcibly displacing the population on a massive scale, and laying the groundwork for the future annexation of occupied territories, threatening the very survival of the population. Directly or indirectly through the actions of militias, Turkey's severe human rights violations aim at dismantling the social and political life of the autonomous community of Rojava and the Kurdish people. They have the following objectives:

- Preventing and obstructing the functioning of the DAANES or Rojava through targeted assassinations, destruction of civilian infrastructure, energy, water and medical facilities;
- Denying the principle of equality and non-discrimination and the equal participation of women in political and social life, which is a cornerstone of Rojava's political constitution;
- Forcibly and permanently removing the Kurdish population from strategic areas crucial for access to natural and energy resources;
- Obliterating Kurdish historical and cultural heritage, language and education;
- Attacking the peaceful exercise of family, social, and political life among civilians;
- Intimidating and violently repressing media and journalists, both Kurdish and foreign, who challenge the propaganda of the aggressor State.

The realisation of these objectives corresponds to the violation of a series of collective and individual human rights that the Kurdish people had begun to enjoy through the exercise of their right to self-determination.

### **The right to self-determination of the Kurdish people**

This right was first envisaged with demands for the recognition of the Kurdish language and Kurdish-language education at the end of the 19th century, as the Ottoman Empire's crisis deepened. It was mentioned in the Treaty of Sèvres (signed by Italy, France, and Great Britain but not by Turkey), where the predominantly Kurdish area east of the Euphrates was geographically identified, and the possibility of recognising its independence was referred to the Council of the League of Nations.<sup>174</sup>

The legal framework for peoples' right to self-determination emerged after World War II, particularly with the United Nations Charter (Articles 1, 55, and 56), which calls for the establishment of peaceful and friendly relations among nations based on respect for the principle of self-determination.<sup>175</sup> It was during the decolonisation process of the early 1960s that self-determination became a binding international right, requiring State compliance<sup>176</sup> under three conditions: the people seeking independence must be subjected to colonial domination, or military conquest and occupation of their territory, or an apartheid regime.<sup>177</sup>

Alongside external self-determination (independence), international law has developed the concept of internal self-determination, applicable to peoples who do not meet the criteria for independence.<sup>178</sup> This entails a high degree of autonomy and self-government within a sovereign State. For internal self-determination to be recognised, the group in question must constitute a people with a distinct historical and collective identity, or an ethnic or national group, as is the case with the Kurds.<sup>179</sup>

In light of these considerations, it is evident that the Turkish aggression has violated the right to self-determination not only in relation to Syria but also against the Kurdish people, both through the partial occupation of their territory and by destabilising their autonomy and self-governance in areas controlled by the Autonomous Administration.

The attacks have specifically targeted the self-governance model established in Rojava, which is based on constitutional principles that the aggressors reject for ideological, political and religious reasons: democratic confederalism, the representation of a multi-ethnic and multicultural society, the principle of equality and gender parity, and a commitment to social ecology.

### **Equality, non-discrimination, women's and children's rights**

The principles of equality and non-discrimination set out in DAANES' founding statute reflect those progressively and fully integrated into the legal framework of the United Nations, starting with Articles 1 and 2 of the UN Charter, Articles 1, 2, and 7 of the Universal Declaration of Human Rights, and the International Covenants on Civil and Political Rights (Article 2) and Economic, Social, and Cultural Rights (Article 2). At the regional level, they are enshrined in the European Convention on Human Rights (Article 14), the American Convention on Human Rights (Article 1), the Arab Charter (Article 3), the African Charter (Article 2), the European Social Charter (Article E), and the Charter of Fundamental Rights of the European Union. The combination of these two principles serves as an essential legal instrument for the international protection of individual identity against any form of authority. They impose an obligation on States to implement them in their domestic legal systems concerning conventionally prohibited grounds of discrimination or other forms of discrimination under open-ended legal clauses, such as Article 1 of Protocol 12 of the ECHR.



This comprehensive anti-discrimination framework has led to the formulation of key UN conventions to combat the most widespread and egregious forms of discrimination. These include the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the 1973 Convention on the Suppression and Punishment of the Crime of Apartheid, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the 1989 Convention on the Rights of the Child. The 2011 Istanbul Convention, which Turkey signed as the host country of the Council of Europe negotiations that led to its final text, is noteworthy for the protection of women from violence. Turkey withdrew from the Istanbul Convention in 2021, the first time a member State of the Council of Europe has withdrawn from an international human rights convention.<sup>180</sup>

Through its aggression and actions in Rojava, Turkey has been responsible for multiple violations of the principle of non-discrimination, particularly in relation to international anti-discrimination laws aimed at preventing the most severe and egregious forms of racial and gender discrimination.

According to the 1965 Convention, ‘racial discrimination’ refers to any distinction, restriction, or preference based on race, color, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life (Article 1). Article 5 obligates states to ensure the right to personal security and protection against violence or harm inflicted by government officials, individuals, groups or institutions. It generally requires states to guarantee political and civil rights on an equal basis for all citizens.

The 1979 Convention defines discrimination against women to include any distinction, exclusion, or restriction based on sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, regardless of their marital status, of human rights and fundamental freedoms in the political, economic, social, cultural, or civil spheres, or in any other area, on the basis of equality between men and women. ‘The Convention was the culmination of over thirty years of work by the United Nations Commission on the Status of Women, established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light all the areas in which women are denied equality with men. These efforts for the advancement of women have resulted in several declarations and conventions” among them the Convention on the Political Rights of Women of 20 December 1952’.<sup>181</sup> The Convention of 1979 gives positive affirmation to the principle of equality by requiring States parties to take ‘all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men’ (article 3). Art. 7 requires States Parties to ‘take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, [to] ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country’.

The UN CEDAW Committee specifies that the definition of discrimination in Article 1 ‘includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty’ and ‘gender-based violence which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms’, which include, among others: the rights to life; not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; equal protection according to humanitarian norms in time of international or internal armed conflict; liberty and security of person. The Committee’s General Recommendations urge States to strengthen measures and programmes to criminalise all forms of

gender-related violence and ensure commensurate penalties; to prevent such violence; to protect and support survivors and provide effective reparations.<sup>182</sup> Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assaults of women, which require specific protective and punitive measures, addressed by the Committee in its recommendations 30.<sup>183</sup>

Turkey has violated this Convention not only by denying the conditions of equality and full gender parity recognised by the Rojava government but also by enabling or failing to prevent militias carrying out violent forms of discrimination against Kurdish women, who have been left unprotected, subjected to arbitrary arrests, inhuman and degrading detention in secret locations, torture and rape, forced marriages, and the forced disintegration of their families through deportation.

This gender-based violence reflects strong opposition to the political movement advocating for women's emancipation and empowerment, escalating to the brutal and exemplary assassination of women engaged in political, administrative and journalistic work.

The 1973 Convention against the Crime of Apartheid criminalises actions that 'take measures, including legislative measures, designed to divide the population along racial lines' (Article 2d). The occupation of the canton of Afrin, and the ethnic cleansing operation involving forced displacement of the Kurdish population and the resettlement of the region with other ethnic groups, is such a measure.<sup>184</sup>

The 1989 Convention on the Rights of the Child recognises every child's inherent right to life and obligates states to ensure the child's survival and development (Article 6), as well as prohibiting all forms of discrimination based on national or ethnic origin (Article 2). Article 9 requires states to prevent children from being separated from their parents. Article 29 establishes that a child's education must promote respect for their identity, language, and cultural values, as well as respect for the national values of the country in which they live, their country of origin, and other civilisations. Article 30 states that 'in States where ethnic, religious, or linguistic minorities or indigenous persons exist, a child belonging to such a minority or indigenous group shall not be denied the right to enjoy their own culture, profess and practice their own religion, or use their own language with other members of their group.'<sup>185</sup>

Turkey has gravely violated these provisions through military actions aimed at destroying schools and killing children. In particular, the bombing of Schemoka School targeted an example of multiculturalism and adherence to the principles of the Convention, established with the support of the United Nations. Turkey's forcible displacements of the civilian population have led to the fragmentation of families and the separation of children from their parents. In occupied areas, Turkey has denied the Kurdish community's cultural identity within schools and other institutions significant to children's lives.

### **Basic needs and sovereignty over economic, natural and cultural resources**

The right of states to their natural resources was affirmed in the UNGA Declaration of 14 December 1962 (*Permanent Sovereignty over Natural Resources*) and in the *Charter of Economic Rights and Duties of States* of 12 December 1974. In the African Charter on Human and Peoples' Rights, this right is also explicitly attributed to peoples. The jurisprudence of the African Court on Human Rights, as well as the Inter-American Court, has recognised this right based on the presence of indigenous populations or minority ethnic groups settled in a given territory. The pillage of natural resources from occupied areas (olive trees and olive oil from Afrin, and illegal logging of forested areas) as well as the destruction of energy and water plants and dams violates these rights.<sup>186</sup>

## **Cultural heritage**

The destruction of and damage to archaeological and religious sites constitute a severe violation of the *1954 UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict*, which mandates that military forces refrain from attacking cultural sites unless absolutely necessary. The Convention explicitly prohibits an occupying state from requisitioning, destroying, or intentionally damaging cultural property and requires it to cooperate with the legitimate authorities of the occupied territory in safeguarding and preserving cultural heritage.

## **Civil and political rights**

### *Right to life and personal integrity*

Civilians have been repeatedly targeted in direct military attacks. Examples include the bombing of displaced populations from Afrin in Tel Rifat and the use of prohibited weapons, such as white phosphorus bombs, in the bombardment and occupation of villages in the Tell Abyad and Si Kani regions. The Turkish aggression has also involved kidnappings, arbitrary detentions, torture, sexual violence (particularly in Afrin), secret detentions, and psychological and physical torture (as documented in testimonies presented at the session on 6 February 2025).

The right to life is the fundamental norm of international human rights law, which has acquired customary status. Even in armed conflicts, it maintains its binding force, as confirmed by the ICJ (*Advisory Opinions on the Legality of the Threat or Use of Nuclear Weapons, 1996, and the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 2004*). Violations of this right constitute breaches not only of the international humanitarian law principles of distinction, humanity, military necessity, proportionality and precaution, but also of human rights law, making the responsible state accountable to the victims' families.

The prohibition of torture and cruel, inhuman, and degrading treatment is a core principle in the Universal Declaration of Human Rights (*Article 5*) and regional human rights conventions (*Article 3 ECHR, Article 4 Charter of Fundamental Rights of the EU, Article 5 Inter-American Convention, Article 5 African Charter*). The UN's 1984 Convention against Torture provides the most comprehensive international legal framework on this issue.<sup>187</sup>

The Human Rights Committee<sup>188</sup> and international legal doctrine<sup>189</sup> categorise torture and related abuses into key violations, including ill-treatment of detainees; rape and sexual violence; excessive punishments and corporal punishment; extraordinary renditions; enforced disappearances. The proceedings have confirmed that these severe abuses have occurred in the course of Turkey's occupation.

### *Cultural identity, fair trial rights and freedom of expression*

The Kurdish population in Rojava has been systematically denied their cultural identity. This includes the erasure of Kurdish language from official use and place names, the destruction of archaeological and historical artifacts, and the repression of cultural expression.

Turkey has violated the right to a fair and impartial judicial system, as the administration of justice in the occupied areas has been completely dismantled or replaced with arbitrary systems of rule. The political and administrative structures of Rojava have been forcibly dissolved in occupied areas, and Kurdish political activists—particularly women—have been specifically targeted with threats, intimidation, and assassinations (such as *Hevrin Khalaf, Zainab Muhammad Saeed Muhammad, and Yilmaz Shero Mohammed*). Freedom of the press has been severely repressed. Targeted military attacks, such as the bombing of *Simav Print Office House in Qamishli*, and the assassination and

injury of journalists have violated international protections for war correspondents and embedded journalists (*UN Security Council Resolution 2222/2015*; *UN Truth Commission Report on El Salvador, 1993*).

### **Occupation and extraterritorial application of the ECHR**

Legal scholars highlight that ‘lacking any sovereign title over occupied territory, the occupying power may exercise only the powers granted by international law to meet its military needs or to ensure the orderly conduct of civilian life in the occupied territory.’ The occupying state ‘must also respect the obligations and prohibitions explicitly established by international law.’<sup>190</sup>

In the Turkish-occupied territories of north and east Syria, the European Convention on Human Rights (ECHR) binds Turkey extraterritorially, as established by the European Court of Human Rights (ECtHR) in cases concerning Turkey’s occupation of Cyprus, such as *Loizidou v. Turkey (Preliminary Objections)* and *Cyprus v. Turkey*. In these rulings, the ECtHR held Turkey responsible for enforcing the ECHR in northern Cyprus due to its effective control over the territory, even through a subordinate local administration supported by Turkey.

*‘(...) Bearing in mind the object and purpose of the Convention, the responsibility of a Contracting Party may also arise when, as a consequence of military action—whether lawful or unlawful—it exercises effective control of an area outside its national territory. The obligation to secure, in such an area, the rights and freedoms set out in the Convention derives from the fact of such control, whether it be exercised directly, through its armed forces, or through a subordinate local administration.’ (Loizidou judgment (preliminary objections))*

From this perspective, Turkey is responsible for violating Articles 2 (right to life), 3 (prohibition of torture), 5 (right to liberty and security), 6 (fair trial rights), 8 (right to respect for private and family life), and 10 (freedom of expression) of the ECHR.

Evidence gathered by the Tribunal demonstrates extensive and massive violations of these ECHR provisions in occupied Afrin. Violations of the ECHR do not entail individual liability but establish Turkey’s state responsibility, requiring it to uphold the Convention’s rights and freedoms and compensate victims.

### **3.5 COMMAND RESPONSIBILITY**

Command responsibility in international law allows the superior to be punished for action and especially for omission: for having participated in a crime or for not having stopped it. Perpetrators of **aggression** are mainly confined to the military and political leadership of a State:<sup>191</sup> at the Nuremberg and Tokyo International Military Tribunals, the highest political and military leaders were convicted. At the same time, the elements of the crime of aggression in article 8 bis of the Rome Statute recognise as perpetrators ‘any person in a position effectively to exercise control over or to direct the political or military action of a State’. Rules 152 and 153 of customary International Humanitarian Law state that commanders and other senior officers are criminally responsible for **war crimes** committed in the execution of their orders.<sup>192</sup>

#### **The defendants**

In this case, the highest Turkish authorities have actively participated in the crimes by directly authorising the military operations:

- As head of State, **Recep Tayyip Erdoğan** bears ultimate responsibility for the actions of the Turkish military and its affiliated groups abroad. But he is not merely a political leader but, according to Article 104 of the Turkish Constitution, include representing the Chief Command of the Turkish Armed Forces on behalf of the Turkish Grand National Assembly and deciding on the use of the Turkish Armed Forces, making him the supreme military leader too. It is clear from his social media posts that he authorised and celebrated the military campaigns.<sup>193</sup>
- **Yaşar Güler** was appointed national defence minister in 2023, and prior to that served as the Chief of the General Staff of the Turkish Armed Forces from 2018 to 2023.
- **Hulusi Akar** was minister of national defence from 2018 to 2023, and his biography on the AKP website says '*He executed the Çukur Operations domestically, and cross-border operations such as Euphrates Shield, Olive Branch, Peace Spring, Spring Shield, and Claw-Lock Operations*'. Press releases and posts celebrated military offensives on Syrian soil.<sup>194</sup>
- **Hakan Fidan**, foreign minister since 2023, was previously head of Turkey's national intelligence organisation, MIT. In a recent interview he boasted of the success of the 'cross-border operations' he was involved in, from Euphrates Shield and Olive Branch to Peace Spring, and of the support given to the Syrian National Army (SNA), which as the Tribunal has noted, was responsible for many gross violations.
- **Ümit Dündar** has been the commander of the Turkish land forces since 2018.

Regarding the war crimes and crimes against humanity resulting from the aggression, the Tribunal accepts that top political and military Turkish authorities authorised the actions.

#### **4. IMPUNITY FOR INTERNATIONAL CRIMES**

International law requires states to adopt legislative measures and establish judicial mechanisms to ensure the genuine prosecution of international crimes at the domestic level, in line with the customary law principle of complementarity, enshrined in key legal instruments, including the Geneva Conventions, the UN Convention Against Torture, and the Rome Statute of the International Criminal Court (whose provisions reflecting customary international law are binding). Article 1 of the Genocide Convention and Article 146 of the Fourth Geneva Convention also impose an unequivocal duty on states to investigate and prosecute grave crimes, including war crimes, crimes against humanity and genocide. Beyond humanitarian law, human rights law operates under a similar principle, that of subsidiarity, which highlights the primary responsibility of States to provide effective legal remedies for human rights violations. Article 8 of the Universal Declaration of Human Rights (UDHR), Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR) and Article 13 of the European Convention on Human Rights (ECHR), affirm the right of the victims to domestic legal redress.

##### **Legal avenues in Turkey: theory vs. practice**

In theory, Turkey's legal system provides avenues for addressing such criminal conduct and human rights violations, but there is no recorded instance of these mechanisms being genuinely or effectively used to prosecute international crimes or address human rights violations committed by Turkey's security forces or proxies acting under the directives of high-ranking government officials during extraterritorial operations.

Article 90 of the Turkish Constitution establishes the supremacy of international human rights treaties over domestic law in cases of conflict. However, Turkish courts have never invoked international law over domestic law to prosecute international crimes, challenge state policies or scrutinise security operations beyond Turkey's borders. The Turkish Penal Code (TPC) criminalises war crimes, crimes against humanity, and genocide under Articles 76, 77, and 78, but no successful prosecutions have been brought against state actors for these crimes in relation to military operations in Rojava region. Other relevant provisions, such as those criminalising homicide (Articles 81-83), torture (Articles 94-95), and sexual violence (Article 102), remain unenforced against government officials, security forces and their collaborators. Since 2012, individuals have had the right to apply to the Constitutional Court for human rights violations. However, applications concerning politically sensitive cases, such as the responsibility of high-ranking state officials and military personnel in extraterritorial counterterrorism operations and military actions, are routinely dismissed.

##### **Political and legal barriers to accountability**

This persistent failure reflects and reinforces a broader systemic culture of impunity. Turkey's current political and legal climate makes it virtually impossible to ensure accountability for government officials and security forces allegedly involved in international crimes. The country has witnessed a dramatic decline in the rule of law, democracy, and human rights over the past decade, with growing authoritarianism consolidating executive power over all state apparatus, including the judiciary, legislature, and media. Crackdowns on civil society, independent legal professionals, and political opposition further undermine any possibility of impartial and fair investigations. Arbitrary detentions, mass purges of judges and prosecutors, and systematic restrictions on freedom of expression, peaceful assembly and association have created an environment where state officials are insulated from scrutiny. Given this climate of repression, the prosecution of high-ranking officials for crimes

committed in military operations is not only unlikely but structurally impossible within the current legal framework.

### **Legal immunities**

This political barrier is further reinforced by extensive legal immunity granted to high-ranking state officials and military and security personnel. Key legal provisions that shield perpetrators from prosecution include broad **presidential and ministerial immunity** from prosecution for acts carried out in an official capacity, through amendments to the Constitution in 2017 (Articles 105 and 106). The procedural route for initiating an investigation (involving several steps starting with a parliamentary approval with a high voting threshold) makes prosecution against this group practically impossible. **Immunity of government officials and military personnel** is achieved by Law No. 4483, whereby the prosecution of civil servants requires authorisation from senior government authorities, while Law No. 6722 (2016) and Law No. 7329 (2021) further expanded protections for security forces engaged in extraterritorial counterterrorism and military operations, insulating them from legal accountability. This political and legal framework and its application in practice ensure that accountability remains unattainable at the domestic level, reinforcing the necessity for international legal interventions.

### **Lack of judicial independence**

As is well documented, the judiciary in Turkey is under the full control and influence of the government, rendering it neither independent nor impartial but serving political interests rather than legal principles. This makes it impossible for the judiciary to initiate or conduct genuine investigations into international crimes and human rights violations involving high-ranking officials, security forces or their proxies; instead of functioning as a mechanism for accountability, the judiciary acts as a protective shield for state actors, reinforcing a systemic culture of impunity. Ways in which judicial independence has been eroded and the implications for accountability include:

- control by the executive of the **Council of judges and prosecutors (CJP)** following the 2017 constitutional amendments (the President appoints the justice minister, who serves as CJP president, the deputy minister, who is an *ex officio* member, and four other members, while Parliament, which is dominated by the ruling coalition, selects the remaining seven, ensuring that judicial decisions align with political interests rather than legal principles (see Venice Commission reports and ECtHR rulings in *Kavala v. Turkey* and *Demirtaş v. Turkey*);
- : The President also appoints a significant number of judges to both the **Supreme Court and the Council of State**. Many appointees have prior affiliations with the government, as former advisers and senior bureaucrats;
- The President appoints 12 of the 15 **Constitutional Court** judges, ensuring alignment with executive policies;
- **Judicial recruitment and career progression:** The process for selecting judges and prosecutors is marred by a lack of transparency and political favouritism. Judicial candidates are subject to opaque vetting processes, and high-scoring candidates in written examinations are overlooked in favour of those with known government connections.
- **Post-2016 coup attempt purges:** More than 4,000 judges and prosecutors were dismissed and replaced with government-aligned individuals. Judges or prosecutors who issue rulings or take steps contradicting government interests face prosecution, imprisonment, removal or transfer, preventing independent adjudication.

As a result, Turkish prosecutorial and judicial authorities, including its Constitutional Court, have dismissed or failed to investigate or prosecute crimes attributed to security forces or state officials including extrajudicial killings, enforced disappearances, crimes against humanity, and war crimes,

in domestic or extraterritorial military operations. Examples include the *Roboski Massacre* case and cases concerning crimes committed during security operations in the Kurdish-majority southeast in 2015 and 2016-. Turkish prosecutors have never invoked relevant provisions to prosecute state actors, and cases involving military personnel or high-ranking government officials are routinely dismissed.

### **Extraterritorial challenges and practical barriers**

Victims also face significant legal and practical obstacles when seeking justice for extraterritorial crimes committed by Turkey. Despite Turkey's recognition of universal jurisdiction principles, multiple legal, political, and systemic barriers make access to justice virtually impossible.

- Turkish law does not provide a clear mechanism for foreign nationals to **access its judicial system**, effectively preventing victims from pursuing legal action;
- Syrian victims face severe challenges in securing legal representation and accessing Turkish courts due to **border restrictions**, ongoing conflict, and travel limitations;
- Due to security concerns and political risks, very few lawyers in Turkey are willing to represent Syrian victims in legal proceedings. Those who do face **serious retaliation**, including arrest, detention, and unwarranted prosecutions. Examples include the recent actions against the Istanbul Bar and cases targeting members of the Progressive Lawyers Association (CHD) and the Association of Lawyers for Liberty (OHD);
- Even when legal representation is available, victims often lack the **financial resources** to cover legal costs and secure competent legal counsel.
- There are no effective **witness protection** mechanisms for victims and witnesses providing testimony against state-linked actors, exposing them to serious risks, including retaliation, detention, or physical harm.

Turkey's persistent failure to prosecute international crimes attributed to its government officials, security forces, and proxies in Rojava highlights a deeply entrenched system of impunity. Despite constitutional provisions recognising international human rights treaties and domestic legislation criminalising war crimes and crimes against humanity, these legal instruments remain ineffective due to systemic political, judicial and practical constraints. The Turkish judiciary, which operates under government control, lacks the independence necessary to initiate genuine investigations or prosecutions against state actors. Extensive legal immunities granted to high-ranking officials and military personnel, coupled with legislative and procedural barriers, render domestic accountability virtually impossible. The suppression of civil society, independent legal professionals, and political opposition further exacerbates the problem, ensuring that victims of extraterritorial violations are left without legal recourse domestically.

The institutionalised culture of impunity and the structural and legal barriers to justice and accountability for international crimes underscore the urgent need for international intervention under the principle of complementarity, which obligates the global community to act when a state is unwilling or unable to prosecute grave crimes.

With Turkey's judicial system effectively shielding perpetrators rather than upholding justice, the international community is required to pursue alternative avenues, including universal jurisdiction cases, targeted sanctions, and international legal mechanisms, to hold those responsible to account.

### **Lack of access to justice in Syria**

The issue of lack of legal remedies is not confined only to Turkish jurisdiction. There has been no possibility of redress or remedy in the Syrian courts, which in the areas occupied by Turkey have been controlled by the various militias, or by the Turkish authorities who apply Turkish law.



It remains to be seen whether in the post-Assad, post-civil war era, the Syrian courts will be able to offer justice to the victims of Turkey's war on them, but it is clear that Syrian jurisdiction is not ready at present to offer an independent and effective response to the severe crimes committed in Rojava.

### **International courts and mechanisms**

Individual and collective access to international courts does not seem to be a realistic prospect either. The lack of international recognition of DAANES forecloses access to inter-State jurisdictions such as the International Court of Justice. The International Criminal Court has no jurisdiction over Turkish or Syrian nationals for war crimes or crimes against humanity because of these countries' failure to sign the Rome Statute. The European Court of Human Rights does have jurisdiction over Turkey for human rights violations committed in occupied territories, as described in section 3.4 above; but the issues there are practical and bureaucratic (finding legal representation, negotiating obstacles such as proof of exhaustion of domestic remedies).

## 5. THE INTERNATIONAL COMMUNITY'S RESPONSE

The United Nations set up the Commission of Inquiry on Syria in 2011 to investigate human rights violations during the Syrian civil war, establishing facts and circumstances with a view to possible prosecution, and it has produced regular critical reports (many cited in this judgment). But other than this, little or nothing has been done to ensure justice, accountability and redress to the Kurds of Rojava. The western powers – the US, the UK and the EU and its member states – have responded in a schizophrenic way to Turkish invasions and operations in north and east Syria, and to the Kurds who are under attack there. On the one hand, they recognise the importance of the SDF, whose backbone is the YPG and its women's unit the YPJ, in the global coalition against Islamic State (ISIS/Daesh), and in running the prison camps in northern Syria where captured IS fighters and their families are held. The US refused to designate the YPG as a terrorist organisation, although the PKK has been on its terror list since 1997. But Turkey is an important ally, in diplomatic, military and economic terms – the EU is Turkey's biggest trading partner, and it is seen as an important member of NATO – and sometimes these ties take priority over Kurdish concerns for self-determination, and the observation of international human rights obligations.

### *Turkey and the EU*

Turkey has been a member of NATO since 1951. In 1959 it applied to join the European Economic Community (EEC, the precursor of the EU), which in 1963 signed an Association Agreement with Turkey giving its nationals limited rights to work and settle in the EEC. In 2004, the European Commission decided that Turkey fulfilled the criteria for EU membership, but resistance among member states has stalled its accession. Since 2015 Turkey has been party to the EU's Civil Protection Mechanism. A 2016 agreement gave Turkey €6 billion to keep refugees out of the EU, and Turkey has hosted up to 3 million Syrian refugees; it has on occasion threatened the EU with opening its borders with Greece to let them go through.

### *Operation Olive Branch and beyond*

The US and Russia paved the way for the Turkish invasion 'Operation Olive Branch' in January-March 2018, the US by telling the Kurdish defence force the YPG in 2017 that it would not protect Afrin, and Russia by withdrawing its forces from the area in January 2018.<sup>195</sup> The European Parliament passed a resolution on 8 February 2018 criticising the Turkish invasion of Syria along with the deteriorating human rights situation in Turkey itself,<sup>196</sup> and a further resolution on 15 March calling on the Turkish government to withdraw all troops from northern Syria.<sup>197</sup> The EU's high representative/ vice-president also criticised the Turkish offensive, saying international efforts in Syria are 'supposed to be aimed at de-escalating military activities, not escalating them'.<sup>198</sup> But in Germany, where YPG flags were banned along with those of the PKK in 2017, two Kurdish activists in Munich were arrested in August 2018 for carrying YPG flags at a protest in solidarity with Afrin, although courts in parts of the country including Berlin had ruled the ban unlawful.<sup>199</sup> And in March 2019, a Dutch volunteer with the YPG who had fought against IS in Syria in 2017 was arrested on his return to the Netherlands, the fourth Dutch volunteer to be prosecuted.<sup>200</sup> Several British YPG supporters and their family members have been arrested on suspicion of terrorism offences, despite the UK's provision of training, weapons and ground troops support for the YPG in its fight against IS.<sup>201</sup>

### *Operation 'Peace Spring'*

This operation, in October 2019, aroused more concern in the international community than any before or since. Earlier in the year, the Turkish and US governments had agreed a jointly controlled 'buffer zone', 115 km in length and 5, 10 and 14 km deep along the Syrian side of the border, from which the SDF withdrew its forces and fortifications. Despite participating in joint patrols, Turkey claimed the US was stalling the initiative, demanded that the zone's depth be extended to 30km,

saying he wanted to settle 3 million Syrian refugees there, and threatened to ‘open the gates’ to allow the refugees to get into the EU via Greece.<sup>202</sup>

Days before the offensive, president Trump ordered the withdrawal of US troops from the Syria-Turkey border area, opening the door for Turkey to carry out the offensive.<sup>203</sup> Days later, Trump imposed limited sanctions on Turkey over the military action, which were lifted within days, when Trump and Erdoğan negotiated a ceasefire over the heads of the SDF. That agreement and a Russia-Turkey agreement signed days later, required SDF forces to withdraw 30 km from a 120-km strip by the Turkish border, giving Turkey its ‘safe zone’. The top US diplomat in northern Syria, William Roebuck, criticised the Trump administration for not trying harder to prevent Turkey’s military offensive and abandoning the SDF, and said Turkish-backed militia fighters committed ‘war crimes and ethnic cleansing’ and killed Kurdish prisoners including one of them lying on the ground with his hands bound behind his back, and committed other atrocities as they emptied major Kurdish population centres in northern Syria.<sup>204</sup> Roebuck called the operation an unprovoked military operation that has killed some 200 civilians and left well over 100,000 people (and counting) newly displaced and homeless.<sup>205</sup>

The European Union, the Islamic Republic of Iran and Israel separately called on Turkey to halt the operation, while the League of Arab States adopted a resolution denouncing Turkey’s campaign.<sup>206</sup> The government of Syria condemned the operation as an act of aggression and a violation of international law and UN Security Council resolutions.<sup>207</sup> Senior UN officials told the UN Security Council that the Turkish offensive had worsened an already dire humanitarian situation,<sup>208</sup> as five European governments sought a UNSC resolution condemning the operation, but no consensus was reached and no statement or resolution issued.<sup>209</sup>

In the European Parliament, the EU high representative Federica Mogherini said the operation would ‘exacerbate civilian suffering and provoke further displacements ... undermine the security of the [Global] Coalition’s local partners, namely the Kurdish forces, and risk protracted instability in north-east Syria, providing fertile ground for the resurgence of Da’esh’.<sup>210</sup> The EU Council of Ministers condemned the operation and urged Turkey to withdraw its forces and respect international law, but did not impose an arms embargo on Turkey. European Parliament president David Sassoli called the operation a ‘grave violation of international law’ and wondered why sanctions were not put in place, as they were over Turkey’s illegal drilling in the Mediterranean.<sup>211</sup> Turkey’s European allies expressed strong condemnation of the Turkish offensive, with French president Emanuel Macron calling it ‘madness’ and German chancellor Angela Merkel calling it ‘an invasion’.<sup>212</sup> European countries which suspended or restricted arms sales to Turkey along with France and Germany included Finland, the Netherlands, Sweden,<sup>213</sup> Italy and Spain.<sup>214</sup> The UK announced a halt to new export licences for weapons which might be used in military operations in Syria,<sup>215</sup> but lifted the restriction in December 2021.<sup>216</sup> The Netherlands modified its policy in October 2021, resuming arms exports to Turkey if applicants could demonstrate they would not be used in north-eastern Syria,<sup>217</sup> but in summer 2023 it abandoned this demand.<sup>218</sup> Sweden reinstated arms sales to Turkey in September 2022 and Finland in January 2023. Both countries are seeking to join NATO, for which Turkey’s approval is crucial.<sup>219</sup>

Turkey’s airstrikes in northern Syria in November/ December 2022 called forth criticism but no action from the EU’s high representative/ vice-president Josep Borell, who called for ‘restraint’.<sup>220</sup> In July 2023, the United States sanctioned one SNA faction, Ahrar al Sharqiya, and two of its leaders, for abuses against civilians, particularly Syrian Kurds, including unlawful killings, abductions, torture, and seizures of private property. In August 2023, it sanctioned two other SNA groups, the Hamza division and the Suleiman Shah brigade, as well as their commanders, for serious human rights abuses committed against civilians in Afrin.<sup>221</sup>

In February 2024, the European Parliament again condemned Turkish airstrikes on vital infrastructure in northern Syria, and human rights abuses in the occupied Afrin region by Turkey and its affiliated Syrian factions in the SNA. It called on the EU and member states to join the condemnation and to put diplomatic, political and legal pressure on Turkey to stop severe human rights violations in Afrin and other occupied areas.<sup>222</sup>

On 10 March 2025, 3 weeks after PKK leader Abdullah Öcalan called on the PKK to lay down arms and disband, the SDF signed an agreement in Damascus with interim president Ahmed al-Sharaa for their forces to merge with the Syrian army, and to cooperate on economic, social and political issues.<sup>223</sup> The European Parliament welcomed the agreement in its resolution of 12 March, also expressing ‘deep concern’ at the attacks led or supported by Turkey in north and east Syria, and calling on neighbouring countries to respect Syrian territorial integrity and immediately cease its attacks, incursions and occupation of Syrian territory.<sup>224</sup>

## 6. RECOMMENDATIONS

According to the tradition of the Permanent Peoples' Tribunal whose primary objective is to formulate elements of judgment, to produce doctrinal tools and to construct instruments for the recognition and concrete restoration of the fundamental rights of peoples, the recommendations are an essential platform for present and future actions.

This is of particular importance in the case of this session on Rojava vs Turkey. The high complexity of the situation and the evolving interplay of direct and indirect actors responsible for the crimes and for their impunity underline the risks of delay in remedying the severe suffering of the affected peoples and implementing reparative political and juridical measures. The Permanent Peoples' Tribunal sees the recent first signs of a possible, difficult, urgent peace process, which have been widely recognised as a historic step forward in the search for a viable future, as an overall framework where the spectrum of (all needed) recommendations finds a place.

The purpose of this Tribunal is to counter what Sartre denounced as the 'crime of silence', in the face of the atrocities masquerading as anti-terrorist operations which this Session has revealed. As the schoolgirl survivors of the atrocity at Schemoka school declared, 'No one should turn a blind eye to Erdoğan; no one should be silent against the Turkish State'. The Tribunal is a tribune of visibility and the right to speak; the imperative on those who listen is to act, to take the messages conveyed in our recommendations to those with the power to enact them. In this way, the evidence produced by the PPT in this Session could become an instrument of information and consciousness for all peace-loving civil societies.

### **TO THE GOVERNMENT OF TURKEY:**

End its occupation of Afrin and the financing of the armed groups operating under its control, and ensure their disbandment.

Cease all attacks against Rojava and respect the territorial integrity of Syria.

Restore the rule of law and allow the judiciary freely to investigate crimes committed against the people of Rojava and to punish those responsible.

Cease the forced displacement of Kurdish populations in Rojava and create the conditions which permit displaced people to return to their homes.

Halt the 'Turkification' of Rojava and the resettlement of peoples who are not originally from Rojava.

Allow independent investigations by the UN and human rights organisations into reported international crimes committed against the people of Rojava, and permit access to detention centres and prisons in the occupied regions.

As a member of Council of Europe, invite the Council's Commissioner for Human Rights to visit and investigate the human rights situation in the occupied Afrin region.

Use its influence to facilitate a democratic transition in Syria and equal negotiations between Autonomous Administration of North and East Syria (AANES) with the new Syrian government in a framework of full respect for its autonomy.

## TO THE GOVERNMENT OF SYRIA

Acknowledge the right to self-determination exercised through the Democratic Autonomous Administration of North and East Syria, and the autonomy of the administration.

Respect the arrangements for gender equality and for ethnic and religious equality of representation in the administration of the region.

Protect the Rojava population, territory and Autonomous Administration from external and internal attacks.

Facilitate the UN International, Impartial and Independent Mechanism (IIIM) to visit the Rojava territory and gather evidence *in situ* of any international crime committed, in order to fulfil its mandate to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic.

Stop Turkish incursions into Syrian territory, and if they continue, make a complaint to the International Court of Justice, seeking interim measures binding Turkey.

## TO THE UNITED NATIONS

**The Security Council:** initiate investigations into the Turkish aggression and take action to stop the ongoing violence in north and east Syria by implementing targeted sanctions against Turkish officials and military leaders involved in war crimes and imposing arms embargoes to prevent further war crimes against the people of Rojava.

Refer the situation of Rojava to the International Criminal Court, even though the States of Turkey and Syria are not parties to the Rome Statute, as has been done in the cases of Darfur and Libya.

**The Independent International Commission of Inquiry on the Syrian Arab Republic:** extend its mandate to investigate and recognise all violation of international human rights law committed by Turkey since 2018; establish facts and circumstances that led to such violations and crimes; and identify those responsible, with a view to ensuring that the perpetrators are held accountable.

Conduct a serious investigation into the role of the Turkish-backed militias.

Urgently investigate the collusion of companies, in particular, the role of arms companies supplying Turkey, so they may be properly addressed in the competent fora to ensure policies consistent with a democratic evolution in Syria.

**The UNHCR:** implement humanitarian efforts to provide safe routes for IDPs and communities to return to their homes voluntarily, safely and with dignity, while ensuring financial compensation for those who have suffered destruction and loss.

**UN Secretary-General:** engage in mediation with Turkey to withdraw its army from the occupied territories of Rojava; and send a peacekeeping mission to supervise and to prevent further attacks.

## TO THE EUROPEAN UNION, COUNCIL OF EUROPE AND THEIR MEMBER STATES

Condemn the criminal and aggressive conduct of Turkey in Syria and conduct a review of current policy towards Turkey, based on unrestricted respect for the rights of the peoples of Rojava and the recognition of the Autonomous Administration.

Take urgent and concrete actions, directly or through Member States, in response to the military aggression against Syria and human rights violations committed against Rojava, such as imposing

sanctions on Turkey and on companies that have benefited from its crimes of aggression and war crimes including pillage.

Stop licensing the sale of arms to Turkey.

Support and cooperate in carrying out the above-mentioned investigations in order to avoid the risk of impunity and the repetition of the crimes documented herein.

Investigate, through **the Council of Europe's Commissioner for Human Rights**, the violations in the occupied territories by Turkish forces and their proxies in Rojava.

**The Parliamentary Assembly of the Council of Europe:** issue an official demand to Turkey to withdraw its army from the occupied territories of Rojava.

**National courts and prosecutors of the European States:** initiate or support universal jurisdiction cases to prosecute individuals involved in international crimes in Rojava, including those committed by Turkish-backed jihadists forces in Rojava.

Initiate criminal and civil procedures against companies and business entities that benefited from the looting of agricultural and industrial assets from Rojava, by application of due diligence laws.

Denounce to the OECD National Contact Point any company that has directly or indirectly profited from the looting of Rojava's agricultural and industrial assets. Inspect the supply chain of these looted goods to determine whether they have been acquired by companies in third countries.

## **TO THE INTERNATIONAL COMMUNITY**

Ensure the conditions for the development of coordinated efforts for the international recognition of the Autonomous Administration in the context of a necessary peace process for the Kurdish people in the region. As a prerequisite to any peace process, eliminate the label of 'terrorist' in respect of all participants in such a process. The guarantee of a peace process is the main remedy and the condition to face the problem of impunity and reparation, which all democratic societies need in order to comply with national and international law.

Create a Special Rojava Kurdish Regional Justice Mechanism supported by the UN to investigate and prosecute human rights violations committed in this territory.

Focus and enlarge the mandate of the International, Impartial and Independent Mechanism to investigate *in situ* the crimes committed against the people of Rojava.

# **ANNEXES**



## ANNEX 1

### PROGRAMME OF THE PUBLIC HEARINGS

Day 1: February 5, 2025

#### OPENING SESSION

**Member of the Prosecution team**

<b>09:30-09:40</b>	Welcome Speech	<b>Prof. Gerrit Loots, Free University of Brussels</b>
<b>09:40-10:05</b>	Introduction to the hearing	<b>Gianni Tognoni, PPT General Secretary</b>
<b>10:05-10:45</b>	Opening statement by the Prosecution	<b>Jan Fermon and Ceren Uysal</b>

#### SESSION 1

<b>10:45-11:25</b>	Displacement of population and ethnic engineering in Afrin	<b>Efstathios C. Efstathiou</b>
<b>11:25-12:05</b>	Massacres, bombings and torture of displaced civilians in Tel Rifat	<b>Rengin Ergül</b>
<b>12:05-12:20</b>	Torture, Kidnapping and arbitrary detentions in Afrin	<b>Efstathios C. Efstathiou and Socrates Tzizas</b>

#### SESSION 2

<b>13:30-14:20</b>	Witness statement on the situation in Afrin	<b>Ibrahim Sheho</b>
<b>14:20-15:00</b>	Displacement of population and ethnic engineering and the use of banned weapons in Serekanye and Tel Abyad	<b>Urko Azurtza</b>

#### SESSION 3

<b>15:15-15:55</b>	Attacks on energy infrastructure – Disruption of water supplies	<b>Ezio Menzione</b>
<b>15:55-16:35</b>	Attacks on medical infrastructure	<b>Heike Geisweid</b>
<b>16:35-17.15</b>	Destruction of the environment	<b>Declan Owens</b>
<b>17:15-17:50</b>	Questions by judges	
<b>17:50-18:00</b>	Announcements	

Day 2: February 6, 2025

**SESSION 4**

**Member of the Prosecution team**

- 09:30-10:30** Targeted feminicides of prominent women as a tool to dismantle gender dimension of democratic confederalism. Use of drone attacks against civilians as tool to obtain the indirect transfer of populations, especially women and children. **Barbara Spinelli**
- 10:30-11:00** Coffee break

**SESSION 5**

- 11:00-11:30** Secret prisons: arbitrary detention, torture, enforced disappearance and sexual violence **Anni Pues**
- 11:30-12:00** Cultural and historical erasure **Socrates Tzizas**
- 12:00-12:30** Questions by judges
- 12:30-13:30** Lunch

**SESSION 6**

- 13:30-14:00** Bombing of Schemeko School **Rengin Ergül**
- 14:00-14:30** Bombing of the Simav Printing House **Florian Bohsung**
- 14:30-14:35** Attacks on journalists **Chris Den Hond**
- 14:35-15:00** Witness statement by Hoshang Hasan on recent developments and the role of Turkey **Jan Fermon, Ceren Uysal**

**CLOSING  
SESSION**

- 15:00-15:30** Closing statement by the prosecution **Jan Fermon and Ceren Uysal**
- 15:30-16:00** Statement by the defense
- 16:00-18:00** Deliberation of the judges
- 18:00** Reading of the preliminary statement of the panel of judges

## ANNEX 2

### INDICTMENT

The following defendants are charged with having committed the international crimes listed below in this indictment:

1. Recep Tayyip Erdoğan, President of Turkey
2. Hulusi Akar: Former Minister of Defense of Turkey
3. Hakan Fidan: Former head of the National Intelligence Organisation MIT and current Minister of foreign affairs
4. Yaşar Güler: Former General, Chief of the Turkish General Staff, current Minister of Defense.
5. Ümit Dündar General: General

The defendants are hereby summoned to appear before the session of the Permanent Peoples' Tribunal which will be held in Brussels, Belgium on 5 and 6 February 2025 at 9 a.m. in the premises of the Free University of Brussels, Pleinlaan 2 Etterbeek, Aula Q to present their defense in relation to the facts specified below.

#### **I. Preamble**

##### **A. Context of the Indictment**

Turkish armed forces and government, alongside armed factions they control, have engaged in widespread violations of international law, war crimes, crime of aggression and crimes against humanity, in northern and eastern Syria, specifically in the autonomous Kurdish region of Rojava, between 2018 and 2024. The attacks have been systematically targeting civilians and civilian infrastructure and institutions.

##### **B. Significance of Rojava**

Rojava is an autonomous, multi-ethnic region in northern Syria that emerged following the Syrian Civil War. It represents a unique model of democratic self-administration in a region long plagued by conflict and ethnic divisions. The region's political system, which promotes gender equality and

ethnic coexistence, has been seen as a threat by Turkey. This is an extension of Turkey's longstanding policy of denial and destruction towards Kurds within its own borders.

## **II. Historical and Political Context**

### **A. Turkey's Kurdish Policy: Colonization and Genocide**

Turkey's policy toward the Kurdish people, both within and beyond its borders, has historically involved attempts at assimilation and displacement. Since the founding of the Republic of Turkey, Kurdish identity has been systematically suppressed. Policies such as the Eastern Reform Plan and the "Destruction Plan" implemented in recent decades aim to eliminate Kurdish resistance through military aggression, forced migration, and ethnic cleansing.

### **B. The Syrian Civil War and the Rojava Revolution**

During the Syrian Civil War, Kurds in Northern Syria initiated self-governance. Starting in 2012, the Rojava region became a model of multi-ethnic cooperation and democratic administration, which Turkey viewed as a threat. Turkey's military incursions into the region, notably the invasions of Afrin in 2018 and Serekaniye in 2019, were driven by a desire to prevent the establishment of a Kurdish autonomous zone. This section will also discuss, under subheadings, the democratic model established through the women's liberation perspective in Rojava, and the right to recognition.

### **C. Turkey's Strategic Interest in Rojava**

Under the guise of fighting terrorism and creating "safe zones", Turkey has conducted several military operations in Rojava. However, these operations were primarily designed to dismantle Kurdish self-administration, forcibly displace Kurdish populations, and replace them with settlers loyal to Turkey.

### **D. Present situation**

Since November 2024 the Turkey backed and controlled organisations and armed factions started an offensive against the Syrian Government Forces. This offensive resulted in the collapse of the Syrian Government and the installation of a new government in Damascus in December 2024. Since Turkey controlled armed factions which are also linked to the new Syrian government have attacked the Kurdish forces in north-eastern Syria and committed new war crimes.

## **III. Subject of the Charges**

The defendants are charged with the commission of the following international crimes:

- Crime of aggression.
- Crimes against humanity in particular crime against humanity of ethnic cleansing.
- War crimes.

## **A. Crime of aggression**

Turkey intervened between 2018 and 2024 unlawfully in Syria both against the will of the Syrian authorities and the authorities of Rojava. And that is even more so while the authorities of Rojava have repeatedly declared that they are in favour of respect of the territorial integrity of the Syrian State. The use of force by Turkey against any part of the Syrian territory, in particular against the autonomous Kurdish region of Rojava therefore constitutes a crime of aggression prohibited by international law and in particular by the UN Charter.

## **B. Crimes against humanity in particular crime against humanity of ethnic cleansing**

Since the start of the aggression in 2018 Turkey and the groups it controls have conducted a systematic policy of forced displacement of the Kurdish population in the north of Syria and ethnic engineering. The resettlement of Syrians from other areas within Syria, including refugees residing in Turkey, as well as displaced people from Ghouta in their place, aiming to create a demographic change and establish a safe (buffer) zone along the border strip with the Syrian state under the pretext of protecting its national security, had a clear political impact by spreading extremist religious ideology in a region known for its cultural diversity and coexistence among various ethnicities, religions, and sects. The area had been home to Alawite and Sunni Muslims, Christians, Yazidis, Kurds, Arabs, and Armenians. Additionally, it revived chauvinistic nationalist and sectarian ideas, the religious and national symbols of the city were altered, and the storefronts, as well as the names of villages, towns, and institutions, were changed from Kurdish to Turkish. The pattern of widespread war crimes listed under C. hereafter has largely contributed to spread a climate of terror amongst the Kurdish population and therefore also to the forced displacement of these populations. Over 138,000 Kurds were thus forcibly displaced from Afrin and Serekaniye. Ethnic cleansing and engineering is a crime against humanity.

## **C. War crimes**

A very large number and also a wide variety of war crimes were committed during the Turkish aggression. The war crimes committed by Turkish forces and the auxiliaries under their control included i.a:

### **Targeted Killings of civilians:**

Including political figures, children and elderly assassination of political figures like Hevrin Khalaf.

### **Indiscriminate Bombing of Civilian Areas:**

Airstrikes on civilian infrastructure such as power- and waterplants, printing houses, etc.

### **Unlawful deportation and transfer of population. War crime of the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies:**

Over 138,000 Kurds were forcibly displaced from Afrin and Serekaniye.

### **Appropriation of Civilian Property:**

Homes and businesses in occupied regions were seized and converted into military installations.

### **Use of Banned Weapons:**

Turkey has been documented using internationally prohibited weapons, such as white phosphorus and chlorine gas.

**Cultural and Religious Erasure. Attacking protected objects:**

Destruction of Yazidi and Christian religious sites in Afrin. Targeted eradication of Kurdish cultural heritage.

**Collective Punishment.**

**Environmental Destruction:**

Destruction of agricultural resources in Afrin.

**Targeting of Women.**

**Unlawful Detention of Individuals.**

More than 500 individuals who were transferred to Turkey and subsequently arrested, despite having no involvement in any alleged acts within Turkey's jurisdiction.

**Torture.**

**IV. Substance of the Charges**

For each of the above crimes, evidence will be presented to the Tribunal by the Prosecutor's team during the hearings including reports and findings from international (non-governmental) organisations, from local governments and NGOs as well as testimonies from victims, witnesses and experts, footage, videos, photographs, etc. The following situations and facts, among others, will be submitted to the Tribunal for consideration:

**Destruction of hospitals and medical facilities**

In October 2023 Turkey conducted a series of intense areal bombings against mainly civilian targets in north-east Syria. The first wave of airstrikes began on the night of October 4, 2023, when Turkey targeted more than 150 critical infrastructures. The campaign went on for several months. Amongst the targeted infrastructures were several medical facilities such as Kobani Medical Center, the Mishtenur Medical center the dialysis center and the medical oxygen station. All these facilities were bombed on 25 December in violation of international humanitarian law.

**Destruction of civilian infrastructure such as water stations, gas stations, electricity plants**

During the bombing campaign end 2023 and early 2024 the Sweidiyeh gas station was destroyed. This facility was i.a. the sole producer of cooking gas for northeast Syria. The Sweidiyeh gas-powered electricity plant which supplied energy to over 920.000 people has also been rendered inoperable by the airstrikes. The Alouk water station only a few months after resuming operations in September 2023 is out of service. The station relied on electricity from the Sweidiyeh power generation plant and connected through transformer stations in Qamishlo, Amiuda and Darbasiyah. These substations were heavily damaged in October 2023 and all power generation and transmission facilities supplying

Alouk were destroyed after January 15. The Alouk water station provided clean drinking water to 610.000 people.

### **Environmental destruction and pillage in Turkey occupied Afrin**

Satellite imagery show extensive logging in 114 forests in the Afrin region.

### **Cultural and Religious erasure in Turkey occupied Afrin**

Turkey has deliberately destroyed in occupied Afrin cultural and religious heritage. In January 2018 the Ain-Dara site was bombed and destroyed. The Ain Dara temple is a Iron Age Syro-Hittite temple. It is located near the village of Ain Dara, in Afrin District, Syria. The temple was significantly damaged by Turkish jets during the Turkish military operation in Afrin in late January 2018. Reports indicate that at least 60 percent of the structure was reduced to rubble. The entire front responsibility of the temple has been destroyed in photos and video released online. The site's emblematic basalt lion was stolen in December 2019 by members of the Hamza Division, which is part of the Turkey backed Syrian National Army.

### **Torture, ill-treatment and arbitrary arrest and detention of civilians in occupied Afrin**

Evidence and examples of the widespread practice of kidnapping and arbitrary arrest and detention under trumped up charges of several civilians by the Turkish occupation forces and their affiliated SNA factions (incl. specifically Northern Brigade and the Sultan Murad faction) will be submitted. Threats and torture to their family members to force them out of their residence and forcibly displace them as well as attempts to kidnap female civilians for the purpose of forced marriage will be documented. Evidence for cases of torture in detention resulting in death and forced displacement will also be presented.

### **Used of Banned weapons in occupied Afrin and Serekaniye**

Indiscriminate shelling of Aranda countryside olive groves and vineyards area, near the town of Sheikh Al-Hadid, district of Shabih with internationally prohibited toxic chlorine gas on 16 February 2018 at around 17.00. Turkish artillery and rocket launchers began shelling dozens of shells which fell right next to farmers and land workers present in the vicinity. The shelling emitted white smoke which poisoned people present nearby and in contact with the smoke. The poisoning led to their urgent hospitalization of at least 6 victims for several days due to injuries including eye, skin and lung irritations, short breath, fainting and vomiting amongst others. All victims were placed under oxygen respirators and prescribed medicines as a consequence of the poisoning with toxic chlorine gas, diagnosed by medical experts in Afrin hospital.

### **Killing of civil servants**

Killing of Yusra Muhammed Darwish and 2 others on 20 June 2023.

Killing of Zainab Muhammad Saeed Muhammad and Yilmaz Shero Mohammed on 27 September 2022.

### **Destruction of the Simav Printing house by bombing on 25 December 2023**

On 25 December 2023 Turkish drone strikes on Simav printing house led to the killing of seven civilians, including Jwan and five workers at the printing house. Simav printing house was founded

in Qamishli after 2011. The printing house printed books, local newspapers, magazines, and sales receipts. The printing house therefore played an essential role in the dissemination of culture and knowledge. It also played an important economic and administrative role by making business documents and forms, essential for trade and industry and local Government, available.

### **Bombing of the Schemoka girls school on 18 August 2022**

The school was established to provide education for displaced children who had lost access to formal education due to the war. It was supervised by the United Nations and the DAANES. Families voluntarily sent their children to the school for educational opportunities. The school provided a variety of subjects, including Math, English, Arabic, Kurdish, as well as additional activities such as philosophy, history, painting, music, and recreational activities like volleyball. The school was emphasized as a non-affiliated institution with any political or military groups such as PKK, YPG, or YPJ. It operated as a safe space for education with regular monitoring by the UN. The attack took place in the evening while students were outside playing. A loud explosion followed, causing massive devastation and killing or severely injuring several students, many of whom were engaged in school activities at the time. Diana Elo, Zozan Zedan, Dilan Ahmed, Ranya Abdulrezaq, and Silava, died in the attack. The survivors witnessed their friends suffering from severe injuries and death, with body parts scattered and extensive burns on the victims.

### **The assassination of Hevrin Khalaf and other on 12 October 2019**

Ms. Hevrin Khalaf was a prominent Kurdish-Syrian politician who became a leading figure in the political landscape of Syria, serving as the General Secretary and Co- Founder of the Future Syria Party (Partiya Sûriya Pêşerojê – PSP).

Ms. Hevrin Khalaf openly opposed Turkish interference in Syrian affairs, particularly criticizing its use of Syrian jihadist militias against other Syrian groups and its occupation of predominantly Kurdish areas like Afrin. Her strong advocacy made her a target of the Turkish-backed Syrian National Army and their affiliated militia, Ahrar al-Sharqiya, during the 2019 Turkish military offensive on northeastern Syria. Türkiye's proclaimed aim for the operations, was "fight against terrorism". She was brutally tortured and killed by fighters of the Turkish-backed militia Ahrar al-Sharqiyah, part of the SNA, on 12 October 2019, in Turkish-occupied northern Syria. She was severely physically abused and executed outside the car by Ahrar al-Sharqiyah militia, who knew who she was. More than 20 shots had been fired on Ms. Hevrin Khalaf. The portrayal of Ms. Hevrin Khalaf in pro-government Turkish media as an enemy of the State and statements by government officials provide a clear motive behind her assassination.

## **V. Applicable law**

The following international law instruments are the basis for prosecution:

- The Charter of the United Nations
- The Four Geneva Conventions of 1949 including the principle of command responsibility
- International Customary law
- The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict



## **VI. The Tribunal**

The Permanent Peoples' Tribunal (PPT) is a public opinion tribunal based on the Universal Declaration of the Rights of Peoples (Algiers, 1976) and on all the instruments of international law. The PPT has sought to struggle against impunity and to promote respect for human rights, access to justice and the re-appropriation of the human rights instruments. The PPT is able to adjudicate flagrant, systemic and systematic violations of the rights of peoples and human rights. The mission of the Permanent Peoples' Tribunal is to promote universal and effective respect for the fundamental rights of peoples by determining if these rights have been violated, and in examining the causes of these violations as well as denouncing their authors before world public opinion. Turkey has not ratified the Rome Statute of the International Criminal Court and there is no realistic prospect of an effective remedy for the people of north-east Syria in Turkish domestic courts for the crimes described above. Therefore, the plaintiffs in this case have initiated these proceedings in light of the Permanent Peoples Tribunal function as an "institution devoted to listening to peoples forced to deal with the absence of law and impunity".

## **VII. The form of Order sought**

### **A. Accountability for High-Ranking Turkish Officials**

The Tribunal should publicly condemn the actions of Turkish officials, including President Erdoğan, Hulusi Akar, Hakan Fidan, Yasar Güler, and others, for their roles in directing military operations that constitute war crimes, crime of aggression and crimes against humanity.

### **B. Recognition of Victims' Suffering**

The Tribunal should formally recognize the suffering endured by the people of Rojava, including forced displacement, ethnic cleansing, and cultural destruction, and call for reparations for the affected communities.

### **C. Calls for International Action**

The Tribunal should urge the international community and the institutions to take concrete action, including targeted sanctions and international criminal investigations, to end impunity for Turkey's crimes in Rojava.

On behalf of the plaintiffs,

For the:

Committee for Justice and Law and the Department of Foreign Relations of the Democratic Autonomous Administration of North and East Syria (DAANES)

Research and Protection Centre for Women's Rights, and the Human Rights Organizations in Al-

Jazira and Afrin

MAF-DAD e.V (Association for Democracy & International Law)

ELDH (European Association of Lawyers for Democracy and World Human Rights)

IADL (International Association of Democratic Lawyers)

Kurdistan National Congress (KNK)

Kurdish Institute of Brussels

Center for Research and Protection of Woman's Rights in Europe

Jan Fermon

Lawyer at the Brussels Bar

Appointed by the plaintiffs as head of the Prosecution Team

## Annex 3

### PANEL OF JUDGES



#### **Giacinto Bisogni (Italy)**

Magistrate since 1981 and at the Court of Cassation since 2002. He has been working on international and EU law issues since 1997, collaborating with the European Commission on European civil codification projects. He is the author of numerous essays and commentaries on the protection of fundamental rights. He worked in the Legal Service of the European Commission from 1999 to 2002. Currently, he has ongoing collaborations with various universities, including the Law & Anthropology department of the Max Planck Institute.



#### **Domenico Gallo (Italy)**

Former Section President of the Court of Cassation, he entered the judiciary in 1977, actively participated in the life of the current ‘democratic magistracy’ and the European Association of Magistrates ‘MEDEL’. In September 1994 he was elected Senator. At the end of the legislature, in 1996 he returned to the judiciary, where he served until 31 December 2021. He has edited numerous publications on topics relating to institutional issues and human rights. Among these: *Da Sudditi a Cittadini - il percorso della Democrazia*, Edizioni Gruppo Abele (2013); *Ventisei Madonne nere*, Delta Tre Edizioni (2019); *Il Mondo che verrà*, Delta Tre Edizioni (2022) e *Guerra Ucraina*, Delta Tre Edizioni (2023), *Guerre*, Delta Tre Edizioni (2024).



#### **José Elías Esteve Molto (Spain)**

Senior lecturer in Public International Law and international relations. Director of the Master’s Degree in Human Rights, Democracy and International Justice (2019-2023) and Secretary of the Human Rights Institute at the University of Valencia (2012-2021). He is currently in charge of the International Human Rights Department of the Legal Clinic of the Law Faculty of this University. Investigator advocate in claims related to international crimes committed in Tibet and Burma before the Spanish tribunals through universal jurisdiction. He has published dozens of articles in journals and book chapters on topics associated with international crimes, international humanitarian law, business and human rights focusing attention on cases such as the Union Carbide disaster of Bhopal.



#### **Czarina Golda S. Musni (The Philippines)**

Human rights lawyer and member of the Union of Peoples’ Lawyers in Mindanao (UPLM). She focuses her work on the defence of the land rights of the peasants and indigenous communities in Mindanao against extractive industry companies and the government policies which results in the displacement, destruction of livelihood, environmental plunder and even killings and enforced disappearances of community leaders and members. She is also active in the campaigns for peace talks between the Government of Philippines and the Communist Party of the Philippines – National Democratic Front to resolve the ongoing armed conflict in the country. Due to the intensified persecution against her, she had to flee from her country for her safety and security.

### **Gabrielle Lefèvre (Belgium)**



Belgian journalist since 1972: at La Cité until 1995; then at Le Soir until 2009. Columnist on the alternative news website [www.entreeslignes.be](http://www.entreeslignes.be) since 2009. Specialist in development cooperation, social issues including migration, poverty and poor housing. Non-magistrate member of the Belgian High Council of Justice, representing the press, from 2008 to 2012. Member of various professional journalism bodies, including the Commission d'agrégation au titre de journaliste professionnel and founding member of the Conseil de déontologie journalistique. Member of the Henri La Fontaine Foundation, dedicated to pacifism. Former President and member of the Board of Directors of the Pro Renovassistance Foundation, dedicated to housing the most disadvantaged, in Brussels, and author of several books.

### **Rashida Manjoo (South Africa)**



Professor Emerita at the University of Cape Town, South Africa where she taught for many years in the Faculty of Law and convened the LLM Human Rights Program. Between 2009 and 2015, she held the position of United Nations Special Rapporteur on Violence against Women, its Causes and Consequences. Her UN work has included monitoring and reporting on States' compliance in responding to and preventing violence against women, its causes, and consequences, both generally and in different country contexts. Prof. Manjoo is the former Parliamentary Commissioner of the Commission on Gender Equality, an institution created by the Constitution of South Africa, with a mandate to oversee the promotion and protection of gender equality and women's rights. She has also been involved in social context training for judges and lawyers, where she has designed both content and methodology.

### **Frances Webber (UK)**



Former barrister who specialised in immigration, refugee and human rights law until her retirement in 2008, and acted as a junior barrister for Amnesty International in the Pinochet extradition case of 1998-99. She is a trustee of the Institute of Race Relations, having served as vice-chair for many years, and is an honorary vice-president of the Haldane Society of Socialist Lawyers. She co-edited *Macdonald's Immigration Law and Practice* (5th and 6th editions, 2001 and 2005) and *Halsbury's British Nationality, Immigration and Asylum* (4th edition, 2002 reissue), and is the author of *Borderline justice: the fight for refugee and migrant rights* (Pluto, 2012). After retirement she lectured at Warwick and Birkbeck (University of London) for some years, and she has spoken and written extensively on migration and human rights issues.

## Annex 4

### PROSECUTION TEAM



#### **Anni Pues (Germany)**

Senior Lecturer in International Law at the University of Glasgow, where she teaches and researches international criminal law. She has published widely on questions of international criminal and human rights law. In addition to her academic career, she is a legal practitioner, who has acted as Counsel at the Kosovo Specialist Chambers, the International Criminal Court and the European Court of Justice.



#### **Barbara Spinelli (Italy)**

Lawyer based in Bologna, co-president of the European Lawyers Association for Democracy and Human Rights (ELDH), member of the Human Rights Study Committee of the Bologna Bar Association, and the Human Rights Commission of the National Bar Council (C.N.F.). She is the author of *Femicide. From Social Denunciation to International Legal Recognition* (Franco Angeli, 2008) and other publications on femicide, male violence against women, and human rights. She has served as an international observer in Turkey, Iraq, Syria, Egypt, and Tunisia, and is a co-author of the *Manual for International Process Observers. The Defense of Human Rights*.



#### **Declan Owens (Ireland)**

Trade union and environmental lawyer with the environmental non-profit, Ecojustice Ireland. He is co-chair of the Haldane Society of Socialist Lawyers in Britain and the International Officer of the Socialist Lawyers' Association of Ireland.



#### **Ezio Menzione (Italy)**

Lawyer in Pisa, Italy. He specialized in criminal law and death in many trials as a lawyer concerning human rights in front of Italian courts. In the last ten years, he has been appointed International Observer for the Italian Union of Penal Chambers (UCPI) and as such has attended many trials in other countries, especially in Turkey and Turkish Kurdistan.



**Efstathios C. Efstathiou (Cyprus)**

Lawyer and member of the Cyprus Bar Association. Beyond his legal practice, Efstathios serves as the Vice President of the Cyprus Association for the Protection of the Rights of Prisoners and Released Prisoners, showcasing his unwavering dedication to upholding the rights and well-being of individuals within the Cyprus justice system. As a member of the Cyprus Democratic Lawyers Association, Efstathios is deeply committed to advocating for justice, fairness, and human rights within the legal realm.



**Florian Bohsung (Germany)**

Human rights activist and researcher. He studied International Relations and Human Rights Law at the University of Groningen in the Netherlands. For the past year, he has worked for the Legal Center Lesvos in Greece.



**Heike Geisweid (Germany)**

She has been practicing law in the field of migration since 1996, with a primary focus on asylum cases for individuals from Turkey and Kurdistan. She has been a member of the board of (MAF-DAD e.V), the Association for Democracy and International Law, since 2006. Additionally, she has served as a board member of AZADÎ - Legal Aid Fund since 2003.



**Jan Fermon (Belgium)**

Lawyer at the Brussels Bar, specializes in criminal law, international (humanitarian) law and human rights law. Since 2005, he has been a bureau member of the International Association of Democratic Lawyers (IADL). With extensive experience as a lawyer, legal advisor, researcher, teacher, and human rights defender, Fermon is skilled in immigration law, criminal defense, international law, and international humanitarian law. His work reflects a strong commitment to human rights and progressive legal practices.



**Rengin Ergül (Kurdistan)**

Human Rights lawyer, she has been actively working as an advocate and activist in the field of human rights since 2009 and has been practicing as a human rights lawyer since 2013. Her work focuses on torture and ill-treatment, prisons, and refugee rights in Turkey and Kurdistan. She has contributed to the management and activities of several legal and human rights organizations in both regions. Currently, she continues her work in Germany as a member of European Lawyers for Democracy and World Human Rights (ELDH) and the Association for Democracy and International Law (MAF-DAD).





### **Socrates Tziazas (Cyprus)**

Lawyer and member of the Cyprus Bar Association with a specialisation in criminal law and human rights practice. His expertise also extends to the application of the rule of law and human rights principles in the criminal justice system. As a dedicated member of the Cyprus Democratic Lawyers Association, Socrates is deeply committed to promoting the rule of law, protecting human rights, and advocating for justice in Cyprus and elsewhere.



### **Şerife Ceren Uysal (Turkey)**

Human rights lawyer from Istanbul. She has been based in Vienna since August 2016. An executive board member of the Progressive Lawyers' Association since 2015, Ceren Uysal was awarded the Dr.Georg Lebiszczak Prize for Freedom of Speech in Austria in December 2016. She is currently the co-secretary general of European Lawyers for Democracy and World Human Rights (ELDH). Ceren is working as PEN Norway's Legal Adviser on Turkey.



### **Urko Aiartza Azurtza (Basque Country)**

Member of the Gipuzkoa Lawyers Bar, he has represented numerous human rights groups and individuals as a lawyer in national and international courts and institutions, which include the ECHR and UN. He is a Board Member of BEHATOKIA, The Basque Observatory of HHRR. He also holds the position of Co-President of the European Lawyers for Democracy and World Human Rights. Hailing from the Basque Country, he previously served as a senator (2011-2015) in Madrid, where he held the position of Spokesperson in the Justice, Foreign Affairs, Iberoamerican, and Standing Senate Committees. In recent years, he has been actively providing consultancy on peace and mediation to public and private international institutions in Latin America, Africa, and Asia. Since 2019, he has also taken on the role of director at the Olaso Dorrea Foundation and its "TM eLab", a center for generating innovative ideas in the Basque Country, his birthplace and current residence.

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<sup>1</sup> See [www.permanentpeopletribunal.org](http://www.permanentpeopletribunal.org) for its Statute, which responds to the rigorous juridical terms of reference of international law, and for documentation on its activities in more than 50 sessions.

<sup>2</sup> These are: Committee for Justice and Law and the Department of Foreign Relations of the Democratic Autonomous Administration of North and East Syria (DAANES), the Research and Protection Centre for Women's Rights, the Human Rights Organizations in Al-Jazira and Afrin, MAF-DAD e.V (Association for Democracy and International Law), ELDH (European Association of Lawyers for Democracy & World Human Rights), IADL (International Association of Democratic Lawyers), the KNK (Kurdistan National Congress), the Kurdish Institute of Brussels and the Free University of Brussels (VUB).

<sup>3</sup> See the judgment here: <https://permanentpeopletribunal.org/46-session-on-alleged-violations-of-international-law-and-international-humanitarian-law-by-the-turkish-republic-and-its-officials-against-the-kurdish-people-and-their-organizations-paris-15-16-mar/?lang=en>

<sup>4</sup> United Nations, UN News Global Perspectives, Syria: <https://news.un.org/en/focus/syria#>.

<sup>5</sup> Knapp, Michael and Jongerden, Joost. *The Revolution in Rojava: Democratic Autonomy in Northern Syria*. Pluto Press, 2016, <https://www.plutobooks.com/9781783719884/revolution-in-rojava/>.

<sup>6</sup> DAANES is a self-proclaimed autonomous region whose constitution, titled Charter of the Social Contract, was adopted on 29 January 2014. Its Preamble states: 'The democratic federalism of northern Syria is based on a geographic concept and an administrative and political decentralisation; it is part of the united Syrian democratic federalism.'

<sup>7</sup> Rojava Information Center, *The state of the occupation: Documenting rights abuses in Turkey-occupied regions of north Syria*, Q3-Q4, 2022.

<sup>8</sup> Khayrallah Al Hilu, *Afrin under Turkish occupation*, European University Institute, 2019.

<sup>9</sup> Human Rights Watch, *Questions and answers: Turkey's threatened incursion into northern Syria*, 17 August 2022; <https://www.hrw.org/news/2022/08/17/questions-and-answers-turkeys-threatened-incursion-northern-syria#Q3>.

Between the hearing and the preparation of this judgment, the PKK declared a unilateral ceasefire; it remains to be seen how the Turkish government will respond.

<sup>10</sup> 'Erdogan vows to thwart any 'Kurdish state' in Syria', (AFP), 22/08/2017, <https://www.france24.com/en/20170822-erdogan-vows-thwart-kurdish-state-syria>.

<sup>11</sup> Al Hilu, op cit.

<sup>12</sup> al-Hilu, Khayrallah, 'The Turkish Intervention in Northern Syria: One Strategy, Discrepant Policies', Middle East Directions, Issue 2021/01, 14 January 2021.

<sup>13</sup> Elizabeth Tsurkov, "The Gangs of Northern Syria: Life Under Turkey's Proxies," *Newlines Institute for Strategy and Policy*, December 7, 2022, <https://newlinesinstitute.org/syria/the-gangs-of-northern-syria-life-under-Turkeys-proxies/>

<sup>14</sup> 'Illegal Transfers of Syrians to Turkey', Human Rights Watch news release, February 3, 2021, <https://www.hrw.org/news/2021/02/03/illegal-transfers-syrians-Turkey>.

<sup>15</sup> *21st Report of the Commission of Inquiry on the Syrian Arab Republic*, A/HRC/45/31, September 15, 2020, <https://undocs.org/en/A/HRC/45/31>

<sup>16</sup> 'National Army: Our salaries and weapons when necessary come from Turkey', *Euronews* (Turkish), 12 August 2018, <https://tr.euronews.com/2018/08/12/-suriye-milli-ordusu-maasimiz-ve-gerektiginde-silahimiz-turkiye-den>

<sup>17</sup> A/HRC/46/55, *23rd Report of the Commission of Inquiry of the Syrian Arab Republic - A decade of arbitrary detention and imprisonment*, 11 March 2023, <https://www.ohchr.org/en/documents/country-reports/ahrc4655-report-independent-international-commission-inquiry-syrian-arab>; UN HRC, Report of the Commission of Inquiry on Syrian Arab Republic to the 52nd regular session of the Human Rights Council, 13 March 2023, <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/report-coi-syria-march2023>.

<sup>18</sup> A/HRC/43/57, <https://docs.un.org/en/A/HRC/43/57>, §44.

<sup>19</sup> See film footage, Folder 'Situation in Serekaniye and Tel Abyad, File 4.2; Chuck Pfarrer, 'Analysis: proof of Turkish use of banned white phosphorus munitions', 2019.

<sup>20</sup> See photographs in *ibid*, File 4.3; video testimony and statement of Dr Mansouran, who treated the injured at Hasekeh hospital, on nature of injuries, File 4.5, 4.6, 4.7.

<sup>21</sup> See Bafob GmbH report on the usage of chemical weapons, 4 December 2019, File 4.12.

<sup>22</sup> A/HRC/43/57, <https://docs.un.org/en/A/HRC/43/57>, §49.

<sup>23</sup> A/HRC/43/57, <https://docs.un.org/en/A/HRC/43/57>, §52. The Commission called on the Turkish authorities, which denied knowledge of the incidents, to investigate and publish their findings.

<sup>24</sup> See UN COI report of 17 August 2022 to UN General Assembly, <https://docs.un.org/en/A/HRC/51/45>, paras 84-85.

<sup>25</sup> See Erdoğan's post of 9 October 2019, <https://x.com/RT Erdogan/status/1181922277488762880?mx=2>.

<sup>26</sup> The Turkish state-run Anadolu Press Agency refers to Operation Peace Spring being launched by the Turkish army 'in cooperation' with the SNA under Turkish army supervision, to 'eliminate the terrorist corridor' in northern Syria. See eg 'A convoy of the Syrian National Army moves to support Operation Peace Spring', *Anadolu*, 12 October 2019.



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- <sup>27</sup> Amnesty International, *Syria: Damning evidence of war crimes and other violations by Turkish forces and their allies*, 18 October 2019, <https://www.amnesty.org/en/latest/press-release/2019/10/syria-damning-evidence-of-war-crimes-and-other-violations-by-turkish-forces-and-their-allies/>.
- <sup>28</sup> See testimony of Robel Baho, File 7; Syriac Christians and the second genocide, October 2019 (Serekaniye folder, File 7).
- <sup>29</sup> Hevdestî, *Ras al-Ayn/ Serekaniye and Tel Abyad: Four years of occupation and record rife with human rights violations*, October 2023.
- <sup>30</sup> Washington Kurdish Institute, Turkish presence in northern Syria: systematic harm to civilians, <https://dckurd.org/2023/08/14/turkish-presence-in-northern-syria/>, August 2023.
- <sup>31</sup> HRW, 29 February 2024, <https://www.hrw.org/report/2024/02/29/everything-power-weapon/abuses-and-impunity-turkish-occupied-northern-syria>.
- <sup>32</sup> ‘Kongra Star calls for international action against deadly Turkish attack’, ANF News, 24 August 2022, <https://anfenglishmobile.com/women/kongra-star-calls-for-international-action-against-deadly-turkish-attacks-62067>.
- <sup>33</sup> Report A/HRC/43/57, January 2020, <https://docs.un.org/en/A/HRC/43/57>, §94.
- <sup>34</sup> GCPEA, *Education under attack 2024*, [https://protectingeducation.org/wp-content/uploads/eua\\_2024\\_syria.pdf](https://protectingeducation.org/wp-content/uploads/eua_2024_syria.pdf).
- <sup>35</sup> HRW, ‘Northeast Syria: apparent war crime by Turkey-backed forces’, 30 January 2025, <https://www.hrw.org/news/2025/01/30/northeast-syria-apparent-war-crime-turkiye-backed-forces>.
- <sup>36</sup> ‘A city on the brink: twelve days in Kobane, where Syrian Kurds are under attack by Turkey’, The Intercept, 3 February 2025, <https://theintercept.com/2025/02/03/kobane-syria-Turkey-airstrikes-kurds-dam/>.
- <sup>37</sup> *Gender related killings of women* – Report of the Special Rapporteur on violence against women, its causes and consequences (Rashida Manjoo) to the United Nations Human Rights Council - A/HRC/20/16 (May 2012), pp. 4, 13.
- <sup>38</sup> See among others: numerous reports published by Women Defend Rojava (WDR) and Kongra Star (KS). Mainstream media organisations such as the BBC, CNN and France 24 also covered the story. The 25 January 2024 report by WDR highlighted the death of 17-year-old Aya, who was killed as a result of a rocket attack on the cotton factory where she worked. The 4 October 2022 WDR report documents the assassination of Nagihan, who was killed in front of her house, the assassinations of Hevrin, Zehra, Heba, Zeyneb, Shukri, Mihamed and Suhel. The KS report of 10 December 2022 lists the names of 15 women who were part of the Women’s Revolution and who were assassinated by drone attacks. Another undated KS report notes the abduction and subsequent murder of Saada and Hind who were local politicians and activists. Islamic State later claimed responsibility for the torture and murder of the women. The KS article of 2 July 2020 documents the targeted drone attack on a house which killed three women sitting in the garden. Zehra, Emina and Helwin were all civilians, two of them part of the women’s movement.
- <sup>39</sup> The 2020 report of the UN Special Rapporteur on Extrajudicial Killings addresses the drone attacks.
- <sup>40</sup> CAR, *Missile components used in drone attacks in Northeast Syria, 2022*.
- <sup>41</sup> See also Kongra Star Information Center, *Fact Sheet: Drone War Against The Women’s Revolution*, December 2022.
- <sup>42</sup> A report published by the Centre for Research and Protection of Women’s Rights in Syria documents violations against women for the period 2018 to 2020. It documents dates, locations, names of victims and the nature of the violations. The statistics include Killings: 85 cases; Kidnapping and Torture: 123 cases; Injuries: 175 cases. A KS report of 30 June 2020 highlights abductions, violence, rapes and murder since 2018 in Afrin and notes the common method of militias to kidnap mainly young women and to blackmail their families for ransom. The report notes that 1,564 women have been victims of attacks, including over 1,000 who have been abducted and disappeared. The 2023 report from KS notes the murders of three women Evin, Mir and Abdurahman in Paris (and reminds one of the 2013 murders in Paris of three women). The December 2024 report from KS notes the killing of three women activists by a Turkish bombing attack on 10 December.
- <sup>43</sup> *Gender related killings of women* – Report of the Special Rapporteur on violence against women, its causes and consequences (Rashida Manjoo) to the UN Human Rights Council - A/HRC/20/16 (May 2012), pp. 21, 27.
- <sup>44</sup> After the hearing, the Tribunal heard that den Hond was stopped when he tried to enter Turkey, for the first time in the 30 years that he has gone to cover Newroz celebrations, and is to be deported and given a ten-year entry ban. He is on a ‘black list’ of journalists, parliamentarians and others who went to Kobane in January to celebrate the tenth anniversary of the SDF victory over IS/ Daesh. *Orient XXI*, 17 March 2025, <https://orientxxi.info/magazine/turquie-interdiction-de-territoire-pour-le-journaliste-chris-den-hond,8094>.
- <sup>45</sup> See eg, ‘Deux journalistes tués en Syrie, selon un parti pro-kurde en Turquie’, *L’Orient du Jour*, 20 December 2024, <https://www.lorientlejour.com/article/1440591/deux-journalistes-turcs-tues-dans-le-nord-de-la-syrie.html>.
- <sup>46</sup> HRC 43-51 § 60.
- <sup>47</sup> The booklet also refers to the killing in August 2019 of **Samer al-Saloum**, after being captured and tortured in 2017 by the HTS militia, supported by Turkey, of whom he had written critically in the magazine Al-Ghirbal. <https://wahrheitskaempfer.de/>.
- <sup>48</sup> Syrians for Truth and Justice, ‘Northeast Syria: Turkish attacks kill civilians, destroy their livelihoods’, <https://stj-sy.org/en/northeast-syria-turkish-attacks-kill-civilians-destroy-their-livelihoods/>

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<sup>49</sup> See eg Syrians for Truth and Justice, *Arbitrary detention and torture are a systematic oppression policy in northwest Syria*, February 2023, <https://stj-sy.org/en/arbitrary-detention-and-torture-are-a-systemic-oppression-policy-in-northwestern-syria/>; STJ, *Torture in the Peace Spring Strip: A Tool for Persecution and the Perpetuation of Forced Displacement*, June 2023, <https://stj-sy.org/en/torture-in-the-peace-spring-strip-a-tool-for-persecution-and-the-perpetuation-of-forced-displacement/>; Ceasefire Centre for Civilian Rights and YASA, *Afrin after Operation Olive Branch: An Update on the Situation in North-west Syria*, September 2021; *Cultivating Chaos: Afrin after Operation Olive Branch*, July 2020; *Escalating human rights violations in Syria's Afrin: 2024 update*; Human Rights Watch, Rojava Information Center, etc.

<sup>50</sup> HRW, *Everything is by the power of the weapon*, pp67-68. It records that one faction admitted to a death and arrested the perpetrators.

<sup>51</sup> HRW, *Illegal transfers of Syrians to Turkey*, February 2021, <https://www.hrw.org/news/2021/02/03/illegal-transfers-syrians-turkey>

<sup>52</sup> STJ, *Syria/ Afrin: Illegal transfer of Syrian detainees to Turkey and subjecting them to sham trials*, 31 October 2024, <https://stj-sy.org/en/syria-afrin-illegal-transfer-of-syrian-detainees-to-turkiye-and-subjecting-them-to-sham-trials/>.

<sup>53</sup> Al Hilu, op cit.

<sup>54</sup> See eg report of 11 March 2021, A/HRC/46/55, <https://docs.un.org/en/A/HRC/46/55>, paras 30-46; report of 17 August 2022 to the UN General Assembly, <https://docs.un.org/en/A/HRC/51/45>, paras 67-72; report to the HRC, A/HRC/A/HRC/53/CRP.5, 10 July 2023, 'No end in sight: torture and ill-treatment in the Syrian Arab Republic', <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/no-end-in-sight>, paras 94-105;

<sup>55</sup> A/HRC/43/57, 20 January 2020, <https://docs.un.org/en/A/HRC/43/57>, §§39-40.

<sup>56</sup> RIC, *State of the occupation Q3-4 2022: documenting rights abuses in Turkish-occupied regions of north Syria*, <https://rojavainformationcenter.org/2024/08/state-of-the-occupation-q3-q4-2022-Turkey-continues-supporting-and-actively-participating-in-sna-crimes/>, August 2024.

<sup>57</sup> Hevdestî, *Ras al-Ayn/ Serekaniye and Tel Abyad: Four years of occupation and record rife with human rights violations*, October 2023,

<sup>58</sup> *Pathways to, conditions and consequences of incarceration for women: Report of the Special Rapporteur on violence against women, its causes and consequences* (Rashida Manjoo) to the United Nations General Assembly - A/68/340 (August 2013), pp. 11, 12.

<sup>59</sup> An article and video in the *Afrin Post* in June 2020 included Nadia's mother calling for the release of her daughter (<http://Afrinpost.net>). Nadia's story was also documented by Jonathan Spyer in April 2022 (<https://jonathanspyer.com>). A report by the NGO Syrians for Human Rights dated August 2020 included the stories of Nadia and Lonjin and six other women who were abducted and forcibly disappeared. This report provides evidence of the involvement of the Hamza Division – a Turkish-backed group – in disappearances, abductions, violence and torture in prisons ([www.stj-sy.org](http://www.stj-sy.org)). A report by Meghan Bodette noted that some women had been released from an SNA black site prison after a ransom was paid, while others are still missing. The report notes the presence of several women in a secret prison operated by the Hamza Division, revealed by video footage (<https://mjbodette.medium.com>).

<sup>60</sup> UN COI report A/HRC/45/31 August 2020.

<sup>61</sup> Medical report on Nadia by Prof Dr Wenzel, whose findings are based on the Istanbul Protocol on the Effective Investigation and documentation of Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

<sup>62</sup> UN COI letter confirming that Nadia has been in regular contact with them and has provided valuable information to its investigating team regarding human rights and humanitarian law violations. The 2020 report of the COI (A/HRC/45/31) also made findings of torture and rape, noting that there were reasonable grounds to believe that the SNA has committed the war crimes of hostage-taking, cruel treatment and torture, and rape which may amount to torture.

<sup>63</sup> See NGO reports referred to in n4 and n7 above.

<sup>64</sup> Mizgeen works for the Women's Rights Protection Centre in Afrin.

<sup>65</sup> *Pathways to, conditions and consequences of incarceration for women – Report of the Special Rapporteur on violence against women, its causes and consequences* (Rashida Manjoo) to the United Nations General Assembly - A/68/340 (August 2013), pp. 24, 25.

<sup>66</sup> NES NGO Forum, Situation Report #1, October 7, 2023: *Escalation of Hostilities Targeting Critical Civilian Infrastructures in Northeast Syria*, <https://reliefweb.int/report/syrian-arab-republic/escalation-hostilities-targeting-critical-civilian-infrastructures-northeast-syria>.

<sup>67</sup> NES NGO Forum, Situation Report #2, October 16, 2023: *Escalation of Hostilities Targeting Critical Civilian Infrastructures in Northeast Syria*, <https://reliefweb.int/report/syrian-arab-republic/situation-report-2-october-16-2023-escalation-hostilities-targeting-critical-civilian-infrastructures-northeast-syria>. See also HRW, *Northeast Syria: Turkish strikes disrupt water, electricity*, 26 October 2023, <https://www.hrw.org/news/2023/10/26/northeast-syria-turkish-strikes-disrupt-water-electricity>.

<sup>68</sup> NES NGO Forum, *Continued Impact of Damaged and Destroyed Critical Infrastructures in Northeast Syria*, Situation Report #3, January 26, 2024, <https://reliefweb.int/report/syrian-arab-republic/escalation-hostilities-northeast-syria-january-16th-2024>.

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- <sup>69</sup> A/HRC/43/57, <https://docs.un.org/en/A/HRC/43/57>, §50.
- <sup>70</sup> US Department of Defense, 7 November 2019, <https://www.defense.gov/News/News-Stories/Article/article/2011873/syrian-democratic-forces-reap-benefit-from-oil-money/>.
- <sup>71</sup> NES NGO Forum, 25 November 2022, <https://reliefweb.int/report/syrian-arab-republic/uptick-hostilities-lead-power-cuts-and-result-increased-humanitarian-and-environmental-risks>
- <sup>72</sup> HRW, *North-east Syria: Turkish strikes exacerbate humanitarian crisis*, December 2022, <https://www.hrw.org/news/2022/12/07/northeast-syria-turkish-strikes-exacerbate-humanitarian-crisis>.
- <sup>73</sup> Turkish strikes in Syria cut water to one million people, 19 November 2024, <https://www.bbc.co.uk/news/articles/c79zj7rz314o>.
- <sup>74</sup> See 'Protests and bloodshed at Tishreen Dam, the Syrian war's last faultline', *Middle East Eye*, 31 January 2025, <https://www.middleeasteye.net/news/protests-bloodshed-tishreen-dam-syria-war-last-faultline>.
- <sup>75</sup> See eg Doctors of the World, *Escalation of violence in North East Syria: health centers without electricity*, 22 January 2024, <https://www.doctorsoftheworld.org.uk/news/escalation-of-violence-in-northeast-syria-health-centers-without-electricity/>
- <sup>76</sup> Doctors of the World, *New attack on healthcare facilities in Syria*, 15 January 2024, <https://www.doctorsoftheworld.org.uk/news/new-attack-on-healthcare-facilities-in-syria/>.
- <sup>77</sup> NPA, *Turkish strikes on dialysis center in Syria's Qamishli put patients at risk*, 5 January 2024, <https://npasyria.com/en/109334/>.
- <sup>78</sup> NPA, *Only clinic in Syria's Kobani out of service after Turkish drone strikes*, 30 December 2023, <https://npasyria.com/en/109520/>. From the report it seems the writers looked on the KMC as part of the MMC. See also NPA, *Turkish airstrikes spare no health facilities in Syria*, 9 January 2024, <https://npasyria.com/en/109790/>.
- <sup>79</sup> Kurdish Peace Institute, *Turkey targets USAID projects in Northeast Syria*, 27 April 2024, <https://www.kurdishpeace.org/research/kpi-qamishli/Turkey-targets-usaid-projects-in-northeast-syria/>.
- <sup>80</sup> RIC, *Turkey's Christmas airstrikes targeting north and east Syria's civilian service facilities and infrastructure*, 25 December 2023, <https://rojavainformationcenter.org/storage/2023/12/first-short-report.pdf>.
- <sup>81</sup> RIC, *Turkey's Christmas airstrikes targeting north and east Syria's civilian service facilities and infrastructure*, 26 December 2023, <https://rojavainformationcenter.org/storage/2023/12/day-2-report.pdf>.
- <sup>82</sup> *Medya News*, 27 December 2023, <https://medyanews.net/kobani-medical-centre-destroyed-in-turkish-airstrikes/>.
- <sup>83</sup> 'Turkey confirms deadly airstrikes in Syria and Iraq targeting Kurdish groups', *Guardian*, 20 November 2022, <https://www.theguardian.com/world/2022/nov/20/Turkey-confirms-airstrikes-kurdish-groups-syria-iraq-bombing>.
- <sup>84</sup> A/HRC/43/57, <https://docs.un.org/en/A/HRC/43/57>, §51.
- <sup>85</sup> 'Did Turkey bomb Afrin's general hospital?' *Bellingcat*, 19 March 2018, <https://www.bellingcat.com/news/mena/2018/03/19/did-turkey-bomb-afrin-hospital/>.
- <sup>86</sup> 'A city on the brink: twelve days in Kobane, where Syrian Kurds are under attack by Turkey', *The Intercept*, 3 February 2025, <https://theintercept.com/2025/02/03/kobane-syria-turkey-airstrikes-kurds-dam/>; 'Protests and bloodshed at Tishreen Dam, the Syrian war's last faultline', *Middle East Eye*, 31 January 2025, <https://www.middleeasteye.net/news/protests-bloodshed-tishreen-dam-syria-war-last-faultline>.
- <sup>87</sup> HRW, HRW, 'Northeast Syria: apparent war crime by Turkey-backed forces', 30 January 2025, <https://www.hrw.org/news/2025/01/30/northeast-syria-apparent-war-crime-turkiye-backed-forces>.
- <sup>88</sup> STJ/ Lêlûn, Syria: satellite images reveal extensive logging in 114 forest patches in Afrin, April 2023, <https://lelun-afrin.org/en/syria-satellite-images-reveal-extensive-logging-in-114-forest-patches-in-afrin/>.
- <sup>89</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA): Turkey | Syria: *Latest Developments in Afrin District*, 19 March 2018, <https://reliefweb.int/report/syrian-arab-republic/turkey-syria-latest-developments-afrin-district-19-mar-2018>.
- <sup>90</sup> Afrin Activists Network: *File on Violations in Afrin: Demographic change*, pp8-10.
- <sup>91</sup> Consultation and Coordination office (CCO), Monitoring and Information Center(MIC): 'Displacement from al-Shahba to al-Tabqa and al-Raqqa', Second update 2024
- <sup>92</sup> Human Rights Watch: *Everything is by the Power of the Weapon*, February 2024.
- <sup>93</sup> ReliefWeb: *Displacement and Despair: The Turkish invasion of northeast Syria*, 12 November 2019, <https://reliefweb.int/report/syrian-arab-republic/displacement-and-despair-turkish-invasion-northeast-syria>.
- <sup>94</sup> *Ras al-Ayn/Serekaniye and Tell Abyad: The situation of human rights five years after the Turkish occupation*, October 2024.
- <sup>95</sup> 'Operation Peace Spring': *its impact on displaced persons and civilians*, 17 October 2023, <https://syrianwomenpm.org/statements/operation-peace-spring-its-impact-on-displaced-persons-and-civilians/>.
- <sup>96</sup> Consultation and Coordination office (CCO), Monitoring and Information Center(MIC): 'Displacement from al-Shahba to al-Tabqa and al-Raqqa', Second update 2024.
- <sup>97</sup> *Displacement and Despair: the Turkish invasion of northeast Syria*'.

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<sup>98</sup> Civil Waves/ PEL: *Housing, land and property rights violations in Afrin after 2018: a research report*, 2023; *Housing, land and property rights violations: Ras al-Ayn/Serekaniye and Tal Abyad after 2019: a research report*; Syrians for Truth & Justice: “My entire life savings vanished overnight”: *housing, land and property rights violations in ‘Peace Spring’ strip*, October 2024.

<sup>99</sup> *Housing, land and property rights violations: Ras al-Ayn/Serekaniye and Tal Abyad after 2019: a research report*, p33.

<sup>100</sup> *Ibid*, p41.

<sup>101</sup> al-Hilu, Khayrallah, *Afrin Under Turkish Control: Political, Economic and Social Transformations*, European University Institute, [https://cadmus.eui.eu/bitstream/handle/1814/63745/MED\\_2019\\_10.pdf](https://cadmus.eui.eu/bitstream/handle/1814/63745/MED_2019_10.pdf), p17.

<sup>102</sup> *Ibid*, p16.

<sup>103</sup> *Ibid*. Turkey’s theft of at least 50,000 tons of Afrin’s olive oils, that were then sold in Spain through intermediary companies, was reported by the BBC, ‘War in Syria: Afrin olives become a “source of income” for armed groups,’ 20 January 2019.

<sup>104</sup> BBC, ‘War in Syria: Afrin olives become a “source of income” for armed groups,’ 20 January 2019.

<sup>105</sup> Rojava Information Center, ‘The State of the Occupation: Documenting Rights Abuses in Turkish Occupied Regions of North Syria, Q3 &Q4, 2022’

<sup>106</sup> HRW, ‘Syrians face dire conditions in Turkish-occupied ‘safe zones’’, 28 March 2024, <https://www.hrw.org/news/2024/03/28/syrians-face-dire-conditions-turkish-occupied-safe-zone>.

<sup>107</sup> *Displacement and Despair: The Turkish Invasion of Northeast Syria*, supra.

<sup>108</sup> Odisseas Christou, *Expert Opinion on Intentional Destruction of Antiquities in Armed Conflict*.

<sup>109</sup> *Human cultural heritage in the Afrin region during the period of the Turkish occupation*; see also reports by the Syrian Observatory for Human Rights, including ‘Destroying historical heritage: Turkish-backed faction continue excavating archaeological hills in Afrin’, 12 December 2021, <https://www.syriahr.com/en/230837/>; ‘Searching for antiquities: Turkish-backed factions continue excavating, stealing mosaics, hiding basalt lion, and destroying over 25 archaeological sites in Afrin’, 29 November 2020, <https://www.syriahr.com/en/194019/>; ‘Turkish-backed factions excavate archaeological hills in Serekaniye’, 5 April 2022, <https://www.syriahr.com/en/245908/>, and many similar reports.

<sup>110</sup> Odisseas Christou, *Expert Opinion on Intentional Destruction of Antiquities in Armed Conflict*.

<sup>111</sup> Neurdenburg, David and Jazowski, Szymon, *Archaeological heritage crimes in occupied Afrin*, 27 March 2024, <https://nlka.net/eng/archaeological-heritage-crimes-in-occupied-afrin/>.

<sup>112</sup> *Human cultural heritage in the Afrin region during the period of the Turkish occupation*.

<sup>113</sup> UNCOI, A/HRC/39/65, §19.

<sup>114</sup> UNCOI, A/HRC/42/51, September 2019, §62.

<sup>115</sup> UNCOI, A/HRC/45/31, August 2020, §63.

<sup>116</sup> UNCOI, A/HRC/46/54, January 2021, §38.

<sup>117</sup> Christou, op. cit.

<sup>118</sup> See also ‘A complaint to three UN special rapporteurs addressing the destruction of graves by various parties to the Syrian conflict’, 6 December 2021, <https://hevdesti.org/en/destruction-of-graves-en/>; STJ, *Blind revenge: cemeteries and religious shrines vandalised by parties to the Syrian conflict*,

<https://stj-sy.org/en/blind-revenge-cemeteries-and-religious-shrines-vandalized-by-parties-to-syrian-conflict/>

<sup>119</sup> Anadolou, 21 March 2018; see also ‘Turkish authorities frame digging up cemetery in Afrin with fabricated story’, *Afrin Post*, 15 July 2021, <https://afrinpost.net/en/2021/07/turkish-authorities-frame-digging-up-cemetery-in-afrin-with-fabricated-story/>.

<sup>120</sup> See Bellingcat, ‘Olive Branch military outpost built atop Afrin cemetery’, 5 November 2018, <https://www.bellingcat.com/news/mena/2018/11/05/olive-branch-military-outpost-built-atop-afrin-cemetery/>.

<sup>121</sup> Bellingcat, *Afrin: incidents of desecration and destruction of cultural sites*, 11 July 2019, <https://www.bellingcat.com/news/mena/2019/07/11/afrin-incidents-of-desecration-and-destruction-of-cultural-sites/>.

<sup>122</sup> ‘The devastating impact of Turkey’s currency crisis on north-west Syria’, *New Arab*, 26 May 2023.

<sup>123</sup> STJ, ‘Northern Syria: Replacement of Kurdish landmarks in Afrin, Turkification in al-Bab’, 20 August 2024, <https://stj-sy.org/en/northern-syria-replacement-of-kurdish-landmarks-in-afrin-turkification-in-al-bab/>

<sup>124</sup> <https://x.com/jenanmoussa/status/1193546099472191488?lang=cs>.

<sup>125</sup> International Military Tribunal (Nuremberg) *Judgment of 1 October 1946, The Trial of German Major War Criminals. Proceedings of the International Military Tribunal sitting at Nuremberg*, Germany, Part 22 (22nd August ,1946 to 1st October, 1946).

<sup>126</sup> Definition of Aggression, United Nations General Assembly Resolution 3314 (XXIX).

- <sup>127</sup> Quarterly reports on crimes committed in areas of occupation, see eg Rojava Information Center, *The state of the occupation, Q3-4 2022*, <https://rojavainformationcenter.org/2024/08/state-of-the-occupation-q3-q4-2022-turkey-continues-supporting-and-actively-participating-in-sna-crimes/>.
- <sup>128</sup> Rojava Information Center, *Explainer: Afrin, 5 years under Turkish occupation*, <https://rojavainformationcenter.org/2023/01/explainer-afrin-5-years-under-turkish-occupation/>.
- <sup>129</sup> See Control Council Law No. 10 tribunal judgments *in re von Weizsäcker, et al.* (Ministries case); *in re von Leeb, et al.* (High Command case); and *in re Krauch, et al.* (I. G. Farben case), cfr. Cassese, Antonio et al., *International Criminal Law: Cases and Commentary*. Oxford: Oxford University Press, 2011. Cases quoted in Antonopoulos, Constantine, *Aggression in International Law*, Oxford Bibliographies, 2019.
- <sup>130</sup> #OperationPeaceSpring, <https://x.com/RTErdogan/status/1181922277488762880>.
- <sup>131</sup> Akande D, Tzanakopoulos A., ‘The International Court of Justice and the Concept of Aggression’, in Kreß C, Barriga S, eds., *The Crime of Aggression: A Commentary*. Cambridge University Press; 2016:214-232.
- <sup>132</sup> ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, 27 June 1986.
- <sup>133</sup> ‘United Kingdom House of Lords: *R. v. Jones et al.* (Conjoined Appeals). *International Legal Materials* 45.4 (2006): 992–1014. Kemp, Gerhard, *Individual Criminal Liability for the International Crime of Aggression*. Series Supranational Criminal Law: Capita Selecta. Antwerp, Belgium.
- <sup>134</sup> [Housing-Land-and-Property-Rights-Violations-in-Peace-Spring-Strip; Housing-Land-and-Property-Rights-Violations-in-Ras-al-Ayn-Sere-Kaniye-and-Tal-Abyad-after-2019; 2024\\_PEL\\_Property-Seizures-in-Northern-Syria\\_A-Tool-for-Forced-Displacement-in-Afrin-Tal-Abyad-and-Ras-al-Ayn\\_study.pdf](#)
- <sup>135</sup> Sino, S.M. (2019c), *The Ancient Mound of Ein Dara is once more subject to Turkish depredations*. Report for the Afrin Antiquities Directorate. p. 3. Sino, S.M. (2019b), *Violations of the pyramidal tomb in Syros after the Turkish occupation*. Report for the Afrin Antiquities Directorate. David Neurdenburg & Szymon Jazowski, *Archaeological Heritage Crimes in Occupied Afrin*, at <https://nlka.net/eng/archaeological-heritage-crimes-in-occupied-afrin/>.
- <sup>136</sup> The documentary evidence presented by the prosecution includes the complaint of the Joint Administration of Antiquities Directorate, Asmahan Ahmad and Hamid Naser.
- <sup>137</sup> ICRC: ‘Rule 52. Pillage’, IHL Database, Customary IHL, en [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule52](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule52).
- <sup>138</sup> Jessberger, F., ‘On the origins of individual criminal responsibility under international law for business activity: IG Farben on trial’, *Journal of International Criminal Justice*, 2010, vol. 8, no 3, pp. 783-802.
- <sup>139</sup> The Human Rights Council endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011, *Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework*, A/HRC/17/31, paragraph 23.
- <sup>140</sup> Antoni Pigrau i Solé, ‘El caso Lafarge y la cuestión de la complicidad de las empresas en la comisión de crímenes internacionales’ in Pigrau Solé & Iglesias Márquez, *Litigación en materia de empresas y derechos humanos: estudio de casos*, Tirant Lo Blanch, 2023, pp. 231-250.
- <sup>141</sup> Schmid, E., ‘Pillage, the Katanga judgment, gravity and the value of “ordinary” household items’, *IntLawGrrls: Voices on international law, policy, practice, 2014*, en <https://edoc.unibas.ch/50347/>; Van den Herik, L. and Dam-de Jong, D., ‘Revitalizing the Antique war crime of pillage: the potential and pitfalls of using international criminal law to address illegal resource exploitation during armed conflict,’ *Criminal Law Forum*, Vol. 22. No. 3. Springer Netherlands, 2011, pp. 237-273.
- <sup>142</sup> Marchuk, I.: ‘Confronting blood diamonds in Sierra Leone: the trial of Charles Taylor’, *Yale Journal of International Affairs*, vol. 4, 2009.
- <sup>143</sup> International Court Of Justice: *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005: ‘245. As the Court has already stated (see paragraph 180 above), the acts and omissions of members of Uganda’s military forces in the DRC engage Uganda’s international responsibility in all circumstances, whether it was an occupying Power in particular regions or not. Thus, whenever members of the UPDF were involved in the looting, plundering and exploitation of natural resources in the territory of the DRC, they acted in violation of the *jus in bello*, which prohibits the commission of such acts by a foreign army in the territory where it is present. The Court notes in this regard that both Article 47 of the Hague Regulations of 1907 and Article 33 of the Fourth Geneva Convention of 1949 prohibit pillage’, at <https://www.icj-cij.org/public/files/case-related/116/116-20051219-JUD-01-00-EN.pdf>
- <sup>144</sup> See, for example, Ferrando Hernández, J.M., *La destrucción de bienes culturales en conflicto armado: el caso del Daesh en Siria*, Tirant Lo Blanch, Valencia, 2025. See also O’Keefe, P., ‘Protection of Cultural Property under International Criminal Law’, *Melbourne Journal of International Law*, vol. 11, no. 2, November 2010, pp. 339-392.
- <sup>145</sup> Article 4 in connection with article 1 of the Hague Convention of 1954.
- <sup>146</sup> Article 53 and article 16 of the 1977 Addition Protocols to the Geneva Conventions I and II, respectively.
- <sup>147</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annexed Regulations concerning the Laws and Customs of War on Land., The Hague, 18 October 1907.

- <sup>148</sup> See Henckaerts, J.M. and Doswald-Beck, L., *Customary International Humanitarian Law*, ICRC, Cambridge University Press, Cambridge, 2009.
- <sup>149</sup> Articles 8.2(b)(ix) and 8.2(e)(iv) of the ICC Statute.
- <sup>150</sup> See IMT, *Trials of the major war criminals before the International Military Tribunal. Nuremberg 14 de November 1945 – 1 October 1946*, Vol. 1, Nuremberg, 1947. Also, see, for example, ICTY, *Sentencing Judgment in the case the Prosecutor v. Miodrag Jokić*, Trial Chamber I, IT-01-42/1-S, 18 March 2004; ICTY, *Judgment in the case the Prosecutor v. Pavle Strugar*, Trial Chamber, IT-01-42-T, 31 January 2005; ICC, *Judgment and Sentence in the case of Prosecutor vs Ahmad Al Faqi Al Mahdi*, Trial Chamber VIII, ICC-01/12-01/15, 27 September 2016.
- <sup>151</sup> ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, para.344; ICJ, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, para.136.
- <sup>152</sup> ICTY, *Judgment in the case the Prosecutor v. Radislav Krstić*, Trial Chamber, IT-98-33-T, 2 August 2001, para.580.
- <sup>153</sup> Dadrian, Vahakn N. ‘Genocide as a Problem of National and International Law: The World War I Armenian Case and Its Contemporary Legal Ramifications.’ *Yale Journal of International Law* 14 (1989): 221–334.
- <sup>154</sup> Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis Powers and Charter of the International Military Tribunal, Aug. 8, 1945 Art. 6(c), 59 Stat. 1544, 82 U.N.T.S. 279. Bassiouni, M. Cherif. *Crimes Against Humanity in International Criminal Law*. 2d ed. The Hague: Kluwer Law International, 1999. Graven, Jean. ‘Les crimes contre l’humanité.’ *Recueil des cours* 76 (1950): 433–605.
- <sup>155</sup> van der Wolf, Willem-Jan, ed. *Crimes Against Humanity and International Criminal Law*. The Hague: International Courts Association, 2011.
- <sup>156</sup> Robinson, Darryl, Georg Witschel, and Wiebke Rückert. ‘The Elements of Crimes Against Humanity.’ In *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence*. Edited by Roy S. Lee, 57–108. Ardsley, NY: Transnational, 2001.
- <sup>157</sup> ICTY, IT-94-1, appeal judgment, 15 July 1999.
- <sup>158</sup> ICTY; Prosecutor v. Kunarac, Kovac and Vukovic, ‘Appeals Judgment’, IT-96-23-T and IT-96-23/1-A, 12 June 2001, para. 94.
- <sup>159</sup> ICTY, *Prosecutor v. Slobodan Milošević, IT-02-54, Indictment (2001)*.
- <sup>160</sup> [https://www.hrw.org/reports/2003/iraq0303/Kirkuk0303-03.htm#P375\\_97186](https://www.hrw.org/reports/2003/iraq0303/Kirkuk0303-03.htm#P375_97186).
- <sup>161</sup> ICTR, *Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4, Judgment (1998), para. 706.
- <sup>162</sup> ICC, *Prosecutor v. Omar Hassan Ahmad Al-Bashir; ICC-02/05-01/09, Arrest Warrant (2009)*.
- <sup>163</sup> Case 05 (2022), *The Victimization of Afro-Colombian and Indigenous Communities*; JEP, ‘La JEP imputa crímenes de guerra y de lesa humanidad a 12 exintegrantes de 7 estructuras de las extintas Farc-EP que operaron en norte del Cauca y el sur del Valle del Cauca’, 3 February 2025, <https://www.jep.gov.co/Sala-de-Prensa/Paginas/la-jep-imputa-crimenes-de-guerra-y-de-lesa-humanidad-a-12-exintegrantes-de-7-estructuras-de-las-extintas-farc-%E2%80%9393-ep-que-ope.aspx>.
- <sup>164</sup> Torres Villareal, & Iregui Parra, *El desplazamiento forzado en Colombia: 10 años de la sentencia T-025 de 2004*, Fundación Hanns Seidel y Universidad del Rosario, 2014.
- <sup>165</sup> ICTY, *Prosecutor v. Kunarac et al.*, IT-96-23-T & IT-96-23/1-T, Judgment, 22 February 2001, para. 466.
- <sup>166</sup> ICTY, *Prosecutor v. Čelebići*, IT-96-21-T, Judgment, 16 November 1998, para. 478.
- <sup>167</sup> ICTY, *Prosecutor v. Furundžija*, IT-95-17/1-T, Judgment, 10 December 1998.
- <sup>168</sup> ICTR, *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998, para. 593: ‘The Chamber considers that torture is a crime against humanity pursuant to Article 3(f) of the Statute. Torture may be defined as : .. any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’
- <sup>169</sup> *Prosecutor v. Jean-Pierre Bemba*, ICC-01/05-01/08, Judgment 21 March 2016, para. 631.
- <sup>170</sup> The report concluded: ‘The targeted killings of Yazidi women and girls were intended to destroy the group’s ability to reproduce and continue as a people.’ UN COI on Syria, *Report on ISIS Crimes Against Yazidis*, 2016, para. 72.
- <sup>171</sup> See, for example, ICTY, *Prosecutor v. Dario Kordić and Mario Čerkez*, Judgment, para. 207; ICTY, *Prosecutor v. Tihomir Blaškić*, Judgment op. cit., paras. 227 and 233; ICTY, *Public redacted version of Judgment issued on 24 March 2016 in the case the Prosecutor v. Radovan Karadžić*, Trial Chamber III, IT-95-5/18-T, 24 March 2016, para. 531.
- <sup>172</sup> ICJ Advisory Opinion 28 May 1951 on *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; ICJ Advisory Opinion 16 October 1975 on *Western Sahara*; ICJ Judgments: *Corfu Channel* (9 April 1949), *Barcelona Traction* (5 February 1970); *US Diplomatic and Consular Staff in Tehran* (24 May 1980); *Nicaragua v. USA* (27 June 1986).
- <sup>173</sup> Human Rights Committee, CCPR General Comment n. 26: *Continuity of Obligations* 8 December 1997.
- <sup>174</sup> Treaty of Sèvres 10 August 1920 Artt. 62-64.

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<sup>175</sup> Among the purposes of the United Nations, Art. 1 §2 of the UN Charter indicate ‘to take other appropriate measures to strengthen universal peace’; Art. 55 (1) states that ‘the creation of conditions of stability and well-being is necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples’. According to Art. 56: ‘all Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55’.

<sup>176</sup> UN General Assembly Declarations: on the *Granting of Independence to Colonial Countries and Peoples* of 14 December 1960; on *Permanent Sovereignty over Natural Resources* of 14 December 1962. Art. 5 of the International Covenant on Civil and Political Rights states that: ‘1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realisation of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.’ An identical provision is contained in Art. 1 of the International Covenant on Economic, Social and Cultural Rights of 16.12.1966. The principle of self-determination of peoples is recognised in judgments of the ICJ concerning: *Namibia* (1971), *Western Sahara* (1975), *Timor East* (1995), *Palestina* (2004), *Kosovo* (2010), *Chagos Archipelago and Mauritius* (2019).

<sup>177</sup> UN General Assembly Declaration on *Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of United Nations* of 24 October 1970.

<sup>178</sup> Supreme Court of Canada Reference *re Secession of Quebec* 20 August 1998.

<sup>179</sup> Final Report and Recommendations, International Meeting of Experts on *Further Studies of the Concept of the Rights of the Peoples* § 22, 27-30 November 1989.

<sup>180</sup> Amnesty International, ‘Turkey’s withdrawal from the Istanbul Convention rallies the fight for women’s rights across the world’, 1 July 2021.

<sup>181</sup> UN OHCHR, Human Rights Instruments, Introduction to the Convention on the Elimination of all forms of Discrimination Against Women, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

<sup>182</sup> UN Committee on the Elimination of Discrimination Against Women, General Recommendation n. 19, adopted at the Eleventh Session of the Committee in 1992, updated as GR 35 (2017).

<sup>183</sup> UN CEDAW, GR 30 on *Women in conflict prevention, conflict and post-conflict situations*, 2013.

<sup>184</sup> Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973. Article I declares that ‘apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination... are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.’ Article 1.2 declares criminal ‘those organisations, institutions and individuals committing the crime of apartheid’. Article II defines the crime of apartheid to ‘include similar policies and practices of racial segregation and discrimination as practised in southern Africa’, and applies it to inhuman acts ‘committed for the purpose of establishing and maintaining domination by one racial group of persons over another ... and systematically oppressing them’ including (d) ‘Any measures including legislative measures, designed to divide the population along racial lines by ... the expropriation of landed property belonging to a racial group or groups or to members thereof’.

<sup>185</sup> Convention on the Rights of the Child (CRC) 20 November 1989. See also Optional Protocol to the CRC on the involvement of children in armed conflicts (signed on 25 May 2000), that condemns ‘the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals’.

<sup>186</sup> Concerning the right to water, the Committee on Economic, Social and Cultural Rights clarifies, in General Comment no. 15 § 2 of 20 January 2003, that ‘Article 11§ 1 of the Covenant specifies a number of rights emanating from, and indispensable for, the realisation of the right to an adequate standard of living including “adequate food, clothing and housing”. The use of the word “including” indicates that the catalogue of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, since it is one of the most fundamental conditions for survival ... [The] human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.’ States parties to the Covenant are obliged to refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, *inter alia*, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts, in violation of international humanitarian law. See also African Commission on Human and Peoples’ Rights, *SERAC and others v. Nigeria*, 27.10.2001.

<sup>187</sup> Prohibition of torture and other inhuman treatment is absolute and mandatory (ICTY, *Prosecutor v. Anto Furundzija*, 10.12.1998; ICJ, *Questions relating to the Obligation to Prosecute or Extradite, Belgium v. Senegal*, 20.7.2012; ECtHR, *Al-Adsani v. U.K.*, Grand Chamber 21.11.2001, IACtHR, *Bueno Alves v. Argentina*, 11.5.2007, *Goiburú et al. v. Paraguay*, 22.9.2006, *Maritza Urrutia v. Guatemala*, 27.11.2003).

<sup>188</sup> UN HRC, *A.S. v. Nepal*, views of 6.11.2015. See also ECtHR, *Khan v. France*, 28.2.2019, *Hirst v. UK*, 6.10.2005, *Sulejmanovic v. Italy*, 16.7.2019, *Cara Damiani v. Italy*, 7.2.2012. Rape is equivalent to torture in international and regional jurisprudence: see ICTR, *Ayayesu*, 2.9.1998; ICTY, *Delalic* 16.11.1998, *Furundzija*, 10.12.1998, *Kunarac*, 12.6.2002; ECtHR, *Aydin v. Turkey*, 25.9.1997, *De Giorgi v. Italy*, 16.6.2022, *Scavone v. Italy*, 7.7.2022, *M.C. v. Bulgaria*, 4.12.2003, *Maslova and Nalbandov v. Russia*, 24.1.2008, *D.J. v. Croatia*, 24.7.2012; IACtHR, *Miguel Castro v. Perú*, 25.11.2006, *Masacre de las Dos Erres v. Guatemala*, 24.11.2009; ACmHPR, *Malawi African Association and others v. Mauritania*, 11.5.2000, *Institute for Human Rights and Development in Africa on behalf of Sierra Leonean refugees in Guinea v. Guinea*, 7.12.2004.

<sup>189</sup> Gabriella Citroni e Tullio Scovazzi, *La tutela internazionale dei diritti umani*, Milano, 2022; Riccardo Pisillo Mazzeschi, *Diritto internazionale dei diritti umani*, Torino, 2023.

<sup>190</sup> A. Annoni, F. Salerno, *La tutela internazionale della persona umana nei conflitti armati*, Bari, 2023.

<sup>191</sup> Dinstein, Yoram. *War, Aggression and Self-Defence*, 5th ed. Cambridge, UK: Cambridge University Press, 2011. Cryer, Robert, et al., *An Introduction to International Criminal Law and Procedure*. 2d ed. Cambridge, Cambridge University Press, 2010.

<sup>192</sup> See Henckaerts, J.M. and Doswald-Beck, L., *Customary International Humanitarian Law*, ICRC, Cambridge, Cambridge University Press, 2009: ‘Rule 152. Commanders and other superiors are criminally responsible for war crimes committed pursuant to their orders. Rule 153. Commanders and other superiors are criminally responsible for war crimes committed by their subordinates if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible.’

<sup>193</sup> #OperationPeaceSpring will neutralise terror threats against Turkey and lead to the establishment of a safe zone, facilitating the return of Syrian refugees to their homes, Twitter Account of Recep Tayyip Erdoğan, 9 October 2019, <https://x.com/RT Erdogan/status/1181922277488762880>.

<sup>194</sup> Turkish Ministry of Defence, No: 246, 6 October 2023, *Press Release Regarding Operations Against PKK/YPG Terrorist Targets in Iraq and Syria*, [https://www.disisleri.gov.tr/no\\_-246\\_-irak-ve-suriye-de-pkk-ypg-terror-hedeflerine-yonelik-operasyonlarimiz-hk.en.mfa](https://www.disisleri.gov.tr/no_-246_-irak-ve-suriye-de-pkk-ypg-terror-hedeflerine-yonelik-operasyonlarimiz-hk.en.mfa); Turkish Ministry of Defence, *Statement on Air Operations in Northern Iraq and Northern Syria, December 23, 2023*, [https://www.disisleri.gov.tr/no\\_-246\\_-irak-ve-suriye-de-pkk-ypg-terror-hedeflerine-yonelik-operasyonlarimiz-hk.en.mfa](https://www.disisleri.gov.tr/no_-246_-irak-ve-suriye-de-pkk-ypg-terror-hedeflerine-yonelik-operasyonlarimiz-hk.en.mfa); X Account of the Turkish Ministry of Defence post, 6 October 2023, <https://x.com/tcsavunma/status/1710184733383000111?t=iwSnhKvjsAhzQqte5yEKzQ&s=09>; Turkish Ministry of Defence, *Statement on Airstrikes in Northern Syria, October 5, 2023*, <https://www.msb.gov.tr/SlaytHaber/928383eac1b04c42a191ae70467b2e6c>; X Account of the Turkish Ministry of Defence, post 7 October 2023, <https://x.com/tcsavunma/status/1710654083877454005?t=s9SWJr7XofBSAqunon7pw&s=09>.

<sup>195</sup> Interview with YPG adviser, cited by Al Hilu, Afrin under Turkish occupation, European University Institute, 2019.

<sup>196</sup> ‘EU parliament expresses “real concerns” over situation in Turkey’, The Parliament, 8 February 2018, <https://www.theparliamentmagazine.eu/news/article/eu-parliament-expresses-real-concerns-over-situation-in-turkey>; Press release regarding the resolution of the European parliament entitled “Current situation of human rights in Turkey”, Republic of Turkey, 8 February 2018, [https://www.mfa.gov.tr/no\\_-38\\_-ap-nin-turkiyede-mevcut-insan-haklari-durumu-baslikli-karari\\_en.en.mfa](https://www.mfa.gov.tr/no_-38_-ap-nin-turkiyede-mevcut-insan-haklari-durumu-baslikli-karari_en.en.mfa).

<sup>197</sup> ‘European parliament passes resolution demanding Turkey withdraws troops from Syria’, EuroNews, 15 March 2018, <https://www.euronews.com/2018/03/15/european-parliament-passes-resolution-demanding-turkey-withdraws-troops-from-syria>.

<sup>198</sup> EU criticises Turkish offensive in Syrian town of Afrin’, *Chicago Tribune*, 19 March 2018, cited in *Turkey-EU relations*, Wikipedia, [https://en.wikipedia.org/wiki/European\\_Union%E2%80%93Turkey\\_relations#cite\\_note-123](https://en.wikipedia.org/wiki/European_Union%E2%80%93Turkey_relations#cite_note-123).

<sup>199</sup> ‘German police arrest Kurdish activists over use of YPG flags’, *Tamil Guardian*, 21 August 2018, <https://www.tamilguardian.com/content/german-police-arrest-kurdish-activists-over-use-ypg-flags>.

<sup>200</sup> ‘Dutch YPG volunteer arrested in the Netherlands’, *Kurdistan24*, 2 April 2019, <https://www.kurdistan24.net/en/story/379284/Dutch-YPG-volunteer-arrested-in-the-Netherlands>.

<sup>201</sup> See ‘Father of British YPG volunteer in Syria arrested on terrorism offences’, *Guardian*, 27 December 2019, <https://www.theguardian.com/uk-news/2019/dec/27/father-of-british-ypg-volunteer-in-syria-arrested-terrorism-offences>.

<sup>202</sup> See *Northern Syria buffer zone*, Wikipedia; EU governments limit arms sales to Turkey over Syria offensive’, *France 24*, 14 October 2019, <https://www.france24.com/en/20191014-eu-govts-limit-arms-sales-to-turkey-over-syria-offensive-avoid-bloc-wide-embargo>. For detail on European arms sales to Turkey see *European arms sales and Turkey’s attack on*



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