

**ACCOUNTABILITY FOR CRIMES AGAINST HUMANITY IN
AFRIN:**

Prosecution and Transitional Justice Strategies

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Summary

The Turkish state and its Islamist affiliates in the so-called Free Syrian Army (FSA) violated international human rights and international humanitarian law following its invasion of Afrin on 20 January 2018. This paper codifies the facts. It identifies Syria's state responsibility to hold the perpetrators accountable. It calls on the international community to establish a commission of inquiry if the Government of Syria (GoS) is unwilling or unable to investigate Turkey's crimes. It also explores various formats for establishing a Truth Commission (TC), either by the Self-Administration of North and East Syria or by a well-respected civil society organization in the region.

The Facts

Turkish attacks against Afrin began on 20 January 2018. The attacks started with aerial assaults followed by a ground invasion. Violating the sovereignty of Syria, Turkish armed forces were joined by the Free Syrian Army (FSA), a militia with Al-Qaeda and Islamic State affiliations. The Democratic Syrian Council documented war crimes committed in Afrin aimed at killing Kurds and changing the area's demography. The Turkish state has:

- Committed torture and murder.
- Targeted groups in violation of the 1998 Rome Statute Article 7.
- Violated women's rights, through kidnapping and abuse.
- Killed prisoners of war and mutilated bodies.
- Issued summary judgments leading to execution.
- Committed booty and plunder.
- Burned books, documents, historical artifacts, and destroyed sacred places.
- Abducted children and taken hostages.
- Bombed civilian areas indiscriminately.

The Turkish state has committed crimes against humanity as defined by the Geneva Convention of 12 August 1949, by:

- Massacring of members of nation, denomination and belief group.
- Inflicting psychological or physical harm to community members.
- Conducting indiscriminate bombing of civilian settlements in Afrin and demolition of houses in urban areas.
- Targeting civilians using artillery and warplanes.

These actions also violate the Geneva Convention of 12 January 1951, which makes collective punishment a crime (Article 1) and criminalizes violence against national, denominational and religious communities (Article 2).

The Democratic Syrian Council confirms that 157 civilians were killed by Turkish forces and their jihadi affiliates, including 56 women and 46 children. Among the 448 civilians injured are 104 women and 155 children. In addition, 525 defenders were killed. Following are details of

specific crimes committed by the Turkish state against civilians in Afrin over a sixty-day period beginning on 20 January 2018:

- Bombing of chicken farm in the village of Enabke of Afrin on 21 January 2018. Eight members of the same family lost their life.
- Bombing of the village of Dêr Belut (Cindirês) on 23 January 2018. Four civilians died and 5 were injured.
- Bombing Koble village in the Shrawa district on 28 January 2018. Eight civilians from the same family lost their life, while 7 civilians were injured.
- Bombing of the borough of Eşrefiyê in Afrin on 31 January 2018. One child died and 21 civilians, including children and women, were injured.
- The gangs under Turkish control desecrated the dead body of Kurdish female fighter, Emîna Mustafa Umer (Barîn Kobanê) on 1 February 2018.
- Attacked the borough of Basuttê in Afrin on 9 February, 2018. One child lost his life and 9 civilians were injured.
- Bombing a convoy carrying civilians on 22 February 2018. One civilian lost his life and 12 civilians were injured.
- Bombing Kaxire village of Mabata on 2 March 2018. One civilian lost his life, 5 civilians were injured.
- War planes bombed the village of Berbenê in Raco hitting a convoy of civilians on 5 March 2018. Three civilians lost their lives and 9 civilians were injured.
- Eight civilians were wounded while 3 civilian lost their life as a result of a mine explosion near Ferferiyê village.
- On 7 March 2018, as a result of a mine explosion in Meydankê Beldesi (Şeran), 2 civilian lost their life, 4 civilians were injured.
- On 13 March 2018 in the village of Gimrok in the province of Babat, two civilians lost their lives as a result of a mine explosion.
- On 13 March 2018 near the village of Bedîñê in the town of Raco, four civilians were injured while a civilian lost his life due to a mine explosion.
- On 14 March 2018, war planes bombed Afrin city center, killing 8 civilians and injuring 18 civilians.
- On 15 March 2018 the Turkish state's bombed Afrin city center, killing 6 civilians and injuring 5 people.
- On 16 March 2018, the Turkish state bombed a convoy carrying civilians in Mehmudiyaki neighborhood, killing 38 civilians, including children and women died, and injuring 47 civilians were injured.
- On 18 March 2018 a mine explosion killed 4 civilians living in the village of Tirindê (Afrin).
- On 18 March 2018 a mine explosion killed 6 civilians in Afrin city center.
- Relatives of the deceased were not allowed to retrieve the bodies for proper burial.

The Turkish state also attacked historical and sacred places, including:

- Historic temple of Eyn Dara.
- The Yazidi Union Center.
- Qerar Cernex Tomb.

- The cemetery in the village of Basafan.
- Barsa Xatuna Tomb.

It targeted journalists and medical workers:

- Journalist Bêrîvan Mustefa was shot and killed.
- Religious sites, educational institutions, hospitals and health centers were bombed in Afrin Canton.
- Health centers in Afrin were suspended and moved to Ezaz.
- Water treatment and storage facilities.

The Turkish state undertook a systematic effort to “Turkify” Afrin and change the region’s demography. Kefer Cenê District was completely Arabized through the settlement of gang members and 4,000 families. At least 300 families of gangs were placed in the village of Kefer Sefrê. In addition to forcibly displacing the people of Afrin from their homes, the students of Afrin were forced to carry a Turkish flag and the gangs forced children to appear in videos thanking Erdogan. After the forced displacement of Afrin residents, gang members and their families were settled in the Ikbis and Moska villages, in the district of Shiyê and Cindirêsê. Jihadis linked to Al Qaeda plundered private homes. The names of all the centers were translated into Turkish and Arabic. The remaining civilians in the city were forced into radical religious education and women were obliged to wear veil. Yazidi people were forcibly Islamicized and forced to go to mosque. Those who resisted were beheaded. Many women and children were subjected to harassment and rape.

All told, 300,000 civilians fled Afrin for Til Rifat and Shehba regions. About 160,000 civilians were registered in Til Rifat. The remaining civilians went to Sherawa, Nubil and Zehrai. Many families have been documented as going to Heleb, while over 500 families to Manbij. A few Afrin families also fled to Kobanê, Qamishlo, east of the Euphrates. The Democratic Autonomous Administration evacuated civilians to safe areas in the areas of Sherawa, Nubil, Zehrai and Shehba on 16 March 2018. Resettlement camps lack tents/shelter, food and water/sanitation facilities, as well as health care. Children urgently need urgent medicine, milk, and clothes.

Accountability

Victims have a right to justice, according to the Geneva Conventions and principles of the Rome Statute that established the International Criminal Court. They also have the right to “Truth,” describing crimes committed by the Turkish State in Afrin.

State Responsibility

The Rome Statute that established the International Criminal Court, adopted 1 July 2002, is clear on the matter of state responsibility. It affirms that, “It is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. Consistent with the principle of state responsibility, the Government of Syria (GoS) should announce the establishment of an accountability mechanism to investigate crimes committed against the people of Afrin. To be

credible, the accountability mechanism must be transparent, independent and adequately resourced. The commissioners would be persons of high standing, and could include respected international personalities. The GoS, however, may be unwilling to set-up an accountability mechanism for fear of Turkey's response, which remains an occupying power, or out of concern that Syrians may demand an investigation into other crimes committed in Syria, including crimes committed by the regime itself.

International Commission of Inquiry

Absent action by the GoS, the international community could set-up a commission of inquiry to investigate violations of international human rights and international humanitarian law associated with the Turkish state's attack against Afrin. The commission of inquiry would gather facts and, based on its investigation, could recommend a criminal investigation. The commission's work would address events over a specific period of time and geographic area. For example, it could consider events in Afrin canton over six-month period beginning on 20 January 2018. The United Nations Human Rights Council (UNHRC) is the best body to establish a commission of inquiry. If the UNHRC is unable or unwilling to act, the Council of Europe (CoE) could take the lead. The CoE initiative could support cases brought to the European Court of Human Rights with support of a resolution from the European Parliament.

Truth Commission

"Truth" is also a significant feature of human rights movements, laying the ground for accountability. The UN Human Rights Commission codified the right to truth in a 2005 resolution, which obligates the state authority to investigate human rights violations, provide information on official investigations, inform individuals of the fate of missing or forcibly displaced relatives, provide "mortal remains" of the victims, and disclose the identity of violators. It is important to record the memory and stories of victims through their personal accounts, witnesses, family members, and survivors, thereby laying the ground for criminal prosecution either in a domestic court or an international tribunal through depositions, affidavits, and collecting legal testimony from witnesses and others. Truth requires credible documentation. To this end, official, semi-official and civic Truth Commissions (TCs) can be established to document events. Such TCs seek to establish the facts and recognize the experience of victims. A TC could be established the Self-Administration of North and East Syria, or by a well-respected NGO in the region. Terms of reference could mandate the TC to consider the pattern of abuse over a specific period of time and in a specific geographic area.

Transitional Justice

TCs are part of a transitional justice (TJ) strategy helps states transition from war to peace or from authoritarian rule to democracy, while addressing legacies of human rights abuse. It means different things in various contexts. It can set the stage for criminal prosecution. It can assist society to repair itself through a range of measures from reparations to justice sector reforms. By establishing a factual account of events, it can serve as the basis for a national dialogue that dignifies the victim and advances the goal of national reconciliation.

Memory Works

Memory Works often emerge from the TC's final report. Memory Works focus on memories of the past to create public dialogue and open civic spaces. They could include photo exhibitions, as well as theater, art, video, traveling exhibitions, and Web-based platforms. A Genocide Museum could assemble various materials telling the story of what happened.

Recommendations

The International Forum on Ethnic Cleansing and Demographic Change in Afrin should adopt a final statement calling for a systematic effort to document crimes committed against the people of Afrin and an accountability mechanism to hold the perpetrators accountable. Turkey's aggression against Afrin should be carefully documented. The statement would call on the Self-Administration of North and East Syria to study and establish a TC, setting the stage for criminal prosecutions in the future. The statement should also:

- Label the occupation of Afrin illegal, in violation of international law.
- Call on occupying forces to withdraw from occupied territories, especially Afrin.
- Demand information on abducted persons by the Turkish state.
- Seek a systematic process to identify survivors.
- Describe the conditions for the return or resettlement of the displaced.
- Requiring reparations to individuals and communities victimized by Turkey's aggression.