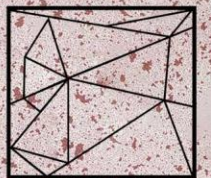


# Syria: Complaint to Eight UN Special Rapporteurs about Torture in Afrin



February 2023

سوريون  
من أجل  
الحقيقة  
والعدالة  
Syrians  
For Truth  
& Justice





## **Syria: Complaint to Eight UN Special Rapporteurs about Torture in Afrin**

*Syrians for Truth and Justice and Human Rights Organization in Afrin called on the United Nations to take immediate and effective measures to curb the violations the Turkish authorities and the armed groups of the Syrian National Army continue to perpetrate in northwestern Syria*

### For the attention of:

1. Special Rapporteur on the human rights of internally displaced persons;
2. Special Rapporteur on minority issues;
3. Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence;
4. Working Group on arbitrary detention;
5. Working Group on enforced or involuntary disappearance;
6. Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment;
7. Special Rapporteur on extrajudicial, summary or arbitrary executions;
8. Special Rapporteur on violence against women and girls, its causes and consequences.

## 1. Overview

We are writing to you in your capacities to draw your attention to what may amount to a widespread and systematic practice of torture by the Turkish-controlled non-State armed actors (NSAAs) of the so-called Syrian National Army (SNA) against the original residents of Afrin region in northwest Syria. Our NGOs, Syrians for Truth and Justice (STJ) and Human Rights in Afrin-Syria had identified and interviewed 40 victims and members of families of the victims of arbitrary detention, torture, and some who are forcibly disappeared by several SNA groups and factions.

We believe that the facts described below form a strong indicator of the Turkish failure to adhere to its negative and positive obligations as an occupying power, as has been established by different UN bodies.<sup>1</sup> In addition to amounting to grave violations of international humanitarian and human rights law (IHL, IHRL), the facts detailed below are a sample of the practices that led and are still leading to the forced displacement of thousands of the original population of the so-called “Olive Branch” area occupied by Türkiye since March 2018.

## 2. Contextual Background

Afrin is located in northwest Syria, and is bordered by Türkiye to the north and west. Its estimated 200,000 residents<sup>2</sup> before the start of the conflict in Syria were likely at 92% Kurds.<sup>3</sup> As in other Kurdish-majority areas in Syria, Afrin’s residents suffered from decades of discrimination under the Ba’ath regime. Arabization policies introduced under former president Hafez al-Assad saw the banning of Kurdish language teaching, the forcible transfer of Arab families onto Kurdish-owned lands, and the repression of cultural celebrations.

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<sup>1</sup> Detailed analysis below.

<sup>2</sup> McKeever, A., ‘Afrin: incidents of desecration and destruction of cultural sites’, *Bellingcat*, 11 July 2019, <https://www.bellingcat.com/news/mena/2019/07/11/afrin-incidents-of-desecration-and-destruction-of-cultural-sites/>.

<sup>3</sup> Rojava Information Center, *Turkey’s Track Record: The Occupation of Afrin*, November 2019, <https://rojavainformationcenter.com/storage/2019/11/Turkeys-track-record-The-occupation-of-Afrin.pdf>.

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On 19 January 2018, Türkiye launched its Operation Olive Branch involving its military forces while effectively controlling about 25,000 fighters from different SNA factions.<sup>4</sup> President Erdogan declared that Afrin had been taken on 18 March 2018. Since then, Türkiye is controlling the territories and population either directly through its military forces or indirectly through its effective control over its backed SNA and other factions.<sup>5</sup> Different UN bodies have addressed and established the fact of Türkiye's responsibility in these controlled territories "to ensure public order and safety, and to afford special protection to women and children".<sup>6</sup> In the same context, the UN High Commissioner for Human Rights has emphasized Türkiye's responsibility to investigate violations and abuses in the territories under the control of its forces and affiliated armed groups.<sup>7</sup>

## 3. Facts

### 3.1 Overview

Our NGOs had interviewed 40 victims of arbitrary detention, torture, and ill-treatment by the Turkish forces or its controlled SNA factions. Most of the interviewed victims were residents of Afrin, and they all preferred to move with their families from their homes towards some of Aleppo's neighbourhoods and IDP camps. Most of the documented cases occurred in the aftermath of the Turkish operation, and the detention periods varied from days to several months. The 40 interviewed victims included 25 males and 15 females, including 1 female child. Although 6 victims are Arab residents, the rest are Kurds including some from the Yezidi minority. All the interviewed victims consented to share their names and personal information when requested with the Special Procedures, but they refused to share this information with other actors or publish them. This is mainly due to their profound fear of reprisals against them or their families and relatives by the alleged perpetrators.

### 3.2 Alleged Perpetrators

Most of the victims identified the actors who were directly involved in detaining and subjecting them to different forms of torture and ill-treatment. Other victims were not able to do the same due to the way they were "kidnapped", blindfolded, and prevented from any

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<sup>4</sup> Al-, S., 'FSA commander says 25,000 Syrian rebels back Turkish force in Syria', Reuters, 21 January 2018, <https://www.reuters.com/article/us-mideast-crisis-ria-turkey-rebels/fsa-commander-says-25000-syrian-rebels-back-turkish-force-in-syria-idUSKBN1FA00K>.

<sup>5</sup> See e.g., Amnesty International, Syria: Turkey must stop serious violations by allied groups and its own forces in Afrin, 02 August 2018 (Available at: <https://www.amnesty.org/en/latest/news/2018/08/syria-turkey-must-stop-serious-violations-by-allied-groups-and-its-own-forces-in-afrin/>).

<sup>6</sup> UN General Assembly, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 14 August 2020, A/HRC/45/31, § 67 (Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/210/90/PDF/G2021090.pdf?OpenElement>); See also UN General Assembly, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 08 February 2022, A/HRC/49/77, § 93 (Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/251/52/PDF/G2225152.pdf?OpenElement>).

<sup>7</sup> UN News, *UN rights chief calls for Turkey to probe violations in northern Syria*, 18 September 2020 (Available at: <https://news.un.org/en/story/2020/09/1072752>).

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information about the detaining power or the whereabouts of their detention. Some victims were detained and/or tortured several times either by the same actor or by different actors.

Our NGOs concluded after analysing the testimonies the following actors as alleged perpetrators. Please check the Annex for detailed information of some actor.

| Actor                 | Cases |
|-----------------------|-------|
| Jabhat Shamiya        | 12    |
| Military Police       | 10    |
| Ahrar Al-Sharkeyya    | 7     |
| Turkish Intelligence  | 7     |
| Failaq Al-Sham        | 6     |
| Sultan Murad Brigade  | 5     |
| Suleiman Shah Brigade | 2     |
| Ahrar Al-Sham         | 2     |
| Al-Nokhba Army        | 2     |
| Al-Fateh Brigade      | 1     |
| Haya't Tahrir Al-Sham | 1     |

UN bodies, international, and local organizations have previously documented systematic patterns of violations against the population in Afrin and other Kurdish areas, ranging from arbitrary deprivation of liberty committed on a large scale by various brigades of the SNA, and forcing the population, most of whom are of Kurdish origin, to leave their homes. Through threats, extortion, murder, kidnapping, torture, and detention. In addition to documenting sexual violence against women and girls.<sup>8</sup>

Some alleged perpetrators were identified by some victims through direct recognition of the persons and their affiliation. Others informed the victims about the actors they belong to, while the rest were identified according to the detention facility and the actor that known to be controlling it. For instance, the Trade Secondary School in Afrin was transformed into a headquarters for the Military Police, while the Amir Al-Ghobari School was transformed into a headquarters for the Turkish Military Intelligence.

It is worth highlighting that many victims were transferred back and forth from the SNA detention facilities to Turkish ones inside Türkiye. In this context, a female victim stated that she was kidnapped by 3 armed men and detained in the Turkish Governor (*Wali*) building in Afrin before transferring her to a prison in *Kilis* inside Türkiye where there were 2 women and 37 men imprisoned. They were later transferred back to Afrin to be detained in a military headquarters for the Sultan Murad Brigade.

### 3.3 Detention Circumstances and Conditions

None of the interviewed victims was promptly informed about the reasons and legal bases for their detention. Some were later informed that they were detained on charges of “collaboration and contact with the Autonomous Self-Administration”. Nevertheless, all the interviewees were never brought before a court at any stage. Nevertheless, all the surviving interviewees confirmed that they were released for ransoms or after being forced to give up their properties.

<sup>8</sup> See e.g., COI report A/HRC/45/31, September 2020, paras. 46-64.

In this context and linked to the direct or indirect coercion to displace the Kurdish population from Afrin, it is worth mentioning that as a result of the Turkish Operation Olive Branch, between 137,070 and 320,000 civilians were internally displaced from Afrin by March 2018.<sup>9</sup> IDPs were – and still – prevented from going back to their villages at SNA-manned checkpoints or were admitted only after paying a ransom.<sup>10</sup> This was accompanied by an extensive and systematic looting of the properties of the Kurdish residents which continued and expanded during the next Turkish military Operation Peace Spring targeting the districts of Tell Abyad and Ras al-Ayn between 9 October and 27 November 2019.<sup>11</sup>

While in custody, several interviewees informed our NGOs that they were allowed to use the washrooms/toilets only once a day. They were provided one small meal daily, let alone depriving the victims from any hygiene measures to the extent that one interviewee was not allowed to shower for the whole period of his detention which lasted for 40 days. The detaining actors did not adhere to any minimum standards that should be applied to people in their custody. All the interviewees were detained in overcrowded locations, and many confirmed that women were not separated from men. One interviewee informed our NGOs that he was kept in a 20-metre square room with more than 60 other persons. Interrogations with women were conducted by men, and they subjected them to several insults.

The interviewees detailed to our NGOs the different forms of torture and ill-treatment they were subjected to or witnessed during their detention. The alleged perpetrators used similar means and methods to cause severe pain and suffering to the victims. They hit them using sticks, water cannons, and electric wires. Some victims were hanged to the ceiling, beaten by the butt of the guns, and electrocuted. An old male victim who was detained by the Fateh Brigade said:

*“They started beating me brutally with the butts of the guns while I was blindfolded and tied my feet and hands and took me to the village of Sejo, where they tortured me with various means. They put a sharp object between my fingers and began to press them, they pulled out some of my nails and beat me in the sensitive areas and forced me to take off my clothes and kept me in my underwear. They gave me little food to keep me alive”.*

Another female victim, who was arrested by the "Sultan Murad" faction in April 2018 and was transferred to a prison in the Turkish city of Kilis, said that she was – with other women – beaten by Turkish men, while cursing them in Turkish. The same witness stated that, after being handed over to the SNA groups, she was detained in a narrow place belonging to those factions, and was severely beaten during the interrogation, coinciding with hearing other people who were subjected to similar torture, especially during the night.

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<sup>9</sup> OCHA, Syrian Arab Republic: Afrin, Flash Update No. 2, 29 March 2018, <https://reliefweb.int/report/syrian-arab-republic/syrian-arab-republic-afrin-flash-update-no-2-29-march-2018-enar> ; Syrian Observatory for Human Rights, ‘After displacing more than 300,000 Kurdish residents of Afrin people, Turkish-backed factions seize more than 75% of olive farms and receive the price of the first season in advance’, 20 September 2018, <https://www.syriahr.com/en/?p=102951> ; UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/39/65, 9 Aug. 2018, p. 14, § 70.

<sup>10</sup> UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/39/65, 9 Aug. 2018, p. 14, § 72.

<sup>11</sup> See e.g., Syrians for Truth and Justice, ‘Afrin: Seizing Real Estate Property After Operation Olive Branch and Operation Peace Spring’, 26 May 2021, <https://stj-sy.org/en/afrin-seizing-real-estate-property-after-operation-olive-branch-and-operation-peace-spring/>.

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In addition to the physical torture and ill-treatment, some victims were subjected to humiliation on gender or religious grounds. A Yezidi woman was arrested by Jabhat Shamiya faction before being transferred to a prison controlled by Sultan Murad Brigade in May 2019 and kept in custody for 3 months told our NGOs:

*"I was placed in a room with a group of persons and interrogated continuously for five days in the presence of three members: one of them is Turkish, the second is Kurdish, and the third is Arab. Some of the detained persons were with their young children. They insulted me because I was of the Yazidi religion and described me as an infidel, and they forced me to convert to Islam".*

Furthermore, some of the female victims reported being sexually abused. One of them was detained by Jabhat Shamiya on 13 April 2018 described how she was beaten and insulted and sexually harassed by the detaining actor members. Another victim, who was arrested by the "Al-Hamzat Division" in August 2018, at the faction's headquarters in the city of Afrin (Al-Mahmoudiya neighborhood near the automatic bakery), stated that she was repeatedly raped and sexually abused, in addition to being subjected to psychological and physical abuse, and forced to sign a blank paper, forcing her to be photographed, and admitting that she collaborates with the Autonomous Self-Administration and is responsible for the "explosions" in the Afrin region. The witness also said that she and other women were photographed half naked.

Some victims died because of the torture and ill-treatment they faced while in custody. A victim who was arrested by the Sultan Murad faction on June 14, 2018, and was brutally tortured, resulting in fractures in the spine and ribs, fell into a coma for two months, and laid for several months in bed before his death, according to the testimony of a family member. Another victim who was detained by the Turkish Intelligence committed suicide after their release.

## 4. Legal Framework and Analysis

### 4.1 Türkiye State Responsibility

The International Commission of Inquiry (COI) has addressed the legal obligations of Türkiye as an occupying power in several special reports<sup>12</sup> by referring repeatedly to one of the conclusions of its conference on violations of international humanitarian law and international human rights law in Syria in 2017, in which it emphasized the applicability of the state of occupation when any country occupies part or all the territory of another country. Therefore, all applicable legal provisions apply to the occupation.<sup>13</sup>

The determination of the existence of an occupation is not subject to the justification or reasoning argued by the occupying power due to the strict separation of *jus in bello* and *jus ad*

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<sup>12</sup> See e.g., Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 14 August 2020, A/HRC/45/31, § 67; Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 11 March 2021, A/HRC/46/55, § 94; and Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 08 February 2022, A/HRC/49/77, § 93.

<sup>13</sup> See Human Rights Council, *Human rights abuses and international humanitarian law violations in the Syrian Arab Republic, 21 July 2016- 28 February 2017, Conference room paper of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 10 March 2017, A/HRC/34/CRP.3, § 103.

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*bellum*.<sup>14</sup> It has been well established that it is no longer a substantial condition for the foreign forces to be physically present in the territory to prove the occupying power's effective control over that territory. Effective control nowadays can be exercised without a continuous military presence since the focus should be on the extent of authority retained by the foreign forces rather than exclusively focusing on the means by which it is actually exercised.<sup>15</sup>

As an occupying power, Türkiye is subject to positive obligations of means. These obligations vary from immediate ones regardless of the period of occupation, and incremental obligations that take effect over time according to the level of control exercised.<sup>16</sup> Türkiye is under the obligation to ensure its respect to the duties of an occupying power as spelled out primarily in Articles 42-56 of the 1907 Hague Regulations and Articles 27-34 and 47-78 of the Fourth Geneva Convention, in addition to Common Article 2 to the Geneva Conventions that triggers the application of the entirety of the law of armed conflict which primarily seeks to protect any individual who is in the hands or in the power of the enemy.

The conduct of the Turkish Intelligence in Afrin region is clearly attributable to the Turkish State pursuant to Article 4 of the Draft Articles on Responsibility of States for internationally wrongful acts. The conduct of SNA members amounts to be attributable to the Turkish State pursuant to Article 8 of the Draft Articles:

*The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.*

The fact that SNA factions were taking direct part in the Turkish military operation and under its direct command direction and instruction, in addition to the presence and transfer of detainees to and from Turkish detention facilities, all this prove without any reasonable doubt the "effective control"<sup>17</sup> of Türkiye over these factions, and therefore making their conduct attributable to it.

The occupying power is under the obligation to respect the provisions of the human rights treaties to which the country whose territory is partially or totally occupied is a party. This is due to the conclusion that human rights belong to the people living in the territory of the State party.<sup>18</sup> Moreover, the extraterritorial application of human rights conventions is an obligation incumbent on the occupying power.<sup>19</sup> Since the occupying power "is under an obligation, according to Article 43 of the Hague Regulations of 1907, to take all the measures in its power to restore, and ensure, as far as possible, public order and safety in the occupied area",<sup>20</sup> Türkiye is obliged "to secure respect for the applicable rules of [IHL] and [IHL], to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence

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<sup>14</sup> ICRC (2017), *Commentary on the Second Geneva Convention: Convention (II) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces at Sea* [hereinafter ICRC Commentary on GC 2017], §322.

<sup>15</sup> *Ibid.* §331.

<sup>16</sup> See e.g. ICRC, 'Occupation and other Forms of Administration. Expert Meeting', March 2012, p. 18.

<sup>17</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, *I.C.J. Reports 1986*, p. 51, para. 86.

<sup>18</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 26: Continuity of Obligations*, 8 December 1997, CCPR/C/21/Rev.1/Add.8/Rev.1. §4.

<sup>19</sup> ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, *ICJ Reports 2004*, p. 136, § 106.

<sup>20</sup> ICJ, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, 19 December 2005, *ICJ Reports 2005*, para. 178.

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by any third party”.<sup>21</sup> Therefore, the occupier must also respect its own obligations derived from its own commitments to any international or regional conventions, in addition to any customary provisions. This was confirmed by the European Court of Human Rights (ECtHR) that emphasized that a State member to the European Convention on Human Rights (ECHR)<sup>22</sup> is obliged to apply the Convention outside its national territory, to the benefit of foreign nationals, whenever it is exercising control and authority over a foreign individual through its agents, and whenever it is exercising effective control over a territory other than its national territory. The Court noted that the controlling State is responsible for guaranteeing all the rights contained in the ECHR and the Additional Protocols it has ratified, within the territory it is controlling.<sup>23</sup>

## 4.2 Arbitrary Detention

Article 9 of the UDHR prohibits acts of arbitrary arrest, detention, or exile. Article 9 of the ICCPR protects the right of individuals to liberty and security. It further provides in paragraph 4 that “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”

In General Comment No. 35, the HRC addressed the applicability of Article 9 of the ICCPR to situations of armed conflict, given that IHL regulates the detention of enemy fighters and civilians differently. The HRC clarified that “article 9 [of the ICCPR] applies also in situations of armed conflict” and that IHL and international Human Rights Law (IHRL) are complementary spheres of law, not mutually exclusive.

Furthermore, while Article 9 is not included as a non-derogable clause under Article 4(2) of the ICCPR, there is a limit on state’s power to derogate. Any derogation from Article 9 (which has not been done in the situation of Syria) must be “strictly required by the exigencies of the actual situation.” Lastly, “If, under the most exceptional circumstances, a present, direct, and imperative threat is invoked to justify the detention of persons considered to present such a threat, the burden of proof lies on States parties to show that the individual poses such a threat and that it cannot be addressed by alternative measures, and that burden increases with the length of the detention. States parties also need to show that detention does not last longer than absolutely necessary, that the overall length of possible detention is limited and that they fully respect the guarantees provided for by article 9 in all cases.”

Additionally, Article 5 of the ECHR obliges Türkiye as a State party not to arbitrarily deprive, or allow to, anyone from their liberty and security. The arbitrariness occurs if the deprivation of liberty is not in accordance with the cases detailed in the same Article and with a procedure prescribed by law. The Article – in paragraph 3 - pays a special attention to the practice of arresting or detaining persons for the suspicion of committing an offence or to prevent them from committing an offence, and therefore it sets clear requirements for such measures to ensure such deprivation of liberty is not arbitrary:

*Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise*

<sup>21</sup> Ibid.

<sup>22</sup> Türkiye is a State Party since 18 May 1954.

<sup>23</sup> ECtHR, *Al-Skeini et al. v. the United Kingdom*, Application no. 55721/07, Judgment (Grand Chamber), 7 July 2011, §§ 131-140.

*judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.*

### 4.3 Torture and Ill-treatment

Article 5 of the Universal Declaration on Human Rights (UDHR) provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Similarly, Article 2 of the CAT obliges state parties to refrain from acts of torture and to take effective legislative, judicial, and administrative measures to prevent acts of torture on their territories. Article 16 of the CAT obliges state parties to prohibit and prevent other acts of cruel, inhuman, or degrading treatment or punishment that does not amount to torture under their jurisdiction. Article 7 of the ICCPR provides that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Article 2 (2) of the CAT provides that “no exceptional circumstances, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” Similarly, Article 4 (2) of the ICCPR clarifies that the obligation under Article 7 (prohibition of torture) cannot be derogated from in times of war or any kind of public emergency.

Türkiye is also under the obligation to ensure that no one under its jurisdiction is subjected to torture or ill-treatment pursuant to Article 3 of the ECHR.

### 4.4 The Right to Effective Remedy

Under Article 2(3) of the ICCPR, states must “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”

In General Comment No. 31, the HRC elaborated on Article 2(3) stating that there should be accessible and effective remedies available to individuals.<sup>24</sup> States must provide judicial and administrative mechanisms for addressing claims of rights violations. Administrative mechanisms “are particularly required to give effect to the general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”<sup>25</sup> Failure of states to investigate violations or to bring those responsible perpetrators to justice will in and of itself give rise to a breach of the state’s obligations under the ICCPR.<sup>26</sup>

Article 2(3) requires states to make reparations to victims of violations, which is essentially how states discharge the obligation to provide effective remedy. The provided effective remedy can entail appropriate compensation, restitution, rehabilitation, guarantees of non-repetition, public apologies, as well as holding perpetrators accountable.<sup>27</sup> The HRC stressed that without measures to prevent the recurrence of violation, the purposes of the ICCPR would be defeated.<sup>28</sup>

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<sup>24</sup> Human Rights Committee, General Comment No. 31; The Nature of the General Legal Obligation Imposed on states Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 15.

<sup>25</sup> Ibid. para. 15.

<sup>26</sup> Ibid. para. 18.

<sup>27</sup> Ibid. para. 16.

<sup>28</sup> Ibid. para. 17.

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Pursuant to Article 13 of the ECHR, Türkiye is obliged to ensure that victims of the alleged violations described in this submission have an effective remedy, considering that the alleged perpetrators to those violations either acted in their official capacity – such as the Turkish Intelligence – or while being effectively controlled by Turkish authorities.

## 4.5 Violence against Women and Sexual Violence

As summarized by the UN Secretary-General, “States have a duty to prevent acts of violence against women; to investigate such acts when they occur and prosecute and punish perpetrators; and to provide redress and relief to the victims”.<sup>29</sup> Those obligations are enshrined in several international law instruments by which Türkiye is bound. In conjunction with the obligation of the extraterritorial application of human rights conventions, Türkiye is under the obligation to ensure the non-existence of a protection gap for women in the territories it controls directly or via proxy actors. To this end, Türkiye must ensure the application of laws and regulations that are to the utmost benefit to foreign nationals. Consequently, the Turkish authorities effectively controlling the SNA groups, must ensure that they are not enacting laws, regulations, or practices that tolerate or do not repress and prosecute violence against women and sexual violence. Moreover, Türkiye is obliged to apply its national laws to these territories if the existing domestic laws do not result in the benefit of the population. It is not enough for the Turkish authorities to claim that acts of violence committed in the territories controlled by its proxy groups are not directly contributed to it since those who commit such acts are not their official agents, since its responsibility arises also from its omissions and failure to take positive measures to protect and promote rights.<sup>30</sup> Moreover, Türkiye has a duty to prevent such violations by non-State actors, investigate allegations of violations, punish wrongdoers and provide effective remedies to victims.<sup>31</sup>

The Turkish State’s obligation to respect and ensure the respect of the rights applies to anyone not only situated within its territory, but within its power or effective control.<sup>32</sup> The right to effective remedy is central to the efficacy of States’ adherence to their human rights obligations.<sup>33</sup> In this context, since Türkiye claims to have an enacted legislation that criminalizes violence against women and ensures them effective remedies, it is – pursuant to the applicability of State obligations enshrined, for instance, in Article 2(1) of the ICCPR and Article 13 of the ECHR – under the obligation to put in place in territories within its power or effective control adequate judicial or administrative mechanisms to give effect to its obligation to investigate allegations of violations promptly, thoroughly, and effectively while utilizing its said to be effective national legislation. It is relevant also to stress that the status of occupation by Türkiye triggers the application of the customary international humanitarian law rule regarding the obligation on States to investigate war crimes allegedly committed by their nationals or

<sup>29</sup> UN Secretary General, *Ending violence against women: From words to action. Study of the Secretary-General*, 2006, p. iv (Available at: <https://www.un.org/womenwatch/daw/vaw/publications/English%20Study.pdf>).

<sup>30</sup> Convention on the Elimination of All Forms of Discrimination against Women, article 2 (e).

<sup>31</sup> Committee on the Elimination of Discrimination against Women general recommendation 19, article 24 (i); note 15, article 4 (d).

<sup>32</sup> UN Human Rights Committee, *General Comment No. 31 [80]: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, adopted on 29 March 2004 (2187<sup>th</sup> meeting), CCPR/C/21/Rev.1/Add.13, 26 May 2004, § 10.

<sup>33</sup> *Ibid.* § 16.



armed forces, or on their territory, and, if appropriate, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.<sup>34</sup>

## 5. Recommendations

We urge the respectful mandate holders to prioritize this matter and give it their utmost attention since it jeopardizes the human rights of hundreds of thousands of the original residents of the region, in addition to undermining any preventive measures that might serve a meaningful transitional justice in the future, in addition to forming a form of coercive measures for the forced displacement of those residents.

We recommend communicating with the Turkish authorities and the SNA, reminding, and urging them to adhere to their obligations under international law. In particular, we gently ask the mandate holders to:

1. Send a communication to all relevant stakeholders urging them to take the responsibility investigating the reported facts and responding to it.
2. Demand immediate and effective measures to repress all the violations committed by the Turkish authorities in Syria or their controlled-SNA factions.
3. Issue a statement or public opinion addressing this topic in general considering its continuous occurrence as a widespread or systematic policy.
4. To raise the issue at the Human Rights Council.
5. We invite the Mandate Holders to meet the submitting organizations for further elaboration on the issue.

### ➤ Annex: Introductions to some Actors Allegedly Involved in the Incidents:

|                  |  |
|------------------|--|
| Jabhat Shamiya   | It was established in December 2014, and it is the largest component of the SNA, where the Third Corps is formed, and its leader is Muhannad Khalaf, called Abu Ahmed Nour, who also leads the Azm Chamber under which most of the SNA factions are affiliated, and is spread in the northern countryside of Aleppo and Ras al-Ain.  |
| Al-Hamza Brigade | It was established in April 2016, and is led by Saif Abu Bakr, who holds Turkish citizenship, from the ranks of the Second Corps in the SNA, and is spread in the northern countryside of Aleppo, Ras al-Ain and the Libyan city of Tripoli, and has participated in all the military operations launched by the Turkish army in Syria, from the Euphrates Shield against ISIS to the Olive Branch and Spring of Peace against the Syrian Democratic Forces. |
| Military Police  | It was established in March 2018, with direct support from Ankara, and it falls under the banner of the National Army Staff and is divided into several offices, including (Anti-Terrorism - Complaints Office - Diwan Department -  |

<sup>34</sup> ICRC, IHL Database, Customary International Humanitarian Law, Rule No. 158 (Available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule158](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule158)).

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|----------------------|--|
|                      | Investigation Department). Some of its main tasks to bring members of SNA accountable, chase members of the “Islamic State” organization and the Syrian Democratic Forces. It is deployed in the northern countryside of Aleppo and Ras al-Ain, and most of them are members of the former National Army.  |
| Ahrar Al-Sharkeyya   | It was founded in January 2016, under the leadership of Ahmed Ihsan Fayyad Al-Hayes, called Abu Hatem Chakra, and it is one of the ranks of the First Corps, and it changed its name after the formation of the Liberation and Construction Movement, and Abu Hatem Chakra moved away from the leadership of the movement officially, but actually he controls the largest force in the movement, and this action came after the US Treasury imposed sanctions on the faction and its leader in July of 2021. It operates in the city of Afrin, al-Bab, Jarabulus and Ras al-Ain. It participated in Operation Olive Branch and Spring of Peace alongside the Turkish army against the Syrian Democratic Forces. |
| Failaq Al-Sham       | It was established in March 2014, under the leadership of Munthera Saras, a member of the Astana delegation, and it spreads in the regions of Idlib and its countryside, the northern and western countryside of Aleppo, Ras al-Ain, and the Libyan city of Tripoli. It is well-linked with HTS, and it provides it with arms and ammunition, from which it receives from the Turkish army currently deployed in Idlib.  |
| Sultan Murad Brigade | It was established in March 2015 and is led by Fahim Issa, who holds Turkish citizenship. It operates in Aleppo northern countryside, Ras al-Ain, and Tripoli in Libya. It has a specificity that it includes the Turkmen as an ethnic group. It has participated in all the military operations launched by the Turkish army in Syria, from the Euphrates Shield against ISIS to the Olive Branch and the Spring of Peace against the Syrian Democratic Forces. It is known that it received the Turkish Minister of the Interior several times in Syria.   |
| Al-Nokhba Army       | It was established in January of 2017, and it is one of the ranks of the First Corps, led by Colonel Moataz Raslan, who is also the commander of the First Corps in the National Army. It was known previously as “The Liberation Army” which was attacked by Nusra Front in Idlib, and left to the northern countryside of Aleppo and spread there, in addition to the city of Ras al-Ain after its participation in Operation Peace Spring, and a battalion of it is deployed in the Libyan city of Tripoli.   |



## An overview of the two partner organizations

- **Syrians for Truth and Justice:** The idea of establishing “Syrians for Truth and Justice-STJ” was born to one of its founders, while participating in the LDF Fellowship Program by the American Middle East Partnership Initiative (MEPI), motivated by his desire to Contribute to building the future of his country, Syria.

The project started with modest possibilities, as it was limited to publishing stories of Syrians who were subjected to enforced disappearance and torture, and later grew into a well-established organization committed to revealing all human rights violations in Syria.

Based on the conviction of Syrians for Truth and Justice that the diversity and diversity that characterized Syria throughout history is a blessing for the country, our team of researchers and volunteers works diligently to uncover human rights violations committed in Syria, regardless of the party responsible for these violations or the category they were subjected to. With the aim of strengthening the principle of inclusiveness, ensuring the organization's representation of all groups of the Syrian people, and ensuring that everyone enjoys their full rights.

- **Human Rights Organization in Afrin - Syria:** An independent, non-governmental, non-profit Syrian human rights organization, consisting of members and activists in the field of human rights, focusing in its work on protecting human beings and ensuring their basic rights and freedoms within the framework of a democratic and moral society, with the aim of elevating people and raising standards Human rights law for the general public, in line with international human rights covenants and covenants.

