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Input for the Special Rapporteur on Violence Against Women, its  
Causes, and Consequences During Their Visit to Turkey

## **Input for the Special Rapporteur on Violence Against Women, its Causes, and Consequences During Their Visit to Turkey**

*Syrian organizations draw the SR's attention to Turkish authorities'  
failed obligations under international law in preventing,  
investigating, and prosecuting acts of violence against women in the  
Syrian territories under Turkish jurisdiction*

The signatory organizations are pleased to address the Special Rapporteur (SR) on violence against women, its causes, and consequences, in response to her call for inputs to inform her visit to Turkey, scheduled 18-27 July 2022. We draw the SR's attention to the Turkish authorities' failure to implement their obligations under international law in repressing, investigating, and prosecuting acts of violence against women in the Syrian territories that fall under the Turkish jurisdiction as an occupying power.<sup>1</sup>

## **Background**

Since August 2016, Turkey has occupied thousands of kilometres of northern Syria throughout military offensives<sup>2</sup> by which Turkey is controlling the territories and population either directly through its military forces or indirectly through its effective control over its backed Syrian National Army (SNA) and other factions.<sup>3</sup> Different UN bodies have addressed and established the fact of Turkey's responsibility in these controlled territories "to ensure public order and safety, and to afford special protection to women and children".<sup>4</sup> In the same context, the UN High Commissioner for Human Rights has emphasized Turkey's responsibility to investigate violations and abuses in the territories under the control of its forces and affiliated armed groups.<sup>5</sup>

The SNA consists of multiple armed groups that allege to be unified under a central command<sup>6</sup>, but each have their own leader(s), headquarters, agendas, structures, and areas of influence. For example, multiple armed groups are headquartered on Rajo Street in Central Afrin, where the building of the Turkish governor is located.<sup>7</sup> Turkey continues to channel its support and instructions directly to each group rather than through the central command of the SNA, keeping them financially dependent on Turkey. Different aspects of life in the areas under Turkish control are completely under Turkish influence.<sup>8</sup>

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<sup>1</sup> 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, A/HRC/34/CRP.3, 10 March 2017, § 103.

<sup>2</sup> Operation Euphrates Shield (2016); Operation Olive Branch (2018); Operation Peace Spring (2019); and Operation Spring Shield (2020).

<sup>3</sup> Amnesty International, Syria: Turkey must stop serious violations by allied groups and its own forces in Afrin, 02 August 2018 (<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>4</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 (<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 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/251/52/PDF/G2225152.pdf?OpenElement>).

<sup>5</sup> UN News, *UN rights chief calls for Turkey to probe violations in northern Syria*, 18 September 2020 (<https://news.un.org/en/story/2020/09/1072752>).

<sup>6</sup> Haid Haid, *Turkey's Gradual Efforts to Professionalize Syrian Allies*, Carnegie Endowment for International Peace, 02 November 2018 (<https://carnegieendowment.org/sada/77637>); and Sultan al-Kanj, *Turkey-backed Syrian opposition groups merge under new banner*, Al-Monitor, 16 September 2021 (<https://www.al-monitor.com/originals/2021/09/turkey-backed-syrian-opposition-groups-merge-under-new-banner>).

<sup>7</sup> UN General Assembly, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 08 February 2022, A/HRC/49/77, § 43 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/251/52/PDF/G2225152.pdf?OpenElement>).

<sup>8</sup> Enab Baladi, *'From Afrin to Jarablus: A Small Replica of Turkey in the North'*, 28 August 2018 (<https://english.enabbaladi.net/archives/2018/08/from-afrin-to-jarablus-a-small-replica-of-turkey-in-the-north/>).

## Evidence

The violations and abuses committed by the Turkish-controlled armed groups in the occupied territories in northern Syria have been addressed by numerous actors<sup>9</sup> including different UN bodies. Acts that constitute different forms of violence against women are regularly committed and credibly documented. Due to the repeated and targeted rape and sexual violence by SNA members against women and girls in Tal Abyad, many families have chosen not to return to their homes.<sup>10</sup>

One of the predominant violations in Turkish-controlled areas is arbitrary detentions and enforced disappearances for alleged links to the Autonomous Administration. Witnesses “reported that factions conducted arrests and were responsible for running detention facilities, with Turkish intelligence officials sometimes present at or directing interrogations”.<sup>11</sup> Between October 2020 and September 2021, civil society organizations<sup>12</sup> found that 54 women and girls were allegedly detained in the Afrin region. Detained women were subjected to different forms of torture and mistreatment that were practiced against them because they are women. STJ interviewed several victims and victims’ relatives who testified to this mistreatment.

Mrs. Z. M.<sup>13</sup> told STJ that she was detained by the Sultan Murad group in Afrin and was transferred to the Turkish governor’s building before being transferred to a Turkish military intelligence facility in Kilis city inside Turkey. She identified a Turkish speaker supervising and instructing two Arabic speaking investigators who tortured and ill-treated her in addition to two other women who were detained with her.

In another case, a Mrs. A. S. reported to STJ the presence and oversight of a Turkish official over female Jabhat Shamiya members who detained and tortured her in the group’s facility.

STJ followed closely the case of a group of civilians including 3 women and 3 children who were detained in 2018 by the Hamza Division in Afrin.<sup>14</sup> A former guard– who provided the detainees’ IDs – confirmed that the detainees were moved several times between detention facilities. He said that their transfer was on the instruction of Turkish authorities, and that they were subjected to torture and mistreatment. The fate and whereabouts of the

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<sup>9</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/news/2019/10/syria-damning-evidence-of-war-crimes-and-other-violations-by-turkish-forces-and-their-allies/>).

<sup>10</sup> UN General Assembly, “Report of the Independent International Commission of Inquiry on the Syrian Arab Republic”, 08 February 2022, A/HRC/49/77, § 61 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/251/52/PDF/G2225152.pdf?OpenElement>).

<sup>11</sup> UN General Assembly, “Report of the Independent International Commission of Inquiry on the Syrian Arab Republic”, 14 August 2020, A/HRC/45/31, § 82 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/210/90/PDF/G2021090.pdf?OpenElement>).

<sup>12</sup> See evidence collected by Meghan Bodette, Kurdish Peace Institute: ([https://docs.google.com/spreadsheets/d/e/2PACX-1vTNASFwn0tVe4hwzVwYu-LHbxlpEnmlWSGdvOeefTEJMyM9srDxSn\\_VjE2mh9AG4w/pubhtml](https://docs.google.com/spreadsheets/d/e/2PACX-1vTNASFwn0tVe4hwzVwYu-LHbxlpEnmlWSGdvOeefTEJMyM9srDxSn_VjE2mh9AG4w/pubhtml)).

<sup>13</sup> All victims and witnesses’ names are kept confidential upon their request for security reasons.

<sup>14</sup> STJ, “Afrin: How Eight Women were Forcibly Disappeared by the Hamza Division?”, 03 August 2020 (<https://stj-sy.org/en/afrin-how-eight-women-were-forcibly-disappeared-by-the-hamza-division/>).

detainees remains unknown; however, a report from first-level commander in the Military Police suggests that one of them was likely killed.

In the context of sexual violence against women in custody, and in conformity with the conclusions of the Commission of Inquiry on Syria (COI) and other UN bodies, detained women reported to STJ that they were subjected to sexual violence and abuse by members of the armed groups detaining them.

Mrs. N.O. was sexually abused by SNA Military Police members while her mother and baby daughter were detained with her. To coerce her signatures on false confessions attesting to her collaboration with the Autonomous Administration, her baby was taken from her and she was sexually abused by those detaining her.

Mrs. N.S. was forced to sign a false confession about her collaboration with the Autonomous Administration after she was sexually abused by members of the Hamza Division and photographed almost naked by Hamza division members after her sexual abuse.

## **Legal Analysis**

Today, an occupying power's effective control can be exercised without a continuous military presence in the territory as the focus is on the extent of authority retained by the foreign forces rather than exclusively focusing on how it is exercised.<sup>15</sup> As an occupying power, Turkey is subject to positive obligations of means that vary from immediate ones regardless of the period of occupation, and incremental obligations that take effect over time.<sup>16</sup> Turkey 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.

Furthermore, 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.<sup>17</sup> Moreover, the extraterritorial application of human rights conventions is an obligation incumbent on the occupying power.<sup>18</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>19</sup> Turkey is obliged "to secure respect for the applicable rules of [IHL]

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<sup>15</sup> ICRC Commentary on GCII (2017), § 331.

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

<sup>17</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>18</sup> ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 136, § 106.

<sup>19</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.



and [IHL], to protect the inhabitants of the occupied territory against acts of violence, and not to tolerate such violence by any third party”.<sup>20</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>21</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.<sup>22</sup>

## **Turkey’s Legal Obligations**

In conjunction with the obligation of the extraterritorial application of human rights conventions,<sup>23</sup> Turkey 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. Consequently, Turkish authorities effectively controlling SNA groups must ensure that they are not enacting laws, regulations, or practices that do not prevent and prosecute violence against women. Moreover, Turkey is obliged to apply its national laws to these territories if the existing domestic laws do not benefit of the population. Turkish authorities cannot claim irresponsibility to the acts of violence committed in the territories controlled by its proxy groups because those groups are not official Turkish agents because Turkish responsibility also arises from its failure to take positive measures to protect and promote rights.<sup>24</sup> Moreover, Turkey has a duty to prevent such violations by non-State actors, investigate allegations of violations, punish wrongdoers, and provide effective remedies to victims.<sup>25</sup>

The Turkish Code of Criminal Procedure entrusts the public prosecutor with the task of initiating investigation as soon as s/he is informed of a fact bearing an impression that a crime has been committed. Sexual assault and abuse – as defined in Articles 102 and 103 of the Turkish Penal Code – are criminalized and shall be prosecuted ex officio.<sup>26</sup> Moreover, the Turkish legislation provides several “reparative” measures that women victims of violence can benefit from.<sup>27</sup> However, none of the incidents cited in this input were promptly and effectively investigated by Turkish authorities, nor were the reporting victims informed of effective remedy measures. On the contrary, the victims and witnesses that STJ

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<sup>20</sup> Ibid.

<sup>21</sup> Turkey is a State Party since 18 May 1954.

<sup>22</sup> ECtHR, *Al-Skeini et al. v. the United Kingdom*, Application no. 55721/07, Judgment (Grand Chamber), 7 July 2011, §§ 131-140.

<sup>23</sup> UN Secretary General, *Ending violence against women: From words to action. Study of the Secretary-General*, 2006, p. iv (<https://www.un.org/womenwatch/daw/vaw/publications/English%20Study.pdf>).

<sup>24</sup> Convention on the Elimination of All Forms of Discrimination against Women, article 2 (e).

<sup>25</sup> Committee on the Elimination of Discrimination against Women general recommendation 19, article 24 (i); note 15, article 4 (d).

<sup>26</sup> OHCHR, “Response to Questionnaire by the Turkish Ministry of Justice.” 05 August 2020

(<https://www.ohchr.org/en/calls-for-input/2021/rape-grave-and-systematic-human-rights-violation-and-gender-based-violence>).

<sup>27</sup> Ibid.

interviewed refused to make their personal information accessible by third parties or public because they feared reprisal.

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>28</sup> The right to effective remedy is central to the efficacy of States' adherence to their human rights obligations.<sup>29</sup> In this context, since Turkey claims to have enacted legislation that criminalizes violence against women and ensures 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 effective control adequate judicial or administrative mechanisms to give effect to its obligation to effectively investigate allegations of violations while utilizing effective national legislation. It is relevant also to stress that the status of occupation by Turkey 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 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>30</sup>

## Recommendations

The signatory organizations trust that the SR representing the UN human rights system will not underestimate the vulnerability of women and girls in the territories directly or effectively controlled by Turkey in Syria, and the increasing threats and risks of systematic violence they are subjected to. The SR must address the protection gap for women and girls in Turkish-controlled Syrian territories. Therefore, we call on the SR to raise the following concerns:

- What measures have the Turkish authorities taken to ensure that its controlled-SNA groups are aware of and trained on respecting women's rights and refraining from committing violence against them?
- What steps have the Turkish authorities taken to ensure its obligations under the relevant international law instruments are met in the context of investigating alleged acts of violence against women and girls in the territories under its effective control?
- How do the Turkish authorities ensure that any enacted laws or regulations in these areas are to the benefit of women and girls as well as the rest of the population?
- What are the applicable laws and legislations in the Turkish controlled areas in northern Syria that govern the conduct of: 1) any Turkish officials, 2) civil and administrative authorities, and 3) armed groups and formations?
- What have the Turkish authorities done to ensure that women in these areas are aware and informed of remedy mechanisms and that they have unhindered access to them?

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<sup>28</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>29</sup> Ibid. § 16.

<sup>30</sup> ICRC, IHL Database, Customary International Humanitarian Law, Rule No. 158 ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule158](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule158)).

- Do the Turkish authorities provide women and girls in these areas with the reparative measures and services stipulated in the Law on Protection of Family and Prevention of Violence Against Women?

## **Signatory Organizations**

1. Ezdina
2. Kurdish Peace Institute
3. Peace She-Leaders Network.
4. PÊL- Civil Waves
5. Sara organization to Combat Violence against Women.
6. Serê Kaniyê/ Ras al-Ain Platform
7. Shawshka Women's Association.
8. Synergy/Hevdestî Association for Victims
9. Syrians for Truth and Justice (STJ)
10. Wheat & Olive Platform