

Turkey is committing war crimes in Afrin, Syria

by Meghan Bodette - 01/02/2018 11:12



As Turkey's invasion of Afrin enters its eleventh day, the legality of its operations has escaped international scrutiny. Turkish leaders and their backers justify "Operation Olive Branch" as "[self-defence](#)" in accordance with the principles of the U.N. charter. Many states, including Russia and the U.S., have accepted this defence, and referred to Turkey's legitimate security concerns related to the operation.

But does the operation fit into the established framework for a legal military operation? A survey of relevant international legal principles suggests that it does not—and that both the justification for the war and the ways in which it has been carried out violate international law to a degree that deserves international outrage.

Self-Defense or Unprovoked Aggression?

The provision of the UN Charter related to self-defense, Article 51, [begins](#) as such: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United

Nations, until the Security Council has taken measures necessary to maintain international peace and security.” Turkish officials claim that their actions in Afrin were taken in line with this provision. However, no “armed attack” against Turkey had been launched from Afrin, or any other territory of the Democratic Federation of Northern Syria.

Statements from Turkish President Erdogan in the days before the operation suggested a preemptive, not defensive, intent. At his party’s conference in Elazig in mid-January, he said that “If the terrorists in Afrin don’t surrender we will tear them down.” In another speech, he condemned the rumour of a proposed “border force” in northern Syria, promising to “nip this terror army in the bud.” Anticipatory self-defence is permitted under international law. Most theorists [agree](#) that to be legitimate, the threat requiring anticipatory action must be imminent, and the pre-emptive response proportional. This standard does not hold up in Afrin either. Turkey faced no imminent threat from the SDF—who have explicitly stated that they are committed to self-defence within Syria. As there is no rational threat, Turkey’s response—the bombing of civilian towns across the region and use of jihadist proxies to invade SDF-held territory—is by no means proportional.

Despite Turkish claims to the contrary, it is clear that neither traditional nor anticipatory self-defence justified the launch of the operation. Turkey also failed to report its actions to the U.N. Security Council—another Article 51 stipulation. The first U.N. meeting on the operation was [called](#) by France after the operation began. Refusing to follow U.N. mandated procedure for legitimate self-defence measures does not help the Turkish case.

Civilians Targeted

The conduct of the operation also fails to meet international standards related to the conduct of war. Under the Rome Statute, “intentionally directing attacks against the civilian population as such or against individual civilians not taking a direct part in hostilities” is a war crime. Turkish jets continue to bomb civilian areas across Afrin, with the Kurdish Red Crescent [reporting](#) that as of January 30th, 65 civilians were killed and 163 were injured. A presenter on TRT News, a Turkish state-run TV channels, [said](#) more than once in a broadcast that the Turkish Armed Forces were targeting Afrin’s civilians.

As of January 31st, casualties have been recorded in [Afrin city](#), [Jinderes](#), [Rajo](#), [Mabata](#), [Sherawa](#), and other civilian towns, and videos showing the destruction of villages in Jinderes and Sherawa have circulated on social media. “Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are

undefended and which are not military objectives” is also a war crime under the Rome Statute.

Cultural Property

If destroyed lives and flattened towns do not attract international attention, it is unlikely that damaged historical sites will. Yet these sites are also protected, with principles of customary international law [stating](#) that “special care must be taken in military operations to avoid damage to...historic monuments unless they are military objectives, [and] property of great importance to the cultural heritage of every people must not be the object of attack unless imperatively required by military necessity.” On Friday, Turkish bombs [destroyed](#) an estimated 60 percent of the temple of a Neo-Hittite temple at Ain Dara, a 3,500-year-old cultural site which, unlike many of Syria’s other historical relics, had survived the civil war. The Syrian government condemned the attack, and sources across Afrin compared it to ISIS’ destruction of sites like Palmyra. Given the temple’s long history and clear lack of military purpose, the Turkish bombardment was clearly unjustified and illegal.

Prohibited Weapons

Particularly sinister reports suggest that Turkey may be using internationally banned weapons on the population of Afrin. Officials of the Democratic Federation of Northern Syria, as well as local sources, have alleged that Turkey is using napalm against civilians, and doctors in Afrin’s Arvin Hospital [say](#) they have seen “abnormal burns” on the bodies of civilians killed in Rajo. Other local sources allege the use of gas and cluster munitions. These claims must be investigated and, if confirmed, appropriate action must be taken.

How Should The World Respond?

All states involved in Syria’s war must take immediate steps to stop the invasion and end their complicity in war crimes. The bombardment of civilians would not be possible without the jets and helicopters that the U.S. sells to Turkey. U.S. policymakers should act immediately to prohibit future weapons sales—and all other governments whose military equipment is used in Turkish operations should do the same. States already working with the SDF on the ground in Syria—chiefly the US and Russia— should come to their aid in Afrin, rather than attempt to reverse course and collaborate with Erdogan.

In the long term, the relevant states and international organizations must begin the process for legal accountability for Turkey’s crimes. While Turkey is not a party to the Rome Statute, there is still a process for referring its actions to the International Criminal Court. Article 14 of the Rome Statute says that any state that is party to the

treaty can “refer to the Prosecutor a situation in which one or more crimes within the jurisdiction of the Court appear to have been committed requesting the Prosecutor to investigate the situation for the purpose of determining whether one or more specific persons should be charged with the commission of such crimes.” It is clear that Turkey has committed crimes within the ICC’s jurisdiction in Afrin. Photos, videos, and testimony from the region’s residents attesting to the crimes are freely available. Any one of the 123 states that have ratified the Rome Statute could—and should—begin collecting evidence to make a referral. The people of those states should pressure their governments to do so.

Turkey’s actions in Afrin are clear examples of the crimes which international human rights law and international organizations are intended to stop. If the world believes in the values of its institutions, it will name these crimes for what they are, work to stop them, and ensure accountability.