



PERMANENT PEOPLES' TRIBUNAL ON TURKEY AND KURDS

TRIBUNAL PERMANENT DES PEUPLES
SUR LA TURQUIE ET LES KURDES

DRAFT RESOLUTION

On 15 and 16 March 2018 the Permanent Peoples' Tribunal convened a session on Turkey and the Kurds. More than 400 interested people gathered in Paris to hear the proceedings. In the two days of public hearings the panel, composed of 7 judges, heard witnesses on the Turkish State's denial of political, cultural, social, economic rights to the Kurds living in Turkey.

The conference today on the presentation of the verdict was organized by the four initiating organisations of the Tribunal in cooperation with the political groups in the European Parliament, The Progressive Alliance of Socialists and Democrats (S&D), European United Left–Nordic Green Left (GUE-NGL) and The Greens-European Free Alliance (Greens-EFA).

Resolution: Summary of verdict and recommendations

We, the undersigned, call upon all governments, parliaments, international organisations and relevant bodies to give due consideration to the verdict pronounced on May 24, 2018 in Brussels (Belgium) by the Permanent Peoples' Tribunal (PTT) in its session on "Alleged violations of international law and international humanitarian law by the Turkish Republic and its officials in their relations with the Kurdish people and their organisations".

The Tribunal was composed of 7 judges including Professors of International law, jurists who had held the highest judicial office in their countries, a former assistant Secretary General of the United Nations and a highly respected journalist. They heard evidence, read numerous documents and examined witnesses over the course of two days from 15 to 16 March 2018.

The decision of the Permanent Peoples' Tribunal contains important findings and recommendations that should serve as guidelines for all relevant international bodies and institutions.

- The PPT held the Turkish State responsible for denying the right to self-determination of the Kurdish People, the negation of the Kurdish people's identity and presence, and the repression of its participation in the political, economic and cultural life of the country. All these rights are officially interpreted as a threat to the Turkish State's authority. The PPT identified the denial of the right to self-determination as the root cause of the armed conflict between the Kurds and Turkey
- The PPT found that the armed confrontation between Turkey and the Kurds amounted to a non-international armed conflict ruled by international humanitarian law. The PPT rejected the Turkish State's characterisation of the conflict as a matter of terrorism to be regulated by anti-terrorist legislation.

- The PPT found the Turkish State, the Turkish President Recep Tayyip Erdogan and the commander of the military operations against the Kurdish cities between 1 January 2015 and 1 January 2017, General Adem Huduti, guilty of committing war crimes during that period. The PTT found that President Erdoğan was responsible for inciting and legitimizing the disproportionate, indiscriminate violence of the operations against both the armed Kurdish fighters and the civilian population by repeatedly, indiscriminately characterising as “terrorists” the Kurds living in the conflict areas as well as their chosen representatives.
- The PTT also found the Turkish State guilty of State crimes – including targeted assassinations, extrajudicial executions, forced disappearances – committed by different branches of the State’s security forces and secret services, in Turkey and abroad, particularly in France.

To act on its findings, the PPT made recommendations (see below) for the withdrawal of all Turkish troops from Syria and the ending of all military operations carried out by its army in that country, the restoration of the rule of law, the release of still-detained magistrates, journalists, teachers etc. restoration of freedom of the press and information, ending the state of emergency and full implementation of the European Convention on Human Rights.

The PPT finally recommended the immediate resumption of peace talks in good faith and a general amnesty to be issued at the time of the conclusion of a peace agreement.

We, the undersigned, express our full agreement with these findings and recommendations which show the only road towards the solution of this long-lasting conflict and the full realisation of the rights of all peoples of Turkey. There is no alternative to the way shown by this resolution.

We call upon all relevant actors to take immediate action in accordance with the findings and recommendations of the Permanent Peoples’ Tribunal.

This is not only a moral responsibility but also a binding legal obligation for all States. Common article 2 of the UN Covenants of 1966 state that *“The States Parties to the present Covenant, ..., shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.”*

Creating conditions in which the Kurdish people can fully participate in the determination of their political status and freely pursue their economic, social and cultural development, freely dispose of their natural wealth and resources is the key to the solution of the conflict.

Recognizing the conflict as a non-international armed conflict ruled by international humanitarian law is in conformity with international law and will help the parties to seek a negotiated solution. Other conflicts indeed have been elected by such means. Therefore, States should abandon the counter-productive and criminalizing approach of the Kurdish party in the conflict through anti-terrorism laws.

Moreover, States are required under the relevant article of each of the 4 Geneva Conventions (Arts 49, 50, 129 and 146, respectively), to search for alleged offenders suspected of having committed war crimes “regardless of their nationality,” and either bring them before their own courts or hand them over for trial by another State Party. Impunity is a cancer and a permanent encouragement for the criminals. Impunity destroys society and poses a threat not only to fundamental rights in the country where the crimes are committed but also to international stability.

RECOMMENDATIONS

The Permanent Peoples' Tribunal was called to evaluate the events committed between June 1, 2015 and January 31, 2017 in many South-East Anatolian cities with majority Kurdish inhabitants, as well as other crimes committed in Turkey and abroad. starting in 2003, when Recep Tayyip Erdogan assumed the office of Prime Minister.

The Tribunal has not been able to deal with events following and in particular the offensive launched in January 2018 by the Turkish armed forces against the Afrin enclave in Syria and the Kurdish region of Rojava. In view of these further developments and the events which took place during the session held in Paris on 15 and 16 March 2018, the Court made the following recommendations.

1. Turkey must immediately end all military operations carried out by its army in Syria and must withdraw its troops to within its national borders.

The Turkish offensive, launched against the Afrin enclave and the other areas of Syria where there is a majority Kurdish population, is a clear violation of international law, contradicting the principle of the non-use of force as embodied in Article 2, paragraph 4, of the Charter of the United Nations and it constitutes a crime of aggression, pursuant to Article 5 of the Rome Statute of the International Criminal Court.

The facts show that military operations against heavily populated cities or regions amount to war crimes, pursuant to art. 8, paragraph 2, of the Rome Statute of the International Criminal Court, such as murders, torture, massive destruction of property not justified by military operations, deportation or forced transfer of populations. Therefore, these facts constitute grave breaches of the Geneva Conventions of 12 August 1949, especially of art. 147 of the IV Convention, to which Turkey is bound.

2. Turkey is obliged to investigate and punish the persons responsible for war crimes, ascertained by the Permanent Peoples' Tribunal, committed in southeastern Anatolia during the period from 1 June 2015 to 31 January 2017.

This on the basis of the conventional obligation referred to the rule in common to the four Geneva Conventions of 12 August 1949 (Article 49 of the I, Article 50 of the II, Article 129 of the III and Article 144 of the IV), which provides that: *"Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts"*.

This obligation was reiterated by art 85 of the First Additional Protocol adopted in Geneva on 8 January 1977 and it extends also to the case of non-international armed conflicts, as foreseen by the II Additional Protocol.

The Permanent Peoples' Tribunal is aware that the determining of the crimes and the punishment of their perpetrators will never be possible unless the mechanisms and guarantees of the rule of law are restored, first of all the independence of the judiciary and the freedom of information. In Turkey, after the failed coup of July 2016, 4,279 magistrates (judges and prosecutors) were dismissed, 3,000 of them are in pre-trial detention, hundreds of media have been closed down (radio, newspapers, websites) and currently 150 journalists are detained, while thousands of teachers have been removed from their posts at universities and all levels in schools.

These events prevent the exercise of legal control against abuses committed by government agents, which can be implemented only if the independence of the judiciary is ensured and if a free and independent mass media that exercises influence on public opinion is guaranteed.

Therefore, the PPT, supporting the statement of the Platform for an Independent Judiciary in Turkey, considers that:

3. Turkey must restore the rule of law, release still-detained magistrates and journalists, restore the rights of teachers and magistrates (judges and prosecutors) who have resigned or, have been dismissed from July 2016, restore freedom of press and information, end the state of emergency and fully implement the European Convention on Human Rights.

The war crimes and the crimes against humanity determined by the Court derive from the Turkey state's refusal to recognize the Kurdish people's right to self-determination, which led Turkey to ban the use of the Kurdish language in public life for years, to persecute Kurdish political parties and their leaders, to curb the Kurdish media, to imprison Kurdish politicians and journalists. This scale of discriminatory measures led to the emergence of various forms of resistance, including guerrilla actions conducted by the Kurdistan Workers Party, PKK.

The military offensives launched in the south east of Anatolia, and extended to the Kurdish regions across the border, are officially justified by the Turkish government with the claim that it is suppressing terrorism and protecting the national territorial and political integrity. However, the security of the State cannot be assured by denying the identity of a people, destined to live with Turkish people within the given borders. On the contrary, it is only by recognizing the identity of the Kurdish people that it is possible to end the conflict and a long period of conflict and suffering for both parties.

Ending the conflict is the only way to guarantee security. It should be noted that the recognition of the right to self-determination of the Kurdish people does not involve any form of secession because the principles of the border's inviolability and respect for the territorial integrity of each State cannot be questioned, as affirmed by the Helsinki Final Act of 1975. Therefore, the recognition of the Kurdish people's identity and dignity and their right to live peacefully with the other people living in the territory of the Turkish state is the key to ensure security, freedom, peace and justice for all the citizens of Turkey. As a result, the PPT considers that:

4. Prior immediate proclamation of all military activity truce, Turkey must resume negotiations in good faith for a peaceful solution to the conflict -- interrupted on October 30, 2014 -- and complete them within a reasonable time frame.

During the negotiations, measures must be taken to ease the climate of hostility between the parties, in particular the release of prisoners, the re-opening of newspapers and other media, the restoration of local representatives removed from their positions. It is not for the PPT to indicate specific solutions that allow the Kurdish people's right to self-determination to be accorded to the needs of cohabitation and good administration within the Turkish state.

Such solutions need not be difficult; they have historical precedents. One can point to the special status of autonomy granted by the Italian Republic to the Region of Alto Adige / South Tyrol, characterized by the presence of a strong ethnic group of Germans and Austrians. At the conclusion of the peace negotiations, an amnesty must follow for all crimes committed by both parties, both in Turkey and abroad. Only under these conditions could Turkey be relieved of the obligation to ensure the punishment of those responsible for war crimes and against humanity determined by the PPT, according to point 2.

5. At the conclusion of the peace agreement, an amnesty must be issued for the crimes committed by all parties during the conflict, and all still-detained political prisoners must be released.

In conclusion, the tragedy that has been tormenting the South East of Anatolia -- causing incalculable suffering to the Kurdish people -- is avoidable. It results from the errors, burdened by time, of a nationalistic dogma which provoked the Armenian genocide a century ago.

The Turkish and Kurdish people can avoid a similar fate by totally transforming the current policy and rooting out its origins. Although today the fatal rituals of hostility and denial continue, tomorrow could see a restoration and flourishing of justice, friendship and peace.