

# WAR CRIMES COMMITTED AGAINST THE PEOPLE OF SYRIA

Report of Peace Association of Turkey and Lawyers for Justice

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## ABBREVIATINOS

<b>ANF</b>	:	Al-Nusra Front
<b>ARB</b>	:	Afhad al-Rasul Brigade
<b>ASB</b>	:	Ahrar ash-Sham Brigade
<b>FSA</b>	:	Free Syrian Army
<b>FSG</b>	:	Friends of Syria Group
<b>GCC</b>	:	Gulf Cooperation Council
<b>GSO</b>	:	Ghuraba ash-Sham Organization
<b>HRW</b>	:	Human Rights Watch
<b>ICC</b>	:	International Criminal Court
<b>ILF</b>	:	Islamic Liberation Front
<b>IMB</b>	:	Idlib Martyrs' Brigade
<b>ISIS</b>	:	Islamic State in Iraq and Sham
<b>SIC</b>	:	Syrian Islamic Front
<b>SNA</b>	:	Syrian National Assembly
<b>SNC</b>	:	Syrian National Council
<b>UN</b>	:	United Nations
<b>UNGA</b>	:	United Nations General Assembly
<b>UNHCR</b>	:	Office of the United Nations High Commissioner for Refugees
<b>USA</b>	:	United States of America

## PREAMBLE

We, the lawyers and the members of Peace Association of Turkey who are in favor of peace, followed every day of the war in Syria. What we saw, heard and encountered in our country became a matter of conscience for us. We repeatedly declared that we oppose to a political and military intervention against Syria. We will once again remind you the reasons of our stand by this Report. However, the Report in hand, points out the crimes against humanity which caused the deaths of thousands of people in Syria; the crime of aggression committed in a way to disrupt the atmosphere of peace; war crimes committed publicly and the identities of their perpetrators. We are in the opinion that the greatest contribution to peace will be the jurisdiction of these criminals.

We think that all crimes committed against humanity which are defined in international law bound all mankind. We also feel unity with the Syrian people who stand out to the imperialist intervention. On the other hand, it is well known that these crimes are not only committed inside Syria, but there are also accomplices in our country.

The Report is written in a time when the military intervention is temporarily withheld and the efforts by the accomplices to cover up and to trivialize the war crimes have increased. The main purpose of the Report is not only to find the responsible that turned the country to an uninhabitable place but also to prevent the criminals or those who are responsible from playing with the destiny of mankind in the future as if nothing happened and warrant that they pay for their crimes.

We are aware that the judicial powers of the states which provided every support for the parties of the war in Syria and the perpetrators of the crime of aggression are not independent. Because of their reluctance of taking any steps *ex officia* in this respect; we once again witness that the supreme judicial powers of these states are set up as the saver of their political powers. Correspondingly, it is well read that international law mechanisms and proceedings do not introduce fair examples and losing parties are usually tried on international penal trials. Even though the crimes committed against humanity are defined as the most serious crimes on international law documents, they are *de facto* “*untrialable crimes*”. We recognize this as one of the tragic consequences of imperialist aggression era.

However, we as the lawyers and the members of Peace Association of Turkey, declare to the public opinion that crimes against humanity are committed in Syria and instigators are on state level. We declare that we will perform our liabilities as lawyers, for the trial of criminals and to operate the regulations and persecute our complaints in the name of all mankind.

We present our war crimes study Report to the attention of public opinion with the hope that this Report may sustain power to peace and that we will never be in a position to prepare another report on this subject.

## **§1. Introduction**

War in Syria can be subject to pages of articles and evidences. Usually information and documents regarding a war or a clash could be reachable after years but in Syrian case everything is happening in front of our eyes. As a matter of fact many of the information are being served to the public opinion by the clashing groups.

However, a report related to the crimes committed in Syria has a limit with respect to containing all of these information and documents. For this reason, we chose to deal with some specific events and to emphasize certain issues in order to have a competent and effective report.

Report begins with explanations regarding why and how these events developed. After this topic, the crimes are listed, qualified, perpetrators and findings are discussed. Turkey is discussed separately in that topic. Again, the legal processes in Turkey are presented in another topic. Finally, considerations are carried out with respect to the crimes and the criminals in the light of all information in the conclusion section.

## **§2. Syria and background of clashes**

Syria declared its independence in 1946 and until now it used to have a secular, cosmopolite society which people from different beliefs could live together peacefully. Bashar Assad came into power by election after the presidency period of his father Hafez Assad which started in 1970 and ended in 2000 with his death.

Syria's population consists of Sunni Muslims (74%), Allawite, Shiite and other Muslim sects (16%), and Christians (10%). Therefore it is obvious that there is no possibility for an Allawite dictatorship to survive and the Sunni majority is also supporting the present government. Last October Sunni and Christian religious authorities of Syria gathered in Latakia and declared that they support Syrian government and the terrorists turned Syria into bloodshed<sup>1</sup>.

American intervention against Afghanistan and Iraq followed by imperialism's restoration plans in Middle East by the "*Global War on Terrorism*" argument put forward by USA after 9/11. In the beginning, the anger of the rebelling people with economic, democratic and social demands was seen as a consequence of the world economic crisis and considered as a "*progressive*" transformation of Middle East which called as "*Arab Spring*". In fact, subject uprisings were being associated with the "*Moderate Islam*" project and the region was being integrated with the capitalist world. Syria in this period, and all "*spring*" States previously pushed to partiality on Sunni and Shiite base.

15 March 2011, the date which events started is called the "*Day of Wrath*" was a milestone in terms of the protest in Deraa and in terms of the number of protestors. Bashar Assad carried on

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<sup>1</sup> <http://www.tahahaber.com/haber/3954-din-adamlari-esad-a-destegini-acikladi>

neoliberal politics and decreased agricultural support after he came into power in 2000, displeasure from these policies lied beneath of the uprising but did not proceed with these demands.

Support to the groups against Syrian Government continued with weapon and logistic aid by USA and some of the neighboring states despite of Bashar Assad's citizenship promise to Kurds on 7.April.2011, revoke of the public emergency situation after 48 years on 19.April.2011 and his order not to open fire on demonstrators on 13.May.2011. Ultimately constitutional amendment accepted by the referendum realized on 26.February.2012 with 89,4% of the votes. This cleared the way for multi-party elections and legal opposition against the government.

Syria's masses demand of rights from the government was related to the impoverishment they encountered on the articulation period with the capitalist world together with the religious reactionary movements and imperialists maintaining control of the "*Arab Spring*". But soon, opposing groups with weapons and performing attacks and assassinations against administrators and civilians which can be defined as gangs or organized armed groups took the place of these masses. These groups which in no way represent Syrian people sustained not only violence but also atrocity, slaughter and all acts we listed as crimes as their principle practice.

Death toll reached to 120.000 according to UN as of September 2013. It has been declared that 61.067 civilians consisting of 6.365 children and 4.269 women and in total 133.043 people lost their lives by 30.October.2013.

UN Report published on 3.September.2013 evidenced the cost of disturbance of peace in terms of human migration. Report stated that Syrian refugee number is more than 2 million. It has been underlined that this number of 2 million represents the people registered or waiting to be registered as refugees. In other words, immigrants are much more than this number. Refugee numbers are declared as 110.000 at Egypt, 168.000 at Iraq, 515.000 at Jordan, 716.000 at Lebanon and 460.000 at Turkey by August pursuant to the Report. %52 of this population consists of children at the age of 17 or less. On 23th of August UNHCR announced that Syrian refugee child number has exceeded 1 million<sup>2</sup>.

### **§3. Crimes committed in Syria**

#### **A. Consideration of the Rome Statute on Crimes**

War crimes, crimes against humanity, the crime of aggression these crime types are subject to the international law independent of taking part of a state's internal legislation. These crimes became triable and defined by a charter on 17.July.1998, but it is possible to take back the historical and systematic development of these crimes as far as to the beginning of 19<sup>th</sup> century.

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<sup>2</sup> [http://www.unhcr.org.tr/uploads/root/unher\\_2\\_milyon\\_m%C3%BClteei.pdf](http://www.unhcr.org.tr/uploads/root/unher_2_milyon_m%C3%BClteei.pdf)

On this date, the Rome Statute which is considered as ICC's founder statute and which defines the subject crimes was approved by UN bodies.

Definition of crime and punishment and also being triable undoubtedly was an essential and historical step independent of the practical consequences. The Rome Statute takes place in our Report only as a document which determines the criminal acts committed in conformity with the definition because the power of ICC which is established by the Rome Statute is restricted even for the state parties. Statute is not functional for non-state parties like Turkey, USA and Israel as criminal law's basic element of being triable is missing in this condition.

As it is mentioned in the first part, ICC practice contains controversial aspects in terms of the existence of an independent trial. Unfortunately, trial of international crimes is dependent to the international power balances.

Besides of all above mentioned, the definition basis of war crimes and other related crimes studied in our Report are taken from the Rome Statute as it is a universal legal document evaluated with the similar and related crimes that fall within our criminal system.

## **B. Qualification of the crimes committed in Syria**

War Crimes, the crime of aggression, crimes against humanity which could be categorically evaluated as in the same level; tightly coupled to each other in a cause and effect relationship; trigger each other inevitably, committed against the Syrian State and Syrian people. These crimes are still being committed in front of the international community in a way which no state, legal establishment or person can deny and as an answer to the description of the Rome Statute.

### **1. Perpetrators and Instigators of Crimes**

Members of the Groups defined as Free Syrian Army, jihadist groups, opponents etc. are the perpetrators of war crimes and crimes against humanity; the aforementioned states are the instigators of these crimes because of their financial and arms aid also by hosting and training of the criminals.

#### **1.1. Perpetrators**

We shall briefly refer to the identification, resources and purposes of these organizations before analyzing their crimes.

These armed organizations can be identified as gangs and terrorist groups. In the narrowest sense, these groups which define themselves as opponents to the Syrian Government choose to directly perform wild massacres and suicide attacks by discriminating race, language and religion instead of overthrowing the Government by democratic or legitimate means and putting an effort accordingly by public organization.

Armed groups first emerged in Syria at the end of March 2011 with the beginning of the events. Especially, the armed militia supported by the Salafi groups in Lebanon launched attacks against Syrian armed forces in Talk lakh of Homs and Baniyas of Tartus. But the biggest attack occurred in Jisr Ash-Shughur of Idlib on 6.June.2011 which was the turning point of the Syrian War. Initially, this attack announced as the “*slaughter of Syrian army in the rebelling town*”. After this, bombings and massacres continued.

It is well known that Free Syrian Army (FSA) and Al Qaeda lead these groups. However, these two groups are not in a homogenous structure and especially FSA does not have a central structuring. Many groups which declared loyalty to FSA act under the leadership of their local commanders. It is known that the reason behind many of these group’s loyalties towards Salim Idris which is a former Syrian Army member and who was chosen as a leader at the High Military Council organized at Antalya in 2012 is to benefit from the weapon traffic organized by CIA and funded by Saudi Arabia. It can be found on the news that they occasionally have clashes amongst each other as a result of their rivalry.

In addition, it is not possible to completely distinguish FSA and Al Qaeda from each other. Many of the groups attached to FSA act jointly with Al Qaeda. Also it is known that Turkish citizen Al Qaeda members are fighting in Syria with FSA. Baki Yigit and Metin Ekinci who were tried for Al Qaeda’s HSBC bombing in 2003 as suspects were released by Court of Appeal’s decision of reversal are killed in the clashes at Aleppo. Osman Karahan, who had taken into custody because of aid and abet to Al Qaeda and then released due to lack of evidence in 2006 also was the lawyer of Al Qaeda cases and the founder of IHADER (Association for the Protection of Human Law) killed at Aleppo in July 2012 when he was fighting together with FSA and his family confirmed that his body was buried in Syria<sup>3</sup>.

Groups fighting in Syria can be classified in six groups. First of these is Syrian Islamic Front. This group is strong at the Al Hasakah - Aleppo line in the north of Syria. The Front is radical Islamist and its’ core is mainly formed by Ahrar al-Sham Brigade. The Brigade has strong connections with Turkey and conducts aid campaigns in the north with the Humanitarian Aid Foundation. Ahrar al-Sham Brigade is attached to the FSA and acts together with the Islamic State in Iraq and Sham (ISIS) especially on the attacks carried out against Kurdish regions. This organization under the leadership of Abu Abdullah al Hamawi is estimated to have 13-20 thousand fighters.

Islamic Liberation Front is also attached to FSA. Front consists of Tawhid Brigade (Aleppo), El Farouk Brigade (Homs-Aleppo), Islam Brigade (Damascus), Al Haq Brigade (Homs) and Suqour al-Sham Brigade (Idlib). Tawhid and Al Farouk Brigades are attached to FSA. Islam and Al Haq

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<sup>3</sup> <http://www.ydh.com.tr/haber.php?HID=10598> <http://www.internethaber.com/osman-karahan-el-kaide-avukati-halep-suriye-halepte-oldu--449567h.htm>, <http://www.gazeteport.com.tr/haber/106856/avukatliktan-militanliga-giden-yolda-oldu>, <http://www.haberturk.com/tv/haber/766132-turk-el-kaideci-suriyede-vuruldu/0>

Brigades are close to Saudi Arabia and Al Farouk Brigade is close to Turkey. Suqour al-Sham is financed by Qatar. Radical Islamist Suqour al-Sham is estimated to have 3 thousand fighters. Islam Brigade's fighter number is nearly 10 thousand. Islam Brigade is assembled under the same roof with the Al Nusra Front which is linked to Al Qaeda in Damascus. Suqour al-Sham joined the attacks which were performed in August on Allawite villages at Latakia under ISIS leadership and together with Tawhid Brigade.

Another group which known to have lots of Turkish citizens is Ghuraba al-Sham. This is the Group which was present when a mortar shell fell to Akcakale on October 2012. It also launches attacks on YPG<sup>4</sup> which is close to PKK and attached to Democratic Union Party.

Idlib Martyrs' Brigade is based in Idlib as it is understood from its title. The Organization lost its effect after its leader Basil Isa and some members were killed by a mortar attack, after that rest of the members of the organization started to act with Suqour al-Sham. Afhad Al Resul Brigade is another radical Islamist organization which is established and supported by Qatar. The Organization at first acted with ISIS but then banished from Ar-Rakkah as it had problems with ISIS.

Non Syrian, Lebanese and Iraq based organizations also fight in Syria besides the organizations stated above. Fatah Al Islam is one of these. Lebanese based and Al Qaeda linked group has its headquarters in the refugee camp located at Lebanon/Tripoli. Abdullah Azzam Brigade is one of the foreign based organizations. This Salafi-Takfiri organization acts with Al Qaeda. Another Lebanon based organization Jund Al-Sham formed of Palestinian jihadists. Al Qaeda linked organization leded the attacks against Christians in Wadi Al-Nasara / Homs. Free Iraqi Army is an Iraq based organization which is established recently by people close to the former Iraq President Tariq Al Hashimi.

Many of the groups act with Al Qaeda. Beside these, we shall speak of Al Nusra Front and Islamic State in Iraq and Damascus which are other big organizations fighting in Syria and declared loyalty to Al Qaeda.

Al Nusra Front is a radical Islamist organization established in September 2011 in order to overthrow Assad. It declared loyalty to Al Qaeda in April 2013<sup>5</sup>. Al Nusra was declared as a terrorist group by UN, USA, Australia and England. It is responsible for many bomb attacks in Syria. It is stated that Al Nusra performed nearly 70 bomb attacks in Syria by June 2013<sup>6</sup>. Some

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<sup>4</sup> Clashes in the northern kurdish zone of Syria called Rojava is continuing between YPG, Al Qaeda linked Al Nusra Front and Islamic State in Iraq and Damascus. At the moment, YPG holds the Cizre, Girmeli, Senyurt, Ceylanpinar and Akcakale border gates at Turkey-Syria border. Also YPG got hold of Til Kocer region and bordergate at Iraq-Syria border as a result of the clashes. <http://www.internethaber.com/sinirdaki-kapi-pydnin-elinde-599857h.htm>

<sup>5</sup> <http://www.globalpost.com/dispatch/news/afp/130409/qaeda-iraq-confirms-syrias-nusra-part-network>

<sup>6</sup> [http://www.longwarjournal.org/threat-matrix/archives/2013/06/suicide\\_bombers\\_kill\\_14\\_in\\_dam.php](http://www.longwarjournal.org/threat-matrix/archives/2013/06/suicide_bombers_kill_14_in_dam.php)

of these are; Damascus Attack in 23.October.2011 which is known as its first attack<sup>7</sup>, Deir Ez-Zor bombings, kidnapping and murder of journalists<sup>8</sup>, Aleppo attacks etc.

Islamic State in Iraq and Sham is a structure established in 2003. But it changed its name to ISIC in April 2013. It is strong in Homs, Ar-Raqqah and Azez cities<sup>9</sup>. It led the attacks against Kurds in Latakia. ISIS took over the control of the Region by the clashes took place in Azez in September 2013 and Turkey declared that it would close its Oncupinar Border Gate on 20.September.2013<sup>10</sup>. After the ceasefire, Northern Storm Group and Tawhid Brigade which are attached to FSA were given the joint control of the Border Gate.

It is known that the members of these terrorist organizations travel in and out of Turkey from the city of Azez which is located in the Turkish-Syrian border. This was experienced in 18.October.2013. Bab Al-Salameh Border Gate was closed to the gangs in Syria after the statement declared on Turkish Armed Forces internet site that ISIS holds had been hit. On 18.October.2013 ISIS member Abu Marwan and other 6 ISIS members were killed in a clash with Turkish military personnel at Bab Al-Salameh Border Gate. More importantly, Abu Marwan was only one of the Caucasians who was living in Istanbul as a “*guest*” before the start of the Syrian War<sup>11</sup>.

Opponent groups which act freely in Turkish border are also acting similarly in Jordanian border. According to a report published on Le Figaro newspaper, Zaatari Camp which is the biggest refugee camp in Jordan is being used as an headquarter by one of the armed opponent groups named Yarmouk Martyrs Brigade. This group had also taken 20 peace keepers as hostages in a place near Golan and caused international unrest. Shortly before this incident, execution videos of Syrian soldiers which were kidnapped by people presented themselves as the members of this group were uploaded to YouTube<sup>12</sup>.

## **1.2. Instigators**

### **1.2.1 In General**

States addressed in the Report as the instigators of war crimes are the imperialist states and their collaborationists which we are used to see where there is war in the World. Our Government will be studied under another topic in this section as the closest supporter of Syrian war which opened its borders and land to the use of armed groups and backed these groups in every way. AKP’s voice as a warmonger drowns out all other states voices and this is still ongoing.

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<sup>7</sup> <http://www.turkishweekly.net/news/135227/islamist-group-says-it-carried-out-damascus-bombing.html>

<sup>8</sup> <http://blogs.aljazeera.com/topic/syria/syrian-tv-presenter-mohammad-al-saeed-has-been-executed-islamist-armed-group-al-nusra>, <http://mg.co.za/article/2012-06-27-seven-killed-in-attack-on-syrian-tv-station/>

<sup>9</sup> <http://www.bbc.co.uk/news/world-middle-east-24179084>

<sup>10</sup> <http://www4.cmnturk.com/2013/dunya/09/20/el.kaide.oso.catismasi/724135.0/>

<sup>11</sup> <http://haber-siz.com/genel/isid-militanlari-ve-turk-askeri-catisti-3-asker-ve-7-militan-oldu.html>

<sup>12</sup> [http://www.atimes.com/atimes/Middle\\_East/MID-01-081113.html](http://www.atimes.com/atimes/Middle_East/MID-01-081113.html)

Friends of Syria Group was established by the first meeting held in Tunisia on 24.February.2012 with the participation of Turkey, USA, France, Egypt, Germany, Italy, Jordan, Qatar, Saudi Arabia, UAE and England, the purpose of this establishment is declared as the coordination of the international efforts to overcome the crisis in Syria. The Group stated that it is necessary to recognize the Syrian National Council as *“a legitimate representative of the Syrian people”* and performed studies and meetings for this intent. Finally, at the fourth meeting held in Marrakech on 12.December.2012, it declared that SNC is recognized as the legitimate representative of the Syrian people by 114 states and 13 international institutions<sup>13</sup>. Moreover, the second meeting was held in Turkey on 1.April.2012 called as the *“core meeting”* by Davutoğlu. From the decisions and statements made after the meeting, it can be seen that this Group is nothing other than a war front established in order to dismember Syria in the name of Friends of Syria.

Saudi Arabia and Qatar as important parties to this structure never hid that they had the biggest share on heavy and advanced arms aid to Syrian opponents. According to the news published on Washington Post, USA authorities declared that they control the armament process which is financed by Saudi Arabia and Qatar<sup>14</sup>. Likewise at the meeting on 22.June.2013 in Doha/Qatar, Sheikh Hamad bin Jassim bin Jaber Al Thani as the Prime Minister of Qatar stated *“arms aid is the only way to reach peace”*. The joint statement was made after the meeting says *“It is decided that any state shall as appropriate and without delay provide all materials and equipment which the opponents on the field needs to respond to the cruel attacks from Assad regime and their supporters”*<sup>15</sup>.

By this statement, it has been specified that any state could intervene at their sole discretion to the political unrest which is in the Syrian State borders.

Finally, there is news that this alliance intended to be secured by some secret agreements. Professor Dr. Mehmet Yuva on one of his articles declared that a secret agreement was signed in the *“restructuring”* meeting gathered by SNC, USA, Turkey, UAE and Qatar. It has been claimed that last article of the Agreement leaked to press by a Kuwaiti MP Al-Hamd who obtained it from some concerned Syrian opponents. It says *“the new regime in Syria will be established pursuant to the principles of Liberal Islam”*. It can be seen that the principles of Post-Assad regime planned in this meeting<sup>16</sup>.

## **1.2.2 USA – Saudi Arabia- Qatar - Israel**

### **United States of America**

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<sup>13</sup> Republic of Turkey Ministry of Foreign Affairs Official Website “Turkey-Syria Political Relations”  
<http://www.mfa.gov.tr/turkiye-suriye-siyasi-iliskileri-tr.mfa>

<sup>14</sup> Fehim Taştekin, Article headed ‘Tragedy on the road to Huka Disaster’ Radikal,02.06.2012.

<sup>15</sup> Support to the opponents of Assad from Friend of Syria 22.06.2013

[http://www.bbc.co.uk/turkce/haberler/2013/06/130622\\_suriyenin\\_dostlari.shtml](http://www.bbc.co.uk/turkce/haberler/2013/06/130622_suriyenin_dostlari.shtml)

<sup>16</sup> <http://www.guncelmeydan.com/pano/kim-takar-ihanet-belgesini-prof-dr-mehmet-yuva-t33255.html>

*“Contraction-loosening dynamic prevailed between the relations of Syria and USA from the dissolution of USSR until the 2011 intervention that aimed definite elimination of Baas rule. Syria’s protest against the occupation of Iraq on 2003 caused USA to openly state its preparations for the regime-shift in Syria.*

*American Enterprise strategist Michael Leeden, as one of the leading ideologist of neo-cons says to Daily telegraph on 16.June.2003 ‘Like it or not, we are in a territorial war and we cannot retreat. (...) We have to overthrow these regimes and constitute free states in all of the countries (...) Undermining other countries, states? It’s not a big deal...’”*

And Syrian agenda worked just like that. USA played the head-actor in all respects, by its dialogue with the representatives of the armed groups and by coordination of these, by financial and logistic support and turning Syria into a target board. It led all countries which became a partner of USA’s imperialist benefits for this purpose and also declared that air-assault to Syria could begin. USA as the main planner of the war imperiled world peace and took its place as a periodic committer of war crimes in Syria.

### **Saudi Arabia**

Saudi Arabia sees the overthrowing of the Syrian regime as an opportunity for weakening the influence zone of Iran. Syria became more important for Saudi Arabia after the convergence of Post Saddam Iraq and Lebanon after the Hariri assassination with Iran. Besides these, by supporting the regime-shift in Syria, Saudi Arabia wishes to set aside the critics of its status-quoist approach towards Arab Revolts and increase its regional power by supporting a Saudi and Sunni rule in Syria<sup>17</sup>.

In brief, Saudi Arabia’s Iran phobia and Iran politics lies beneath its Syria politics. It is obvious that Saudi Arabia is not “comfortable” because of the last developments in USA’s Iran politics.<sup>18</sup>

According to the news of Wall Street Journal; Prince Bandar, on his meeting with European diplomats declared that they will act with Jordan and France and not with USA on the arming and training of Syrian opponents as a protest of the Obama’s regional politics<sup>19</sup>.

Saudi Arabia, as the investor of billions of dollars to the war, is in a place to freely command the paid militants in Syria as it does not have any patience to a “Syria with Assad”. Therefore, Saudi

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<sup>17</sup> Gülşah Neslihan Akkaya, 5 Questions: Gulf’s Approach to Potential Syria Intervention, Politics, Economy and Society Research Foundation <http://setav.org/tr/5-soru-olasi-suriye-mudahalesine-korfezin-bakisi/yorum/7046>

<sup>18</sup> Radio Voice of Russia 23.10.2013 [http://turkish.ruvr.ru/2013\\_10\\_23/Suriye-dostlari-Cenevre2/](http://turkish.ruvr.ru/2013_10_23/Suriye-dostlari-Cenevre2/)

<sup>19</sup> Syria seperated USA and Saudi Arabia, 25 Ekim 2013 <http://www.ulusalkanal.com.tr/suriye-abd-ile-s-arabistani-ayirdi-makale.1679.html>.

Arabia along with Turkey which demand direct intervention, pass through a period which they can act more defiant in order to get in return for their investment.

## **Qatar**

Another Persian Gulf Cooperation Council (PGCC) member Qatar which feels involved in this matter, by supporting the Syrian Opponents aims to strengthen its political position in the region and widen its regional influence zone<sup>20</sup>.

Qatar, contrary to Saudi Arabia shifted its politics according to the new road map on Syria and Iran politics which drawn by USA and Russia. In accordance with that, Qatar Ameer overthrown in July and his son replaced him. The new administration left its aggressive attitude and sent a message to Bashar Assad through Palestine Autonomous Government saying that Qatar's Syria politics will be changed.

## **Israel**

The recent information received during the preparation of this report shows that Israel's intervention against Syria is not limited with the armed groups. On 31.October.2013, after the announcement of Syrian Observatory for Human Rights that a military establishment has been hit, the news was confirmed by USA and Israel sources. Again the level of Israel's intervention on Syrian war revealed with the news and footage broadcasted on Al Mayeden TV Channel of Lebanon. Syrian forces entered the Al Qusayr city center captured an Israeli vehicle which is handed to the opponents by Israel. On 6.May.2013, a senior official said that Israel had used "depleted uranium" on the bombing of Jamraya Research Centre located on Damascus foothills. According to the 28.March.2013 dated AFP news, 11 FSA militants injured on the clashes with Syrian forces received treatment at an hospital in Israel and 8 of these sent to war to Syria after the treatment. There are lots of cases like these for Israel. Israel officials also stated that they support the opponents in Israel and that they will lead an international intervention against Syria.

### **1.2.3. Turkey**

#### **1.2.3.1. Turkey-Syria Relations before the war**

AKP completed its 11<sup>th</sup> year in power. Turkey-Syria relations evolved from peace to war environment during AKP period. The developments stated in the early sections of the Report showed that AKP's war projects were ready before the support of the groups which committed the crime of aggression against Syria. "Policy of Zero Problems with Neighbors" was presented locally and internationally by the Minister of Foreign Affairs Ahmet Davutoğlu as a neo-

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<sup>20</sup> Gülşah Neslihan Akkaya, 5 Questions: Gulf's Approach to Potential Syria Intervention, Politics, Economy and Society Research Foundation <http://setav.org/tr/5-soru-olasi-suriye-mudahalesine-korfezin-bakisi/yorum/7046>

ottomanism project. Shortly, our country became problematic with all of the neighbors parallel with the developments in the Middle East.

President Bashar Assad had been welcomed by the Prime Minister Erdoğan with the words “*My Brother Assad*” in Assad’s visit before the war but then was declared as enemy by the same person after the begging of the events.

### **1.2.3.2. Syria plan of AKP**

Syrian National Council’s establishment which is the component of numerous opponent groups declared in Istanbul on 23.August.2011. The first meeting held in Ankara on 17.October.2011 between Davutoğlu and the representatives of SNC.

Turkish Ministry of Foreign Affairs made a statement on its internet site after the Houla Massacre on 25.May.2012 and defined the operation as “*villainous*”, by delivering a note it announced that all diplomatic relations with Syria was suspended and Syrian diplomats would be deported.

Erdoğan, in his interview to Washington Post on September 2012 answered to the question “*Do Syrian opponents need more weapon*” he replied that Syrian opponents received every support from the region and from Syrians living abroad also Turkey provided logistic support and this included the 83.000 refugees living in camps at Turkey

Prime Minister Erdoğan stated that developments in Syria are as important as Turkey’s internal affairs and he clearly declared war by these words: “*If the ones, who came from tens of thousands of kilometers away, can invade Iraq and become legitimate then we cannot stand idle with hand tied while having a 910 km border with Syria. We have to do what is necessary and we will do it.*”<sup>21</sup>

At the Friends of Syria meeting in Doha/Qatar on June 2013, Davutoğlu declared Turkish Administration’s support for war by these words; “*Our support to Syria’s opponents is clear. This support will continue by growing. In today’s meeting, we discussed the works necessary for Syria’s opponents to expand by preserving their integrity as soon as possible*”<sup>22</sup>. AKP tries to gain public’s trust on its foreign politics basically by Davutoğlu’s “*Strategic Depth*” thesis and the ideal that aims “*zero problems*” with neighbors. Whereas Davutoğlu’s statements reveals that this is in fact means an “*aggressive*” politics.

### **1.2.3.3. Connections between armed groups and Turkey**

<sup>21</sup> <http://siyaset.milliyet.com.tr/erdogan-onbinlerce-kilometre-oteden-gelip-irak-a-girenler-bu-dunyada-hakli-oluyorsa-/siyaset/siyasetdetay/19.01.2013/1657689/default.htm>

<sup>22</sup> 22.06.2013 Support to the Opponents of Assad by Syria’s Friends  
[http://www.bbc.co.uk/turkce/haberler/2013/06/130622\\_suriyenin\\_dostlari.shtml](http://www.bbc.co.uk/turkce/haberler/2013/06/130622_suriyenin_dostlari.shtml)

As stated above, Turkish Government never denied that it supported the armed groups in Syria. Even after the inhuman massacres planned and claimed by Syria's opponents, relations between Turkey and these gangs never deteriorated, quite the contrary relations strengthened as long as they fulfilled the demands of Turkish Government.

Specially, our purpose for studying the relations between AKP administration and the armed groups is to prove their role as perpetrator and instigator on every crime.

It is possible to present thousands of examples regarding the bond between Turkey and its accomplices on the war which has been continuing for nearly 3 years. Below, you can find some summary examples:

Syrian opponents gathered in Istanbul on 15.September.2011, declared the establishment of Syrian National Council and stated that Council's primary purpose was to overthrow Bashar Assad administration.

Former CIA personnel Sibel Edmonds claimed that FSA militants stayed in a camp at Hatay, trained in Incirlik Base at Adana and directed from this place. Riad Al Assad, a former colonel of Syrian Army who is protected by Turkey and based in Hatay near the Syrian border stated that they demand from the external powers to organize air assaults on "*strategic targets*".

On 22.June.2012, the day before Syria shot down a Turkish fighter jet RF-4 ETM (Phantom) off Latakia, Spokesmen of USA's Ministry of Foreign Affairs verified officially that CIA organized the weapon and ammunition traffic to Syria via Turkey and the same day it had been also recognized that the fund established by Saudi Arabia to pay salary to the opponent soldiers had its center in Istanbul.

On 15.June.2011, Syrian News Agency made public that sim cards of Turkish GSM Companies were found on the opponents at Jisr Ash-Shughur.

American NBC TV Channel claimed that antiaircraft missiles were delivered to the opponents via Turkey.

Turkey's support of armed groups and procurement of the equipment for use of chemicals via Turkey is not a secret in international relations. In the letter which Russia approved that it is presented to Obama and signed by 12 retired agents including former CIA Operations Chief Philip Girdi and former NSA executive Thomas Drake "*We have been informed that on 13-14 August 2013, the opponent forces which sanctioned by west commenced large scaled preparations in Turkey for an unconventional and major military operation. Talks between executive military commanders of the opponents and the intelligence specialists' of Qatar, Turkey and USA were performed in a military base located at Antakya which previously belonged to Turkish Army but now being used by FSA and its supporters as a command center.*"

Lastly, UNGA Resolutions also point out Turkey. Resolutions numbered 18 and 19 reminded neighboring countries responsibilities on the delivery of materials which used for the manufacture of chemical weapons or weapons.

Tunceli MP Huseyin Aygun presented a parliamentary question to the Prime Minister on 27.July.2012. Parliamentary question consisted of 11 questions regarding the training of the Syrian opponents. Minister of Foreign Affairs Ahmet Davutoğlu could answer the question 5 months later and stated in his answer that no one should rely on the unsupported news of international media. The Minister had not even clearly rejected the claims<sup>23</sup>.

#### **1.2.3.4. Weapons transfer**

Tolga Tanış's news on daily Hürriyet on 15 December 2013 revealed that weapons transfer from Turkey was also reflected on official documents.

Tanış, who reported that UN began uploading the data from custom bureaus of countries on its statistical database, reached information on weapons transfer while he was searching for commodity trade between Turkey and Syria. Thus, 47 tons of arms and ammunition have been sent since June of 2013 to Syria from Turkey that was laying arms embargo. This data that is even reflected on statistics of Turkish Statistics Institute (TUIK) has revealed a great scandal. TUIK bashfully had to admit the situation on its website.

#### **1.2.3.5 Turkish-Syrian border as transit point**

Syria is Turkey's neighboring country which it shares the longest borders. Turkey never had border problems with Syria until the war despite of the known common crises in the world between countries sharing long borders. Syrian border is being used as a weapon under the cover of humanitarian aid by AKP with "*we can't stand idle*" statements during the war period. Participation to the war tried to be justified by being neighbors and sharing long borders with Syria. Nearly for 3 years, Turkey-Syria border has become as a base for war criminals and Turkish cities has become a harbor for gangs.

After the car bomb attack on 17.September.2013 at Cilvegozu Border Gate which resulted to 12 deaths and 25 injuries, it came to light that Turkish border security has completely disappeared. Turkey completely abandoned the border gates and other sections of the border line also reduced the surveillances deliberately. Armed militants have been freely travelling in and out Turkish border without led or hindrance.

Hundreds of foreign plate (Bulgarian and Syrian) cars can be seen in traffic every day in Reyhanli. Many of these cars regarded to be stolen. Luxurious cars brought from Bulgaria to Reyhanli in order to be smuggled across the border. This illegal trafficking is being made within

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<sup>23</sup> <http://www2.tbmm.gov.tr/d24/7/7-9785sgc.pdf>

the knowledge of the authorities. It is not possible for the Syrians in our country to organize this illegal trafficking without the support of our government or a mafia structure. It is highly probable that mafia and security forces are acting jointly on this smuggling organization. There is information stating that off-road vehicles are smuggled from Hatay and sold in Syria and even used in clashes after being mounted heavy weapons called “*docka*”. Some of the stolen vehicles can still be spotted in Syria by GPS. Non-existence of the border security also endangers the life and property of the citizens in Hatay<sup>24</sup>.

A report said to be sent by Sanliurfa Police Department to Ankara discusses border security. Report states that, border crossing became uncontrollable because of intensity and over load; it is not possible to routinely perform ID check and register, photo shoot, body and belongings search on border crossings.

Turkey-Syria border line is uncontrollable but more importantly it is controlled by Turkish Government pursuant to the needs of the jihadist groups. One of the examples of this is 22 year old Burak Yazıcı’s death who was sent to Syria by jihadist groups. His father’s following statement shows that the way to death passes from Turkey, “*Police took my son into custody in Rize. They fined him 1000 Turkish Liras for illegal entry to Syria. My son stayed one month but then disappeared. Before his leave, he stated that ‘I have to cut off the heads of Assad’s men and become a mortar. I cannot answer to god if I fail’. How did he cross the border? I am calling out to the Minister of Foreign Affairs and the Interior Minister; how do these kids go to Syria? How does my son travel without a passport? Does not this country have a border?’*”

All of the various interviews with armed groups fighting in Syria show that the logistic support comes from Turkish border.

Statement given by the President of EHDAV (Ehl-i Beyt Culture and Solidarity Foundation) to journalist Isik Kansu is quite striking; he states “*Al Qaeda and Taliban members are walking in the streets. The spiritual leader of Syrian Ikhwan Adnan Al Aroor goes on TV and by shaking a warning finger to the camera and vows ‘We will grind and eat the flesh of these infidel Nusayris and Allawites.’ But these people filled with hatred are lodged in Antakya by the high state officials.*”

Human Rights Watch warned Turkey by the Report dated 11.October.2013 “*You Can Still See Their Blood: Executions, Indiscriminate Shootings and Hostage Taking by Opposition Forces in Latakia Countryside*” and stated “*Foreign fighters in these groups enter Syria from Turkey, from*

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<sup>24</sup> İHD 27.02.2013 dated Research Concerning the Reflections of Clash Period in Syria and Immigration took place Consequently on the People of Hatay - Research Report

*which they also smuggle their weapons and obtain money and other supplies, and to which they retreat for medical treatment”<sup>25</sup>*

*“Turkey should increase border patrols and prevent the entry of fighters and arms for groups credibly implicated in systematic human rights violations. Turkey should also investigate and prosecute, under the principle of universal jurisdiction and in accordance with national laws, anyone in Turkey suspected of committing, being complicit in, or having command responsibility for war crimes and crimes against humanity”*

In addition HRW said, *“The UN Security Council and Turkey’s allies should call on Turkey in particular to do more to verify that no arms are passing through Turkey to abusive groups”* and added *“Countries, such as Turkey should investigate people credibly linked to atrocities in Syria and avoid being a safe haven for human rights abusers.”<sup>26</sup>*

Finally on 7<sup>th</sup> of November a truck of rocket launcher, rocket, bomb and weapon is captured in Adana. It has been found out that the warheads were manufactured in a workshop at Konya. Authorities did not deny this information. Journalist Omer Odemis brought to light an important fact on this case. Odemis stated the claims that Heysem Topalca who was caught with the missiles personally participated to murders in Syria, kidnapped a young man named Samir Duver, brought him to Turkey and killed him even though he levied the ransom and buried his body somewhere near Yayladag border. Besides this, Odemis added that there are also claims that Heysem Topalca had connection with Reyhanli massacre; he was caught several times for smuggling and similar crimes but released every time; he was working for Turkish Intelligence (MIT) and used as a secret witness in some law suits<sup>27</sup>.

#### **1.2.3.6. Condition of the refugee camps in Turkey**

According to the information given by AFAD Press Consultant Mustafa Aydogdu, the number of people entered to Turkey from Syria is nearly six hundred thousand. In the same statement it is said that four hundred thousand of these people live outside of refugee camps.

Camps concerning Syria issue built mainly at Hatay, Sanliurfa, Gaziantep, Kahramanmaras, Osmaniye and Adiyaman in last three years.

These camps which shown as a source of pride when hot war threat was actual, now subjected to the statements like *“we can’t afford”* by Turkish officials.

<sup>25</sup> <http://bianet.org/bianet/insan-haklari/150571-suriyeli-savascilarin-ve-silahlarin-turkiye-ye-girisi-kisitlanmali;http://www.etha.com.tr/Haber/2013/10/11/dunya/katiller-suriyeye-turkiyeden-giriyor/>

<sup>26</sup> <http://www.etha.com.tr/Haber/2013/10/11/dunya/katiller-suriyeye-turkiyeden-giriyor;http://www.dw.de/t%C3%BCrkiye-%C3%BCzerinden-s%C4%B1z%C4%B1yorlar/a-17152446>, raporun orijinali <http://www.hrw.org/reports/2013/10/11/you-can-still-see-their-blood>

<sup>27</sup> <http://herpazartesi.blogspot.com/2013/11/adana-da-roket-basliklar-ile-yakalanan.html?spre=fb>

Ahmet Davutoğlu answered to a parliamentary question; *“More than 1.5 billion US Dollars spent to supply the basic needs of Syrians which are lodged in our country including the construction and maintaining of 20 sheltering bases”*.

Court of Account’s report revealed a scandal regarding to this spending. The Report dated 2012 states this facts according to the spending made by AFAD *“Humanitarian aid operations and spending were performed without any base or procedure”*<sup>28</sup>.

Prime Minister, in his most recent declaration stated that the total expense amount is 2 billion dollars. These expenses justified as the expenditures for the refugee camps in Turkey. It is also remarkable that discretionary fund expenditures of Prime Minister Erdoğan have reached a record high in the last 3 years.

Starting amount for the allocated discretionary fund in 2011 was 500.000TL. but Erdoğan spent 391.000.000TL in total. This amount reached up to 694.000.000TL in 2012 which was the highest amount of last 10 years. 156.000.000TL spent from the discretionary fund in June and July of 2012 only. These dates correspond to the period where the war in Syria became as massive as it has never been. It is also understood that the expenditures are increasing and will increase by looking at the discretionary fund expenditures which reached up to 873.600.000TL in the first 8 months of 2013.

The legal status of the refugee camps in Turkey is also very controversial. Minister of Foreign Affairs Ahmet Davutoğlu responded to a parliamentary question and said *“Civilian and military refugees have separate legal status regarding refugee law. Consent is necessary for the refugees who will make entry to the camps having soldiers. It must be appreciated that order is necessary to avoid problems. It is normal for refugees who are also security elements to be specially treated.”* With this respond, Davutoğlu states that Turkey acts in conformity with the international law in refugee camps. However, the disadvantages of having armed elements in the refugee camps were stated in the final declaration of the *“Global Consultation”* meeting held by Office of the United Nations High Commissioner for Refugees (UNHCR) in 2001; same document also states *“People participated to an armed conflict assumed to have a military agenda when they cross a border without laying their arms. Allowing this kind of an agenda contradicts with member countries responsibilities of protecting international peace and security, international law concerning friendly relations which is defined in UN Charter and in the United Nations general Assembly Resolutions”*. In other words, UN Charter and resolutions consider the disarmament of the people in the camps as a responsibility for that country. But as it is understood from Davutoğlu’s speech, the military condition is preserved and even the supervision in these military camps is not allowed. Likewise, as it is seen in the report, many of the FSA militants state that that they cross the border engage in combat and return back to Turkey.

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<sup>28</sup> <http://www.sayistay.gov.tr/rapor/rapor.asp>

Keeping militants and war criminals in these camps and making these people benefit from the expenditures made for the camps results in directly to the financial aid and at least preserving their reason for being.

In addition, Guney Cuma Can the President of Humanitarian Aid and Solidarity Platform in his letter to UNHCR requested the shutting down of these refugee camp looking terror camps and by drawing attention to their location he says *“Establishment of the refugees camps a few km close to the border is both against the Refugee Law and also poses a risk for the unarmed refugees”*.

It has been confirmed by their own words that armed militants stay in these camps and go to Syria for combat from time to time. For example, on 30.November.2012 Syrian National Council’s President Burhan Ghalioun who resides in France and FSA’s president Colonel Riad Al Assad who stays in Hatay gathered in the refugee camp at Hatay. This information assured that the central base of Syrian opposition is Hatay. Similar information and events took place in media periodically.

Refugee camps established in our country also became staging places of political shows in contrary to the international law. Prime Minister gave several speeches in these camps and also did not hesitate to share the same platform with the representative of Syrian Opposition Moaz Al Khatip on 30.December.2012. However, CHP MP’s weren’t let through to the camp priorly.

It came to light that the settlement in the camps was planned by pursuing political discrimination. In the conclusion of the detailed report prepared by IHD on 27.September.2013, it says *“A politics which is composed of only the support of the Syrian opposition is being pursued under the cover of humanitarian aid. A discriminative state politics is being led to Syrian refugees. Only Sunni and Arab Syrians are kept in the camps. Other people such as Kurds, Circassians and war victims are abandoned to their fate”*.

## **2. Characteristics of crimes and evidences**

### **2.1. War crimes and crimes against humanity**

#### **2.1.1. War Crime**

Until three years ago, there was not any group in a systematic war against the Syrian state in terms of armed conflict in Syria. In other words, Syria was a country with an undeniable peaceful atmosphere where communities with various languages, religions and ethnicities lived together. Now, the Syrian state tries to provide this atmosphere within the bounds of the war environment and to maintain it together with the Syrian people.

The first crime which took place in Syria is the war crime which, as a result, caused this atmosphere to change and made humanity pay a heavy price.

It has been discussed whether this process in Syria is a regional war, a civil war or a conflict, which does not deserve being called as a war. However, the actions of the criminals, the level and duration of use of weapons, the images of savagery and the confessions of armed rebel groups reveal that a war is going on in Syria. Yet, according to Rome Statute, the use of armed violence applies both to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups. (Rome Statute, Art. 8, 2-d, f). The conflict can be both on an international or national basis. In this context, the war in Syria should be treated within the scope of law of war. In order to apply the laws of war, the conflicts should have a long-term, armed character and should take place between governmental authorities and organized armed groups or between such groups (Rome Statute, Art.8 / 2-d, f)

Within the scope of war crimes, almost all of the following crimes have been committed by the armed groups and people who are fighting against the Syrian state and people according to the Rome Statute:

- 1- Wilful killing,
- 2- Wilfully causing great suffering, or serious injury to body or health;
- 3- Inhuman treatment;
- 4- Torture;
- 5- Humiliating and degrading treatment against individuals;
- 6- Taking hostage;
- 7- Judging or executing a person without a legal procedure;
- 8- Attack against civilians;
- 9- Directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions
- 10- Directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission;
- 11- Launching an attack against the places which need to be protected;
- 12- Pillaging a town or place;
- 13- Sexual attack;
- 14- Conscripting or enlisting children under the age of fifteen years into armed forces
- 15- Ordering the displacement of the civilian population;
- 16- Killing or wounding treacherously
- 17- Declaring that no quarter will be given;
- 18- Subjecting persons to physical mutilation or to medical or scientific experiments;
- 19- Destroying or seizing the property of an adversary.

### **2.1.2. Crimes against humanity**

Crime against humanity is a mass crime which violates the fundamental rights of civilians which need to be protected. It concerns the whole humanity since it is committed systematically and

massively. Most of the crimes listed under Article 7 of Rome Statute have been committed by armed rebel forces in Syria.

The acts performed as part of this crime are as follows:

- 1- Murder: In order to consider murder as a crime against humanity, the murder should be committed against civilians with the knowledge of attack;
- 2- Extermination: includes the infliction of conditions of life, calculated to bring about the destruction of part of a population;
- 3- Enslavement: means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- 4- Deportation or forcible transfer of population;
- 5- Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- 6- Torture;
- 7- Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- 8- Persecution
- 9- Enforced disappearance of persons;
- 10- The crime of apartheid

### **2.1.3. Evidences regarding war crimes and crimes against humanity**

#### **2.1.3.1. Murder and massacre**

The first big attack of the groups fighting in Syria is the attack on 6 June 2011, Jisr al Shughur, Idlib, which is considered as the milestone of the war. 120 military and police officers were killed in the attack. In 2011, 44 people died, 166 people were injured and the Syrian Military Intelligence Office was damaged due to the bombs which were placed in two cars in central Damascus.

On 6 January 2012, a suicide bomber attacked the buses carrying policemen on Al-Midan Avenue in Damascus. As a result, 26 people have died and 60 people were injured. Al-Nusra assumed the attack. On 10 February 2012, two strong bombs have exploded in front of the buildings of Syrian Intelligence Service in Aleppo, the attack was once again assumed by Al-Nusra, 28 people died and 235 people were injured as a result. In March 2012, two very effective bombs have been exploded in front of the Directorate of Air Intelligence and Criminal Security buildings by Al-Nusra in Damascus. At least 27 people died and more than 140 people were injured<sup>29</sup>.

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<sup>29</sup> [http://www.longwarjournal.org/threat-matrix/archives/2012/11/al\\_nusrah\\_front\\_claims\\_3\\_more.php](http://www.longwarjournal.org/threat-matrix/archives/2012/11/al_nusrah_front_claims_3_more.php)

On 21-7 April 2012, a suicide attack, targeting the Syrian army and assumed by al-Nusra, took place in Damascus and 9 people have died<sup>30</sup>. On 30 April 2012, another attack took place as a car, targeting the Syrian army has exploded in Idlib and 20 people died<sup>31</sup>.

On 10 May 2012, a huge bombing attack, targeting the Syrian intelligence took place in Damascus. 55 people died and almost 400 people have been injured.

In October 2012 again, successive bombing attacks took place in Aleppo and at least 34 people have lost their lives in the city center.

On 13 November 2012, mass graves, where civilians and members of Syrian army, who are claimed to be killed by FSA were buried have been found in Resulayn town near Ceylanpinar district of Sanliurfa, Turkey<sup>32</sup>.

On 28 November 2012, in Nahda and Qurayyat neighborhoods in the center of Jaramana, where the majority of the population consists of Christian and Druse citizens two bomb vehicle attacks and two bomb set-up attacks took place, 34 people have died and 83 people have been injured<sup>33</sup>.

On 11 December 2012, during the attack in Aqrab village near the city of Hama, where Arabic Allawites consist the majority of the population, between 125 and 300 civilians have died according to different sources.

In December 2012, a bombing attack took place on the Street where the Syrian Ministry of Interior Affairs is located in Damascus, 7 people died and 50 people were injured.

On 29 January 2013, at least 80 dead bodies were found, most of which are estimated to belong to children under 18, executed with hands tied on the back along the Quiq River in the Bustan al Qasr region in Aleppo, controlled by FSA<sup>34</sup>.

Successive bombing attacks took place on 21 February 2013. 80 people died and at least 250 people were injured due to the explosion of a bomb-laden vehicle in Damascus. 59 people died and 200 people were injured due to the explosion of a bomb-laden vehicle nearby the Syrian Baath Party<sup>35</sup>. 22 people died and 50 people were injured due to the explosion of three bombs in Barzeh. The aforementioned bombing attacks, the responsibility of which are undertaken by al-Nusra are considered as the attacks where the most people died in the history of Syrian civil war.

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<sup>30</sup> <http://www.turkishweekly.net/news/135227/islamist-group-says-it-carried-out-damascus-bombing.html>

<sup>31</sup> <http://english.alarabiya.net/articles/2012/04/30/211156.html>

<sup>32</sup> <http://www.trtturk.com.tr/haber/suriyede-sok-toplu-mezar-goruntuleri.html>,  
<http://www.hurriyet.com.tr/planet/21916578.asp>

<sup>33</sup> <http://haber.sol.org.tr/dunyadan/muhallifler-samda-hiristiyan-mahallelerine-saldirdi-34-olu-haberi-63245>

<sup>34</sup> [http://www.radikal.com.tr/fotogaleri/dunya/nehirde\\_onlarca\\_ceset-1119208](http://www.radikal.com.tr/fotogaleri/dunya/nehirde_onlarca_ceset-1119208)

<sup>35</sup> [http://www.bbc.co.uk/turkce/haberler/2013/02/130221\\_syria\\_blast.shtml](http://www.bbc.co.uk/turkce/haberler/2013/02/130221_syria_blast.shtml)

A bombing attack took place against the Syrian Central Bank on 8 April 2013. 15 people died and 53 people were injured as a result<sup>36</sup>.

Another attack took place against the Ministry of Interior Affairs on 29 April. 6 people died while Syrian Prime Minister Wael al-Halqi survived.

While at least 14 people died in the bombing attack which took place in Damascus on 11 June, a suicide attack took place in the Christian region of Damascus on 27 June and 4 people died<sup>37</sup>.

On 11 June 2013, in Hatla, Dayr Az Zawr, Ahrar al-Sham Brigade killed 60 Shiites, most of whom are women and children.

### **2.1.3.2. Extermination of racial and religious groups**

In August 2013, Al-Qaeda linked and Lebanon based Palestinian jihadist organization Jund Al Sham Homs organized massacres against Muslims in Wadi al-Nasara and killed more than 15 people.

#### **Latakia – August 2013**

In summer 2013, starting with ISIS, Ahrar al-Sham Brigade and Suqour al Sham carried out raids in Allawite and Kurdish villages in Latakia. On Sunday 4 August 2013, around 04:00 am thousands of al-Nusra militants coming from different directions attacked 8 villages on the North-east of Latakia with weapons and rockets. Some of the unaware civilians woke up and have been raked or murdered with knives, choppers or machetes.

The situation in attacked villages is as follows:

The number of people who survived after the massacre in Nabata village is 12. In Baruda village, 33 people, amongst whom there are 13 children and 9 women have been cut and killed. In Hrrata village, the whole population of the village, which is almost 40 people has been killed with sharp objects, without firing any gun. In Balluta village, first the kids have been gathered in the village square and killed, then adults have been murdered. The murderers opened fire on those who tried to escape. Only 15 people managed to escape from the village. According to the witnesses in Astarba village, terrorists cut the villagers as if scarifying after putting knives on their throats, saying “*Takbir*” and saying the Surah al-Fatihah. After the massacre, they have burned all the houses in the village.

Hundreds of people died during the attacks, which took almost one month. During these attacks on 26 August, al Nusra stated that the Alawite Imam, who has been abducted, has been executed. According to the reports, two big mass graves have been found in the region after this massacre.

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<sup>36</sup> [http://www.nytimes.com/2013/04/09/world/middleeast/syria-explosion-damascus.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/04/09/world/middleeast/syria-explosion-damascus.html?pagewanted=all&_r=0)

<sup>37</sup> <http://www.middle-east-online.com/english/?id=59743>

According to the report issued by HRW after an investigation, it has been agreed that ISIS seriously violated human rights, brutally murdered 190 civilians and abducted 200 people. The report also states that the real number can be even higher<sup>38</sup>.

### 2.1.3.3. Use of Chemical Weapons

According to the report of Syrian State Television, chemical weapons were used in Khan Al Assal on 19 March 2013 and nearly 25 people were killed.

On 30 May 2013, an operation was held against Al Qaeda and the Al Qaeda-linked Al Nusra front and 12 people were taken into custody. It was stated that 2 kilograms of sarin gas was found in the addresses of the suspects. However, according to other sources in the press, some authorities declared that this was not sarin gas<sup>39</sup>, but a weapon of mass destruction which is equivalent to sarin gas, which can be produced in laboratories and which has no smell or color<sup>40</sup>.

It has been reported on the news that on 21 August 2013, an attack took place in the Eastern Guta region in Damascus, where chemical weapons were also used. After the attack on 21 August, it was the Lebanese newspaper As Safir who first stated that the area where supposedly chemical loaded missiles were thrown was controlled by Zahran Allosh at the time of the attack. Later on, Russia also stated that its own intelligence reveals that the missiles were thrown from an area controlled by Liwa al-Islam. Thus, the organization which allowed the UN committee to enter the region where the attack was conducted and investigate, was Liwa al-Islam. The images which were uploaded on YouTube and recorded on 21 August were found on the cell phone of one of 3 militants who were killed by peshmargas from Iraq Kurdistan Regional Government on 15 September. One of the militants on one of the videos calls the operation as the “*Cold Wind Operation*”. The flag of Liwa al-Islam can be seen on the weapons in the videos. The members of the organization are wearing gas masks on the video.

Late in October 2013, it was reported on the news that a bomb had exploded near the police station owned by Kurdish forces in the city of Ras al Ayn, on the Turkish border and that the bomb could have been a chemical weapon. The report also indicated that according to the statement of some sources, “*serious poisoning symptoms such as qualm and vomiting are observed in some militants*” and that there was a yellow smoke where the bomb fell<sup>40</sup>.

In an interview with BBC, Carla Del Ponte, member of UN Independent International Commission of Inquiry on the Syrian Arab Republic, stated that there was no indication that the sarin gas was used by the Syrian government, however it could have been used by the fighting

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<sup>38</sup> [http://www.radikal.com.tr/dunya/insan\\_haklari\\_orgutu\\_muhallifler\\_lazkiyede\\_katliam\\_yapti-1155162](http://www.radikal.com.tr/dunya/insan_haklari_orgutu_muhallifler_lazkiyede_katliam_yapti-1155162),  
<http://haber.sol.org.tr/yazarlar/sevra-baklaci/lazkiyede-ne-oldu-77822>

<sup>39</sup> <http://haber.sol.org.tr/devlet-ve-siyaset/adanada-el-nusraya-operasyon-iki-kilo-sarin-gazi-ele-gecirildi-haberi-73820>, [http://www.radikal.com.tr/turkiye/adanada\\_el\\_nusra\\_operasyonu\\_2\\_kilo\\_sarin\\_gazi\\_bulundu-1135579](http://www.radikal.com.tr/turkiye/adanada_el_nusra_operasyonu_2_kilo_sarin_gazi_bulundu-1135579)

<sup>40</sup> [http://www.gencebakis.org/HD10750\\_adana-da-sarin-gazi-operasyonu-ve-ayrintilari.html](http://www.gencebakis.org/HD10750_adana-da-sarin-gazi-operasyonu-ve-ayrintilari.html)

groups<sup>41</sup>. Then, few days later, USA authorities also stated for the first time that chemical weapons could have been used by these groups<sup>42</sup>.

#### **2.1.3.4. Attacks against educational and religious buildings**

On 4 December 2012, 28 students and one teacher have lost their lives in a howitzer attack against a school in al-Wafideen camp where Syrians in the region had immigrated after Israel had invaded Golan Hills, which are 20 kilometers on the North-east of Damascus during the 1967 War.

In January 2013, the French hospital in Aleppo, where members of Syrian Army were being treated was bombed by Nusrat Front. Together with the video prepared by Nusrat front, the bomb-laden vehicle, the testament of the suicide bomber and the bombing images prove the bombing.

On 28 March 2013, a howitzer attack took place against Damascus University. It is stated that at least 15 people died and 20 people were injured in the attack<sup>43</sup>.

On 21 March 2013, a bomb has exploded in Eman Mosque in Damascus during Friday prayer and the Assad supporter Sunnite Imam Sheikh Mohammed Said Ramadan al-Buti was killed. Besides Al-Buti, 42 people died and at least 82 people were injured in the bombing<sup>44</sup>.

On 9 November 2013, jihadist militants who conducted a howitzer attack near an infirmary in Ashrafia, Aleppo, killed 6 children and injured 6 civilians<sup>45</sup>.

As part of the report where she wrote her observations on Syria, journalist Hediye Levent stated that almost 2000 school buildings were completely destroyed in conflicts, refugees settled in nearly 3000 school buildings in the whole country, some schools were emptied but, particularly in Aleppo, the students of the schools which were not emptied were transferred to other schools.

#### **2.1.3.5. Sexual harassment and rape**

It is stated that al Qaeda and FSA-linked organizations raped thousands of women and children. In a statement made by the NGO “*Women Under Siege*” in 2012, it was stated that over 100 rape and sexual harassment took place and 80% of these attacks were against women and girls. The witnesses reveal that the number of such attacks is even higher.

#### **2.1.3.6. Bombed and looted historical heritages**

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<sup>41</sup> <http://haber.sol.org.tr/dunyadan/cihatcilar-kurtlere-karsi-kimyasal-kullandi-iddiasi-haberi-81747>

<sup>42</sup> <http://www.youtube.com/watch?v=4A084WHzJ4Y>

<sup>43</sup> <http://www.hurriyet.com.tr/planet/22917998.asp>

<sup>44</sup> <http://www.theguardian.com/world/2013/mar/21/syria-suicide-bomber-sunni-damascus-mosque>

<sup>45</sup> <http://haber.sol.org.tr/dunyadan/suriyede-cihatcilar-6-cocugu-katletti-haberi-82355>

Besides the information we have gathered, it is also stated on the World heritages page of UNESCO<sup>46</sup> that Krak des Chevaliers, Palmira, Damascus old city, the middle-age buildings in the old town of Aleppo, Al-Madinah Bazaar, Great Mosque-Aleppo, archeological villages in Northern Syria, Bosra, Madiq castle, Sarmin Mosque, al-Takkiyeh Ariha Mosque, Al-Qusayr Great Mosque, Mar Elias Monastery, al-Heraq Mosque, the oldest mosque in Sarmin, Hama, Homs, etc. historical artifacts have been damaged and some of them have been pillaged.

## **2.2. Crime of Aggression**

The crime of aggression is a type of crime which did not initially take part in the Rome Statute and was accepted only 7 years later. It should be mentioned that the perpetrator of this crime is the state. Since the armed groups who commit war crimes in Syria are not considered as a state according to the Statute, their crimes have not been recorded as crimes. However, since it can also be seen in the report, these groups have strong relations with the instigator states. While describing the crimes of aggression in the Rome Statute, *“the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein”* is also mentioned. In this context, the countries which are listed in detail as instigator countries have committed the crime of aggression against Syria.

## **§4. Lawsuits in Turkey and their outcome**

The judicial processes caused by the Syrian issue can be divided into two categories in Turkey. The first ones are the applications claiming that a direct war crime was conducted and reporting the authorities and the direct member of armed groups and demanding a punishment for them. The second category is the Reyhanlı accusation, the sarin gas case in Adana and the Utku Kali case.

The courses of events are surprisingly similar in those two judicial processes. Real criminals are being protected by judicial bodies and the jurisdiction mechanism is working like a revenge mechanism, as it is seen in some cases. In all the Syria-related cases, the judicial bodies present very important examples of covering the unlawfulness with law, which will go down in history. In this section, the most important examples of related processes are treated. However, it should be stated that the public authorities who make these unlawful decisions in Turkey have either disregarded, or misconducted their duties. This conscious decision also plays a role in the massacres in Syria and in our country.

### **A. Decision of non-prosecution regarding the criminal complaints**

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<sup>46</sup> [http://ghn.globalheritagefund.com/uploads/documents/document\\_2107.pdf](http://ghn.globalheritagefund.com/uploads/documents/document_2107.pdf),  
[http://en.wikipedia.org/wiki/List\\_of\\_heritage\\_sites\\_damaged\\_during\\_Syrian\\_civil\\_war](http://en.wikipedia.org/wiki/List_of_heritage_sites_damaged_during_Syrian_civil_war)

30 November 2011. A period where armed groups commit the crime of aggression in Syria, the clearest examples of crimes against humanity are being presented in terms of international law. A criminal complaint prepared by lawyers Selin Aksoy, Ozgur Urfa and Gokhan Agirbas as complainants was submitted to Chief Prosecutor's Office of Istanbul. The complainees are determined as Riyad al Assas (the responsible of the organization called FSA), Abdulhakim Belhadj (former leader of the organization called the Libyan Islamic Fighting Group) and other people who will be determined as a result of the investigation. The complaint petition is based on a report of the newspaper Cumhuriyet. In the criminal complaint, it is stated that "*Abdulhakim Belhadj has come to Turkey and met the FSA leaders (the person mentioned in the report: Riyad al Assas) in Istanbul and the frontier zone, Turkey transfers volunteers to fight together with rebels from Libya to Syria, Turkey takes part in the organization and it is clear that these activities are violation of international and national law against Syrian state and create a threat of war between the Syrian state and the Republic of Turkey.*" Stating that Article crime described under 306 of Turkish Penal Code; "*soldier recruitment to the detriment of a foreign country*" has occurred, the lawyers demanded that the required inquiries should be made regarding these people and the mentioned Turkish citizens and that a criminal case should be filed against them.

On 24 June 2012, six months after the complaint, Chief Prosecution's Office of Istanbul resolved on non-prosecution for the claim. The justification of the decision presents a striking example of how the AKP government has transformed the justice, bureaucracy and diplomacy for such times. The justification of the Prosecutor's Office is as follows: "*It was resolved on non-prosecution for the suspects on the grounds that on the response to the letter sent to Istanbul Security Directorate no information obtained regarding the fact that the aforementioned figures on the bill of claim had no records of entrance and exit in and from Turkey, and did not carry out the act of recruiting militants against a foreign state without authorization of Turkish State; and because the letter written as a response to the letter sent to MIT (National Intelligence Organization) showed that no evaluation was seen in direction of related figures recruited militants against a foreign state, and claims were abstract.*"

However, the main headquarter of the armed organization and its activities, for which MIT (National Intelligence Service of Turkey) said "*I do not know*" and the police department said "*there are no records*". Many events took place during the period between the complaint and decision, where the national intelligence service replied the Prosecutor's Office. For example, in the written statement dated April 2012 of FSA, issued by their Information Office in Paris, France, it was declared that the Supreme Military Council was founded in the FSA meeting held in Antakya.

More serious examples of the complaints, which are declared to be abstract claims by the Chief Prosecutor's Office of Istanbul, started to take place almost every day and FSA-linked groups become a part of daily life in Hatay. Such that, the Chief Prosecutor's Office of Hatay confirmed that 3 people, who wanted to abduct the FSA leader Riyad al Assas from the tent city where he accommodated in Hatay were taken into custody and thus accepted the presence and activities of

FSA in Hatay. This happened on 21 May 2012, exactly three days after the day the Chief Prosecutor's Office of Istanbul said "*there is no such thing*". And the more important is that, the person who came forward with the abduction issue and whose residence in Turkey was confirmed by the Chief Prosecutor's Office of Hatay, is the one who was reported to the Chief Prosecutor's Office of Istanbul

The response of the Chief Prosecutor's Office of Hatay to a complaint petition dated 25 December 2012 makes the situation even more clear. Lawyer Cihan Soylemez, registered in Tunceli Bar Association, made a denunciation which reflects FSA as suspect and which presents similar claims. Lawyer Cihan Soylemez made the same denunciation not only in Hatay, but also before the Chief Prosecutors of Kilis, Gaziantep, Sanliurfa and Iskenderun, but all resolved on non-prosecution for the claim. However, the justifications of the Chief Prosecutor's Office of Hatay exceed those of the Chief Prosecutor's Office of Istanbul and other cities.

In brief, as a justification of their decision dated 25 January 2013, the Chief Prosecutor's Office of Hatay stated that FSA does not hold any activities within Turkey, the mentioned people have not entered in or went out of our country, no information or document has been found, proving that they have participated in any activities in Turkey and showing whether the organization called FSA runs as the army of the coalition founded against the government forces, that no FSA members have been found in Hatay.

It is clear that the above-mentioned decisions are made consciously, in order to cover the committed crimes with law. Unfortunately, it was soon realized that the consequences were not so limited. The fact that justice protects the terrorist within the country in order to help the government intervene with the interior affairs of another country within the frame of its own program reveals that these judges and prosecutors are responsible for the Reyhanli Massacre. If these criminal complaints, which were presented long before the massacre were taken into consideration, if an investigation was conducted and if these people, who almost obtained the right to commit crimes within Turkey could have been judged, maybe the Reyhanli Massacre would never have taken place. The same thing could be said for MIT (the national intelligence service), Gendarmerie and Ministry of Interior Affairs since it was later revealed that they had learned about the attack plan through the intelligence service in advance.

## **B. Lawsuits**

### **1. Lawsuit of Adana – Sarin Gas and previous developments**

Anadolu Agency (the official news agency of Turkey) exactly reported the following news on the date of 21 August 2013:

*"It is reported that death toll increased to 635 during the attack organized by Assad forces and allegedly chemical weapons were used in Eastern Guta near Damascus. On the photograph,*

*relatives of the killed identify the corpses in Kaffar Batna. (SNN / Shaam News Network, Anadolu Agency)”*

21<sup>st</sup> of August became a turning point about everything regarding the Syrian agenda. All the countries backing the criminals in Syria set forth that Syrian State massacre the people with chemical weapons, and broadcast massacre photos. It is implied that such a great massacre and use of chemicals would only be carried out by a state, and attempted at getting the support of public opinion with massacre images by declaring that it is time for an intervention in Syria by other countries. Battle cries are heard in higher sounds. On the other side, Syrian State remarks that they have no role in the massacre in question and they have no reason for doing this, and identifies this attack as a clear provocation.

AKP, thirsty for war and uses its all public funding to ruin the peace atmosphere in Syria, brought up a resolution to the parliament’s agenda at the opening day of TBMM (Grand National Assembly of Turkey), and the resolution was discussed in closed session in the parliament. However, Denizli MP İlhan Cihaner shared the resolution text on his twitter and presented the document to the public that was hidden by AKP. Prime Minister stated the relation of the resolution with the date of 21<sup>st</sup> of August on the petition with which he presented the resolution. The following is stated on the justification of the resolution presented with signature of Prime Minister: *“The regime violated international law and began using chemical weapons as well as heavy weapons including ballistic missiles and indiscriminate air strikes; finally 1400 Syrian citizens, majority of which were children, were killed during the attack with chemical weapons in Damascus on 21 August 2013.”*

Justification of the resolution, which underlined that chemical attack is a *“crime against humanity”*, requested for support from the parliament by stating that Turkey was also under threat. The parliament, which accepted the mentioned resolution, voted on peace on the first business day and the MPs taking the side of the memorandum preferred war option. AKP started the new legislative year with this parliament act in direction of war government mission.

The more important detail is that chemical attack was accepted as crime against humanity on the justification of the resolution. However, although AKP stated on the resolution that this crime was committed by the Syrian State, information revealed before the resolution directly pointed that Turkey also played a role in the massacre.

In the aftermath of the attack on 21<sup>st</sup> of August, daily As-Safir of Lebanon was the first to report that the region affected by allegedly containing chemicals was under the control of Zahran Alloush’s group during the attack. Then Russian Intelligence stated that missiles were launched from the region that was under the control of the organization of Liwa Al-Islam. Hence, it was Liwa Al-Islam organization that allowed the UN group to enter the attacked region and carry out the investigation.

However, the greater evidence released with some images on YouTube. These images recorded on 21<sup>st</sup> of August, were found on 15<sup>th</sup> of September on the mobile phone of one of the 3 militants killed by peshmergas of Iraqi Kurdistan Regional Government. One of the militants on videos called the operation “*Cold Wind Operation*”. Banner of Liwa Al-Islam is seen on the weapons on images while the members of the organization are wearing gas masks.

New evidences are found and new reports are prepared day by day on use of chemical weapons. All developments point that Syrian armed groups used sarin gas and they were not alone in this respect. Head of UN International Independent Investigation Commission on the Syrian Arab Republic, Carla Del Ponte accused Syrian opponents of using chemicals.

Russian Minister of Foreign Affairs, Sergei Lavrov stated the following on claims of chemical attack: “*Opponents upload the images on internet that they prepare. We have evidences showing that this is a scenario that was previously planned.*”

Finally, UN Security Council (UNSC) unanimously approved the resolution of destruction of Syria’s chemical weapons. The resolution underlined that use of chemical weapons in Syria was a serious violation in terms of international law, and not only the Syrian State but also unofficial forces in this country and neighboring countries were pointed as addressees of the resolution. UNSC resolution text’s three articles referred to shipment of chemical weapons or chemicals to be used for weapons from neighboring countries to Syria.

During the police operation organized on the members of Al Qaeda-linked Al Nusra Front in Adana in May of 2013, chemical materials to be used for sarin gas were captured. The bill of indictment prepared by Chief Public Prosecutor’s Office of Adana mentions that Heysam Kassab, born in Homs in Syria, set up a wide network in Turkey in order to provide required materials for production of chemical weapons. Furthermore, Heysam Kassab confessed to the Prosecutor’s Office that he was not a member of Al Qaeda but ‘Liwa Al Islam’.

The organization of ‘Liwa Al Islam’ is assumed and pointed by several sources to be the organization behind the chemical attack on Guta near Damascus on 21<sup>st</sup> of August. The leader of this organization is Saudi-origin Zahran Alloush. Alloush is famous for his close relations with Prince Bandar bin Sultan, head of Saudi Arabia’s intelligence agency.

Kassab, whose organizational links were clearly stated on the bill of indictment prepared by Prosecutor’s Office of Adana, was discharged during the first hearing without paying almost any attention to the indictment. Kassab, however, confessed during this hearing that chemical materials -subject matter of the lawsuit- were requested by the FSA, but he had no information where and why these chemicals would be used, and stated that he had links with other defendants in order to provide the chemicals. Thus this person, who almost confessed that he had committed crime against humanity, was released with a ban on leaving the country, and no defendant was held under arrest in this lawsuit.

## 2. Lawsuit of Reyhanlı

First of all, our people paid the price of inevitable results of AKP's war policies with massacre of Reyhanlı.

Nobody believed in official death toll of 53 during the explosions in Reyhanlı on 11 May 2013. In the aftermath of massacre of Reyhanlı, AKP firstly imposed a broadcast ban in a panic and then pressured the health workers in terms of real death toll.

Official authorities attempted at deceiving the public by implying that the massacre was carried out by Syria. Although the war led to bloodshed and deaths in Syria and as well as country, AKP has never stopped paving the way for a greater war by abusing this massacre.

While they were insistently pointing to Syrian State in Reyhanlı without showing any evidence, a document revealed on 22 May 2013 had a historic value in this respect. According to Turkish Gendarmerie corresponding reached by Turkish hack group Redhack, it revealed that no measure was taken although it had been known as from 25<sup>th</sup> of April that Al Qaeda members would organize a bomb car attack.

Although a claim, which came after a couple of months, was not completely confirmed, it seems that it accords with developments. It was claimed that the most important armed organization in Syria, Islamic State of Iraq and Sham, affiliated with Al Qaeda and backed by Turkey, took the responsibility for massacre of Reyhanlı. This organization also took the responsibility for the explosion in Bab Al-Hawa.

Prime Ministry's inspector reports regarding the explosions concluded that no state official or authority had fault or negligence in events. Government authorities endeavored to cover their responsibilities in developments, and only discharged the police chief of Reyhanlı.

Lawsuit process of massacre of Reyhanlı is not differently issued from the above-summarized processes. We learnt that the bill of indictment of Reyhanlı Lawsuit was accepted while the report was prepared. It revealed that Prosecution Office pointed to Mihraç Ural, leader of *People's Liberation Army/Front of Turkey (Urgent)* (THKPC Acilciler), as the responsible for massacre of Reyhanlı with the acceptance of the bill of indictment, which was previously not informed in a detailed manner.

The fact that Mihraç Ural was pointed as the criminal just after the massacre when even the evidences were not collected yet provides evidence that the judiciary also adopted the scenario of AKP, which was prepared after the massacre. Having been pointed as the target, Mihraç Ural stated the following during an interview with journalist İsmail Saymaz: "*THKPC Acilciler organization has not existed for twenty years, this accusation is enough to make a cat laugh.*" It is no earlier to state before the hearing on the date of 13 February 2014 that the bill of indictment

is based on abstract claims, and even that it is not clear on which evidences it is based in terms of the plot.

The bill of indictment of Reyhanlı Lawsuit unfortunately provides an idea regarding the end of lawsuit process as is in other examples. Pointing a nonexistent organization as criminal in this lawsuit means that real responsible figures for the massacre are being protected.

Some MPs in Turkey also clearly pointed government of AKP for the massacre of Reyhanlı. For instance, Hatay MPs Mevlut Dudu, Refik Eryılmaz, Hasan Akgöl and Mehmet Ali Ediboğlu, Mersin MP Aytuğ Atıcı, Adana MP Faruk Loğoğlu, Ankara MP Levent Gök and İzmir MP Birgül Ayman Güler stated the following about the massacre: *“You absolved the opponent groups and panicked in creating criminals for the incident just after the explosion when the evidences were not collected yet. You pointed and lynched some figures in the media regarding an inquiry under confidential order, and intervened in the process of inquiry and judgment. You violated the main principle of the penal code ‘Suspects are innocent until proved guilty’. You violated the confidentiality order of the court. You preferred absolving criminals by substituting yourself with the judiciary. You could not prevent the attack despite of the report of Gendarmerie Intelligence. You took censorship resolution, and withdrew MOBESE records.”*

### **3. Lawsuit of Private Utku Kalı**

As above-stated, Intelligence reports show that an attack was planned in Reyhanlı and this information was decoded.

Officials focused on finding whoever leaked the documents instead of inspecting the criminals of the explosion and bringing them to the court, and as a result of the ‘inquiry (!)’ Private Utku Kalı was unlawfully and arbitrarily taken into custody and arrested. Accusations against Utku Kalı are so serious. A bill of indictment for Utku Kalı was prepared and accepted to judge him for the crimes of ‘Obtaining information regarding state security’ and ‘Leaking the documents regarding state security and its political interests’. Although the Military Prosecution had no authority and duty to make inquiry in terms of the crimes within the prepared bill of indictment, the inquiry was unlawfully carried out and thus the bill of indictment was prepared. As the bill of indictment, which was prepared as a result of an inquiry conducted by the unauthorized prosecution office and accepted by the court, was to be null and void in terms of law, it revealed that there was actually no legal basis on which the judgment to be carried out.

During the hearing of Utku Kalı held on 11 November 2013, it was seen that statements of witnesses were contradictory while the evidences were unlawful. Utku Kalı, who was discharged during this hearing, should be exculpated and acquitted.

### **4. Lawsuit of journalists**

Hasan Kabakulak, Hatay Correspondent of Daily Yurt and Daily Asi of Hatay, was arrested in the court on 11 April 2013 for “*Transferring information to Syria*”.

Ömer Ödemiş, Correspondent of Daily Yurt, stated the following on this arrest: “*This arrest is related with the increased pressure in Hatay, and aims at threatening the journalists who are struggling for releasing to the public the hidden realities in Turkey.*”

Ödemiş stated that even they were informed about the incident recently and pointed that arresting process was rapidly carried out on the backstage. Stating that a justification such as “*holding information*” is very dangerous and open-ended, Ödemiş pointed out that if requested the accusation would be carried to “*treason*” crime, and this would cause pressure on journalists. Ödemiş added that no evidence was provided as the justification of arrest, and there was nothing but denunciation.

Journalist Hasan Karakulak is still arrestee as of October 2013 and actually punished by AKP as dozens of prisoner journalists who only do their jobs.

## **5. Conclusion**

All of the opponent armed groups in Syria mentioned in the report commit war crime and crimes against humanity.

Presidents and related officials of all countries mentioned in the report backing the members of armed groups in Syria, notably Barack Hussein Obama, Benyamin Netanyahu and Recep Tayyip Erdoğan are both instigators and parties of the crime against humanity.

Abovementioned figures and official authorities also commit crime of aggression.

All judiciary officials, who declare verdict of non-prosecution for the crimes committed against humanity without showing any basis despite of claims, neglect and abuse their duties, and thus should be judged and punished because of these crimes.

All persons, who operate in Turkey with the aim of seeking for new parties for the crimes committed against humanity and recruit jihadists for Syria, commit crime according to Article 306 of Turkish Penal Code: “*Anyone who without authorization recruits soldiers or engages in other hostile activities against a foreign state in a manner which exposes the Turkish State to the risk of war shall be sentenced to imprisonment of from five to twelve years.*” The fact that these criminals are not punished but instead released greatly violates our penal law and leads to the continuity of new crimes. Every criminal committing the abovementioned crime must be immediately arrested.

According to Rome Statute, that the Syrian armed gangs committed these crimes is stated in this report with details. However, judging these criminals in an international criminal court is almost impossible because of legal impartiality.

Providing judgment of these criminals in Syria as a sovereign state seems a more realistic and possible option than establishing an international court to arrest the criminals who are already living in Syria and continuing committing war crime, to finish their actions, and to stop these systematic attacks carried out against humanity in Syria. However, to achieve this, imperialist states should stop backing these gangs. Achieving a peace atmosphere in Syria will lead to judgment of Syrian citizens committing war crime.

A fair judgment of criminals in Syria as a sovereign and independent country would be simultaneously achieved with creation of peace conditions.

It seems that Prime Minister Recep Tayyip Erdoğan is the first degree responsible as he is the head of executive power, makes hostile statements about a country and backs the persons committing war crime, provides that public funding is used to support and ensure the continuity of the crime, praises crime and criminals, provides reside of war criminals in the homeland, and as the result of all these pushes our country in war conditions with a country, and plays the role of direct instigator and party in committing war crimes and crimes against humanity. Prime Minister is the party of crimes committed against humanity because of his actions according to national and international law, and also malpractices. According to Article 146 and related articles of Constitution of Republic of Turkey, Prime Minister Recep Tayyip Erdoğan, who commits duty crime, should be judged in Supreme Court.

Almost everything mentioned about prime minister is also valid for Minister of Foreign Affairs Ahmet Davutoğlu. As being the Minister of Foreign Affairs, Ahmet Davutoğlu is also first degree responsible for attempting at deceiving all the world public opinion during the official and unofficial meetings in which he participates on behalf of Turkish State. The same situation is also valid for the homeland. Ahmet Davutoğlu abuses his office because of his actions. According to Article 146 and related articles of Constitution of Republic of Turkey, Minister of foreign Affairs, who commits duty crime, should be judged in Supreme Court.

Minister of Interior Muammer Güler commits crime and abuses his office in first degree within the context of his authorities by providing the continuity of the mentioned crimes in Turkey. According to Article 146 and related articles of Constitution of Republic of Turkey, Minister of foreign Affairs, who commits duty crime, should be judged in Supreme Court.

MİT (National Intelligence Organization) authorities abused their office by conducting the judiciary and administration with deliberate and clearly false statements through the documents that they undersigned. Because of this crime, these officials should also be judged to secure the justice.

The situation is also valid for security directorate. Particularly police chiefs of Istanbul, Hatay, Gaziantep, Şanlıurfa, Kilis and Mardin should be discharged from their office and judged.

Putting into effect the claims for judgment in the conclusion part of the report seems highly difficult for the moment because of the fact that judicial independence was abolished to a great extent and the political majority of the parliament is on the side of the political party of accused figures. However, it should be noted that these claims, accuracy of which is proved day by day, create explicit unrest among these criminals because the claims cannot be hidden from the society anymore. Because it is known that prime minister and others have enough political experience to know that judgment of these types of crime would also mean paying account. One of the indispensable reasons lying behind their endeavors to ensure their power is that they also know that these committed serious crimes will never stop following them.

We do not think that there is not any public prosecutors in our country who will give due of their court dresses by paying attention to claims ex officio and inquiring these crimes. Consequently, we call the lawyers of this country for duty.

We call on Turkish people and all peace-lovers to account for these crimes in order to get rid of such crimes and disgrace, of which our country also became a part, to abolish all the reasons that pave the way for commitment to such crimes and judge the whole of crimes committed until now, and to become such a country that presents Syrian people with not bombs from the borders but with fraternity and peace.