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People of the World as the Enforcers of International Law: Takeaways from the Rojava Tribunal

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In this long read op-ed for JURIST by Shadi Sadr, a human rights lawyer and PhD candidate at Leiden University, Sadr discusses the Rojava Tribunal, a session of the Permanent People's Tribunal, focusing on alleged international law violations by Turkey in Rojava, Syria. Held in a complex geopolitical context, the tribunal charges included aggression and crimes against humanity, implicating top Turkish officials like President Erdoğan. Sadr stresses the tribunal's opportunity to develop legal principles concerning aggression, which, coupled with its procedural introspections, could significantly impact international law practices.

The Nelson Mandela Auditorium at Vrije Universiteit Brussel was packed with hundreds of individuals February 5–6 for **The Permanent People's Tribunal on Rojava vs. Turkey (the Rojava Tribunal)**. The audience consisted mostly of exiled Kurds from Turkey, Syria, Iraq and Iran, alongside international politicians, activists, researchers, and supporters of the solidarity movement.

Following a **request** from nine organizations, the Italy-based **Permanent People's Tribunal (PPT)** convened a panel of judges for its 54th session. The focus was Turkey and its affiliated armed groups' alleged violations of international law in Rojava, the de facto autonomous region governed by the Democratic Autonomous Administration of North and East Syria, since **the 2018 occupation of Afrin**, one of Rojava's three constituent cantons.

People's tribunals, also known as citizens' tribunals or *tribunal d'opinion* (in French), became internationally visible in 1966 through **the Russell Tribunal** created by the British philosopher Bertrand Russell and a group of intellectuals in response to the silence over American war crimes in Vietnam.^[i] They have since been championed by various civil society groups, including the PPT. Typically made up of independent lawyers or a combination of legal and non-legal experts working voluntarily, these tribunals apply international law to investigate atrocities and present their findings in public forums. They are often collective, participatory, and publicly broadcast, influencing public opinion and potentially prompting further action. As unofficial alternative justice mechanisms, particularly where official systems are inaccessible or inadequate, they have emerged as a prominent form of people-driven justice over the past two decades.

In the case of the Rojava Tribunal, neither Turkey nor Syria are members of the International Criminal Court (ICC). The prosecution argued that domestic remedies for victims of international crimes are absent in Turkey. The prosecution outlined in their **opening statement** the purposes of the Tribunal: documenting and publicizing historical evidence, securing international recognition of victims' suffering, and prompting action against Turkish authorities for their aggression and other atrocities. They also hoped its outcome would influence the future enforcement of international law (**minutes 02:50:00- 02:57:30**).

At the end of the two-day hearing, the panel, comprised of six lawyers and one journalist and chaired by retired UK barrister Frances Webber, in a **preliminary judgement** upheld all the prosecution's arguments. They ruled that Turkey's attacks on Syria without UN authorization constitute the international crime of aggression. They confirmed that bombings, shellings, drone attacks and other atrocities against civilians, the forced displacements and demographic engineering through replacement of populations, the destruction of power grids and damage to water supplies, the environmental damage, the destruction of cultural heritage and educational institutions, the use of rape, torture, and secret detention amounted to war crimes and crimes against humanity. They found the accused, President Recep Tayyip Erdoğan and four of his senior

political and military officials, criminally responsible for the aforementioned crimes. The full judgment will be **delivered** at an event in the European Parliament in late March.

This article highlights some significant aspects of the Rojava Tribunal and offers an analysis of issues that the Panel will hopefully address in its final judgment.

The Question of Genocide

Genocide was not included in the charges brought by the prosecution. When questioned by the panel, the prosecution **explained** that, although the elements of genocide were present, they chose not to engage in the complex discussions of genocidal intent or whether ethnic engineering and the replacement of Kurdish populations with others amounted to genocidal acts (**minutes 04:15:50- 04:21:10**). Instead, they focused on crimes that could be proven beyond reasonable doubt. The panel agreed with the prosecution in its preliminary judgement, stating that Turkey and its affiliates' actions were indicative of genocide, and urged the international community "to immediately ensure the cessation of attacks by Turkey, direct and indirect, on the Kurdish people of Rojava, to avert a full-scale genocide." However, they did not elaborate further as it was outside the mandate of what they were called upon to investigate by the Prosecution.

Proving genocide, particularly the intent to annihilate a protected group in whole or in part, is extremely challenging. In some tribunals, the inability to confirm its occurrence has led to dissatisfaction among victims' groups. However, recognising genocide when it occurs is crucial. The very purpose of people's tribunals is to remain independent of the political and strategic considerations often seen in official processes. The Prosecution of the Rojava Tribunal may have omitted genocide from the charges, as they contend they could not establish all of its elements beyond a reasonable doubt. However, if the judges find adequate proof based on the presented material and the prosecution's forthcoming submissions, they should reflect this in their judgment as well.

Naming the Names

The Rojava Tribunal's prosecution named five individuals as defendants: President Recep Tayyip Erdoğan; Hulusi Akar, Minister of Defense from 2018 to 2023; Hakan Fidan, head of Turkish intelligence at the time and now Foreign Minister; Yaşar Güler, Chief of the General Staff during that period and now Minister of Defense; and General Ümit Dündar. Although none of the defendants appeared or provided a defense, the panel ultimately found all of them criminally responsible.

Despite applying international criminal law, most of people's tribunals tend to focus on state or entity responsibility rather than individual accountability (**p. 24**). These tribunals are philosophically committed to providing a forum for considering state responsibility where formal international courts cannot, and are often aligned with social movements that may favour collective explanations of social forces over individual responsibility (**p. 247–48**). Moreover, the evidence required for addressing state responsibility differs from that needed for criminal proceedings, and the latter is harder to obtain without the presence of the accused.

However, if a tribunal can establish a link between individuals and atrocity crimes, using accepted modes of liability in international law, attributing crimes to specific individuals strengthens the tribunal's judgment, making it more useful for future formal proceedings. For example, in 2021, Swedish prosecutors used the Iran Tribunal's judgment to indict Hamid Noury for his role in the 1988 mass execution of political prisoners, as his name was **mentioned** in the Tribunal's findings.

In the Rojava Tribunal case, the prosecution argued that the defendants, particularly Erdoğan, exercised command and control not only over Turkish military forces but also over armed groups such as the Syrian National Army and other ISIS-aligned militias. Among other things, the main

evidence consisted of statements made by Turkish authorities. However, it remains the panel's duty to carefully examine this evidence, avoid broad statements, and determine precisely which crimes can be attributed to each defendant beyond a reasonable doubt. The judges should also assess the extent of the defendants' command and control, which may go beyond merely supplying weapons to jihadist groups in Northeast Syria. The question of whether a superior-subordinate relationship and effective control between the accused and the direct perpetrators of the crimes can be established, or whether a more flexible mode of liability, such as joint criminal enterprise, must be invoked, should also be considered.

An example of careful attribution can be seen in the Iran Atrocities (Aban) Tribunal, where the prosecution listed 160 individuals as perpetrators responsible for the crimes against humanity committed in Iran during the crackdown on the November 2019 protests. In its 210-page final judgment, the panel detailed the linking evidence and **concluded** that "the entirety of the evidence establishes a strong case to answer that thirteen Iranian government and security officials are responsible for the crimes against humanity that the panel found established beyond a reasonable doubt."

Crime of Aggression

The crime of aggression has been part of international law since the post-WWII Nuremberg and Tokyo trials, but it has never been subject to international criminal proceedings thereafter. In December 2017, the ICC was **permitted** to hold leaders individually criminally responsible for waging aggressive war, following the activation of the ICC's jurisdiction over the crime of aggression by states parties to the Rome Statute. However, the ICC has not yet prosecuted anyone for this crime. As a result, international criminal law in this area remains largely underdeveloped.

The prosecution identified Turkey's military operations in Rojava, particularly the occupation of Afrin, as a crime of aggression. The judges briefly rejected Turkey's justification of self-defense against persons they labelled as terrorists and confirmed the occurrence of crime of aggression in their preliminary judgement. The panel now has a unique opportunity to provide an in-depth legal analysis of the Rojava case in its final judgment. This judgment could offer a significant contribution to the development of international law concerning the crime of aggression under customary international law, particularly in light of ongoing discussions about establishing a **Special Tribunal for the Crime of Aggression against Ukraine**.^[ii]

Challenges to Credibility

The Rojava Tribunal was held in a significantly altered context from when it was originally planned. The fall of the Assad regime strengthened Turkey's influence in Syria and intensified its military operations in Rojava. This shift on the ground deeply impacted the Prosecutor's approach. According to the prosecution, the initial plan was to bring factual witnesses to testify. However, following the fall of the Assad regime and takeover of Damascus by the Hay'at Tahrir al-Sham (HTS) and the suspension of visa applications by Schengen countries, including Belgium where the Rojava Tribunal held its hearings, logistical challenges arose. The Prosecution stated that moving witnesses to a safe location, with stable internet access for virtual testimony, posed risks such as drone attacks or other threats to their lives. As a result, the prosecution revised its methodology, opting to replace factual witnesses with a prosecution team member who gathered secondary sources such as reports from human rights organizations, audio-visual materials, published sources, and video interviews with witnesses, rather than calling them directly (**minutes 02:42:40-02:45:30**).

Although this methodology was adopted in response to difficult circumstances, it blunted one of the core strengths of people's tribunals and the **main source of their legitimacy**: giving a direct voice to the victims and survivors to share, in an unfiltered way, the previously untold stories of what

happened to them. This change blurred the distinction between a tribunal and a forum for panel discussions, especially as judges were only able to ask questions of expert witnesses or prosecution team members after all presentations were made on a given topic. This contradicts the organisers' description of the Tribunal as a "**judicial platform**" adhering to principles of fairness and procedural rigor. For a judicial process to meet minimum standards, it must ensure that evidence is distinguished from expert opinion and provide the judges with the opportunity to independently examine witnesses who are directly affected by the atrocities.

If the Tribunal addresses this issue in its final judgment, its credibility will be enhanced, and by extension, the risks to the very purpose for which it was established will be mitigated. Moreover, taking such a consideration into account could have broader impacts on the recognition of people's tribunals worldwide, boosting **efforts** to integrate people-driven justice into formal international systems and preventing critics from further discrediting this form of accountability.

Seeking a Different Solution for an Old Problem

In his **closing remarks**, Belgian lawyer and prosecution team member Jan Fermon equated the ICC with a people's tribunal, stating that there is no difference between the two when it comes to the arrest of those responsible for international crimes (**minutes 02:22:30- 02:23:55**). He concluded that the struggles of the world's people for justice and accountability are the true mechanisms for enforcing international law, whether determined by an ICC decision or a judgment made by a people's tribunal like the Rojava Tribunal. Though simplistic and slightly overstated, his statement highlighted a profound issue in international justice: the enforcement of international law, with people-driven justice potentially serving as part of the solution. For this to be realised, people's tribunals must ensure that they are transparent, fair, and uphold the highest standards of both procedural and substantive justice.

Notes

[i] While most sources introduce the Russell Tribunal as the first people's tribunal, Klinghoffer and Klinghoffer argue that two people's tribunals preceded it: the Reichstag Fire Case and the Moscow Show Trials Case. See: Arthur Jay Klinghoffer and Judith Apter Klinghoffer, *International Citizens' Tribunals* (New York: Palgrave Macmillan US, 2002), <https://doi.org/10.1057/9780312299163>.

[ii] A People's Tribunal of the Citizens of the World also found Vladimir Putin guilty of the crime of aggression in February 2023. See: <http://opiniojuris.org/2024/10/01/prosecuting-putin-creation-of-a-special-tribunal-for-russian-aggression/>.