
Erdogan's Foreign Policy Against Kurds in Syria: A Turkish Military and Law Enforcement Mechanism

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ABSTRACT

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The situation in the Middle East is complicated by the need for Turkey to formulate a new military and political strategy . Relations between the Kurds and Turkey since the collapse of the Ottoman caliphate have been strained by the Kurds' desire for autonomous power. Until now, Kurds are still struggling to gain this legitimacy and are transforming into radical and separatist groups. Turkey under Erdogan's leadership underwent political reform from secular to democratic Islam. This includes changing Turkey's strategy to deal with Kurdish militias in Syria because Kurdish militias in Syria are considered dangerous by forming the PKK. The PKK occupies Syria's border with Turkey, so Erdogan devised a special military and political- strategic framework to stem the power of Kurdish militias. Since Turkey was ruled by Recep Tayyip Erdogan, Turkey's foreign policy has used the concept of "strategic depth" which is essential "zero problems with neighbors". Turkey in the Erdogan era tries to represent a modern and Muslim country that encourages democracy and social justice. This affected the perspective and strategy of Turkey being used to paralyze the Kurds. In the political strategy, Turkey conducts relations with various state and non-state actors to be able to exert influence at the international level. This research aims to know how Erdogan's foreign policy against Kurd in Syria. This research method is using normative legal research with data analyzing using case approach. This research will explain on; a) The conflict between Turkey and Kurds, b) Characteristics of Erdogan's Government, c) Turkey's Involvement in the Syrian Conflict d) Law Enforcement Mechanisms for the Genocide Against Kurds. This research finding will be the discussion analysis on Turkey's Military and Political Strategy against Kurds in Syria and Implications of Military and Political Strategy.

Keywords: *Turkey, Foreign Policy, Political Strategy, Military, Syria*

INTRODUCTION

Relations between Turkey and Kurds have long experienced conflicts, both Kurds in Turkey and Kurds who inhabit areas in other countries in the East Middle. Kurds are considered a separatist group by Turkey, this is because Kurds often carry out rebellions with sporadic weapons. Since the decline of the Ottoman Caliphate, political reforms have resulted in Kurds being eliminated from the political and autonomous authority in Turkey.(Hayati, 2017) This is what causes Kurds and Turkey to clash because Kurds continue to insist on fighting for their right to have authority in Turkish politics which has transformed into modern Turkey.

Kurdish people are scattered in several countries in the Middle East, one of which is in Syria which is directly adjacent to Turkey. Kurdish militias in Syria have become a problem and a heated polemic with Turkey due to the unstable Syrian situation. The Arab Spring turmoil in Syria that rocked Syrian politics indirectly affected relations between Kurds and Turkey.(Gunes & Lowe, 2015) The regional political instability, especially the geopolitical situation in Syria, has caused the Turkish government to formulate a serious strategic framework to eradicate Kurds in Syria.(Tezcür, 2010)

Until 2007, the Turkish government formed a bill to make a legal basis for the legality of military operations into Kurdish areas. Turkey is obsessed with fighting the Kurds by destroying PKK military bases, both in Turkey, Iraq, and Syria. It is not uncommon for Turkish military forces to conduct open warfare with Kurdish militias to be able to freeze Kurdish power. Especially in the Eastern to Southeastern Turkey region, this region is the base area for the Kurds so that this area is a priority for safekeeping. (Sahide, 2013)

In this paper, we will discuss about the foreign policy applied by Erdogan in dealing with the conflict against Kurd in Syria. Since Turkey was ruled by Recep Tayyip Erdogan, Turkey's foreign policy has used the concept of "*strategic depth*" which is essential "*zero problems with neighbors*". Erdogan wants to create a relationship between Turkey and other countries to be more dynamic and create a multidimensional foreign policy. Turkey in the Erdogan era tries to represent a modern and Muslim country that encourages democracy and social justice. This affected the perspective and strategy of Turkey being used to paralyze the Kurds.

METHOD

This research is normative legal research which focuses on analyzing the foreign policy that applied by Erdogan in facing the conflict that happen between Kurds and Syria which

process to find a legal rule, and doctrines of law in order to address the legal issues. The literature analyzed in this article was obtained from several national journals as well as several books related to the topic. The researchers have collected data from books, reports, legislation, the internet, and other assorted secondary materials, as cited the references.

The collected data has been analyzed by utilizing case approach, the case against Kurd in Syria is analyzed by case approach. After the necessary data was obtained, the data analysis was carried out to overview the Erdogan's foreign strategy policy on facing the conflicts that happen between Kurd and Syria. Deductive data analysis method is the method used to process the data obtained during the research so that a conclusion can be drawn at the end of the article. In this study, the researcher did not do any justification.

RESULTS & DISCUSSION

The conflict between Turkey and Kurds

Since 1984 the Kurds have been a threat to Turkish separatism caused by Turkey's radical and revolutionary changes. Kurds are an ethnic or ethnic minority in Turkey who seek independence and gain their rights to their welfare and their right to be recognized as a nation. The beginning of the Kurdish movement was when Turkey was given land by the Caliph Usmani in the 15th century and as a result, the Kurds felt that they were deprived of their autonomous authority. (Bahri, 2017) Therefore Kurds carry out separatist struggle movements so that the wider community can recognize that Kurds should be considered as a nation, while on the other hand, the Turkish government considers Kurds as a threat to Turkish sovereignty. (ZURCHER & Karsidi Diningrat, 2003) Kurdish separatism has claimed many victims, both from the Kurds themselves and from Turkish civil society. The dynamic between Kurds and Turkey has been going on for a long time and has continued to escalate since Turkey's political reforms. Kurds are the indigenous people or ethnicity who came from Mesopotamia, Iraq, Iran, Syria, and Turkey. Kurdish society which is divided based on region is now united to form a unity based on race and culture. Since the reign of Mustafa Kemal Ataturk, Kurds have aggressively launched attacks on Turkey militarily by carrying out bombings. Besides, the Kurds are also aggressively fighting with demonstrations and protest actions through printed media in Turkey. Initially, the Kurds had hopes of independence due to the Serves agreement, but the uncertainty and volatile political dynamics of Turkey made this unrealized and led to a more radical uprising. (Sahide, 2013) This condition was accompanied by Ataturk's policy of

treating Kurds as laborers to prohibit Kurdish children from studying in Turkey. (Marisa Kurnianingsih, 2021)

Ataturk also regulates and controls the media and press so that the Kurdish movement does not spread. This escalating conflict occurred due to differences and conflicts of political and economic interests between Kurds and Turkey. (Junaidi, 2011) Since the Ataturk era, Turkey has implemented the foreign policy concept of 'peace at home and peace abroad' for regional and internal security stability. (Khamami, 2016) Until now, during the era of Erdogan's rule, the Kurds have continued to rebel and try to establish Kurdistan autonomy. Since the start of the Kurdish uprising, the Turkish government has made military and political attempts to weaken Kurdish leaders. (Tezcür, 2010) The Kurdish tribes who are scattered in various regions in the Middle East have resulted in the Kurdish movement and struggle experiencing obstacles, especially in efforts to integrate. This was used by the Turkish government to weaken the presence of Kurds, both in Turkey and in other countries occupied by Kurds.

Figure 1. Kurdish-Turkish Conflict Area



Kurdish people are integrated into a political party called the "*Partiya Karkerên Kurdistan*" (PKK) or the Kurdistan Workers' Party. The PKK is considered a terrorist party by the Turkish government because people who are members of this party are always involved in conflicts in Turkey. (ZURCHER & Karsidi Diningrat, 2003) Initially, the PKK launched sporadic and disorganized attacks which led to a decline in its power, nowadays the PKK is increasingly advancing by planning a rebellion scheme in a passive, sustainable, and organized way. The PKK has also formed alliances with rebel and extremist groups in Turkey to launch attacks and positions in major cities in Turkey and other countries. (Abadi, 2019)

So with the prolonged and heated conflict between Turkey and the Kurds, Turkey is trying to interfere in eliminating the Kurds everywhere, including in Syria. Kurds in Syria are considered very dangerous because they are affiliated with many extremist groups and are considered to have the potential to carry out widespread attacks. This is also caused by the unstable condition of Syria, both in security, politics, social, and economy. Therefore Turkey is trying hard to prevent Kurds in Syria from getting stronger, especially since the assistance from the United States makes Turkey even more threatened.

Characteristics of Erdogan's Government

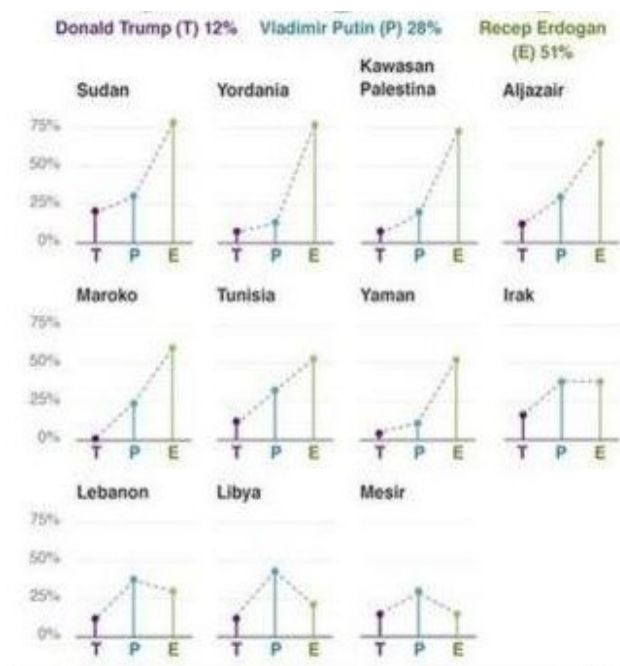
Recep Tayyip Erdogan is the President of Turkey who has served since 2014 who has a background as a politician in the Turkish National Salvation Party. (ZAHRA, 2017) Initially, Erdogan was elected as a member of parliament in Istanbul and has served as Mayor of Istanbul Raya. Erdogan is the first Turkish president to be elected through a general election and is trying to lead Turkey into a golden age. Erdogan upholds Islamic values and has tried to free Turkey from the bonds of secularism since Ataturk's rule. (Taghian., 2012) Erdogan's political policies are considered to promote Islamic identity after Turkey declared itself a secular state for a long time and limited Islamic identity. (Khamami, 2016)

Erdogan's policy was accompanied by Turkey's vision of being able to enter fully into the European Union where Turkey must be able to implement democracy as a whole. (Febriannisa et al., 2019) Erdogan used this to be able to democratize Turkey, including in terms of religious rules, were at first Turkey was very fanatical about secularism and seemed to denigrate Islam. (Khamami, 2016) This democratization is used as a momentum for the revival of Islamic politics to have space in government. Democracy means that people must be free to be able to do what they want, in this case, Turkey still cannot be said to be a democracy because of the previous Turkish policy which prohibited students from wearing hijab due to extreme secular policies. (HRW, 2018)

Some of Erdogan's achievements during his leadership have been noted by the pro-Islam Turks, while on the other hand, the secular extremist Turks increasingly hate Erdogan. (Haryanto et al., 2018) Some of Erdogan's achievements are successfully stabilizing Turkey's political order and reducing the level of social inequality in Turkey. (Rofii, 2017) Erdogan brought about a major transformation of Turkish Islamism and sought to restore the glory of the Turkish Ottoman Caliphate. (Taghian., 2012) The character of Erdogan's government in dealing with the issue of the Kurdish rebellion was also considered very strict during his leadership.

This is based on various operations carried out under Erdogan's command to trace the whereabouts of Kurds. Erdogan is also active in anti-Kurdish propaganda through various media and the press, in this case, Erdogan gets a lot of attention in this effort from the public. (Junaidi, 2011) The pro-Islam community in Turkey is Erdogan's supporters, therefore Erdogan can mobilize the masses in carrying out anti-Kurdish propaganda.

Figure 2. Arab Barometer about Erdogan, Putin, and Trump



Source: BBC Arab Barometer The barometer graph above shows that Arab countries are showing political tendencies by supporting Erdogan as a leader because of his policies that seek to re-Islamize Turkey. This also provides Erdogan's support in fighting Kurds in Middle Eastern countries such as Syria. A survey conducted in 11 countries showed 7 of them considered Erdogan to be a strong president and good at leading Muslims. (Azizlerli, 2019) This is despite Turkey's tensions with several countries in the Middle East, Erdogan's position remains a leader favored by most of the Middle Eastern community.

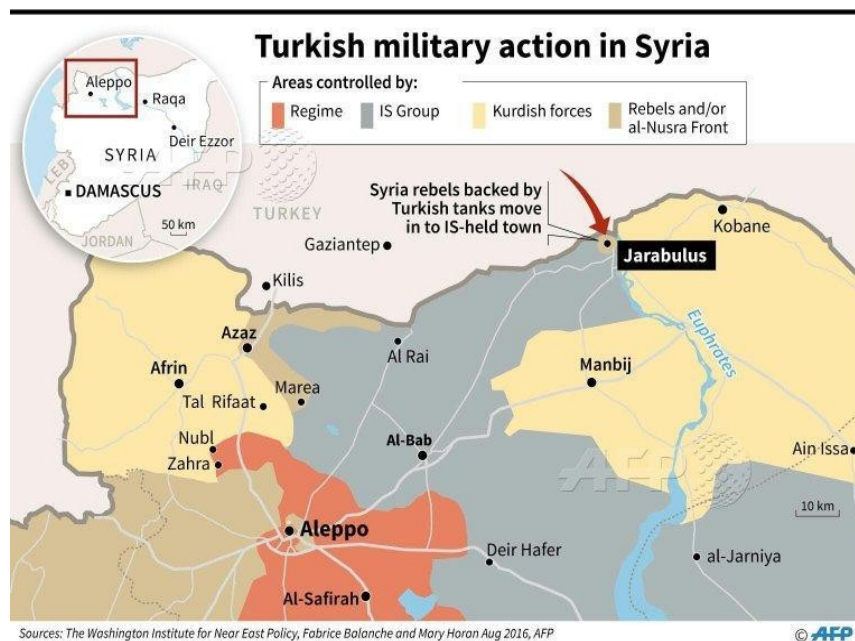
Erdogan's ambition to lead Turkey to a golden age is evidenced by Erdogan's hard work in shaping policies and acting together with his jurist government. Erdogan's target is to bring Turkey to meet the requirements of European Union membership, to become an influential country in the region in efforts to resolve conflicts, to seek regional integration through security and economic cooperation, and to become a country with a large economy in the world that has a major role in the international sphere. through international organizations. (Armour et al., 2020) This was what Erdogan was trying to do during his tenure.

Turkey's Involvement in the Syrian Conflict

Syria is a country that has been experiencing internal conflict since 2011 due to the turmoil in the Arab Spring which caused extremist groups to become increasingly sporadic and radical in Syria.(Abadi, 2019) Not only that, the internal Syrian conflict is exacerbated by various interests that exist from foreign parties such as Russia, America, Iran, to Turkey. These external parties not only support Syria from the discourse but Syria is hit by a leadership crisis and the more ferocious the opposition is making Syria increasingly on the threshold of decline.(Gunes & Lowe, 2015)

The United States at the time of President Obama criticized the actions of the Assad regime (Syrian government) and ordered the CIA to equip the Syrian rebel group's arsenal.(ZAHRA, 2017) Also, Russia sided with the Assad regime and Iran by sending aid in weapons and air military power. (Hinnebusch, 2015) The Gulf states and Turkey are arming Syrian rebel groups with anti-aircraft missiles. Apart from the weaponry of the Gulf countries and Turkey, it also sends a sizeable amount of funds to the rebel groups. Where the major countries mutually reinforce the support of the conflicting parties so that the conflict has continued to escalate. The conflict in Syria has become a complex conflict, not just a rebellion by pro-Assad regime groups against rebel groups.(Khouri, 2018)

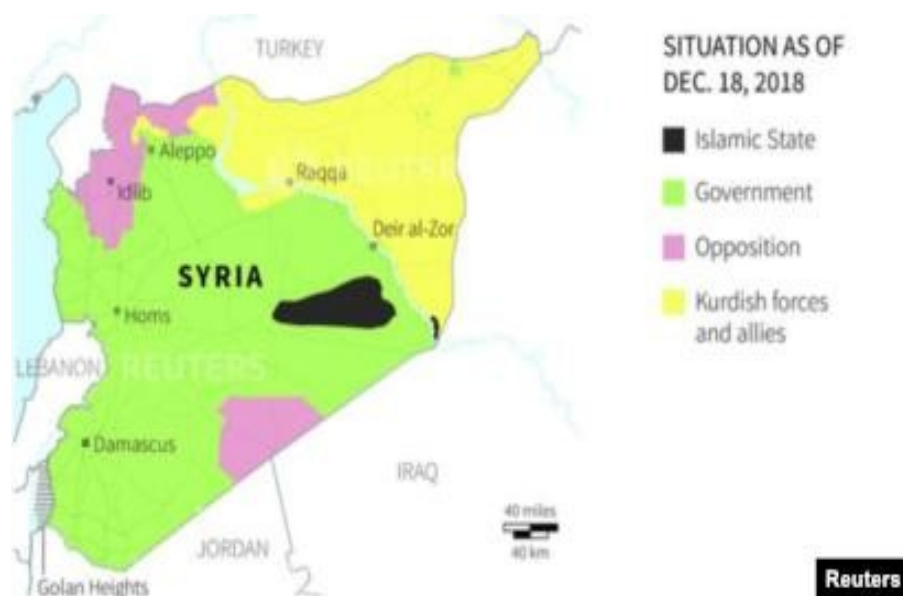
Figure 3. Turkish Military Action in Syria



In this conflict, Turkey tried to help the opposition groups in Syria because Turkey contravened the Assad regime, which stated that the Assad regime had committed war crimes.

Besides that, the Erdogan regime considers that Turkey considers Assad to have a coalition with the PKK through the People's Protection Unit (YPG). (Arbar, 2020) Turkey's involvement in the Syrian war has two enemies, namely the Syrian military under the command of Assad and the PKK who live in Syria. The PKK in Syria often carries out bloody attacks, especially in Turkish territory, this is the focus of Turkey in its involvement in Syria. (Hinnebusch, 2015)

Figure 4. The Existence of Kurds in Syria



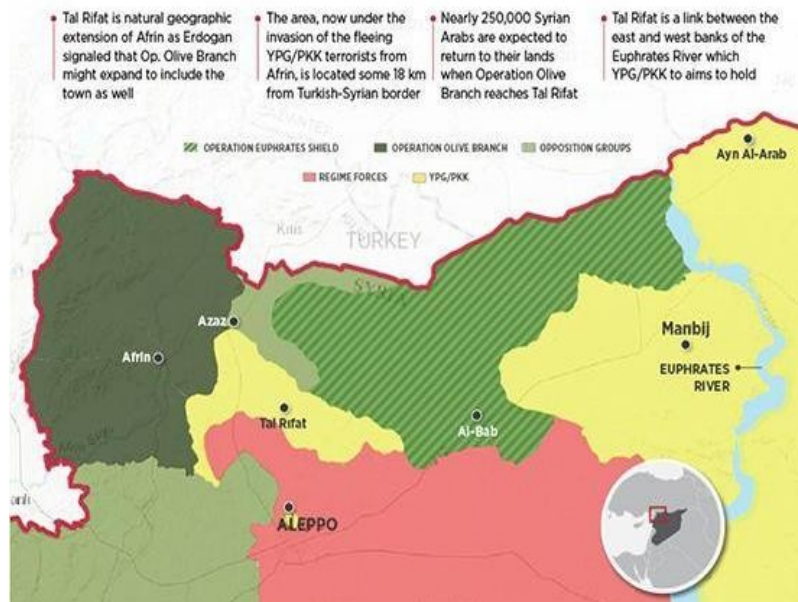
Source: Reuters

Since the 1990s, the Syrian government has expressed its support for the PKK in Syria by providing guarantees of protection in the region. To keep Turkey safe while fighting the Kurds, Turkey supplies military weaponry to rebel forces who are in opposition to Syria. Also, Turkey is working with the Gulf countries to be able to supply funding, because this Gulf country has fairly good financial support. However, when analyzed, the Assad regime is not interested in waging war against Turkey (By Joanne Stocker and Fergus Kelly, 2019) even though Assad is assisted by the PKK. Since Erdogan served as President of Turkey, Turkey has been intensively fighting against Syria, none other than to contain Kurdish militia forces and weaken Kurdish forces in Syria.

Apart from assisting in weaponry and funding for the opposition group Assad, Turkey has also carried out military operations since Erdogan's administration. This military operation has the ambition to attack the Kurdish People's Protection Unit (YGP) and the Syrian Democratic Forces or SDF. (Hinnebusch, 2015) One of the military operations carried out by Erdogan was "*Operation Olive Branch*" which operated from Afrin to Tal Rifaat. Turkey is

trying to return the Tal Rifaat people to their homes and eradicate the terrorist extremist groups there.

Figure 5. Tal Rifaat as A Target in Operation Olive Branch. Infographic



Source: Jurnalislam.com

The military operations carried out in Tal Rifaat are not only aimed at eradicating terrorist groups but at the same time displacing the Kurds who live there. (Khouri, 2018) About 20,000 Kurds live in this district, so Erdogan is trying to take over Tal Rifaat shortly. Even so, the Kurdish militias and the YGP terrorist group can still spread to other districts.(Arbar, 2020) So Turkey conducted "*Operation Euphrates Sheild*" to contain these militias in an attempt to connect Tal Rifaat with other districts. These operations reflect Turkey's involvement in the Syrian conflict to paralyze Kurdish militias on Syrian soil. (By Joanne Stocker and Fergus Kelly, 2019)

Turkey's Military and Political Strategy against Kurds in Syria

Turkey views Kurds as a military threat as well as a political threat due to their movements which are dominated in the political and military fields. (Tezcür, 2010) Military threats include attacks carried out by Kurds conventionally on the Turkish border, to the strengthening of Kurdish military capabilities with US assistance in Syria.(Sahide, 2013) The Kurdish nationalism movement is considered a separatist group that continues to show progress and increase in terms of urban warfare, the number of snipers, to the use of improvised explosive devices. (Brancolini, 2019) This is what causes Turkey to form a military strategy against Kurds.

Since 2012, Erdogan has started a negotiation process with PKK leaders within a negotiation framework known as the "*solution process*". The solution process is Erdogan's political strategy against Kurds using peaceful means such as dialogue and negotiation. (Abadi, 2019) Erdogan wants to make subtle efforts to weaken the Kurds without a ceasefire. Turkey wants to put into practice the meaning of "*zero problems with neighbors*". This is because the Kurdish militias in Syria have close ties with the Syrian government and if Turkey does not carry out a peaceful strategy it could threaten the stability of the region. (Hayati, 2017)

However, political efforts that were considered peaceful through confidence-building did not produce maximum results. There were incidents of killing Kurdish activists and PKK founders which made Kurds do a ceasefire due to their anger at hearing this news. (Abadi, 2019) Peaceful steps through political efforts are difficult to do in a situation like this coupled with the situation in Syria which is getting more chaotic due to the entry of the Islamic State of Iraq and Syria (ISIS) which tries to control Syrian territory. So the Kurdish forces asked Turkey to be able to intervene militarily there. Kurdish demands turned chaotic and Turkey did not grant Kurds' demands because they were considered to be able to disrupt the peace process that had been pursued so far. (Gunes & Lowe, 2015)

Through this incident, relations between the Kurds and Turkey worsened and resulted in the bombing which resulted in many casualties. (Khamami, 2016) Not only that, the Kurdish people's defense forces which are armed carried out the killings of members of the Turkish police. Then Turkey's political strategy is to choose the Turkish party in the parliamentary threshold, which is a party that supports the demands of the Kurds. So in this case there is a Kurdish initiative that adds to the political dynamics between Turks and Kurds. (Gunes & Lowe, 2015)

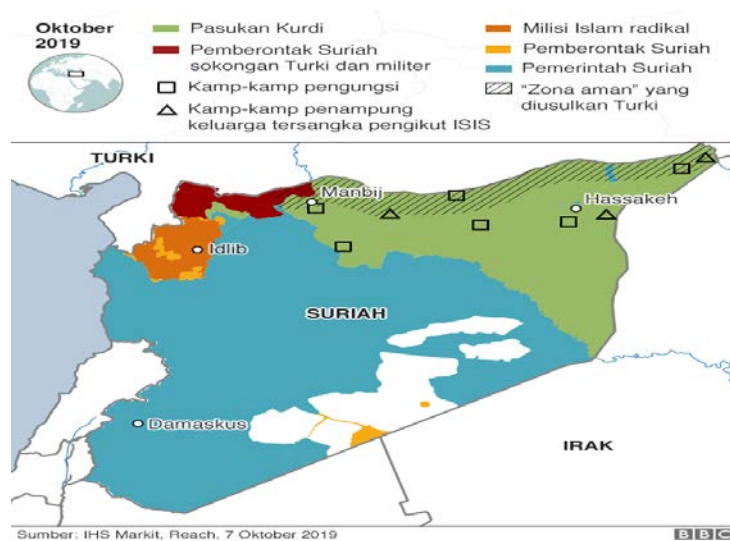
Turkey also takes a social distance dimension where Turkey is aggressively promoting peace in Syria and accepting Syrian refugees. (ZAHRA, 2017) This was done by Turkey as a reaction to Kurdish resistance in the political field. Turkish policies are getting easier to enter into the PKK, both security and political policies. Erdogan tries to differentiate between Kurds in Turkey and Kurds in Syria who are members of the PYD and PKK. (Khouri, 2018) So that the PKK and PYD will not be able to represent the Kurds in Turkey as brothers. This opinion was also carried out to prevent the expansion of the influence of terrorism carried out by the PKK and PYD among the Kurds in Turkey. (Abadi, 2019)

The strategy used by Turkey to be able to prevent war with the Kurds is to join the framework of the same international institutions and regimes. (Tezcür, 2010) This will result in both of them

implementing mutually agreed values and rules. Turkey began to collaborate with non-state and state actors to implement discriminatory and repressive policies on pro- Kurdish politicians.(Haryanto et al., 2018) Turkey started to cooperate with the Kurdistan Democratic Party (KDP) and basically, Turkey also maintains good relations with the Syrian government even though its position is not pro-Assad. This is a natural thing to do because Syria is a meeting place for the interests of a large country.(Hinnebusch, 2015)

Seeing that the PKK's military capabilities were increasing, Erdogan initiated a strategy that was further from a political strategy that was considered peaceful. (Gunes & Lowe, 2015) The PKK is a strong Turkish threat because the PKK is trying to form a Kurdistan state and has a radical democratic ideology which is inversely proportional to Turkey's conservative nationalism ideology.(Sahide, 2013) Therefore, political measures are considered less effective if they are not carried out in conjunction with military efforts. Therefore Turkey launched an armed resistance against Kurds in Syria, especially on the Turkish-Syrian border. This was done due to Kurdish rejection that never ended regarding the form of Turkish unity.

Figure 8. Distribution of Military Power in Syria



Turkey launched a peace spring operation in Syria aimed at dividing Kurdish- controlled areas and agreeing on a safe-zone between Turkey and Syria.(Rofii, 2017) This operation was linked to the United States, which ultimately decided to withdraw its troops in Syria. Also, Turkey is arming the Syrian National Army, which is a Syrian opposition group that is positioned as a front for liberation. Erdogan ordered joint operations in Syria to weaken Kurdish

bases in Syria.(By Joanne Stocker and Fergus Kelly, 2019) This operation moves across borders through the hard power held by Turkey to eradicate the Kurdish militias.

Turkey also represses and discriminates against pro-Kurdish politicians and imposes press restrictions on pro-Kurdish journalists. This was done to freeze support for Kurds from both the press and politicians. Erdogan did not hesitate to remove the posts of politicians and jail journalists who dared to support the Kurds outright. This has become Erdogan's strategy to weaken the Kurds both internationally and nationally.(Taghian., 2012)

Implications of Military and Political Strategy

Military operations carried out by Turkey indicate that Erdogan is more concerned with national responsibility than international responsibility. Even Erdogan is not half- hearted to carry out military operations without the approval of the Syrian government as the holder of the territory's authority. (Bagdonas, 2014)Erdogan has indirectly violated Syria's sovereignty through the military operation he carried out. This has implications for Turkey's position which represents an Islamic government because through this military operation there were many casualties and injuries due to Turkish attacks.

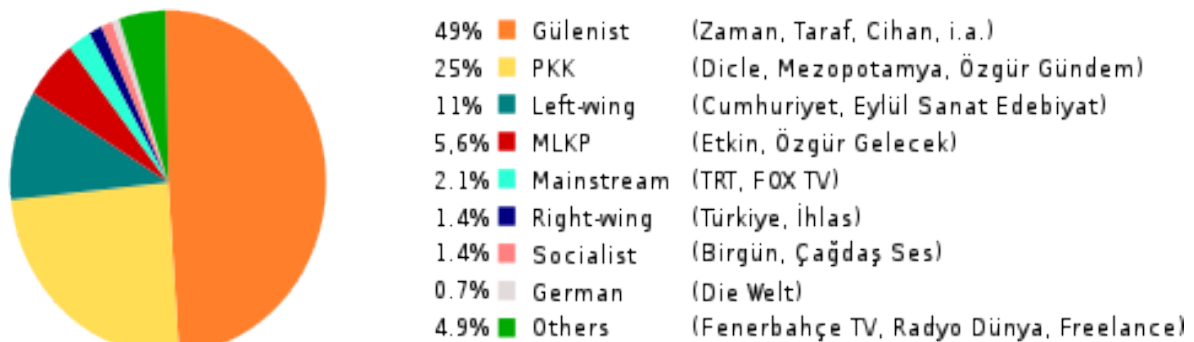
According to Human Rights Watch, Turkey has committed serious human rights violations as a result of its military operations.(HRW, 2018) The victims are not only PKK members, but Syrian civilians to Kurds.(ZAHRA, 2017) If Turkey wants to be considered democratic like the European Union, Turkey is considered very far from the standard in this case. Turkey does not respect human rights values, especially the basic human rights held by the state and the international community. Therefore, the integrity of Turkey in this effort needs to be questioned as a democracy and leader of the Islamic World.(Tezcür, 2010)

Turkish military operations that often violate Syrian authorities also result in a potential war between Syria and Turkey. This is in line with the Assad regime's support for Kurds while Turkey is not pro-Assad.(ZAHRA, 2017) Not only that, if Turkey carries out further military operations it will result in a bad international response due to the humanitarian catastrophe resulting from this military operation. Also, Turkey seems to cloud the geopolitical situation in Syria and does not create an international order in Syria.(Khoury, 2018)

Turkey has been criticized by various parties for its actions banning the press from covering the Kurds and repressing pro-Kurdish politicians. This shows that Turkey has violated the right to freedom of expression and the right to express an opinion. Press freedom was limited until Erdogan detained journalists and public figures who campaigned for pro-Kurdish solidarity.

This seriously hurts Turkey's position as a democracy where Turkey should guarantee this freedom and protect journalists because basically, the role of the media is to prevent more serious human rights violations in the future.(Gunes & Lowe, 2015)

Figure 9. Journalists arrested in Turkey



source: CPJ.org - Data between 2016 - 2019

Based on the data above, it can be seen that many journalists were arrested by Turkey, especially those who supported Kurds. The role of the media is basically to maintain the accountability of the government and provide information to the general public about the current conditions. This is inversely proportional to Turkey's claim to prioritize human rights in the international realm. This policy, which tends to be repressive and discriminatory, actually makes Turkey seem isolationist and Erdogan is considered an authoritarian Islamic leader. The repression carried out by the Turkish government against pro-Kurdish politicians has been carried out by dismissing the parliament, sacking the district head, and removing the status of a politician. This was done with various accusations, one of which was the accusation of being a terrorist. As many as 50 mayors have been removed from office on charges of being a politically motivated terrorist and many more politicians have experienced this.(Haryanto et al., 2018) These cases of detention of politicians were rampant when Erdogan was in power so that Turkey was very weak in implementing human rights in Erdogan's era. This includes violations of the rights of association and the right to political participation.

The implications of this strategy are indeed suppressing and weakening the Kurds, especially in Syria, but other effects are also bad. Kurds lost support from the United States and became weak, but on the other hand, Turkey committed human rights violations on several sides. Therefore, this strategy reaps its pros and cons from various parties.

Law Enforcement Process Against the Criminals of Genocide on Ethnic Kurds

The end of World War II is an important initial momentum for the development of human rights nationally and internationally. This was, among other things, marked by the establishment of the United Nations (UN) in 1945, and the issuance of the Universal Declaration of Human Rights (UDHR) in 1948. Subsequent developments, these two things have a significant influence on the protection of human rights at the national and international levels. At the national level, many world countries have adopted the provisions regarding human rights regulated in the UDHR into their constitutions.

Meanwhile, with the existence of the United Nations, an international human rights law enforcement mechanism was developed under the United Nations system. Another development that is no less important related to human rights, especially after World War II, is the recognition of individuals as subjects of international law (although in a limited sense), individuals have rights and obligations regulated in international law. The human rights of every individual today have been regulated and guaranteed in international law. Therefore, in principle, the state must respect human rights in accordance with applicable international legal norms. After the recognition of the individual's position as a subject of international law, the state can no longer state that human rights violations are solely a state domestic matter. Because, human rights today are *legal rights* that have been recognized and guaranteed by international law. International law has stipulated that human rights must be enforced through legal instruments.

International crimes are crimes against all humanity or in Latin known as "*delicti juris gentium*". Piracy, torture, and *crimes against humanity* are some other examples of international crimes. Based on the principle of "*au dedere aut punier*" international law develops a system of universal jurisdiction which is intended to prevent the existence of a safe haven for perpetrators of international crimes (the *no save haven principle*). According to this system, if the perpetrator is in the jurisdiction of a country, that country must try or punish the perpetrator based on its criminal law or extradite it to another country that has jurisdiction and wants to exercise its jurisdiction. At the international level, the issue of human rights law enforcement cannot be separated from the United Nations. The United Nations has a central role and a very important contribution to the protection and respect for human rights in the world.

According to Thomas Buergenthal, this has historically been seen from the efforts that have been made by the United Nations in relation to the development of modern international human rights law, such as: in the formation of norms, at this first stage the process begins with the enactment of the United Nations Charter and continues at least until the ratification of the

Universal Declaration of Human Rights” of 1948 and the two Covenants (ICCPR and CESCR) of 1966; the second stage, *institution building*, at this stage the evolution of international human rights law began in the late 1960s and continued for the next 15 to 20 years. This period can be referred to as “*the era of institutional building*”. During this period there have been developments within the UN framework; the third stage, implementation and *the post cold war world*, at this stage the institutions created in the second stage did not fully function until the mid to late 1980s, when the instruction began to focus on action. Effective measures to ensure the state's compliance with its international obligations. This process continues until now. Human rights law enforcement (kasiyati, 2020) systems under the United Nations can be divided into two, namely: those based on international agreements (treaty based) and those based on the authority of the United Nations *Security Council*.

The international treaty system is a mechanism regulated in a certain international human rights legal instrument which is an international agreement within the framework of the United Nations. Currently, there are six instruments of international human rights law and each instrument has a committee that oversees the implementation of the related rights by states parties to the treaty. According to the United Nations Charter, one of the main objectives of the United Nations is to maintain international peace and security. In this regard, the United Nations makes efforts to handle various cases of violations of human rights that are considered to be disturbing international peace and security. The role of maintaining international peace and security is carried out by the Security Council as one of its main organs. Based on its authority, this is, among other things, carried out through the establishment of a court specifically formed in order to legally resolve cases of human rights violations.

The urgency of the establishment of an international court is related to international crimes or crimes under international legal jurisdiction, among others, such as: “*genocide*”, crimes *against humanity*, and *war crime*. (Anggoro, 2019) According to international law, the perpetrators of these crimes should not be allowed to go without *impunity* and the case must be legally resolved through a court forum. Because, these crimes are considered to violate international legal norms which are categorized as “*jus cogens*” or “peremptory norm”. In relation to the United Nations, currently there are various forms of international courts (*tribunals/court*) as a means of legal settlement of international crimes. These include the establishment of an international criminal tribunal for the former Yugoslavia (International Criminal Tribunal for the Former Yugoslavia/ICTY) in 1993, an international criminal tribunal

for Rwanda (International Criminal for Rwanda/ICTR in 1994) and an International Criminal Court (ICC).) in 1998. Another means of settlement formed by the role of the United Nations is a *hybrid tribunal* .

The crime of genocide is clearly regulated in an international convention called the Convention on the Prevention and Punishment of the Crime of Genocide in 1948. (This convention was established through UN MU Resolution No. 206A (III) on December 19, 1948). Based on Article 4 of the III Geneva Convention regarding the treatment of prisoners of war, Saddam Hussein was given the status of a prisoner of war (POW) and based on Article 9 of the III Geneva Convention regarding the treatment of prisoners of war, the POW was protected by the International Committee of the Red Cross. Red Cross / ICRC). at that time Saddam Hussein had not been charged with any criminal charges even though he was suspected of having committed crimes against his own people during his reign. The ICRC also reiterates that a prisoner of war suspected of having committed a crime should not simply be released but must be tried in a lawful court. (M.Amin Hanafi, 2020) Based on the mandate of UN Security Council resolution No. 1483 (2003). Iraqis will take care of their own affairs autonomously after the transfer of sovereignty, but coalition forces will remain there to maintain security. That way all prisoners who are handed over to Iraq will be treated according to Iraqi law and/or legislation. However, debate arose about how to try Saddam Hussein because at that time the United States had not yet confirmed who would try. On November 5, 2006, Saddam Hussein was sentenced to death by hanging on December 26, Saddam's appeal was rejected and the death sentence was upheld. No further appeals were received and Saddam was ordered executed within 30 days of that date. The place and time of the death penalty is kept secret until the sentence is carried out. Saddam Hussein was executed by hanging on December 30, 2006. With his death, other charges were dropped.

Theoretically, the court that has the authority to try Saddam Hussein will be adjusted according to the type of crime he is accused of, so that the law can be enforced. The first trial began before the Iraqi Special Courts on 19 October 2005. In this case, Saddam and 7 other defendants were tried for crimes against humanity in light of the events that took place after the abortive killings in Dujail in 1982. A second separate trial began on August 21, 2006 indicted Saddam and 6 co-defendants of genocide during the Al-Anfal Campaign against the Kurds in Northern Iraq. Saddam was also tried in absentia for events during the Iran-Iraq war and the invasion of Kuwait. (Sharon Otteman Council on Foreign Relations, 17 December 2003). Explaining the charges that will be brought against Saddam Hussein by the court includes

several types of crimes which are the main crimes (*Core Crimes*) that fall under the jurisdiction of the International Criminal Court (ICC). But in the end the United States as the party that arrested and detained Saddam Hussein decided to hand over Saddam Hussein to the Supreme Iraqi Criminal Tribunal or better known as the Iraqi Special Tribunal. Now Saddam Hussein has been sentenced to death for his crimes in the 1982 killing of 148 Shiites in Dujail, which is considered genocide. The trial of Saddam Hussein should have used the Jurisprudence of that trial. The analogy is that Saddam Hussein should have been tried in the International Criminal Court (ICC) for the international crimes he was accused of.

The court is seen by other entities as a kangaroo court (a spectacle court). Amnesty International declared the trial "*unfair*". Human Rights Watch noted that Saddam's execution "*followed a flawed trial and marked a meaningful step away from the rule of law in Iraq*" George W. Bush and Tony Blair, stated that they were fighting in Iraq to free the world from a brutal dictator who was a threat to peace, stability, and security. regional democracy. Both have regularly cited the use of chemical gas against the Kurdish population, and the Iran-Iraq war of the 80s, as examples of Saddam's brutality. However, when the invasion was carried out, there were no and never found such weapons of mass destruction in Iraq. The trial of Saddam Hussein was the trial carried out on deposed Iraqi president Saddam Hussein by the Iraqi Provisional Government for crimes against humanity during his reign.

Seeing the phenomenon of Saddam Hussein's legal process, it appears that there was an anomaly in Saddam Hussein's judicial process. The ICC institution which is considered relevant by international law to process Saddam's case, apparently did not get a sacred mandate to handle Saddam's problem from the United Nations Agency, but instead the local judiciary that handled the Iraqi special tribunal which was agreed by the United States to handle Saddam's case. . It is ironic indeed, when the United Nations, which was asked as an international organization authorized to facilitate relations between nations related to international law, international security, economic institutions and social protection, was unable to speak out in Saddam Hussein's judicial process.

Saddam's judicial charade which is considered by the majority of the world's people to be unfair and even considered a tragedy leaves a question, namely how is the process of achieving good world governance in the context of international politics when the American Empire remains a hegemony in international politics ? and what is the actual process of achieving a world social order that is socially just and no longer prioritizes war or physical

settlement as a solution to a problem? With regard to international tribunals whose establishment is linked to the United Nations, currently known as “*mixed tribunals*” have been established in four countries. This court is basically a national court that has been internationalized. Mixed trials are a recent development in seeking accountability for a number of crimes committed in the past.

In July 1998 the international community noted an important development, namely when the statute of the International Criminal Court (International Criminal Court, hereinafter referred to as the ICC) was agreed. Unlike the ad hoc Courts that have been previously established (eg the Nuremberg, Tokyo, ICTY, and ICTR Courts, the ICC is a permanent court. This Court was formed to try people who committed crimes which the international community categorized as as a serious crime (*the most serious of concern to the international community*) as stipulated in the ICC Statute. This Court was also established as a complement *to* the national Criminal Court. Regarding complementarity, it is an important matter. In this regard, the Statute states that the ICC will work if the national Court is *unwilling* and *unable* to prosecute the perpetrators of the crimes in question . This is when a crime occurs which is included in the under the jurisdiction of the ICC, then the perpetrator must be tried by his national court first. If the national court is unwilling and/or unable to prosecute the perpetrator, then the ICC will carry out its function to prosecute the perpetrator of the crime concerned .

CONCLUSION

Relations between the Kurds and Turkey since the collapse of the Ottoman caliphate have been strained by the Kurds' desire for autonomous power. Until now, Kurds are still struggling to gain this legitimacy and are transforming into radical and separatist groups. Turkey under Erdogan's leadership underwent political reform from secular to democratic Islam. This includes changing Turkey's strategy to deal with Kurdish militias in Syria because Kurdish militias in Syria are considered dangerous by forming the PKK. The PKK occupies Syria's border with Turkey, so Erdogan devised a special military and political- strategic framework to stem the power of Kurdish militias.

In the political strategy under Erdogan government, Turkey's foreign policy has used the concept of "strategic depth" which is essential "zero problems with neighbors". Turkey conducts relations with various state and non-state actors to be able to exert influence at the international level. This cooperation includes the United States which has been supporting Kurdish weaponry in Syria. Apart from political strategy, Turkey is also shaping a military

strategy by conducting operations in Syria. Military operations are also carried out with Syrian opposition forces and often violate Syrian territorial authority. Even Turkey also detained journalists who were considered pro- Kurd and removed the positions of Turkish politicians who were considered pro-Kurdish. This is problematic because Turkey is considered excessive in shaping its strategy against Kurds in Syria. In this case, the Turkish national interest is the main factor pursued even though in practice it violates human rights both in Syria and in Turkey. Nonetheless, this Turkish military and political strategy contributed to the weakness and decline of Kurds in Syria.

The obstacle contained in the enforcement of the legal mechanism for the crime of genocide is that it is very necessary to apply the right and correct law in accordance with the actions committed. In practice, there are many actors involved or participating in these international crimes, which results in many factors that become the background for the occurrence of genocide and are narrowed to the interests of a group or ethnic group in a group or country. Due to the background of the interests of certain groups that result in many perpetrators participating or taking advantage of these conditions and situations, it takes a long time to determine the law that will be applied to the perpetrators of the crime of genocide. In this case, the competent court must be really careful in tracing the existing cases and be able to find a fair decision and not only harm one party, considering that genocide is a crime against humanity that involves international human rights.

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