

Forced Displacement in Northeastern of Syria between Reality and Law



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Introduction

The process of forced displacement and other crimes committed against humanity have old historical roots, after the crystallization of the power centered on masculinity and to this very day, practices are still being committed, taking place, and many different goals. However, what is surprising is the existence of such practices while we are in the 21st Century. In spite of the enactment of many legislations and international conventions related to this issue in order to be reduced. The escalation of violence has led to an increase in the levels of forced displacement. There are an estimated 70.8 million refugees, internally displaced persons, and asylum seekers, worldwide, who have fled from violence, conflict and oppression from their homes.

In Syria, the forced displacement process started on several stages, the last of which was in recent years. When the Syrian regime expelled the people of Qusayr, Zabadani and Madaya to other regions by virtue of its alignment with the Lebanese border controlled by Hezbollah, as well as the displacement of the people of Eastern Ghouta and other areas far from their original places.

After the intensification of the war and the conflict in Syria, the Turkish regime began to carry out the same practices in the northern part of Syria, following the illegal Turkish invasion of the Syrian territories; beginning with Azaz, Jarabulus region, Afrin and more recently Gire Spi (Tel Abyad) and Serekaniye (Ras Al-Ain).

In this study, we will address international laws related to Forced Displacement, with a brief about its history, followed means, ramifications and objectives, in particular, focusing on the Kurdish situation.

Brief History on Forced Displacement

Forced Displacement historically deep-rooted, in which the strongest were the ones who control and evacuate homelands from their original inhabitants, from the Sumerians to the Babylonians and the Assyrians, and the biggest example of that is the Babylonian Captivity. The Babylonians were bringing the deported population to Babylon, or the main cities, or its vicinity, and they have tended to the replacement of other population groups instead of the deportees. The Assyrian kings displacing the defeated peoples In the 13th Century B.C. they set up a policy that distinguished them from the rest of the nations, as they were transferring the inhabitants of these open territories to distant lands to be mixed with the inhabitants of these countries and to lose their unity and being. This policy had an extreme effect on the type of the Assyrian civilization and its form, which is represented by the displacement of the defeated people, or what is known as the policy of forced displacement that was mentioned in the Assyrian and Babylonian sources under the term of (evacuation). In Acadian (gallatu), which means the transfer of the inhabitants of the regions and countries that rebelled against the Assyrian Authority by force to other places. They tried to mix the peoples of the Near East countries with each other; they transferred people from the West to the East and vice versa. Alexander of Macedon sought this matter as well through the integration of the people of Babel into his Greek soldiers, in order to curb the rebellions and drive them away as well and to paralyze its movement. The operations of the forced transfer for indigenous peoples by the United States in 1830 AD, in which a plan had been set up to restrict all of those indigenous peoples in specific Reserves and expel them from the other areas.

On the other hand, the development of forced displacement for economic reasons; represented in the transfer of labor in a forced aspect to European and American countries within what is known as the slave trade, and the forced migration of slaves was not limited to the American destination only. It was preceded by the notorious slave trade, which was launched from eastern Africa, heading to the regions close to Asia, or as far away as India and Indonesia, or to the most important cities in the colonial European countries.

With the passage of time, the forced displacement became an effective tool in the hands of the occupying powers, according to the English " Britannica Encyclopedia "; the Ottoman authorities continued its systematic persecution after (the First World War) and carried out large campaigns of forced displacement of hundreds of thousands of inhabitants from their villages and lands, and their resettlement in other regions of the empire, especially in the Levant and Syria, under the umbrella of the "displacement" law. According to statistics issued by Armenians about the number of victims of these massacres, nearly a million and a half of Armenians killed by this organized repressive policy before the fall of the Ottoman Empire At the end of World War I.

In modern times, waves of emigration occurred because of Mussolini's repressive practices in 1924-1926 in Italy. The compulsory movement of entire peoples turned into a widespread phenomenon during the Second World War, especially under the pressure of the German military occupation. It was reported by statistics that the number of exiles from Germany in the year of 1933 reached 60 thousand exiled people and most of them they were from the Jews who were subjected to genocide, such migrations took place in Asia, Africa, the Middle East, and millions of people were displaced there.

According to the United Nations statistics, the number of displacements is increasing day by day for the time being. According to the annual Global Trends report, the number of forcibly displaced people was defined with 70.8 million children, women and men by the end of 2018, and this is the highest level that has been witnessed by the Commission since its establishment before nearly 70 years.

Forced Displacement in Humanitarian International Law

Previously, there was no clear definition of crimes against humanity; these crimes were related to war crimes that would just occur in its time.

The writer Abdullah Abbou mentioned in his book the role of international criminal law in protecting human beings, "the concept of international criminal law is a relatively new concept in International Criminal Law, but being new does not mean that the term (crime against humanity) was not known but rather what is meant that there is no such classification for this crime in an international treaty that defines and detect the elements of this crime are defined by a classification of this crime, this term was mentioned in 1915 as a result of the massacres that the Armenian people were subjected to at the hands of the Turks, and the perpetrators did not get punish because of the objection of both the United States and Japan, Dr.Salim Muhammad Suleiman Ogli states in this regard ". When the International Criminal Court was established, which stipulated by the treaty of Sevres that obliges Turkey to extradite all those who participated in the crimes against the Armenians and the Greeks, the treaty was replaced by the Treaty of Lausanne through a political deal with Turkey, which granted an amnesty for all those accused of committing massacres between 1914-1922. The treaty considered as acceptance of the principle of forced eviction and transfer to resolve conflicts at the Lausanne Conference after the war and to settle disputes between Greece and Turkey. It launched the hand of the Turkish regime, in which looked at forced displacement legally based on it , and the establishment of an independent state for the Armenians was overlooked or granting the Kurds wider Autonomy

Despite the war crimes and crimes against humanity, that humanity went through, the laws or agreements to fight these crimes had not been developed until after the Second World War. the concept of the punishment of perpetrators developed at Nuremberg Court in 1945 , but the concept of crimes against humanity remained vague, because it is known That the military court (the Nuremberg Court) was created on the occasion of World War II, and it is clear from the Nuremberg List that it required, for crimes committed before war to be crimes against humanity and to be related to war crimes, the Charter stipulated that this crime must be committed only during the war, which had led to the correlation of the concept of crimes against humanity with the war crimes, although this court coincided with the Potsdam Conference, which gave Legitimacy for European countries by deporting

forcibly millions of Germans from their homes and houses, although they had been living there for hundreds of years ago, but this crime was condoned as happened in Lausanne Treaty, and this indicates that the justice in the implementation of this treaties was always in favor of the winner and the strong. However, crimes against humanity were not clearly referred to except in the Yugoslav Criminal Court and the Rwanda Court in 1993-1994 after the scandal of the crimes had been committed, the researchers consider the Rome Charter in 1998 among the best documents that define crimes against humanity up til now, which came into force in 2002.

Crimes against humanity can be defined as a violation committed as part of a widespread systematic attack against any group of the civilian population and includes massacre, genocide slavery, displacement, arbitrary arrest, torture, rape, and persecution of any specific group or a specific group of population for political, racial, ethnic, or cultural reasons.

“International humanitarian law defines forced displacement as a “Forced and unlawful evacuation of a group of individuals and populations from the land on which they reside”, which is a practice linked to cleansing, and it is a procedure is being conducted by governments or fanatic groups towards a particular ethnic or religious group, and sometimes against multiple groups, with the aim of evacuating specific lands to an alternative elite or a specific group, the articles No. 2, 7, and 8 are considered from the Rome Statute; forced displacement is a war crime.”

Besides, the article (99) of the four Geneva Conventions on Augustus 12 in 1949 and the two protocols annexed to it consider the forced displacement is irrefutable war crimes. The processes of the forced displacement are a scandal violation of the “Prevention of Genocide Crime Convention” that had been approved by the United Nations in 1948, which considers, in its second article that everything leads to the total or partial destruction of a group, national, ethnic, racial or religious is amounted to a genocide.”

Forced displacement that is being practiced by the Turkish regime and the factions under its banner, from bombardment of residential areas in both Serekanye/ Ras al-Ain and Gre spi/ Tel Abyad and Afrin previously by aircrafts and artillery to force them to evacuate those cities. Aiming at conducting demographic change is considered a dangerous violation of the international conventions and laws.

If these actions are considered war crime according to the international conventions, it is the responsibility of the sponsored states of these agreements to punish the perpetrators, because the results will be disastrous for the displaced population, consequently, on their future in light of the increasing number of the displaced every day. According to the center of refugee studies at University of Oxford the civil war in Syria inflicted over than 11 Million cases of forced migration so far, displacement of nearly 6.2 Syrians internally, and more than 5.6 million of Syrian refugees.

The Objectives and Means of the Forced Displacement

1- The occupier’s attempt to change the demographic composition to expand the swath of his control and influence.

2- Making the targeted area homogeneous racial, religious or doctrinal with the invading party.

3- Erasing history, its meaning and originality in the targeted areas, removing the indigenous peoples and eliminating them.

4- Creating a spirit of permanent animosity between the sects and the components living in that region by conducting forced displacement and settling others whom forcibly deported from their areas.

5- Creating political and social unrest and creating a fertile environment for internal conflicts and external interventions.

6- Cultural genocide, demographic change destroys the region's identity and culture.

1- Tearing and dismantling the population fabric in the targeted area, emptying it of its intellectual and civilized content and turning it to a fragile and underdeveloped area that could be controlled by any vulnerable group, looting its wealth, destroying and messing up with its capabilities.

While the followed means in practicing the Forced Displacement are:

1- Turning the targeted area into battlefield and armed conflicts.

2- Imposing a tight blockade on the people and preventing their access to essential materials.

3- Using excessive violence, committing massacres and intentional homicide.

4- Conducting arbitrary acts of intimidation, such as arrests and others

The Kurds and Forced Displacement

The Kurdish people are considered among the peoples, which suffered from forced displacement historically; from the time of the Assyrian Empire to the Islamic period, all the way, down where the Kurds were subjected to denying and suppressing at the hands of the Ottomans. Who were conducting sieging on the cities and the burning the orchards and villages after suppressing the Kurdish revolutions in order to impose forced displacement on its people. The forced displacement affected the red Kurdistan in the Soviet Union, where (Stalin) displaced forcibly the Kurds to the Central Asian republics (Kazakhstan, Kyrgyzstan, Tajikistan), As a result, hundreds died, killed and lost. We cannot miss here the forced displacement of the Faili Kurds at the hands of the Iraqi President, Saddam Hussein, and the displacement of thousands of them, in which many of them died on the routes The Baathists carried out the largest sinful ethnic eradication operation against them by displacing them to Iran in 1970-1980, on the pretext that they are Iranians,

forced displacement included campaigns of Ba'athist and cultural Arabization against the national and religious minorities such as the Kurds, Yazidis, Assyrians, Shabaks, Armenians, Turkmen, and Mandaeans, in line with the colonial policies led by the Ba'athist government in Iraq, from the 1960s until the early 2000s. Aiming at changing the demographic composition of northern Iraq; And imposing Arabic hegemony and characteristic on it. Since the mid-seventies, 1978-1979 a six hundreds of Kurdish villages were burnt down; 200 thousands of the Kurds were deported to the other parts of the country. This criminality against indigenous peoples of the region and is rightly similar to Turkish Regime practices since its inception. Turkish forces destroyed hundreds of villages, burned thousands of

homes, expelled and killed hundreds of thousands of innocent residents, mostly women, children and the elderly during 1925-1926.

This was after Kemal al-Din Sami Pasha's announcement that Turkish Government has three main tasks, which are:

- 1- The bloody and brutal suppression of the Kurdish uprising.
- 2- Disarming all Kurds, regardless of their participation in the uprising.
- 3- Settling the Kurds in all over the Country and housing the Turks instead of them to be the minority within the Country.

In addition, these practices continued in many cities and regions in Kurdistan until 1937.

In the 1990s the twentieth century, hundreds of thousands of civilians were displaced after the burning of four thousands of Kurdish villages in order to displace its inhabitants. However, what distinguishes the Kurdish waves of displacement is the fact that they do not move away from their lands, but they stay in places close to their ancestors' lands, as happened in Iraq where thousands of them headed to nearby mountains and borders.

In Syria, the Syrian regime adopted indirectly the method of forced displacement, in order to push people to leave their homes and cities; and to break their pride; by imposing the starvation policy so that it would be able to "discipline", impose the surrender, then submission and total disobedience.

According to that plan, it has started the declaration of supporting decrees and one of these decrees was the one related to real estate the decree No. 49; the possession law and through that decree no one of the population of the border areas i.e. the outskirts areas can sell or buy the real estate and they could not register it in their name. But, that law has been implemented on the Kurdish Society in the actual practice; it means that the Kurdish; he/she has the right to buy a property and lands, but he/she cannot buy it, so it came to the Regime refusing even the right of repairing or doing any changes on their house till it is absolutely necessary. The aim of all these unfair procedures against the Kurdish society was imposing and forcing the majority of the Kurdish people to immigrate to the center and the provinces around it, so that it would be able to control them and forcing them to do all kinds of works that would limit their dignity.

Perhaps the ISIS era, the policy of intimidation, killing, and exile that had been practiced by them pushed the majority of the population in the Kurdish regions to be immigrated forcibly, and the biggest example in this regard is Sinjar (Shankal); the terrorist organization of ISIS did not only killed and executed The Yezidis only, but also their crimes got to the level of selling the Yezidis women in markets in the cities of Mosul and the Syrian city Raqqa, and took some of them as slaves. All of this was aimed at pushing them to be immigrated and to be displaced from their areas, and the Office of Rescuing the kidnapped Yazidis published a statistic showed what ISIS, the number of Yazidis in Iraq, subjected to the Yazidis was around 550 thousands. The number of displaced people by the Islamic State's conquest is about 360 thousands. The number of immigrated people to abroad is estimated to be over 100 thousands. In addition to committing massacres and destroying religious places.

The ISIS target of the Kurdish border cities was not a mere coincidence, especially since the Turkish Regime was facilitating the passage of its elements; this is what McGurk, the

coordinator of the international coalition in Syria previously confirmed, this indicates, that ISIS was directed by the Turks, or it was implementing their policy by proxy. After Shankal, the city of Kobani was subjected to the ISIS invasion, which was destroying everything from humans to stones and creating an atmosphere of terror amongst the civilians, pushed most of them to be displaced.

What is happening now?

The Article 46 of the Lahay Convention in 1907 stated, "The honor of the family, its rights, the lives of persons and private property, as well as religious beliefs and rituals, and property that we find on the ground should not be confiscated." In addition to the forced displacement had been practiced against the inhabitants of the cities of Afrin, Tal Abyad and Ras Al-Ain, which is considered a war crime. The seizure and confiscation of civilian homes and housing of settlers from other areas in it by the Turkish regime and its affiliated armed factions, whereas the article No. 47 of the Lahay Convention in 1907 prohibits looting totally of every piece of the property of the state and its residents. We find all what is going on the ground in Northern Syria is contradicted with international laws and charters, and this happened in front of the legislators and sponsors of these agreements and exercised by the countries that signed the agreements, this is why we wonder this silence. If the international will remains silent about these crimes, the world will turn into a forest that the strong will dominate the weak, which constitutes a global danger, unless a limit will be put for it, and this would contribute in committing more crimes, we will mention here examples of cities in, northern Syria, in which forced displacement occurred.

Afrin

The city of Afrin was subjected to a comprehensive attack by the Turkish state and its affiliated factions in 2018 under the name of the (Olive Branch Operation), and the attack caused the forced displacement of civilians who were exposed to violence and massacres, based on United Nations statistics. Hostilities in the Afrin region resulted in displacement of an estimated 167 thousand people, the majority fled to Tal Rifaat, while others fled to Nabl and Zahraa and the other adjacent areas. Rojava Organization also indicated in its report about the situation in Afrin during the Turkish occupation, "Over 350 thousands of civilians were forced to exit from the city of Afrin and its countryside, so that their fate was to be distributed over the camps that had been constructed with their arrival in the areas of Al-Shahba, Tal Rifaat and in areas of Al-Jazeera and the Euphrates. At the time when some of them left for neighboring and European countries, which led to the exit of About 80% of the indigenous population of the city of Afrin and 20% them remained and they are in conditions worse than the solitary confinement condition. This attack resulted in the killing of dozens of civilians, including children and women, and the violence acts are still being committed and torture is still being practiced against the civilians, as well as their property is being subjected to looting and plunder. Afrin; the city that used to be a model city that lives in peace has now become a city without safety under the occupation, which is controlled by a group of thieves and mercenaries.

Serekaniye/ Ras al-Ain and Gre Spi/ Tel Abyad

On October 9th, the Turkish occupation began its attack on Ras al-Ain and Tal Abyad, and the result of this attack was, according to the report of the Humanitarian Affairs Office on the repercussions of the Turkish occupation in Ras al-Ain and Tel Abyad as following, "The number of civilians martyrs reached 478, and 1070 of wounded civilians as well as the number of displaced people reached 300 thousands more than half of them in the city of Hasaka alone, and the teaching process is stopped in 810 schools, which led to the deprivation of 86 thousands students from attending their schools."

The Turkish state, in an attempt to repeat the Lausanne experiment, strikes against the wall all international agreements related to the occupation; and the forced displacement practicing, and it is trying to win international support, but it does not have it ye.

The Ramification of forced displacement; northern Syria as a Model:

- Depriving children of education and stability that will affect their future, the most affected are children, because they are subjected to the shocks of the different environment in which they were raised; this leads to depression, mood swings and aggressive behavior, and the most common psychological diseases that spread are psychological anxiety and social isolation.
- The demolition of family homes or moving them away from it constitutes an insulting experience for the family as a whole, especially children, who feel that they have no value or their families, in a way that affects their self-esteem. We also find that the Convention on the Rights of the Child the article No. 16 (1) states, "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation."
- The negative impact on women as a result of changing environment and society; Women are exposed to many disproportionate effects, which makes them bear the greater burden of abuse during forced displacement process, in which she is the most exposed to violence, whether psychological or physical.
- Exploiting displaced people forcibly to serve their interests politically and economically, and using refugees card and considering them a commodity is considered a new war crime.
- Psychological and social effects, such as foreignness, unemployment, isolation and sorrow for the loss of private properties.
- Its impact on work and livelihood, the emergence of unemployment, housing within inappropriate conditions of living, and the deterioration of education and health-related services.

What are the responsibilities of the international community and the United Nations?

Forced displacement of the indigenous people from their historical regions and resettlement of others in their place, whether through resorting to force or other means such as pressure, intimidation and persecution, is considered amongst war crimes according to the United Nations Charters. Any complicity by the international community towards war crimes committed in the north Syria is considered as a participation in committing these crimes. The stance is being taken by the United Nations are totally contradicted to the laws and covenants it has put, in which we did not find a committed stance to stick to its laws. The

visit of the Secretary-General of the United Nations to Turkey to thank Turkey's efforts is probably the best example in this regard, whereas, Turkey is the one who displaced nearly a million people from their cities and villages, and it works to resettle the residents of other cities in their areas.

The most important task that falls on the international community towards what is happening in northern Syria that consists many components of (Kurds, Arabs, Turkmen, Assyria, Syriac) is to protect the indigenous peoples from mass displacement and recognition of the rights of these components in their lands, and that is stated in the declaration that has been adopted by the United Nations General Assembly on the rights of indigenous peoples in 2007. The article No.10 states, "Indigenous peoples must not be forcibly removed from their lands or territories. Transfer to a new place must not take place without the consent of the indigenous peoples concerned to express their free, prior and informed consent, after agreement on fair and just compensation, and the agreement of repatriation choice wherever it is possible". In Article No.8, "the indigenous peoples and individuals have the right not to be subjected to forced integration, or destruction of their culture.

It is also the responsibility of human rights organizations, International Amnesty Organization and the International Committee of the Red Cross to document and confirm these crimes and bring them to international justice and hold perpetrators accountable, especially since the International Committee of the Red Cross (ICRC) by virtue of the mandate given to them by the Geneva Conventions to remind the parties to fulfill their obligations under international humanitarian law. Which is supposed to name official and unofficial representatives to investigate the alleged events and raise awareness of international humanitarian law among the relevant authorities and the armed groups. In addition, the (ICRC) helps countries to enter into its national legislation the obligations imposed on it under international humanitarian law relating to displacement, and it is also working in cooperation with international and regional organizations to prevent displacement in times of armed conflict to enhance the protection of the displaced people.

The primary role of keeping peace is the responsibility of the UN Security Council, because keeping peace around the world is among its tasks, the forced displacement process contradicts peace and creates permanent tensions and conflicts. The Security Council has passed resolutions related to war situations and has condemned violent operations against civilians protecting civilians in armed conflicts in the fourth Paragraph of the Resolution No.1674 in 2006, "affirms the protection of the population from genocide, crimes, ethnic cleansing and crimes against humanity" and in the fifth paragraph "affirms its strong condemnation of all acts of violence and attacks against civilians in situations of armed conflict such as torture, sexual violence, violence against children, children recruitment and human trafficking. As well as the resolution, No.1807 refers to the prohibition of forced displacement in 2008.

In spite of the fact that Turkey is among the countries that have signed the Geneva Conventions on February 10 in 1954, and the first additional protocol (related to the protection of victims of international armed conflicts). It has become a signatory to the Convention on the Rights of the Child, in addition to the Optional Protocol of the Convention on the Rights of the Child on April 4 in 1995 in, but it continues in its aggression and inflicts damage on indigenous citizens and displacing them forcibly.

The Conclusion

Based on what is going on of events in Syria for eight years ago, the forced displacement that took place in the cities of Damascus, Homs, Hama, what happened in Afrin and what is happening now in Ras Al-Ain and Tal Abyad in the cities of northern Syria. We see that there is a consensus or understanding between Turkey and the Syrian regime regarding the displacement of the indigenous population from their places of residence to other places. The proof of this is that Ankara does not interfere in the displacement operations against the opposition under its banner and deporting them to the northern cities so that it is close to it and an easy tool to use and under control. The interests of both parties are achieved, the Regime gets rid of the racist Sunni opposition, and Turkey gets rid of the Kurds Who live along the border, and by this way, it puts crack between the Kurds in the north and in the south, and the victims are always civilians in all wars.

Forced displacement is considered a war crime; but in reality it unveils many rights that had been violated under its name such as; the right of housing, children's rights, women's rights, the right to self-determination, to work, not to be arrested and detained Illegally, to be protected from racial or religious hatred. The most important of all of this is the right to live and stay at homeland.

In the face of all these risks, the international efforts in dealing with the refugee crisis focus on how to find shelter for them and how to provide provision for them, which are often not done as required.

A large number of refugees who flee every day from their homes indicates great failure in the implementation of international charters, whether in its provisions or the mechanism of its implementation. Therefore, preventing displacement requires addressing its root causes, adopting a total approach and participation by a wide range of actors. The starting point must be a better understanding of the root causes and their complexity, and many situations of displacement can be avoided or their effects can be reduced at least to a minimum, if compliance with international human rights and international humanitarian law is guaranteed. The more progress we have made in this regard, the less people will be uprooted and forced to live in exile, apart from their homes and homelands.