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The Autonomous Administration: A Judicial Approach to Understanding the Model and Experience



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Acronyms and Abbreviations

AANES	Autonomous Administration of North East Syria
AA	Autonomous Administration
PKK	Kurdistan Workers' Party (Partîya Karkerên Kurdistanê)
PYD	Democratic Union Party (Partiya Yekîtiya Demokrat)
YPG	People's Protection Units (Yekîneyên Parastina Gel)
YPJ	Women's Protection Units (Yekîneyên Parastina Jin)
SDF	Syrian Democratic Forces
TEV-DEM	Movement for a Democratic Society (Tevgera Civaka Demokratîk)
ISIS	Islamic State in Iraq and Syria
FSA	Free Syrian Army
SNA	Syrian National Army
UN	United Nations
UNHRC	United Nations Human Rights Council
COI	Independent International Commission of Inquiry on the Syrian Arab Republic
NGO	Non-Governmental Organisation
SNHR	Syrian Network for Human Rights
IDP	Internally Displaced Person

Executive Summary

- As the central state authority declined, sub-state formations, including ethnic and religious formations, have emerged across Syria as reflected by the current military map. The changes led to the disappearance of some models and the decline of others, while other models achieved relative and cautious stability.
- The “Autonomous Administration of North and East Syria–AANES” presented itself as an organized and stable governance model that competes with other models in Syria. Although seven years have passed since the actual declaration of the Autonomous Administration–AA, the level and nature of governance in its administrative model remain problematic and questionable.
- This study focused on the AA model using the judicial authority as an entry point, since studying the judiciary offers several important indicators, which are not only valid for the levels of courts and its legal activities, but extend to cover the political, administrative, security, economic, and social levels.
- The Judicial institutions of the AANES were the sample of the study and the methodology used was the descriptive analysis method, which included case studies. The study used several data sources, including in-depth interviews with sitting judges, practicing lawyers, several administrative officers working in judicial institutions, individuals working in the Executive Authority institutions, human rights organizations operating in the region, in addition to key informant interviews to better understand local dynamics and peculiarities.
- The questions of the study revolved around the structure of the judicial system, the structures of its institutions, jurisdictions, working mechanisms, legal foundations, the nature of the educational and demographic distribution of judges within the judicial system, the level of its effectiveness and independence, and the relationship between the judiciary and other authorities within the AA, particularly security and

military agencies. The study also examined the nature of the existing military judiciary and the relationship between the judiciary and the PKK in the area.

- Among the variables in question, the study examined how “terrorism” cases are addressed legally and judicially, specifically vis-a-vis former-ISIS detainees, as the AA created an extraordinary court called “People’s Defense” court (Terrorism Court). In this context, several layers are observed in addressing these cases outside the scope of courts and the law.
- This study devoted seven chapters to examining the nature of the judicial system with its various institutions and levels. The first chapter started with the foundational philosophy and theories adopted by the AA in its administrative model, including the judicial system. The other five chapters constituted in-depth case studies in five areas declared by the AA as “regions” under its control, namely: Hasakeh, Raqqa, Deir Ez-Zor, Manbij, Ayn al-Arab/Kobane.
- Chapter seven focuses on the findings and conclusions of the study, which in turn is divided into two parts. The first part of the findings/conclusions focuses on the judicial system, its structure, legal foundations, effectiveness, efficiency, independence and impartiality. The second part is a comprehensive analysis of the case studies, in which findings/conclusions were drawn on the level of the administrative model of the AANES as a whole. This analysis includes all of the form of the decentralization model adopted, the level of civil-military relations, the impact of the judiciary on inter-communal peace and societal security, mechanisms and implications of addressing “terrorism” cases, and the nature of the relationship between the PYD and the PKK and its impact on the region.

Methodology

The popular uprising of 2011 in Syria was met with excessive violence by the Syrian regime, which led – along with other factors – to arming and militarization and eventually paved the way for a multi-layered conflict to evolve. The situation contributed to the decline of the central state’s authority and the rise of sub-state formations, including those with ethnic or religious identities, as well as an escalation in regional and international intervention. This combination led to the emergence of various local governance models across the Syrian geography, whose nature and level of administration and governance differed according to the parties in control and the nature of the political and military conditions in the territories in which they operate. Moreover, these models' overwhelming military and political prominence, due to the Syrian circumstances, made these two aspects the focus of most studies. It is important to note that no sufficient opportunity has been given to study the nature of the governance in these models, most of which emerged consecutively in the same geographic areas over short periods of time.

During ten years of a political stalemate, the military map has gone through significant changes, especially after 2016. The regime advanced and restored large areas of Syrian territory with the support of its allies, while the military opposition retreated to small enclaves in the north. In contrast, the Autonomous Administration lost some areas, and its geographic continuity was disrupted. At the same time, its forces advanced to other territories at the expense of ISIS, whose cells are still active in some areas, despite the end of its physical presence. These changes in the military map have led to the end or decline of some administrative models imposed by the military reality, while leaving others in precarious stability, anticipating the nature and future of the political solution in the country.

One of the most prominent emerging models is the “Autonomous Administration of North and East Syria–AANES”, created by the PYD. The AANES started with formation of the “Western Kurdistan Council” in 2012. Later, this structure developed into the “Autonomous Administration” on

January 21, 2014, then the “Democratic Federation of Rojava – North Syria” in 2015. A year later, its name was changed to the “Federation of the North”, unilaterally declared by the PYD in 2016. After its geographic expansion, it became known as the “Autonomous Administration of North and East Syria”, as announced on September 6, 2018.

Throughout those phases, the Autonomous Administration established various security and military agencies with specific specializations. The most prominent structures were the General Security Forces (Asayish), the Women Protection Units (YPJ), and the People's Protection Units (YPG). These structures later constituted the backbone of the Syrian Democratic Forces (SDF), which was established in October, 2015 as an umbrella group for several military units and councils. With the administration defining itself as a political and administrative system for society, it issued its social contract as a constitution regulating relations among the ethnic and religious components of society in the north and east of Syria. The AA constitution is based on rejecting the central state and declaring political decentralization as a model for the AA while calling for this model to be adopted in all of Syria.

Accordingly, new administrative divisions were created for areas under AA control within several provinces and regions: al-Jazirah/Hasakeh Region, Euphrates/Kobane Region, Afrin Region, Raqqa Region, Deir Ez-Zor Region, Manbij Region, al-Shahba Region. Each region is represented by an autonomous civil and military administration composed of executive, legislative and judicial authorities, represented by dozens of municipalities, institutions, and bodies. Together, they comprise the AANES, which is administratively composed of The General Council (the legislative authority), The Executive Council (the executive authority), and The Justice Council (The Judiciary)⁽¹⁾. Thus, the Autonomous Administration presented itself as a competitive governance model among the others, whose stability was primarily supported by the US presence.

⁽¹⁾AANES file, official website of the diplomatic relations center of the Movement for a Democratic Society (Tevedem), February 19, 2019, available at: <https://cutt.us/9mBTh>

Although seven years have passed since the actual declaration of the Autonomous Administration with its various institutions and bodies, the level of governance and nature of administration in these institutions and bodies remain problematic and questionable. Therefore, **this study seeks** to explore the nature of the Autonomous Administration and measure the level of governance in this developing model, using the judicial authority as an entry point, as it is one of the most prominent indicators. The importance of studying the judiciary in the context of governance stems from the fact that it does not only provide legal indicators on the level of the judicial structure, but also offers indicators and measures on several other levels including stability and peace-building.

The impact of court processes is not limited to the judicial field only, nor does it reflect the pure legal interest alone; it also offers **an indicator for the administration's efficacy and responsibility**. Sociologists and economists also stress the importance of that. From an economic standpoint, there are increasing research interest in measuring the effectiveness of the rule of law, including the efficiency of courts and the independence of the judiciary, hence showcasing the consequences for economic growth or sustainability. From a sociological perspective, courts are viewed as alternative mechanisms for resolving and settling long-standing disputes⁽²⁾. For security studies, the judiciary is a key indicator for measuring security and stability. At the same time, the judiciary is one of the most prominent variables for assessing the level and nature of civil-military relations, as it is an important factor in determining the shape of these relations⁽³⁾. Therefore, measuring the effectiveness of a governance model depends on a set of indicators, including the judiciary's effectiveness and independence, which form a robust measure for the nature and level of governance of the model in question⁽⁴⁾.

It is also important to study the developing judicial structures in the Syrian context as they illustrate the preparedness of the environment, in which the

⁽²⁾ Gar Yein Ng, A Discipline of Judicial Governance, *Utrecht Law Review*, 2011. Page: 103. <https://rb.gy/mvsalb>

⁽³⁾ Maan Tallaa, Civil-Military Relations in Syria, *Omran for Strategic Studies*, December 17, 2020, available at: <https://cutt.us/ub6TG>.

⁽⁴⁾ Gar Yein Ng, *ibid*.

judiciary operates, to implement constitutional procedures, such as elections. The efficiency of the judiciary in this field is one of the essential factors of its success. Furthermore, the AA region is peculiar (northeastern Syria). It encompasses complex problems (political, tribal, and ethnic disputes, as well as terrorism). The impact of current and future problems needs to be mitigated through a professional and non-politicized judicial system.

Hence, this study seeks to explore the judicial system under the AANES including its structure, various institutions, legal foundations, the personnel working in and running those institutions, their qualifications, and the effectiveness, efficiency and working mechanisms of this system.

The main research questions are: what are the structure and working mechanisms of the judicial system under the Autonomous Administration? What are its legal foundations and bylaws? And how effective and efficient is it?

Several sub-questions emerge from the main questions as listed below:

1. What is the structure of the judiciary in the Autonomous Administration, and what are the institutions affiliated with it and their specializations?
2. What are the legal foundations and bylaws that regulate the work of the judicial system, and what are its working mechanisms?
3. What are the qualifications of the individuals (judges) running this judicial system, and how are they distributed demographically?
4. How effective is the judicial structure in terms of independence and the impact on local disputes?
5. What is the nature and boundaries of the relationship between the judicial authority and other authorities within the Autonomous Administration (executive, legislative)?

6. How is the judicial structure dealing with “terrorism”? Especially cases of former ISIS operatives or suspects who are detained in the prisons of the Autonomous Administration?
7. Is there supportive infrastructure for the judicial apparatus, such as forensic medicine, forensic laboratories, among others?
8. What is the nature of the relationship between the judiciary and the PKK?

To answer these questions, the study adopted the **descriptive analysis method**. This method studies the phenomenon as it is in reality and seeks to describe it accurately. The study presents the information both quantitatively and qualitatively, transitioning from quantitative representation to qualitative analysis, including case studies. The study includes five papers; each is a case study of the judiciary in every region of an area under the authority of the AANES: in Hasakeh, Raqqa, Deir Ez-Zor, Manbij, Ayn al-Arab/Kobane.

Regarding the **scope and sample of the study**, the institutions and bodies of the Autonomous Administration represented the targeted scope of the study. The judicial system sample was drawn as a purposive sample from the target pool of the study, which encompasses different institutions and their geographical distribution within the Autonomous Administration's control areas.

In terms of **data sources**, the study relied on two types of sources in collecting the necessary data to answer its questions:

- **Primary sources:** data collected through interviews included answers to open and in-depth questions that reflected the study's inquiries and requirements, in addition to data gathered by studying and surveying the various legal bases and bylaws that regulate the work of the judicial authority, officially approved by the Autonomous Administration, and reviewing some decisions and documents issued by courts of various levels.
- **Secondary sources:** a literature review of the few previously published studies, relevant human rights reports issued by international and local organizations, and other published news reports related to the topic.

The technics used for collecting primary data were interviews that relied on open and in-depth questions designed for the study. Different groups were targeted with the interviews, according to the variables addressed by the study. The research team conducted 56 interviews, face-to-face and on the phone, with different groups⁽⁵⁾, including, most prominently, judges and lawyers working in the courts of the Autonomous Administration, administrative staff members working in the social justice institutions, employees and members of the civil councils, and members of human rights organizations active within the area, in addition to some sporadic interviews imposed by the peculiarity of each region.

⁽⁵⁾ Distribution of the interviews sample:

- **Judges:** 15 interviews were conducted with individuals who are assigned as judges and are still on the job in the judicial institutions and courts of the AA. Distribution of interviewees by areas is as follows: (Hasakeh: 4; Raqqa: 4; Deir ez-Zor: 3; Manbij: 2; Ayn al-Arab/Kobane: 2). The sample of judges took into consideration as much as possible the demographic diversity of the appointees as judges, as follows: (7 Kurdish; 7 Arabs; 1 Syriac).
- **Lawyers:** 14 interviews were conducted with lawyers, 10 of whom were lawyers prosecuting before the courts of the AA, in addition to 2 interviews with 2 lawyers living in the AA where the judicial system is functional, but lawyers are not allowed to prosecute before courts, such as Deir ez-Zor. Two other interviews were conducted with lawyers working at the regime's courts, especially in areas where the security control of the regime and the AA overlap, like in Hasakeh. The distribution of interviews by area were as follows: (Hasakeh: 3 lawyers working with the AA courts and 2 working with the regime courts – Raqqa: 3 lawyers working with the AA courts – Deir ez-Zor: 2 lawyers living in the western countryside which includes the only court in Deir ez-Zor – Manbij: 2 lawyers working with the AA courts – Ayn al-Arab/Kobane: 2). The sample took into consideration, as much as possible, the demographic diversity of lawyers, as follows: 5 Kurds, 6 Arabs, 2 Syriacs, 1 Turkman.
- **Administrative staff members:** 8 interviews were conducted with some civil council members functioning in the AA controlled areas within its regions, in addition to some administrative staff members working at social justice institutions, such as Reconciliation Committees and Women Houses. The interviews were conducted in the different areas: (Hasakeh: 2 – Raqqa: 2 – Deir ez-Zor: 2 – Manbij: 2). The demographics of interviewees were as follows: 3 Kurds and 5 Arabs.
- **Families and dignitaries:** 4 interviews were conducted with former detainees and families of currently detained persons, who have been tried before the AA courts, or those who were released through tribal reconciliations in Hasakeh. 2 other interviews were conducted with 2 individuals who attended and took part in some tribal reconciliations that led to the release of individuals accused of being affiliated with ISIS. The sample took into consideration, as possible, the demographic diversity.
- **Journalists and human rights organizations:** 4 interviews were conducted with members of HROs working in the AA controlled areas, as well as with members of HROs who are living outside Syria but their organizations have activities inside Syria, in the AA areas in (Hasakeh, Raqqa, Deir ez-Zor, Manbij). In addition to 3 journalists working with local monitoring networks active in covering the news of the north and east Syria.
- **Consultants:** lengthy interviews were conducted with 3 former judges who are currently living outside Syria and who had worked in the courts of the Syrian state before, especially in the areas that are currently under control of the AA. The interviews were conducted as legal and judicial consultations to solicit some legal opinion on laws and the work of the judiciary in those areas.

Studies have a set of parameters that define their scope. The **parameters of this study** are:

- **Scientific Parameters:** this study does not analyze the legality of laws and legislation issued by the Autonomous Administration, but instead is concerned with studying the judicial system responsible for applying those laws and legislation.
- **Spatial Parameters:** the study examines the judiciary and its various institutions only within the areas under the control of the Autonomous Administration, i.e, in Hasakeh, Deir Ez-Zor, Raqqa, Manbij, Ayn al-Arab/Kobane.
- **Temporal Parameters:** this study addresses the judicial experiment of AANES, since its emergence in 2012 until 2021. The study was conducted between September 2020 and April 2021.

Some challenges were faced during the data collection process. Some sources refrained from sharing information or expressing their opinions due to the general security conditions, while others participated cautiously and anonymously for security reasons, especially judges and lawyers who are still on the job. It is important to note that Chapter Five (Article 47) of the Charter of Social Justice System prohibits judges from voicing their political opinions or orientations to mass media, and prevents them from disclosing any information related to deliberations⁽⁶⁾. There is also a highly securitized and cautious atmosphere within different Autonomous Administration institutions, which prevents officials from commenting on the nature of these institutions or talking about their working mechanisms on the ground. That is due to the high-security control and oversight within these institutions. This is a well-known reality for everyone within the AA region, including workers and residents.

⁽⁶⁾ Charter of the Social Justice System of the AANES, Chapter Five: Judges' Affairs, article (47), paragraphs 5-6, available at: <https://cutt.us/AH5zM>

Chapter 1

The “Social Justice” System (Philosophy and Institutions)

Chapter 1: The “Social Justice” System (Philosophy and Institutions)

First: Philosophy of the Establishment (Theoretical Frame)

The Kurdistan Workers' Party (Partiya Karkerên Kurdistan - PKK) was established in the mid-1970s in Turkey. The new party was influenced by Marxist-Leninist ideology and mainly aimed to establish the “great independent Kurdistan state”. Many factors led to the PKK deviating from its plan to establish a national state, and instead seek autonomy on the local level. At the end of the 1980s and the beginning of the 1990s, many of these factors emerged, such as the collapse of the Soviet Union, the military strikes that hit the PKK at that time⁽⁷⁾, and the pressure that PKK was subject to after the political and security coordination between the regimes of Syria, Iraq, Turkey, and Iran. The coordination formed joint security committees to confront the PKK and entered bilateral agreements for security cooperation and the control of their shared borders (Turkey and Iraq) (Turkey and Iran), including the Adana Agreement between Turkey and Syria in 1998⁽⁸⁾. Additionally, there was the initial decision by the United States to designate the PKK as a terrorist organization in 1997, which was followed by the arrest of Abdullah Ocalan, the leader of PKK, by Turkey in 1999⁽⁹⁾.

The writings of the social ecologist, Murray Bookchin, constituted the most prominent factor in transforming Ocalan's thought and his dream of an independent Kurdish state into an alternative path called the “democratic confederation”. This led to adopting a new strategy for the PKK, based on separating the arenas of political action. Hence, three new parties were established: the “Kurdistan Free Life” party in Iran, the “Democratic Solution” party in Iraq, and the “Democratic Union” party in Syria. In addition to the suppression by the Syrian regime at the beginning of its formation in 2003, the Democratic Union Party (Partiya Yekîtiya Demokrat – PYD) faced difficulties in revitalizing its social network inside Syria

⁽⁷⁾Joris Leverink, Murray Bookchin and the Kurdish resistance, ROAR Magazine, 2015. <https://rb.gv/brkldg>

⁽⁸⁾ Ammar Abbas Mahmoud, the Kurdish Question: The State Building Problem, al-Arabi Publishing House, 2016, 1st edition, PP: 116-122.

⁽⁹⁾ Joris Leverink, ibd.

associated with the PKK. Many of that network became involved in other Syrian Kurdish parties; therefore, the PYD was not recognized by the Syrian Kurdish political movement until 2006. In 2005, it called on the Syrian state in its communique of the second “extraordinary conference” to change its conduct and move to the “democratic confederation” system⁽¹⁰⁾.

The concept of “democratic confederation” has emerged in most of Murray Bookchin's works, particularly in his book “The Rise of Urbanization and the Decline of Citizenship”. He explains that the “democratic confederation” is based on what he called “libertarian self-independent municipalities”, based on developing people's councils and neighborhood committees that merge to replace the state. He called that the “dual power” strategy that simultaneously impedes the two powers' meeting—the state and the confederation. According to Bookchin, by achieving this, when the state is emptied of its power, society will reach the highest level of participatory democracy⁽¹¹⁾.

Furthermore, reading the letters exchanged through a mediator between Bookchin and Ocalan in 2004 shows us the latter's emphasis on his use of concepts such as the “ecological society” and the “libertarian municipalism” in his works⁽¹²⁾. The official preamble of the AA Social Contract Charter endorses the principles of ecological balance while rejecting the concept of a nationalist, militaristic and religious state. It also repudiates centralization in administration and governance⁽¹³⁾. This explains the AA's embrace of the concept of “stateless democracy”. It is understood that this concept – which Ocalan endorsed – was greatly influenced by Bookchin's ideas, especially that he called for governing through democratic municipal councils so that these local municipalities would form a confederation. Therefore, Bookchin believes that the “democratic confederation” is a participatory, democratic self-administration that rejects the principle of the Westphalian state⁽¹⁴⁾. Bookchin's hypothesis reflects the core of Ocalan's “democratic nation”

⁽¹⁰⁾ Abdullah al-Najjar, the Democratic Union Party project in east of Euphrates, Harmoon Center for contemporary studies, August 17, 2020, available at: <https://cutt.us/MaWbe>.

⁽¹¹⁾ Janet Biehl, Bookchin's Libertarian Municipalism, Cadernos de Campo, 2019, P. 69. <https://rb.gy/zeokbn>.

⁽¹²⁾ A copy in Turkish of the correspondences between Ocalan and Murray. The research team translated them. For more information, see the following link: <https://rb.gy/aplxhs>

⁽¹³⁾ Charter of Social Contract of AANES, official website of PYD, available at: <https://cutt.us/QVsrX>

⁽¹⁴⁾ Miran Kakaee, Democratic Confederalist Approaches to Addressing Patriarchal Violence Within the JusticeSystem, Informa UK Limited, trading as Taylor & Francis Group, April 13, 2020 . <https://rb.gy/tyze44>

theory, which denies everything that is nationalist and calls for establishing a democratic society inclusive of all ethnic and religious groups. It is closer to the concept of world communism, called for by the theorists of the communist movement in the mid-nineteenth century⁽¹⁵⁾.

Based on the above-mentioned, the AANES represents the main structure of the democratic confederation. It consists of a legislative council that acts as a parliament, an executive council as a government, a group of bodies and councils, and finally, popular municipalities and “Komins”. Autonomous Democratic governance claims that people can decide their future through the “democratic confederation” and exercise the right to self-determination through a bottom-up council system. These structures are collectively called the “Autonomous Administration of North and East Syria”. The “Komin” – the neighborhood council – constitutes the basis for this bottom-up model, followed by towns/villages (composed of municipalities) and people's councils for districts and then regions. The People's Councils consist of all cities, villages, and municipalities at all these levels⁽¹⁶⁾, coordinated by the “Movement for a Democratic Society” (TEV-DEM)⁽¹⁷⁾, which is composed of political parties, social movements, and civil organizations. Despite its claim to be diverse, it represents small organizations that work behind the scenes to benefit PKK⁽¹⁸⁾.

Although the AA asserts that its structure is based on a bottom-up model meant to maintain its participatory democracy, on the ground, it has started to build and structure its system from top to bottom, since the beginning of

⁽¹⁵⁾ Fuad Aliko, the democratic nation theory causes a setback for the Kurdish cause at the regional level, Yekiti Media, March 22, 2015, available at: <https://bit.ly/3nRsI5d>.

⁽¹⁶⁾ Pinar Dinç, The Kurdish Movement and the Democratic Federation of Northern Syria, Journal of Balkan and Near Eastern Studies, January 26, 2020, P.52. <https://rb.gy/dw8kys>

⁽¹⁷⁾ The Movement for a Democratic Society in Western Kurdistan: The Movement for a Democratic Society aims at reaching a moral political (democratic) society, which considers gender libertarianism and liberation of women a standard for the liberty of society. It seeks to achieve coexistence among all components and cultures of society, including the different ethnicities, religions, schools of thought and denominations and all its social groups, within a democratic nation and a shared homeland, and with a democratic constitution based on the foundations and principles of freedom and social justice, in “western Kurdistan” and in Syria, making the project of the Democratic AA a model to practically solve the Kurdish issue. This model is not limited to a certain geography or area, it rather is the best solution for all pending issues in Syria. For more see: Charter of Movement for Pluralistic Society TEV-DEM, Afrin News Agency, 2012, available at: <https://goo.gl/DDfZ6z>.

⁽¹⁸⁾ Burcu Özçelik, Explaining the Kurdish Democratic Union Party's Self-Governance Practices in Northern Syria, Cambridge University Press. October 02, 2019. <https://bit.ly/2Li9zvN>.

establishing ‘The Council of Western Kurdistan’, and then forming the lower units such as municipalities and “Komins”⁽¹⁹⁾, which contradicted the “democratic vision” declared by the AA.

Under those structures and authorities that the PYD created within the framework of the AA Declaration, the judicial authority was established and given the name the “social justice” system. The origin of the name can also be attributed to Bookchin, who spoke about social justice in most of his writings, especially in his book “From Urbanization to Cities: Toward a New Politics of Citizenship”. Bookchin believes that the pursuit of justice in the city is at the heart of the need for people to be members of society rather than mere taxpayers. He considers the rise of capitalism, the bureaucratic state, and mass culture to be the factors which paved the way for society toward privatization and self-indulgence⁽²⁰⁾. Although Bookchin talks about social justice in most of his books, they do not contain information that would explain in detail the structure of social justice institutions.

In one way or another, the judicial system in the AA represented one of the legal and administrative manifestations of Abdullah Ocalan's theory influenced by Bookchin's thought. The system that began by establishing the so-called “People's Courts” in 2012 continued to develop as a result of criticism of the work of those courts. It ultimately adopted what became known as the “social justice system” as a judicial system to resolve disputes in society and adjudicate by law. This system comprised of a group of institutions called councils, bureaus, and commissions of social justice, which represented courts of various specializations and levels that applied the Syrian laws as their reference after several amendments were introduced. As a whole, these institutions constitute the judicial authority that currently exists in the AANES.

⁽¹⁹⁾ A group of authors, *Centralization and Decentralization in Syria: Concepts and Practices*, Omran Center for Strategic Studies, 2018, 1st edition, P: 215.

⁽²⁰⁾ Murray Bookchin, *From Urbanization to Cities*, Cassell, 1995, P.198.

Second: Judicial Authority within The AA (Structure and Legal Foundations)

The judicial authority under the AANES comprises several judicial institutions and bodies called “social justice” institutions. They are further illustrated in the “Charter of the Social Justice System”, which the AA issued in 2019 after its ratification by the General Council (legislative authority)⁽²¹⁾, to regulate these institutions. As stated in its Charter, the social justice system is carried out per the “Democratic Law – established by the People's Councils – which in turn reflects the nature and will of society”, and its laws are passed “in the name of the people”. In this study, we will showcase the institutions and councils that constitute the system in theory, based on the Charter of Social Justice System, and discuss the working mechanisms of these institutions on the ground, according to subsequent case studies, which examined the judicial experience and its mechanisms in detail within each area declared as region under AA control.

Social Justice Council of AA

The “Social Justice Council” of North and East Syria represents the supreme judicial authority within the AA. In theory, it is deemed the authority “elected” by social justice institutions in autonomous and civil administrations within the regions. It is concerned with the policy-making of justice and organizing its institutions. The Council consists of 13 members, with a term of two years each, and a co-chairpersons to run it. The co-chairs as of the date of the study are Rima Barakat and Imad al-Karav. Kurdish Members make up about half the Council membership⁽²²⁾.

The General Council of the AA approves the members of the Social Justice Council. The Council's meetings are deemed legal when two-thirds of its members are present. It makes its decisions by a majority vote. In theory, it handles all matters relating to judges, including appointment, transfer,

⁽²¹⁾ The General Council of AANES endorsed the Social Justice Charter on 15 December, in its 25th session. For more information see: The General Council of the AA Unifies the Judicial System in the Seven Administrations, Buyer Press, December 16, 2019, available at: <https://cutt.us/7BJSb>

⁽²²⁾ Data collected and cross-matched with the subsequent case studies, which included the judicial system in each of following regions separately: (Hasakeh, Raqqa, Deir ez-Zor, Manbij, Ayn al-Arab/Kobane). The study relied on several face-to-face and phone interviews with judges and lawyers working at the social justice institutions.

secondment, disciplinary action, and termination of service. It specializes in developing plans and budgets and oversees the “People’s Defense” Court (Terrorism Court). The Justice Council has a direct relationship with the General Council of the AA. According to the bylaws, it is the supreme judicial body within all of the AA. The social justice sub-councils operate as branches subordinated to the main council and are deemed the highest judicial authority in each region⁽²³⁾.

The Social Justice Council puts forward public policies and sends out circulars to the justice sub-councils in the regions⁽²⁴⁾. According to Article (15) of the Charter of Social Justice System, the General Justice Council members are appointed through votes from sub-councils in each of the autonomous-administrations (regions)⁽²⁵⁾. Despite this, the data shows that **PKK cadres** interfere directly in the appointment process based on cronyism and partisan loyalty. They also supervise the council’s work, committees, and policies, including the council’s power to appoint, transfer, or dismiss judges within the regions’ justice sub-councils⁽²⁶⁾.

Procedurally, cadres, the “Kadro” in Kurdish, refer to PKK fighters who acquired their experience in Qandil Mountains, whether they are Syrian Kurds or non-Syrians (from Turkey & Iran). In Syria, the cadres consist mostly of PKK fighters trained in Turkey and Iraq and volunteers, advocates, and experts sent by the PKK to the AA-controlled areas⁽²⁷⁾. The word “cadres” is used locally to refer to PKK members exclusively. The issue of cadres is controversial, as some locals in north-eastern Syria see it as a “shadow authority” structure, with the power to make final decisions behind the local governing entities and beyond, specifically when it comes to security.

⁽²³⁾ The Charter of Social Justice System within the AANES, endorsed by the AA on December 15, 2019. Available at: <https://cutt.us/AH5zM>.

⁽²⁴⁾ For learning more about some of the decisions made by the Social Justice Council of North and East Syria, such as circulars for the regional social justice councils, see the official handle of the social justice council in “al-Jazirah Region” on the following link: <https://cutt.us/UNP32>.

⁽²⁵⁾ Ibid.

⁽²⁶⁾ Data collected and cross-matched with the subsequent case study, which included the judicial system in each of following regions separately: (Hasakeh, Raqqa, Deir ez-Zor, Manbij, Ayn al-Arab/Kobane. Ibid.

⁽²⁷⁾ Burcu Özçelik, Explaining the Kurdish Democratic Union Party’s Self-Governance Practices in Northern Syria, Cambridge University Press. October 02, 2019. <https://bit.ly/2Li9zvN>.

“Cadres” include non-Syrian Kurds from all over the region and Syrian Kurds who served in the ranks of the PKK before returning to Syria after 2011. They currently operate within the Kurdish YPG factions and their local, political, security, and administrative bodies. A great deal of secrecy surrounded their identity and role in the first few years of fighting against ISIS, and their background was not clear to local Arabs or Kurds in the region. However, the locals realized that these individuals make decisions. Maintaining their confidentiality in Arab areas became difficult because of their dialect, style, and strange conduct⁽²⁸⁾. The AA continued to deny their presence until 2020, when the commander of the SDF, Mazloum Abdi, confirmed in a statement the presence of thousands of them in northern and eastern Syria, in the context of confronting ISIS⁽²⁹⁾.

The Women's Council for Social Justice

Parallel to the Council for Social Justice, is the Women's Council for Social Justice. It is the body that oversees all women working in justice institutions within the autonomous and civil administrations. It is tasked with “the coordination between women's sub-councils for social justice, in addition to expressing an opinion on laws related to women. It also works on preparing projects that would secure additional income for women working in justice institutions. It also undertakes the task of spreading the thought and philosophy of the “democratic nation”, and it is composed of 21 members”⁽³⁰⁾.

The data collected from case studies in the various regions under the AA control shows that PKK women cadres directly supervise the council's work. They interfere in its policies and appointments depending on partisan considerations and often transgressing the election process. Women's Sub-councils for Social Justice in the regions are also directly supervised by women from the PKK cadres. The number of sub-councils members differs from one region to another. However, their presence remains in theory

⁽²⁸⁾ Crisis group, The SDF Seeks a Path Toward Durable Stability in North East Syria, November 25, 2020: <https://cutt.us/fm4DT>.

⁽²⁹⁾ Crisis group, *ibid*.

⁽³⁰⁾ The Charter of Social Justice System within the AANES, *ibid*.

without an actual presence on the ground in some regions, such as in Deir Ez-Zor⁽³¹⁾.

Social Justice Councils in the Regions

Several Social Justice Councils and Women Councils for Social Justice (sub-councils) emerged from the two main councils mentioned above. They have been present in most of the AA-controlled regions until 2021. The Social Justice Sub-Council in each region represents the supreme judicial authority there. It consists of the judicial inspection committee, prosecution committee, implementation committee, administrative and financial committee, and reconciliation committee. Members of the Council are theoretically elected through the “General Conference”⁽³²⁾, which is the conference held by decision of the PYD’s General Council to elect members of the Social Justice Council. The membership term is two years, and the nominated members must serve at least three years in justice institutions, except for representatives of the reconciliation committees. Council members may not concurrently serve as a member and hold any other position⁽³³⁾.

According to the data collected from the case studies in each region, justice councils are subject to the authority of the PKK cadres appointed to those regions known as “justice cadres”. They are labeled to distinguish them from other cadres responsible for other institutions within the AA. Justice councils within each region are supervised by a number of those cadres, mostly non-Syrian Kurds (from Turkey & Iran) and local cadres. They are known to judges, lawyers, and even claimants with pseudonyms. Those cadres hold administrative, financial, and security responsibilities for the justice council, overseeing its policies and committees. They also directly intervene in appointing its members, disregarding the elections process through the “General Conference”, which was never held in some regions. The number of council members varies from region to region, and some of them have not fulfilled the stipulated service term for their eligibility to membership. Some other members combine their membership in the council and other positions

⁽³¹⁾ Data collected and cross-matched with the subsequent case studies, which included the judicial system in each of following regions separately: (Hasakeh, Raqqa, Deir ez-Zor, Manbij, Ayn al-Arab/Kobane). Ibid.

⁽³²⁾ Bylaws of PYD. The official website of PYD, available at: <https://bit.ly/2N36Gj2>

⁽³³⁾ The Charter of Social Justice System within the AANES, Ibid.

within social justice institutions, violating the judicial mechanisms. In some regions, such as Deir Ez-Zor, the justice council consists of the cadres themselves and other members⁽³⁴⁾.

The Social Justice Bureau

Under the social justice council of each region, there is what is called the social justice bureau. It is one of the social justice institutions and is tasked with resolving cases and settling disputes presented to it according to the laws and principles of social justice. It was previously called the People's Court and then the Justice Commission. Its jurisdiction includes all civil, commercial, administrative, and penal disputes, regardless of the disputing parties⁽³⁵⁾. The Justice Bureau consists of four main commissions that serve as a group of courts of different levels. Their tasks are divided, in theory, as follows⁽³⁶⁾:

1. **The Social Justice Commission:** is one of the commissions affiliated with the Social Justice Bureau, whose members are appointed by the Council of Justice in every autonomous and civil administration. It consists of three or five members of both sexes. It makes decisions on all cases, while also involving society in the process through the “Platforms”, arbitration, and juries.
2. **The Cassation Commission:** it used to be called the Court of Appeal previously. Some of its most prominent functions are monitoring rulings and decisions made by social justice bureaus, reviewing their validity and legality, and examining all appeals filed.
3. **The Public Prosecution Commission:** is tasked with instituting public cases, investigating them, initiating their procedures before the Justice and Cassation Commissions, representing the public right and initiating public cases. It specializes in hearing and investigating complaints and overseeing jails and prisons, providing functional supervision of members

⁽³⁴⁾ Data collected and cross-matched with the subsequent case studies, which included the judicial system in each of following regions separately: (Hasakeh, Raqqa, Deir ez-Zor, Manbij, Ayn al-Arab/Kobane). Ibid.

⁽³⁵⁾ Riyad Ali, The Judicial System in the area controlled by the AA: Politicized Judiciary and non-exemplary courts that lack judges and legal professionals, The Kurdish Sweden Center for Studies, June 11, 2017, available at: <https://rb.gv/yougvw>

⁽³⁶⁾ The Charter of Social Justice System within the AANES, Ibid.

of the investigation offices in the “Asayish”, and following up and implementing penal rulings. Its membership consists of three, five, or seven members of both sexes, appointed through the Council of Justice.

4. **The Implementation Commission and the Notary Public:** the implementation commission executes preliminary and final judicial rulings and decisions and those given a final status. It also enforces official instruments, agreements, contracts, and decisions enforceable by law. Once the ruling is final, it is referred to the implementation commission in the area; it is enforced coercively if the sentenced person rejects implementing the ruling voluntarily; the help of the “Asayish” (General Security) is sought when necessary. Implementation commissions have all the powers required for enforcement, such as confiscation, forced sale, and forced imprisonment. The notary public, who is one of the members of the implementation commission, is charged, within the limits of their authority and jurisdiction, to write and certify contracts required by law.

Public Prosecution commissions are considered courts of the first degree, while the implementation commission and the cassation commission are second-degree courts. The Social Justice Commission is the highest judicial authority in cases with final judgments, while the cassation commission is the highest judicial authority in appealable cases⁽³⁷⁾. According to the data and the findings of the subsequent case studies, each social justice bureau within each region is supervised by one or more PKK cadres. These cadres supervise the bureaus, organize their financial, administrative and security affairs, and monitor their policies. They also interfere in appointments within the mentioned commissions, as well as in some judicial decisions.

Reconciliation Committees

Reconciliation Committees are one of the key committees of the social justice system. They work on solving problems consensually and according to ethical standards. They consider civil and penal disputes and propose juries, “platform”, arbitrators, and experts of different specializations. This is

⁽³⁷⁾ “People’s Courts” of the AA from within, Ayn al-Madina Magazine, September 25, 2019, available at: <https://rb.gy/i7sddz>.

conducted upon a request by the Social Justice Bureaus. Reconciliation committees are present in “Komins”, towns, cities, and districts. It is noteworthy that civil lawsuits are not submitted before the Justice Bureau unless the reconciliation councils review them, and if a reconciliation committee cannot resolve such cases, it writes in its report the actions that it has undertaken and its recommendations and submits them to the Bureau of Justice. However, this does not apply to penal cases⁽³⁸⁾.

Despite the provisions of Article (33) of the Charter of the Social Justice System, concerning the mechanisms for appointing members of the reconciliation committees, that “they shall be chosen through democratic elections from among the locals of the village or town, who are experienced, moral and socially acceptable”⁽³⁹⁾. However, data collected from the case studies indicate the intervention of PKK cadres in appointing committee members in a manner that often disregards experience and social acceptance, especially representatives of committees in justice councils. This intervention is made directly or through local networks linked to the cadres. Some jurists and researchers believe that the judicial authority within the reconciliation committees is ineffective and is left in the hands of ordinary locals from the cities and towns, who are not qualified to solve cases by consensual means and diplomatic tools. They also see these official bodies, including the reconciliation committees, the jury, and the “Platform” similar, although they appear to be independent and different from each other, which is only nominal⁽⁴⁰⁾.

The Women Houses

Women's Houses are among the social justice institutions that serve as reconciliation committees limited to women issues and marital disputes. It is a civil social institution that seeks to raise awareness and solve women's problems. Women's Houses are spread in cities, villages, and towns within each region. They are administratively affiliated with the Women's Council for Social Justice. Each house consists of an administrative council and

⁽³⁸⁾ The AA issues the “Social Justice System” Law in Areas Under its Control, Smart News Agency, January 28, 2016, available at: <https://rb.gy/v3iaga>.

⁽³⁹⁾ The Charter of Social Justice System within the AANES, Ibid.

⁽⁴⁰⁾ Carl Drott, Syrian Kurdish Areas under the Rule of Law? Carnegie Middle East center, 2014. <https://cutt.us/Ezlw>.

committees for reconciliation, training, and social solidarity. These committees are concerned with all women's issues, and they appear at courts representing women in cases related to women⁽⁴¹⁾. These houses aim at “combating all forms of violence against women and contributing to revitalizing their role in political action and spreading the thought and philosophy of the “democratic nation”, in addition to supporting and encouraging women economically through the development of associations and projects”⁽⁴²⁾. This institution operates under the “Women Protection” law framework, passed by the AA in 2014. The law adopts the principle of equal participation of women in the management of all institutions⁽⁴³⁾.

Based on data collected, in practice, Women's Houses are supervised by PKK women cadres who supervise the Women Council for Social Justice in each region, along with local cadres and women networks linked to them, from those who attended PKK ideology courses. Despite the effectiveness of the Houses, which differs from one region to another, they are constantly receiving criticism regarding their role in protecting women as required. According to some jurists, its goal is to eliminate independent civil society organizations, including those supporting women's rights and found alternative institutions based on ideological foundations and one political affiliation⁽⁴⁴⁾. Furthermore, local and international organizations have documented thousands of cases of assault on women in areas under the control of the AA, including beating, killing, kidnapping, rape, harassment, and political violence⁽⁴⁵⁾. The Social Justice Council in Hasakeh documented in 2020 alone more than 1,600 cases of assault on women⁽⁴⁶⁾. There are also dozens of international reports that criticize the YPG/YPJ for their continued

⁽⁴¹⁾ The Charter of Social Justice System within the AANES, Ibid.

⁽⁴²⁾ Women Commission: 4 Years of Ongoing Achievements, Hawar News Agency, September 19, 2018, available at: <https://Hrb.gy/bzrprb>.

⁽⁴³⁾ Women Protection Law in the North of Syria, Decorative Touches to a Bitter Reality, Syrian Women’s Network, April 6, 2018, available at: <https://bit.ly/3qJfNVI>.

⁽⁴⁴⁾ Ibid.

⁽⁴⁵⁾ Kurdish Women Liberty in Syria: A Reality or Political Propaganda?, Raseef22, September 12, 2016, available at: <https://rb.gy/qrdyts>.

⁽⁴⁶⁾ Documenting Crimes Against Women in the North and East of Syria, statistics issued by the Social Justice Council of AANES, Official handle of the Justice Council, December 27, 2020, available at: <https://cutt.us/p8cED>.

forcible recruitment of female minors to serve in the armed forces⁽⁴⁷⁾, which are not documented as violations within social justice institutions' reports of the AA.

“People’s Defense” Court

The “People’s Defense” Court (also known as the Terrorism Court) is one of the social justice institutions established in early 2014, supposedly to try crimes and violations perpetrated against the locals of north and east of Syria. The establishment of the court was under the Counter-Terrorism Law, which was issued based on the provisions of the social contract, upon the proposal of the executive council of the Democratic AA in al-Jazirah/Hasakeh, No. 244 dated July 31, 2014. The Legislative Council endorsed the law in its 25th session held on September 27, 2014⁽⁴⁸⁾. According to the AA, “as its legal basis, the court relies on international laws related to terrorism cases, as well as the Syrian law. This was after studying models of developed countries that have established counter-terrorism courts, as well as adopting human rights instruments as a reference on which the court relies in its laws and prison administration”⁽⁴⁹⁾.

Although the Charter of Social Justice System has dedicated a special chapter for the “People’s Defense” Court, it does not contain any details that would clarify its working mechanisms, in addition to the fact that the Charter asserts that this court operates per its special law⁽⁵⁰⁾. The court has been subject to legal criticism for being an extraordinary court, which constitutes a clear violation of the Charter of Social Contract, which stipulates in Article (70) that it is impermissible to establish exceptional courts⁽⁵¹⁾. The applicable counter-terrorism law is also ambiguous, primarily since it has not been published in the official newspapers and means available in the area⁽⁵²⁾. The Court is also criticized for not allowing the right to defense for defendants. In

⁽⁴⁷⁾ Human Rights Watch’s letter to the AA and the People Protection Forces affiliated with the Kurdish PYD, Human Rights Watch, June 22, 2018, available at: <https://cutt.us/xdmeH>.

⁽⁴⁸⁾ People Defense Courts tried 8,000 Syrians and preparations are underway to look into the cases of the non-Syrian ISIS members, al-Jesr Press, February 19,2020, available at: <https://bit.ly/3mKSEi5>.

⁽⁴⁹⁾ Revenge or Enforcing Law. The Kurdish Administration and ISIS Captives, DW Arabic, May 17, 2015, available at: <https://bit.ly/3mZWLrJ>.

⁽⁵⁰⁾ Charter of Social Justice System within the AANES, Ibid.

⁽⁵¹⁾ Charter of Social Contract within the AANES, Ibid.

⁽⁵²⁾ Revenge or Enforcing Law. The Kurdish Administration and ISIS Captives, Ibid.

addition, several international organizations, including Amnesty International and the UNHRC, have stated that some individuals have been arbitrarily detained for periods up to one year, without charges or trial and that the measures taken against them were starkly unfair. Measures included torture and denying their rights to see the evidence against them, and contacting a lawyer or their families⁽⁵³⁾.

Furthermore, there have been many cases of death under torture documented in their prisons. While the AA says that the “People’s Defense” court is run by the Justice Council per the Charter of Social Justice, data collected from the subsequent case studies in Hasakeh and Ayn al-Arab/Kobane – where the branches of the court are located – indicate that PKK cadres directly run these branches. They also oversee the appointment of their judges and the judicial processes within them, in addition to supervising prisons and their detention centers.

The “Platform” Courts (Justice Platforms)

Article (3) of the Procedures Law stipulates the necessity of participation of society in passing rulings through a number of commissions, including the “Platform”⁽⁵⁴⁾. These platforms are called “Justice Platforms” and are described as “peace and consensus committees”. In the past, the people's court system was criticized for being similar to the courts in the current hierarchical justice systems. In response to this criticism, the justice “Platforms” were created as an alternative to the people's courts⁽⁵⁵⁾. In essence, the idea of “Platform” is based on the mobilization of a group of people in a public court formed for cases related to public opinion on the region, town, or city level. Those people issue their final ruling in the case instead of the judges. This experience was implemented in some regions and specific cases such as murders, robberies, and others.

However, this experience was criticized for several reasons, including that the punishment passed by the “Platforms” against defendants are final verdicts

⁽⁵³⁾ Syria: Arbitrary Detentions and Blatantly Unfair Trials Mar PYD Fight Against Terrorism, Amnesty International, September 7, 2015, available at: <https://bit.ly/2JFrr3f>.

⁽⁵⁴⁾ Article (3) of the Procedure of the Social Justice System Law, for more information, see: <https://cutt.us/T1Wtv>.

⁽⁵⁵⁾ Miran Kakaee, Democratic Confederalist Approaches to Addressing Patriarchal Violence within the Justice System, Informa UK Limited, trading as Taylor & Francis Group, April 13, 2020, P.6. <https://rb.gy/tyze44>

issued by ordinary people who do not know the laws and due procedures. In addition, most of those taking part in the sentence pronouncement sessions are not even familiarized with the case's merits, except through that same session, which takes only a few hours in its entirety⁽⁵⁶⁾. According to the data collected from subsequent case studies, the “Platforms” are sometimes used as a tool to circumvent the law through two factors: assigning the status of a “public opinion” issue to private and specific cases and controlling the nature of the attendees. There have been many cases in different regions where the PYD mobilized its followers to vote to divert or disrupt the case. In this context, PKK cadres also request a “Platform” to be held in cases that affect the interests of one of the parties associated with them to avoid getting them into formal trials and distort the course of the judicial decision.

“Mesopotamia Academy” (The Mechanism for Appointing Judges)

According to the Charter of Social Justice System, the AA defines it as an “academic institution specializing in legal sciences, law and social justice”. The academy is linked to the General Council of Social Justice in the AANES administratively and financially. It operates according to the foundations and principles of the “democratic nation”. It provides training and preparation for judicial staff and develops the social justice system⁽⁵⁷⁾. The academy qualifies and trains judges through courses ranging from 45 days to 6 months. It admits holders of law, humanities/social sciences degrees, or even high school diplomas, who graduate from the academy as judges to work in social justice bureaus. The academy also includes a law department.

According to Article (46) of the Charter of the Social Justice System, those who are to be appointed as judges or work in the judiciary should be locals of the AA areas and have the right to reside there. Additionally, the Charter specifies the conditions for accepting judges in the courts, which include: that such persons shall not be convicted of a felony or a shameful crime, a judge may not combine his judicial position with other professions, a judge who is dismissed for reasons of integrity may never be returned to the judicial field, judges shall be holders of a law degree from a Syrian university or its

⁽⁵⁶⁾ The Judiciary in Rojava: Problems in the mechanism of enforcing laws and the absence of specialized law professionals, Rok Online Newspaper, July 1, 2017, available at: <https://rb.gy/lywebl>.

⁽⁵⁷⁾ The Charter of Social Justice System within the AANES, Ibid.

equivalent or a graduate of the “Mesopotamia Academy” – as it is considered an officially recognized university in the AA areas only – the judges shall also pass the written and oral test conducted by the Academy upon the order of the Social Justice Council⁽⁵⁸⁾.

Data indicates that 90% of the “Mesopotamia Academy” curricula is ideological and in line with the PYD and the “democratic nation” philosophy. Only 10% of the curricula teaches general legal principles. Some local lawyers and PKK cadres supervise the academy and training under the oversight of the foreign PKK cadres. According to some of the lawyers who joined the training, those in charge of it are not legally qualified⁽⁵⁹⁾.

Foundations (Legal and Functional)

The judicial authority, or the so-called “social justice system”, relies on Article (88) of the Charter of the Social Contract for the AANES. The article stipulates the legitimacy of working with the current Syrian statutory (penal and civil) laws in a manner that does not conflict with the provisions and articles of the Charter of the social contract⁽⁶⁰⁾. The laws regulating the work of judicial institutions in the AA and their staff include multiple legal bases and bylaws, as follows:

- **The Social Contract Charter:** the social contract charter was endorsed in the AANES on January 6, 2014. The charter consists of nine chapters containing 95 articles, followed by several amendments annexed to it, including the structure and function of the Judicial Council by decrees issued in 2018. The Social Contract Charter serves as the constitution of the AA. Chapter six is designated as a detailed chapter for the Judicial Council, which provides for the importance of the independence of the judiciary, its functions, the mechanism for appointing and dismissing

⁽⁵⁸⁾ Ibid.

⁽⁵⁹⁾ Data collected and cross-matched through four interviews conducted by the research team with two lawyers and two others holders of degrees in social sciences/humanities who joined judicial courses at “Mesopotamia” Academy . The interviews were conducted between 1-15 October 2020. Two interviews were conducted in person by an enumerator, while two others were conducted on the phone.

⁽⁶⁰⁾ Charter of Social Contract within the AANES, Official PYD Website, available at: <https://cutt.us/QVsrX>.

judges, and matters related to citizens' rights in the event of standing trial⁽⁶¹⁾.

- **Procedures for the Social Justice System Law:** the Procedures Law includes articles on the procedures of civil and penal trials, general provisions, litigation and their registration, in addition to issues of legal defenses, third party litigation, the introduction of a guarantor, and interlocutory requests, as well as details related to citizens and the mechanism that must be followed during the filing of lawsuits. It also stipulates that the courts approve Kurdish, Arabic, and Syriac languages. It also includes a detailed presentation of the mechanism for issuing notification memos, summons, arrest warrants, and information about the mechanism and procedures for conducting judicial hearings⁽⁶²⁾.
- **The Social Justice System Charter in North and East Syria:** the Charter of the Social Justice System was endorsed by the General (Legislative) Council of the AA in its 25th session in the presence of the co-president, and the majority of its members, along with the members of the committee that drafted the Charter, which comprises several Justice Council members. The Charter is a reference for the bylaws regulating the work of social justice institutions and their staff. The Charter includes the rights and duties of judges, in addition to defining and specifying the jurisdiction and tasks of all these institutions, including the Social Justice Council, the Social Justice Bureau, Women Houses, Reconciliation Committees, and the “Platform”⁽⁶³⁾.
- **The Autonomous Administration Charter:** it is a charter regulating the three authorities (legislative, executive, and judicial). Chapter three of the charter is dedicated to explaining the general principles of the Social

⁽⁶¹⁾ Ibid.

⁽⁶²⁾ The Procedures Law of the social justice system. The research team managed to review it through some of the appointees as judges who were interviewed. It is available in the archives of Omran for Strategic Studies at the following link: <https://cutt.us/T1Wtv>

⁽⁶³⁾ The General Council of the “AA in the North and East Syria” Announces The Endorsement of the Social Justice System Charter, December 15, 2019, available at: <https://bit.ly/3mADfkW>

Justice Council in the AANES and information on the mechanism for the composition and jurisdiction of the Council⁽⁶⁴⁾.

- **Laws and legislations:** the key laws governing the judiciary of the AA adopts the Syrian Penal Code as the main basis, with amendments to some of its articles. In addition to decrees and decisions issued by the General Council and circulated by the Council of Justice, which become legal references. In the context of legalizing the application of Syrian regime laws, after the introduction of some commuted sentences and the removal of some laws that are not appropriate for the nature of the AANES, the latter issued a set of special laws, including, most prominently: the counter-terrorism law, the political parties law and the civil society regulation law, the media law and the customs law.

⁽⁶⁴⁾ Charter of the AA. The research team managed to review it through some of the appointees as judges who were interviewed. It is available in the archives of Omran for Strategic Studies at the following link: <https://cutt.us/MAjGe>.

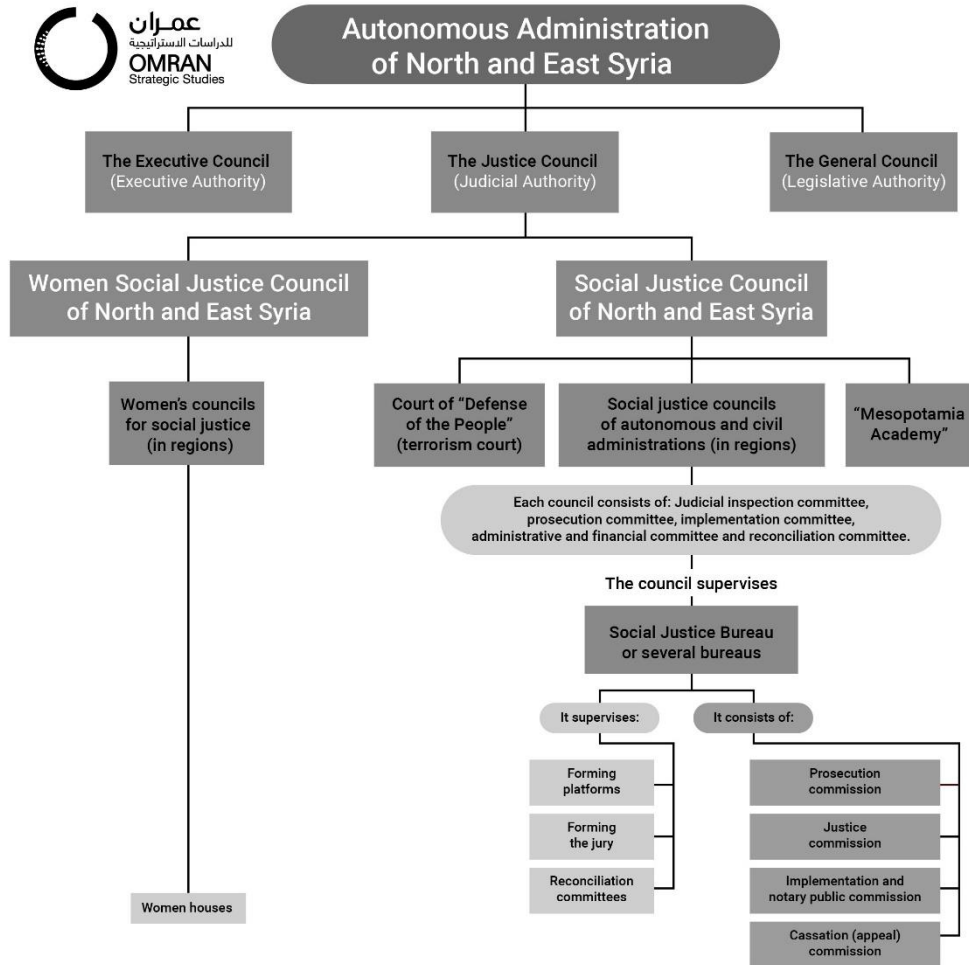


Figure (1): Social Justice System within the AA and the structure of its institutions, credit to the research team

In the general context of the study, this chapter is limited to providing an overview of the AA judicial system, its institutions and commissions, and its theoretical jurisdictions, according to the AA's charters and documents. It also explains the legal bases and bylaws which regulate and outline the work, and present the nature and mechanisms of appointments. It also provides insight into criticism directed towards its institutions. Thus, this chapter is an introduction to understanding the judicial structure of the AA in theory.

In addition, the chapter provides a preface to the subsequent case studies conducted by the research team, which examine the implementation of the theoretical structure and its legal foundations on the ground and look into its practical work mechanisms, effectiveness and impact. These case studies are also concerned with exploring the judges working within the judiciary, their legal qualifications and demographic distribution, and providing insight into the relationship between the judicial authority and other authorities on the ground. Hence, according to the map of the distribution of social justice councils and bureaus, one case study was devoted to each region of the regions controlled by the AA. Thus five case studies were completed addressing: (“al-Jazirah”/Hasakeh, Raqqa, Deir Ez-Zor, Manbij, “al-Furat”/Kobane).

Chapter 2

The Judiciary in the AA: The Case of Hasakeh

Chapter 2

The Judiciary in the AA: The Case of Hasakeh

Preface

The military action of the PYD began in the governorate of Hasakeh in mid-2011, when armed groups affiliated with the PYD started to appear openly at an early stage. This happened concurrently with the coming of PKK cadres from Qandil Mountains, crossing the Syrian border into the region, combined with the release of previously detained PKK leaders by the Syrian regime and the release of jihadists as part of a general amnesty on May 31, 2011⁽⁶⁵⁾.

By the end of 2011, the area suffered from insecurity with no intervention by the Syrian regime, which justified the spread of checkpoints that suddenly emerged by the PYD's "People's Protection Committees" in neighborhoods, cities, and towns, including joint checkpoints with the Syrian regime in some areas. Checkpoints of the "People's Protection Committees" contributed, in the early days, to confronting and suppressing non-violent protests in Kurdish areas⁽⁶⁶⁾. They were responsible for killing civilian protestors in several incidents, including, most prominently, the Amouda massacre in 2013⁽⁶⁷⁾.

The PYD started gradually to control Kurdish populated areas in coordination with the Syrian regime. The latter had historical ties with the PKK since the 1980s. Control began by taking responsibility for stations and border outposts that the regime suddenly evacuated, especially those on the borders with the Kurdistan region of Iraq⁽⁶⁸⁾. Then the control started to spread to some neighborhoods and towns following the withdrawal of regime forces and the evacuation of sovereign security, military, and service institutions. PYD

⁽⁶⁵⁾ On May 31, the Syrian regime issued a general amnesty which released jihadists who later turned into leaders of military factions. A large number of Kurdish detainees were released as well under the same amnesty, most of whom held leadership positions within the PKK. For more, see: A group of researchers, *National Tests in the Face of the Liquidity of the Syrian Scene*, Omran Center for Strategic Studies, March 15, 2016, 1st edition, P. 37.

⁽⁶⁶⁾ Hussein Jalabi, *Rojava: Assad's Greatest Deceit (Reading into six years of Kurdish Diaspora)*, Maysaloun Publishing House, May 2018, 1st edition, PP. 139-140.

⁽⁶⁷⁾ "The People's Protection Units" admits "Amouda Massacre"... what are the details?, Enab Baladi, June 27, 2020, available at: <https://cutt.us/SuorG>

⁽⁶⁸⁾ Hussein Jalabi, *ibid*, PP. 140-141.

members took control without fighting, while, at the same time, the PYD entered other towns and cities in northeastern Syria. On July 19, 2012, the PYD announced from Ayn al-Arab/Kobane, after the regime forces evacuated it, the launch and victory of “Rojava Revolution”, but without any battles⁽⁶⁹⁾. The same scenario of announcing the “liberation” of cities and towns by the PYD was repeated in the Hasakeh governorate. On the other side, the PYD also launched battles against factions of the “Free Syrian Army” and other Islamic factions in Ras al-Ayn town, which ended by expelling those factions and spreading control of the PYD. Later on, it thwarted attempts of ISIS to advance into some outskirts of the governorate.

By early 2015, the map of military influence in Hasakeh had relatively settled. The PYD controlled the governorate, the regime retreated to city centers (Hasakeh, Qamishli) and retained within the city of Hasakeh a security square that included: key state institutions, offices of the Ba’ath Party, courts, security agency branches and national defense centers. The regime retained another security square in the city of Qamishli that included the same institutions, the Qamishli airport and some military units in its vicinity (Regiment 154). After the Turkish “Peace Spring” operation on October 9, 2019, the regime forces returned to deploy along the borders with Turkey, upon an agreement between the AA and the regime on the latter's return to the borders⁽⁷⁰⁾.

The PYD and the regime maintained joint control forces through bilateral security coordination. This resulted in intermittent clashes and security tensions between the regime's National Defense Forces and PYD elements. These clashes would be resolved either through the intervention of the regime or its allies (Russia in this case) to solve the disputes that often arose over influence and control or exerting security pressure to obtain political gains. Despite the stability of military control between the two parties, the political relationship changed, especially after the US intervention in September 2014 and the Global Coalition to Defeat ISIS's formation and relying on the YPG that constitute the backbone of the SDF, which was formed under American

⁽⁶⁹⁾ Abdullah al-Najjar, *The Separatist Scheme of the Democratic Union Party East of Euphrates*, Ibid.

⁽⁷⁰⁾ The memorandum of understanding signed between the two parties and the official statement announcing the agreement, issued by the AANES, under the title: A Statement for the Public Opinion, are available on the following links: <https://cutt.us/5PYF7> · <https://cutt.us/tdbMI>

sponsorship in 2015⁽⁷¹⁾. This dependence provided the AA and its military and security forces with a broader margin for maneuver with the regime, whether at the political, security, or military levels.

Before that control shift, the judiciary in Hasakeh was part of the Syrian Judicial System, and its courts were all over the governorate. By 2013, the presence of regime courts was limited to the security squares in which they continued to operate therein. As the PYD gained control, it started, in 2012, establishing “people’s municipalities” and “people’s courts” within the framework of seeking an autonomous administration. The PYD created an “independent region” within its control areas in the Hasakeh governorate called the “al-Jazirah Region”, and announced an Autonomous Administration there on January 21, 2014⁽⁷²⁾ in conjunction with establishing an Autonomous Administrations in Afrin and Ayn al-Arab/Kobane, after they were also declared as regions. Later on, the Autonomous Administration of those regions was transferred into a “federal project unilaterally announced by the PYD on March 17, 2016. Following the military expansion of the SDF into new areas, it became “The Autonomous Administration of North and East Syria”, under which the “al-Jazirah region” is one of its largest and first established regions. Within the framework of forming institutions and bodies of the AA in this region, the PYD imposed a judicial system that underwent several modifications and experiments until it reached the current state, which is discussed in the following case study.

Structure and Mechanisms (Between Theory and Application)

The Social Justice Council in the “al-Jazirah Region”/Hasakeh is the highest judicial authority and is equivalent to the Supreme Judicial Council. The number of its members in Hasakeh is 17, distributed to several committees: (prosecution committee, reconciliation committee, implementation committee, judicial inspection committee, administrative and financial committee). All members of the Council hold the status of judges, except representatives of the reconciliation committees, who are not supposed to

⁽⁷¹⁾ What are the main moments of US intervention in the Syrian conflict since 2011, France 24, October 7, 2019, available at: <https://cutt.us/NLYIN>

⁽⁷²⁾ The AANES File, official website of the diplomatic relations center of the Democratic Community Movement (Tev-dem), Ibid.

have the status of a judge in theory, but in practice, they sign decisions as such. Most members of the Justice Council are holders of law degrees, but some of them are appointed although they only have high school diplomas, especially students in their early years of studying law. The demographics of membership on the council are limited to the Kurdish component, except one member from the Syriac Christian component and one Arab member who was recently appointed to the administrative committee⁽⁷³⁾.

In theory, members of the Council are elected during the “General Conference”, which consists of all the judicial commissions' members and representatives of social justice institutions in the region. The candidate for membership in the Council must have served more than three years in justice institutions, except for representatives of the reconciliation committees⁽⁷⁴⁾. Although the appointment mechanism relies on elections, according to the Social Justice Charter, the data indicates a direct intervention by the PKK cadres. These cadres directly supervise the Council's work, including appointments, dismissal, or transfers of members. Additionally, they have absolute supervision of the council's work and policies, in its various offices and committees⁽⁷⁵⁾.

Parallel to the Social Justice Council, the **Women's Council for Social Justice** in the “al-Jazirah Region” oversees women working at social justice institutions and focuses on gender balance at courts. Women's Council makes decisions about appointing, dismissing, transferring women, or terminating their service and submitting decisions to the Justice Council for voting. It also supervises the Women's Houses in the region. The council consists of approximately five female members, and they are all Kurdish. In theory, members should be elected, but the data shows that the women cadres of the PKK interfere in appointing members and supervising the council's work, which is most prominently supervised by a PKK cadre known as (Zulal)⁽⁷⁶⁾.

The Social Justice Council supervises **Social Justice Bureaus**, which is the name given to the administrative courts in areas under the control of the AA. The number of those bureaus in the governorate of Hasakeh is 8, distributed

⁽⁷³⁾ Data collected and cross-matched through four interviews conducted with four lawyers who were assigned as judges in the AA's social justice bureaus in (Hasakeh, Qamishli, Amouda, al-Malikiya). The interviews were conducted between 2-20 October, 2020, two of which were conducted in person by an enumerator, and the other two were conducted on the phone.

⁽⁷⁴⁾ Article (21) of the Social Justice Charter within the AANES, available at: <https://cutt.us/V9SKg>.

⁽⁷⁵⁾ Data collected and cross-matched through four interviews conducted with four lawyers who were assigned as judges in the AA's social justice bureaus in Hasakeh governorate, *ibid*.

⁽⁷⁶⁾ Data collected through interviews on the phone conducted by the research team with two members of the Women Houses in Hasakeh and Qamishli, between 2-7 November, 2020.

over cities and districts. There are geographically separate prosecution offices only in some towns and villages that report to the main bureaus. Those are 6 prosecution offices, each of which reports to one of the social justice bureaus. In terms of jurisdiction, all these courts consider penal, civil, and administrative cases. These bureaus and prosecution offices are geographically distributed to several cities and towns under the AA control in Hasakeh Governorate, according to the following table⁽⁷⁷⁾:

Table (1): Geographic distribution of social justice bureaus and subordinated prosecution offices, in areas under the control of AA in Hasakeh/ "al-Jazirah Region"

Administrative unit (city/ town)	Type of judicial institution (justice bureau/ prosecution office)
Hasakeh city	Social justice bureau
Qamishli city	Social justice bureau
Al-Shaddadi sub-district	Prosecution office subordinated to Hasakeh bureau
Tal Tamer town	Prosecution office subordinated to Hasakeh bureau
Al-Derbassiyeh sub-district	Social justice bureau
Ras al-Ain city (previously)	Social justice bureau
Tal Brak town	Prosecution office subordinated to Qamishli bureau
Amouda sub-district	Social justice bureau
Al-Malikiyah city	Social justice bureau
Al-Houl town	Prosecution office subordinated to Hasakeh bureau
Mabada town	Social justice bureau
Al-Qahtaniyah sub-district	Social justice bureau
Tal Hamees sub-district	Prosecution office subordinated to al-Qahtaniyah bureau
Al-Yarobiyah sub-district	Prosecution office subordinated to Mabada bureau

⁽⁷⁷⁾ Data collected and cross-matched through seven interviews conducted with four lawyers who were assigned as judges in the AA's social justice bureaus in (Hasakeh, Qamishli, Amouda, al-Malikiya), in addition to three other lawyers who are registered with "al-Jazirah Lawyers Union" who present cases before the AA courts in the area. The interviews were conducted between 2-30 October, 2020, four of which were conducted in person by an enumerator with two assigned judges and two lawyers, whereas the other three were conducted on the phone with two assigned judges and one lawyer.

According to the social justice system charter, in theory, each social justice bureau is supposed to be a congregation of courts that includes 4 judicial commissions: (the cassation/appeal commission, the implementation commission, the prosecution, and the justice commission). The geographically separate prosecution office only includes one prosecution and investigation committee, and it is subordinated to one of the bureaus in the larger cities. However, in practice, some of these bureaus consist of only 2 commissions: (prosecution and implementation), some others consist of 3: (prosecution, implementation and justice). All bureaus located in the region are subordinated to the cassation/appeals commission in Hasakeh and Qamishli.

Within the judicial system of the AA, there are **reconciliation committees** that emanate from the social justice bureaus. They spread in various cities, towns, and neighborhoods. Supposedly, each “Komin” has a reconciliation committee affiliated with it, which reports to the reconciliation committees in the directorates and sub-districts. These committees are the first step in civil cases towards justice bureaus. The reconciliation committees only intervene while presenting the complaint before it for seeking reconciliation. This includes civil cases and some penal cases. Civil lawsuits, are not registered within the justice bureau before being presented to the reconciliation committees. If no agreement/reconciliation is reached, the complaint is referred to the social justice bureau⁽⁷⁸⁾.

Members of the reconciliation committees are men and women from the local population of neighborhoods, towns, villages, and representatives of professions; no qualification is required for them other than being an inhabitant of the area. Therefore, some members are illiterate. Despite the spread of the reconciliation committees, their effectiveness varies from one area to another, so they are effective in some areas and nominal in others. In general, their effectiveness concerning the essence of their work and the goal of their establishment is low because their decisions are not binding.

⁽⁷⁸⁾ The research team viewed a number of decisions issued by the reconciliation committees on referring cases to social justice bureaus. These decisions were acquired from lawyers assigned as judges at the social justice bureaus who were interviewed. Those copies are kept within the archives of Omran Center for Strategic Studies.

According to Article (33) of the Social Justice Charter, reconciliation committees' appointments are chosen through democratic elections. Elections are held among the population and residents of the respective village, town, or neighborhood, who have the experience, good morals, and social acceptance⁽⁷⁹⁾. However, the collected data indicates that their members are appointed without any elections and in a manner that often overlooks social acceptance and experience. Members of the main committees and their representatives in the Social Justice Council are appointed under the supervision of the PKK cadres, who supervise the judiciary. Members of the reconciliation committees do not receive monthly salaries, except their representatives in the Justice Council and the main committees. It is considered by the AA a kind of voluntary work. However, members receive some privileges such as in-kind assistance (fuel) or protection and facilities⁽⁸⁰⁾.

In addition to the reconciliation committees, the **Women Houses** are units spread in towns, neighborhoods, and cities. They specialize in women's issues and family claims as a first stage and address them according to reconciliation. In case of failure, the cases are referred to social justice bureaus. The Women Houses are administratively affiliated with the Women's Council for Social Justice. The Houses are distributed geographically to the main towns and cities. Members of the Women Houses are selected through appointment, and they are not required to have any educational qualification or experience. They are selected from the population of the towns and cities, including activist women and martyrs' family members. The work of these Houses is under the general supervision of a PKK women cadre, which oversees the work of the Women's Council for Social Justice. Women Houses in Hasakeh consist of an administrative council and several committees: (reconciliation, training, media, archives, social solidarity). According to the collected data, most of those committees are inactive. The effectiveness of those Houses differs from one area to

⁽⁷⁹⁾ Article (33) of the Social Justice System Charter of the AANES, Ibid.

⁽⁸⁰⁾ Data collected and cross-matched through four interviews conducted with four lawyers who were assigned as judges in the AA's social justice bureaus, *ibid*.

another; they have low effectiveness in mainly Arab areas, and they are of higher effectiveness in mainly Kurdish areas⁽⁸¹⁾.

With the introduction of the judicial system, the AA enacted **laws related to women** under the name of “women protection” laws. In 2014, the administration (al-Jazirah Region) issued Decree No. 22, stipulating that women and men are equal in all aspects of political and social life. Some of its provisions were considered controversial for its environment, especially those related to marriage, as polygamy was banned. There were cases of arresting young men who got married for a second time. Those arrestees were fined with amounts up to 500 thousand Syrian Pounds as a penalty and were forced to abandon their new wives. The decision also cancelled the dowry as “a material value aimed at the acquisition of the woman, and instead should be replaced with the participation of both parties in securing a participatory life”. The law prohibits the marriage of a girl without her consent or if she is a minor. The penalty for such action could be imprisonment and paying a fine⁽⁸²⁾. The AA has also legitimized civil marriage, which does not occur at courts but is registered in the municipal councils' civil marriage department. The first civil marriage contract – called by the AA the Joint Life/Mutual Life Contract – was made/registered in 2013 in Qamishli⁽⁸³⁾.

These laws were met with much reserve by the local community. Thus, the debate focused on their compatibility with the Islamic Shariah, since most residents of Hasakeh are Muslims. Some of them contradict the norms, customs, and traditions prevailing in the area. In addition, the local community was not prepared for the quick application of such measures and laws. However, officials of the AA considered “these laws widely accepted in the areas where they were applied, especially since the Kurdish community is more open than the other communities in Syria. The aim of these laws is

⁽⁸¹⁾ Data collected through two interviews conducted by the research team on the phone with two female members of the Women Houses in Hasakeh and Qamishli cities, *ibid*.

⁽⁸²⁾ The penalty of marrying off a girl without her consent is imprisonment from one month to three months, in addition to paying a fine between 50 and 100 thousand SYP to be paid by the man. The husband is also punished with imprisonment from three months to one year, in addition to paying a fine between 100 and 300 thousand SYP, if the woman filed a claim against him after marriage. For more information about the Women Protection Law, see: PYD.. the de facto authority, Enab Baladi Newspaper, October 15, 2020, available at: <https://cutt.us/z44xe>.

⁽⁸³⁾ The first civil marriage in Qamishli City in Syria, Arabi21, December 21, 2013, available at: <https://cutt.us/fQRqD>.

not to contradict the Islamic Sharia, but rather that many religious verdicts and Ijtihad prohibit polygamy”⁽⁸⁴⁾, and that “the AA is built on the principle of the democratic nation. The pillars of this ideology are democracy, gender liberty, and ecology. Those three principles lie at the heart of human nature; when the society is organized based on those three principles, the society will quickly accept them again because they are second to nature, especially if linked with justice. With that fact, the Administration is confident that society's mentality will change, and it just needs some time”⁽⁸⁵⁾.

Human rights activists and jurists believe that the contradiction still exists in the enforcement of these laws, especially with the imposition of other laws that undermine the role and participation of women. Although the AA allows women to form political and civil organizations, it also seeks to close down the headquarters of Kurdish political parties and civil society organizations. This includes women organizations in their control areas, under the pretext of not being licensed at some times or for security reasons at other times. The AA also prohibits the marriage of minors but seeks to recruit them into its military units, despite having signed an engagement letter with the “Geneva Call” NGO, pledging to demobilize all fighters under the age of eighteen within a month. However, local and international human rights organizations indicate that this practice continued. The same authorities that prevented the marriage of a child, who was no older than 16 years old, in the city of Darbasiyah, kidnapped her sister (11 years old) in front of her school in the same city, although compulsory conscription law adopted by AA stipulates that recruits should be between 18-30 years old. The methods of recruiting girls in Hasakeh vary between persuasion and intimidation, kidnapping from markets or schools, or at gunpoint⁽⁸⁶⁾.

⁽⁸⁴⁾ Statements made by Sihanouk Dibo, advisor to the co-presidency of the PYD. For more information, see: PYD.. a de facto authority, *ibid*.

⁽⁸⁵⁾ Statements by the co-chair of the Derek municipal council, Dijla Hamou, and the co-chair of the municipalities authority in Rojava, Sama Bikdash. For more see: the AA in Rojava legalize civil marriage and seeks radical changes!, *Russia Today*, June 29, 2017, available at: <https://cutt.us/ONpa8>.

⁽⁸⁶⁾ The recruitment of Jimin, 14 years old, at gunpoint has also been documented. She was arrested by the People’s Protection Units from the campus of her school, Khawla bint al-Azwar, in the town of Al-Qahtania. Nisreen Fasih, 14 years old, was also arrested in a market in Ras al-Ain and was taken to a training center outside the city. Her family was told that their daughter was not the only one there, but that the center had thousands of other comrades. Rossi Makramou, 13, from the Kolan village – Darbasiyah, was also kidnapped from her school in 2014. The same authorities, who prevented the marriage of a 16-year-old girl in the city of Darbasiyah,

The AA demobilized some minors, including girls who were transferred to rehabilitation centers after their demobilization. However, in addition to the collected data through interviews, a UNHRC report indicated that child recruitment continued in 2020. It also referred to cases recruited in 2016 whose families received a call from the YPJ in 2020 telling them that their daughter committed “suicide”. Those families received death certificates without any explanation; the families are still skeptical about that narrative⁽⁸⁷⁾.

Despite the enforcement of the “Women Protection” Law and the spread of Women Houses, many violations against women have been documented in Hasakeh. The Social Justice Council published statistics on crimes against women perpetrated in 2020, which reached 1689 crimes, including beating, abuse, harassment, murder, suicide, prostitution, rape, kidnapping, and minor marriages. Most of these crimes were in Hasakeh and Ayn al-Arab/Kobane, especially polygamy and minor marriages. It is noteworthy that the statistics never mentioned the recruitment of minors as a crime⁽⁸⁸⁾. The Syrian Network for Human Rights (SNHR) documented in 2016 the killing of civilians, including 43 women and 51 children by the AA forces⁽⁸⁹⁾, and also documented 481 cases of arbitrary detention in the AA's controlled areas in 2020, including 32 children and women⁽⁹⁰⁾.

Most of these laws, especially those introduced in the context of marriage, were only effective on a limited scale on the ground. The local community in Hasakeh continues to resort to the regime's courts in the governorate to register marriages and divorces, since the official civil records are affiliated with the regime and the AA's civil records are not recognized outside its areas of control. Laws prohibiting polygamy or underage marriage are not enforced in some areas populated mainly by Arabs as a kind of easing tensions, limiting

kidnapped her sister Aveen Sarokhan, 11, in front of her school in the same city, in broad daylight. For more, see: Women's Protection Law in Northern Syria... Cosmetic Touches for A Bitter Reality, Syrian Women's Network, April 6, 2018, available at: <https://cutt.us/NANXA>.

⁽⁸⁷⁾ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, issued by the UNHRC, the UN official website, September 15, 2020, available at: <https://cutt.us/MNkti>.

⁽⁸⁸⁾ Documenting Crimes perpetrated against women in the North and East of Syria, Statistics published by the Social Justice Council of the AANES, December 27, 2020, the statistics are available at: <https://cutt.us/p8cED>.

⁽⁸⁹⁾ The Women Protection Law in Northern Syria... Cosmetic Touches for A Bitter Reality, *ibid*.

⁽⁹⁰⁾ The record of arbitrary arrests, SNHR, January 1, 2020, available at: <https://cutt.us/jPy00>.

the enforcement of such laws to the Administration employees, or in case there is a direct complaint from a woman against her husband⁽⁹¹⁾.

As for civil marriages, they are still limited to a few cases. According to the legal office in the AA, the percentage of civil marriages is no more than 2% of the local population⁽⁹²⁾. However, data collected through interviews with lawyers indicate that the percentage is less than this, especially that the Syrian official records do not approve the registration of such contracts. Therefore, so many of those who had a civil marriage register their marriages with the Shariah courts affiliated with the Syrian regime government, so the children in the future do not lose their civil rights, or at least, acquire Syrian citizenship.

The experiment of the “Platform” courts, which is based on the idea of mobilizing people (society) on public opinion cases, is a public court supervised by a commission called the “Platform”, where people issue verdicts in the case instead of judges. This was tried in Hasakeh governorate between (2016-2018) for some crimes, such as robberies and murders, and other cases that stir public opinion within the city or towns. The experiment, however, did not receive much engagement from the local community, especially after it became a space for circumventing the law, because it has been associated with two main factors that constituted an entry point for influence in its essence and effectiveness. The first factor was defining a public opinion issue and who determines what issue constitutes a public opinion issue. The second was the nature of the attendees and who determines their attendance, primarily that they issue the final judgment on the case.

The data collected indicate that the PKK cadres assigned to the institutions of justice control both factors in the hearings. An issue of public opinion is defined as such based on the interests of the cadres. Murder in some trials was considered a public opinion case, and criticism of personnel of SDF or “Asayish” was also considered a public opinion issue. They also control the

⁽⁹¹⁾ Data collected and cross-matched through three interviews by the research team conducted with three lawyers registered in the “al-Jazirah Lawyers Union” and who present cases before the AA courts in the region. The interviews were conducted in the period 21 – 30 October, 2020. Two interviews were conducted face to face by an enumerator, and the third one was conducted on the phone.

⁽⁹²⁾ The Society Has Not Accepted Civil Marriage Legalized by the Kurdish Administration in Rojava, Daraj website, February 20, 2018, available at: <https://daraj.com/1011/>.

nature of attendees. Sometimes, employees and supporters of the AA and PYD are mobilized before the trial. Then they are allowed to attend the hearing to influence the course of the case by voting in favor of the passing, abolition, or commutation of a particular ruling. This resulted in passing rulings in line with the vote of the majority. It has been reported that some perpetrators of robberies were released after trials/platforms were held for them, as a legal exit, because they were associated with influential figures of the “Asayish” or they paid bribes. The same has been repeated with other cases in which the defendants were personnel of SDF or “Asayish”. During these platforms, a large number of PYD supporters were mobilized to vote to abolish or commute the sentence.

In 2016, cases of murder in Qamishli were heard at “Platforms”, and final rulings were passed to imprison the defendants for 25 years. Four years later, the decision was overturned. The defendants were put to trial again after their dossiers were duly restored as a result of corruption, payment of bribes, and the disappearance of the main investigation files, which constituted a threat to ignite revenge among the relatives of the deceased⁽⁹³⁾. The “Platforms” experiment has recently retreated in Hasakeh and almost stopped to exist, as a result of the community's unwillingness to engage with it as a judicial model capable of effectively resolving disputes and conflicts, and the mistrust in such procedure on the one hand, and the lack of adequate legal requirements on the other⁽⁹⁴⁾.

According to the data, in addition to the civilian judiciary, there is one **military court** in the city of Hasakeh, and a military prosecution office northwest of Qamishli. The court consists of a prosecution, justice, and appeals commissions. Its jurisdiction covers the prosecution of security and military personnel of the AA in case they commit offenses during their

⁽⁹³⁾ On July 20, 2020, the Social Justice Council in Qamishli issued decision 333 which states the following: abolishing the platform’s final judgment issued by the people’s court in Qamishli on March 19, 2016, convicting defendant M. K. and his brother A. K. with the crime of intentional murder and harm. They were retried before the Social Justice Bureau after restoring the dossier duly. The indictment ruling is available at: <https://cutt.us/3hZ8k>. The research team, through lawyers in Qamishli city, validated the Justice Council decision to abolish the final ruling of the platform.

⁽⁹⁴⁾ Data collected and cross-matched through seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid*.

military service. It only tries crimes that do not contain a civilian party. When a case includes a civilian party, it should be referred to the social justice bureaus for trial. However, “Amnesty International” reports refer to cases in which civilians were referred to and tried before the military court⁽⁹⁵⁾.

The military judiciary has a security apparatus with broad powers affiliated with it (military police and military intelligence). Based on interviews with several judges and lawyers, the military court is ineffective and lenient with the security and military personnel. However, the military police and military intelligence are effective on the ground with multiple security tasks, including, most prominently, compulsory conscription. Until this moment, it is difficult to prosecute any security or military personnel before justice bureaus if there is a civilian party involved, as these personnel are considered unaccountable. Most civilian lawsuits against military or security personnel do not reach the judiciary in the first place, but are instead dropped through pressuring the claimant before they reach the court⁽⁹⁶⁾.

In many cases, these agencies refuse to accept arrest warrants for their personnel. In some areas, cases against SDF and “Asayish” members are resolved through tribal reconciliations without referral to the court. Sometimes it results in the accused being arrested for a few days and then released without trial. Many of those arrested are released by orders of the cadre without the investigating judge's knowledge. In other cases, a “Platform” may be held for some personnel to resolve their case legally. The factors of proximity to or distance from the “cadre” and favoritism also play a significant role in prosecuting some personnel but not others, in addition to some reported discriminatory policies in the prosecution process between Arab and Kurdish members. Data shows that the military judiciary is directly subject to the authority of PKK cadres. Running the judiciary and appointing judges are supervised by a military cadre. Judges are not required to be law professionals but are rather appointed based on partisan, ethnic, and security considerations. There are about 13 judges; 92 percent of them are Kurdish⁽⁹⁷⁾.

⁽⁹⁵⁾ Syria: Arbitrary Detentions and Blatantly Unfair Trials Mar PYD Fight Against Terrorism, *ibid.*

⁽⁹⁶⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, *ibid.*

⁽⁹⁷⁾ Data collected and cross-matched through seven interviews conducted by the research team with four lawyers who are assigned as judges and three lawyers who are registered in the al-Jazirah Lawyers Union, *ibid.*

As for the auxiliary departments needed for judiciary work, there are forensic medicine departments in Qamishli and Hasakeh only, but no such departments in other areas in the governorate. The existing forensic medicine offices are very rudimentary and suffer a severe shortage of expertise and equipment. Forensic laboratories are non-existent, but the AA has recently begun to establish such laboratories and conduct training for its personnel to analyse fingerprints by seeking the regime's expertise. The training is provided by individuals and experts from the regime's laboratories in an informal and undeclared manner⁽⁹⁸⁾.

“People’s Defense” Court (Terrorism Court)

In addition to the above-mentioned social justice institutions, al-Jazirah region/Hasakeh and Euphrates region/Kobane are the only regions under the AA control with the **“People’s Defense” Court (Terrorism Court)**. The court in Hasakeh consists of the Public Prosecution Office and a justice commission but doesn't include a cassation/appeal commission. Although the law stipulates their existence, they have not been established. Those commissions include about 10 people appointed in the capacity of judges, 4 of whom are holders of law degrees. The remaining members are either holders of a high school diploma or undergraduates in their early years. In terms of the demographics of judges, they are all Kurdish⁽⁹⁹⁾. The AA says that “The court's bases are international laws of cases of terrorism, including the Syrian law, as well as studying models of developed countries that have established similar courts on their territories. The court abolished the death penalty, hard labor, and the trial of children under the age of 17”. According to statements of those in charge of the court, “detainees and prisoners of war referred to the court and those arrested in their jails are treated per international conventions and agreements”⁽¹⁰⁰⁾. In addition, “physical and psychological torture is prohibited during an investigation. Management of the court's jail provides adequate meals and medical care. The human rights commission of the AA

⁽⁹⁸⁾ Ibid.

⁽⁹⁹⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers who are assigned as judges at the AA Social Justice Bureaus in Hasakeh, *ibid*.

⁽¹⁰⁰⁾ Statement made by the chairman of the judges commission of the People's Defense Court. For more see: 8 thousand cases of terrorism are filed before a special Kurdish tribunal... ISIS Captives are tried in the north east of Syria, al-Sharq al-Awsat, March 23, 2020, available at: <https://cutt.us/S0oPE>.

appoints a special lawyer for the defendant at its expense. After the competent court issues the arrest warrant, the family of the prisoner is informed if they are inside Syria, and family members of the first-degree are entitled to visit the detainee once a week”⁽¹⁰¹⁾.

Despite the theoretical definition of the court and the description of its activities through statements made by officials of the AA, the reality on the ground seems quite different. The “People’s Defense” Court is a secret, extraordinary tribunal, which has been established in a manner that contravenes the AA’s Charter of Social Justice and social contract, which prohibit creating secret and extraordinary tribunals, just as stipulated by the international law. The AA established the court on the grounds of trying former ISIS elements. However, according to the data collected, many civilians are referred to that tribunal on various charges, including activists, secretaries and members of Kurdish opposition parties, critics, and opponents of the AA, who are charged with “terrorism” according to a liquid definition of terrorism.

The Independent International Commission of Inquiry on the Syrian Arab Republic (COI) report, issued by the UNHRC on October 22, 2020, documented several arbitrary arrests of civilians and political activists. The report confirmed that “some detainees were denied any legal representation. They were not allowed to know charges made against them, and some of them were interrogated by American agencies”. The report noted that “several detainees were subjected to solitary confinement and received a minimum amount of food. They were also subjected to various types of torture, such as beatings to the point of breaking ribs, electrocution, hanging from the wrists, and threats of rape”⁽¹⁰²⁾.

Amnesty International also confirmed through a fact-finding mission to the north of Syria that “the PYD-led Autonomous Administration is using a crackdown against terrorism and ISIS as a pretext to unlawfully detain and

⁽¹⁰¹⁾ Statements by judge “Haval” who is assigned at the People’s Defense Court. In addition to the statements of the manager of the central prison of the court, and statements by Sanharib Barsoum, head of the human rights commission of the AA. For more on those statements, see: *Revenge or Law Enforcement – the Kurdish Administration and ISIS Captives*, DW Arabic, May 17, 2015, available at: <https://cutt.us/wgnBo>.

⁽¹⁰²⁾ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, issued by the UNHRC, *ibid*.

unfairly try peaceful critics and civilians belonging to Kurdish opposition groups. Some had been arbitrarily detained for periods of up to a year without charge, arrest warrant, or trial”. It should be noted that according to the laws of the AA, the average duration of arrest is: warrant pending prosecution seven days, renewable for another seven days, and in some cases it may reach a maximum of one month. Amnesty International noted that “those who did face trials suffered from lengthy pre-trial detention and that proceedings were blatantly unfair. They were denied basic rights, including the right to defend themselves, see the evidence against them, and access a lawyer and their family. They were sentenced after grossly unfair trials without any substantiated evidence of their guilt. Some were sentenced to 10 years in prison after a 10-minute trial without any evidence”⁽¹⁰³⁾. International reports also confirmed that the AA sought to arrest its political opponents, refer them to terrorism courts, put them in prisons, forcibly disappear them, and deny their existence⁽¹⁰⁴⁾.

According to data collected from interviews, the “People’s Defense” court is confidential and considered one of the highest authorities within the AA. Lawyers are prohibited from pleading before it, and defendants are not allowed to have defense lawyers. Arrests for the court are arbitrary without any arrest warrants, and the existence of whomever is referred to it is denied⁽¹⁰⁵⁾. The detention centers also lack the minimum health and humane conditions⁽¹⁰⁶⁾. There have been many cases of detainees who died under torture or due to lack of medical care⁽¹⁰⁷⁾. Local and international human rights organizations were not allowed to observe court hearings or access to the terrorism law⁽¹⁰⁸⁾. Although the Social Justice System Charter provided for the mechanism of appointing judges of the “People’s Defense” court by

⁽¹⁰³⁾ Syria: Arbitrary Detentions and Blatantly Unfair Trials Mar PYD Fight Against Terrorism, *ibid*.

⁽¹⁰⁴⁾ Syria: the Autonomous Administration Jails Rivals.. Denied Access to Family and Due Process, Human Rights Watch, September 10, 2018, available at: <https://cutt.us/seFHla>.

⁽¹⁰⁵⁾ Data collected and cross-matched through three interviews conducted by the research team with three lawyers registered in the “al-Jazirah Lawyers Union” and who present cases before the AA courts in the region, *ibid*.

⁽¹⁰⁶⁾ Some of the detention centers and prisons of the AA: SDF Intelligence buildings, Hasakeh Prison, Ghwairan Prison, al-Shaddadi Prison, the former juvenile prison in Raqqa, the prisons of Aid, al-Abed and Ayn al-Arab/Kobane, facilities within the military intelligence in Hawarneh, al-Dirbasiyeh, al-Malikiyeh, al-Yarobiyah. Alaya Prison. Data collected through the aforementioned source.

⁽¹⁰⁷⁾ A civilian died in one of SDF prisons in Hasakeh after they denied him treatment, Baladi News, September 22, 2020, available at: <https://cutt.us/I6IL1>.

⁽¹⁰⁸⁾ Revenge or Enforcing the Law, The Kurdish Administration and ISIS Captives, *ibid*.

the Social Justice Council, data from the field indicates that PKK cadres have complete control over the court, and that they appoint its judges based on partisan and security considerations. Their role is not limited to appointing judges, but it extends to interfering with its decisions in the various cases the court hears⁽¹⁰⁹⁾, especially those related to opponents of the AA or ISIS members and civilians accused of being associated with ISIS.

After researching the “People’s Defense” court (Terrorism Court) and the legal mechanisms of managing detained ISIS members who are referred to it and have already undergone or are currently under trial, it has been noted that the issue is being managed in other ways, separate from the court or the judiciary. These cases are being dealt with through political/security approaches on different levels, as observed and concluded through research and interviews. These levels are not limited to the al-Jazirah region only. They can be summarized in the following:

- 1. Tribal reconciliations:** At this level, detainees at the AA facing “terrorism” charges and are local members who previously joined ISIS, or those who are suspected of having ties with ISIS, whether they are in the prisons of the AA or the camps, are being released⁽¹¹⁰⁾, based on tribal guarantees provided by some sheikhs and dignitaries in the region⁽¹¹¹⁾. Those releases sometimes happen through issuing a general pardon⁽¹¹²⁾. The AA started to adopt this approach in Hasakeh in 2017⁽¹¹³⁾, and it continued through 2020⁽¹¹⁴⁾. Those reconciliations led to the release of

⁽¹⁰⁹⁾ Data collected and cross-matched through seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid*.

⁽¹¹⁰⁾ Guarantees provided by tribal dignitaries... details of releasing Syrians from al-Haul Camp, al-Hurra website, October 6, 2020, available at: <https://cutt.us/0jfMx>.

⁽¹¹¹⁾ Captured on video, SDF and “al-Assayesh” release, through tribal mediation, about 283 former ISIS members from its prisons, Syrian Observatory of Human Rights, March 2, 2019, available at: <https://cutt.us/OMUmo>.

⁽¹¹²⁾ By virtue of a general pardon, the AA releases dozens of detained ISIS members, Sham News Network, October 15, 2020, available at: <https://cutt.us/XOj07>.

⁽¹¹³⁾ Doubts are cast over the release of ISIS member by SDF, Zaman al-Wasl, November 32, 2017, available at: <https://cutt.us/ZGbCq>.

⁽¹¹⁴⁾ SDF releases dozens of ISIS members in Hasakeh, Baladi News, January 6, 2020, available at: <https://cutt.us/m7oZ3>.

hundreds of former ISIS members, some of whom were re-arrested after some time of the tribal mediations⁽¹¹⁵⁾.

Usually, those released through tribal mediation or general pardons are of two types: the **first** are civilians detained by the AA as part of security campaigns with charges of “terrorism”. Those reconciliations come to attract/appease the tribal component in some areas and defuse the tensions with it, especially in areas with a high density of Arabs⁽¹¹⁶⁾. According to the data, those reconciliations are carried out with certain tribal leaders and sheikhs to whom the AA wants to give high status and invest in them, while the rejecting the requests of other tribal sheikhs. The **other type** is former local ISIS members. The AA says that “their hands have not been stained with blood”! However, the data suggests otherwise. A number of those released in Hasakeh through those reconciliations were involved in violations against civilians, and they are known to locals in their respective areas⁽¹¹⁷⁾.

It is noteworthy that some tribal leaders and sheikhs who signed on the release of former ISIS members as guarantors do not know most of them, especially those from other eastern governorates detained in Hasakeh prisons. Data shows that for **both types** of released detainees, bribes have been paid for the PKK cadres in exchange for the detainees' release⁽¹¹⁸⁾. Following the general pardon of 2020, some families inquired why their sons were not released, despite being covered by the pardon. The release, however, only happened after money was paid to some cadres responsible for prisons through brokers. The same applies to some tribal reconciliations during which money was paid for cadres to release specific

⁽¹¹⁵⁾ Releasing 631 ISIS members and arresting one former ISIS member east of Deir ez-Zor who was earlier released through tribal mediation, The Syrian Observatory of Human Rights, October 16, 2020, available at: <https://cutt.us/J3NFm>.

⁽¹¹⁶⁾ SDF tries to appease the tribes by releasing detainees, Enab Baladi, May 25, 2019, available at: <https://cutt.us/BtSwl>.

⁽¹¹⁷⁾ Two interviews conducted by the research team with lawyers from Hasakeh who attended some of the tribal reconciliations, with their capacity as tribal representatives. They affirmed identifying a number of ISIS members within their areas who were released in those reconciliations, although the said members were involved in violations against locals. Some of those ISIS members were serving in the security apparatus, in ISIS's Islamic police or as former fighters. The interviews were conducted in the period between 15 – 30 October, 2020. One interview was conducted face to face, while the other was conducted over the phone.

⁽¹¹⁸⁾ Ibid.

people. Money is collected from the tribe or family of the released, and the sums of money range between 3-5 thousand US dollars⁽¹¹⁹⁾. These settlements are met with widespread resentment in the local community, which feared that some former ISIS members would return to their previous activities, in addition to resenting the AA's conduct of keeping political and opinion detainees in prison while releasing ISIS members⁽¹²⁰⁾. There is even greater fear in other areas such as Deir Ez-Zor, especially in areas where ISIS members who committed crimes against locals, such as al-Shaitat tribe, were released. Some dignitaries from al-Shaitat in these areas expressed their discontent with the release of ISIS members, while at the same time, SDF continues its arrest campaigns in their villages under the pretext of affiliation to ISIS⁽¹²¹⁾.

2. **Security settlements:** According to the data, this level is based on a series of settlements between the “Asayish” and SDF forces and many former ISIS local members and leaders detained in the prisons of the AA. Settlements resulted in the release of those detainees in exchange for security cooperation, providing information⁽¹²²⁾, or being forced to integrate into the security and military agencies of the AA. Several cases were documented of former ISIS leaders and security officers who joined

⁽¹¹⁹⁾ Three interviews conducted by the research team on the phone with three families living in south of Hasakeh and the countryside of Qamishli, including two families (A. K.) and (S. J.) whose sons were released in October 2020. The detained sons were accused of dealing with ISIS. The release took place after issuing a general pardon by the AA. The families paid money for local brokers having relations with influential cadres within the general security “Asayish”. Although those members served their time and they were included under the general pardon, they were only released after their families paid bribes. The first family paid three thousand USD, and the other family paid 2,500 USD. The third interview was with (K. A.) from Hasakeh. His brother was released through a tribal guarantee in 2019. He was accused of communicating with ISIS cells. 5,000 USD was paid for his release. The three interviews were conducted between 1 – 12 December 2020.

⁽¹²⁰⁾ Huge popular resentment after SDF released around 50 individuals accused of dealing with ISIS, the Syrian Observatory for Human Rights, January 8, 2020, available at: <https://cutt.us/0mf5S>.

⁽¹²¹⁾ For more information, see the case study on Deir ez-Zor below.

⁽¹²²⁾ Mousa Hashim, a former ISIS member, served in different positions within ISIS, including the Spoils Bureau in Hasakeh, the Spoils Bureau in Deir ez-Zor, al-Rikaz [natural resources] Bureau in al-Omar Field in the countryside of Deir ez-Zor. He was originally from Deir ez-Zor, but was living in Hasakeh. He was arrested by SDF in 2018, before he managed, as claimed, to escape Hasakeh Prison with other 11 former ISIS members. He was later captured by ISIS and executed in a video published by ISIS, charged with dealing with SDF and providing the Global Coalition with information. For more information see: Three Operations by ISIS in One Day, Syria TV Website, December 2020, available at: <https://cutt.us/KmKCX>.

the SDF's intelligence agency⁽¹²³⁾, and some others who joined the SDF and the internal security "Asayish" in the countryside of Hasakeh. Some faced reprisal by ISIS for joining the SDF and providing the Global Coalition with information⁽¹²⁴⁾.

Other former local ISIS members were integrated into traffic police in the countryside of Raqqa, which enraged a large number of residents of the areas, who knew these members during the control of ISIS, and they filed several complaints in that regard. Nevertheless, the AA did not react to those complaints and considered that these settlements include members whose "hands were not stained with blood"⁽¹²⁵⁾. However, the reality indicates otherwise. Among those whose status has been settled are former local ISIS leaders known within their local communities for their involvement in several crimes⁽¹²⁶⁾, including one of ISIS' leaders who led the offensive on Ayn al-Arab/Kobane. This level also includes paying bribes sometimes for the cadres in exchange for settlements⁽¹²⁷⁾. The data shows that these settlements did not include ISIS members only but also included several detainees on charges of theft and murder, who were released in exchange for joining the combat frontlines or paying money⁽¹²⁸⁾.

3. **Smuggling (individually/in groups):** This includes the smuggling operations of individuals or groups of some former ISIS members

⁽¹²³⁾ He moved from ISIS to SDF after 10-months detention ... The Syrian Observatory Reveals the Details of the Assassination of one of SDF Intelligence Members in Deir ez-Zor, The Syrian Observatory for Human Rights, December 6, 2020, available at: <https://cutt.us/Uxc7L>.

⁽¹²⁴⁾ In An Unprecedented Case, ISIS Executes One of Its Former Officials, Baladi News, December 8, 2020, available at: <https://cutt.us/iNTqR>.

⁽¹²⁵⁾ Former ISIS Combatants wreak havoc in Ain Eisa Town with the Support and Involvement of Personnel from SDF and the Internal Security Forces "Assayesh", The Syrian Observatory for Human Rights, September 25, 2019, available at: <https://cutt.us/A4c1a>.

⁽¹²⁶⁾ An interview on the phone conducted by the research team with Abdul Aziz Khalifa, a journalist with Baladi News Network. He is a local from Hasakeh and he is the editor-in-chief of al-Khabour news website, which is specialized in monitoring and following up on the developments of the eastern area and the issues of ISIS members within the area.

⁽¹²⁷⁾ Former ISIS Combatants wreak havoc in Ain Eisa Town with the Support and Involvement of Personnel from SDF and the Internal Security Forces "Assayesh", *ibid*.

⁽¹²⁸⁾ An interview conducted by the research team with one of the investigative judges working at the AA's courts in Hasakeh. He witnessed the release of 8 individuals charged with different crimes, including: murder and theft, after most of them signed a pledge to join the combat frontlines, while others paid money. All of that happened through the cadre in charge of the court. Those individuals were released without the knowledge of the investigative judge in charge of their files. The interview was conducted on October 11, 2020.

detained in the AA's prisons⁽¹²⁹⁾ or the camps⁽¹³⁰⁾. The individual cases of these smuggling operations were conducted in exchange for certain sums of money for some cadre officers in charge of the prisons, paid through brokers and intermediaries. There are also many reported cases of Iraqis who were given Syrian IDs and then smuggled⁽¹³¹⁾. The group smuggling was happened by facilitating the escape of groups of local ISIS members as a kind of political pressure. The SDF resorted to this approach several times in Hasakeh and Raqqa, especially during the Turkish military operations. A large number of ISIS members who were smuggled from prisons were arrested in the opposition-controlled areas, in the north of Syria.⁽¹³²⁾ The former US president, Donald Trump, confirmed these cases during the Turkish military operation of "Peace Spring". He accused the SDF of releasing such members to push the US forces to intervene in the area during the Turkish operation⁽¹³³⁾.

4. **Extradition of ISIS members' families:** In this regard, some foreign women and children who are families of ISIS members were extradited to their respective countries, which were willing to take them back following visits made by delegates from those countries and meetings with AA's foreign affairs department. Most of these visits were made in 2019-2020. Some countries refused to take back hundreds of women and children of their nationals (Tajikistan, Kazakhstan, Uzbekistan, Chechnya, Russia, Kosovo, Sudan)⁽¹³⁴⁾. European countries (Germany, France, Sweden,

⁽¹²⁹⁾ Antiquities Theft and Drug Trafficking... Corruption Haunts The Kurdish AA Officials, al-Hurra, January 13, 2021, available at: <https://cutt.us/869Yb>.

⁽¹³⁰⁾ Former ISIS Combatants wreak havoc in Ain Eisa Town with the Support and Involvement of Personnel from SDF and the Internal Security Forces "Asayesh", *ibid*.

⁽¹³¹⁾ An interview conducted by the research team on the phone with Abu Abdul Rahman, a security officer working with the opposition factions in the north of Syria. He was one of the officers who interrogated ISIS members who were arrested in the north. He confirmed that the results of investigations with most of the members who were arrested showed that they paid bribes to the cadres in charge for smuggling them. The interview conducted on December 12, 2020.

⁽¹³²⁾ Testimonies of ISIS members on smuggling them from the prisons of SDF, Arabi 21, October 27, 2019, available at: <https://cutt.us/RjfoJ>.

⁽¹³³⁾ Trump Reveals Who Is Responsible for the Release of ISIS Terrorists in Syria, Sputnik, October 14, 2019, available at: <https://cutt.us/2yK4C>.

⁽¹³⁴⁾ Fact Finding: Have European Countries Brought Back Their Nationals Who Joined ISIS?, BBC News, October 15, 2019, available at: <https://cutt.us/Jnd4a>.

Norway, Finland) have received back only dozens of their nationals⁽¹³⁵⁾, and are still refusing the return of the rest.

Despite the presence of above-mentioned levels, the AA stresses that the series of releases and settlements are only for the members “whose hands are not stained with blood”. According to human rights defenders and jurists, the AA bears the responsibility in all cases. If those who are released are civilians and not involved, how can they be arrested and detained for years? And if they are ISIS members involved in crimes, how can they be released without trials⁽¹³⁶⁾?

It seems that the justification of the AA comes in the context of alleviating popular discontent, especially of the families of those victimized or forcibly disappeared by ISIS. ISIS prisoners and forcibly disappeared persons are still a pending issue with no progress achieved by the AA, despite the various attempts of Kurdish and Arab families. Many families of individuals who were forcibly disappeared by ISIS complained about the lack of cooperation of SDF and “Asayish”, according to a Human Rights Watch report in 2020. In addition, although a missing persons committee was established in Kobane, no such independent committees have been established to track missing individuals in many regions, such as Raqqa⁽¹³⁷⁾.

The committee that was formed in Kobane has not made any progress. A coalition of families of the forcibly disappeared persons communicates with it through international human rights organizations. Thus far, the AA says that it has not been able to find information about their fate, despite arresting thousands of ISIS members and leaders. According to the SDF, “there are around 12 thousand individuals suspected of being ISIS fighters held in seven prisons in northeastern Syria. The number of foreigners (neither Syrians nor Iraqis) is estimated at four thousand”. A US government report published in August, 2019 indicated a smaller number of foreign fighters detained in northeastern Syria and estimated it at two thousand fighters from 50

⁽¹³⁵⁾ Germany and Finland Brought Back 18 Children and 5 Women from Syria, Enab Baladi Newspaper, December 12, 2020, available at: <https://cutt.us/R0SN8>.

⁽¹³⁶⁾ Three interviews conducted by the research team with three lawyers registered in the “al-Jazirah Lawyers’ Union”, *ibid*.

⁽¹³⁷⁾ Rashid al-Haj Saleh, Why Does Not SDF Want to Help Families of those Who Have Gone Missing By ISIS in Raqqa, Harmoon Center for Contemporary Studies, January 30, 2021, available at: <https://cutt.us/pSCBd>.

countries; around 800 were from European countries, whereas the rest were from the Middle East, North Africa, or Asia. Families of suspected ISIS members were detained in several IDP camps in northeastern Syria. So far, al-Hawl camp is the largest one, and it accommodates about 70 thousand people, 94% of whom are women and children, and 11,000 of them are foreigners⁽¹³⁸⁾.

According to the AA, as of June 12, 2020, 1,881 Syrians were convicted of affiliation with ISIS, whereas no trials were held for third-country nationals (other than Syrians and Iraqis) on charges of affiliation with ISIS. About 8,650 detainees were brought to trial, some were convicted, and others were acquitted. There are still 1,600 detainees who have not been prosecuted yet⁽¹³⁹⁾. Regarding the juvenile judiciary, the AA reported that in June 2020, 110 children aged 12-18 detained in the Hori Juvenile Rehabilitation Center were accused of being associated with ISIS. According to a UNHRC report, legal representatives were not allowed to be present with children during interrogations in which confessions were extracted. Lawyers were only appointed after public prosecutors had pressed charges against the children. Furthermore, there are children detained and not placed in juvenile detention centers. These children are placed in prisons such as “Alaya” and “Hasakeh” prisons on charges of being associated with ISIS. Some are also forcibly recruited to the SDF/YPG and then accused of many crimes, including espionage. They are also held in the same prisons as adults⁽¹⁴⁰⁾.

Employees (Judges, Lawyers, and Others)

In the “al-Jazirah Region”/Hasakeh, around 160 judges are appointed as judges of social justice councils, bureaus, institutions, and other affiliated commissions and courts. The majority are concentrated in the main bureaus⁽¹⁴¹⁾. It should be noted that this does not include the military court

⁽¹³⁸⁾ Fact Finding: Have European Countries Brought Back Their Nationals Who Joined ISIS? BBC News, *ibid*.

⁽¹³⁹⁾ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, issued by the UNHRC, *ibid*.

⁽¹⁴⁰⁾ *Ibid*.

⁽¹⁴¹⁾ Data collected and cross-matched through seven interviews conducted by the research team with four lawyers who are assigned as judges in the AA social justice bureaus in Hasakeh, and three lawyers who are registered in the al-Jazirah Lawyers Union, *ibid*.

judges, based on the data collected until the date of this study. This number may increase or decrease by a small margin due to the speedy appointments, transfers, and dismissals.

Appointments of judges do not necessarily mean that the appointed person was a former judge or is a holder of a degree from a judicial institute, as is the case in Syrian courts. Instead, judges were previously appointed to the justice bureaus without having a legal education. The requirements were limited to: being no less than 22 years of age, being literate, having experience in dispute resolution, having a certificate of good conduct from the “Komin”, and not having been convicted of a crime or a corruption case. Thus, heads of the courts were the only ones required to be holders of law degrees or other degrees in social sciences/humanities, while the rest of the judges were appointed based on their high school diplomas, lower degree certificates or social sciences/humanities degrees after attending a 45 days to 6 months judicial course at the “Mesopotamia Academy” affiliated with the judicial system of AA.

The appointment of judges continued this way until 2018-2019. After the ratification of the social justice system charter, new requirements were introduced for the appointment of judges, including requiring new judges to be holders of a law degrees or to be a graduates of the “Mesopotamia Academy”. In addition, it became required that the Justice Council select judges through oral and written exams. Due to these changes, judges who hold a law degree have increased to about 75%, including recent graduates from Syrian universities. 5% of the appointed judges hold degrees in social sciences/humanities, while 20% were appointed on high school diplomas, including some law students in their early years of study who attended judicial courses at the “Mesopotamia Academy”. Those appointed as judges within the social justice bureaus are distributed by educational qualifications, according to the following table⁽¹⁴²⁾:

⁽¹⁴²⁾ Ibid.

Table (2): The distribution of judges within social justice institutions in “al-Jazirah Region”/Hasakeh, per educational qualifications

Educational Qualifications	Percentage of appointees as judges
Former judge or graduate of the judicial institute	0%
Law degree	75%
Degree in social sciences/humanities	5%
High school diploma	20%

The “Mesopotamia Academy” is more of a university established by the AA in Tel Maarouf town in Qamishli, with several departments and specializations. However, the institution has no local or international recognition. As for the “Department of Law and Qualifying Judges”, the Academy holds courses for lawyers, holders of degrees in social sciences/humanities, or holders of high school diplomas, to qualify them to become judges through training courses of 45 days, 3 months, or 6 months within a boarding academy. According to many lawyers who underwent one of these trainings, the curricula adopted for the courses are more of political and ideological nature than legal. Lawyers teach the course under the supervision of local and foreign PKK cadres, and both of them have no legal experience or judicial qualifications⁽¹⁴³⁾.

The PKK cadres interfere, directly or through the Justice Council, in the process of appointing and distributing judges to bureaus, commissions, and chambers. Those close to the PKK and its cadres are put in specific positions, especially those who joined the “Mesopotamia Academy”. Other factors influence the appointments and positions of judges, including the factor of “sacrifice”. For example, there have been cases of individuals appointed as judges because one of their family members was killed in the military operations while fighting on the side of SDF. In addition, being close to the PKK/PYD and seniority within it are also influential factors in appointments⁽¹⁴⁴⁾.

⁽¹⁴³⁾ Two separate interviews conducted by the research team with lawyers who had joined the judges training courses at “Mesopotamia” Academy in Hasakeh. The interviews were conducted on 28-30 October, 2020. One interview was conducted face-to-face by an enumerator, while the other interview was conducted on the phone.

⁽¹⁴⁴⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, *ibid*.

The demographics of the judges working at the social justice bureaus and institutions in Hasakeh, which include many Syrian ethnic and religious components, are as follows: 90% of judges are Kurds, 6% are Arabs, and 4% are Syriacs and from other components. As for gender distribution, women have an essential role in all institutions. Every institution or justice council has a joint presidency, which includes a man and a woman. Furthermore, women are appointed even if they are not elected⁽¹⁴⁵⁾.

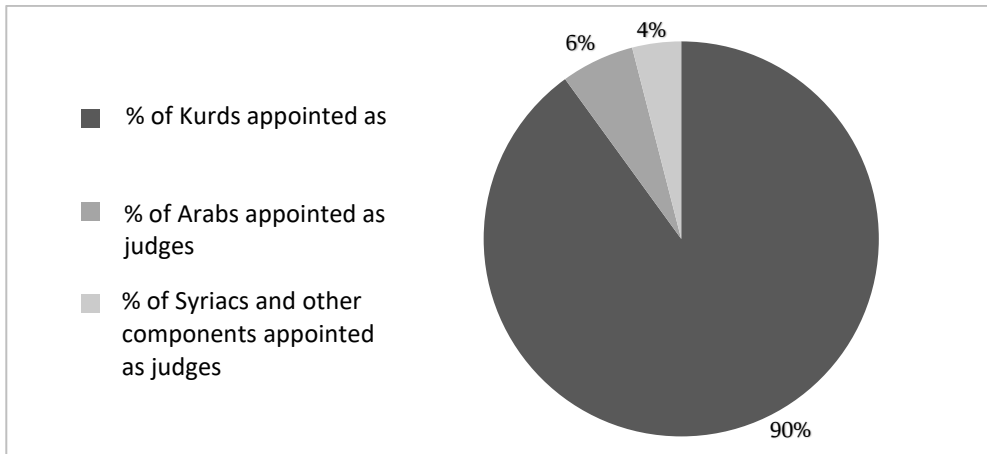


Figure (2): Demographics of the appointees as judges within the AA's social justice institutions in Hasakeh

In addition to judges, a number of lawyers are active within the social justice bureaus in Hasakeh. Those lawyers are organized in the “al-Jazirah Lawyers Union”, which consists of four branches in the area. The number of registered lawyers in the union has reached more than 300 lawyers⁽¹⁴⁶⁾, including individuals appointed as judges and officials within the AA. The largest number of them are active in the main courts, while a smaller number works in other areas. The Union holds periodic elections to choose its chairperson,

⁽¹⁴⁵⁾ Data collected and cross-matched through seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in “al-Jazirah Region”/Hasakeh, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid.* based on these interviews the number and demographics of judges in each justice bureau and prosecution body has been calculated separately, then they were added together and the percentages were concluded.

⁽¹⁴⁶⁾ The Lawyers Union in al-Jazirah Region holds its fourth conference, North Press, September 25, 2020, available at: <https://cutt.us/Brj17>.

members of its committees, and heads of branches, under the supervision of “civil society cadres”, who draw up the general policy of the Union⁽¹⁴⁷⁾.

As a result of the overlapping security control between the regime and the AA in Hasakeh and Qamishli, there is an overlap of legal basis and judicial references. The regime’s courts are still operating and applying the Syrian law, and the regime’s Bar Association is still active as well. According to the Bar’s members, approximately 1,400 lawyers were working in the governorate during 2020. Remarkably, more than 60% of those lawyers plead within the two court systems (regime courts and AA courts). Some lawyers who plead before the AA courts rely on the regime’s Bar Association's lawyers due to their broader legal experience. Some lawyers who used to work in regime courts and then became judges in the AA’s, rely on new graduate lawyers to present cases before the regime's courts⁽¹⁴⁸⁾, in order to monopolize a large share of cases in both systems, thus maximizing the financial benefit.

The phenomenon of lawyers pleading within two different court systems and legal bases constituted a problem that prompted the regime to minimize and stop it. The Central Bar Association in Damascus sent a letter to the Hasakeh Bar Association with a list of names of some lawyers who deal with or present cases before the AA courts, especially those who became prominent and monopolize a large share of cases. It asked in the letter that punitive measures be taken against them. The AA and the PYD threatened the head of Hasakeh Bar Association, Abdul Aziz Gawish, and the head of the Qamishli branch of the Bar, with arrests and escalation if lawyers affiliated with the AA were arrested. Therefore, to avoid tension and escalation, Abdul Aziz Gawish overlooked taking any measures and postponed looking into the issue for security reasons⁽¹⁴⁹⁾.

In the context of the nature of the individuals running the judicial system of the AA in Hasakeh, it is imperative to talk about the “cadres”, a term referring to the **PKK** elements who come from Qandil Mountains. In their capacity as

⁽¹⁴⁷⁾ Data collected and cross-matched through three interviews conducted by the research team with three lawyers registered in the “al-Jazirah Lawyers Union” and who present cases before the AA courts in the region. Ibid.

⁽¹⁴⁸⁾ Ibid.

⁽¹⁴⁹⁾ Two interviews conducted by the research team with two lawyers registered at the Syrian Regime’s Bar Association in Hasakeh on 3-7 November, 2020.

administrative and security officers, they control the various institutions of social justice. Data collected through interviews with judges, lawyers, and administrative officers within social justice institutions shows that the largest percentage of PKK cadres in charge are non-Syrian Kurds, especially Kurds from Turkey, and to a lesser extent Kurds from Iran. Cadres from Turkey are considered to have the most significant influence within justice institutions, then come the local cadres. A group of influential PKK cadres in Hasakeh became well known, going by pseudonyms, most notably (Zamani, Ashti, Zalal, Mazkin). A vast network of foreign and local “cadres” are linked to them in justice institutions in different areas. According to the data, they have counterparts in the General Council and the Executive Council and enjoy similar powers.

Independence and Efficiency (Indicators and Measures)

Several criteria govern the principle of judicial independence as a complex concept. But in the case of the developing experience of the judiciary of the AA, it may be unfair to apply all the strict theoretical standards to a new experience that operates within unstable security and political environments. At the same time, this does not constitute an obstacle to measuring judicial independence, within the scope of this judicial experience, according to intuitive and fundamental indicators, such as the extent to which other authorities overlap with the judiciary and their mutual influence, especially the security and military authorities; the availability of a safe and independent environment for courts as institutions and judges as individuals, while ensuring that they work without threats or pressure, which would ensure impartiality and independence of the judicial decision from any political bias or influence. In this context, several indicators can be observed based on the case study of social justice institutions in “al-Jazirah region”/Hasakeh, along with other indicators to measure the effectiveness of these institutions, as follows:

As for the independence of the judicial institutions, researching these institutions and interviewing a number of their workers (judges, lawyers, administrative staff) revealed that the PKK cadres control the various institutions of social justice and the judicial system in the province of Hasakeh

at different levels and commissions. They oversee the judicial system according to a hierarchy that relies on foreign cadres and networks of local cadres. They also supervise the regulatory processes of these institutions in terms of administration, finance and security, and control appointments, either directly or by supervising them through the Justice Council. They directly interfere in some judicial decisions by dismissing, stopping or distorting them when they are related to the interests of PKK or those close to it or associated with the cadres, who are influential in the administration⁽¹⁵⁰⁾.

The independence of judges is closely related to the independence of the institution. Those appointed as judges do not have adequate independence, especially because every justice bureau, prosecution office, or other institution has a designated cadre that manages and supervises their general operations and decision-making processes. Some cases (security-related and political cases) are settled directly by the cadre, thus, overlooking the judge and the proper procedures, that is if such cases were presented to the social justice bureaus in the first place. Security and political issues fall within the purview of the security and intelligence agencies. In addition, some judges feel threatened in courts; some have received death threats directly from the cadres, and other were subjected to pressure, especially that judges have no effective judicial immunity or protection. There have been cases where appointed judges tried to file complaints against cadres. Due to threats, they quickly withdrew the complaints, especially since they were submitted to another cadre of a higher degree, as a result of the hierarchal control by the cadres over various institutions⁽¹⁵¹⁾.

Therefore, it can be said that in cases involving security or political issues, judges of social justice bureaus do not have any independence. In other cases that are of no interest to the cadres, judges are more independent. However, the cadres may intervene in any case at any time and manner, especially if

⁽¹⁵⁰⁾ Data collected from seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid*.

⁽¹⁵¹⁾ Data collected from four interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, *ibid*.

one of the parties has a close relationship with cadres or is influential within the AA.

Cadres in charge do not recognize many court rulings because they have higher authority than those decisions. For example, based on the collected data, there are many cases where the court ruled on releasing defendants who served their time or have been acquitted. However, the court ruling has not been implemented because the cadre in charge disagreed with releasing them. There were also cases of releasing some defendants by orders of the cadre before the court ruling was made and without the knowledge of the investigative judge responsible for the case. In some cases, the judge cannot issue a release decision until the cadre report is issued⁽¹⁵²⁾.

The authority of rejecting judicial rulings is not limited to the cadres in charge of social justice institutions, but extends to their counterparts in other civil institutions of the AA. Several attempts to obtain licenses for civil society organizations from the Labor Commission/NGOs Office were reported. After the license was denied by the cadre in charge of the NGOs Office for “security reasons”, applicants resorted to the social justice bureau to challenge the decision of the NGOs Office. Although the cassation/appeal commission reviewed the cases and issued a ruling to provide the license for their compliance with the laws, the cadre in charge of the NGOs Office rejected the court ruling again on the grounds of security conditions. Numerous incidents have been reported of denying licenses to political parties, media institutions, and civil society organizations after judicial rulings were issued to provide such licenses⁽¹⁵³⁾.

As for the relationship of the judiciary with the security and military agencies, according to the data, security and military agencies have higher

⁽¹⁵²⁾ Data collected from seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid*.

⁽¹⁵³⁾ Two interviews conducted by the research team with two employees at civil society organizations that tried to acquire a CSO license. After the application for licensing has been rejected by the Labor Office, they appointed a lawyer to challenge the ruling. Despite issuing a decision by the social justice allowing the license to be given, the court ruling was rejected by a cadre called “Zamani”, justifying the rejection with security reasons. The interviews were conducted between 17-29 November 2020. The research team saw the license rejection form and the appeal case that was filed, which was approved by the court, as well as the decision of the court. All of these documents are kept in the archives of Omran Center for Studies.

authority than the judiciary for several reasons including lack of accountability, the ineffectiveness of the military judiciary, the difficulty of trying security and military personnel before a civilian judiciary, in addition to their work in complete isolation from the judiciary by carrying out arbitrary arrests without warrants. They also encroach on the jurisdiction of the courts through their inspection offices, which play the judiciary's role, and they do not recognize court rulings and disregard them in some cases. Several cases were filed against the SDF and “Asayish” members, including seizing houses and violations against civilians. In these cases, court rulings are often in favor of civilians, but they are never implemented⁽¹⁵⁴⁾. In addition to that, the General Security “Asayish” refuses arrest warrants served against its members, releases its personnel without trial through the cadres in charge, or holds “Platform” trials for them and gets them out with a minor penalty.

Other **relations with authorities** within the AA sometimes overlap with the judiciary or require joint coordination. The coordination of procedural and ordinary matters is carried out administratively. In contrast, coordination of higher levels is carried out among the cadres in charge of the judicial institutions and their counterparts in other institutions, public directorates, and sub-directorates. According to the data, the authority of the cadres in the judiciary is the same as in the rest of the AA region. This extends to the various institutions, commissions, and directorates of the General Council/the legislative authority and the Executive Council/the executive authority. This means that the boundaries between those powers are blurred, which makes the relationship almost wholly integrated.

In terms of **relationships within the institutions of the judicial system** and the coordination mechanisms among them at the level of the same region (al-Jazirah/Hasakeh), coordination is carried out between the bureaus of social justice and the prosecution offices in the different areas, in an ordinary manner on procedural issues. But on political, security, and financial issues, coordination is carried out among the cadres of the bureaus. Coordination with the rest of the judicial structures within the different regions under the control of the AA is nominal, albeit the existence of a

⁽¹⁵⁴⁾ Judiciary in Rojava: Beginner Judges and Rulings That Are Just Ink on Paper, Rok Online, January 5, 2018, available at: <https://cutt.us/HBcBk>.

representative/coordination agency that is supposed to be responsible for regulating the relationships. In reality, coordination is carried out between cadres within the various areas of control⁽¹⁵⁵⁾.

On the other hand, due to the absolute control of the PKK cadres in the various nodes of power within the judiciary, **impartiality** in judicial decisions is absent, and most judicial decisions are politicized, especially in security and political issues. The judiciary has discriminatory policies, whether at the ethnic or political levels. According to testimonies of several judges and lawyers, discriminatory partisan policies are practiced in the courts against Kurdish and non-Kurdish political parties and forces opposing the AA. They are referred to “Terrorism Courts”, which are not subject to any law. In many cases, discriminatory decisions and policies are made against members of the Arab community rejecting the AA, through accusations of “terrorism”. As a result of the direct control of cadres and the presence of networks of lawyers and judges associated with them; several phenomena observed in the area undermine the judiciary's integrity within the institutions of social justice in Hasakeh, such as corruption and bribery. In addition to that, it is a commonplace to submit security reports to cadres, upon which arrests or dismissals of lawyers and judges are made. This led to the creation of a cautious securitized atmosphere within these institutions⁽¹⁵⁶⁾.

All of these factors, including the direct control of cadres, directly influenced the judicial expirement in the AA, which affected **the effectiveness** and people's trust in those courts. Other objective factors contributed to the decline of that effectiveness, prompted reliance on various alternatives, and confined the role of social justice institutions to a limited scope of civil and penal lawsuits. The overlapping security control in Hasakeh and Qamishli between the Syrian regime and the AA has led to overlapping and conflicting legal systems, as the courts of the Syrian state do not recognize any decision issued by the AA's social justice bureaus. However, social justice institutions recognize any document issued by the Syrian state's judiciary. This led most

⁽¹⁵⁵⁾ Data collected from four interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, *ibid*.

⁽¹⁵⁶⁾ Data collected from seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the “al-Jazirah Lawyers Union”, *ibid*.

civilians living in the AA-controlled areas to resort to the regime's courts, especially in cases related to the civil and real estate registries, which are monopolized by the regime, without recognizing documents issued by the AA.

In contrast, due to the judicial vacuum within the AA's courts and the high level of bureaucracy at regime's courts where some cases may take years to resolve, some local residents, especially Arabs in Hasakeh and Qamishli resort to the tribal judiciary and norm, which has existed in the area for a long time. It seems that its effectiveness has increased – due to the present judicial chaos – especially in cases related to murder, crimes, personal disputes, and agricultural arbitration of land⁽¹⁵⁷⁾. Other community components have also developed arbitration systems as a result of the judicial chaos in the region. The Syriac community in Hasakeh governorate – as everyone else – resort to the regime's courts regarding civil and real estate registries. Nevertheless, in some disputes and personal cases, some of them resort to church mediation or the intervention of dignitaries to resolve disputes without referring the cases to courts⁽¹⁵⁸⁾.

Considering the judiciary's general reality in the AA-controlled areas in Hasakeh, civil and real estate cases and related lawsuits are limited to the regime's courts. Some civilians resort to tribal judiciary or reconciliation and arbitration in some cases through religious and community leaders. Security and political cases do not reach the social justice bureaus, as they are considered to be the prerogative of the security agencies. Lawyers are prohibited from representing defendants in "Terrorism Courts" and related cases, and it is very difficult to hold security and military personnel accountable before the civil judiciary.

In reality, the role of judicial institutions under the AA is limited in scope to a number of cases in which residents resort to these courts, including cases and lawsuits related to new documents and laws that the AA recently imposed on civilians within its areas of control and the consequent violations, in addition to some cases of disputes, quarrels, crimes and thefts that require an

⁽¹⁵⁷⁾ Ibid.

⁽¹⁵⁸⁾ An interview conducted by the research team on the phone with (S. M.), one of the Syriac lawyers working in Hasakeh governorate, the interview was conducted on November 5.

authority to summon the accused. Some residents resort to the social justice bureaus in those cases, due to the inability of the Syrian regime's judiciary to have access to the AA controlled areas and summon the defendants, or due to the high level of bureaucracy within the courts of the regime, and the fact that cases are settled faster in the AA courts, but the implementation of decisions is not carried out with the desired accuracy⁽¹⁵⁹⁾.

⁽¹⁵⁹⁾ Data collected from seven interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Hasakeh governorate, and three other lawyers registered in the "al-Jazirah Lawyers Union", *ibid*.

Chapter 3

The Judiciary in the AA: The Case of Raqqa

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The Judiciary in the AA: The Case of Raqqa

Preface

The Syrian regime lost its control over the city of Raqqa on March 4, 2013, after the armed opposition factions advanced to it. The governorate lived for several months under the rule of local councils composed of its locals, but due to many factors, including the opposition's negligence, differences between factions, and the continuous bombing by the Syrian regime, ISIS managed to control the governorate in early 2014⁽¹⁶⁰⁾.

After the regime's loss of control over Raqqa and before the advent of ISIS, Raqqa city witnessed several judicial experiments, the most prominent of which was the Shariah commission (al-Haiyaa al-Shariyah) that was formed immediately after the withdrawal of the regime forces from the city. It was formed by all military factions in the city at the time, including "Ahrar al-Sham" movement and "al-Nusra Front". Following the complete control of the city by ISIS in January 2014 and the expulsion of other military factions from the city, the Shariah commission was dissolved, and ISIS established its own court, which it called the "Islamic Court"⁽¹⁶¹⁾.

At the beginning of November 2016, the SDF launched the operation "Euphrates Wrath" to retake Raqqa from ISIS, which took place in stages with the support of the Global Coalition to Defeat ISIS⁽¹⁶²⁾. On October 20, 2017, with the USA's support, the SDF announced that it would extend its control over the city of Raqqa and the largest part of the governorate, which has become under AA control⁽¹⁶³⁾. In the same year, the regime, supported by its allies, took control of the areas located in the southeastern countryside of

⁽¹⁶⁰⁾ Raqqa Is A City Under Control of SDF, al-Jazeera.net, May 22, 2014, available at: <https://bit.ly/3ri36RP>.

⁽¹⁶¹⁾ The Attempts to Establish a Judiciary in Raqqa Have Been Terminated by ISIS, Enab Baladi Newspaper, December 19, 2015, available at: <https://bit.ly/3bmTMGT>.

⁽¹⁶²⁾ The Fourth Phase of Euphrates Wrath: Trying to Reach The Outskirts of Raqqa, The New Arab, April 13, 2017, available at: <https://cutt.us/zJKvE>.

⁽¹⁶³⁾ SDF Announces the Liberation of Raqqa.. and "a Federation in Syria", Sputnik, October 20, 2017, available at: <https://cutt.us/RPZAZ>.

Raqqa, in addition to its desert, after the expulsion of ISIS from it⁽¹⁶⁴⁾, and then the southern countryside of al-Mansoura west of Raqqa⁽¹⁶⁵⁾. Meanwhile, the SDF maintained control over the center of the governorate and most of its countryside, then declared them as a new “region” under the control of the Autonomous Administrations’⁽¹⁶⁶⁾. This meant the region became subject to the AA’s military authority and its administrative model, including the laws and authorities that the Administration began to establish in the city.

This control started to shrink after the Turkish operation “Peace Spring” was launched on October 9, 2019. The Turkish-backed Syrian opposition factions entered Tal Abyad city and Solouk town north of Raqqa⁽¹⁶⁷⁾, diminishing the area controlled by the AA in the governorate, which became a contested area among different forces on the ground. Since the SDF has taken control over the city, the AA started to establish various civil authorities like Raqqa's Civil Council and many institutions and bodies, including a judicial system affiliated hierarchically with the general judicial system of the AANES. The system is composed of various commissions and bureaus, distributed in the city center and countryside. This case study discusses the structure of the system, distribution of institutions and staff within it, and its effectiveness and independence as follows:

Structure and Composition

The **Social Justice Council** represents the highest judicial authority in areas declared as a region in Raqqa under the AA. It consists of 14 members, along with a man, and a woman as co-presidents. 11 of its members hold the status of a judge, while the remaining 3 members don not have that capacity but are representatives of the reconciliation committees. However, they participate in

⁽¹⁶⁴⁾ Linking SDF Areas and Regime Areas.. Ensuring Mutual Interests Under Russian Sponsorship, al-Modon Newspaper, May 31, 2020, available at: <https://cutt.us/S0GHi>.

⁽¹⁶⁵⁾ The Syrian regime forces control areas in the south-eastern of Raqqa, from Huwaijat Shannan to Maadan city including the villages and towns around it. In addition to its control over the southern countryside of al-Mansoura to the west of Raqqa and Dibs Afnan area. For more see: After Six Years of the Experience of the AA.. How Do Locals of the Northeastern Syria Evaluate it?, Enab Baladi Newspaper, January 31, 2020, available at: <https://cutt.us/4KWF8>.

⁽¹⁶⁶⁾ Raqqa Is a City Under Control of SDF, *ibid*.

⁽¹⁶⁷⁾ The “National Army” controls Tal Abyad and Solouk town in Raqqa, Smart News Agency, October 13, 2019, available at: <https://cutt.us/PU16I>.

and sign the decisions taken by the Council. The Social Justice Council in Raqqa consists of several committees: Judicial Inspection Committee, Prosecution Committee, Implementation Committee, Administrative and Financial Committee, and Reconciliation Committee. Although the AA's Social Justice System Charter emphasized that members of the Justice Council should be elected through the "General Conference" and that the Council undertakes the responsibilities of appointing, transferring, and seconding judges within the social justice bureaus⁽¹⁶⁸⁾, the data collected through the interviews indicate that PKK cadres directly intervene in the appointment of Council members, thus disregarding elections. They also exercise administrative, security, and financial supervision over the work of the Council and its committees and control its policies⁽¹⁶⁹⁾.

Parallel to the Social Justice Council in Raqqa, **the Women's Council for Social Justice**, whose role is limited to supervising women working in social justice institutions and ensuring gender balance in the courts by appointing, dismissing, terminating services of, or transferring women. Decisions are presented to the Council of Justice for voting only, without deliberations. Although the mission of the Women's Council for Justice is limited to that, it may sometimes take decisions contrary to the applicable laws, especially if the issue is related to one of the employees in the Administration or directly affiliated with the PKK/PYD. The Women's Council for Social Justice consists of the co-chair of the Justice Council, the women's representative in the reconciliation committee, a female employee appointed as a judge, and another female administrative officer. According to the interviews, all those employees work under the supervision of a member of the "justice cadre", who is a female member of the PKK from Qandil with partisan rank⁽¹⁷⁰⁾.

The Social Justice Council supervises the justice institutions and commissions operating in the areas under the AA's control in Raqqa, including the **social justice bureaus** spread in the city and its countryside.

⁽¹⁶⁸⁾ Charter of Social Justice System under the AANES, *ibid*.

⁽¹⁶⁹⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Raqqa and Tabqa cities. The interviews were conducted in the period between 1-19 November 2020. Two interviews were conducted in the field by an enumerator, while the other two were conducted on the phone.

⁽¹⁷⁰⁾ *Ibid*.

There are 3 main bureaus, and 3 prosecution offices geographically separate but are affiliated with the main bureaus. These bureaus and prosecution offices are geographically distributed in several cities and towns under the control of the AA in Raqqa, as shown in the following table:

Table (3): Geographic distribution of social justice bureaus and subordinated prosecution offices, in areas under the control of AA in Raqqa

Administrative unit (city/town)	Type of judicial institution (justice bureau/ prosecution office)
Raqqa city	Social justice bureau
Tabqa city	Social justice bureau
Al-Karama sub-district	Social justice bureau
Hazeema village	Prosecution office subordinated to the Raqqa Bureau
Al-Jarniyeh sub-district	Prosecution office subordinated to the Tabqa Bureau
Al-Mansoura sub-district	Prosecution office subordinated to the Tabqa Bureau

The Social Justice Bureau of Raqqa city is one of the largest bureaus in the governorate. It comprises four commissions: a prosecution commission, an implementation commission, a justice commission, and a cassation commission. Some commissions have two or three chambers. These chambers have been set up to divide and facilitate handling cases. In contrast, the justice bureau in Tabqa city includes one prosecution commission, one implementation commission, and one justice commission. The justice bureau in al-Karama sub-district includes the same commission. In appealable cases, both bureaus are affiliated with the cassation/appeal commission of the justice bureau of Raqqa city.

In addition to the three main bureaus, there are three geographically separate prosecution commissions, namely the Hazeima prosecution commission, which is affiliated with Raqqa bureau, al-Jarniyeh and al-Mansoura prosecution commissions, which are affiliated with the Tabqa bureau. In theory, judges should be appointed at the bureaus and prosecution commissions through the Social Justice Council of Raqqa as the highest judicial authority that supervises the work of those bureaus and their commissions. However, in reality, the data shows that the PKK cadres

interfere directly or through the justice council in appointing judges within the various bureaus and commissions. They also exercise security, administrative and financial supervision over them. A cadre is in charge of each bureau with a network of linked employees appointed by the cadre⁽¹⁷¹⁾.

In addition to the bureaus, **reconciliation committees** operate within the social justice institutions in Raqqa. The city of Raqqa contains a group of these committees distributed at a rate of one committee over three neighborhoods. There are around four committees within Raqqa and three other committees for Tabqa, al-Mansoura, and al-Jarniyeh. Al-Karama contains two committees; the first is within the town of al-Karama, and the second is in the al-Hamrat town. Despite the presence of reconciliation committees in cities and towns, most of them, according to the data, are ineffective at the level of reconciliation and resolving civil disputes. Their role is limited to transferring civil cases to the social justice bureaus by attempting to resolve disputes amicably. Still, when they fail to do so, these cases are referred to the prosecution commissions because civil complaints are not registered at the justice bureau before being submitted to the reconciliation committees. But that does not apply to penal cases.

Reconciliation committees in Raqqa are composed of men and women who are locals to the city, town, or neighborhood. No qualification is required for membership, and most of them have no experience in reconciliation, arbitration, or resolving disputes amicably. Members of those committees do not receive salaries, except those who are representatives in the Justice Council or the bureaus, because the AA considers this work to be voluntary. However, they receive in-kind privileges (e.g., fuel/relief) or protection privileges within the AA. In theory, the members of these committees are supposed to be appointed through elections based on nominations from the residents of neighborhoods and towns per the Charter of the Social Justice System/Article (33). However, in practice, the majority are appointed by the

⁽¹⁷¹⁾ Data collected and cross-matched through six interviews conducted by the research team, with four lawyers who are assigned as judges in the Social Justice Bureaus of the AA in Raqqa and Tabqa cities, and two other lawyers registered in the “Raqqa Lawyers Union”, who present cases before justice bureaus in the area. The interviews were conducted between 2-29 November, 2020, three of which were conducted face-to-face by an enumerator with two assigned judges and one other lawyer working in Raqqa, whereas the other three were conducted on the phone.

partisan bodies in the region at random, with no consideration for experience. The representatives in the Justice Council or the heads of the reconciliation committees within the bureaus indicate that the PKK cadres and the networks associated with them intervene in their appointment⁽¹⁷²⁾.

In addition to the reconciliation committees, the **Women Houses** are one of the social justice institutions in Raqqa. They are distributed among the main towns and cities, and they perform the tasks of reconciliation committees, but they specialize in dealing with marital disputes. They are administratively affiliated with the Women’s Council for Social Justice, which is supposed to supervise the appointment of members in those Houses from among women in neighborhoods, towns, and cities. However, the data indicates that a network of local PKK cadres supervise these Houses and appointments through the Women’s Council for Social Justice, supervised and led by a female PKK member. According to the data, the effectiveness of the Houses differs from one area to another. However, in general, it is still limited in effect due to the tribal nature of the region. In addition, most of the laws related to women, such as the prevention of polygamy and the abolition of the dowry, are still not accepted by the local community, and the AA turns a blind eye in this regard. However, these laws aren't being strictly enforced and their implementation is limited only to the AA's employees⁽¹⁷³⁾. Sometimes, the “woman committee”, which is part of the civil council of Raqqa, issue local decisions and circulations for the women of Raqqa only⁽¹⁷⁴⁾.

The data shows that the “**Platforms**” have no real existence on the ground. The Justice Council failed to implement this model because most attendees who are supposed to approve the ruling against the defendant come from the their tribe or village, and they would demand a commuted verdict

⁽¹⁷²⁾ Ibid.

⁽¹⁷³⁾ Two interviews conducted by the research team with two female members of the Women Houses in Raqqa and Tabqa. The interviews were conducted on the phone in the period between 15-25 November 2020.

⁽¹⁷⁴⁾ For example, on August 4, 2020, a circulation stipulating the prohibition of allowing women to work at touristic locations and facilities. The circulation, according to the press office of the civil council, came “for logical and moral reasons that maintains and protects women dignity at work and prevents investing in the phenomenon of their work as hostesses”. According to some human rights defenders and jurists, these circulations are not well-studied. At the time when women are prevented from working at restaurants and parks, women are still allowed to take up arms and join the military training camps and working at military checkpoints. For more see: Raqqa Women Are Prevented from Working at Touristic Places, Enab Baladi Newspaper, August 9, 2020, available at: <https://bit.ly/3iMZZHu>.

disproportionate to the committed crime or felony. Therefore, and because of opposition by most judges and lawyers on the grounds of illegality, this type of trial was suspended in the city. In contrast, the jury type trial stipulated in the AA's laws also remained unimplemented⁽¹⁷⁵⁾.

In addition to the civil judiciary, areas of Raqqa under the AA include **one military court**. The military court consists of a justice commission and a prosecution commission with no appeals/cassation commission. It used to be affiliated with the appeal commission in the military court in Ayn Issa (Euphrates region) before the latter was moved to Raqqa. Around 8 of those appointed as judges are allocated to the commissions of the military court in Raqqa, and only one of them holds a law degree. The others hold high school diplomas, including some students of law in their early years of study. The court's chairperson holds a middle school diploma. Demographically, Arabs constitute 37% of its members, while Kurds constitute 63%⁽¹⁷⁶⁾.

The court is supposed to look into crimes related to military service or emanating from a military task or mission. However, according to the data, the court is largely ineffective and too lenient with military and security agencies members, as no true trial of members of those institutions has been held. In addition, PKK military cadres directly supervise the court's work and appointment of judges. In cases involving a civilian party and a military party, both parties should be referred to the civil judiciary. According to the data, however, prosecuting members of the security and military agencies remains very challenging, as it is impossible to summon or arrest members of those institutions due to the power and influence of the cadres, or refusal by the general security "Asayish" to arrest their members. More often than not, lawsuits against security or military litigants are dropped before they reach the social justice bureau. If they reach the bureau, they are settled by "amicable" means involving pressure on the civilian side in favor of the military or security side due to their power. This is particularly true when the personnel is closely associated with PKK or the cadres or in case they are

⁽¹⁷⁵⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers appointed as judges in social justice bureaus of the AA in the cities of Raqqa and Tabaqa. Ibid.

⁽¹⁷⁶⁾ Ibid.

Kurdish, in which discriminatory policies have been applied in many cases in courts, both military and civil⁽¹⁷⁷⁾.

In terms of **auxiliary departments** which the judiciary needs for its work, such as forensic medicine or forensic labs, the data indicates that they are entirely non-existent in AA areas in Raqqa. There is one forensic doctor in the city whose assistance is sought only when necessary. According to the judges and lawyers, he has modest experience in this field.

Employees (Judges and Lawyers)

The number of those appointed as judges in the Social Justice Council and bureaus and affiliated commissions in AA areas in Raqqa is around 67 judges. It is noteworthy that this figure is based on the data obtained until the date of this study, and may have marginally decreased or increased due to the rapid dismissals and appointments in social justice bureaus in Raqqa. This figure does not include those appointed as judges in the military court. Since appointment as judge does not require being a holder of a judicial institute diploma or former judge, most appointed judges are holders of bachelors of law or social sciences/humanities or high school diplomas. They are distributed as follows in terms of educational qualification:

Table (4): The distribution of judges within social justice institutions in Raqqa, per educational qualification

Educational Qualification	Percentage of appointees as judges
Former judge	1%
Degree in Law	60%
Degree in social sciences/humanities	8%
High school diploma	31%

It is clear from the table that there is only one former judge, who has defected from the Syrian regime. He is the only judge in Raqqa and the entire judicial system of the AANES. Around 60% of those appointed as judges hold bachelors of law; most are experienced lawyers, while some are new graduates. In addition, 8% hold bachelors in social sciences/humanities. 31% are holders of high school diplomas, including some students in their early

⁽¹⁷⁷⁾ Ibid.

years of studying law and enrolled in judicial qualification courses in “Mesopotamia Academy”. Some lawyers and graduates of social sciences/humanities also underwent the same training⁽¹⁷⁸⁾. **Demographically**, 85% of judges in the social justice institutions and bureaus in Raqqa are Arab, while 15% are Kurdish⁽¹⁷⁹⁾.

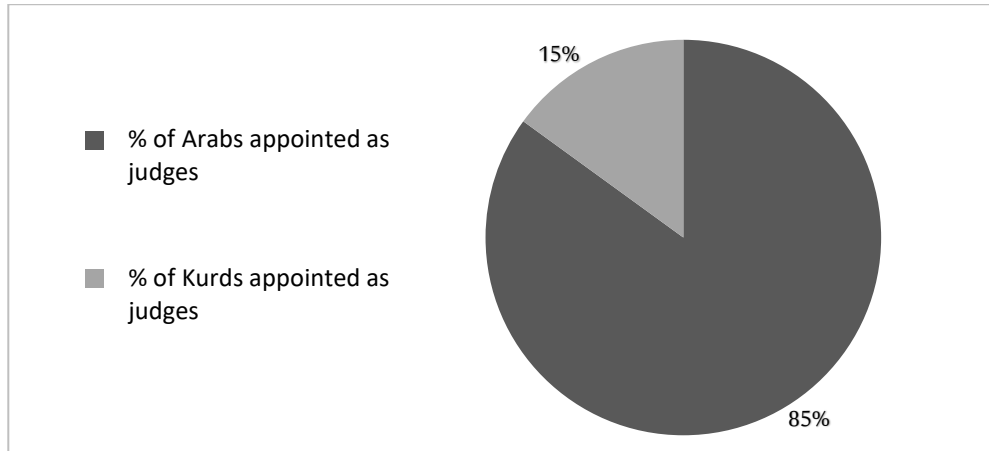


Figure (3): Demographics of the appointees as judges within the AA's social justice institutions in Raqqa

Moreover, around 55 **lawyers** work in Raqqa and its countryside, and they are organized under the “Lawyers Union in Raqqa”. According to the interviews, the chairperson and some union members were appointed by influential persons in the union's general coordination committee in “al-Jazirah” region and civil society cadres, as part of political deals. The civil society cadres also oversee the union's elections and intervene in its general policies. Most lawyers in the union in Raqqa complain about failure to apply the law, lack of knowledge of the law among some judges, the absolute control of cadres over social justice bureaus, and the domination of security/military agencies⁽¹⁸⁰⁾.

⁽¹⁷⁸⁾ Data collected and cross-matched through six interviews conducted by the research team with four lawyers assigned as judges in social justice bureaus of the AA in Raqqa and Tabqa in addition to two interviews with two lawyers registered in the Raqqa lawyers' union and who present cases before justice bureaus in the area. Ibid.

⁽¹⁷⁹⁾ Ibid.

⁽¹⁸⁰⁾ Data collected and cross-matched through three interviews conducted by the research team with three lawyers registered at the “Lawyers Union in Raqqa” who present cases at the justice bureaus in the area. The interviews

Independence and Effectiveness

The structure and composition of the judiciary in AA areas in Raqqa and the method of appointment and decision-making mechanisms there determine its independence and effectiveness on the ground. The independence of social justice institutions operating in Raqqa may be inferred through various indicators on the level of the institution in general, the type of lawsuits and mechanisms of making judicial decisions in specific. The data collected through the interviews reveals the absolute domination of PKK cadres over the various levels and hinges of social justice institutions. That domination is not restricted to administrative, financial, and security management of those institutions and intervention in appointments and dismissals. It often extends to interfering in the judicial decisions, which renders the social justice council titular and devoid of any power that directly affects its work, as a supreme judicial council that supervises the judicial process in the various justice bureaus and its affiliated commissions.

Relations and coordination between social justice institutions can be observed routinely at the procedural and administrative levels. However, in financial and security terms, coordination occurs between the cadres in charge of those institutions. The same applies to coordination between the judiciary in Raqqa and the judiciary in other regions controlled by the AA and between social justice institutions as the judicial authority with other authorities in Raqqa, such as the general council and the civil council. The data indicates that other cadres control and supervise those authorities in the same way they control the judiciary. They undertake coordination between the authorities, blurring the lines between them. The judiciary in Raqqa also suffers from the influence of some members within those councils and their personal views toward lawsuits filed by or against them, as they use their power to influence judicial decisions⁽¹⁸¹⁾.

The **independence of the judges** varies depending on the type of lawsuit. In political or security lawsuits, judges have no independence whatsoever.

were conducted between 20-29 November, 2020, one of which was conducted face-to-face by an enumerator, whereas the other two were conducted on the phone.

⁽¹⁸¹⁾ Data collected and cross-matched through four interviews conducted by the research team with four lawyers assigned as judges in social justice bureaus of the AA in Raqqa and Tabqa. Ibid.

Instead, the decision and final ruling lie with the cadres in charge. The civil judiciary may not be involved at all in such cases. According to the data, those cases are addressed away from the courts by the cadres, the general security “Asayish” or intelligence service directly in terms of interrogation mechanisms, detention without warrant, and referral to “Terrorism Courts”. Such cases are referred to the “People’s Defense” Court (Terrorism Court) in Qamishli or Ayn al-Arab/Kobane. These cases vary from opposition to the AA, affiliation with ISIS or Syrian regime cells, or affiliation with the “National Syrian Army-NSA” of the Syrian opposition. In civil cases related to complaints by locals and processing their paperwork, the judges are given the independence to make decisions. Still, it remains likely that cadres intervene at any moment if it involves one side close to them. Their role is clearly manifested in any case concerning PKK/PYD members and those closely associated with them, and the level of intervention varies depending on the level of interest. The cadres enjoy such influence that they could turn around any case, settling any lawsuit concerning persons with security connections in their favor. Cadres dominate the justice council, bureaus, and prosecutions in Raqqa. They are mostly foreign (from Turkey), most prominently two known as (Jakdar and Takoshin) one of whom is a local member of the cadre while the other one is foreign, and both of them have an extensive network of local cadres ⁽¹⁸²⁾.

Concerning the relations between judiciary and security/military agencies; data indicates that the judiciary is dominated by the military and security institutions. They specifically have power over the work of social justice bureaus and affiliated commissions. Military and security agencies also do not cooperate with the justice bureaus, neither on the level of enforcing judicial decisions nor on the level of monitoring and inspecting offices affiliated with the “Asayish”. These monitoring and inspection offices, according to various judges, operate as extraordinary courts that encroach on and hinder the judiciary and enjoy immunity from accountability regarding any lawsuits filed against them or affiliated persons. No prosecution may be initiated against any member of the internal security “Asayish” without prior official permission from the monitoring and

⁽¹⁸²⁾ Ibid.

inspection office of it, which more often than not is not issued. Furthermore, the military court is not effective, and the judiciary does not oversee prisons in the area, which are directly subject to the control of security agencies and PKK cadres⁽¹⁸³⁾.

The same applies when the SDF members commit violations or breaches against civilians, as it is challenging to issue an arrest warrant against them or summon military personnel for trial. Even in cases where some of these involved personnel are arrested, either they are released through cadres, or pressure is exercised on the civilian party to accept unfair reconciliation regarding the compensation for material damages. The absence of a precise legal mechanism to hold members of the security and military agencies to account has led to the domination of those agencies over the various civil authorities. Reports show that those agencies have been implicated in arbitrary abductions and arrests⁽¹⁸⁴⁾, in addition to being involved in assassinations of prominent figures in the AA. Most recently, the assassination attempt against Ghassan al-Yousef, the co-chair of the Deir Ez-Zor civil council, during his visit to Raqqa, where he was targeted with gunfire by members of the military police affiliated with the SDF. The latter justified the incident claiming “the convoy did not stop at the checkpoint, which made them suspicious, and they opened fire”⁽¹⁸⁵⁾.

In terms of “**terrorism**” cases, the data shows that some cases related to former-ISIS detainees in Raqqa are addressed at various levels. In addition to former ISIS members detained by SDF, the latter released hundreds of former-ISIS detainees through tribal reconciliations championed by local tribal leaders and notables⁽¹⁸⁶⁾, most of which took place between 2018⁽¹⁸⁷⁾

⁽¹⁸³⁾ Ibid.

⁽¹⁸⁴⁾ Including women... SDF arrest 20 persons from one family in Raqqa, Alsouria Net, 22 February 2021, available on the following link: <https://cutt.us/3QtTA>

⁽¹⁸⁵⁾ Escort of Deir ez-Zor council co-chair killed by SDF military police, al-Jsir newspaper, 31 January 2021, available on the following link: <https://cutt.us/wlihl>

⁽¹⁸⁶⁾ SDF released dozens of ISIS members from their prisons in Raqqa through tribal mediation, locals concerned about risks posed by released ISIS members, Al-Monitor, 11 February 2020, available on the following link: <https://cutt.us/pF03y>

⁽¹⁸⁷⁾ SDF release ISIS prisoners in Tabqa, Raqqa, Smart Agency, 2 June 2018, available on the following link: <https://cutt.us/3Hmo6>

and 2020⁽¹⁸⁸⁾. Although the AA asserted that those released in reconciliations have “no blood on their hands”, the data shows that some had been implicated in crimes against civilians, particularly that the locals recognize them for being implicated in such crimes in some areas during the rule of ISIS⁽¹⁸⁹⁾.

Furthermore, some data indicates that PKK cadres who are influential within the ranks of the SDF and the general security “Asayish” arranged some security settlement with former ISIS members away from the law and the courts altogether. Several cases were documented where security settlements were reached between them and some former ISIS members detained. In those settlements, some ISIS detainees are released in exchange for being recruited in the ranks of the SDF and other security institutions or for significant sums of money paid to the cadres. Furthermore, many reports in 2020 recorded many cases in which ISIS fighters were smuggled from detention camps (Ayn Issa) and participated in looting and robbery in many sectors, particularly real estate⁽¹⁹⁰⁾.

This has constituted a threat driving citizens to protest and file complaints. However, no reaction or measure has been taken against the perpetrators⁽¹⁹¹⁾. Security settlements have had a terrible toll on the life of citizens in those areas, particularly, according to activists, the rising popular resentment due to the practices of “traffic police” in Ayn Issa as most members of the traffic police are former ISIS fighters. They filed more than 1200 traffic tickets in

⁽¹⁸⁸⁾ By tribal mediation, SDF release dozens of ISIS members in Raqqa, Baladi News, 2 March 2019, available on the following link: <https://cutt.us/WFgTv>

⁽¹⁸⁹⁾ Three separate interviews conducted by the research team with three activists in the cities of Raqqa and Tabqa. Two of the activists work on documenting violations within Raqqa, for human rights monitoring networks, outside Syria. The other activist works in media for a local monitoring network. They have all lived both under ISIS and under SDF rule and documented dozens of cases in which former ISIS members and leaders who had committed crimes during the rule of ISIS were released through security settlements. The interviews were conducted between 10 and 25 November. Two of the interviews were conducted over the phone and the third was conducted in person by an enumerator.

⁽¹⁹⁰⁾ The sources added that such robbery and looting operations involved buying and selling lands whose owners were absent, let alone smuggling ISIS fighters outside Ein Issa camp despite the stringent decisions in that regard. All those operations, however, take place with the support and involvement of individuals and officials in SDF and internal security force “Asayish”. For more see: Without any reaction from SDF leadership... “Martyrs Family Office” in Raqqa provides salaries and aid for living persons while the families of martyrs suffer dire humanitarian conditions, the Syrian Observatory for Human Rights, 27 September 2020, available on the following link: <https://cutt.us/0F8YH>

⁽¹⁹¹⁾ Former ISIS fighters wreak havoc in Ein Issa with the support and complicity of figures from SDF and internal security “Asayish”. Syrian Observatory for Human Rights, 25 September 2019. Ibid.

no more than three days. The sources confirmed that former ISIS fighters are using “traffic policing” as a pretext to infringe on the citizens’ freedoms, which has paralyzed the movement in the town in fear of the conduct of those former fighters⁽¹⁹²⁾.

Given the level of independence of social justice institutions in the AA areas in Raqqa, **the nature and level of effectiveness of social justice bureaus** may be determined, as its role is restricted to addressing a specific set of cases. Security and political cases are not within the jurisdiction of the civil judiciary, and it is challenging to hold members of security and military agencies to account. To resolve some disputes, locals in rural areas continue to resort to a tribal judiciary whose activity was relatively limited before 2011 but has recently increased due to the judicial chaos in the area. On the other hand, the vast majority of people in Raqqa continue to rely on regime courts, in all civil and real estate cases and lawsuits in regime-controlled areas within the governorate of Raqqa (Sabkha and Madan), since all civil and real estate records of the AA are not recognized, and the regime continues to keep the original records. Although there is a real estate bureau affiliated with the regime in Raqqa City (Ibn Khaldon School) in which several government employees work under the supervision of the AA, people are only allowed to see existing records. Still, it is not possible to initiate any new legal or documentation processes. In addition, this office is sometimes closed and re-opened at the direction of the AA in the city. It was recently shut down, for example, because its employees did not agree to take part in a pro-SDF rally, and it was later re-opened⁽¹⁹³⁾.

In conclusion, multiple objective and subjective factors influence the effectiveness of the social justice bureaus in the AA areas in Raqqa and its work is confined to a limited number of cases within a specific range, including those related to newly-introduced laws imposed within the AA areas in Raqqa and the relevant required paperwork, documents and incurred

⁽¹⁹²⁾ After taking part in the attack on Ayn al-Arab (Kobane), a local ISIS leader transforms from a detainee to Raqqa’s most prominent building contractor, the Syrian Observatory for Human Rights, 3 August 2019, available on the following link: <https://bit.ly/39BelbC>

⁽¹⁹³⁾ Data collected and cross-matched through three interviews conducted by the research team with three lawyers registered at the “Lawyers Union in Raqqa” and who present cases before justice bureaus in the area. Ibid.

violations, in addition to some civil and penal lawsuits, daily documents, complaints, and some drug cases.

Chapter 4

The Judiciary in the AA: The Case of Deir Ez-Zor

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The Judiciary in the AA: The Case of Deir Ez-Zor

Preface

When the armed conflict started in Deir Ez-Zor, Syrian opposition factions controlled vast areas in the governorate while the regime's control shrank to a few neighborhoods in the city. This included the military airport and some military units in the eastern countryside of the city and the headquarters of brigade 137 at its western outskirts⁽¹⁹⁴⁾. In early 2012, the military factions started to take control, and the regime started to withdraw. As most state institutions –including courts– were closed or bombarded, some factions established various Sharia commissions. The main Sharia commission was established in 2012 to adjudicate inter-faction disputes and arbitrate the financial and personal disputes of locals. Later, the regime's bombardment targeted this commission, killing most of its members, including Sharia officers, lawyers, and many faction leaders. It was reopened later that year⁽¹⁹⁵⁾.

Although opposition factions took full control of most cities and rural areas in the governorate, some regime courts continued partial operation for a long time before they were shut down (Al-Ashara 2014). Their work was restricted to some procedures and issuance of power of attorney documents concerning real estate and civil registries without trials. The same applied to other areas (al-Mayadin, al-Bukamal 2013) where the operation was managed by some lawyers or administrative staff who managed to keep the records and seals of the court, transferring them to their homes or other offices to continue to manage some procedures⁽¹⁹⁶⁾. By the end of 2012, the experience of Sharia

⁽¹⁹⁴⁾ Al-Jazirah: What do you know about the city of Deir ez-Zor?, Aljazeera Net, 13 November 2014, available on the following link: <https://cutt.us/VGGIC>

⁽¹⁹⁵⁾ A phone interview conducted by the research team with (W.S.) one of the founding members of the first and second Sharia commissions in Deir ez-Zor city before his displacement to the north of Syria when ISIS took control over the city. The interview was conducted on 25 November 2020.

⁽¹⁹⁶⁾ An interview on the ground conducted by the research team with (T.Sh.) a defected officer of the ministry of interior who is also from al-Ashara city and stayed there until mid-2014. He had been acquainted with the work of the court in the city and its surrounding area. The interview was conducted on 22 November 2020 in Gaziantep, Turkey.

courts and commissions started to spread further in rural areas and cities until a central Sharia commission was established in the eastern area in mid-2013. Around 60% of commissions present in villages and cities of Deir Ez-Zor and most fighting factions on the ground became affiliated with that central commission, which played a significant role in judicial, services, and religious guidance⁽¹⁹⁷⁾.

The above mentioned judicial experience in Deir Ez-Zor ended after ISIS took control of over 95% of the governorate in mid-2014. ISIS established “Sharia courts” that imposed unfair rulings against the locals of the city. This included shutting down previous Sharia and civil courts, targeting those working for them, and tracking down judges, lawyers, and law students claiming they needed to repent for straying from Islam or be killed⁽¹⁹⁸⁾.

In the last quarter of 2017, the regime, backed by Russia and Iran, regained control of the city of Deir Ez-Zor⁽¹⁹⁹⁾, reinstating the Syrian law as the reference for judicial proceedings in the city⁽²⁰⁰⁾. In the same year, the SDF, backed by the Global Coalition, launched the “Al-Jazirah Storm” battle to control parts of Deir Ez-Zor governorate to the east of the Euphrates river except for a small enclave which remained under regime control⁽²⁰¹⁾. This put an end to ISIS presence in the area, in stages, until the SDF launched the last battle against ISIS in Al-Bagous in 2019. Eventually, the regime controlled the entire city and the eastern countryside of the governorate (Shamia), and the SDF controlled the western countryside (al-Jazirah), at the expense of ISIS, which ceased to exist in terms of power and control of territory but continued to have active cells in the area to the date of this study. Thus, the AA declared the parts it controlled of Deir Ez-Zor governorate a region affiliated with the administration and imposed its administrative system in

⁽¹⁹⁷⁾ ISIS control of Deir ez-Zor destroys the governorate’s “nascent” judiciary, Enab Baladi, 19 December 2015, available on the following link: <https://cutt.us/eUluh>

⁽¹⁹⁸⁾ ISIS: Being a lawyer constitutes infidelity and requires repentance, The New Arab, 26 September 2014, available on the following link: <https://cutt.us/ztsqI>

⁽¹⁹⁹⁾ Syrian army declares regaining control of all Deir ez-Zor east of Syria, France 24, 3 November 2017, available on the following link: <https://cutt.us/PvkGT>

⁽²⁰⁰⁾ Deir ez-Zor judges will return to the city’s judicial institution... al-Sha’ar: we will activate and increase the number of courts in safe areas, al-Watan, 9 October 2017, available on the following link: <https://cutt.us/gGW9X>

⁽²⁰¹⁾ Syria: Kurdish forces liberate eastern countryside of Deir ez-Zor with Russian-American support, BBC Arabic, 3 December 2017, available on the following link: <https://cutt.us/00hYq>

those areas, including its judicial system, which this case study discusses as follows:

Composition and Structure

Areas controlled by the AA in the countryside of Deir Ez-Zor governorate are covered by one social justice bureau, which was established in 2018 in the al-Jazra sub-district in the western countryside of Deir Ez-Zor. It was transferred to al-Kasra sub-district in 2019. Later on, an affiliated prosecution commission was established in the al-Basira sub-district south east of Deir Ez-Zor. When the AA took control of parts of Deir Ez-Zor, it had decided to link them to the judiciary in Raqqa. However, it faced opposition from the locals, so the administration established a separate justice bureau and prosecution commission distributed as follows⁽²⁰²⁾:

Table (5): Geographic distribution of social justice bureau and subordinated prosecution office, in areas under the control of AA in Deir Ez-Zor

Administrative unit (city/town)	Type of Judicial Institution (Justice Bureau/Prosecution office)
Al-Kasra sub-district	Social justice bureau
Al-Basira sub-district	Prosecution office subordinated to the justice bureau in al-Kasra

The **social justice bureau** operating in al-Kasra sub-district consists of: a prosecution commission, a social justice commission, an implementation commission, a cassation commission, a reconciliation council. 13 of those appointed as judges are allocated across those commissions, in addition to 3 judges in the prosecution commission in al-Basira. As for the **Social Justice Council**, which is supposed to be the highest judicial authority that supervises the justice bureau in the area, none was established in Deir Ez-Zor. However, by the end of 2020, a quasi “miniature council” comprising two members was established within the justice bureau in al-Kasra. It includes a woman who holds a high school diploma, in addition to three of the PKK cadres who supervise the operation and work of the bureau. Thus, the total number of

⁽²⁰²⁾ A phone interview conducted by the research team with a lawyer who took part in the establishment of a social justice bureau in Deir ez-Zor after the AA took control and started to establish its institutions in the area. The interview was conducted on 4 December 2020.

members in the justice council stands at 5. Despite its establishment, it could not be described as a real Social Justice Council in the legal sense stipulated in the Social Justice Charter, since its members were not approved by the General Council (the legislative council), which is almost dysfunctional in Deir Ez-Zor, but instead, it was established by the cadres responsible for the bureau as an administration for the bureau due to the absence of an actual Justice Council⁽²⁰³⁾.

The composition of the Social justice Council reveals the magnitude of a structural problem in the judiciary in Deir Ez-Zor. The council fails to meet the number of members stipulated in the Justice Charter, which is 13 members, and instead it consists only of 5 members who lack the judicial qualifications, three of whom are PKK cadres. Moreover, two of the five members appointed as judges in the Justice Council also undertake tasks in the implementation and justice commissions⁽²⁰⁴⁾. This is considered a violation of Article (15) of the Social Justice System charter, which prohibits members of the Justice Council from undertaking any other positions apart from university teaching⁽²⁰⁵⁾. This is because the Social Justice Council is responsible for appointing, transferring, and seconding judges and taking disciplinary measures against them, including terminating their service after holding them to account before the council, according to Articles (19-52) of the Justice System Charter⁽²⁰⁶⁾. Therefore, the fact that two judges on the implementation and justice commissions are concurrently members of the council constitutes a structural problem in the judicial system: how could judges hold themselves accountable in disciplinary cases?

This problem is not restricted to the composition of the Justice Council, but expands to the commissions of the justice bureau as the missions and powers of those commissions overlap in a way that confuses jurisdiction. More often than not, the powers of investigation judge, referral judge, and prosecution judge fall with one judge. Further, the jurisdiction of cassation judges

⁽²⁰³⁾ Data collected and cross-matched through three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor between 1-19 December 2020. One of the interviews was conducted in person by an enumerator while the other two were conducted via phone.

⁽²⁰⁴⁾ Ibid.

⁽²⁰⁵⁾ Article (15) of the social justice system charter in the AANES. Ibid.

⁽²⁰⁶⁾ Article (19) and article (52) of the social justice system charter in the AANES. Ibid.

overlaps with that of others in other commissions, which constitutes a significant issue in addressing certain cases and suspects and contradicts basic judicial principles⁽²⁰⁷⁾.

As for other social justice institutions in areas controlled by the AA in Deir Ez-Zor, there are **reconciliation committees**. In some areas, the reconciliation committees are comprised of locals from the villages and towns. They are supposed to be active in every local council/“Komin” to undertake the amicable resolution of civil disputes and refer such disputes to the social justice bureau in case of failure. In reality, however, not all committees have been active. There are only three reconciliation committees: the first and main committee is located in the justice bureau in al-Kasra, the second in al-Basira southeast Deir Ez-Zor, and the third is in al-Sour sub-district eastern Deir Ez-Zor. The main reconciliation committee within the justice bureau is the one relied upon most and is led by a tribal figure. According to Article (33) of the Social Justice Charter, members of the reconciliation committees are supposed to be elected democratically, be locals of the village or town, be experienced, and moral and socially accepted. However, the data shows that PKK cadres directly oversee the appointment of the heads of those committees without any elections and in many cases without regard to experience or social acceptance⁽²⁰⁸⁾.

In addition to the reconciliation committees, there are **Women's Houses**. Four such houses are located in al-Kasra, al-Jazra, al-Sour, and al-Basira. They are supposed to undertake the mission of reconciliation committees but only in cases related to women and family issues by attempting amicable resolution and referring them to prosecution in case of failure. The houses are supposed to report to the women social justice council of the region, but this latter council does not exist in Deir Ez-Zor, so PKK cadres, including female cadres, supervise the houses, appoint its members and monitor their work financially, administratively and security-wise. As for the AA laws related to the protection of women, such as abolishing dowries and banning polygamy, their existence is merely theoretical in Deir Ez-Zor. These laws are

⁽²⁰⁷⁾ Data collected and cross-matched through three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor. Ibid.

⁽²⁰⁸⁾ Ibid.

dysfunctional due to social rejection and tribal pressure to stop their implementation while the AA turns a blind eye. However, in some cases where wives file complaints, there are accountability measures. Hence, women's social justice committees and Women's Houses are of limited effectiveness, due to the conservative character and the tribal composition of society and the AA turning a blind eye⁽²⁰⁹⁾.

Implementing **“Platform” courts** in AA areas in Deir Ez-Zor declined after being convened in only two incidents, in which the “Platform” was the chosen method of adjudication. The first incident was tied to a head of military regiment of the administration, who broke into the local council and assaulted its head. Thus, a “Platform” was convened upon a request by the cadre in charge, without notifying the justice bureau to evade trial. He was acquitted following the session. According to the interviews, the second incident occurred when the head of the Council of Martyrs’ Families embezzled funds and the “Platform” was chosen as an adjudication method to spare him imprisonment, in which the session followed a discriminatory policy as this person was Kurdish and was merely transferred to another position in Hasakeh. According to the data, the two incidents led to a lack of interest in this form of litigation, particularly that its legal requirements are not met. Persons unacquainted with the details of the case are asked to make a judgment instead of the judges. These persons either come from the suspect’s family and tribe, so they vote for a disproportionate ruling with the magnitude of the crime, or they could be supporters of the PKK and the AA in issues involving one of their employees. This led to a decline in this expiriment⁽²¹⁰⁾. On the other hand, there is a complete absence of the “People’s Defense” Court (Terrorism Court), jury commission, military judiciary, forensic medicine, and forensic laboratories in AA areas in Deir Ez-Zor⁽²¹¹⁾.

⁽²⁰⁹⁾ Two separate interviews conducted by the research team with two members of the civil council affiliated with the AA in Deir ez-Zor. The interviews were conducted between 7-12 December 2020. One of the interviews was conducted in person by an enumerator while the other was conducted by phone.

⁽²¹⁰⁾ Data collected and cross-matched through five interviews conducted by the research team with three of those assigned as judges in the social justice bureau under the AA in Deir ez-Zor, in addition to two members of the civil council. The interviews were conducted between 1-30 December 2020. Two of the interviews were conducted in person by an enumerator involving one of those assigned as judges and a civil council member and the other three were conducted by phone.

⁽²¹¹⁾ Ibid.

In terms of the **employees**, the number of those appointed as judges in the social justice bureau in al-Kasra and the affiliated prosecution commission in al-Basira is 16, all of whom are Arabs. According to the data, their educational background varies. Some hold bachelors of law while others hold high school diplomas, including students in their early years of university; a few hold bachelors in humanities (Arabic literature). They are distributed as follows according to educational qualification⁽²¹²⁾:

Table (6): The distribution of judges within social justice institutions in Deir Ez-Zor, per educational qualification

Educational Qualification	Percentage of appointees as judges
Judicial institute/ former judge	0%
Degree in Law	50%
Degree in Humanities	19%
High school diploma	31%

A number of those appointed as judges in the social justice bureau enrolled in judicial courses in “Mesopotamia Academy” in Qamishli for 45 days. Based on the input of some attendees, the training material is overwhelmingly (90%) politicized and ideological rather than judicial or legal. In addition, those courses were overseen by local PKK cadres, who are legally unqualified, under the supervision of foreign PKK cadres⁽²¹³⁾.

According to the data collected through the interviews, there are **no practicing lawyers** in the AA areas in Deir Ez-Zor. They are not permitted to present cases before the existing social justice bureau. There is also no structure, syndicate, or union for lawyers. It is prohibited to hire lawyers or let them present cases. Based on interviews with lawyers in the area, this constitutes a violation of the individual's right to defense, which is protected in any judicial system. At the same time, there is no local human rights organizations actively operating in Deir Ez-Zor. Those which exist undertake documentation of violations irregularly and without a license as the AA – through the cadres- continues to hinder the licensing of some local

⁽²¹²⁾ Data collected and cross-matched through three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor. Ibid.

⁽²¹³⁾ Two separate interviews conducted by the research team with two of those who attended those training courses in “Mesopotamia” Academy for social rights and justice of the AA. The two interviews were conducted between 18-20 December 2020. One of the interviews was conducted in person by an enumerator while the other was conducted by phone.

organizations in the area. Sometimes bribes are requested by some cadres in exchange for licensing. Due to the absence of lawyers or any other human rights bodies to resort to, notables and tribal figures and leaders play the role of lawyers. So parties to lawsuits contact the judges to address the case through tribal and social relations, or tribal leaders and notables would mediate by contacting the court cadre directly. Alternatively, defendants speak for themselves before the judge without a lawyer⁽²¹⁴⁾.

Independence and Effectiveness of the Judiciary

Data collected through the interviews show that PKK cadres have a great deal of control and power, equivalent to total patronage, over the social justice bureau in Deir Ez-Zor. Three PKK cadres are permanently present in a room within the offices of the justice bureau. They are known locally by their codenames (Akeed, Saber, Zakaria). The latter is the highest cadre in charge in the justice bureau. The cadres are directly responsible for managing the bureau and supervising it on the administrative, financial, and security levels. In addition, they are responsible for coordination between the judiciary in Deir Ez-Zor and the general justice council in Hasakeh. They also intervene in the appointment, transfer, and dismissal of judges⁽²¹⁵⁾, which contravenes Article (19) of the Social Justice System Charter, stipulating that justice councils shall be commissioned with the appointment, transfer, and disciplinary procedures for judges, including terminating their service under the provisions of the charter. In addition, this violates the immunity enjoyed by judges according to the second paragraph of Article (48) of the Charter, which stipulates that judges shall not be arbitrarily dismissed or transferred to non-judicial posts⁽²¹⁶⁾.

Furthermore, judges do not have adequate independence as cadres interfere in judicial decisions in cases involving anyone affiliated with them or with

⁽²¹⁴⁾ Data collected and cross-matched through five interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor, in addition to two interviews with two lawyers in the area. The interviews were conducted between 1-30 December 2020. Two of the interviews were conducted in person by an enumerator. They also involved a person assigned as judge in the social justice bureau and another lawyer in the area. The other three interviews were conducted by phone.

⁽²¹⁵⁾ Data collected and cross-matched through three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor. Ibid.

⁽²¹⁶⁾ Articles 19 and 48 of the social justice system charter of the AANES. Ibid.

the AA, or in cases of security or political nature, leaving a margin of independence for judges in civil and penal lawsuits with which cadres may also intervene in case one party to the case was associated with them, was influential within AA institutions or was connected to some members of the security agencies. Such interventions would be to overlook, repeal or amend the court's ruling or even close the case entirely. The cadre would even intervene to annul warrants and decisions before they are issued, in addition to releasing suspects who have been proven guilty of crimes without regard to the judges or the laws. For example, an artifact trader was arrested with clear evidence of his crime. Before the court issued its decision, the cadre ordered his release because he maintained relations with the security agencies, in which the authority of the cadre supersedes that of the judges⁽²¹⁷⁾. This overwhelming power not only in the judiciary but also in the various institutions and parts of the AA in Deir Ez-Zor, led to a state of tension in the area, which was manifested in protests that took to the streets in Deir Ez-Zor areas in 2019-2020 to protest against the “cadres’ corruption” and demand that they would leave the area⁽²¹⁸⁾. Cadres responsible for the judiciary have counterparts in various institutions and civil committees affiliated with the AA in Deir Ez-Zor⁽²¹⁹⁾.

In terms of the **relation between the judicial authority and other authorities** (legislative and executive), the lines are blurred, and there is no separation whatsoever between the three authorities. The domination of the executive authority is clear in many decisions. The SDF’s introduction of mandatory conscription of employees and teachers of the AA to take part in the “self-defense duty” in December 2020 can be seen as one indicator of such domination. Protests erupted in different areas in Deir Ez-Zor to abolish that decision, but these demands have not been met so far⁽²²⁰⁾. Coordination between the judiciary and other authorities and their affiliate civil institutions is undertaken at the level of the cadres assigned to these institutions. The data

⁽²¹⁷⁾ Data collected and cross-matched in three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor. Ibid.

⁽²¹⁸⁾ Deir ez-Zor: The people want Qandil’s Cadres to leave, al-Mudun newspaper, 26 April 2019, available on the following link: <https://cutt.us/cejor>

⁽²¹⁹⁾ Protesting cadres' corruption... protests expand in Deir ez-Zor for the second day in a row, Syrian Observatory of Human Rights, 23 December 2020, available on the following link: <https://cutt.us/jAVjd>

⁽²²⁰⁾ Protests in Deir ez-Zor rejecting SDF’s mandatory conscription decision, Arabi 21, 22 December 2020, available on the following link: <https://cutt.us/EX1Nj>

shows that the power of PKK cadres in all AA institutions is similar to that in the judiciary. This has been confirmed by the Pentagon report issued in the second quarter of 2020, which pointed out that the PYD's "advisors" from outsider Deir Ez-Zor restrict the decision-making power of the local council in the area⁽²²¹⁾. Some officials in the civil council of Deir Ez-Zor affiliated with the AA, including the chairperson of the justice committee, the health committee and another judge in the council, resigned in August 2019 because of PKK cadres' domination of decision-making in the council⁽²²²⁾.

Relations between the judiciary and military/security agencies: The general security agency "Asayish", the SDF and other security bodies have more power than the judiciary and other civil authorities in terms of not recognizing judicial decisions and operating in complete disregard to coordination with the justice bureau, particularly when it comes to arbitrary detentions and interrogation, as well as transfers and supervision of most prisons. In addition, prosecuting any member of those security bodies before the civil judiciary, in case there is a civilian party to the lawsuit, is not possible due to the power of cadres and the rejection of the general security "Asayish" to arrest of any of its personnel. Furthermore, there are no military judiciary or military courts in Deir Ez-Zor or any legal mechanism to hold security and military agencies members to account⁽²²³⁾, thus, magnifying their power in the area. Areas in Deir Ez-Zor witnessed a rise in arbitrary detention exercised by various security and military bodies, sometimes for long periods amounting to forced disappearance. The Syrian Network for Human Rights (SNHR) documented 481 instances of arbitrary detention, including 32 children and women in 2020 in AA areas in Syria, most of which occurred in Deir Ez-Zor⁽²²⁴⁾. SNHR also documented several detainees killed under

⁽²²¹⁾ Operation inherent resolve: lead inspector general report to the United States congress, U.S. Department of Defense & U.S. Department of State & U.S. Agency for International Development, APRIL 1 - 2020-JUNE 3 - 2020, P. 60. For more see the following link: <https://cutt.us/EqTEw>

⁽²²²⁾ Resignation of Arabs in Deir ez-Zor Council, why?, Furat Post, 26 August 2019, available on the following link: <https://cutt.us/3MB4p>

⁽²²³⁾ Data collected and cross-matched through three interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor. Ibid.

⁽²²⁴⁾ Total number of arbitrary detention cases, SNHR, *ibid*.

torture in the SDF's prisons in their control areas in Deir Ez-Zor governorate⁽²²⁵⁾.

The **absence of a military judiciary** creates difficulty to hold security and military agencies members accountable before the civil judiciary. This situation reflected negatively on the region's security conditions in terms of the spread of assassinations⁽²²⁶⁾, murder, and assaults, which are rampant due to insecurity and the uncontrolled spread of arms⁽²²⁷⁾. Additionally, some tribes take advantage of the power they have in SDF ranks⁽²²⁸⁾. Insecurity reached a level where the SDF witnessed internal fighting among its ranks⁽²²⁹⁾, at different points and for different reasons related to tribal or ethnic tensions or personal reasons⁽²³⁰⁾. Further, multiple assaults were carried out against medical staff in different hospitals in Deir Ez-Zor, by relatives of SDF members and leaders of the military council of Deir Ez-Zor⁽²³¹⁾. According to the data, any lawsuit against SDF or "Asayish" members is delayed, hindered, or ignored. Hence, reporting security members is considered pointless for the locals due to many failed attempts of this kind⁽²³²⁾.

In addition to the SDF and "Asayish", the most active security institutions in Deir Ez-Zor are known as "Combating Organized Crime Office" and counter-terrorism forces (HAT). These institutions, too, carry out raids and arrest campaigns and practice torture under the pretext of combating terrorism.

⁽²²⁵⁾ Number of cases of detainees killed under torture in AA areas in Deir ez-Zor throughout 2020, SNHR, available on the following links: <https://cutt.us/UdfTk> - <https://cutt.us/RDUrT> - <https://cutt.us/Sg7gS> - <https://cutt.us/2kMQd> - <https://cutt.us/sRfTV> - <https://cutt.us/DxDIE> - <https://cutt.us/9Y39P>

⁽²²⁶⁾ As insecurity continues in SDF areas... SDF member assassinated and IED detonated in Deir ez-Zor countryside anonymously, Syrian Observatory for Human Rights, 8 December 2020, available on the following links: <https://cutt.us/kgCOs>

⁽²²⁷⁾ Three concurrent murders in Deir ez-Zor countryside... insecurity in SDF areas on the rise, Jisr Newspaper, 4 September 2020, available on the following links: <https://cutt.us/h3Xpk>

⁽²²⁸⁾ Syria: Arms chaos may be precursor to tribal conflict in SDF areas, The New Arab, 26 April 2020, available on the following links: <https://cutt.us/DJmHU>

⁽²²⁹⁾ Disagreements within SDF ranks in Deir ez-Zor turn into skirmishes and shootout, 11 September 2019, available on the following links: <https://cutt.us/yDuxd>

⁽²³⁰⁾ Skirmishes among the ranks of SDF militias in Deir ez-Zor... What does ISIS have to do with it? Orient Net, 2 August 2019, available on the following links: <https://cutt.us/zCjUX>

⁽²³¹⁾ Public discontent in Deir ez-Zor eastern countryside due to assault by SDF members relatives on medical staff in al-Faiha hospital in Abriha village and the public hospital in al-Basira, the Syrian Observatory for Human Rights, 23 July 2020, available on the following links: <https://cutt.us/GZ11g>

⁽²³²⁾ Data collected and cross-matched through five interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor, in addition to two lawyers in the area. Ibid.

Families of detainees, more often than not, do not manage to learn of their whereabouts, nor are they permitted to communicate with them or hire a lawyer. “Justice for Life” and “Syrians for Truth and Justice” documented the detention of 339 people in Deir Ez-Zor since the beginning of the “Deterrence of Terrorism” campaign on June 4, 2020 until the end of August in the same year in which counter-terrorism forces (HAT), YPG, “Asayish” and “Commandoes” took part. More than 200 of those detained were released; the fate of 44 remains unknown, while 90 others are undergoing trial. This campaign involved the detention of young boys no older than 18 years of age⁽²³³⁾. Such arrests play a role in increasing local tension towards SDF in Deir Ez-Zor. Locals mostly regard these operations as targeting the wrong people⁽²³⁴⁾.

Cases of political or security nature, according to the data, do not fall within the jurisdiction of the civil judiciary, nor are they addressed by the social justice bureau at all. Instead, security and military agencies undertake their management, particularly when they involve opponents of the AA, “terrorism”, or former-ISIS detainees. The latter cases are managed in Deir Ez-Zor through tribal reconciliations and security settlements.

In the course of **tribal reconciliations**, security and military agencies in the area release persons previously arrested in the framework of security campaigns with charges of “terrorism” or “affiliation with ISIS”, based on bail and tribal mediation claiming “they have no blood on their hands”. Hundreds have been released through reconciliations during 2019⁽²³⁵⁾ and 2020⁽²³⁶⁾, including 151 detainees released in three batches between May 2019 and July 2020⁽²³⁷⁾. Such mediation comes in the context of accommodating popular anger and protests against arbitrary detention in the

⁽²³³⁾ Deir ez-Zor: Dozens of arbitrary arrests during “terrorism deterrence” campaign carried out by SDF, joint report: “Justice for Life” and “Syrians for Truth and Justice”, 16 October 2020, available on the following link: <https://cutt.us/zWGCO>

⁽²³⁴⁾ Shelly Kittleston, Tribal assassinations spark Iraqi-Syrian border concern, AL-MONITOR, 10 Aug 2020, Link: <https://cutt.us/o6vgq>

⁽²³⁵⁾ SDF release 43 detainees in Deir ez-Zor to appease tribes, Enab Baladi, 14 May 2019, available on the following link: <https://cutt.us/ZktqT>

⁽²³⁶⁾ SDF release hundreds of ISIS members through tribal mediation, Almonitor, 11 February 2020, available on the following link: <https://cutt.us/NxfM5>

⁽²³⁷⁾ Through tribal mediation... 19 detainees released from SDF prisons, Enab Baladi, 12 July 2020, available on the following link: <https://cutt.us/9VZrg>

area and attempting to win the loyalty of some tribal leaders⁽²³⁸⁾. Although a large percentage of those released are not affiliated with ISIS but have been arrested arbitrarily on unclear “terrorism” charges, this does not necessarily mean there are no culprits among those released. Through tribal mediation by notables in Deir Ez-Zor countryside, the SDF released eight persons whose affiliation with ISIS had been proven, including three who had worked for ISIS’ security agency in August 2020 and were previously detained in Guweiran prison in Hasakeh⁽²³⁹⁾.

Furthermore, the SDF and general security “Asayish” forces carry out **security settlements** with some former-ISIS detainees who are released from prison in exchange for considerable sums of money or for reintegrating them within the ranks of security and military agencies affiliated with the AA. In a number of reported cases, former ISIS members have been released, despite the risk they posed and the fact that locals recognize them, in exchange for money paid to some cadres in charge in SDF and “Asayish”⁽²⁴⁰⁾. In addition, some former ISIS security personnel have been reintegrated into the SDF intelligence agency⁽²⁴¹⁾. Dozens of others were reintegrated into the ranks of the SDF military forces, particularly brigade 42 in “al-Kubar” town in western Deir Ez-Zor countryside⁽²⁴²⁾. Those settlements are no longer secret but have become a commonly known phenomenon in the area. They involve former ISIS fighters and some former administrative staff who had previously held offices in ISIS ranks and currently hold offices in the Autonomous Administration institutions in Deir Ez-Zor. This includes prominent and

⁽²³⁸⁾ SDF tries to accommodate Deir ez-Zor tribes anger by releasing detainees, Enab Baladi, 25 May 2019, available on the following link: <https://cutt.us/MXH7K>

⁽²³⁹⁾ Through tribal mediation, SDF releases ISIS detainees, Syria TV website, 25 August 2020, available on the following link: <https://cutt.us/z1OQL>

⁽²⁴⁰⁾ Phone interview conducted by the research team with Jalal al-Hamad, manager of a human rights organization in Deir ez-Zor countryside which is under the AA. During the interview, he confirmed that his organization recorded many cases in which former-ISIS detainees were released in exchange for money or security settlements. The interview was conducted on 5 January 2021.

⁽²⁴¹⁾ Prominent former ISIS security person behind SDF’s mandatory conscription decision, Furat Post, 30 January 2020, available on the following link: <https://cutt.us/n0M0x>

⁽²⁴²⁾ Mass quarrel in SDF ranks in western Deir ez-Zor for exchanged charges of affiliation with ISIS, Syrian Observatory for Human Rights, 2 August 2019, available on the following link: <https://cutt.us/AvF8M>

locally recognized persons who have been implicated in various crimes and violations during the rule of ISIS⁽²⁴³⁾.

A significant concern may be noted among locals and tribes of a rise in ISIS activity due to the release of some of its former members through security settlements. This was expressed by one of the leaders of al-Shaetat tribe, which lost more than one thousand of its members in the massacre committed by ISIS in August 2014⁽²⁴⁴⁾. Parallel to those settlements and reconciliations and the general lack of security in Deir Ez-Zor, a significant rise in ISIS activity can be noted in the area. ISIS carried out 480 operations, killing 210 people, including 86 civilians, in 2020⁽²⁴⁵⁾. ISIS also carried out three operations in Deir Ez-Zor in early February 2021 in one day targeting SDF troops⁽²⁴⁶⁾.

All of the above factors, particularly the domination of PKK cadres and the confusion of authorities, and infringement of the judiciary, absence of military judiciary, and the absence of lawyers, have their toll on the **effectiveness of the social justice bureau** in AA areas in Deir Ez-Zor. Noticeably, locals implicitly do not recognize the legal framework and the judiciary affiliated with the AA. In some cases, they resort to various alternatives, including the tribal judiciary already in place in the area but whose role gained prominence because of the judicial and security void. Some locals resort to tribal arbitration in some cases, including murder and real

⁽²⁴³⁾ An interview conducted by the research team with Suhaib al-Jaber, a journalist from Deir ez-Zor who worked as managing editor of “Furat Post” website concerned with monitoring news of the area particularly ISIS. He also worked within local monitoring networks to follow up ISIS members’ news. He confirmed that there are several prominent and well-known persons who used to be in ISIS ranks and its security agency and who had committed crimes against locals and have now moved to the ranks of SDF intelligence or administrative structures in the area. These include: Eid al-Deiri, Mohammad al-Marzok, Hatem Shehada, Muthana al-Omar, Khalifa al-Tayes, Hayes al-Salman, Ahmad al-Hamidi, among others. The research team verified those names in some of their areas and found that they used to serve in ISIS ranks and have become in SDF ranks and in some security agencies. In addition, some of them are present within local councils or tribal gatherings backed by SDF. The research team also examined videos for them in which they appeared in ISIS ranks and other videos in which they appear with SDF. Some of their information is documented in Omran Center archive.

⁽²⁴⁴⁾ Shelly Kittleson, Distrust of SDF, unclear future divide Syrian tribal massacre area, AL-MONITOR, 10 Jun 2019, Link: <https://cutt.us/3vE6a>

⁽²⁴⁵⁾ ISIS in 2020: ISIS members kill 780 regime and regime allies’ troops... ISIS cells carry out around 500 operations in SDF areas killing more than 200, the Syrian Observatory for Human Rights, 29 December 2020. Available on the following link: <https://cutt.us/G7G2V>

⁽²⁴⁶⁾ In one day.. three ISIS attacks target SDF in Deir ez-Zor, Furat Post, 1 February 2021, available on the following link: <https://cutt.us/6fZCS>

estate, as well as financial and agricultural disputes using so-called “Arifa” or “al-Sharea” who are experienced in such cases and reliable for locals. Their rulings are issued with special seals and are documented according to witnesses⁽²⁴⁷⁾. Resorting to tribal norms for arbitration is not restricted to individuals only; instead, tribes resort to resolving disputes among them. Several instances were documented in 2020 for disputes between two tribes⁽²⁴⁸⁾, which were resolved according to tribal norms through initiatives by tribal leaders and notables and influential persons within the existing authority in the area, who at the same time have tribal standing⁽²⁴⁹⁾.

Furthermore, most locals in AA areas in Deir Ez-Zor continue to rely on Syrian regime courts in Hasakeh, in all lawsuits and procedures of the civil and real estate records and vehicle ownership, along with issues related to transferring documents. A chamber dedicated to Deir Ez-Zor was opened in the civil registry in Hasakeh. Civilians issue documents or register transactions via lawyers in Hasakeh by remote payment due to restricted movement for most Deir Ez-Zor residents because of very stringent security measures. Against that backdrop, the social justice bureau of the AA is effective only in specific cases, such as simple disputes which are resolved through the reconciliation committee of the bureau or cases related to newly introduced laws and related paperwork, transaction, and violations that require referral to the bureau. Tribes may also resort to the justice bureau if they have a detainee, in which case tribal leaders and notables communicate and coordinate directly with the cadre in charge, without regard to the court. Alternatively, a “mercy plea” is used to release specific detainees as two tribal leaders sign a “good conduct and reputation” affidavit in the “public relations” department and the “civil council” for detainees to be released⁽²⁵⁰⁾.

⁽²⁴⁷⁾ Data collected and cross-matched through five interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor in addition to lawyers in the area. Ibid.

⁽²⁴⁸⁾ Latest developments in the meetings held to resolve the tribal dispute between “al-Bofrio” and “al-Qabisa” (video), al-Muharer, 29 May 2020, available on the following link: <https://cutt.us/YcoTq>

⁽²⁴⁹⁾ Tribal conflict in Deir ez-Zor as al-Bakir leader called for a meeting in his guest house, Furat Post, 13 August 2020, available on the following link: <https://cutt.us/OmlWW>

⁽²⁵⁰⁾ Data collected and cross-matched through five interviews conducted by the research team with three of those assigned as judges in the social justice bureau of the AA in Deir ez-Zor in addition to two members of the civil council. Ibid.

Chapter 5

Judiciary System in AA: The Case of Manbij

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Judiciary System in AA: The Case of Manbij

Preface

With the intensification of armed action, Syrian opposition factions took control of Manbij in July 2012, after driving regime security agencies out of the city and replacing them with newly established security units and various judiciary models, including “Sharia courts” and “revolutionary courts”, all of which came to an end with ISIS taking control of the area⁽²⁵¹⁾. In the last third of January 2014, ISIS took control over Manbij following fierce battles with Syrian opposition factions⁽²⁵²⁾. After that, ISIS imposed its “Sharia courts” system applying unfair rulings on the area's locals⁽²⁵³⁾.

By the end of May 2016, the SDF, backed by the US-led Global Coalition, launched an extensive battle around Manbij city, in which they took control of dozens of villages and towns. Afterward, they took control of all of Manbij city in mid-August 2016 as ISIS withdrew from there⁽²⁵⁴⁾. When former American president Donald Trump announced that American troops would start to withdraw from Manbij in December 2018, SDF troops withdrew from some points along the contact lines with “Euphrates Shield” factions around Manbij city. These areas shared borders with Jarabulus, al-Bab, and al-Arima. Then, the SDF handed the mentioned points to the Syrian regime under Russian auspices, following Turkish threats to enter the area as thousands of opposition factions troops mobilized along al-Sajur river to the north of the city⁽²⁵⁵⁾.

⁽²⁵¹⁾ Manbij... al-Buhturi's War-Stricken City, Al-Jazeera Net, 5 June 2016, available on the following link: <https://cutt.us/zlR8q>

⁽²⁵²⁾ Ibid

⁽²⁵³⁾ Life under laws of ISIS and Nusra... the ultimate horror, The New Arab, 17 May 2015, available on the following link: <https://cutt.us/rnJNH>

⁽²⁵⁴⁾ SDF takes full control of Manbij as ISIS withdraws, Orient Net, 12 August 2016, available on the following link: <https://cutt.us/ZxO72>

⁽²⁵⁵⁾ Why control of Manbij is important for conflicting parties? BBC Arabic, 28 December 2018, available on the following link: <https://cutt.us/Aui56>

In October 2019, the last American military base withdrew from Manbij. Russian military police patrols were then sent to the city for the first time⁽²⁵⁶⁾, and the Syrian regime mobilized troops, armored vehicles, and tanks around the city in coordination with the SDF. This came following the launch of “Operation Peace Spring” by Turkey and Syrian opposition factions, which targeted several SDF-controlled areas, including Manbij but ended up taking control of a few villages around the city⁽²⁵⁷⁾. Since then, Russian military police has been positioned at al-Saidiya base in northwestern Manbij within the framework of the Russian-Turkish agreement at the time⁽²⁵⁸⁾. The city remains under SDF control, and the AA security, military, and civil authorities continue to operate there without any change⁽²⁵⁹⁾. This includes the judiciary system, which was introduced in 2016 among various authorities and institutions established in the city, after it was declared a region affiliated with the AANES. This section seeks to examine this judiciary system in terms of its structure, effectiveness, and the employees in charge in the case of Manbij.

Structure and Composition

The judicial system in Manbij consists of various councils, commissions, and committees. The Social Justice Council constitutes the highest judicial authority whose members are supposed to be appointed by a vote in the “General Conference”. However, data collected from interviews indicate that it no longer convenes in the area and members are appointed without a voting process. Cadres of the PKK, who supervise the judiciary in Manbij, intervene directly in such appointments. The council comprises seven members: five judges and two members from the reconciliation committees, who are not supposed to have the capacity of a judge but who, in reality, sign judicial decisions as judges. This contravenes Article (15) of the social justice system

⁽²⁵⁶⁾ First Russian Patrol in Manbij after Americans Withdrew, Russia Today, 16 October 2019, available on the following link: <https://cutt.us/gM8F2>

⁽²⁵⁷⁾ After American withdrawal... Russia coordinates with Turkey and deploys patrols in Manbij, Al-Jazeera Net, 15 October 2019, available on the following link: <https://cutt.us/wyP3H>

⁽²⁵⁸⁾ Air and Land Bases... Russia strengthen its presence in Eastern Euphrates, Al-Jazeera Net, 15 October 2019, available on the following link: <https://cutt.us/0DnEa>

⁽²⁵⁹⁾ Military agreement between SDF and Syrian Army... Russian Auspices, Middle East, 5 December 2019, available on the following link: <https://cutt.us/mqYBH>

charter, which prohibits members of the justice council from undertaking any other positions apart from teaching at university. Only 3 of the justice council members hold law degrees, while 4 are holders of high school diplomas, including students in the early years of studying law⁽²⁶⁰⁾.

The social justice council in Manbij city comprises specialized committees with specific tasks, including a judicial inspection committee, a prosecutions committee, an administrative and financial committee, a reconciliation committee, and the extraordinary grievances committee affiliated with the justice council⁽²⁶¹⁾. According to article (20) of the Social Justice System Charter, an implementation committee should be affiliated with the Social Justice Council. However, the latter committee has not been formed due to a lack of staff. In addition to the Social Justice Council in Manbij, there is a **Women Council for Social Justice**. It only consists of 3 women members appointed as holders of high school diplomas, two of whom are also members of the general women council for north and east Syria, in violation of Article (15) of the social justice charter⁽²⁶²⁾.

The justice council in Manbij supervises the **Social Justice Bureau**. This single social justice bureau covers Manbij city and its surroundings and is located west of the city, in a building that used to be a technical school. A separate prosecution commission is affiliated with it in Abu Gulgul area. The geographic distribution is as follows:

⁽²⁶⁰⁾ Data collected and cross-matched in two separate interviews conducted by the research team with two of those assigned as judges in the social justice bureau in Manbij. The interviews took place between 1-9 January 2021. One of the interviews was conducted in person by an enumerator while the other was conducted by phone.

⁽²⁶¹⁾ The first is the judicial inspection committee which is concerned with complaints and grievances requiring inspection which the committee –comprising two judges- looks into those complaints for the justice council. The second is the prosecutions committee which is concerned with following up the work of prosecution and the relevant due process and procedures. It comprises one judge. The third is the reconciliation council committee which follows up the work of reconciliation committees in the area. It comprises two judges who are also members of the social justice council. The fourth is the financial and administrative committee. In addition, there is an extraordinary grievances committee affiliated with the justice council. It is judicially superior to the cassation committee and it comprises seven judges who are also members of the council.

⁽²⁶²⁾ Data collected and cross-matched in two separate interviews conducted by the research team with two of those appointed as judges in the social justice bureau in Manbij. Ibid.

Table (7): Geographic distribution of social justice bureau and subordinated prosecution office, in areas under the control of AA in Manbij

Administrative Unit (city/town)	Type of judicial institution (Justice bureau/ prosecution office)
Manbij city	Social justice bureau
Abu Gulgul area	Prosecution office subordinated to Manbij bureau

The social justice bureau in Manbij consists of: the general prosecution commission, the justice commission, the implementation commission, the cassation commission, and the administration of the reconciliation committees. These commissions comprise about 23 members appointed as judges and 3 members from reconciliation committees management⁽²⁶³⁾. According to the data, the PKK cadre in charge of the bureau intervenes directly or via the justice council in the appointment, transfer, and dismissal of judges and supervises the bureau in administrative, financial, and security terms⁽²⁶⁴⁾.

Reconciliation committees are among the social justice institutions which operate under the supervision of the bureau. They spread along different lines and in various “Komins” and the main committee present within the justice bureau in Manbij city. Competence considerations that apply to similar entities in previous regions apply to these committees as well. Reconciliation committees comprise locals and residents from the villages, towns, and neighborhoods who are theoretically supposed to be elected from those who have experience, morals, conscience, and are socially acceptable⁽²⁶⁵⁾. According to the data, however, they are chosen through direct appointment without elections or qualifications. PKK cadres sometimes intervene in these appointments, particularly members of committees within the committees' management or their representatives in the justice council. Meanwhile, there is less intervention in the appointment of sub-committees or “Komins”,

⁽²⁶³⁾ There are 3 members work within the reconciliation committees' management, while the prosecution commission within the justice bureau comprises of 7 judges. The justice commission consists of two chambers. Two judges work in the first chamber and three judges work in the second. The implementation commission consists of 5 judges while the cassation commission comprises 3 judges. The second prosecution commission which is located in Abu Gulgul comprises 3 judges. Data collected in the previous reference.

⁽²⁶⁴⁾ Ibid.

⁽²⁶⁵⁾ Article (33) of the social justice charter. Ibid.

whose work is voluntary and receives no financial return, except for representatives in the justice council or the committees' management.

As for the effectiveness of the reconciliation committees, the data shows that committees in Manbij are more effective than its counterparts in other regions, particularly that any reconciliation in the area which may follow a lawsuit or rights waver must involve the reconciliation committees⁽²⁶⁶⁾. On the other hand, reconciliation at the tribal level rather than the individual level is managed by tribes. Sometimes, local political formations or officials from the AA may be involved in the reconciliation to give it an official character. Under the auspices of the “Syria Future” party, for example, a tribal dispute between two tribes in Manbij was resolved through tribal reconciliation in the presence of tribal notables, sheikhs, and civil and security officials in the AA in December 2020⁽²⁶⁷⁾.

In addition to the reconciliation committees, there are **Women's Houses**. A women's house was established in Manbij city, and other houses were established in major towns and sub-districts. These houses are concerned with resolving women's issues and marital disputes through reconciliation. In case of failure, cases are referred to the justice bureau. The **Women Social Justice Council** of Manbij region supervises the work of women's houses and units. Members of this Council are supposed to be elected, but the data indicates that PKK cadres directly intervene in the appointment of its members. Further, there are women cadres affiliated with the PKK who supervise the women's social justice council and women's houses.

The effectiveness of these houses and affiliated units varies from one area to the other, depending on the nature of the case. However, the data generally indicates limited effectiveness due to the tribal social composition in Manbij. This is visible in the local reaction to the new laws introduced by the AA, particularly women protection laws including the ban of polygamy and

⁽²⁶⁶⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges in the social justice bureau in Manbij and two lawyers who work in the area and are registered at the “Manbij Lawyers’ Union”. The interviews were conducted between 1-17 January 2021. Two of the interviews, one with a judge and another with a lawyer, were conducted in person by an enumerator while two interviews were conducted by phone.

⁽²⁶⁷⁾ Under the auspices of “Future Syria” Party, a tribal reconciliation session in eastern countryside of Manbij, “Future Syria” Party website, 16 December 2020, available on the following link: <https://cutt.us/hOqAZ>

dowries, which locals widely reject, while the administration turns a blind eye to violations, due to the peculiarity of the area, which impacts the effectiveness of these laws, as locals mostly do not comply. These laws may be invoked, however, in case a woman files a complaint against her husband. These laws are applied more effectively to employees of the AA⁽²⁶⁸⁾.

The “Platform” has been used in Manbij a few times as a means of prosecution in homicide cases, that disturb public opinion at the level of the city. It was invoked in three separate incidents over the past two years; the first was related to a homicide in which seven people murdered a person, the second was a homicide of a person by his friend for money, and the third was a rape of a five-year-old girl by a group of young men. According to the data, the sentences vary from 10 to a maximum of 20 years of imprisonment with no death penalty. In addition, the “Platform” has been invoked by PKK cadres in some instances as a legal outlet, in cases involving parties affiliated with them⁽²⁶⁹⁾.

The **jury** is formed by the social justice bureau, depending on the case. It consists of 11-15 former lawyers and notables. The data indicates that the jury lacks effectiveness sometimes because of a lack of legal expertise among members, especially non-lawyers. In terms of **auxiliary departments** which the judiciary needs for its operation, Manbij has a forensic medicine department but no forensic lab, although judges have frequently demanded those in charge in the AA to establish a testing laboratory department. It has to be noted that there is no military judiciary in Manbij nor a “People’s Defense” Court (Terrorism Court)⁽²⁷⁰⁾.

Judges: Educational and Demographic Distribution

There are around 23 judges appointed in that capacity at the social justice bureau and affiliated commissions in Manbij region, in addition to seven

⁽²⁶⁸⁾ Data collected and cross-matched in three interviews conducted by the research team with two of those appointed as judges in the social justice bureau affiliated with the AA in Manbij, in addition to a member of the civil council in the area. The interviews were conducted between 9-30 January 2021. One of those interviews, with a judge, was conducted in person by an enumerator, while the other two were conducted by phone.

⁽²⁶⁹⁾ Ibid.

⁽²⁷⁰⁾ Two separate interviews conducted by the research team with two of those appointed as judges in the social justice bureau affiliated with the AA in Manbij. Ibid.

judges at the social justice council, i.e., a total of 30 judges. It is noteworthy that this figure is based on the data collected until the date of this study and may have marginally decreased or increased, due to the rapid dismissals and recruitments rate. For instance, during the data collection period alone, a judge was transferred, and two new judges were appointed in the area. The education level of those appointed as judges varies. The following table shows their educational qualifications⁽²⁷¹⁾:

Table (8): The distribution of judges within social justice institutions in Manbij, per educational qualification

Educational Qualification	Percentage of appointees as judges
Judicial institute or former judge	0%
Degree in Law	50%
High School	50%

The table shows no former judges or holders of a judicial institute diploma. 50% of judge appointees -15 judges- are holders of bachelor’s degrees in law, half of whom are experienced lawyers, and the other half comprises new graduates. The 50% remaining judge appointees hold high school diplomas, including some students in the early years of law school. **Demographically**, 50% of the judges are Arabs, 47% Kurds, and one Circassian judge representing 3%⁽²⁷²⁾.

⁽²⁷¹⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges in the social justice bureau in Manbij and two lawyers who work in the area and are registered at the “Manbij Lawyers’ Union” in Manbij. Ibid.

⁽²⁷²⁾ Ibid.

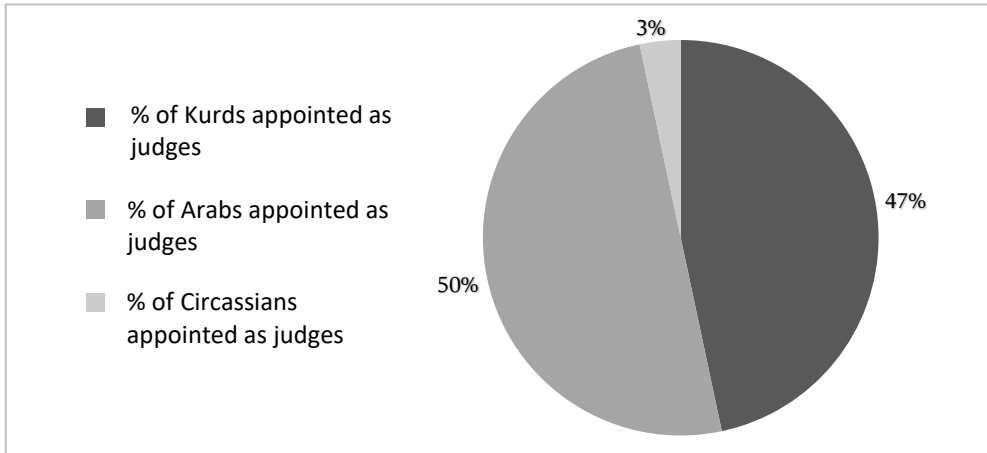


Figure (4): Demographics of the appointees as judges within the AA's social justice institutions in Manbij

In addition to judges, there are around 35 active lawyers in AA areas in Manbij. They are organized within the lawyers' union in Manbij, supervised by the general coordination committee in al-Jazirah. The union's co-chairman is elected under the supervision of “civil society cadres” in the area. Data shows that, since the establishment of the judiciary in Manbij, the **right to defense** was not guaranteed – until recently – because of the PKK cadres’ intervention in the judicial process. However, this has improved due to pressure by the judges at the social justice bureau, making the right to counsel a protected right in all civil and penal lawsuits. According to the data, lawyers who are affiliated with the party have more ability to secure their clients' rights due to their association with PKK cadres. However, security and political lawsuits are dealt with away from the social justice bureau, and lawyers are not allowed to present cases, nor are judges given access to the details of these cases⁽²⁷³⁾.

Independence and Effectiveness (Judiciary and other authorities)

Data collected through interviews with judges and lawyers working at the justice bureau in Manbij indicates substantial influence for PKK cadres within

⁽²⁷³⁾ Ibid.

the judicial system in the area. PKK cadres supervise the bureau and its administrative, financial, and security issues. In addition, they undertake coordination between the judicial authority in Manbij and the General Justice Council in al-Hasakeh, in all that relates to political, financial, and security issues. Minor procedural issues are left for the departments concerned. PKK cadres also undertake appointment, transfer, and dismissal of judges in violation of the Social Justice System Charter. This influence within the judicial institution has affected the judges and their independence in decision-making processes, particularly as PKK cadres intervene in some lawsuits for personal, partisan, or ethnic considerations. These violations occur despite attempts by legally experienced judges to curb those violations to no avail. It often constitutes a hurdle to law enforcement and contributes to undermining the effectiveness and independence of the judiciary. This can be observed through several indicators:

In terms of the **relation between the judicial authority and other authorities** (legislative and executive), the lines are blurred, and there is no separation between the three authorities. The cadres undertake coordination between those authorities at the financial and security levels. At the procedural level, on the other hand, representatives of those authorities hold a meeting every 15 days, under the supervision of the “PKK administrative cadre”, who is responsible for the management of the area in general. According to data collected through interviews with judges, lawyers, and some employees at the civil council and activists in the area, the cadres' power in the judiciary is paralleled by similar powers in all civil and military institutions affiliated with the AA Manbij⁽²⁷⁴⁾. Furthermore, the relation between these authorities and the locals of the area is also problematic, as seen at various occasions and in different manifestations. Major tribes in Manbij, for example, issued a statement in January 2018 demanding restructuring the legislative council, which they described as non-representative of the people, as well as restructuring the executive council and

⁽²⁷⁴⁾ Data collected and cross-matched through seven interviews conducted by the research team with two of those appointed as judges, two lawyers registered in the Manbij lawyers' union, one member of a civil council in the area and one employee from the civil institutions affiliated to the civil council in addition to an employee in a civil society organization in the area. The interviews were conducted between 1-30 January 2021.

the social justice bureau⁽²⁷⁵⁾. This was parallel with a strike staged by the locals after two young men were killed under torture by the SDF⁽²⁷⁶⁾.

However, the **main problem** lies in the judiciary's limited power over the other authorities, particularly as some civilian institutions do not respond to judicial decisions. The judiciary cannot enforce its authority over other institutions such as the fuel and customs institutions. Data collected through the interviews⁽²⁷⁷⁾ corresponds with published reports indicating a state of corruption within those institutions, including receiving bribes and entering various banned goods, including drugs such as "Captagon"⁽²⁷⁸⁾. This rampant corruption does not seem to be restricted to the customs institution; rather, it extends to civilian institutions in Manbij, including embezzlement and artifact smuggling. For example, on the first day of 2021, the financial officer in the AA in Manbij embezzled 3 million USD from Manbij city, after which he fled to regime-held areas. The AA acknowledged the incident and arrested his family and children. He published a video threatening to unveil corruption cases in more than 12 incidents, including the cases of wheat and barley in Manbij, the inspection office in Raqqa, martyrs families, customs, and internal security⁽²⁷⁹⁾.

Relations between the judiciary and military/security agencies:

According to the data, security and military agencies, composed of "Asayish", the SDF and other agencies deployed in Manbij, are superior to the judiciary, be it in terms of their lack of responsiveness to judicial decisions making their personnel effectively beyond legal accountability, or in terms of their infringement of the judiciary and its jurisdiction through inspection offices affiliated with "Asayish". The likelihood of personnel of those agencies being held to account before a civil judiciary, with a civilian litigant, is quite slight as they refuse arrest warrants issued against their personnel, in

⁽²⁷⁵⁾ "Manbij" Tribes form committees to reinvigorate the role of Arabs in managing the city, Zaman al-Wasl, 16 January 2018, available on the following link: <https://cutt.us/czn3B>

⁽²⁷⁶⁾ Tension in Manbij against SDF arrests... Tribes propose their conditions, Enab Baladi, 13 January 2018, available on the following link: <https://cutt.us/Boi5j>

⁽²⁷⁷⁾ Data collected and cross-matched in three interviews conducted by the research team with two of those appointed as judges in the social justice bureau in Manbij and a member of a civil council in the area. Ibid.

⁽²⁷⁸⁾ Artifact theft and drug trade... corruption haunts officials in the Kurdish AA, Al-Hurrah TV, 13 January 2021, available on the following link: <https://cutt.us/869Yb>

⁽²⁷⁹⁾ Ibid.

addition to the intervention of the cadres in case these personnel are arrested⁽²⁸⁰⁾.

The absence of an effective legal mechanism such as the **military judiciary** and the difficulty of holding personnel of military and security agencies before a civil judiciary, seem to have led to the spread of violations by those agencies and their personnel. This is manifested in arbitrary arrest campaigns which they carry out every once in a while, without official arrest warrants, particularly in security and political cases, which do not fall within the jurisdiction of civil judiciary and in which it is not consulted regarding issuing arrest warrants, investigation, referral or ruling. In addition, the judiciary has no jurisdiction to supervise or oversee most prisons affiliated with security and military agencies. Further, there is no specified limit to the period of detention concerning those cases, particularly those involving “terrorism” charges⁽²⁸¹⁾. The SDF carry out arrest campaigns now and then under the pretext of “terrorism” for charges of affiliation with “Syrian national army”, or dealing with Turkey or the regime⁽²⁸²⁾. Pretexts also include alleged affiliation with ISIS⁽²⁸³⁾, or even for unknown reasons and without stating specific charges as detainees cannot have visitors or hire a lawyer⁽²⁸⁴⁾.

While the military judiciary is absent, the **military police** and the SDF undertake arrest campaigns for mandatory conscription. These campaigns cause outrage among the locals, mainly because they involve children under 18 years of age⁽²⁸⁵⁾. The SDF arrested more than 50 young men in Manbij city for mandatory conscription in July 2020⁽²⁸⁶⁾. In addition, human rights organizations accused them of “violations against civilians in Manbij

⁽²⁸⁰⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges within the social justice bureau in Manbij and two lawyers who work in the area and are registered in “Manbij Lawyers Union”. Ibid.

⁽²⁸¹⁾ Ibid.

⁽²⁸²⁾ SDF arrest seven people in Manbij for dealing with Turkey and “FSA”, Smart, 17 January 2019, available on the following link: <https://cutt.us/R7lat>

⁽²⁸³⁾ SDF arrest IDPs from Masnkana in Manbij, Baladi News, 25 May 2017, available on the following link: <https://cutt.us/wGbZ1>

⁽²⁸⁴⁾ SDF forcibly disappears a young man detained in Manbij in Rural Aleppo, Enab Baladi, 17 May 2020, available on the following link: <https://cutt.us/Yf0bl>

⁽²⁸⁵⁾ SDF prepares to recruit 2500 young men in Manbij, Syria TV, 4 October 2020, available on the following link: <https://cutt.us/xi44X>

⁽²⁸⁶⁾ SDF block crossings and arrest dozens of young men in Manbij for mandatory conscription, The New Arab, 24 July 2020, available on the following link: <https://cutt.us/aSFgN>

amounting to killing”. The Syrian Network for Human Rights documented that the SDF killed two civilians, including one child⁽²⁸⁷⁾, in the villages of al-Awshariyah and Hamran in Manbij in the second half of 2020⁽²⁸⁸⁾.

Some reports further accuse the SDF of arbitrary arrests involving ethnic discrimination against Arab recruits in their ranks. The SDF carried out an arrest campaign against dozens of Arab recruits in their rank in areas under their control in Manbij and al-Shoyoukh in eastern rural Aleppo in July 2020⁽²⁸⁹⁾. There are also accusations of “systematic” assassinations against Arabs who quit fighting in their ranks⁽²⁹⁰⁾. Moreover, investigative reports indicate that some SDF and internal security “Asayish” personnel are implicated in corruption cases, most notably the involvement of “Asayish” officials in artifact and drug trade, as they confiscate and keep them in warehouses. SDF officials also have a role in artifact excavation under the pretext of digging military tunnels⁽²⁹¹⁾. These cases indicate the absence of oversight and accountability mechanisms, that reflect the degradation of the rule of law in the area.

As far as **terrorism cases** are concerned, particularly those related to former-ISIS detainees in security and military agencies prisons in Hasakeh or Ayn al-Arab/ Kobane, some SDF members, according to the data, manage the ISIS detainees cases in Manbij based primarily through smuggling. Data collected via interviews⁽²⁹²⁾, agree with human rights reports that leaders within the security and military agencies are involved in smuggling ISIS members⁽²⁹³⁾, in exchange of sums of money up to 20 thousand dollars, which go to leaders

⁽²⁸⁷⁾ SDF kill a child in al-Hamran village in Rural Aleppo, on 7 August, SHNR, 7 August 2020, available on the following link: <https://cutt.us/aocBg>

⁽²⁸⁸⁾ SDF kill a civilian in al- Awshariyah village in Rural Aleppo, on 14 November, SNHR, 15 November 2020, available on the following link: <https://cutt.us/VS8aL>

⁽²⁸⁹⁾ SDF arrest dozens of tribesmen... and carry out mandatory conscription campaigns, Arabi 21, 9 July 2020, available on the following link: <https://cutt.us/UKI7A>

⁽²⁹⁰⁾ Liquidation or arrest... the fate of those who quit fighting to the side of SDF in Manbij, Hurriyah Press, 30 December 2018, available on the following link: <https://cutt.us/JDhA7>

⁽²⁹¹⁾ Artifact theft and drug trade... corruption haunts officials in the Kurdish AA, *ibid*.

⁽²⁹²⁾ Interview by phone conducted by the research team with “Abo Abdulrahman”, a security official in the ranks of Syrian opposition factions in northern Syria who had interrogated ISIS members arrested in the north. *Ibid*.

⁽²⁹³⁾ Data collected and cross-matched through three interviews conducted by the research team with a member of a civil council in the area, an employee in civil institutions affiliated with the civil council and an employee in a civil society organization working on the issue of ISIS abductees and forcibly disappeared persons. The interviews were conducted between 1-30 January 2021.

and brokers. According to the reports, ISIS members are smuggled from prisons towards the Syrian desert, or the Turkish border, or they are delivered to Awn al-Dadat area to the north of Manbij, and then to areas under Syrian opposition control. Manbij constitutes a transit area for smugglers as it shares borders with areas under Syrian opposition control.

Through the coordinator of the Manbij military council, Shervan Darwish, the AA reiterated “the involvement of some persons in such operations, indicating that military forces on the frontlines track down smuggling and have arrested many of those networks”⁽²⁹⁴⁾. Furthermore, the SDF handles the issue of former-ISIS detainees based on tribal reconciliations as well. In March 2019, the AA released around 283 inmates, including people from Manbij who were accused of affiliation with ISIS. The AA justified the release by saying that these persons “had no Syrian blood on their hands”. According to the statement published on the official website of the AA, the release took place “due to urgent and frequent requests by notables, tribal leaders and socially influential personalities”⁽²⁹⁵⁾.

All of those factors, particularly the dominance of the cadres, confusion of authorities and infringement of the judiciary, the spread of discriminatory policies, in addition to the absence of a military judiciary and accountability mechanisms had an **impact on the effectiveness of the social justice bureau** in the area under AA control in Manbij. This has reflected on the confidence locals have in the judiciary, to which they resort only in certain issues and in certain cases related to laws explicitly introduced by the administration and certain violations. Some have come to depend on various alternatives such as norms and tribal justice, particularly given the tribal social setting in Manbij, where such forms of arbitration are already present and have become more common with the security and judicial vacuum in the area. The locals often resort to those alternatives mainly in homicide cases in addition to financial, real estate, and agricultural disputes⁽²⁹⁶⁾.

⁽²⁹⁴⁾ Artifact theft and drug trade... corruption haunts officials in the Kurdish AA, *ibid*.

⁽²⁹⁵⁾ The AA releases 283 people from its prisons, Enab Baladi, 3 March 2019, available on the following link: <https://cutt.us/xwe>

⁽²⁹⁶⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges in the social justice bureau in Manbij and two lawyers working in the area and registered in the “Manbij Lawyers Union”. *Ibid*.

On the other hand, most locals in Manbij resort to the regime directorates and courts in Aleppo for all that relates to documents, civil and real estate records and paperwork, and some licenses as they are valid and recognized in AA areas, contrary to documents issued by AA institutions, which the regime does not deem legal. Against that backdrop, the locals resort to the Autonomous Administration institutions only if they cannot go to regime-held areas for various reasons, most notably security ones. Residents may also resort to AA courts when the issue is related to laws imposed by AA, regarding driving licenses and documents needed to receive humanitarian aid (family documents), in addition to some crimes which require an authority to summon defendants. Hence, the social justice bureau affiliated with the AA is only effective in certain and specific lawsuits and cases⁽²⁹⁷⁾.

⁽²⁹⁷⁾ Ibid.

Chapter 6

Judicial System in Ayn al- Arab/Kobane: An Overview

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Judicial System in Ayn al-Arab/Kobane: An Overview

Preface

The Syrian regime suddenly withdrew from the city of Ayn al-Arab/Kobane and some villages surrounding it. The district directorate, state security center, intelligence centers, the city police center, the conscription department, and government institutions were evacuated. On the following day, the PYD announced the date of 19 July 2012 as the anniversary of launching the “Rojava revolution” and its “victory” from Kobane after declaring the “liberation” of the city, but without combat. This led many locals to believe that the regime had handed the city to the PYD with prior coordination⁽²⁹⁸⁾.

Upon declaring the “liberation” of Kobane, the PYD embarked on establishing its administration there. The PYD abolished the old curricula, introduced new ones, closed private institutes, and established its institutions, and consolidated its control. The city’s countryside was under the control of the FSA and “Islamic” factions, leading to skirmishes between them and the PYD until ISIS overtook those areas from the factions. ISIS took control of areas adjacent to Kobane and remained there for more than a year, during which the city witnessed a siege, abductions, negotiations, and prisoner exchanges with members of the PYD⁽²⁹⁹⁾. ISIS then launched a total onslaught on the city on 15 September 2014, starting from its countryside and causing massive displacement. This made the US-led Global Coalition intervene using airstrikes to stop the ISIS offensive.

Nonetheless, ISIS reached the city center on 13 October 2014 with clashes with a small enclave of besieged PYD fighters. The Global Coalition continued its air operations while 150 “Peshmerga” fighters from the Kurdistan region of Iraq via Turkish territories assisted in fending off the ISIS

⁽²⁹⁸⁾ Hussein Jalabi, *Rojava: Assad’s Greatest Deceit* (Reading into six years of Kurdish diaspora), *ibid*, pp. 144-351.

⁽²⁹⁹⁾ *Ibid*, pp. 351-355.

offensive⁽³⁰⁰⁾, along with some “FSA” fighters who entered via Turkish territories⁽³⁰¹⁾. ISIS started to retreat and withdraw under Global Coalition strikes. The city of Kobane was declared liberated on 26 January 2015⁽³⁰²⁾.

After the city's liberation, the PYD claimed back the management of the city and started to reconsolidate itself anew, taking advantage of the victory accomplished by the Global Coalition, Peshmerga fighters, and other groups. However, their security grip seems to have been loose, as dozens of ISIS fighters managed to enter the city undercover on 26 June 2015 and perpetrate a horrifying massacre against civilians⁽³⁰³⁾. The PYD resumed consolidating its control and its institutions in the city, having declared on 27 January 2014 the establishment of the Democratic Autonomous Administration suspended until the city was liberated and resumed its activities after that.

In the context of confronting ISIS in the area, “People’s Protection”, “Women”, “Euphrates Volcano”, and “Liberation Brigade” units took control of the city of Tal Abyad in the countryside of Raqqa in which the PYD declared the Autonomous Administration on 21 October 2015. Based on the administrative division of the “Federation of Northern Syria” unilaterally declared by the PYD in 2016, the AA declared Tal Abyad and subordinated Ayn Issa and Solouk districts in rural Raqqa, along with Ayn Al-Arab/Kobane in rural Aleppo as one region under the name of “Euphrates region”⁽³⁰⁴⁾. This later shrunk due to the Turkish military operation “Peace Spring”. This operation gave Turkey-backed “National Syrian Army” factions control over Tal Abyad and the town of Solouk. In contrast, the security and military situation around the town of Ayn Issa remained tense to the date of this study.

During these various stages, institutions of the AA continued to operate within the remaining geography of the “Euphrates Region”, including courts

⁽³⁰⁰⁾ Peshmerga participate – for the first time – in Kobane battle, DW Arabic, 2 November 2014, available on the following link: <https://cutt.us/3h0Hs>

⁽³⁰¹⁾ Kobane... FSA and Peshmerga join the Kurds to fight ISIS, Alhurra Channel website, 29 October 2014, available on the following link: <https://cutt.us/nw9eL>

⁽³⁰²⁾ Kurds take over Ayn al-Arab (Kobane), BBC Arabic, 26 January 2015, available on the following link: <https://cutt.us/OC7jB>

⁽³⁰³⁾ Horrific massacre by ISIS in Kobane as locals remain without shelter, AlSouria net, 26 June 2015, available on the following link: <https://cutt.us/9eVy7>

⁽³⁰⁴⁾ File of AANES, official website of the diplomatic relations center of the Movement for a Democratic Society (Tev-dem). Ibid.

and the judicial system it imposed within those areas. This paper will provide a quick overview of its institutions and structures, including key variables. Brevity in presenting the judiciary within the “Euphrates Region” is due to various reasons, including the fact that key institutions such as the “People’s Defense” Court in Kobane have been discussed in previous papers such as that on Hasakeh. In addition, an overview of other variables in Ayn Issa was presented in the study of Raqqa. Some existing social justice institutions in Ayn Issa have also ceased operating due to military operations. Hence, key variables of the judicial system in the “Euphrates Region” will be briefly presented as follows:

The Judiciary in the “Euphrates Region”

The **Social Justice Council** in the “Euphrates Region” constitutes the highest judicial authority, and it is located in the city of Ayn al-Arab/Kobane. It comprises nine members with joint chairmanship, including five holders of bachelors in law –some new graduates- while the other 4 hold high school diplomas, including university students in their early years of study. Members are distributed across different committees, including the judicial inspection committee, the prosecutions committee, the administrative and financial committee, and the reconciliation committee. In parallel, the **Women Council for Social Justice** also operates there, comprising women members. Data indicates that PKK cadres directly supervise both councils in financial, security, and administrative terms and fully control policies and the appointment of judges therein⁽³⁰⁵⁾.

The justice council supervises the **social justice bureau**. A single justice bureau covers the “Euphrates Region” and all its areas with two affiliate geographically separate prosecution offices as follows:

⁽³⁰⁵⁾ Data collected and cross-matched in two separate interviews conducted by the research team with two of those appointed as judges in the area. The interviews took place between 2-9 February 2021. One of the interviews was conducted in person by an enumerator and the other by phone.

Table 9: Geographic distribution of social justice bureaus and subordinated prosecution offices, in areas under the control of AA in Ayn al-Arab/ Kobane

Administrative Unit (city/town)	Type of judicial institution (justice bureau/ prosecution office)
City of Ayn al-Arab/Kobane	Social justice bureau
Ayn Issa sub-district	Prosecution office subordinated to Kobane's bureau
Saren village	Prosecution subordinated to Kobane's bureau

The **social justice bureau** in Ayn al-Arab/Kobane consists of a number of commissions: the justice commission, the implementation commission, the cassation commission, the prosecution commission and the reconciliation council. It also has two separate affiliated prosecution offices in Saren and Ayn Issa. According to the data, cadres in charge of the bureau intervene in the appointment of judges, their delegation to various commissions, their transfer, or dismissal, be it directly or via the justice council, in contravention of the social justice charter. Around 22 appointed judges in the social justice bureau in Ayn al-Arab/Kobane and affiliated geographically separate prosecution offices, 8 of whom hold bachelor's degrees in law, including experienced lawyers and some fresh graduates. The others are holders of high school diplomas, including students in their early years of studying law⁽³⁰⁶⁾.

“**Reconciliation committees**” operate among the social justice institutions supervised by the bureau. They are spread across major “Komins” and towns, and the main committee is located in the justice bureau. Committee members are locals from the towns, villages, and neighborhoods. According to Article (33), they should be selected by election. Data, however, indicates that cadres and party committees intervene in the appointment of members. The committees' effectiveness is moderate, and their role is limited to attempting reconciliation in some civil and penal cases or referring the cases to the social justice bureau if reconciliation efforts fail.

In addition to the reconciliation committees, some **women's houses** have spread across the city and major towns. They are considered highly effective

⁽³⁰⁶⁾ Ibid.

in Kobane, especially as the women protection law is applied more vigorously than other regions, particularly concerning the ban of polygamy. In some reported cases, penalties were applied even without a wife complaint. They are, however, less effective in Ayn Issa and Saren. The data indicates that women cadres affiliated with the PKK supervise the work of the women social justice council and affiliated women houses, most prominent among whom is known as Aven. As for the **“Platform”** experience, data indicates that it had been suspended in the area. In addition, there are no specialized forensic medicine departments or criminal forensic labs⁽³⁰⁷⁾.

In addition to the social justice bureau, Ayn al-Arab/Kobane stands out for the presence of a **branch of the “People’s Defense” Court (Terrorism Court)**, which consists of a prosecution and a justice commission without a cassation/appeal commission. The number of those appointed as judges in this court is nine, only one of whom holds a bachelor in law while the others hold high school diplomas, including students in their early years of studying law. As for the demographic composition of judges of the court, they are all Kurdish involving none from any other demographic component. Data indicates that PKK cadres supervise the court's work and the judges' appointment, dismissal, and transfer. They also intervene directly in various lawsuits. In the same manner, the court operates within the “Al-Jazirah region”/Hasakeh, in terms of denying lawyers the presentation of cases before this court, in addition to the perpetration of wide human rights violations in prisons affiliated with it.

Furthermore, families of detainees also have no access to information about them and are prevented from communicating with them. According to the data, corruption is rampant among judges. One judge was dismissed due to bribery and corruption charges. Although the Social Justice Charter stipulates that the Justice Council supervises the court, data indicates that it does not intervene in its operation. Instead, foreign PKK cadres supervise its work thoroughly⁽³⁰⁸⁾.

⁽³⁰⁷⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges and two lawyers who work in the area. The interviews took place between 2-19 February 2021. Two interviews were conducted by phone and two in person by a numerator.

⁽³⁰⁸⁾ Data collected and cross-matched through two separate interviews conducted by the research team with two of those appointed as judges in the area. Ibid.

Judges: Educational and Demographic Distribution

Around 22 of those appointed as judges work within the social justice bureau in Ayn al-Arab/Kobane, and 9 others are members of the Justice Council, in addition to 9 in the “People’s Defense” Court. Thus, the total number of those appointed as judges is around 40, who have the following educational qualifications with the following percentages⁽³⁰⁹⁾:

Table (10): The distribution of judges within social justice institutions in Ayn al-Arab/Kobane, per educational qualification

Educational Qualification	Percentage of appointees as judges
Judicial institute/former judge	0%
Degree in law	35%
High school diploma	65%

It can be noted from the table that there are no former judges or holders of a judicial institute diploma; 35% of those appointed as judges are holders of bachelor’s degrees in law, including some experienced lawyers, while most are new graduates. 65% of those appointed as judges hold high school diplomas. Most are law students in their early years of university. As for the **demographic composition** of those appointed as judges, it is as follows:

⁽³⁰⁹⁾ Data collected and cross-matched through four interviews conducted by the research team with two of those appointed as judges and two lawyers working in the area. Ibid. It is noteworthy that this number applies to the date of this study and may have varied marginally due to the rapid dismissals and appointments within justice institutions.

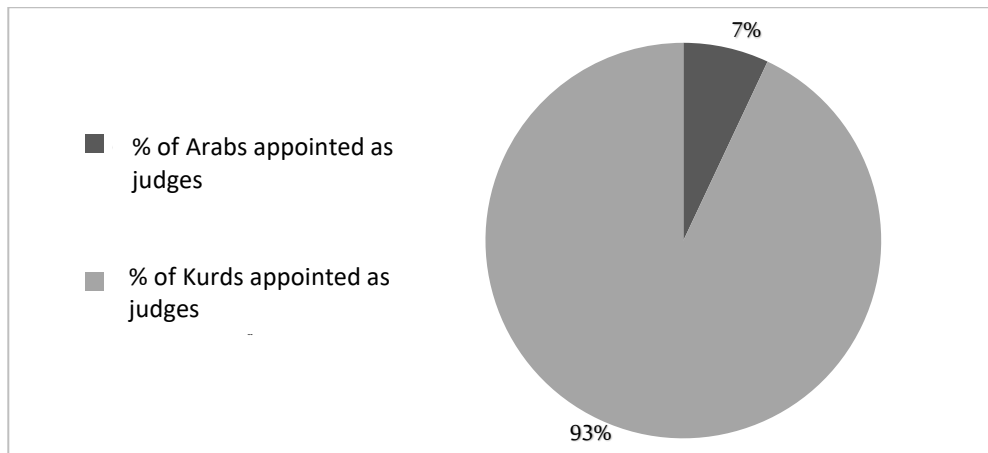


Figure 5: Demographics of the appointees as judges within the AA's social justice institutions in Ayn al-Arab/Kobane

In addition to the civil judiciary, Ayn al-Arab/Kobane has a **military court**. The military court consists of a justice commission, a prosecution commission, and a cassation/appeal commission. It specializes in prosecuting military personnel if they commit crimes, felonies, or any violations during their military service. The court includes around 11 of those appointed as judges, including men and women, distributed across its various commissions. Two of them hold bachelor's degrees in law while the others hold high school diplomas, including some law students in their early years of study. Demographically, Kurds constitute 91% of those appointed as judges in the court, while Arabs constitute 9%. The data indicates that the court is remarkably lenient with security and military personnel, particularly that these institutions are considered beyond the scope of legal accountability. It is also hard to prosecute any security or military personnel before the civil judiciary if there is a civilian party. PKK military cadres supervise the court and follow up on its financial, security, and administrative issues. The AA has recently decided to transfer the court and its staff to Raqqa⁽³¹⁰⁾.

Generally, the **bureau's effectiveness** is limited, particularly after the military operations and the takeover of Tal Abyad and Solouk, by Turkish backed "Syrian National Army". Some of those appointed as judges have quit their positions in the aftermath of this takeover. In the meanwhile, a second

⁽³¹⁰⁾ Data collected and cross-matched through two separate interviews conducted by the research team with two of those appointed as judges in the area. Ibid.

chamber was founded within the justice commission in Ayn al-Arab/Kobane to accommodate other judges. Effectiveness is also low in Ayn Issa due to the security conditions and the displacement of part of its population. Therefore, the bureau's work in the city is limited to some civil and penal cases and managing official paperwork for the locals⁽³¹¹⁾. On the other hand, a number of lawyers registered in the "Kobane lawyers' union" work in the city. The union works under the supervision of the general coordination committee of lawyers' unions. It is also part of the lawyers union of north and east Syria, established in Ayn al-Arab/Koban in April 2019⁽³¹²⁾.

⁽³¹¹⁾ Ibid.

⁽³¹²⁾ The formation of "Lawyers Union for the North and East of Syria" in a meeting in Kobane, ANHA, 13 April 2019, available on the following link: <https://cutt.us/anOWn>

Chapter 7



Findings and Conclusions

Chapter 7

Findings and Conclusions

The assessment of the judiciary in AANES included its general composition, structure, work mechanisms, and legal framework. The case studies examined the reality of the judiciary in each area separately. Based on the information, general findings and conclusions can be reached on various levels, as follows:

First: The Level of the Judicial System

1. Structure and Legal Bases

Examining the judicial structure affiliated with the AA and the legal and administrative references that regulate its work, it could be said that the institutional structure is significantly complex, and there is an overlap in functions and jurisdictions. The reality of the institutions contradicts many of the theoretical laws and legislations and operates contrary to their stipulations. The Social Justice Charter and procedures for the social justice system law include many legal codes, that are either never implemented or often breached, especially appointments. The electoral process is overrun in most areas, and direct appointment prevails instead in committees, councils, and commissions, which the Charter stipulates it should happen via elections or a “General Conference”.

The same applies to the criteria of admitting and appointing judges, which contravenes stipulations in many areas in terms of the required qualification. Judges’ tasks and rights, in reality, contradict theoretical laws, be it in terms of lack of any meaningful immunity or the process of appointment and dismissal, which does not meet the stipulated criteria, or in terms of overlap of jurisdictions in some bureaus and having a single judge holding multiple judicial functions in a way that harms the legal mechanism of lawsuits. Some judges hold membership in Justice Councils along with other judicial capacities in breach of the Charter’s stipulations. Moreover, the establishment of extraordinary courts, such as the “People’s Defense” Court (Terrorism Court), is a contravention of all charters regulating the work of the AA. This

court also violates human rights conventions regarding due process, the rights of detainees, and judicial independence.

Although the justice charter stipulates that the bureau shall comprise judicial commissions that act as courts of various levels, the number and type of commissions vary from one bureau to another in the same region. Some key commissions are missing in some courts, such as the cassation/appeal commission in the “People’s Defense” Court (Terrorism Court). The number of justice council members, stipulated at 13, varies from one region to the other in violation of the Charter. Further, many committees, commissions, and councils are established only on paper but are non-existent in some areas, while other committees may be completely inactive. Also, some commissions vary only in their title but are essentially the same. For example, while the “Jury” and the “Platform” commissions differ in title and some functions, they are similar in terms of granting partial judicial authority to non-specialized persons, who have the power to make a final ruling in some cases. Both are also used sometimes to circumvent the law.

A clear difference can be noted in the general structure of the social justice system from one region to another. Key councils are missing in some regions, such as Deir Ez-Zor, where the social justice bureau operates without a Social Justice Council, in addition to the absence of a Women Council for Social Justice. The military judiciary is also non-existent in some areas (Manbij - Deir Ez-Zor) and is ineffective in other areas. As for the legal framework, it is not sufficiently clear. In most cases, the official Syrian law, currently implemented, is invoked with minor amendments. Notably, the implementation of some laws varies from one area to the other, as laws are implemented in a political rather than legal manner, depending on the peculiarity of the area.

2. Judges: Educational and Demographic Distribution

Looking at the data collected from the various case studies of the different regions under the control of the AA, a complete absence of specialization can be noted among the employees. There are around 326 individuals appointed as judges in social justice institutions in north and east Syria, only one of whom is a former judge who defected from the Syrian regime. 30% are

holders of high school diplomas, and 65% are lawyers appointed as judges, only half of whom have prior experience while the other half are new graduates. A further 5% of those appointed as judges are holders of bachelor's degrees in social sciences/humanities. Therefore, according to the data mentioned, the judicial staff is not adequately qualified to manage the judicial process. This does not only have an impact on the human resources level, but expands to affect the mechanism of passing and implementing laws and legislations, especially since judges are the backbone of the judiciary.

As for the **demographic composition** of judges who hold posts in the social justice institutions of the AA, which is founded on the theories of the “democratic nation” and “the federation of components”, the data shows a massive predominance of a component at the expense of others. The percentage of Kurds appointed as judges in social justice institutions for north and east Syria is around 64%, with 33% Arabs and about 3% of the other components such as Assyrians, Turkmen, and Circassians. Special courts, such as the “People’s Defense” Court (Terrorism Court) involve no judge from other components and depend on Kurds 100%. Further, 84% of judges in the military judiciary are Kurds, while 16% are Arabs.

3. Independence and Impartiality

According to the data from case studies of the different areas, it could be said that the independence of the judiciary in the AA is completely missing, based on various indicators; most importantly: the PKK cadres’ dominance over social justice institutions on different levels and their financial, security, and administrative supervision of those institutions, and the social justice bureaus and their various commissions, as at least one member of the cadres is assigned for every justice bureau, prosecution office or judicial institution. These cadres become the highest authority and ultimate point of reference in those institutions. They also directly supervise the judicial process in every commission and institution, in addition to the appointment of judges and administrative personnel. They also intervene in some cases and lawsuits, directly bypassing the judges and legal mechanisms, particularly in political and security cases, in which they act as judges. Hence, judges enjoy very little independence except in some civil and penal cases and lawsuits. The cadres may intervene at any point, even in the latter. Cadres also undertake

coordination between judicial institutions themselves in financial and security issues, and coordination between judicial bodies in the various regions.

In addition to the influence of cadres, independence indicators can be inferred from the relation between the judicial authority and other authorities in the AA (executive and legislative). Data reveals a great deal of overlap between those authorities. In this context, security and military agencies, which are considered higher than the civil judiciary, do not recognize its decisions most of the time. They also cannot be held to account before the civil judiciary. Moreover, the military judiciary is absent in some areas and ineffective in others.

Given the indicators of independence and the absolute power given to the cadres, the data reveals the **level of impartiality** within the judiciary. Impartiality is near impossible, given the absolute partisan power of the PKK cadres and PYD members. In addition, the judicial institutions adopt and observe partisan ideological theories that reflect on judicial rulings, especially in political and security cases. The judicial rulings mirror, at some points, discriminatory decisions and policies based on partisan and ethnic considerations. Partisan considerations may be recognized in how the judiciary deals with other Kurdish political parties and formations which oppose the AA, as judicial decisions concerning them are tainted by discriminatory policies based on partisan considerations. Discrimination on ethnic grounds, on the other hand, can be recognized in judicial decisions involving Arabs on different levels, whether in civil or military judiciary, particularly cases related to “terrorism”. Discrimination against other social components in the area can also be observed in the composition of judicial institutions themselves and the demographic composition of judges, in addition to neglecting the judiciary in some Arab areas.

4. Effectiveness and Impact

Based on parameters of competence and independence discussed above, effectiveness of the judiciary in the AA may be assessed as very low, in terms of the impact of this body and its courts on the cases and lawsuits in the areas where it operates and its impact on society and dispute types there. The work of courts in AA areas is limited to certain types of cases. The vast majority of

locals in areas controlled by the AA continue to depend entirely on Syrian regime courts in all cases related to civil and real estate records. They also resort to tribal adjudication and arbitration, which has become more effective on individual and tribal levels, due to the judicial and security chaos. For instance, on March, 26, 2021, 18 Syrian tribes and representatives of Kurdish tribes and Ezidis, Syrians, and Assyrians signed a covenant to resolve disputes and violations in Syrian Al-Jazirah⁽³¹³⁾. Some also resort to notables for dispute resolution, including individuals or entities such as churches in the Syriac community in Hasakeh, which have recently played a role in amicable dispute resolution.

Thus, the judiciary affiliated with the AA is only effective in specific issues, in which locals refer to those courts, such as some laws imposed in areas under the control of the AA. Locals have to resort to courts or issue newly-required documents and settle any infractions they might entail. The locals also follow up on their detained relatives in AA prisons through courts. Others may resort to AA courts in cases of crimes or cases related to parties residing within the AA territory, in which it requires an authority that can summon suspects and punish perpetrators. Thus, the judiciary's effectiveness is limited in terms of locals depending on those courts and the type of judicial remedies that are expeditious but are not necessarily right or fair. Hence, social justice institutions have become more administrative departments for paperwork than judicial institutions that resolve disputes in society using fair legal mechanisms and maintain security and stability.

5. Judicial Structure per Region

The case studies of the judiciary in each area reveal a clear disparity in the level of judicial structure, the qualification of its employees, and the implementation of laws. Areas under the AA in Deir Ez-Zor are the worst in terms of judicial situation and legal environment. There is only one court in the area with the least number of judges, lawyers are not allowed to present

⁽³¹³⁾ Covenant: one of the normative references which the tribal judiciary in the Syrian Al-Jazirah depends on. It includes a set of laws and norms and acts as a constitution which regulates tribal relations. Tribal covenants disappeared years ago but current security-wise and legal conditions in Syria gave rise to them again. For more see: Syrian Al-Jazirah Tribes agree on a "covenant" to resolve disputes, Enab Baladi, 28 March 2021, available on the following link: <https://cutt.us/KVnoD>

cases, and there is no lawyers' union. In addition, there is no justice council or any auxiliary judicial departments such as forensic medicine or forensic labs. The other areas vary in the same variables (Manbij, Raqqa, al-Hasakeh, Ayn al-Arab/Kobane). However, they share the same problems suffered by the judiciary regarding the absolute control of cadres, the decline of independence, and the lack of qualified employees. Further, there are area-specific problems as well. Despite claiming those areas as regions under AANES are guaranteed more legislative, executive, and judicial authority at the local level; all regions are subject to centralized control through cadres who are allocated across the regions and organized hierarchically, rendering the decision-making process extremely centralized.

Furthermore, data collected in the various areas under study show the spread of corruption, which is not restricted to the judiciary but is also rampant in some civil councils and institutions. Similar cases of corruption could be observed in those institutions in the various areas such as the martyrs' families institution, customs, financial administrations, and fuel institutions, in addition to members and leaders of security and military institutions. Although the 2020 annual report of the executive council of the AA confirmed that 56 cases of administrative corruption had been addressed⁽³¹⁴⁾, these only involved – according to the interviews – low-ranking employees, while corruption among the higher ranks is uncontrolled, with no accountability as some of those involved are influential or directly connected to the cadres. Additionally, there are economic monopolies among private companies and firms engaged in various projects for the service and development sectors. Remarkably, all identified companies and firms covered in this study belong to persons affiliated with the PYD, giving rise to a new class of monopolists, traders and businesspersons, including people directly associated with the AA and who have become in control of several economic sectors⁽³¹⁵⁾.

⁽³¹⁴⁾ Annual report of the executive council of the AANES, Planning, Development and Statistics Bureau, for more see: <https://cutt.us/yQvID>

⁽³¹⁵⁾ Abu Dalu.. Rami Makhloof of the AA and the wealthiest man in north eastern Syria, Syria TV website, 9 January 2021, available on the following link: <https://cutt.us/uV3oz>

Second: Autonomous Administration Level

Based on the study of the judicial authority within the AA, we can draw a set of conclusions and findings on the level of the AA in general, including its various authorities and institutions, in addition to inferring multiple indicators in relation to several issues. Given these results devised through case studies of the judicial system, in the regions declared by the AA as such, the level and magnitude of the PKK cadres' domination over the judiciary is quite obvious, in which cadres hold tight grip on various hinges of the judicial system and its institutions. Based on studying the relation between judicial authority and other authorities within the AA, it is noted that the same type of control also extends to the executive authority (executive council) and the legislative authority (general council). Non-Syrian PKK cadres control the various institutions, departments and councils that represent both authorities. They also enjoy the same powers they hold in the judiciary and supervise them in administrative, financial, and security terms. At the same time, other reports and studies⁽³¹⁶⁾ have shown that similar control exists over the security and military institutions⁽³¹⁷⁾, in addition to the control of the political decision and economic resources⁽³¹⁸⁾. **This conclusion may not be new, particularly for the locals in AA areas, the employees there, or the researchers studying the area as they are directly or indirectly in contact with the reality there. Nonetheless, it opens the door for findings and questions which may be new on various issues and levels, such as;**

1. Representation: Between Real and Nominal

Similar data in the studied “regions” and the various AA authorities reveal a partisan nature within the administration. A single party dominates, be it be the PYD or the PKK. Further, the level of representation of other social and political components in the area in the joint leadership of some authorities and other positions of power are merely titular, through which the PKK attempts to shroud its hegemony with some legitimacy. People from various components in positions of responsibility fall under the higher authority and

⁽³¹⁶⁾ Talal Selo opens the box of secrets of the AA and how PKK controls it, Syria TV website, 14 February 2021, available on the following link: <https://cutt.us/P9tnG>

⁽³¹⁷⁾ Hussein Jalabi, Rojava: Assad's Greatest Deceit (Reading into six years of Kurdish diaspora), *ibid.*

⁽³¹⁸⁾ Abdullah al-Najjar, PYD's separatist project in east of the Euphrates, *ibid.*

oversight of PKK cadres and are not independent in their decision, including the Kurds themselves. Despite the Kurdish character of the administration as a whole, the authority of PKK cadres supersedes all, while taking advantage of the peculiarity of the Kurdish question in Syria and using it to legitimize the PKK's power in the area, particularly its foreign cadres. Although there are Arabs, Assyrians, and Turkmen in some positions in the administration's institutions, cadres assigned to these institutions have the final say and undertake supervision and oversight. The same applies to institutions that only depends on Kurds, as well as security and military institutions in which PKK cadres hold the decision-making powers despite the presence of Assyrian and Arab troops, who constitute a significant part of them.

2. “Philosophy”: Theory and Practice

Ever since it was founded, the PYD rejected the model of a central state and called for some form of political decentralization, which it started to implement as it gained military control. It then evolved in subsequent and various phases, starting with the “Council of West Kurdistan”, the “Autonomous Administration”, and the “Federation of the North”, and finally the “Autonomous Administration of North and East Syria”. Throughout, the PYD tried to assume some form of political decentralization by imposing it de facto or negotiating it with actors involved in the political solution in Syria. The PYD's demands stemmed from its proposal of a general vision for the Syrian state based on the literature and theories of the “democratic nation” and the “democratic confederation”, which it uses as a theoretical foundation for its demands.

Interestingly, as the PYD seeks the highest level of decentralization, it applies a highly centralized approach in its administration by imposing a tightly centralized security-based approach run by PKK cadres in declared “regions”. The various executive, legislative and judicial authorities are subject to tight central control imposed by PKK cadres who constitute a hierarchy. In addition, the legislative councils that are supposed to give regions some powers are either directly controlled by cadres who report to their superiors or completely inactive, such as the case in Deir Ez-Zor. The same applies to the executive authority and its affiliated civil councils as they fall completely under the authority of cadres of the PKK. The latter is considered one of the

most centralized parties in terms of its organizational structure, be it at the management of branches in different countries or being anchored on a central figure, namely Abdullah Öcalan.

Thus, the decentralized administration model proposed by the AA has been stripped of its essence and turned into a rigid centralized model, based on partisan structure and run by hierarchically organized cadres. Decisions are made through a top-down model of local governance structures, contrary to the essence of the theory of “democratic confederation” and “participatory democracy”, which is based on a bottom-up approach. Also, some cities have become the influential centers that controls the peripheries in the AA.

The disparity between theory and practice is not restricted to the administrative manifestation of the “democratic confederation” but also expands to the implementation of the “democratic nation” and “confederation of components” theories. This contradicts the ostensible representation of other political and social components in the administration's institutions and the nationalist and partisan control illustrated above. In addition, the essence of the theory and philosophy of “social justice”, which the judiciary relied on as a foundation and used as a title for its institutions, completely contradicts its application mechanisms and its effectiveness in practice. This gap between philosophy and practice indicates that these theories, regardless of their soundness, are no more than an ideological cover to accomplish gains and partisan schemes on the ground and strengthen nationalist ideological rhetoric.

3. Threat to Societal Peace and Security

Despite its problematic issues in structure, independence, and efficacy, some may claim the AA judiciary runs civilian affairs and adjudicates their disputes at a minimal level enough to facilitate such issues and control chaos relatively in the absence of the state. This approach may be true at some level; but if we approach the issue from other perspectives, we may draw very different conclusions:

The current form of judiciary, which is based on the type of present control and the absence of independence and fair rulings may backfire, particularly on the levels of social security and civil peace. Problematic issues such as the

inability of people to obtain their rights through the judiciary, the lack of fair trials, the illegal releasing of convicts, the failure to hold military and security bodies accountable, the use of “secret courts” and the imposition of discriminatory policies would strip the judicial process of its essence which is supposed to be based on creating fair legal mechanisms for dispute resolution and honoring rights, instead of claiming these rights individually or collectively which leads into chaos. This goes beyond simple daily affairs that the judiciary addresses, and for which civilians turn to the most effective and recognized institution, regardless of who controls it. Rather, it is directly related to the process of grievance remedy, fair judiciary for all, and ability to hold any party –civilian or military- accountable for violations. Hence, the judiciary is considered a key defining factor for security and stability.

Based on that, the absence of independence within the AA judicial system, the control over the judiciary, the use of the judiciary for specific interests, and the inability to hold military and security authorities accountable wouldn't only fuel community distrust in the judiciary, driving them away from engagement, but would also push people to resort to violence to attain their rights as a result of the absence of just judiciary. Further, the absolute control by PKK cadres and the implementation of discriminatory policies in some decisions may induce racial tension and sedition. This may affect social security and civil peace in the area, especially that this situation is further fueled by the deteriorating economic and service conditions within an unstable and highly securitized environment, which continues to grow more unstable particularly on the level of extremist organizations or the level of international and regional powers seeking to take control or destabilize the area. This may drive some locals to cooperate with or join the ranks of extremist groups, or provide these groups with new justifications to build a grievance-based narratives that would attract people.

4. Management of the “Terrorism” File

The issue of “terrorism” in the “east Euphrates” area is one of the most complicated issues in Syria, particularly around the time of ISIS's rise and fall in the region and the continued activity of its cells. Various other factors further complicate this issue, making it hard to address its long-term impact, including the tribal nature of the area, the deteriorating security and services,

and other socially accumulated effects of the war. All of these make it highly sensitive and critical to address the issue of “terrorism” in judicial and legal terms, particularly in a complicated environment in security and political terms. According to data collected in the case studies, the current judicial structure is unqualified to manage the file of ISIS detainees legally. This includes various levels, be it the rudimentary departments of the “People’s Defense” Court (Terrorism Court), or the competence and qualification of judges there, 74% of whom hold high school diplomas and only 26% are holders of bachelor’s degrees in law with no specialized judges. In addition, judicial decisions lack independence and cases of “terrorism” are restricted to extraordinary secret courts that the data and international reports indicate are being used against opponents of the AA.

Hence, the courts of the AA are incapable of managing this file. On the contrary, the AA's current method of managing terrorism may have adverse effects, specifically concerning ISIS detainees whom are dealt with on various levels such as tribal reconciliation and settlement, reintegrating some of them into the military and security ranks, smuggling some due to corruption in military and security agencies or turning a blind eye on others due to their tribal influence within the SDF. All of these levels may threaten civil peace, security, and stability in the area, as the mass release of some ISIS members, who were involved in violations against civilians in a tribal environment, may result in calls for revenge. This is not restricted to the individual level but extends to the tribal level, increasing chaos and tribal fragmentation, particularly as the SDF relies on specific tribes in the Arab areas.

Furthermore, reintegrating former ISIS members in the ranks of security and military bodies may constitute a threat within these bodies, such as giving them access to arms that they may use for reprisal or personal ends. Such cases did occur in various areas. In addition, another threat former ISIS members may constitute is communicating with active ISIS cells and re-establishing relations with them. For instance, the AA rearrested some former-ISIS detainees for the same charges of communicating with ISIS cells, after releasing them through tribal reconciliations.

5. Legal Environment Preparedness: Elections

Based on data received concerning the structure of the judiciary, its working mechanisms and its level of independence, various indicators can be drawn regarding any constitutional deadlines that may be imposed in the different influence areas in Syria, within the context of any potential political resolution. Thus, it could be said that the geographic area controlled by the AA with its various regions is not prepared as a legal environment to hold any form of election without international monitoring. The breakdown in the judicial structure and the partisan control there would render any electoral process meaningless, particularly in the absence of a qualified judicial system to monitor this process, and the absence of a supreme constitutional court, which is supposed to play a crucial role in elections. Although Article (4) of the Social Contract Charter of the AANES stipulates the establishment of a supreme constitutional court, it only exists on paper. According to the data, it has no existence on the ground, which infringes judicial monitoring and the constitutionality of existing laws, as there is no institution capable of determining their constitutionality.

The presence of an independent, trustworthy, and professional judiciary is a crucial element for the success of any election. **Judicial monitoring and oversight are essential for the electoral process**, starting with managing candidacy applications, through the various stages of the process and finally, the results declaration and any potential appeals. Furthermore, monitoring by constitutional institutions and administrative courts ensures a certain level of legitimacy and integrity for the electoral process⁽³¹⁹⁾. The nature of appointments within the AA and circumventing the electoral process in most institutions introduce an obvious indicator of the engagement with election as a principle. In addition, there were no elections held in some regions, even on the level of local councils. The lack of a political and legal environment for elections does not only apply to AA areas, but perhaps to all Syrian territories under various influences and authorities.

⁽³¹⁹⁾ Khaleef Mustafa, *Judicial Monitoring of Electoral Processes*, thesis for PhD in law, al-Jilani University, Algeria 2016-2017.

6. Civilian-Military Relations

The judicial structure, efficacy, and independence play a significant role in forming civilian-military relations, which, in turn, directly reflect on defining the concept of a secure environment. The nature of the civilian-military relations distinguishes a secure environment from a highly securitized one. The absence of judicial effectiveness and the lack of independence especially in political and security issues and dealing with them away from a civil judiciary, the presence of special courts operating outside the law, and the absence of a military judiciary along with the inability to hold security and military personnel to account all made the civilian-military relations unstable in areas under AA control, in which the environment cannot be defined as safe, but rather as highly securitized.

A secure environment is not only secure from bombardment. Rather, several variables, such as civilian-military relations and the rule of law, are also significant elements of the concept. However, according to the data collected from different case studies, these variables do not seem to be present in AA areas. **Therefore, the geography controlled by the AA is not prepared for the return of refugees**, despite repeated declarations by the AA that it is willing to receive refugees from various countries such as Lebanon, as a political advertisement⁽³²⁰⁾. Multiple factors show the lack the proper conditions for a safe return, such as the overwhelming power of security and military agencies, the absence of effective legal mechanisms and processes, and the use of mandatory conscription that includes teachers, students and others, in addition to cases of kidnapping and conscription of female and male minors. These may be similar to the factors preventing refugee from returning to regime areas. This conclusion is consistent with the Omran Center for Strategic Studies survey, “Security Landscape in Syria and Impact on Refugee Return from Neighboring Countries”⁽³²¹⁾. The survey concluded that conditions for a safe refugee return are not available in AA areas, both for security and economic reasons that vary in degree from one region to another.

⁽³²⁰⁾ The AA Declares willingness to receive Syrian refugees from al-Manya camp in Lebanon, 28 December 2020, available on the following link: <https://cutt.us/9Qbaw>

⁽³²¹⁾ Mohammad al-Abdullah, Security Landscape in Syria and Impact on Refugee Return from Neighboring Countries (Survey), Omran Centre for Strategic Studies, 17 December 2020, available on the following link: <https://cutt.us/CpeqY>

7. PYD/PKK: Engagement and “Dissociation”

Ever since it took control of northeastern Syria, the PYD continued to deny the presence of foreign PKK members coming from the Qandil mountains. In September 2020, the SDF’s commander-in-chief Mazloum Abdi confirmed in his interview with the “International Crisis Group” that “thousands of trained PKK fighters came to the area”, stating that their mission was to combat ISIS⁽³²²⁾. Although that statement was the first official acknowledgement of the presence of foreign elements from Qandil Mountain, it restricted their mission to combat and defined them as a group of fighters. Data, however, shows otherwise. The presence of PKK members is not restricted to the frontlines. Rather, they undertake oversight of the administration at various levels and hinges. The data indicates that, along with statements of some PKK leaders who referred to the main battle in northeastern Syria as the “social arena”⁽³²³⁾.

The common philosophical foundation and the PKK members' actual control over the AA illustrate an organic relationship between the PYD and the PKK. At the same time, **essential questions** arise about the future of this relationship, including the possibility of expelling PKK members, particularly with the growing discussion of the topic after Abdi’s statements about a US-mediated agreement and dialogue with other Kurdish groups, including the “Kurdish National Council”, regarding the possibility of gradually removing non-Syrian fighters from their current positions and, ultimately, from Syria⁽³²⁴⁾.

It may not be possible to answer the question accurately at the moment, but a preliminary and general framework to answer the question may be inferred by identifying those responsible for that decision in both parties –if they were to be considered as two separate parties. The SDF commander-in-chief confirmed that “The PKK is a sister party and relations are merely ideological, namely adopting the theory of the “democratic nation” proposed by Ocalan, but not organizational. The SDF has its own strategy under which it operates

⁽³²²⁾ Crisis group ‘The SDF Seeks a Path Toward Durable Stability in North East Syria, 25 November 2020:

<https://cutt.us/fm4DT>

⁽³²³⁾ Pinar Dinç, The Kurdish Movement and the Democratic Federation of Northern Syria, *Journal of Balkan and Near Eastern Studies*, 26-01-2020. Page:7

⁽³²⁴⁾ Crisis Group. *ibid.*

in Syria”⁽³²⁵⁾. However, data indicates that control remains in the hands of PKK cadres with a highly centralized decision-making process, as confirmed repeatedly the positions of the AA and its military arms towards various local or regional issues . Examples include the disagreement between the Kurdistan region of Iraq and the PKK, where the AA aligned itself with the latter openly, in addition to PKK cadres’ power at the local level, its suspension of Kurdish-Kurdish dialogues for a long time and its violent approach in dealing with anti-PKK Kurdish political parties particularly by the so-called “revolutionary youth”, in addition to the general political line in the area and the type of alliances which are still following the traditional PKK path.

All this data indicates that decision is not in the hands of the PYD but is directly linked with the PKK, which has come to regard northeastern Syria as a new venue for its activity and role in the region, and a substantial human and material reservoir to activate that role. Therefore, the PKK abandoning that role, and a dissociation between the two parties will not be that easy, and is primarily up to the PKK rather than PYD to make that decision. Furthermore, all moves to suggest a potential organizational divorce between the two parties have been tactical attempts to portray the PYD in a local and national light, particularly given the pressure of international and regional actors involved in Syria. The crucial question is how foreign cadres will be made to leave and give up control over critical aspects of the AA, and what type of tools will be used to achieve that? especially that no diplomatic tools have made any progress over four decades of the PKK's presence in the region, and no attempt to bring about a peaceful departure ever worked except when the Syrian regime managed to achieve such departure in 2002⁽³²⁶⁾. This question remains hinged on political and military conditions and the type of political resolution awaiting the conflict in Syria. However, it certainly draws an ambiguous future for the area and the AA model

⁽³²⁵⁾ Mazloum Abdi: The Syrian Regime’s Exclusive Mentality Wants to go back to pre-2011, special interview by al-Shark al-Awsat, 5 February 2021, available on the following link: <https://cutt.us/XL17b>

⁽³²⁶⁾ Abdullah al-Najjar, SDF and dissociation from PKK, Harmoon Centre for Contemporary Studies, 5 January 2021, available on the following link: <https://cutt.us/pZd7>

As the central state authority declined, in favor of the emergence of sub-state formations including ethnic and religious ones, along with international and regional interventions, several local governance models have emerged across Syria as reflected by the dynamic military map. This led to the disappearance of some models and the decline of others, whereas other models achieved relative and cautious stability. In this regard, the “Autonomous Administration of North and East Syria” falls within the last category as it developed through several phases until it reached its current model. Although many years have passed since the actual declaration of the Autonomous Administration with its various institutions and bodies, the level of governance and nature of administration in these institutions and bodies remain problematic and questionable. Thus, this study seeks to explore the nature of the administration and the level of governance in this developing model using the judicial authority as an entry point, as it is considered one of the most prominent indicators. The impact of court processes is not limited to the judicial field, nor does it reflect the legal interest alone; it also offers several indicators on the political, administrative, security, economic, and social levels. Therefore, the study examines the judiciary system of the AA, its structure, various institutions, legal foundations, in addition to the employees working in and running those institutions and their qualifications. The study also attempts to explore the effectiveness, efficiency, and working mechanisms of this system, as well as its impact on North-Eastern Syria, in addition to the complex problems in that region (political, tribal, ethnic and “terrorism”).



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