

**KURDISH CHILDREN UNDER THE SHADOW OF TURKISH ANTI-TERROR LAW:
SOVEREIGNTY, LAWFARE AND ABANDONMENT**

A Thesis

by

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ABSTRACT

Since the early 2000s, the Turkish socio-political landscape has witnessed a lawfare whereby the total number of adjudications and parliamentary legislations has notably increased, political grievances are taken to courthouses, and public obsession with crime and disorder has multiplied. During this period of time, the expansion of the judicial definition of “terror-related crimes” resulted in criminalization of different forms of political activism and paved the way for disproportionate penalization of Kurdish population in Turkey. Drawing on the narratives of formerly incarcerated Kurdish children residing in Samanlı neighborhood of Yeniköy, a southeastern province of Turkey, this thesis focuses on Kurdish minors’ repeated penalization by the Anti-Terror Law and examines its implications for the life-course of Kurdish children and for the perpetuation of state sovereignty.

During their arrest, prosecution, and incarceration, the Anti-Terror Law deprives Kurdish children charged with “terror-related crimes” of the rights they are otherwise granted as minor citizens of Turkey. By placing Kurdish children beyond the law’s protection, it takes the form a vertical relation of abandonment, and entitles and encourages wider social groups to punish these minors on a daily basis. As a result, prison violence exerted on Kurdish children remains unpunished, and they are denied access to diverse resources such as education, employment and housing on the grounds that they are “terror-suspects.” Kurdish children also feel themselves under constant surveillance during their daily encounters with the security officials and Turkish residents of Samanlı. This web of constant punishment and surveillance reinforces the image of law-maker as an omnipotent entity, and perpetuates the state power and the lawfare by making them tangible in Kurdish minors’ daily encounters.

DEDICATION

This thesis is dedicated to the children behind bars in Turkey and to Kurdish human rights lawyer Tahir Elçi, who has been assassinated during his fight for justice. I owe a profound debt of gratitude to the children and youth who made this research possible by sharing their experiences in Turkey's penal field. Their and Tahir Elçi's commitment to give voice to everyday struggles of thousands of children whose lives are touched by prisons has been a source of inspiration and hope.

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CHAPTER I

INTRODUCTION

On March 18th 2018, the president of Turkish Republic, Recep Tayyip Erdoğan, announced that the Turkish military and its allying force Free Syrian Army seized control of the Afrin canton in the Democratic Federation of Northern Syria (also known as Western Kurdistan or Rojava). As the president triumphantly stated that “the Turkish and Free Syrian Army flags are now flapping in Afrin¹,” the footages of the Free Syrian Army militants destroying the canton’s renowned monument of *Kawa the Blacksmith* started circulating in social media. The destruction of the monument was a symbolic victory for the Turkish state over Kurdish resistance because, prior to the invasion, the Kurdish People’s Protection Units controlled the canton, and because the myth of Kawa attested to the Kurds’ being an autochthonous population in the Middle East whose lands were confiscated by modern nation states of Iran, Iraq, Syria and Turkey. According to the myth², the ancestors of the Kurds are children who, forming an army under the leadership of *Kawa the Blacksmith*, defeated a tyrannical monster that took sustenance from eating the brains of minors in Mesopotamia.

While the reports on invasion of Afrin was circulating, Mehmet, a 17 years old Kurdish boy who served time for four months in Turkish prisons on charges of “terrorism,” was reflecting on his prison experiences in Yeniköy, a southeastern Turkish province bordering Syria.

Disappointed by the news on the destruction of the monument of the *Kawa the Blacksmith*,

¹ “Erdoğan: Afrin Taken Under Control.” *Bia News Agency, Independent Communication Network*. 19/03/2018: <http://bianet.org/english/militarism/195260-erdogan-afrin-taken-under-control>

² There are diverse versions and interpretations of the Kawa Legend. The version mentioned here draws from *Şehname*’s sections of “Dahhak” and “Feridun.” A collection of various interpretations of the Kawa Legend can be found in: Aydın, D. 2005. *Mobilizing the Kurds in Turkey: Newroz as a Myth*. (Unpublished Master’s Thesis) Middle East Technical University, Ankara, Turkey.

Mehmet completed his narrative in the words of Hasan, another Kurdish boy who has been penalized by the Turkish Anti-Terror Law: “When you enter prison, they take your brain away together with your ‘hazardous belongings’ and replace it with a machine that makes every decision on your behalf³.”

This paper examines the role of penal policies, which disproportionately penalize Kurdish children in Turkey, for the perpetuation of state sovereignty. Specifically, drawing on the narratives of Kurdish children who have been penalized as “terror-suspects,” I dwell into the ways in which the Anti-Terror Law and anti-terrorism policies re-produce the image of the state as an omnipotent entity that Kurdish children refer to as “a brain-eating machine.”

The disproportionate penalization of Kurdish children by the Anti-Terror Law⁴ takes place in a conjuncture characterized by a *punitive turn* (Wacquant, 2009) in Turkey whereby total prison population went up from 59,429 to 200,339 between 2002 and 2016 (World Prison Brief, 2018). During the same period of time, the rates of juvenile conviction in the Juvenile Courts and Juvenile Heavy Penal Courts raised from 2,029 to 44,155 by a 22-fold increase⁵. Reminiscent of the global trend of the replacement of welfare state with the neo-liberal penal-state, which brings penal policies to the center of management of poverty and deepening socio-economic disparities (Wacquant, 2009; Gilmore, 2007; Western, 2006; Coleman, 2003), the

³ Hasan’s reflection on his prison experiences attracted wide-scale public attention and has been used as part of human rights campaigns against the penalization of Kurdish children by the Anti-Terror Law.

⁴ The Anti-Terror Law (no. 3713, RG: 20843/ 12.04.1991)

⁵ The data on the number of juveniles heard in Juvenile Courts and Juvenile Heavy Penal Courts in 2016 is retrieved from: Ministry of Justice General Directorate of Judicial Record and Statistics. (2016).

Judicial Statistics 2016: http://www.adlisicil.adalet.gov.tr/istatistik_2016/istatistik2016.pdf

The data on the number of juveniles heard in Juvenile Courts and Juvenile Heavy Penal Courts in 2002 is retrieved from: Ministry of Justice General Directorate of Judicial Record and Statistics. (2012). *Judicial Statistics 2002-2012*:

http://www.adlisicil.adalet.gov.tr/istatistik_2012/72.pdf

punitive turn in Turkey paved the way for disproportionate criminalization of the urban poor and ethno-racial minorities including the Kurds (Gönen, 2013).

In contrast to the growing literature on the extensive use of legal and penal powers in core western countries, the expansion of the legal and penal realms in Turkey remains understudied, and the limited number of studies that do address this phenomenon tend to overlook the experiences of children (Gönen 2017; Bayır, 2013; İbikoğlu, 2012; Gönen & Yonucu 2011). On the other hand, contemporary public discourse and state policies around criminality penalize Kurdish minors as illegitimate political activists under the scope of the Anti-Terror Law while also disproportionately criminalizing them for activities such as drug use, pick pocketing, robbery, etc. (Aydın, 2009; Darıcı, 2009; Gürbilek, 2001). Some are penalized for both and carried from different courtrooms to prisons. Bringing Kurdish children's experiences in the expanding penal field to the center of analysis, I conceptualize their penalization both as "petty-offenders" and "terror-suspects"⁶ as components of a *lawfare*: The use of legal and penal powers, administrative measures, and judicial exceptions and emergencies as mechanisms of disciplining the masses (Comaroff and Comaroff, 2009: 36). Then, focusing on the penalization of Kurdish children by the Anti-Terror Law, I address its implications for the perpetuation of the power of law-maker in the context of the lawfare in Turkey.

According to Comaroff and Comaroff (2009: 36), the lawfare "becomes most visible when those who 'serve' the state conjure with legalities to act against its citizens." In such cases, they argue, lawfare can be limited to practices such as weakening political opposition by legal

⁶ The prison officials, courthouse personnel, and the state security officials in Samanlı refer to the minors charged with "terror-related crimes" under the scope of the Anti-Terror Law as "terror-suspect (terör şüphelisi)" children. As this label is central to the experiences of the minors charged with "terror-related crimes", I use the term "terror-suspect" children when I refer to the policies and public discourses that penalize Kurdish children on the charges of "terrorism."

means, or the legal power can start animating the lethal by reducing human existence to what G. Agamben (1998) calls *bare life* (Comaroff and Comaroff, 2009: 37). In Agamben's conceptual framework, the term *bare life* implies a vertical relation of abandonment whereby the subjects are separated from their ordinary legal and political status by the sovereign's decision on state of exception. By suspending the law's protection, the state of exception deprives human subjects of their rights and thus turns them into bare life that can be harmed without any sanction. Drawing on the narratives of the "terror-suspect" Kurdish children, who reside in Yeniköy's Samanlı⁷ neighborhood, I conceptualize penalization of Kurdish children by the Anti-Terror Law as a form of abandonment. In support of this formulation, I demonstrate the ways in which the Anti-Terror Law deprives Kurdish children of the rights that the Child Protection Law⁸ of Turkey otherwise entitles them as minor Turkish citizens during criminal procedures.

Along these lines, the narratives of the children, their lawyers and relatives, as well as local state and security officials, reveal that Kurdish children's access to fair trial in the court houses is repeatedly denied, and that they become victims of violence and torture with impunity during their arrest and incarceration. Furthermore, their penalization on the charges of "terrorism" authorizes and encourages both state officials and Turkish residents in Samanlı to exert control on the lives of Kurdish minors on a daily basis such as when the residents of Samanlı deny Kurdish children's access to housing, education, and employment. In this way, the Anti-Terror Law reinforces the omnipotent presence of the state and the power of law by making

⁷ I changed the names of both the neighborhood and the city in which I conducted the interviews in order to protect the anonymity of research subjects. While changing the neighborhood names is a common practice in ethnographies on Turkey, the towns are rarely re-named. However, given that many of the interviewed children and youth still stand trial, I do not indicate the original name of the city in order to ensure their security. Likewise, pseudonyms are used to protect research subjects' confidentiality and safety.

⁸ The Child Protection Law (no. 5395, RG: 25876/15.07.2005)

them tangible in Kurdish minors' daily encounters. Therefore, it contributes to perpetuation of lawfare by granting law-maker the mythic capacity of controlling everyday-lives.

Even though this paper focuses on sovereign state's use of legalities in (re) structuring socio-political outlook of the population as a component of lawfare, it is important to note that the lawfare can also be waged by non-state actors such as racially oppressed communities, who can turn legal field into a weapon in order to claim rights⁹. Likewise, the non-state actors of the lawfare can resort to extra-legal means such as when Mehmet states his willingness to join the ranks of Kurdish guerillas, or when Hasan, echoing the children mobilized around Kawa, states: "One day, I decided to steal my brain back from them to make sure they will recognize that I was here...to destroy the machine that replaced my brain." Even though the focus of this paper is on the vertical relation of abandonment in the form of the Anti-Terror Law, Kurdish children's active participation and struggles in the lawfare deserve scholarly attention.

In the remainder of this paper, (I) I examine expansion of the Turkish penal regime throughout the 2000s when criminality has increasingly been racialized and juvenilized – that is, it has increasingly been associated with ethno-racial minorities and children; (II) address how the Anti-Terror Law takes the form of an act of abandonment in the light of the ways in which it deprives Kurdish minors of the rights that they are otherwise entitled as minor citizens of Turkey; (III) introduce the research participants and the neighborhood of Samanlı in Yeniköy (IV) and discuss Kurdish children's "abandonment's" implications for their treatment in prisons and in Samanlı, as well as for their life-course.

⁹ For more detailed information on lawfare from below: Comaroff, J. L. & Comaroff J. (2009). Reflections on the anthropology of law, governance, and sovereignty. F von Benda-Beckmann, K von Benda-Beckmann and J Eckert (eds) *Rules of Law and Laws of Ruling: Law and Governance between Past and Future*. Aldershot: Ashgate, pp. 31–59

CHAPTER II

LAWFARE AND THE EXPANSION OF TURKISH PENAL REGIME THROUGHOUT THE 2000s

Particularly since 2015, when the peace process between the Turkish state and the militant Kurdistan Workers' Party (Partiya Karkerên Kurdistan) came to an end, ever-expanding judicial definitions of terrorism have been increasingly penalizing journalists, academics, students, and dissidents in addition to children who are associated with the Kurdish movement in Turkey. Meanwhile, conflicts of interest within the conservative ruling bloc resulted in the mass incarceration of large numbers of people, who are alleged to be the supporters of the coup attempt of 2016. The expansion of penitentiary under the banner of anti-terrorism policies is largely interpreted as an indication of Turkey's move towards neo-liberal authoritarianism (Bruff & Tansel 2018), which disciplines the masses by the way of punishment among other mechanisms. On the other hand, the implications of this recent policy become more salient when it is contextualized within the emergence of a neo-liberal discourse of criminality that is preoccupied with crime and disorder in Turkey and around the globe.

Replacement of public debate and democratic participation with legal and constitutional tools (Bruff & Tansel 2018) in a manner paving the way for a punitive turn in Turkey dates back to early 2000s. Since it was elected in 2002, the Justice and Development Party (JDP) government has used its legislative powers extensively. For instance, during the JDP's sixteen years in power, approximately 2400 laws have been promulgated in the Grand National Assembly of Turkey. In contrast, during the sixteen years prior to the party's election, only

around 400 laws have been enacted¹⁰. This signifies a legal turn whereby the governing party resorts to legislations to re-shape the political and socio-economic structure of the country.

Legal powers have always been central to nation state-making by establishing the boundaries between the members of the nation and outsiders, between friends and enemies (Agamben, 1998; Arendt, 1958; Schmitt 1932, Benjamin, 2004 [1921]). However, as Comaroff and Comaroff (2009) note, since the end of the Cold War, law has been further fetishized, whereby “an abstraction (the law in this case) is objectified, ascribed a life-force of its own, and attributed the mythic capacity to configure a world of relations in its own image” (Comaroff & Comaroff, 2009: 33). They find that a rising preoccupation with crime and disorder is accompanied by the judicialization of politics, with states increasingly relying on the violence inherent in law as a means to re-shape the spatial, political, cultural, and material outlook of the population.

Lawfare, the extensive use of legal and punitive mechanisms and judicial exceptions, has thus become dominant during this latest chapter of the *longue durée* of capitalism, neo-liberalism (Comaroff & Comaroff, 2009). Sociologists of punishment similarly demonstrate that the management of poverty and racial inequalities shifts from the “left-hand” of the state (welfare policies such as education, public housing, health care etc.) to its “right-hand” (the courts, police, and prisons) around the globe (Forrest, 2016; Wacquant, 2009; Western, 2006; Coleman, 2003; Garland, 2001). As the penal policies replace welfare measures in managing and/or rendering poverty invisible, the disproportionate penalization of ethno-racial minorities reproduces hegemonic racial order (Alexander 2013; Davis 2003; Gilmore 2007).

¹⁰ The numbers on the laws passed pre and post-AKP period are calculated based on the data retrieved from Kanun Sorgu Formu, Türkiye Büyük Millet Meclisi (Legislation Questionnaire Form, Grand National Assembly of Turkey): https://www.tbmm.gov.tr/develop/owa/kanunlar_gd.sorgu_baslangic

In line with this global trend, the expansion of the penal realm's reach was central to the laws passed by the governing JDP. As a result, the annual number of "suspects" taken to penal courts by the Turkish Penal Law went up from 953,534 to 2,321,788 between 2002 and 2017¹¹. Similarly, as implied above, the definition of terror-crime was expanded throughout the same period, making "attending a protest, campaign, demonstration, funeral, etc." indicators of membership in terrorist organizations (Bayır, 2013). Resultantly, the total number of those taken to courts on the charges of "terror-related crimes" rose from 975 to 24,585 between 2002 and 2017.¹²

In this context, the experiences of Kurdish political prisoners and how Turkish "anti-terrorism" policies generate wide-scale arrests gained scholarly attention particularly after the

¹¹ Turkish Penal Law of 1926 (no. 765, RG: 320/13.03.1926) has been abrogated in 2004 (by the law no. 5252, RG: 25642/ 13.11.2004) and the new Turkish Penal Law (no. 5237, RG: 25611/ 12.10.2004) has been enacted in 2004. The numbers for 2002 include the number of suspects heard under the scope of Turkish Penal Law of 1926; and the numbers for 2007 include the suspects who stood trial under the scope of Turkish Penal Law of 2004 in addition to 2,782 people who were still being tried under the scope of the Turkish Penal Law of 1926.

The data on 2017 is retrieved from:

Ministry of Justice. (2017). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 765) Divided by Cities (2017). *The Archive of Legal Statistics*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2017ceza/acilan/2017-765-İLLER.pdf>

Ministry of Justice. (2017). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 5237) Divided by Cities (2017), *The Archive of Legal Statistics*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2017ceza/acilan/2017-5237-İLLER.pdf>

The data on 2002 is retrieved from:

Ministry of Justice. (2002). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 765) Divided by Cities (2002), *The Archive of Legal Statistics*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2002%20tck.pdf>

¹² The data on 2017 is retrieved from:

Ministry of Justice General Directorate of Judicial Record and Statistics. (2017). The numbers of Hearings and Suspects Tried under the Scope of Special Laws:

<http://www.adlisicil.adalet.gov.tr/istatistikler/1996/2017cezaMahkemeleriOzelKanun.pdf>

(The Anti-Terror Law (no. 3713) is indicated by 3713)

The data on 2002 is retrieved from:

Ministry of Justice General Directorate of Judicial Record and Statistics. (2002). The numbers of Hearings and Suspects Tried under the Scope of Special Laws:

http://www.adlisicil.adalet.gov.tr/istatistikler/1996/ac_cik/ACILANÖZELK_2002.PDF

(The Anti-Terror Law (no. 3713) is indicated by 3713)

military coup of 1980, which marked Turkish prisons as sites of state violence and inmate resistance. Along these lines, Bayır (2013) formulates systemic criminalization of Kurdish political cadres as a “politicide” which aims at dismantling Kurdish politicization; Zeydanlıoğlu (2009) underlines the ways in which prison violence towards Kurdish political prisoners is used to homogenize the population ethno-racially; and İbikoğlu (2012) addresses prison policies’ relationship to the disciplinary and/or managerial regimes of control prevalent in Turkey. Furthermore, rising prison resistances inform scholarly discussions on the relationship between punitive state policies and the formation of new political subjectivities in the forms of everyday prison resistance (Grubacic & O’Hearn, 2016), hunger strikes (Anderson, 2006), or armed urban vigilantism (Yonucu, 2018).

Despite the growing scholarly attention on adult, notably Kurdish, political prisoners, few academic studies specifically focus on the penalization of Kurdish juveniles on the charges of “terrorism” or their experiences of policing, prosecution and imprisonment (Aytemur 2013). On the other hand, both the skyrocketing rates of juvenile incarceration and the emergent neo-liberal discourse of criminality in Turkey attest to racialization *and* juvenilization of crime, which brings Kurdish children to the center of the lawfare.

Racialization and Juvenilization of Crime and the Lawfare

Sociologists and anthropologists of punishment draw attention to racialization of crime around the globe. As the rural to urban migration de-homogenizes ethno-racial composition of urban areas and neo-liberal deregulation sharpens class distinctions, a “moral panic” (Hall, 1999; Cohen, 2002), which defines racialized urban poor as a threat to security and order regardless of the actual increase in the crime rates, has taken hold. This trend is clearly expressed in mainstream media coverage and public discourse in Turkey, which associated criminality with

Kurdish migrants in the 1990s; with Kurdish and Roma communities in the 2000s; and increasingly associates it with Syrian refugees recently (Gönen & Yonucu, 2011; Güven, 2011). Hence, as the racialized urban poor is criminalized, crime is racialized—being distinctively associated with particular ethno-racial groups (Comaroff & Comaroff, 2004: 804).

The scholars of punishment also find that the rising preoccupation with crime and disorder around the world brought not only racialization, but also *youthenization* of criminality; an association of urban racialized poor *youth* with crime (Comaroff & Comaroff, 2004; Wacquant, 1999; Hall et.al., 1978). In Turkey, this takes the form of not only youthenization but also, for the lack of a better term, *juvenilization* of crime whereby children below 18 are increasingly portrayed as potential sources of public disorder. A reflection of this trend is found in the almost 100 percent increase in the number of juveniles taken to Turkish Penal Courts as suspects between 2002 and 2017: While there were 100,904 children taken to Turkish Penal Courts in 2002; this number reached 195,680 in 2017¹³.

The racialization and juvenilization of crime in Turkey dates back to the 1990s, when the rural to urban migration flows and the evacuation of Kurdish villages¹⁴ increased the visibility of

¹³ The numbers include juveniles taken to courts under the scope of the Turkish Penal Law of 1926 (no. 765, RG: 320/13.03.1926) and 2004 (no. 5237, RG: 25611/ 26.09.2004).

The data on 2017 is retrieved from:

Ministry of Justice. (2017). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 765) Divided by Cities (2017), *The Archive of Legal Statistic*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2017ceza/acilan/2017-765-İLLER.pdf>

Ministry of Justice. (2017). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 5237) Divided by Cities (2017), *The Archive of Legal Statistics*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2017ceza/acilan/2017-5237-İLLER.pdf>

The data on 2002 is retrieved from:

Ministry of Justice. (2017). The Number of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Turkish Penal Law (no. 765) Divided by Cities (2002), *The Archive of Legal Statistics*: <http://www.adlisicil.adalet.gov.tr/acilandetayli/2002%20tck.pdf>

¹⁴ During the 1990s, 3215 rural settlements have been evacuated by the Turkish armed forces and paramilitary “village guards.” The evacuations, which took place in 14 distinct provinces of Eastern and Southeastern Turkey, were integral to the counter-insurgency strategies of the Turkish state in its war

minority and migrant children in urban settings. During this period, the popular image of children shifted from “innocent child” to crime-prone “bad child” (Aydın, 2009; Gürbilek 2001). While the public discourse and media coverage have been associating Kurdish children in urban areas with pickpocketing, violence, and drug use since the early 1990s, the political activism of Kurdish minors came under condemnation of the Turkish public in the 2000s. Kurdish children, who were initially associated with urban crime, started to be perceived as a political threat as well (Darıcı, 2009). The 2006 and 2008 protests that were marked by the participation of Kurdish children brought them into the political agenda as “potential terrorists.” This perception was reinforced by the statements of state officials, such as Recep Tayyip Erdoğan, the prime minister of the time, who declared: “Be it women or children, our security forces will take necessary measures against terrorist conspirators¹⁵.”

Therefore, recent use of anti-terrorism policies should be analyzed in the backdrop of racialization and juvenilization of crime during the lawfare in Turkey. In the remainder of this paper, I contextualize contemporary net-widening (Cohen, 1985) of the Anti-Terror Law within the transformation of the juvenile justice system and address its implications for the life-course of Kurdish minors, who are brought to the center of lawfare by the racialization and juvenilization of crime.

against the Kurdistan Workers’ Party (*Partiya Karkerên Kurdistan*). For more information on the evacuation of Kurdish villages: Jongerden, J. (2010) Village Evacuation and Reconstruction in Kurdistan (1993-2002) *Études rurales*, 186 | 2010, 77-100.

¹⁵ “‘Çocuk da Olsa Kadın da Olsa Gereken Müdahale Yapılır’ (‘Be It Women or Children Necessary Interventions Will be Made’). *Radikal*. 01/04/2006: <http://www.radikal.com.tr/turkiye/cocuk-da-kadin-da-olsa-gereken-mudahale-yapilir-776215/>

CHAPTER III

THE ANTI-TERROR LAW AS AN ACT OF ABANDONMENT: “JUVENILES PUSHED INTO CRIME” vs. “MINORS CHARGED WITH TERROR-RELATED CRIMES”

The initial discourse of lawfare in the juvenile criminal justice system was one that emphasized liberalization and European Union accession. In 2005, Turkish authorities triumphantly enacted the Child Protection Law¹⁶ (CPL), introducing it as a step that would help Turkish juvenile criminal justice system meet international standards such as protecting children's rights in juvenile courts and implementing detention measure as a last resort (Kavur, 2016). The law defined the children in conflict with the law, who are older than 12 and younger than 18 years old, as “juveniles pushed into crime” and specified the rights they are entitled during arrest, custody and at the juvenile courts.

Just a year after the enactment of the CPL, changes made to the Turkish Anti-Terror Law¹⁷ (2006) distinguished minors charged with “terror-related crimes” from the “juveniles pushed into crime” and limited the formers' access to the rights set in the CPL. During the four years these amendments remained in force, the Anti-Terror Law paved the way for the incarceration of 4000 minors--95 % of whom were Kurdish juveniles (Aytemur, 2013). Even though the 2006 amendments were annulled in 2010¹⁸, the criminalization of Kurdish children and youth on charges of “terrorism” did not come to an end. On the contrary, in 2017 the annual

¹⁶ The Child Protection Law (no. 5395, RG: 25876/15.07.2005)

¹⁷ The Law on the Amendment of the Anti-Terror Law (no. 5532, RG: 26232/18.07.2006)

¹⁸ The Law on the Amendment of the Anti-Terror Law and Some Other Legislations (no. 6008, RG: 27652/ 25.07.2010)

number of “juvenile terror-suspects” was 1965; signifying a 72-times increase since 2002, when the governing Justice and Development Party took power¹⁹.

Though the CPL introduced mechanisms to protect the rights of children during criminal procedures, the “terror-suspect” Kurdish children’s access to these rights have been repeatedly denied. For instance, even though the CPL defines the specialized juvenile prosecutors as the sole authority to interrogate “juveniles pushed into crime,” the interrogations of the minors charged with “terror-related crimes” are widely administered violently by police forces. Furthermore, even though the CPL ruled that everyone under 18 shall be heard in *Juvenile Courts* or *Juvenile Heavy Penal Courts*, access of minors charged with “terror-related crimes” to juvenile courts was officially denied between 2006 and 2010. The Anti-Terror Law in force during this period ruled that the minors who are above age fifteen and charged with “terror-related crimes” shall be heard as adults in Heavy Penal Courts, not juvenile courts, and that the prison sentences given to them cannot be commuted or postponed. Even though the 2006 amendments were annulled in 2010, today, a great majority of the “terror-suspect children” are actually still heard in adult courts. Despite the fact that contemporary laws and regulations rule that minors charged with “terror-related crimes” should also be heard in Juvenile Heavy Penal Courts, these courts are limited in number in Turkey so that minors charged with “terror-related

¹⁹ In 2002, the number of juveniles who are tried by the Anti-Terror Law (no. 3713) was only 27. As a result of the amendments to the Anti-Terror Law, this number reached 4478 in 2010. Even though annulment of the amendments regressed the number of “terror-suspect” juveniles, it is still significantly higher than 2002.

The data on 2017 is retrieved from:

Ministry of Justice. (2017). The Number and Distribution of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Special Laws (2017). *Archive of Legal Statistics*:
<http://www.adlisicil.adalet.gov.tr/Istatistikler/1996/2017cezaMahkemeleriOzelKanun.pdf>

The data on 2002 is retrieved from:

Ministry of Justice. (2002). The Number and Distribution of Offences and Offenders Stood Trial in Penal Courts Under the Scope of Special Laws (1/1/2002-31/12/2002). *Archive of Legal Statistics*:
http://www.adlisicil.adalet.gov.tr/Istatistikler/1996/ac_cik/ACILANÖZELK_2002.PDF

crimes” end up in Heavy Penal Courts designated for adults²⁰. In addition, “terror-suspect juveniles” are arrested by special operation forces instead of the juvenile police and they are widely subjected to violent treatment during arrest, custody, and detention. While the Anti-Terror Law facilitates the unequal treatment of Kurdish juveniles by depriving them of the rights they are entitled as minor Turkish citizens (by the CPL), the recent state of emergency of July 2016 – July 2018²¹ has exacerbated human rights abuses and increased the frequency of prison violence with impunity (Coşkun & Hürman, 2017).

By depriving Kurdish children of the rights that the CPL grants them as minor Turkish citizens, the Anti-Terror Law takes the form of an act of abandonment. Researching the condition of abandonment, Agamben argues that by suspending the law, the state of exception draws the line between those who belong to political life and law’s protection, and those who are *abandoned* from it and reduced to *bare life* that can be harmed without sanction (Agamben, 1998). According to him, the concentration camp – a spatial arrangement where the rule of law is suspended and those inside are “deprived of their rights and prerogatives that no act committed against them could appear any longer as crime” (Agamben, 1998)-- constitutes state of exception *par excellence*. In Turkey, the *logic* of the camp is manifested in the abandonment of Kurdish minors from the ordinary nature of things by the Anti-Terror Law, which justifies the violence towards them. In other words, as a result of the suspension of their rights not only during their

²⁰ There are two main types of Penal Courts in Turkey: Penal Courts of First Instance, and Heavy Penal Courts. In addition to the crimes specified by laws (such as membership in terrorist organizations, plunder etc.), the cases involving a penalty of ten years of imprisonment or more are taken to the Heavy Penal Courts. Juveniles below 18 are supposed to be tried for these crimes in specialized Juvenile Heavy Penal Courts. However, due to lack of Juvenile Heavy Penal Courts in many provinces, the children are also heard in Heavy Penal Courts designated for adults.

²¹ The state of emergency was declared after a failed coup attempt. For more information: Ellyatt, Holly. Turkey lifts state of emergency but nothing much has changed, analysts warn. 19 July 2018. <https://www.cnn.com/2018/07/19/turkey-lifts-state-of-emergency-but-nothing-much-has-changed-analysts.html>

incarceration but also before and after the arrest, Kurdish children are reduced to the status of *bare life*.

On the other hand, according to the critiques that point at the relationship between law, violence, and sovereignty (Agamben, 1998; Schmitt 1932, Benjamin, 2004 [1921]), the act of abandonment is constitutive not only of the bare life but also of the sovereign power itself. Drawing on Comaroff & Comaroff, by “sovereignty”, I refer to “the exercise of control over the lives, deaths and conditions of existence of those who fall within its purview -and the extension over them of the jurisdiction of some kind of law” (2009: 39). As Mills underlines, being abandoned by the sovereign does not simply mean being “set outside the law and made indifferent or irrelevant to it,” but rather it “means to be subjected to the unremitting force of the law while the law simultaneously withdraws from its subject” (Mills, 2008: 62). Similarly Agamben finds that by drawing the line between the normal and exceptional, between who is included and who is excluded, the sovereign’s act of abandonment exposes and threatens the masses while also re-defining the space in which the laws can actually have validity (Agamben, 1998: 19). Hence, Diken and Laustsen (2005) argue, it makes the omnipotent presence of the sovereign visible, grants the law a mythic capacity, and helps discipline the masses. Therefore, by perpetuating the law-maker’s power, it reinforces the lawfare. However, as the narratives of Kurdish children indicate, neither the law nor the state acquire their mythical character automatically, but that their omnipotent presence is reproduced in Kurdish minors’ daily encounters. After introducing the research site and research subjects in the next section, the following sections address the ways in which the omnipotent presence of the sovereign is reproduced in prisons and in the neighborhood of Samanlı on a daily basis.

CHAPTER IV

RESEARCH IN SAMANLI, YENİKÖY

*This is a wretched neighborhood.
But I cannot leave. Where will I go? Back to
the prison?*

Rıza, 19 years old.

In examining the societal implications of the criminalization of Kurdish children, this paper draws from the narratives of formerly incarcerated Kurdish minors residing in Samanlı neighborhood of Yeniköy, a southeastern province bordering Syria. Yeniköy's unique geographical location between the Turkish-majority and Kurdish-majority populated cities of Turkey makes it a fruitful research site where Turkish, Kurdish and Roma groups, in addition to Syrian migrants, reside. Its relatively robust economic development in the southeastern part of Turkey attracts internal migrants from around a region that is marked by socio-economic underdevelopment. The town has also been a major destination for Kurdish migrants, whose villages in southeastern Turkey were forcefully evacuated by the Turkish state as part of anti-guerilla strategies in the 1990s (Kurban, 2007; Aker, 2007).

The contemporary neo-liberal image of Yeniköy renders the urban poor, Kurdish, Roma, and Syrian populations residing in suburban areas such as Samanlı invisible. As the flat landscape of the town is filled by tourist attractions, malls, business districts, and renovated building complexes, the surrounding hills are perceived as “no-go zones” filled by drug use, violent crime, and “terrorists.”

“Wretched (lanetli),” “abandoned (terk edilmiş),” and “despicable (haker)” are among the common words that the formerly incarcerated Kurdish children use in describing Samanlı. While Kurdish residents constitute the majority, lower-class Turkish households are also prevalent in

the neighborhood. According to many Kurdish children, the neighborhood is no different than the prison, as they are under constant surveillance of patrol cars and under-cover police in their daily lives. While the memories of arrest and prison haunt these children, many spoke of their daily anxiety when they were "free," awaiting the next time the special operation forces would break into their house to arrest them. According to the residents of Samanlı, such dawn raids are intensified at sensitive times that can potentially lead to social and political unrest, such as the anniversaries of Kurdish leader Öcalan's arrest, presidential visits to Yeniköy, or the early days of Turkish state's invasion of Afrin, Syria to fight the armed forces of the Democratic Federation of Northern Syria. The operations "during these special times" are accompanied by the constant presence of panzers, patrol police, and the extensive presence of undercover anti-terror police which blockade the neighborhood.

In this thesis I focus on the narratives of ten Kurdish minors who were incarcerated on the charges of "terror-related crimes," which are supplemented with interviews I conducted with their family members, lawyers, and state and security officials of Yeniköy. While approximately half of these interviews were conducted during the recent state of emergency between July 2016 - July 2018, the other half has taken place after July 2018. At the time of the interviews, many of the formerly incarcerated children were already above 18 years old, but all had served time as juveniles. Because young boys are penalized in higher rates in comparison to girls, only one of the interviewees is female²². The majority of these children have been incarcerated as remand-prisoners awaiting trial for an average of five months, while two were convicted after being

²² In 2016, there were 2416 males and 75 females in the age group of 12-17; and 8959 males and 295 females within the age group of 18-20 behind the bars. Source: Human Rights Center, Bars Association of Turkey. *Prison Report (2015-2016)* <http://tbbyayinlari.barobirlik.org.tr/TBBBooks/605.pdf>

interviewed for this research. According to the lawyers' statements, many of them stand trial and serve time for multiple "terror-associated" charges. Most of the time, these "terrorism" accusations and charges are accompanied by others that condemn children for "petty-offences." And the fact that the children stand trial on multiple charges are among the main factors that pave the way for harsher sentences. While some of these juveniles define themselves as activists and participate in pro-Kurdish protests, others are charged with "terror-related crimes" due to their family members' and/or friends' associations with the pro-Kurdish organizations and/or because of their social media posts in support of Kurdish movement.

CHAPTER V

ABANDONED: PUNISHMENT WITHIN AND BEYOND PRISON

The narratives of Kurdish children residing in Samanlı indicate that their encounters with the security forces predating their arrests, and their experiences behind the bars and during re-entry represent a continuum whereby the neighborhood starts resembling the prison. It is a continuum because it starts with constant policing and surveillance before the arrest, turns into a spiral of repeating arrests, and influences the life prospects of the youth in the long run. In the remainder of this paper, by examining Kurdish children and youth's daily encounters within this continuum, I address the implications of their abandonment by the Anti-Terror Law for the perpetuation of the image of the state as an omnipotent entity.

Abandonment in Prison: Violence, Sovereignty, Impunity

Scholars researching carceral policies' effects on the incarcerated subjects define prisons as "identity-stripping" institutions (Goffman, 1961; Grubacic & O'Hearn, 2016; Fader, 2013). The mortifying, standardizing, and totalizing features of punishment strip prisoners of the identities they formed within their former communities and replace these with the stigmatized trait of delinquency, which determine inmates' access to diverse resources in the long run (Pager, 2007: 5). In the narratives of Kurdish minors charged with "terror-related crimes," the prohibition of the use of Kurdish language within the prisons, forced religious and nationalistic indoctrination, and the replacement of the youths' political identity with the label of "terrorist" are among the prominent identity-stripping and stigmatizing mechanisms that come with imprisonment.

Furthermore, as I discussed above, abandonment of Kurdish juveniles from ordinary mechanisms of judiciary and punishment (which tend to strip prisoners of their identities regardless of the reasons for incarceration) by the Anti-Terror Law reduces them to bare life beyond the law's protection. And their abandonment's most prominent implication for the children's lives behind the bars is infliction of violence with impunity. Along these lines, the permanency of uncontrolled and illegal violence constitutes a common theme in the narratives of Kurdish children. A 17 years old boy, Mustafa, states:

Firstly, they called our friend Emrah. They asked some questions and then we started hearing his outcries. They were beating him and we started getting scared. Because... we know the same would happen to us in a minute. Some of us started crying. Then they brought Emrah back, and took Firat. He was screaming too. Then they took me...

The narratives of Kurdish children such as Mustafa evidence that violence, torture, and verbal insults are part and parcel of their lives behind bars. The complaints of some of the interviewees regarding the uncontrolled violence were actually taken to the courts by their lawyers when I was conducting this research. In the official response to a Human Rights Association lawyer's bill of complaint denouncing the systemic nature of violence inflicted on Kurdish minors charged with "terror-related crimes," the chief public prosecutor's office states:

It was observed that the lawyers (such as H.K. and the other PKK terrorist organization sympathizers), who assert such claims persistently make unfounded complaints in order to popularize the terrorist organization (...) These unfounded complaints do not represent the truth, and their aim is to harm and defame the state institutions and personnel. Therefore, it was found unnecessary to initiate any disciplinary proceeding for the guards who are claimed to be associated with the event.

As a result, the lawyers' demands for the inspection of prison surveillance cameras to confirm infliction of violence were rejected; battery charges for the guards were dismissed without any further investigation; and the attorneys themselves were accused of propagandizing

for a terrorist organization. In addition to hinting at the frequency of such complaints, the above statement reveals the impunity towards the practitioners of such acts. Moreover, it demonstrates that the impunity is secured by an expansion of the definition of terrorism and with reference to protecting the unity and prestige of the sovereign state from dangers posed by “terrorism.”

Another common theme among the narratives of Kurdish juvenile political prisoners involves the punitive mechanisms used within the prisons. During their stay at the prisons, these children are occasionally left out of the workshops and activities such as movie screenings that other juveniles are entitled to attend. To explain the exclusion of Kurdish children from common daily workshops and activities, the prison guards refer to the “hardships of preventing these kids from spreading their dangerous ideas.” This discourse on the dangers posed by the “terror-suspect” Kurdish juveniles is accompanied by systemic humiliation and attempts to dismay the minors. For the latter, some of the children told me that each time a group of “terror-suspect kids” arrive, the ward reserved for the political juvenile prisoners is emptied of all the basic items and furniture (such as chairs, sheets, dishes, teapots, fridge, cleaning devices etc.) and covered with mud. The children are then forced to clean the ward and asked to purchase necessary items and furniture from the facility commissary. Similarly, banning use of Kurdish language and limiting Kurdish juveniles’ access to the family and lawyer visits are used as mechanisms for punishing children charged with “terror-related crimes.” According to children’s narratives, an important point of reference for such practices is “taking revenge for the soldiers and policemen who are killed by Kurdish guerillas.”

It is important to note that the practice of these punitive and violent technologies of control is not specified, authorized or regulated by a particular law. Rather, it is the personnel of diverse facilities who decide on what specific punitive mechanisms to employ on a daily basis.

And their execution is precisely made possible by deprivation of Kurdish children of their rights on the grounds that they are “terror-suspects.” As long as the children are associated with terror, any violent measure taken against them is not only *not* punished, but justified.

Diken and Laustsen argue that the messages conveyed to the general public by the act of abandonment entitle larger groups to harm the excluded without any sanction. According to them, since the camp signifies a “position or a doctrine where the difference between insider and outsider becomes more important than the differences among the insiders” (Diken & Laustsen, 2005: 17), it reinforces exclusion of the banished in diverse terrains by multiple subjects. In other words, once abandoned, larger groups become entitled to act as sovereign towards those reduced to bare life.

Furthermore, the harm everyone is entitled to inflict on the banished is not limited to physical violence. As the sovereign can deprive those banished from their rights and privileges, everyone becomes entitled to do so. In the case of “terror-suspect” Kurdish children, this is exemplified in prison officials’ arbitrary decisions on limiting children’s access to prison activities and/or family and lawyer visits. As demonstrated above, these acts are justified as tools of protecting the sovereign state and taking revenge for the policemen and soldiers killed by Kurdish guerillas. In line with Koğacıoğlu’s (2008) observations at civil courthouses, the systemic nature of these practices indicate that state officials perceive themselves as agents, who can and should contribute to protection of the sanctity of the state through these punitive mechanisms. By inflicting violence and making arbitrary decisions on the rights and resources of minor Kurdish political prisoners, the prison personnel mimic the sovereign, who controls subjects’ lives and conditions of existence.

Between the Lawfare and Warfare: The Sovereign Materializes

I understood that I would be arrested so I did not go home for 22 days. I went on the 23rd day and bam! they invaded the house and arrested me. Can this be coincidence? They knew I was going to go home that day. They know everything.

Sedat, 17 years old.

A 17-year old boy describes the night he was arrested as follows:

It was around 2 am when they broke into our house. They broke the door, I mean the special operation forces broke into the house. My mom was awake at that time. She was calling my dad. By the time my dad reached the door, they were pointing a gun. I got out of the room and there were all the police in front of me. One of them said ‘come here.’ I went, and he twisted my arm and threw me down...

The home invasions by the special operation forces is the most common type of arrest that the “terror-suspect” minors experience. During these raids, the houses of children get surrounded by panzers, special operation forces who break into their houses, and even snipers. The children and their families reflect on these invasions stating that the security forces treat their houses as if they are bases for militarized vigilantes. Some of these children who are arrested in this way define themselves as activists and participate in pro-Kurdish protests. As mentioned above, not all the kids arrested and/or incarcerated as “terror-suspects” define themselves in this way though. Regardless of the reasons for their arrest, once the police raid their houses for the first time, they fall into a spiral of disadvantage. Mesut, 17 years old, tells that:

They broke into our house for 7 or 8 times. The neighbors start getting suspicious about us since the police come with heavy weapons and beat us. People start thinking badly about us. I mean there are many Turkish people living here, then they start treating us

badly. They (the police) are coming as if we are in a war, as if we did something terrible... They come with panzers, they break the doors...

The invasions of the houses of Kurdish minors alter the communal relationships in Samanlı significantly. Some of the youth stated that due to constant invasions, Turkish landlords forced them to move out or that their relationships with neighbors deteriorated in diverse ways. Furthermore, the association of Kurdish minors with terrorism shapes the attitude of not only the neighbors but also teachers, peers at school, and public employers. For instance, Zeynep, an 18 years old girl, moved to another town after her arrest. In her “new life,” she tries to hide the information that she was arrested because she thinks her peers at school would never talk to her. Similarly, 18 years old Caner tells that:

I went to talk to the vice-principal after I was released. He did not want to register me saying that “you are a terrorist, who knows what you are going to do.” He even told me that he thinks that I will set his car on fire. Then he asked me if I was regretful... When I said no, he said “it’s good that you were in prison.”

The disproportionate penalization of Kurdish minors and adults divides the neighborhood into two groups composed of “dangerous ones” and the “ordinary citizens who keep their noses clean (etliye sütlüye karışmayan sıradan vatandaşlar).” While the former is constituted of those associated with “terrorism,” the latter category is composed of Turkish residents and public employees such as teachers and security officials that work in the neighborhood. Meanwhile, Kurdish residents who do not get involved in politics oscillate between the two categories. Even though they try to preserve their relatively neutral position, particularly the conspicuous home invasions reinforce the stereotypical image of Kurds as “potential terrorists” regardless of their involvement in politics. In line with Gilroy’s argument that the camp mentality translates

heterogeneity into homogeneity in a manner invoking racism (Gilroy, 1999: 88), the overlap between the stigmatized ascriptive trait of Kurdishness and being a “terror-suspect” places Turkish and Kurdish residents in opposition to each other.

In addition to dividing the neighborhood into two camps, the disproportionate incarceration of Kurdish children, the sovereign state’s violent policies towards them, and the discourses and policies that reduce these children to bare life motivate particularly Turkish residents and state employees to mimic sovereign by exerting control on Kurdish children’s conditions of existence. While the discourse around terrorism invites every citizen to fight the terrorists, Turkish residents and public employees start punishing Kurdish minors, who are envisioned as “terrorists”, in diverse ways on a daily basis.

These punishments are not necessarily physical, and they usually take the form of limiting children’s access to diverse rights and resources. While these can be eviction or preventing children from registering in school or being employed, they also take the form of reporting the actions of Kurdish children to the police. Çınar, 17 years old, comments on it as follows:

Çınar: Yeniköy is very different than other towns. The intelligence is so strong here. Anyone can report you: from neighbor’s kid to the vendor who comes home to sell socks; from the teacher to taxi driver.

HH: what do you mean by reporting?

Çınar: The police come to ask people about us regularly. Sometimes they (neighbors) say things that can put us in trouble, especially if they don’t like us for the obvious reasons...

Another common concern for these Kurdish children is the existence of those “who became agents of the state” and secret witnesses. Çınar and Şiyar reflect on the presence of state agents and secret witnesses in the neighborhood as follows:

Çınar: We know they are around; the people who became state agents... We know who they are, but we cannot do anything.

Şiyar: You never know. The neighborhood is also full of those people who became agents for the state. (...) There are also secret witnesses, we do not know who they are. Maybe they do not even exist. But they can also be from the neighborhood. They can also give untruthful testimonies. So, I am trying to make sure I pass by the city surveillance cameras on my way back home. In this way, I can assure that even if someone blames me of something, I can prove whether I did it or not.

While any visible sign of political activism is easily reported to the police, many of the children feel themselves under constant surveillance. The omnipotent presence of the sovereign becomes tangible in almost every daily encounter. It takes a visible form in the bodies of the neighbors, teachers, peers, employers, street vendors in addition to the police. The fear of secret witnesses or any possible untruthful testimony drive the children like Şiyar towards relying on city surveillance cameras as a protection from any untruthful testimony. This pressure of surveillance sometimes reaches levels that reproduces the myths about the state's reach, such as when Çınar comments, "sometimes I feel like they are inside my head. They can listen to what I think."

While all of these are accompanied by the presence of undercover police and anti-terror forces in the neighborhood, Kurdish children's encounters with the security forces trap them somewhere between the lawfare and warfare, in addition to reproducing the myths about the state.

Hakan, whose name was mentioned in every interview I did with the children who self-identify as political activists, is a young boy who died when he was fighting in the ranks of Kurdish guerillas. While the children refer to him as a hero, the security officials harass Kurdish children on the streets asking them whether or not they will take revenge for Hakan's death or by

questioning whether they have the courage to join Kurdish guerillas as their friend did.

According to the family members of the minors, this kind of harassment is quite common, and the state pushes their children to warfare with such actions. A 16 years old boy's father states:

I cannot sleep when he does not come home. After all these things happened to him, I get afraid that he will join the guerilla. Do the police want them to join, so that they can kill there? I don't know what they think. I don't know...

Another form of harassment is the recruitment of especially politically active minors to drug-dealing. When I interviewed Fırat, one of the activist children, right after he came out of prison for the second time, he told me that his main political agenda was to fight against the drug dealers in the neighborhood. Six months later, he started selling drugs and cut his connection with the activist youth. I could not reach to Fırat since the time his sister and the lawyers told me about his involvement in drugs. The statements of Çınar can provide insights to Fırat's story:

They (the undercover police) come and talk to some of us. They are like "sell the drugs and we will not bother you." So, it is like a protection, you know? It is like "you are not terrorist anymore, and you get the money." Why not? I think they try to push the youth to drugs so that they will not be involved in politics. But what then? Then will they imprison us for drugs? They can lock me up forever, but I will not give up my fight.

Trapped in the lawfare as "terror-suspects," these children are invited to warfare or to the ranks of drug dealing which would bring them back to lawfare, albeit with a different accusation. On the other hand, the state and security officials tend to associate these children with petty crimes in addition to the political ones independent of their involvement in drug dealing. When interviewed, a state-official remarks:

You know these are the kids who come from different Kurdish cities. When they come to me, I treat them with suspicion. They lack social control mechanisms so that they are

likely to commit crimes. If I encounter one of them, I usually refer them to the courts. We know the neighborhoods where the criminals are.

Diverse other security agents and state officials also perceive Kurdish children residing in Samanlı as potential criminals. For instance, a security agent asserts that it is the Kurdish children but not adults who initiate violent protests in Samanlı and that he believes they should be punished accordingly at a young age. While state actors' perceptions of Kurdish minors pave the way for the selective penalization of Kurdish children, it also fortifies juvenilization and racialization of crime by reproducing the public image of Kurdish children as potential criminals.

Sedat, who has been arrested a couple of times since he was 15, is among Kurdish children who is criminalized both as a “petty offender” and also on the charges of “terrorism.” He was 17-years old when I interviewed him. He has four indictments for “terror-associated crimes” and has been to prison twice. He defines himself as an activist, but he also thinks that many of the accusations towards him were ungrounded. He tells that once, he has also been taken to court with the accusation of drug dealing just because the police found smoking tobacco on him. He says that “I was okay in the Heavy Penal Court²³ accused of terrorism; stressed but okay. But when they took me to the court about the drugs, I was about to faint. I could not believe this was happening to me”. And he adds:

Yes, I am fine if they incarcerate me for what I did. I am fine with that... But sometimes they blame us with such things that I start getting suspicious of myself. Who am I? What did I do? What bad did I do? Sister, I swear... I ask myself “who am I?”

²³ Since there is not any Juvenile Heavy Penal Court in Samanlı, the “terror-suspect” Kurdish juveniles are heard in Heavy Penal Courts for adults.

CHAPTER VI

CONCLUSION

Since the early 2000s, the Turkish socio-political landscape witnessed a lawfare (Comaroff & Comaroff 2009) whereby public obsessions about crime and disorder are multiplied, and the neo-liberal authoritarian regime in power (Bruff & Tansel 2018) has been resorting to legislations, adjudications and penal policies in order to discipline the masses. During this process, growing public obsession about criminality in Turkey has been associating Kurdish children with petty offenses in urban areas and with “terrorism” particularly in Kurdish-majority populated regions. Concomitantly, as the Turkish juvenile criminal justice system disproportionately criminalizes Kurdish children as “petty-offenders,” anti-terrorism policies penalize minor political activists (or potential political activists) as “terror-suspects.” Even though Kurdish children stand at the intersection of racialization and juvenilization of crime during the lawfare, their encounters with the “right-hand” of the state are widely overlooked. In the light of distinct processes that inform penalization of Kurdish children, this thesis examined their experiences in the penal field with a focus on the judicio-political and cultural implications of their penalization by the Anti-Terror Law.

Even though the experiences of Kurdish adult political prisoners gained scholarly and public interest, these analyses remain weak in accounting for Kurdish children’s experiences in the penal field. To begin with, the ways in which adult and juvenile political prisoners are treated behind the bars are distinct from each other: While less detectable practices of torture such as isolation and deprivation of basic needs stand as the dominant contemporary forms of control targeting adult prisoners (Zeydanlıoğlu, 2009; İbikoğlu 2012), incidents of corporal violence and

systemic humiliation are central to the prison experiences of Kurdish children²⁴. Furthermore, the analysis on adult prisoners fails to grasp carceral effects distinctive to children. Along these lines, the scholars of life-course criminology draw attention to long-lasting effects of the stigmatized trait of delinquency particularly in the lives of those incarcerated at early ages. Turning into a master status (Hughes 1945), they argue, the credential of a criminal record plays a vital role in determining children's differential access to diverse resources throughout their life-course (Pager 2007: 5).

In examining the Anti-Terror Law's relationship to violence in the penal field, and its implications for the life-course of Kurdish children, I conceptualize penalization of Kurdish children by the Anti-Terror Law as a vertical relation of abandonment, whereby Kurdish children are banned from access to the rights that the contemporary juvenile criminal justice system otherwise entitles them. As the rights they are entitled as minor citizens of Turkey cease to be taken for granted on the grounds that they are "terror-suspects," these children are reduced to the status of *bare life* (Agamben 1998) that can be harmed without punishment.

The narratives of the "terror-suspect" Kurdish children residing in Samanlı, Yeniköy reveal that the messages conveyed to the general public by their abandonment entitle and

²⁴ Examining the experiences of adult political prisoners, Ibikoğlu (2012) argues that since the 2000s, Turkish regime of crime control has witnessed a transition from disciplinary regime of control to a security oriented managerial regime of control. According to this line of argument, military mechanisms of control and infliction of uncontrolled/illegal violence is replaced by punitive mechanisms such as isolation and deprivation of basic rights and resources. This does not necessarily mean corporal violence in adult prisons came to an end (particularly since their conditions are also deteriorating); but it implies that dominant form of control has changed. On the other hand, the narratives of Kurdish children and recent human rights reports point at the ongoing *systemic* nature of beatings and verbal and physical insults targeting juvenile political prisoners. More information on incidences of torture and corporal violence towards juvenile prisoners can be found at: Yalçın, A. & Hurman, H. (2017). Çocuk Mahpuslar Raporu 2017 (Juvenile Prisoners Report 2017). Istanbul: CİSST/TCPS: http://www.tcps.org.tr/sites/default/files/kitaplar/cocuk_raporweb-min.pdf

encourage larger groups to punish and/or harm Kurdish children on a daily basis without any sanctions. Such is the case when prison violence exerted on them is not punished and/or when they are evicted from their houses, prevented from registering in school or finding employment on the grounds that they are “terror-suspects.” Kurdish children also feel themselves under constant surveillance not only during their encounters with the security officials but also with (notably Turkish) neighbors, street vendors, teachers, who could, according to the children, potentially report their actions to state authorities. Sometimes the anxieties about surveillance reach levels that the children start thinking the authorities can read their minds. This web of constant punishment and surveillance materializes the omnipotent presence of the sovereign in children’s everyday encounters and reinforces the image of the law-maker as a mythical entity in the lawfare.

Last but not the least, the disproportionate penalization of Kurdish children residing in the “wretched neighborhoods” as they call it, and the long-term effects of incarceration drive law and punishment forward not only as tools of management of racialized groups (Gönen 2017; Kavur 2016) but also as institutions of racialization (Omi & Winant 2015). In addition to conveying the state’s message of “normality” to Kurdish population and wider public, the Anti-Terror Law constitutes one of the central components of the racialization of Kurdish identity by associating Kurdishness with deviance --notably terrorism--, and making Kurdish ethnicity the basis of justifying and reinforcing social discrimination in ethno-racial grounds. Therefore, the ways in which the Anti-Terror Law reproduces ethno-racial hierarchies in Turkey deserve further scholarly attention.

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